

2015

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KENT A. GARDINER

CROWELL & MORING LLP



PIONEER SPIRIT Coming out of law school, Kent Gardiner didn't know how to navigate private law firms, so he entered the Honors Program at the DOJ. The slot that was open was in the Antitrust Division. "I was at a field office in Texas, which meant a lot of trial work." He left the DOJ and joined Crowell & Moring in 1987.

TRAILS BLAZED Gardiner pioneered the practice of litigating in antitrust matters on behalf of corporate plaintiffs. "When I started, there were class action plaintiffs lawyers, but no one for corporations that found themselves periodically wronged, often by pricing overcharges or other fraudulent conduct." The practice has spread well beyond antitrust. "Most law firms believe in risk reduction, but we try to bring our clients opportunities to enhance value." Gardiner is also helping clients avoid and defend antitrust claims that may come from protecting their intellectual capital. "Companies need to maximize intellectual capital, but be ready to deal with antitrust counterattacks. We take a holistic approach, working with government agencies, the White House IP czar and foreign governments to make sure our clients can protect themselves."

FUTURE EXPLORATIONS More and more companies are going to take advantage of recoveries, Gardiner expects. "It will grow exponentially. To some extent, this was caused by the recession and now it's embedded." Some of his clients have created full-time recovery counsel positions. "Their job is to find these types of opportunities; that incentivizes them to look higher and farther in cooperation with us. It's part of the culture and a part of the mind shift in what clients expect from their firms."

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WM. RANDOLPH SMITH

CROWELL & MORING LLP



PIONEER SPIRIT Desiring government prosecutorial experience, Randy Smith went to the FTC immediately after law school (despite the fact that FTC work is not criminal). After six years, he realized that the antitrust field was where he wanted to stay. "It's interesting to work across many industries at once and get paid to learn what makes businesses tick."

TRAILS BLAZED Most of Smith's most innovative work has been in telecommunications, where he has had a string of industry-changing deals over about 15 years. Most recently, he acted as lead antitrust counsel for AT&T's \$67 billion acquisition of DirecTV. "We are in the midst of a technical and regulatory revolution that is having a major impact on the information economy." Smith has been outside antitrust counsel for AT&T for decades and has served in the same role for other companies, including DuPont, Alcoa and United Technologies. "It's made it very interesting to grow up with the people at those companies and to have contributed to how they have evolved and reinvented themselves."

FUTURE EXPLORATIONS Smith believes that the future of his practice will be driven by the connection of antitrust and technology. "Can M&A keep up with the incredible pace of technology?" Smith also expects to see a lot more consolidation as newer technologies come along. "The antitrust laws are flexible enough. They have evolved through various technology phases and industry changes and have worked well. But the question will be whether the FTC and DOJ can use that in the right way as they evolve and move forward. They need to try to understand how technology will play out over the next few years and factor that in."

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DANIEL A. SASSE

CROWELL & MORING LLP



PIONEER SPIRIT Dan Sasse was drawn to antitrust because it is at the intersection of business and law. “It involves criminal investigations as well as civil and deal work. As a young lawyer, you can walk in and do everything—all of which is really fascinating—and you don’t have to make up your mind.”

TRAILS BLAZED When Sasse moved to Crowell’s Los Angeles office in 2004, he was the firm’s first antitrust attorney west of the Beltway. “Today we have 34 full-time antitrust professionals on the West Coast.” Sasse is well known for his plaintiff-side antitrust work on behalf of corporate clients. “It all started when Fortune 500 companies like AT&T, DuPont and General Motors came to us and said, ‘we think we’ve been the victim of [typically] a price fixing cartel that’s impacted our supply chain.’” In a usual scenario, the makers of some key component colluded on prices, with the anti-competitive behavior costing their customers money. Recovering on behalf of corporate clients has grown since 2008, but it has been part of his and the firm’s practice for decades. “Over the years, we’ve returned about \$1 billion to at least four dozen different clients and also helped them to compete more effectively in their marketplaces on behalf of their employees and customers.”

FUTURE EXPLORATIONS Over the last five years, Sasse has seen a major increase in the institutionalization of affirmative recovery programs. “There are a lot of Fortune 100 companies developing programs and putting specific lawyers in place where this is their whole job. Having dedicated resources and people is a trend that’s going to grow.” To serve them, Crowell & Moring produced its first recovery conference this year, covering antitrust, IP, tax, trade and more.