

**ANTITRUST (Law 156)**  
**Summer, 2009**  
**Tuesdays & Thursdays 6:00 p.m.**  
**Adjunct Professor Michael S. Kelly**  
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TEXT - - Antitrust Law in Perspective: Cases, Concepts and Problems in Competition Policy (Second Edition), by Gavil, Kovacic & Baker

**SYLLABUS (as of 4/9/09)**

**Tuesday, May 19**  
**Early History and Core Concepts**

- Text at 88-97.
- Dr. Miles Medical Co. v. John D. Park & Sons Co., 220 U.S. 373 (1911).
- Board of Trade of City of Chicago v. United States, 246 U.S. 231 (1918) (abridged in text at 154-157).
- Addyston Pipe & Steel Co. v. United States, 85 Fed. 271 (6th Cir. 1898) (abridged in text at 166-168).

**Thursday, May 21**  
**The Per Se Rule in the Populist Era**

- United States v. Socony-Vacuum Oil Co., 310 U.S. 150 (1940) (abridged in text at 97-103).
- United States v. Topco Associates Inc., 405 U.S. 596 (1972) (abridged in text at 129-136).
- United States v. Arnold, Schwinn & Co., 388 U.S. 365 (1967).
- Albrecht v. Herald Co., 390 U.S. 145 (1968).
- Klor's, Inc. v. Broadway-Hale Stores, Inc., 359 U.S. 207 (1959).

**Tuesday, May 26**  
**The Chicago School Strikes Back**

- Continental TV Inc. v. GTE Sylvania, Inc., 433 U.S. 36 (1977) (abridged in text at 359-365).
- Broadcast Music Inc. v. Columbia Broadcasting System, Inc., 441 U.S. 1 (1979) (abridged in text at 107-114).

- NCAA v. Board of Regents of University of Oklahoma, 468 U.S. 85 (1984) (abridged in text at 175-184).
- Northwest Wholesale Stationers, Inc. v. Pacific Stationery & Printing Co., 472 U.S. 284 (1985) (abridged in text at 771-776).
- State Oil Co. v. Kahn, 522 U.S. 3 (1997).
- Leegin Creative Leather Products v. PSICS, Inc., 127 S. Ct. 2705 (2007) (abridged in text at 375-385).

### **Thursday, May 28** **The Rule of Reason and The Quick Look**

- Board of Trade of Chicago, revisited.
- Continental TV, revisited.
- Rothery Storage & Van Co. v. Atlas Van Lines, Inc., 792 Fed. 2d 210 (D.C. Cir. 1986).
- National Soc. of Professional Engineers v. United States, 435 U.S. 679 (1978) (abridged in text at 159-163).
- United States v. Brown University, 5 Fed. 3d 658 (3d Cir. 1993) (abridged in text at 33-37).
- NCAA, revisited.
- FTC v. Indiana Federation of Dentists, 476 U.S. 447 (1986).
- California Dental Assoc. v. FTC, 526 U.S. 756 (1999) (abridged in text at 187-193).

### **Tuesday, June 2** **It Takes Two to Tango (or, Where is the Agreement?)**

- Copperweld v. Independence Tube Corp., 467 U.S. 752 (1984) (abridged in text at 230-233).
- Albrecht, revisited.
- Monsanto Co. v. Spray-Rite Service, Corp., 465 U.S. 752 (1984).
- Text at 253-283 (summary of the law of “Conscious Parallelism”).
- Bell Atlantic v. Twombly, 127 S. Ct. 1955 (2007).

### **Thursday, June 4** **Group Boycotts: Per Se or Not?**

- Text at 765-785.
- FTC v. Superior Trial Court Assoc., 493 U.S. 411 (1990) (abridged in text at 144-151).

- Rothery, revisited.
- Toys-R-Us, Inc. v. FTC, 221 Fed. 3d 928 (7th Cir. 2000).

**Tuesday, June 9**  
**Unilateral Conduct: Sherman § 2**

- Alcoa v. United States, 148 Fed. 2d 416 (2d Cir. 1945) (abridged in text at 600-607).
- Brooke Group Ltd. v. Brown & Williamson, 509 U.S. 209 (1993) (abridged in text at 661-672).
- Aspen Ski Co. v. Aspen Highlands, 472 U.S. 585 (1985) (abridged in text at 624-635).
- Verizon v. Trinko, 540 U.S. 398 (2004) (abridged in text at 707-713).
- Cascade Health Solutions v. PeaceHealth, 515 Fed. 3d 883 (9th Cir. 2008) (abridged in text at 683-697).
- Lorain Journal v. United States, 342 U.S. 143 (1951) (abridged in text at 588-591).
- United States v. Microsoft, 253 Fed. 3d 34 (D.C. Cir. 2001) (abridged in text at 640-654).

**Thursday, June 11**  
**Vertical Restraints (non-price restraints; resale price maintenance; tying)**

- Dr. Miles, revisited.
- Monsanto, revisited.
- Business Electronics Corp. v. Sharp Electronics Corp., 485 U.S. 717 (1988).
- Text at 788-822 (tying).

**Thursday, June 16**  
**Treble Damage Cases and Exemptions**

- Antitrust Injury: Text at 893-900.
- State Action and Petitioning: Text at 1061-1081.
- Indirect Purchasers and Standing: Text at 1089-1105.

**Thursday, June 18**  
**Does Antitrust Trump Labor Law, or vice versa?**

- United Mine Workers v. Pennington, 381 U.S. 657 (1965).

- Amalgamated Meat Cutters v. Jewel Tea, 381 U.S. 676 (1965) (opinion of Justice White and concurring opinion of Justice Goldberg).
- Connell Constr. Co. v. Plumbers & Steamfitters, 421 U.S. 616 (1975).
- Mackey v. NFL, 543 Fed. 2d 606 (8th Cir. 1976).
- Brown v. Pro Football, Inc., 518 U.S. 231 (1996).

**Tuesday, June 23**  
**Antitrust and Intellectual Property**

- Text at 1192-1237.
- In re ISO Litigation, (Fed. Cir. 2000).
- InterGraph v. FTC, (Fed. Cir. 1999).

**Thursday, June 25**  
**Criminal Antitrust; Competition Law in the EC**

Criminal Antitrust:

- Text at 5-11 (U.S. v. Andreas; Vitamins Inc.).
- Zane, An Introduction to Game Theory for Antitrust Lawyers (10 pgs; focus on pgs 4-6) (pdf attached).
- Optional Additional Background Reading: Hammond, Cornerstones of an Effective Leniency Program (20 pgs double spaced), available at <http://www.usdoj.gov/atr/public/speeches/200611.htm>

Competition Law in the EU:

- Text at 1261-1262 (Treaty of Rome, Art. 81 & 82).
- Joshua, That Uncertain Feeling (pgs 4-12), available at [www.iue.it/RSCAS/research/Competition/2006\(pdf\)/200610-COMPed-Joshua.pdf](http://www.iue.it/RSCAS/research/Competition/2006(pdf)/200610-COMPed-Joshua.pdf)
- Optional Additional Reading: Text at 553-558 (Mergers in the EU).

**Tuesday, June 30**  
**Mergers & Acquisitions (Clayton §7)**

- Text at 437-451.
- Text at 481-496.
- FTC v. Staples, Inc., 970 Fed. Supp. 1066 (D. D.C. 1997) (abridged in text at 542-553).

**Thursday, July 2**  
**Review Session**