The Microsoft Case - Exclusionary Innovention

11.10.1998

As a long time user of the Windows operating system with a Netscape Browser, I have been somewhat skeptical of the merits of the Government's case against Microsoft. At least Microsoft apparently missed me in its drive for dominance. It was thus with some interest that I learned that the government had expanded its case to include a number of marketing practices largely unrelated to technology. These include alleged attempts to divide markets with competitors, predatory pricing, agreements with Internet Service Providers ("ISPs") and online services not to promote competitive browsers, and allegedly "polluting" the Java programming language.

Having practiced in the antitrust arena for many years, I have come to appreciate the fact that the antitrust laws should tread lightly when technology is involved. Courts and lawyers really have no business telling technology wizards what should or should not be included in their products. We'd probably be wrong, and these technology markets seem to self-correct over time anyway. There was a time not too long ago when IBM dominated computers and Kodak dominated camera film. Although IBM and Kodak won most of their antitrust cases, each made some marketing mistakes, competition took hold, and both lost their positions of market dominance.

While the government's latest case still focuses heavily on technology issues, much of the conduct at issue is marketing practices that should be resolved by reference to traditional antitrust principles. In fact, it strikes me that the issues being litigated in the Microsoft case are quite similar to those litigated in the earlier monopolization cases, in both high and low technology markets. Throw in a few incendiary e-mails and other internal documents which reflect a desire to crush the competition, and what we now have is a good, old fashioned monopolization case, the outcome of which is highly uncertain.

The antitrust laws tolerate, but do not cherish, monopolies. Where monopolists engage in conduct that enhances consumer welfare by improving products or lowering prices, the monopolist should prevail though the same conduct excludes competitors. Where monopolists engage in conduct that has no economic rational other than to exclude competitors, the monopolist should lose under the antitrust laws. The issue of where the Microsoft's alleged conduct fits on this spectrum is the central issue in the current litigation.

For purposes of this paper, I will assume that Microsoft has monopoly power in the software operating system market and that it achieved that monopoly power through legitimate, procompetitive means. I recognize that Microsoft will certainly disagree with the former and the government may disagree with the latter. It is significant, however, that the government, in its earlier Microsoft case, did not allege that Microsoft obtained its monopoly position in the operating system market through unlawful means./1 Rather, Microsoft's initial acquisition of monopoly power was the somewhat fortuitous result of IBM choosing the Microsoft operating system for its PCs, a decision that led Microsoft to obtain an installed base on millions of IBM, and IBM compatible, PCs.

The exclusionary conduct issues are, however, at the heart of the case. With respect to such conduct, I caution against any rush to judgment. It is easy for us armchair quarterbacks to conclude the various species of conduct may or may not be exclusionary and anti-competitive. Much of Microsoft's conduct is both innovative and exclusionary. I suspect that the ultimate result may depend on whether Microsoft can link its marketing conduct to technological justifications.

THE MICROSOFT SAGA

The Microsoft saga begins in 1990 when the FTC started an antitrust investigation. After investigating for three years, in 1993 the FTC split two to two over whether to charge Microsoft with antitrust violations. The Antitrust Division of Department of Justice ("DOJ") took over the investigation. In July, 1994, the DOJ filed a Complaint. The Complaint charged that Microsoft was trying to maintain its monopoly of operating systems for IBM-compatible PCs by certain marketing practices, including the requirement that computer manufacturers pay Microsoft a royalty for every PC they sold even if the PC did not use a Microsoft operating system. The parties agreed to a Consent Decree. The decree was initially rejected by the District Court./2 Its ruling was later reversed by the Court of Appeals, which approved the decree./3

The 1995 Consent Decree prohibited certain practices, including the per processor fees. It also provided that Microsoft shall not enter into any License Agreement in which the terms of that agreement are expressly or impliedly a condition upon the licensing of any other Microsoft product. An exception to that prohibition provided that it could not be construed to prohibit Microsoft from developing integrated products.

In late 1997, the Government sought to hold Microsoft in contempt for violating the terms of the Consent Decree. The Government claimed that Microsoft required PC manufacturers to take Internet Explorer ("IE") browser in order to get the Windows operating system. Microsoft replied that Explorer was a "integrated product" and thus not a violation of the decree. The District Court refused to hold Microsoft in contempt. It did, however, enter on its own motion a preliminary injunction enjoining Microsoft from requiring PC manufacturers to install its Internet Explorer as a condition to getting a license for a Windows 95 or 98 operating system.

