Holland & Hart



James (Jim) Hartley

Senior Counsel

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When clients need an experienced trial attorney to handle their antitrust and intellectual property litigation, they turn to Jim Hartley.

With over 40 years of experience, Jim knows how to simplify and present complex technical and factual disputes for a judge or jury.

Jim brings deep experience to a wide variety of industries, including electronics, agribusiness, healthcare, technology, communications & media, consumer products, and energy industries. He has handled antitrust and patent infringement cases across healthcare, power distribution, computer software and hardware, telecommunications, cable television, electronics, consumer products, manufacturing, title insurance, cattle feeding and beef packing, construction, medical devices, building materials, banking, transportation, agriculture, energy and natural resources, lumber, professional sports, and labor relations.

EXPERIENCE

Antitrust

Jim is the leader of Holland & Hart's antitrust group, and served a three-year term as a member of the governing
Council of the Antitrust Section of the American Bar Association and was a member of a special task force reviewing certain issues arising in antitrust litigation. The Antitrust Section is the leading professional association of antitrust lawyers and economists.

He has been lead counsel or actively involved in a number of successful trials involving antitrust claims, and has won numerous cases on motions to dismiss or for summary judgment. He represented clients in a wide variety of cases involving horizontal and vertical restraints, monopolization claims, and mergers challenged under Section 7 of the Clayton Act. Jim also has represented clients before state and federal criminal grand juries and defended deceptive practice cases brought by the Federal Trade Commission. In addition, he has advised clients concerning premerger notification rules and frequently makes presentations about antitrust compliance procedures.

Patent Infringement

Jim has been responsible for more than 30 significant patent infringement lawsuits, including a number of successful jury trials, and several TRO or preliminary injunction evidentiary hearings, in fields such as computer software and hardware, telecommunications,, medical instruments, and

PRACTICES

Intellectual Property
Antitrust and Competition
Sponsorships and Promotion
Transactions
Intellectual Property Litigation

INDUSTRIES

Fitness and Outdoor Recreation

EDUCATION

University of California, J.D., 1974
Law Review
Order of the Coif

University of California, B.A., 1971
Psychology with Great Distinction
Phi Beta Kappa

BAR ADMISSIONS

Colorado

electronics.

Jim also has handled many Markman hearings, which have resulted in highly favorable claim interpretation rulings. Additionally, Jim has extensive trial experience in cases dealing with claims involving trade secrets, trademark and copyright infringement, and unfair competition.

CLIENT RESULTS

Technology, Communications and Media

Power Distribution. Since 2010, Jim has been the lead trial attorney for a power distribution company in a series of patent infringement lawsuits, which resulted in a successful jury trial and several substantial settlements.

Cable Television. Jim represented a cable operator in a case alleging price discrimination. The action was dismissed by the district court, but reversed on appeal. On remand, the plaintiffs' motion for class certification was denied and the case quickly settled.

Software and Signal Processing. Jim represented the patent holder in an infringement action concerning a method for using sonar to detect fish. We won a preliminary injunction after a five-day trial and the case settled.

Computer Maintenance. In this case, Holland & Hart and California counsel represented the plaintiff who asserted that a computer manufacturer illegally tied the sale of hardware and software maintenance. The case was settled.

Fiber Optics. Holland & Hart represented the defendant in this case involving trade secrets, trademarks, and patents. The technology covered high-definition television and fiber optics. Jim was lead trial counsel for Holland & Hart.

Voice Compression. In this trade secrets case involving voice compression technology, Jim represented the plaintiff. The lawsuit settled successfully when the defendant agreed to license the plaintiff's proprietary technology.

Computer Testing. Jim was co-counsel for a computer products company in a patent infringement lawsuit involving automatic computer testing products. The case was transferred to California.

Fiber Optics. Jim represented the defendant in a case involving allegations of breach of fiduciary duty and theft of trade secrets. After a three-day hearing, the court denied the plaintiff's request for a preliminary injunction and the case settled shortly thereafter.

Agriculture and Forestry

Agricultural Products. Jim represented several clients in a nationwide price fixing case involving agricultural products.

Agricultural Products. Jim represented the patent holder in a case

involving a chemical composition used in fertilizers. The defendant asserted antitrust, contract and business tort counterclaims. After a six-week jury trial, our client prevailed on all counts.

Agricultural Chemicals. Jim also represented the patent holder in a case involving the infringement of a patent on a chemical composition and method used to control sprouting in potatoes. We prevailed in a *Markman* hearing and obtained a favorable claim interpretation. A series of successful motions *in limine* greatly limited the defendant's evidence, and after six-day trial, the jury handed down a verdict of willful infringement.

Beef Products. This was an action we brought on behalf of our client, the fifth largest beef packer in the country, under Section 7 of the Clayton Act to enjoin a proposed merger between the second and third largest beef packers in the United States. In District Court, Chief Judge Finesilver enjoined the merger and his decision was affirmed on appeal by the Tenth Circuit. The United States Supreme Court, sadly, reversed the decision. Jim was one of two Holland & Hart partners jointly responsible for representing the client in the district court and on appeal.

