

GIBSON DUNN



Antitrust & Competition Update

January 30, 2026

## Texas Antitrust 2025 Year-End Update

*Gibson Dunn is lead counsel or strategic counsel on several significant Texas antitrust matters—spanning advertiser boycotts, ad-tech monopolization, energy-sector competition, Business Court proceedings, and appellate challenges.*

Texas is quickly becoming an active venue for important antitrust disputes involving emerging technologies and novel issues, with 2025 continuing this growing trend. Courts across the state—especially the Eastern and Northern Federal Districts—issued rulings that will shape how companies litigate and assess antitrust risk going forward. The Texas Attorney General remained aggressive and is using Texas law to regulate and challenge conduct as allegedly anticompetitive.

With the growth of Texas antitrust litigation, Gibson Dunn will be publishing quarterly Texas antitrust updates to ensure clients are familiar with important regulatory and litigation developments. Gibson Dunn is lead counsel or strategic counsel in several of these significant Texas antitrust matters—spanning advertiser boycotts, ad-tech monopolization, energy-sector competition, Business Court proceedings, and appellate challenges. Gibson Dunn’s Texas antitrust team is integrated with its preeminent national and global antitrust practice and led by Dallas partners **Scott Hvidt, Ashley Johnson, Betty Yang, Russ Falconer, and Liz Ryan** as well as Houston partner and former Fifth Circuit Judge **Gregg Costa**. Gibson Dunn’s Texas antitrust team also earned the highest honors (“Elite”) by Global Competition Review in its most recent review.

## BIG TECH & PLATFORM CASES

***State of Texas v. Google (ad-tech):*** The State of Texas filed this action alleging Google engaged in unlawful anticompetitive conduct in digital advertising markets. Judge Sean Jordan issued a detailed Seventh Amendment order on June 18, 2025, granting in part Google's motion to strike the states' jury demand. Specifically, the plaintiff states are not entitled to a jury on the federal antitrust counts because they seek exclusively equitable relief, and are not entitled to a jury on the *quantum* of civil penalties because assessment of civil penalties does not require a jury. However, they are entitled to a jury determination on liability for several of their state antitrust and DTPA claims—including Texas's. *The State of Texas v. Google LLC*, No. 4:20-cv-00957 (E.D. Tex. June 18, 2025) (Mem. Op. & