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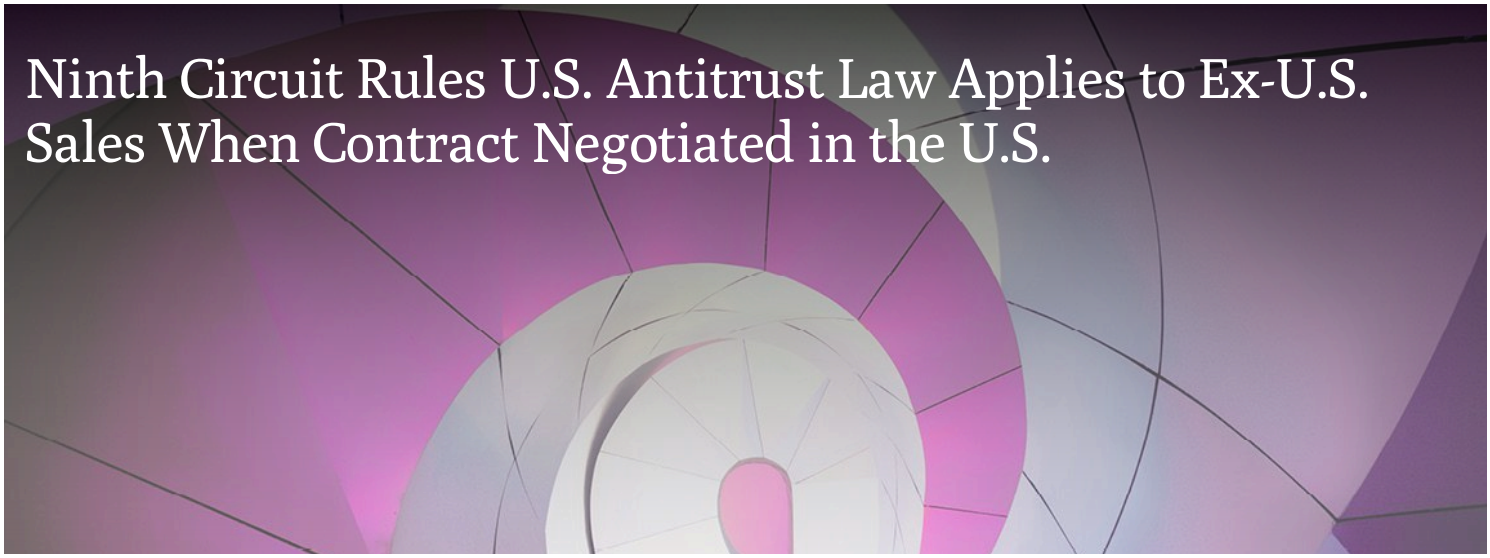
BLOG

Ninth Circuit Rules U.S. Antitrust Law Applies to Ex-U.S. Sales When Contract Negotiated in the U.S.



FEBRUARY 9, 2026

On January 8, 2026, the Ninth Circuit Court of Appeals allowed U.S. company Seagate Technology LLC (Seagate) and its foreign entities—Seagate Thailand and Seagate Singapore—to move forward with their claims against Japanese company NHK Spring Co., Ltd. (NHK Spring) under United States antitrust (i.e., competition) laws.[1] In reaching that decision, the court found the required nexus to United States commerce under the Foreign Trade Antitrust Improvements Act (FTAIA)—despite the fact that the only U.S.-based transaction between the parties was the negotiation of a single master purchase agreement in California.[2] While this decision appears to be in some tension with an earlier Seventh Circuit decision, it underscores the importance of attention to corporate formalities and consideration of the venue for the negotiation and execution of global agreements.

THE FTAIA

Despite recent trends toward supply chain hardening and onshoring, the international reach of supply chains continues to be a central factor in global commerce. For manufacturers and importers of goods into the United States, the exact reach of United States antitrust laws overseas (and their attendant criminal penalties or treble damages[3] remedy for violations), as governed by the FTAIA, is an issue of significant importance.