Agricultural Products. Jim represented a manufacturer and distributor of drift control agents and chemicals used in agricultural spraying. The case settled.

Softwood Lumber. In this antitrust case, the plaintiff sought to represent a nationwide class of purchasers of Canadian softwood lumber and alleged that 15 Canadian defendants fixed the price of lumber imported into the United States. Holland & Hart represented one of the defendants. Jim handled the case for our firm and served as a member of the defense counsel steering committee. The complaint was dismissed and settled on appeal.

Healthcare

Healthcare. Jim represented a major health plan in an antitrust case alleging that several health plans and hospitals conspired to drive the plaintiffs out of business.

Managed Care. An insurance company retained Jim to consult on antitrust issues raised in the managed care industry. The case was dismissed on summary judgment.

Hospital Services. Jim was the lead attorney on this case in which the plaintiff raised a variety of antitrust claims against our client. After third-party discovery punched major holes in the plaintiff's theory of the case, the lawsuit settled before trial for less than the cost of defense.

Chiropractic. This was an antitrust action by a group of chiropractors to force a number of Front Range hospitals to admit them to their medical staffs. Jim represented several of the hospitals. This case was dismissed on the pleadings by the trial court and affirmed on appeal.

Medical Instruments. Jim was retained to try this patent infringement case involving suture anchors after our client became dissatisfied with

existing trial counsel. After a full day *Markman* hearing, the court construed the claims favorably and entered summary judgment of non-infringement.

Electrosurgery. This case primarily involved issues of patent validity and infringement in the medical instruments field. After a three-week jury trial, we were successful in obtaining injunctive relief for our client, the patent owner. In addition, a TRO was obtained on a trademark infringement claim. A preliminary injunction was not entered and the trademark claims were settled before trial.

Healthcare Finance. Jim was the lead Holland & Hart lawyer in two cases involving state payments to health maintenance organizations for services provided to Medicaid recipients. In the first case, the firm's client won a $15 million judgment after a week-long trial to the court. On the basis of that judgment, the second case promptly settled for $10 million.

Podiatry. In this action, a podiatrist alleged that a hospital violated the antitrust laws when it denied him privileges. Jim monitored the case on behalf of two of the individual physician defendants.

Anesthesia. In this case, a group of nurse anesthetists claimed that the defendants had conspired to reduce the scope of their practice at a Denver-area hospital. Jim represented the hospital and, after lengthy discovery, and the filing of a motion for summary judgment, the case was settled for a nominal amount.

Dialysis. In this case, the plaintiff claimed that the defendants monopolized kidney dialysis treatment in Colorado Springs. Jim represented the defendants. The case was settled favorably shortly after it was filed.

Anesthesia. A nurse anesthetist sued a hospital in Helena, Montana for conspiring to exclude him from performing anesthesia services at the hospital. Jim was asked to consult on the antitrust defense mounted on behalf of two anesthesiologists who were named as defendants. These defendants settled the lawsuit before trial.

Managed Care. In this case, a number of physicians were accused of price fixing as a result of their efforts to engage in joint negotiations with prepaid health plans. After the Colorado Attorney General and Federal Trade Commission started investigations, Jim was asked to represent the physicians and negotiate an acceptable consent decree.

Physical Therapy. This was an antitrust case in which the plaintiff alleged that a network of physical therapy clinics improperly denied her application to join the organization. The lawsuit closely examined a number of questions in the managed care environment, including quality of care, utilization controls, and reimbursement issues. Jim represented the defendants in this case, which was settled on the eve of trial.

Cardiovascular Surgery. Jim represented a cardiovascular surgeon who entered into an exclusive contract with the hospital. Another surgeon challenged the exclusive contract. The motion to dismiss filed by Jim's

client was granted.

Radiation Therapy. In this case, Jim represented a regional cancer treatment center in Billings, Montana. The plaintiffs claimed that the defendants used an exclusive contract to monopolize the provision of radiation physics services within the center. A favorable settlement was reached before trial.

Energy & Natural Resources

Oil and Gas. Our oil company client was one of ten defendants in a class action alleging multiple violations of state and federal antitrust law. Jim served as a coordinator of the defense effort, which was won on a motion to dismiss.

Natural Gas. Jim assisted in this antitrust case, which was tried before a jury for ten weeks in Cheyenne, Wyoming, and resulted in a nine-figure judgment.

Other Industries

Consumer Products. Near the close of discovery, Jim was retained to try this case involving claims that our client infringed the design patent, trade dress and trademark rights asserted by the plaintiff. Two days before the trial was scheduled to begin, the court granted our motion for summary judgment, finding the design patent invalid and the claimed trade dress unprotectable. The case settled the next day.

