U.S. Supreme Court Docket Oct. 2014 Term – Antitrust and Trade Regulation Cases

Docket No.	Date filed	Granted Petitions	Subject	Status	Questions Presented
13-271	8/26/13	Oneok, Inc. v. Learjet, Inc. Cert. granted 7/1/14	Antitrust	Oral Argument – no date set Merit Briefs: Petitioner Brief (9/18/14) Respondent Brief due 11/21/14 Select Amicus Briefs: United States; Interstate Natural Gas Assoc. of Am.; Noble Americas Energy Solutions; Washington Legal Foundation Supreme Court Docket	Does the Natural Gas Act preempt state-law claims challenging industry practices that directly affect the wholesale natural gas market when those claims are asserted by litigants who purchased gas in retail transactions? Ninth Circuit decision (4/10/13)
13-534	10/25/13	North Carolina State Board of Dental Examiners v. FTC Cert. granted 3/3/14	Antitrust	10/14/14 – Oral Argument Transcript Merit Briefs: Petitioner Brief (5/23/14) Respondent Brief (7/30/14) Petitioner's Reply Brief (8/29/14) Select Amicus Briefs: American Antitrust Institute; West Virginia; American Association of Nurse Anesthetists; Antitrust Scholars Supreme Court Docket	Whether, for purposes of the state-action exemption from federal antitrust law, an official state regulatory board created by state law may properly be treated as a "private" actor simply because, pursuant to state law, a majority of the board's members are also market participants who are elected to their official positions by other market participants. Fourth Circuit decision (5/31/13)
13-1174	3/26/14	Gelboim v. Credit Suisse Group AG Cert. granted 6/30/14	Antitrust	Oral Argument – 12/9/14 Merit Briefs: Petitioner Brief (8/29/14) Respondent Brief due 10/15/14	Whether and in what circumstances is the dismissal of an action that has been consolidated with other suits immediately appealable?

				Select Amicus Briefs: Mayor and City Council of Baltimore, et al. Supreme Court Docket	Second Circuit decision (10/30/13)

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14-190	8/14/14	Bertrand v. Mullin	Advertising	**Cert. denied 10/14/14** Respondent Brief (9/3/14) Supreme Court Docket	Whether the Iowa Supreme Court, in deciding whether a political campaign advertisement constituted actionable defamation by implication, erred by applying an unreasonably high legal standard when it found a lack of sufficient evidence of actual malice pursuant to *N.Y. Times v. Sullivan*, 376 U.S. 254, even though Petitioner informed Respondents several times of the false nature of the advertisement (1) at a meeting and (2) through a lawsuit which (a) sought immediate injunctive relief and (b) was accompanied by a sworn affidavit refuting the false implication. Supreme Court of Iowa decision (5/16/14)
14-110	8/1/14	Dean Foods Co. v. Food Lion, LLC	Antitrust	Respondent Brief (9/26/14) Supreme Court Docket	Whether, in antitrust or other cases in which the plaintiff must prove causation in fact as an element of the claim, a plaintiff must produce evidence of causation to defeat a motion for summary judgment, or whether a court may instead presume causation at summary judgment and permit the case to proceed to trial based on that presumption. Sixth Circuit decision (1/3/14)
14-77	7/23/14	Kolon Industries, Inc. v. E.I. Du Pont de Nemours & Co.	Antitrust	Respondent Brief (8/25/14) Petitioner Reply Brief (10/7/14)	Under 28 U.S.C. sec. 455(b), is a federal judge relieved of his mandatory statutory duty of self-disqualification,

