



John DeQ. Briggs

PARTNER

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Practice Areas

- » Antitrust & Trade Regulation
- » Antitrust Counseling
- » Antitrust Litigation
- » Complex Litigation
- » Mergers and Acquisitions/Hart-Scott Rodino

John Briggs is Co-Chairman of AV&H's Antitrust Group and Managing Partner of the firm's Washington, DC office. Mr. Briggs has for decades been recognized as a premiere lawyer in his field. In the Antitrust arena, he has been lead counsel for many companies on both sides of the Atlantic in hundreds of mergers, class actions, private and governmental enforcement litigations, cartel matters and the application of antitrust and competition principles related to the use or abuse of intellectual property. He also has extensive experience litigating cases involving patent and other intellectual property issues, administrative law issues and a wide range of complex commercial issues, including contract disputes and many cases involving shareholder liability for actions of subsidiaries.

Prior to joining AV&H, Mr. Briggs had served for many years as the chairman of Howrey LLP's Antitrust Practice. In addition to his U.S. experience, Mr. Briggs has a great deal of international experience, having opened Howrey's Brussels office and acted as lead counsel before the European Commission on competition matters and served as an expert witness for companies and law firms in proceedings around the world, including Australia, Canada, Switzerland and the United Kingdom, as well as in the United States.

Mr. Briggs has represented merging companies in obtaining a great many clearances on both sides of the Atlantic and he has been engaged by clients to oppose transactions, most notably the *GE-Honeywell* matter before the European Commission. He has successfully litigated contested mergers against both the Federal Trade Commission and the Department of Justice. In private litigations, Mr. Briggs has won dozens of cases for defendants and also prevailed in all of his cases for plaintiffs.

His recent engagements include:

Lead counsel for Hexcel in *Hercules Inc. v. Hexcel Corp.*, Index No. 04/604098, Supreme Court, State of New York, Commercial Div.,

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Part 60, (April 30, 2007)(prevailed for the defense on multi-million dollar claim for contractual indemnification arising out of asset purchase agreement; affirmed on appeal, 2008).

Lead competition counsel for Independence Blue Cross in connection with the Federal approvals in its proposed consolidation with Highmark, Inc in Pennsylvania.

Special counsel for various Chinese companies in a confidential engagement relating to competition issues (2006-07).

Lead counsel for Tomkins plc in Case Comp/F/38.121 – Fittings – C (2006) 4180 before the European Commission (dealing with the liability of a shareholder for a fine imposed on a former subsidiary and the shareholder by the European Commission arising solely out of the subsidiary's participation in a cartel violative of EC Article 81; appeal to the Court of First Instance in Luxembourg pending)

Lead counsel for Rockwell Int'l in a large cluster of patent-antitrust cases in Chicago and Milwaukee *sub nom Solaia Tech. LLC v. ArvinMeritor, Inc.*, 2005 U.S. Dist. LEXIS 10136 (N.D. Ill., 2005) and *Rockwell Automation, Inc. v Schneider Automation, Inc., Solaia, Inc., and Niro, Scavone, Haller and Niro*, Case No. 02-C-1195 (E.D. Wisc. 2002-05) (addressing variety of patent and antitrust issues, including liability of plaintiff and counsel for pursuing allegedly baseless serial litigation; all cases resolved in favor of Rockwell)

Lead counsel for Louisiana Health Services Inc. in *Rapides et al v. Louisiana Health Svcs., Inc.* (D. La.)(claims of monopoly and attempted monopoly; case settled on highly favorable terms as a result of an "interest based" mediation in 2004)

Lead counsel for Quantum in its acquisition of Certance (2004) and in connection with various private litigations and class actions for Quantum.

Lead post trial and appellate counsel for the defendant in *ID Sec. Sys. Can., Inc. v. Checkpoint Sys.*, 268 F. Supp. 2d 448; 2003 U.S. Dist. LEXIS 10501 (2003)(prevailed post-trial in eliminating \$80 million adverse antitrust jury verdict)

Lead counsel for Dana Corporation in its successful antitrust defense to the hostile cash tender offer mounted by ArvinMeritor (2003)

Lead counsel for Independence Blue Cross in *Chester County Hosp. v. Independence Blue Cross*, Civil Action No. 02-2746, (Filed 2002, E.D. Pa.) Hospital claimed health insurer had monopolized and monopsonized various markets; case settled favorably in 2004 after some two years of litigation.

