



Marc Schildkraut, a Partner at Howrey, specializes in mergers and antitrust litigation.

In the field of mergers, he obtained antitrust clearances in every matter in which he was the lead attorney. His representations include the Chevron/Texaco merger, the Exxon/Mobil merger, the BP/Amoco merger, the Boeing/McDonnell Douglas merger, the PepsiCo/Quaker merger, the Albertson's/American Stores merger, the Texaco/Shell joint venture, Intel's acquisition of Chips & Technology, Cargill's acquisition of Continental's grain trading business, the sale of Alpo to Nestle, Sun Oil's acquisition of Chevron's Northeast refinery and Frito Lay's acquisition of Eagle manufacturing assets.

Mr. Schildkraut's success in obtaining merger clearances includes several litigated matters. He thwarted two recent FTC attempts to enjoin acquisitions, representing Western Refining in the Federal Trade Commission's unsuccessful attempt to prevent Western's merger with a competing refiner, and representing Aloha Petroleum in the Federal Trade Commission's futile attempt to enjoin Aloha's acquisition of a competing gasoline marketer. Mr. Schildkraut, on the other hand, has sought and obtained an injunction preventing a merger, representing The Bon-Ton in a successful private antitrust action that blocked a department store chain's acquisition of a competing chain.

Recognizing his achievements in the merger area, he was named the "Attorney to Call for Help with the M&A Deal of your Life" by *Washington Business Forward* (<http://www.bizforward.com/wdc/issues/2002-01/bobs/people.shtml#bobs04>). The *Practical Law Company's* Competition Law feature on Super League lawyers also selected him as "a highly recommended competition lawyer."

Mr. Schildkraut's additional achievements in litigation include matters that explore the interface between antitrust and intellectual property, most notably he represented Intel in oral arguments before the Federal Circuit in *Intergraph v. Intel*. This case extended the proposition that the withholding of tangible intellectual property does not satisfy the requirements of a monopolization claim under the Sherman Act. He also successfully represented Schering-Plough in litigation before the Federal Trade Commission regarding the settlement of a patent dispute concerning generic drugs. The Administrative Law Judge ruled for Schering-Plough, dismissing the case.

Before joining Howrey, Mr. Schildkraut was an Assistant Director at the Federal Trade Commission's Bureau of Competition. While at the FTC, he directed the investigations of hundreds of mergers and several successful federal court injunction actions and administrative litigations. In addition to mergers, Mr. Schildkraut directed some of the most important conduct investigations at the FTC including the Microsoft investigation. He is the recipient of the Federal Trade Commission's annual award to the agency's top litigator.

## **Representative Highlights**

*Texaco/Chevron*. Represented Texaco in its merger with Chevron.

*FTC v. Paul Foster, Western Refining and Giant Industries*. Prevented the Federal Trade Commission from obtaining an injunction against Western Petroleum's merger with Giant Industries.

*FTC v. Aloha*. Prevented the Federal Trade Commission from obtaining an injunction against Aloha Petroleum's acquisition of gasoline marketing assets from Truststreet Properties.

## **Admissions**

District of Columbia, 1978

## **Courts & Adjudicative Bodies**

United States Court of Appeals for the Federal Circuit

United States Court of Appeals for the Eleventh Circuit

United States Court of Appeals for the District of Columbia Circuit

United States District Court for the District of Columbia

## **Education**

Columbia University School of Law (JD, 1976), *Phi Beta Kappa*

Columbia College (BA, 1973), *magna cum laude*