				Supreme Court Docket	simply because neither party filed a timely motion to disqualify the judge? Fourth Circuit decision (4/3/14)
14-69	7/18/14	Taleff v. Southwest Airlines Co.	Acquisitions & Mergers	**Cert. denied 10/6/14** Response due 8/21/14 Supreme Court Docket	Whether the Supreme Court's decisions enjoining mergers under Sec. 7 of the Clayton Act, which have never been overruled and which have been interpreted by the 7th Circuit to collectively stand for the proposition that a nontrivial acquisition of a significant rival in an industry with a trend towards concentration is presumptively illegal, are still binding and viable since many of the lower courts have either ignored them completely or overruled them *de facto*? Ninth Circuit decision (2/4/14)
14-60	7/16/14	MiniFrame Ltd. v. Microsoft Corp.	Antitrust	**Cert. denied 10/6/14** Respondent Brief (8/26/14) Petitioner Reply Brief (8/29/14) Supreme Court Docket	Whether a cognizable claim can be stated for violation of Sec. 2 of the Sherman Act under the Supreme Court's decision in *United States v. Grinnell Corp.* 384 U.S. 536 (1966), where a monopolist used its market power in one market to prohibit consumers from purchasing a rival's product in a related market without a "superior product [in the related market], business acumen or historic accident" simply by incorporating that prohibition as a new license restriction for its dominant software product in the market it monopolizes. Second Circuit decision (12/23/13)

14-1	6/30/14	AEP Energy Services v. Heartland Regional Medical Center	Antitrust	Wisconsin Respondents Brief (8/29/14) Missouri Respondents Brief (9/2/14) Petitioners Reply Brief (9/16/14) Supreme Court Docket	Whether due process permits a court to exercise specific personal jurisdiction over non-consenting, out-of-state defendants based on the plaintiffs' bare allegation that the defendants engaged in a nationwide conspiracy outside the forum that had an intended effect inside the forum (as well as presumably in every other state). Whether due process permits a court to exercise specific personal jurisdiction over non-consenting, out-of-state defendants when the defendants' limited forum conduct bears no causal relationship to the plaintiffs' claims. Ninth Circuit decision (4/10/13)
13-1494	6/13/14	Malaney v. UAL Corp.	Acquisitions & Mergers	**Cert. denied 10/6/14** Respondent Waiver	For purposes of defining a relevant product market under Sec. 7 of the Clayton Act, is it erroneous to define a relevant market based on demand considerations alone? Is it a violation of Due Process when a lower court uses its application of standards for preliminary injunctive relief under Sec. 16 of the Clayton Act, to subsequently bind a litigant in a claim for damages under Sec. 4 of the Clayton Act? Whether the Supreme Court's decisions enjoining mergers under Sec. 7 of the Clayton Act, which have never been overruled and which have been interpreted by the Seventh Circuit to collectively stand for the proposition that a nontrivial acquisition of a significant rival in an industry with a trend towards concentration is presumptively illegal, are still binding

				Supreme Court Docket	and viable since many of the lower courts have either ignored them completely or overruled them de facto? Ninth Circuit decision (1/16/14)
13-1426	5/27/14	Ross v. FTC	Consumer Protection	**Cert. denied 10/6/14** Respondent Brief (7/30/14) Petition Reply Brief (8/8/14) Supreme Court Docket	Whether, following the Supreme Court's decision in *Meghrig v. KFC Western, Inc.*, 516 U.S. 479 (1996), the presence of elaborate enforcement provisions authorizing monetary relief under Section 19 of the FTC Act, precludes interpreting monetary remedies into the purely injunctive language of Sec. 13(b). Fourth Circuit decision (2/25/14)
13-1379	5/15/14	Athena Cosmetics, Inc. v. Allergan, Inc.	State Unfair Trade Practices	Respondent Brief (7/18/14) Petitioner's Reply Brief (8/5/14) Solicitor General Invitation (10/6/14) Supreme Court Docket	Whether, under *Buckman Co. v. Plaintiffs' Legal Committee*, 531 U.S. 341 (2001), the Food, Drug, and Cosmetic Act impliedly preempts a private state-law claim for unfair competition premised on a party's purported failure to obtain FDA approval, where FDA itself has not imposed any such requirements. Federal Circuit decision (12/30/13)