Lead appellate counsel for Dana in *Provini v. Asbestospray Corp.*, 360 N.J. Super. 234; 822 A.2d 627; 2003 N.J. Super. LEXIS 170 (NJ Superior Court Appellate Div. 2003)(affirming summary judgment in substantial asbestos case)

Lead counsel for Quantum Corp. in *Imation Corp. v. Quantum Corp.*, Civil No. 01-1798 (D.

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Minn.) (claim that the defendant had engaged in a variety of illegal acts under US antitrust law to exclude a competitor and control the market for Digital Linear Tape; case was resolved after several months through "interest based" mediation (2002)

Lead trial and appellate counsel for Rockwell Collins in *Universal Avionics Sys. Corp. v. Rockwell*, 184 F. Supp. 2d 947; 2001 U.S. Dist. LEXIS 13203; 2001-2 Trade Cas. (CCH) ¶73,439 (D. AZ 2001), *aff'd* 52 Fed. Appx. 897; 2002 U.S. App. LEXIS 25176; 2002-2 Trade Cas. (CCH) ¶73,897 (Ninth Cir. 2002) (summary judgment granted at the close of all discovery on plaintiff's claim that Rockwell had attempted to monopolize a market for Flight Control Systems).

Lead counsel for Reuters in its successful acquisition of Bridge Industries after a substantial DOJ investigation and "Second Request" (2001)

Co-lead counsel for Dana in *Dana Corp. v. Celotex Asbestos Settlement Trust*, Nos. 99-4493/99-4494, 251 F.3d 1107; 2001 U.S. App. LEXIS 11543; 2001 FED App. 0182P (6th Cir. 2001) (affirming extensive district court opinion holding that Dana was not required to indemnify the Celotex Asbestos Settlement Trust for billions of dollars)

Lead trial and appellate counsel for Dana and various officers of the company in *Jeffrey A. and Edward R. Hannahoe v. Dana Corporation*, Civ. No. 00-CV-5193 (E.D. Pa. 2001), *aff'd per curiam* 2002 U.S. App. Lexis 1534 (3d Cir. 2002) (successfully defeating plaintiffs' RICO claim).

Lead counsel for Rockwell International in its successful challenge to the acquisition of Honeywell by General Electric before the European Commission (2001).

Lead antitrust counsel for Gates in connection with Bando's antitrust counterclaims against Gates, *Gates Corp. v. Bando Chem. Indus.*, No. 99-1272, 4 Fed. Appx. 676; 2001 U.S. App. LEXIS 2404 (10th Cir. 2001) (case settled before trial)

Lead counsel for Rockwell International in its acquisition of Sony's In-Flight Entertainment System. (2000-01)

Lead counsel for twenty one steel companies who opted out of a class action to pursue their own recovery against a worldwide graphite electrodes cartel. *Ameristeel et al. v. The Carbon Graphite Group, Inc., SGL Carbon Corp., Showa Denko Carbon, Inc., and UCAR Inc.*, Case No. 98 cv-1693 (E.D. Pa.. 1999-2000) (Settlements achieved believed to be the largest ever as a percentage of sales).

Mr. Briggs's abilities have been recognized by peers and clients alike. Among his many external recognitions, he has been: featured by Global Competition Review in August 2007 as one of a small number of lawyers enjoying "A Decade at the Top"; named as one of the Best Lawyers in America for each of the last several years; a repeat recipient of the BTI Client Service "All Star" Award, based on repeat nominations by Fortune 1000 company chief legal officers for "client focus, delivery of results

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and exceptional understanding of clients' business"; recognized as one of the "Legal Elite" by the magazine Washington SmartCEO's; consistently listed as one of the "Best of the Best" Top Lawyers by Washingtonian Magazine; consistently recognized by many other worldwide publications including: Euromoney's "Guide to the World's Leading Competition and Antitrust Lawyers"; Global Competition Review's "International Who's Who of Business Lawyers" and "International Who's Who of Competition Lawyers"; PLC Global Counsel's "Competition Law Handbook" and "Which Lawyer."

