

David Burns

Special Counsel



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Antitrust and Competition

Antitrust Litigation and Enforcement

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Washington, DC

David Burns' practice focuses on antitrust and competition law, representing businesses in merger reviews and government investigations before the Department of Justice and Federal Trade Commission, and in antitrust litigation in federal court. David also regularly provides sophisticated counseling for avoidance of antitrust liability on topics such as pharmaceutical patent litigation settlements, IP licensing, joint ventures and the HSR merger review process.

Representative matters include:

Mergers & Acquisitions

- Intersect ENT, a supplier of drug-eluting stents, in its \$1.1 billion sale to Medtronic, achieving unanimous clearance from the FTC after nine-month investigation and divestiture of its ear, nose and throat (ENT) navigation and balloon sinuplasty businesses.
- Horizon Therapeutics plc in its \$3 billion acquisition of Viela Bio, a biotechnology company dedicated to the discovery, development and commercialization of novel treatments for autoimmune and severe inflammatory diseases.
- Arena Pharmaceuticals, a clinical stage company developing innovative potential therapies for the treatment of several immuno-inflammatory diseases, in its \$6.7 billion sale to Pfizer.
- Five Prime Therapeutics, a clinical stage biotechnology company focused on developing immune modulators and precision therapies for solid tumor cancers, in its \$1.9 billion sale to Amgen.
- Vir Biotechnology, a clinical-stage immunology company focused on treating and preventing serious infectious diseases, on antitrust aspects of multiple collaboration agreements, including its collaboration with GSK directed at developing antibody candidates for COVID-19.
- VelosBio, clinical-stage biopharmaceutical company developing first-in-class therapies targeting ROR1, in its sale to Merck for \$2.75 billion.
- Zipwhip, a leading business-texting platform, in its sale to Twilio for \$850 million.
- Omniome, a biotechnology company developing a DNA sequencing platform capable of delivering high sequencing accuracy, in its sale to Pacific Biosciences for \$800 million.
- Finicity Corporation, a leading provider of real-time access to financial data and insights, in its \$985 million sale to MasterCard, achieving unconditional clearance from DOJ.
- Alarm.com in its acquisition of the Connect and Piper business units from Icontrol Networks, obtaining clearance after an eight-month FTC investigation as well as private litigation in the District of New Jersey.

- NetScout in obtaining DOJ clearance of \$2.6 billion acquisition of the Communications Business of Danaher.
- BroadSoft Corporation, a leading unified communications as a service (UCaaS) provider, in its \$1.9 billion acquisition by Cisco.
- Tesoro in a nine-month investigation of its \$1.3 billion acquisition of BP's Southern California Refining and Marketing business and other assets, receiving clearance from both the FTC and California AG.
- Bertelsmann subsidiary Random House's book publishing venture with Penguin, combining the two largest book publishers in the country.

Antitrust Litigation

- Prevailed on summary judgment, leading to dismissal with prejudice of antitrust claims filed in patent litigation alleging fraud on the patent office and sham litigation, in Ni-Q, LLC v. Prolacta Biosciences, Inc. (D. Or.).
- Defeated preliminary injunction and obtained dismissal for the Airline Tariff Publishing Company in an antitrust suit in the Northern District of California alleging collusion to fix airfares on multicity flights, affirmed by the Ninth Circuit.
- Defended Patheon against claim under Sherman Act Section 1 and state laws, obtaining summary judgment on all claims as affirmed by the Eleventh Circuit.
- Defended Kodak against allegations of illegal tying and monopolization, including helping to develop a new standard for implicit tying in the Sixth Circuit.

At The George Washington University School of Law, David was managing editor of The George Washington International Law Review. He was also a member of the Public Justice Advocacy Clinic and interned in the Chambers of the Honorable Judge Reggie Walton of the United States District Court, District of Columbia.

Education

George Washington University Law School
JD, 2011

Middlebury College
BA , 2007

Admissions & Credentials

District of Columbia

Virginia

Rankings & Accolades

Super Lawyers Rising Stars: Antitrust (2018-2022)

Best Lawyers: Antitrust Law, Ones to Watch

Legal 500: Merger Control (2021)

Memberships & Affiliations