As a reminder,[4] a global outlier, the Sherman Act,[5] applies to conduct outside the United States (a characteristic known as extraterritorial application). In 1982, Congress passed the FTAIA to clarify the limits of when United States antitrust laws can apply to foreign conduct, with the goal of significantly curtailing private parties from suing in U.S. courts for antitrust harms occurring off U.S. soil.[6] Since its enactment, the FTAIA has been notorious for being "convoluted" and "cumbersomely worded." The Supreme Court of the United States most significantly interpreted the FTAIA in *F. Hoffman-La Roche Ltd. v. Empagran S.A.*, 542 U.S. 155 (2004).

Put simply, the statute first creates a general rule that the Sherman Act does not apply to conduct involving trade or commerce with foreign nations, and then details two exceptions to that general rule that *do* bring foreign conduct within the reach of the Sherman Act. These two exceptions are often referred to as the "import exclusion" and the "domestic effects exception."

- **Import Exclusion:** The import exclusion allows application of the Sherman Act to conduct "involving" imports into the United States.

- Of course, there have been disputes about what it means to "involve" import commerce and how close the connection between the foreign conduct and U.S. import commerce must be.[7]

- **Domestic Commerce Exception:** Under the domestic commerce exception, the non-import foreign commerce must involve conduct that had a direct, substantial, and reasonably foreseeable effect on domestic commerce that gives rise to an antitrust claim.[8]

  - Naturally, courts vary on what is considered a "direct" effect.

The upshot is that the FTAIA limits application of the Sherman Act when the challenged foreign conduct causes only foreign injury.[9] Given its opaque statutory language and potentially ambiguous application, many courts have struggled to interpret the FTAIA.

THE *SEAGATE* RULING: FINISHED GOODS INCORPORATING EFFECTED COMPONENTS DO NOT SATISFY THE IMPORT EXCLUSION, BUT INTERNATIONAL TRADE NEGOTIATED IN THE UNITED STATES AND RESULTING IN EFFECTED IMPORTS SATISFIES THE DOMESTIC EFFECTS EXCEPTION

According to Seagate's complaint, Seagate manufactures hard drives. Its Thai and Singaporean subsidiaries purchased components for those hard drives—suspension assemblies—from NHK Spring outside of the United States for artificially inflated prices due to an illegal price-fixing scheme perpetrated by NHK Spring.[10] Further down the supply chain, those assembled hard drives are then sold to both foreign and U.S. consumers, allegedly at prices higher than if the price of their component parts (i.e., the suspension assemblies) were not artificially inflated.[11] Seagate argued that both exceptions to the FTAIA applied and, thus, it could bring antitrust claims against the Japanese-owned company.

Under the FTAIA's import exclusion, U.S. antitrust laws apply to foreign products or services that are shipped or sold into the U.S. from overseas. As noted, courts have struggled with the confusing wording of the FTAIA and are split on whether *any* import commerce is subject to antitrust laws or whether import commerce must be subject to the FTAIA's requirement of a "direct, substantial, and reasonably foreseeable effect" on domestic commerce. The *Seagate* court sidestepped the unsettled question and concluded that the import exclusion does not apply because the target of the cartel, the suspension assemblies, were not themselves imported into the United States.[12] Only the assembled hard drives were imported, which were not directly subject to the anticompetitive conduct. Effectively, the *Seagate* court held that for the import exclusion to apply, the relevant import must be a *direct* import rather than one a few steps further up the supply chain.[13]

Seagate had more luck with the domestic commerce exception. To succeed under the FTAIA, an antitrust plaintiff must show that the relevant conduct (1) had a direct, substantial, and reasonably foreseeable effect on domestic commerce, and (2) gave rise to an antitrust claim. The *Seagate* court demanded a strict interpretation of what counts as a "direct" effect on domestic commerce. The effect must be an *immediate* consequence of the alleged anticompetitive conduct and cannot depend on uncertain intervening developments, like other market forces.[14]

In a separate criminal case, NHK Spring had admitted that it fixed prices with competitors for its suspension assemblies to be sold in the United States, exchanged pricing information with its competitors, and used that information to inform negotiations with U.S. customers that purchased the suspension assemblies (including Seagate).[15] Pivotally, NHK Spring had also admitted that this conduct had a direct, substantial, and reasonably foreseeable effect on U.S. commerce. The *Seagate* court thus sidestepped this analysis, and relied on these admissions to find that the first prong of the domestic commerce exception was met.[16]

The court also found that Seagate likely met the second prong of the domestic commerce exception (i.e., NHK Spring's conduct "gave rise" to an antitrust claim). The court focused on the fact that pricing negotiations between NHK Spring and Seagate were conducted in California with Seagate's U.S. arm. The resulting pricing contracts were binding on Seagate Thailand and Seagate Singapore, as the foreign subsidiaries could not negotiate prices on a transaction-by-transaction basis. Since the foreign subsidiaries lacked pricing autonomy, the court found that there were no other actors or forces that may have affected price outside of NHK Spring's wrongful conduct.[17]

DOES *SEAGATE*'S ANALYSIS CREATE A CIRCUIT SPLIT?

