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## Q&A With Latham & Watkins' Daniel Wall

*Law360, New York (July 08, 2009)* -- Daniel M. Wall is a partner and co-chair of the antitrust and competition practice group at Latham & Watkins LLP. For 29 years, Wall has represented many of the world's leading companies in complex antitrust litigation, government conduct investigations, merger reviews and as a counselor. He began his career as a U.S. Department of Justice lawyer litigating U.S. v. AT&T, and has since litigated over 75 antitrust cases, including U.S. v. Oracle Corp., the successful defense of a DOJ challenge to Oracle's hostile tender offer for PeopleSoft.

### **Q: What is the most challenging case you've worked on, and why?**

A: I am blessed to have had some exceptional cases to work on, including U.S. v. AT&T, which led to the break-up of the U.S. telephone monopoly; Image Technical Services v. Eastman Kodak, which went to the Supreme Court; and several merger trials.

But U.S. v. Oracle stands out for the sheer intensity and high stakes. I was hired in February 2004, late in the Hart-Scott-Rodino review, and was giving an opening statement in a full trial four months later. Both the DOJ and Oracle threw everything they had at the case, and it was unmistakably a landmark trial.

DOJ had a good argument against the deal, but it was flawed and our team did a fantastic job exposing and exploiting the weaknesses in the DOJ's market definition and competitive effects case. That was accomplished primarily through careful preparation of cross-examination for DOJ's witnesses, and then the cross-examination itself.

It all went very well, to the point that we felt we had won the case by the time the DOJ rested. And in fact we won.

**Q: What accomplishment as an attorney are you most proud of?**

A: It would be easy to say that winning a case like Oracle or AT&T is my proudest moment.

In reality, I think I am most proud of the relationships I have established with clients like Oracle and Apple, who call on me regularly and treat me as part of their strategy team, and then more generally with the technology industry in the Bay Area and Silicon Valley, which has embraced me as a “go to guy” for complex antitrust work.

It is enormously gratifying to get the chance to work for these great companies on so many cutting-edge issues. I don’t know how anyone could have a better practice than I have.

**Q: What aspects of law in your practice area are in need of reform, and why?**

A: The one that jumps out recently is the cost of producing electronic documents, whether it is in the merger review process or in litigation. It has gotten completely out of control. There is no such thing as an inexpensive document production anymore, and the norm in a merger review or a typical antitrust case is a multimillion-dollar expense just for producing documents.

I was on a panel recently where we discussed the average cost of responding to a second request in a merger review, and the consensus was plus or minus \$5 million. That’s outrageous, and completely unnecessary for the purposes of a pre-litigation review of a merger.

Somehow this must change, though honestly I see little prospect of that.

**Q: Where do you see the next wave of cases in your practice area coming from?**

A: The Obama administration cannot help but be more aggressive than the DOJ has been in the last few years, particularly with respect to single-firm conduct cases. The Bush team all but shut down the monopolization enforcement program at the Antitrust Division, and outside patent “hold-up” cases like Rambus, the FTC did not do much either.

I personally favor a more aggressive DOJ policy on single-firm conduct issues, and I think we’ll get it.

**Q: Outside your own firm, name one lawyer who's impressed you and tell us why.**

A: I met Hew Pate (of Hunton & Williams) on the other side of the Oracle case, and that made for a pretty testy relationship. But I had the chance to work with him on a couple of cases in the past year and I have become a big fan.

He is very smart, has sound judgment and understandably has a great sense for the dynamics of the DOJ process. He is not just someone who was connected to the Bush team, but a very talented antitrust expert who would be a great pick regardless of who is in power.

**Q: What advice would you give to a young lawyer interested in getting into your practice area?**

A: Immerse yourself in the substance of antitrust, meaning both the law and the economics. This is a specialty if ever there was one, and whether you are a litigator, an agency lawyer or a counselor, the value you provide to your client comes first and foremost from applying substantive antitrust analysis to the problem at hand. So become an expert. That's Job One.