

ANTITRUST & INTELLECTUAL PROPERTY

Boalt School of Law, Fall 2012

Syllabus, Course 276.2 sec. 1

Mondays: 8:00 AM to 9:50 AM

Lecturer: Samuel R. Miller

DATE	SUPPLEMENTAL READING
8/27/12 Session 1	1. FTC Complaint against Intel, FTC Docket No. 9341 (Dec. 16, 2009) 2. <i>Broadcom v. Qualcomm, Inc.</i>, First Amended Complaint, filed Sept. 19, 2005 Civil Action 05-3350 D.N.J.) . 3. <i>Slattery v. Apple Computer, Inc.</i>, Case No. Co-5-337 (N.D. Cal.); (Complaint; Briefs on Motions to Dismiss; and Order on Motion to Dismiss) 4. Superseding indictment in <i>U.S. v. AU Optronics</i>, Case No. cr-09-0110 (N.D. Cal.) 5. Scott D. Hammond, Deputy Assistant Attorney General, Antitrust Division, "The Evolution of Criminal Antitrust Enforcement Over the Last Two Decades," (Feb. 25, 2010) (http://www.justice.gov/atr/public/speeches/255515.htm)
09/03/12	LABOR DAY – NO CLASS
09/10/12 Session 2	1. Christine A. Varney, Assistant Attorney General, Antitrust Division, "Promoting Innovation through Patent and Antitrust Law and Policy (May 26, 2010) (http://www.justice.gov/atr/public/speeches/260101.htm) 2. Robert Pitofsky, "Challenges of the New Economy: Issues at the Intersection of Antitrust and Intellectual Policy," 68 Antitrust L.J. 913 (2001) 3. Richard A. Posner, "Antitrust in the New Economy," 68 Antitrust L.J. 925 (2001)
09/17/12 Session 3	1. <i>U.S. v. Microsoft Corp.</i>, 84 F.Supp. 2d 9 (D.D.C. 1999) (Findings of Fact) (Pages 12-30, 34-43, 53, 58-59, 68-69, 103-112) 2. <i>U.S. v. Microsoft Corp.</i>, 87 F.Supp. 2d 30 (D.D.C. 2000) (Conclusions of Law) (Pages 35-54)
09/24/12 Session 4	1. Final Judgment, <i>US v. Microsoft</i>, Civil Action No. 98-1232, entered November 12, 2002 (http://www.usdoj.gov/atr/cases/f200400/200457.htm)

DATE	SUPPLEMENTAL READING
10/8/12 Session 6	1. <i>In re Microsoft Antitrust Litigation</i>, 274 F. Supp. 2d 743 (D. Md. 2003) 2. <i>Daisy Mountain Fire District v. Microsoft Corporation</i>, 547 F. Supp. 2d 475 (D. Md. 2008) 3. Robert Pitofsky, Donna Patterson, Jonathan Hooks, “The Essential Facilities Doctrine Under U.S. Antitrust Law,” 70 Antitrust L.J. 443 (2002)
10/15/12 Session 7	1. David L. Meyer, Deputy Assistant Attorney General, Antitrust Division, U.S. Department of Justice, “How to Address “Hold Up” in Standard Setting Without Deterring Innovation: Harness Innovation by SDOs” (http://www.justice.gov/atr/public/speeches/234124.htm) 2. Gerald F. Masoudi, Deputy Assistant Attorney General, Antitrust Division, U.S. Dept. of Justice, “Antitrust Enforcement and Standard Setting”, dated May 10, 2007 (http://www.usdoj.gov/atr/public/speeches/223363.htm) 3. DOJ Business Review Letter and Press Release regarding Patent Policy of VITA, dated October 30, 2006 (http://www.usdoj.gov/atr/public/busreview/219380.htm) (http://www.usdoj.gov/atr/public/press_releases/2006/219379.htm) 4. <i>In the Matter of Negotiated Data Solutions</i>, (FTC file no. 051-0094) (http://www.ftc.gov/os/caselist/0510094/index.shtm) 5. Special Verdict Form in <i>Hynix v. Rambus</i>, Case No. 5:00-cv-20905 (N.D. Cal., docket number 3613) 6. DG Comp., EU Commission welcomes IPRCom’s public FRAND, declaration, April 21, 2009 (http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/549&format=HTML&age)
10/22/12 Session 8	1. “The Long and Winding Road: Convergence in the Application of Antitrust to Intellectual Property”, Remarks by Makan Delrahim, Deputy District Attorney General, U.S. Dept. of Justice, Oct. 6, 2004 (http://www.usdoj.gov/atr/public/speeches/205712.htm) 2. “Competition and Intellectual Property in the U.S.: Licensing Freedom and the Limits of Antitrust”, R. Hewitt Pate, Asst, Attorney General, U.S. Dept. of Justice, June 3, 2005 (http://www.usdoj.gov/atr/public/speeches/209359.htm) 3. “Forcing Firms to Share the Sandbox: Compulsory Licensing of Intellectual Property Rights and Antitrust”. Remarks by Makan Delrahim, Deputy District Attorney General, U.S. Dept. of Justice, May 10, 2004 (http://www.usdoj.gov/atr/public/speeches/203627.htm)

DATE	SUPPLEMENTAL READING
11/12/12 Session 11	1. Horizontal Merger Guidelines, Issued Aug. 19, 2010 (http://www.justice.gov/atr/public/guidelines/hmg-2010.html) 2. <i>FTC v. Ovation Pharmaceuticals</i>, News Release and Complaint, available at (http://www.ftc.gov/os/caselist/0810156/081216ovationcmpt.pdf and http://www.ftc.gov/opa/2008/12/ovation.shtm) 3. Antitrust Division Guide to Merger Remedies (June 2011) (www.justice.gov/atr/public/guidelines/272350.pdf) 4. Materials on Ticketmaster/Live Nation merger (including “Plaintiff United States’ Response to Public Comments) Doc, 13, filed on June 21, 2010 in <i>U.S. v. Ticketmaster Entertainment</i>, Case 1:10-cv-00139 (D.D.C.) http://www.justice.gov/atr/public/press_releases/2010/254540.htm; http://www.justice.gov/atr/cases/f256300/256322.pdf; http://www.justice.gov/atr/cases/f254500/254544.pdf
11/19/12 Session 12	1. “Antitrust Evolution of Pay-For-Delay Settlements,” remarks of FTC commissioner J. Thomas Rosch, Dec. 7, 2011 (http://www.ftc.gov/speeches/rosch/111207paragraphIV.pdf) 2. “Pay For Delay: How Drug Companies Pay-Offs Cost Consumers Billions” (FTC Staff Report January 2010) (http://www.ftc.gov/os/2010/01/100112payfordelayrpt.pdf) 3. FTC Appeal Brief and Reply Brief in <i>FTC v. Watson Pharmaceuticals, Inc.</i>, Case No. 10-12729 (11th Cir.) (www.ftc.gov/os/caselist/0710060/index.shtm)
11/26/12 Session 13	1. J. Thomas Rosch, FTC Commissioner, “Reflections on the DG Competition Discussion Paper on the Application of Article 82 to the Exclusionary Abuses,” May 11, 2006 (http://www.ftc.gov/speches/rosch/060511roschstgallenremarks.pdf)