Microsoft appealed the preliminary injunction order. In early May, 1998, the Court of Appeals stayed the injunction as applied to Windows 98. It held that the Government was unlikely to be able to establish that Windows 98, in which the IE software code is embedded in the operating system, was not an integrated product and thus violated the decree. Faced with this partial defeat, the Government and 20 states brought a new antitrust action against Microsoft on May 18, 1998. While the major thrust of the new Complaint is that Microsoft is abusing its monopoly power by unlawful tying -- requiring Windows purchasers to also use its Internet Explorer Web browser -- the Government broadens its attack to include a wide range of allegedly exclusionary conduct.

The underlying basis for the expanded action is that the real threat to Microsoft's operating system monopoly is competing browsers, not just other operating systems. One way this could be accomplished is through use of Java, a cross platform language developed by Sun Microsystems that enables programmers to write software that will run with any computer. The alleged exclusionary conduct includes licensing Java and then developing its own version to undermine Java's value as a platform independent language, predatory pricing by providing Explorer free to Windows purchasers, attempting to divide the market with Netscape, giving AOL and Intuit's Quicken a prime spot on the Windows desktop if they rejected Netscape's offer, investing $150 million in Apple if it adopted Microsoft's version of Java, persuading Apple and Intel to drop competing software programs in return for continued support of their products, and threatening to terminate Compaq's Windows License if it

signed up with Netscape.

Within weeks, the government learned the wisdom of its decision to broaden the case. On June 23, 1998, in a 2-1 decision, the Court of Appeals virtually gutted the Government's case with respect to the Explorer tying claim.4 While the Court of Appeals decision did not directly address the merits of the Government's new case, it concluded that the Explorer web browser was not a separate product from the operating system, and thus the Windows/Explorer combination did constitute an integrated product under the Decree.

In reaching this conclusion, the majority of the Court of Appeals relied on a long line of "technological tying" decisions holding where the integration of two products arguably achieves some technologically beneficial result, they should not be considered two products for tying purposes. Microsoft had asserted that incorporating browser functionality into the operating system allows applications to avail themselves of that functionality without starting up a separate browser application and, if installed before sale, the installation of the product is faster, product support is reduced, and customer perception of the product is better. Judge Wald filed a vigorous dissent, asserting that, since there is clearly separate consumer demand for the operating system and the browser, they should be considered separate products for tying purposes.

Win, lose or draw, the Government's broad front strategy should play well at trial. A frequent private plaintiff's strategy in similar cases is to allege a wide variety of exclusionary acts which, while individually legal and proper, collectively may be sufficient to meet the exclusionary conduct element of a monopolization case. This 2+2=5 theory has some roots in antitrust jurisprudence./5 The broad monopolization claims also allows the introduction of e-mails and internal memos of the "let's squash them like a bug" variety which may reflect a natural desire to crush the competition, but often look bad to a jury. While there is no jury in this case, the government will blaze the path for private parties to pursue treble damage actions against Microsoft on the same facts.

Most interesting, however, is the government allegations that Microsoft tried unsuccessfully to induce Netscape, Intel, Apple and perhaps others to divide markets. Had Microsoft been successful, such agreements would constitute per se violations of Section 1 of the Sherman Act. This is reminiscent of the claims in U.S. v. American Airlines./6 In that case, the CEO of American Airlines attempted to induce its main competitor at the DFW airport to fix prices by telling its CEO in a telephone conversation "Raise your goddamn fares twenty percent. I'll raise mine the next morning." The competitor's CEO declined, and thus no unlawful agreement occurred. Nevertheless, the Court of Appeals found such conduct to be attempted monopolization in violation of Section 2 of the Sherman Act. While the alleged market division solicitations in the Microsoft case are disputed and the evidence certainly more ambiguous that in American Airlines, the government's position has a strong legal basis in antitrust law.

TRADITIONAL ANTITRUST PRINCIPLES

Single firm conduct under the antitrust laws is governed by § 2 of the Sherman Act. Section 2 prohibits monopolization and attempted monopolization. In a nutshell, the offense of monopolization requires proof of (1) monopoly power (2) an intent to monopolize and (3) exclusionary or predatory conduct to attain or maintain the monopoly power./7 The intent prong of this test, however, is often superfluous, and it is the conduct itself from which the intent must be inferred./8 This is particularly true where the conduct itself is a substantial restraint of trade, such as unlawful tying in violation of the Section 1 of the Sherman Act, as alleged in this case.