Mr. Briggs has served as Chairman of the American Bar Association's Section of Antitrust Law for 1995-1996. For more than a decade he has been a Member of the Advisory Board of the Bureau of National Affairs' Antitrust and Trade Regulation Report and he was for many years the principal organizer of the Conference Board's annual program in New York City for corporate executives known as "Antitrust Issues in Today's Economy." Mr. Briggs has been for more than a decade a member of the Board of Trustees of the Legal Aid Society of the District of Columbia and has tried a number of pro bono cases.

He has published scores of articles on competition law and policy and has spoken before more than a hundred different business groups on these topics. Among his recent articles and presentations are: *Intellectual Property and Antitrust, 1641-2008: Two Scorpions In a Bottle*, presented to The Sedona Conference In Europe, 17-18 September, 2008. *The Incredible Shrinking Scale and Scope of American Antitrust 1976-2007*, presented to The Sedona Conference, October 26-27, 2007, *The Unsettled and Unsettling Nature of U.S. Competition Law Governing Single Firm Conduct*, presented to The Sedona Conference, October 27, 2006 and *Presumed Guilty: Shareholder Liability for a Subsidiary's Infringements of Article 81 EC Treaty*, 8 Bus. Law Int'l 1 (Jan. 2007)(with Sarah Jordan), also available *sub. nom. Pr sum  Coupable: Responsabilit  de l'actionnaire pour les infractions commises par une filiale   l'Article 81 du Trait  Instituant Le Communaut  Europ enne*.

Bar & Court Admissions

- » District of Columbia
- » U.S. Supreme Court
- » U.S. Court of Appeals for the First Circuit
- » U.S. Court of Appeals for the Second Circuit
- » U.S. Court of Appeals for the Third Circuit
- » U.S. Court of Appeals for the Fourth Circuit

- » U.S. Court of Appeals for the Sixth Circuit
- » U.S. Court of Appeals for the Ninth Circuit
- » U.S. Court of Appeals for the Eleventh Circuit
- » U.S. Court of Appeals for the District of Columbia Circuit
- » U.S. Court of Appeals for the Federal Circuit

Education

- » Georgetown University, Washington, D.C., 1972, J.D. Executive Director of Law and Policy in International Business.
- » Harvard College, Cambridge, MA, 1965, A.B.

Publications

- » *In reversal, DOJ now targeting monopolization – Antitrust Division disavows Bush policies, plans to enforce §2 of the Sherman Act rigorously*, The National Law Journal (November 2, 2009).
- » *The Supreme Court's 21st Century Section 2 Jurisprudence: Penelope or Thermopylae?* The Sedona Conference, (October 2009)
- » *Developments in the Law: The Presumption of Shareholder Liability and the Implications for Shareholders in Private Damages Actions*, Global Competition Litigation Review (Issue 4, 2009) (with Sarah Jordan).
- » *EU and U.S. "Competing" via their Competition Regimes*, European Affairs (2009).
- » *Intellectual Property and Antitrust: Two Scorpions in a Bottle*, The Sedona Conference Journal (Volume 10, Fall 2009).
- » *The Incredible Shrinking Scale and Scope of American Antitrust 1976-2007*, presented to the Sedona Conference, October 26-27, 2007.
- » *Presumed Guilty: Shareholder Liability for A Subsidiary's Infringements of Article 81 EC Treaty*, 8 Bus, Law Int'l (2007) (with Sarah Jordan), also available *sub. nom. Pr sum  Coupable: Responsibilit  de l'actionnaire pour les infractions commises par une filiale   l'Article 81 du Trait  Instituant Le Communaut  Europ enne*.
- » *The Unsettled and Unsettling Nature of U.S. Competition Law Governing Single Firm Conduct*, presented to The Sedona Conference, October 27, 2006.
- » *Unilateral Conduct by "Dominant" Firms in the US: Principles and Practicalities*, 2005