Professional Rodeo. In this case, the plaintiff accused our client of monopolization and conspiracy to restrain trade. After a three-week trial, the jury acquitted the defendants of the monopolization claims and entered a nominal judgment in favor of the plaintiff on the conspiracy claim. The case was not appealed. Jim tried the case on behalf of defendants.

Building Materials. Holland & Hart was among the lead defense counsel in a nationwide, multi-district client action alleging prince fixing in the cement industry. After the defendants prevailed on a number of key pretrial motions, the cases all settled for nominal amounts. Jim played a major role in the defense of our client.

Portable Shades. Midway through discovery, Jim was retained as the lead trial attorney in this complex case pending in federal court in Los Angeles. His client was accused of infringing four patents and misappropriating the packaging and product configuration trade dress claimed by one of the plaintiffs. The case also involved an antitrust counterclaim asserted by Jim's client. On summary judgment, we succeeded in invalidating one of the plaintiff's patents. After the remaining issues were narrowed significantly during *Markman* proceedings, the case was settled on extremely favorable terms.

Civil Liberties. Jim was a volunteer lawyer and lead trial counsel in a successful 10-week trial in Denver federal court involving civil liberties issues.

Real Estate Brokerage Services. Jim represented a defendant in this class action in which the plaintiffs asserted that certain practices of real estate agents in Boise, Idaho constituted a tying arrangement that was unlawful under state and federal antitrust laws. The court granted our motion for summary judgment and dismissed the complaint. The case was affirmed on appeal.

Title Insurance. Jim represented a title insurance company in the successful defense of several lawsuits involving jointly-owned title plants.

Gaming. Jim has been retained to defend several clients accused of infringing a patent covering a jackpot component of a live casino table game.

Other Experience

In addition to the lawsuits listed above, Jim routinely advises clients on antitrust issues. For example, he has:

- Advised a manufacturing firm with respect to anticompetitive standards adopted by an industry trade association.
- Represented clients in a variety of investigations by the Federal Trade Commission and Colorado Attorney General.
- Evaluated the antitrust implications of horizontal joint venture in many different industries.
- Counseled numerous companies on issues relating to pricing, product distribution, and information exchange.
- Advised natural resources and manufacturing firms on possible mergers.
- Evaluated the potential business justification for and competitive effects of practices of firms with market power in industries such as professional sports, skiing, manufacturing, computers, healthcare, and natural resources.
- Advised high-technology firms in a variety of industries on the issues raised by the interplay of patent and antitrust laws

RECOGNITION

- *The Best Lawyers in America*® Lawyer of the Year, Litigation - Antitrust – Denver, 2018
- *The Best Lawyers in America*® Lawyer of the Year, Antitrust Law – Denver, 2013, 2015, 2017
- *The Best Lawyers in America*® Lawyer of the Year, Litigation – Patent – Denver, 2013, 2016, 2020
- *The Best Lawyers in America*® Lawyer of the Year, Litigation – Intellectual Property, 2020
- *The Best Lawyers in America*®, Antitrust Law, 2005-2027; Litigation - Antitrust, Litigation - Intellectual Property, Litigation - Patent, 2011-2027
- *Chambers USA* Colorado: Litigation: General Commercial

- *5280 Magazine* Top Lawyers, Antitrust, 2015-2021
- Colorado Super Lawyers®, Intellectual Property Litigation, 2006-2023; Antitrust Litigation, 2024-2026
- Colorado Super Lawyers®, Top 100 Lawyers, 2012, 2018
- Colorado Super Lawyers®, Top 50 Lawyers, 2011
- *Benchmark Litigation*, Local Litigation Star, 2013-2026
- *Managing Intellectual Property*, IP Star, 2016-2022
- *Denver Business Journa*l, “Best of the Bar” survey finalist, Antitrust Law, 2004
- *IAM Patent 1000* – The World's Leading Patent Practitioners, Litigation - Silver, 2016-2019
- Marquis Who's Who, Albert Nelson Marquis Lifetime Achievement Award, 2018

PROFESSIONAL AND CIVIC AFFILIATIONS

- Fellow in the American College of Trial Lawyers (2008-2026)
- Holland & Hart’s 200-member Litigation Department, Past Chair
- American Bar Association Section on Antitrust Law, Member
  Former member of the governing Council
  Appointed to a special task force reviewing certain issues arising in antitrust litigation
  Operations Committee, Former Co-chair
  Sherman Act Section One Committee, Vice-chair
  RULE OF REASON monograph published, Former principal editor by the Section in 1999
  Editorial board of the ABA treatise on STATE ANTITRUST PRACTICE, Author and Member
  Section’s ANNUAL REVIEW OF ANTITRUST LAW DEVELOPMENTS, 2000, Co-chair editorial board
  ANTITRUST LAW JOURNAL, Editor
- For over 25 years, has served as regional copyright counsel for the American Society of Composers, Authors and Publishers
- University of Denver School of Law, Former adjunct professor
- Continuing legal education programs covering antitrust, intellectual property issues, and trial practice, Frequent lecturer