Where the conduct to be examined is not clearly anticompetitive, however, the existence of contemporaneous business documents in the nature of "crush the competition" or "squash them like a bug" may be probative as to whether the conduct is truly exclusionary or just "honestly industrial."/9 Every company wants to expand its business at the expense of rivals, and the use of militaristic phrases in marketing memos is a technique taught at some of our finest business schools. Despite the value of such incendiary statements as good jury evidence, we should seek to decide antitrust cases on objective criteria rather than on introspection into the mind set of the economic actors./10

The Microsoft case illustrates a basic tension that exists between two fundamental antitrust principles in the monopolization context. The first principle is that companies with monopoly power cannot engage in exclusionary business practices that may be permissible for companies that lack market power. Simply stated, Davids can engage in many kinds of conduct that are forbidden to Goliaths./11 The rationale is that so long as competitive alternatives exist, companies may engage in exclusionary conduct because in most cases it won't work and customers will simply switch to the competitors./12

The second principle is that even monopolists should be permitted to innovate and compete aggressively, even if that results in some competitors being knocked out of the market./13 If there is a legitimate, non-pretextual, business justification for the exclusionary conduct, then it may well promote consumer welfare by improving products and lowering prices./14 This is part of the general notion that antitrust laws exist to protect competition, not competitors.

A number of antitrust cases over the years have dealt with the issue of whether certain types of conduct by a monopolist may or may not constitute exclusionary conduct for Section 2 purposes.

One case cited often by the Microsoft critics is Lorain Journal v. United States./15 In that case the only newspaper in town, and thus presumably a monopolist, refused to accept advertisements from customers that advertised on radio stations that competed with it for advertising revenues. The court held this refusal violated Section 2 of the Sherman Act. There was clearly no legitimate rationale for its refusal to do so, and its only purpose was to eliminate competition for advertising.

The next series of cases is the IBM litigation. It is in these cases that the "technological tying" doctrine developed. When IBM had a virtual monopoly on mainframe computers, there were some competitors and peripheral equipment manufacturers that designed their products to be compatible with the IBM computers. While there were many IBM cases during the 1970's, including one by the government, the common factual allegation in most cases was that IBM would frequently re-design its computers such that they were no longer compatible with the peripheral products offered by competitors. IBM would then bundle the new features or components to its mainframe and offer them together as a package./16

IBM, however, won virtually all these cases. Such integration and tying was consistently held lawful where it improved performance or reduced costs. This technological tying doctrine was also followed in some cases involving another former monopolist, Eastman Kodak. In Foremost Pro-Color Inc. v. Eastman Kodak Co.,/17 the court dealt with Kodak's practice of designing its cameras in a manner that also effectively required one to purchase its film. Noting that product innovation is the essence of competitive conduct, the Ninth Circuit held that the development and introduction of a technologically related products is not unlawful tying even if the effective use of the new products necessitates the purchase of some or all of the other products./18 The Foremost court expressed a reluctance for courts to try to dictate the design of high technology products, a concern echoed by the Court of Appeal in the Microsoft Consent Decree appeal.

The next case involves the Bell Telephone system. After AT&T's legal monopoly on long distance telephone systems was lifted in 1969, several long distance competitors, such as MCI, were created. While they were able to use microwave dishes to enter the long distance market, it was necessary to connect with AT&T's nationwide telephone network to link the microwave system with local telephones. AT&T refused to allow MCI to connect. MCI sued under Section 2, and MCI won./19 The Court, however, grounded its ruling largely on the "essential facility" doctrine. It held that the antitrust laws have imposed on firms controlling an essential facility the obligation to make the facility available on nondiscriminatory terms. Since MCI was unable to compete without connecting its telephone lines with AT&T's nationwide telephone network, and it was technically and economically feasible for AT&T to provide the interconnections, AT&T's refusal to do so constituted an act of monopolization. 708 F.2d at 1133.