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- Competition Law Invitational Forum, Cambridge, Ontario, Canada 2005 (with Barbara O. Bruckmann)
- » *The Strange State of American Law Relating to Unilateral Conduct by “Dominant” Firms*, Presented before The Conference of the International Bar Association, Auckland, New Zealand, October 27, 2004 (with Barbara O. Bruckmann).
 - » *Foreign Purchasers Limited in Mounting Antitrust Suits in U.S. Courts, But Door not Closed all the Way*, The Daily Deal, July (2004)
 - » *Trends in Private Antitrust Enforcement: The Monopolist Next Door*, The Antitrust Review of The Americas 2003 (with James Kress)
 - » *Live and Let Die*, 10 George Mason L. Rev. 3 (April, 2002) (with Howard Rosenblatt)
 - » *A Bundle of Trouble: The Aftermath of GE/Honeywell*, Antitrust Magazine, Fall, 2001 (with Howard Rosenblatt).
 - » *Transatlantic Antitrust: Convergence or Divergence, Roundtable Discussion*, Antitrust Magazine, Fall, 2001 (with Francisco-Enrique Gonzalez-Diaz, Bruce Korgut, and Carl Shapiro)
 - » *GE-Honeywell: Chill or Challenge for Global Cooperation?* Antitrust Report, September, 2001 (with James F. Rill).
 - » *Single Firm Conduct and Developments in Private Antitrust Litigation*, The Antitrust Review of the Americas (November, 2000) (with Margaret Zwisler)
 - » *Antitrust 2001, Co-Chair* (with William P. Barr) of a two day program on antitrust sponsored by Fulcrum, Inc and featuring the leading five officials from both the FTC and the DOJ (September 28-29, 2000)
 - » *The FTC on an Antitrust Tear*, The Corporate Legal Times, Special Supplement on Litigation and Technology (June, 2000) (with Scott Flick).

Seminars & Classes

- » Antitrust Update: A Review of the 2005-06 Supreme Court Antitrust Cases, presented to the Corporate Counsel Institute at Georgetown University (2006).
- » Megatrends in Antitrust, 2000, address sponsored by the Legal Department of Rockwell International Corporation (Milwaukee, October 2000).
- » Vertical Restraints: Significant Development In Law and Enforcement, delivered at Conference on Antitrust 1997, A Briefing for Corporate Counsel, Oct. 1996.
- » What Institutional Processes Will Help the FTC to Attain Its Goals?, Delivered at the Federal

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Trade Commission's Investigative Hearings on the Changing Nature of Competition in a Global and Innovation-Driven Age, December 14, 1995.

- » Market Definition, Market Power and Entry in Light of Global Competition, Delivered at the Federal Trade Commission's Investigative Hearings on the Changing Nature of Competition in a Global and Innovation-Driven Age, October 18, 1995.
- » The Fifth Strand of Antitrust, Delivered at Business Development Associations Antitrust 1995 Conference, March 14-15, 1995.
- » The Developing Role of Antitrust As A Means of Ensuring Access For U.S. Exporters To Int'l Markets, Delivered at Business Development Assocs. Antitrust 1995 conference, March 14-15, 1995.
- » When, How and Why A Trade Association Might Wish To Seek DOJ & FTC Advice & Clearance: The Age of Business Review Letters and Advisory Opinions, Delivered at DC Bar Ass'n Annual Seminar on Antitrust and Trade Associations, Feb. 22, 1995.

Professional Activities

- » American Bar Association, Antitrust Law Section: Chairman, 1995-1996; Program Officer 1993-1994; Secretary 1991-1992; Chairman of Editorial Board of Antitrust Law Developments 1984-1989.

Recent News

- » The International Legal Alliance Recognizes Axinn Veltrop & Harkrider LLP as One of the Top Antitrust Firms in the U.S.
- » AV&H Attorney Named Washington D.C. Super Lawyer 2010
- » AV&H Attorneys Named to Super Lawyers Corporate Counsel Edition - January/February 2010
- » AV&H Attorney Named Washington, D.C. Super Lawyer 2009