The *Seagate* decision is in apparent tension with the Seventh Circuit's ruling in *Motorola Mobility LLC v. AU Optronics Corp*.[18] In that case, Plaintiff Motorola Mobility LLC (Motorola) claimed that the foreign defendants fixed prices of LCD panels that Motorola used in manufacturing its cellphones. The defendants sold LCD panels to Motorola's foreign subsidiaries abroad, which then manufactured the cellphones for sale in the United States.

Like in *Seagate*, the court in *Motorola* found that the allegedly price-fixed LCD panels were not considered "import commerce."[19] But unlike in *Seagate*, the *Motorola* court did not find that the alleged conduct had a direct, substantial, and reasonably foreseeable effect on domestic commerce that gave rise to an antitrust claim.

Factually, *Seagate* and *Motorola* differ. In *Motorola*, the critical fact was that all direct purchases that were allegedly subject to anticompetitive overcharges were purchases made abroad by Motorola's non-U.S. subsidiaries. The court did not find any purchases made directly by Motorola's U.S. parent company. Further, the decision does not indicate that any negotiations between Motorola and defendants occurred within the United States. Although Motorola argued that it *directed* its foreign subsidiaries to issue purchase orders at the price and quantity it determined in the United States, ultimately the Seventh Circuit rejected that argument because the foreign subsidiaries were distinct corporate entities and the formal distinction could not be ignored, either as a matter of corporate law or in light of *Illinois Brick*.[20] This formal distinction appears to have proven critical in *Seagate*, where purchase prices were set globally by a contract actually executed in the United States by Seagate's United States parent entity.

IMPACT ON GLOBAL ENTITIES

Given the significance of the Ninth Circuit to import commerce, particularly for manufacturers with trans-Pacific supply chains, the *Seagate* opinion offers key takeaways:

- **Import Commerce:** The FTAIA's import exception remains limited to products and services that are *direct* imports into the United States. Component parts for products that may eventually be imported into the United States continue not to qualify as "import commerce," in line with past precedent. For example, if a Japanese computer manufacturer conspired with competitors to fix the prices of its computers and import those computers into the United States, then the import exception would apply, and the Japanese manufacturer and its coconspirators could be liable for criminal and civil antitrust violations in the United States. But if those same manufacturers had instead fixed the price of central processing units sold abroad that were later imported only as part of an assembled computer, the import exception would not apply.
- **Domestic Commerce:** Even though *Seagate* found that NHK Spring may be liable under the domestic commerce exception to the FTAIA, the court strictly interpreted the FTAIA and would likely not have ruled as it did if the NHK Spring-Seagate pricing negotiations had not occurred within the U.S., with the U.S. parent company, and were not automatically applicable to Seagate's foreign subsidiaries. Under these circumstances, the domestic commerce exception to the FTAIA remains narrow. Foreign entities concerned with avoiding application of U.S. antitrust law should accordingly avoid negotiating global services agreements within the United States generally, and the jurisdiction of the Ninth Circuit[21] in particular.
- **Treble Damages:** Exposure to antitrust liability in the U.S. comes with significant consequences. Particularly, plaintiffs might be able to obtain treble damages and attorneys' fees, making U.S. courts attractive fora for antitrust plaintiffs. Corporations with international supply chains and concerns over antitrust exposure should be sure to monitor shifting interpretations of the extraterritorial scope of U.S. law and consult antitrust counsel with questions.
- **Criminal Cases & Guilty Pleas:** At this stage in the litigation, NHK Spring's 2019 guilty plea to criminal price-fixing charges proved fatal to defending its civil antitrust claims against Seagate. Foreign entities should be advised that criminal charges, convictions, and guilty pleas could potentially be used as evidence in separate civil cases concerning the same activity.