Another classic case that may bear on the Microsoft situation is Aspen Highlands Skiing Corp. v. Aspen Skiing Co./20 There are ski areas on four mountains in the Aspen area, three of which were owned by the defendant. The ski area on the fourth mountain was owned by the plaintiff. For years the defendant issued six day lift tickets, which could be used on any of the four mountain ski areas. When plaintiff refused to divide revenues from the six day tickets as proposed by defendant, defendant stopped issuing tickets for all four mountains. Plaintiff then sued, alleging that the four mountain ticket was an essential facility. While plaintiff lost on the essential facility doctrine, it won the case in the Supreme Court on Section 2 grounds. In essence, the Court held that there was no legitimate business purpose for defendant to reverse its long standing practice of issuing four mountain tickets, and its only purpose was to exclude competition from plaintiff.

Finally, in Eastman Kodak Co. v. Image Technical,/21 the Supreme Court again emphasized that, absent a legitimate business purpose, a refusal to deal may create Section 2 liability. In that case the defendant refused to sell parts to independent service organizations that competed against it in servicing copiers. The court remanded the case, ruling that a jury should be permitted to decide whether Kodak's business reasons were pretextual. On remand, the jury did return a verdict against Kodak, and the judgment on that verdict was affirmed in part by the Ninth Circuit./22 The Ninth Circuit opinion rejected Kodak's contention that a monopolist is liable for a refusal to deal only under the essential facilities theory, and it specifically approved a jury instruction that imposed liability for any refusal to deal that excludes or handicaps competitors when done to maintain a monopoly. This doctrine applies, said the Ninth Circuit, even where the goods at issue are subject to a patent or copyright.

The guiding principle of the above cases, and antitrust law generally, is that conduct by a monopolist is deemed exclusionary where it would be economically irrational but for its adverse impact in competition. It was, for example, economically irrational for the Lorain Journal to reject advertisers and for Aspen Ski Company to withdraw four mountain tickets. By contrast, the decisions of IBM and Kodak to bundle their products could at least arguably achieve some technological beneficial effect. It is this principle which sets monopolists apart from others, and creates heightened antitrust liability.

The other guiding principle that separates monopolists from other businesses is that their conduct must be considered as a collective whole rather than separately. Although no single aspect of a monopolist's behavior standing alone may be illegal, "it is the mix of the various ingredients of . . . behavior in a monopoly broth that produces the unsavory flavor."/23 It is, in the words of one court, the "synergistic effect" of the various acts and practices that may give rise to antitrust liability./24 The risk this principle creates for Microsoft is that the whole of its conduct may pose a greater risk than the sum of its parts.

Before we apply these principles to the Microsoft case, it is worth noting that virtually none of the defendants in these above cases are monopolists today. In the cases of Kodak and IBM, they lost their technological edge to hungrier and feistier rivals, one of which may be Microsoft itself. In some sense, the market self-corrected. This is the way the antitrust laws should work. In the case of AT&T, government intervention was required before it gave up its monopoly. As one who occasionally skis in the Aspen area, I know that the Aspen Ski Company now issues six day tickets that can be used on any of the ski areas. Aspen Ski Co., however, now owns all four mountains.

APPLICATION OF ANTITRUST PRINCIPLES

The next issue is to apply the foregoing principles to the conduct in the Microsoft case.

Let's start with the tying claim, because here the government can clearly hit a home run as tying would satisfy both the intent and conduct elements of the monopolization claim. Tying is per se illegal, however, only if two separate products are sold, the seller has market power over the tying product, and the purchaser is forced to take the tied product as a condition to get tying product. Here the tying product is Windows Operating System and the tied product is the Explorer Browser. The major anti-competitive effect of tying is that competitors are denied access to the tied market, and buyers are forced to forego their free choice between competing products in the tied product market.

The threshold issue, however, is whether the Windows Operating System and the Internet Browser are two separate products for tying purposes. The traditional formulation of the two product test is set forth in the Jefferson Parish v. Hyde./25 Under Jefferson Parish, the two product test is satisfied if there is separate consumer demand for each one, and products are not separate where they are sold in fixed proportions. Thus, a right shoe is not considered a separate product from a left shoe, and a salt shaker is not considered a separate product from a pepper shaker. Under this traditional "separate demand" test the operating system and the browser are separate products. This was the basis for Judge Wald's dissent in the Court of Appeal case.

However, relying on the "technological tying" from the IBM and Kodak cases described above, one may conclude, as did a majority of the Court of Appeal, that here the tying of the two products achieves a "technological beneficial result" thus making them one product. This is particularly true of Windows 98 which creates a seamless platform by integrating the software containing Explorer with the operating system.

The underlying rationale of the IBM and other "technological tie" cases is that manufacturers should be free to introduce product innovations and essentially package their products as they wish so long as there is a legitimate business reason and it is responsive to consumer demand. In short, technological tying is analogous to selling shoes with shoe laces or selling a Swiss Army Knife that has scissors and a can opener. Those items can still be purchased separately, but many consumers prefer to purchase them together. Manufacturers both improve their products and respond to consumer demand by tying them together. Moreover, we do not want courts dictating product design and features. Those decisions are best left to the manufacturers who will fail or succeed in the market place depending on whether their decisions are correct.

Even if the government fails to hit a home run on the tying claim, however, it should hit some singles and doubles on the remaining conduct that collectively, if not individually, may be sufficient to satisfy the "economically irrational" test or the "monopoly broth" standard of the Mishikawa case.

The top of the list of "economically irrational except to exclude competition" conduct probably goes to the allegations that Microsoft attempted to persuade a number of companies to divide markets or territories. If such agreements had been reached, they would clearly be per se illegal under Section 1 of the Sherman Act. These include alleged attempts to divide the browser market with Netscape and threatening to withdraw support for Intel and Apple if they entered its markets. There is little economic rationale for such conduct other than to eliminate competition, and attempts to reach such agreements have formed the basis for findings of exclusionary conduct in prior monopolization cases./26

One of the more intriguing, and in my view potentially dangerous to Microsoft, allegations deal with the Java Programing Language developed by Sun Microsystems. Java was a "cross-platform" language that enabled programs to write software that would run on any computer with or without Windows. Microsoft obtained a license for Java and created a Windows-only version in Java, thereby undermining Java's value as a platform-independent language. The government then alleges that Microsoft used its own version of Java in a predatory fashion, such as pressuring Apple to use Microsoft's Java as a condition for receiving a $150 million investment.

Microsoft contends that it was simply improving Sun's product. An alternative interpretation is that Microsoft's only purpose was to destroy the competitive value of Sun's Java in the marketplace. It is an example of where the only purpose of product innovation may be to exclude competition.

Finally, back to the browser. The government alleges that America On Line ("AOL") told Microsoft that it planned to use Netscape as the default browser for its subscribers. Microsoft responded by offering AOL's icon a prominent position on the Windows' desktop. Likewise Compaq, a manufacturer that installed Windows on virtually all its PCs told Microsoft that it was considering replacing Explorer with the Netscape Navigator. The government alleges that Microsoft then threatened to terminate Compaq's Windows '95 licensing agreement. This is a bit like shooting a fly with an elephant gun. Not surprisingly, Compaq agreed to keep Explorer.

The AOL and Compaq allegations, if true, show that Microsoft was exploiting its monopoly in the operating system market in a manner analogous to the Aspen and Lorain Journal cases. In both cases the exclusionary conduct was refusal to deal, and that is what Microsoft threatened when AOL and Compaq expressed a preference for Netscape. In both cases the refusal to deal was economically irrational except for its adverse impact on competition. The same may be true of Microsoft's conduct here. The main difference is that the targets of the refusals did have solid business reasons to accede to Microsoft. In the case of AOL it was to get a prominent spot on Windows desktop, and may be viewed as a legitimate cross-marketing arrangement in which each agrees to promote the products of the other.

The predatory pricing claim will probably succeed or fail with the tying claim. It is based on the allegation that Microsoft gave away the Explorer browser for free to Windows purchasers. Unlawful predatory pricing by a monopolist requires below marginal cost prices coupled with an intent and ability to recoup the losses through higher prices once rivals are driven from the market./27 A "free" product is obviously below cost unless it is determined to be part of another product, and the price of the integrated products exceeds marginal cost./28 Thus, absent a finding that the operating system and browser are separate products, it is unlikely that the predatory pricing claim will succeed.

The government also alleges that Microsoft's agreements with certain ISPs, ICPs and online services not to promote competitive browsers are exclusionary conduct as well as independent antitrust violations on their own. Most of these contracts fall short of complete exclusivity in that, when requested by customers, other

browsers can be and are installed. The practical and technical hurdles of doing so, however, effectively discourage many users. Some of these contracts, particularly those with ISPs, are the result of Microsoft's Wizard referral service which allows the user to obtain quicker Internet access in the user's locale. Such cross-marketing arrangements are often permissible under the antitrust laws.