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[1] *See Seagate Tech. LLC v. NHK Spring Co., Ltd.*, No. 2404470, 2026 WL 61360, *2 (9th Cir. Jan. 8, 2026).

[2] *Id.* at *8–10.

[3] Treble damages are a legal remedy where the court is required to award the plaintiff three times the amount of actual damages determined by the jury. Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that "any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue" for treble damages, prejudgment interest, and costs of suit, including attorneys' fees.

[4] Kevin B. Goldstein, *Second Circuit Clarifies When Foreign Conduct "Involves" Import Commerce Subject to U.S. Antitrust Laws*, Winston & Strawn LLP (Dec. 5, 2019), https://www.winston.com/en/blogs-and-podcasts/competition-corner/second-circuit-clarifies-when-foreign-conduct-involves-import-commerce-subject-to-us-antitrust-laws#_ftn1.

[5] The Sherman Act is the statutory basis for most United States antitrust law. *See* 15 U.S.C. §§ 1, 2 (prohibiting contracts, combinations, and conspiracies in restraint of trade and monopolization).

[6] *See* 15 U.S.C. § 6a.

[7] *See* 15 U.S.C. § 6a. *See generally* Goldstein, *supra* note 5 (discussing interpretations of the import exclusion).

[8] *See* 15 U.S.C. § 6a; *F. Hoffmann-La Roche Ltd. v. Empagran S.A.*, 542 U.S. 155, 163 (2004) (stating that "there should be no American antitrust jurisdiction absent a direct, substantial and reasonably foreseeable effect on domestic commerce or a domestic competitor").

[9] *See Empagran*, 542 U.S. at 158.

[10] *Seagate*, 2026 WL 61360 at *7–8.

[11] *Id.*

[12] *Seagate*, 2026 WL 61360 at *7–8.

[13] *Id.*

[14] *Id.* at *8.

[15] *See* Press Release, *Japanese Manufacturer Agrees to Plead Guilty to Fixing Prices for Suspension Assemblies Used in Hard Disk Drives*, U.S. Dep't of Just. (July 29, 2019), https://www.justice.gov/archives/opa/pr/japanese-manufacturer-agrees-plead-guilty-fixing-prices-suspension-assemblies-used-hard-disk.

[16] *Seagate*, 2026 WL 61360 at *8–9.

[17] *Id.* at *9–10.

[18] *See Motorola Mobility LLC v. AU Optronics Corp.*, 775 F.3d 816 (7th Cir. 2015).

[19] *Id.* at 819.

[20] *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977).

[21] The Ninth Circuit Court of Appeals spans the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington, as well as the territories of Guam and the Northern Mariana Islands.

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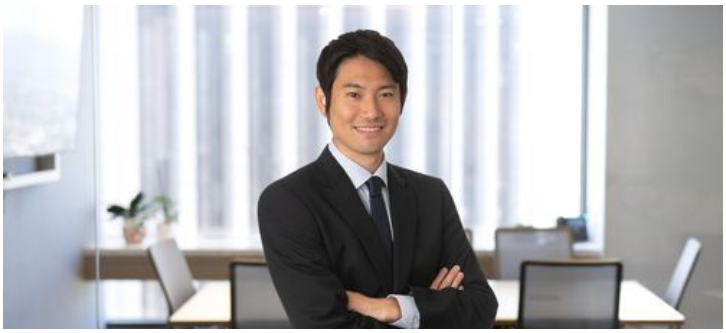

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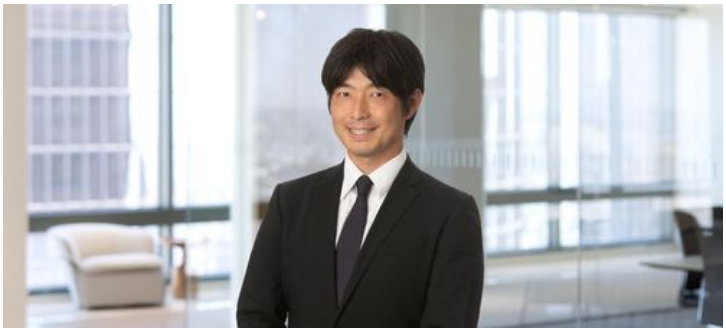

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