The government's weakest allegation, in my view, is that OEMs are prohibited from modifying the Microsoft desktop screen and boot up sequence. According to Microsoft, this is required only the very first time when the consumer initially turns on the computer, and OEMs are free to put other icons on the desktop that can be accessed by a click of the mouse. While it may give Microsoft a "leg up" in promoting its own products, it is really not exclusionary in an antitrust sense.

Microsoft vigorously asserts that virtually all of its alleged conduct, if it occurred at all, was justified for technology reasons, to protect its copyrights, or the integrity of its Windows operating platform. Should the facts and evidence support these assertions, Microsoft may well prevail. The antitrust laws have a soft spot for technology advances which signal innovation and progress. Courts are reluctant to intervene under the guise of the antitrust laws due both to lack of expertise and the risk of stifling innovation.

Setting aside the tying issues, however, government appears to have amassed a wide array of marketing conduct which, while perhaps not illegal by itself, constitutes a pattern of exclusionary conduct which may meet the monopolization standards of Section 2 of the Sherman Act. This fact, combined with the "crush our competitors" memos and e-mail, make the outcome of this litigation highly uncertain, even though much of Microsoft's conduct is innovative and promotes technological progress.

Endnotes

1/U.S. v. Microsoft, 56 F.3d 1448, 1452 (D.C. Cir. 1995).

2/U.S. v. Microsoft Corp., 159 F.R.D. 318 (D.C.D.C. 1995).

3/U.S. v. Microsoft, supra, 56 F.3d 1448.

4/U.S. v. Microsoft, ___ F.3d ___ (1998).

5/Continental Ore v. Union Carbide, 370 U.S. 690 (1962).

6/743 F.2d 1114 (5th Cir. 1984).

7/U.S. v. Grinnell, 384 U.S. 563 (1966).

8/Ocean State Physicians v. Blue Cross, 883 F.2d 1101, 1112 (1st Cir. 1989).

9/USFL v. National Football League, 842 F.2d 1335, 1359 (2d Cir. 1988); Greyhound Computer v. IBM, 559 F.2d 488 (9th Cir. 1977).

10/Morgan v. Ponder, 892 F.2d 1355, 1359 (8th Cir. 1989); Paschall v. Kansas City Star, 727 F.2d 692 (8th Cir. 1984).

11. Purex Corp. v. Proctor and Gamble Co., 596, F.2d 881 (9th Cir. 1979).

12/United States v. Syufy Enterprises, 903 F.2d 659, 662 (9th Cir. 1990).

13/Berkey Photo, Inc. v. Eastman Kodak, 603 F.2d 263, 274 (2d Cir. 1979).

14/Data General Corp. v. Grumman Systems, 36 F.3d 1147, 1182 (1st Cir. 1994).

15/342 US 143 (1951).

16/See, e.g., California Computer Prods. v. IBM, 613 F.2d 727 (9th Cir 1979); In re IBM Peripheral EDP Devices Antitrust Litigation, 458 F.Supp. 1003-05 (N.D. Cal. 1979).

17/703 F.2d 534 (9th Cir. 1983).

18/703 F.2d at 542-43.

19/MCI Communications Corp. v. AT&T, 708 F.2d 1081 (7th Cir. 1983).

20/472 US 585 (1985).

21/504 U.S. 451 (1992).

22. 125 F.3d 1195 (1996).

23. City of Mishikawa v. Am. Elect. etc., 616 F.2d 976, 986 (7th Cir. 1980).

24/City of Groton v. Conn. Light & Power, 662 F.2d 921, 935 (2d Cir. 1981).

25/446 U.S. 2 (1984).

26/U.S. v. American Airlines, supra; Multistate Legal Studies v. Harcourt Brace, 63 F.2d 1540, 1552 (10th Cir. 1995).

27/Brooke Group v. Brown & Williamson, 509 U.S. 209 (1993).

28/Janich Bros. v. American Distilling Co., 570 F.2d 848 (9th Cir. 1977).

This article was originally published as a Litigation and Antitrust Update (November 1998), a Sheppard, Mullin, Richter & Hampton LLP publication.
© 1998 Sheppard, Mullin, Richter & Hampton LLP.

Practice Areas

Litigation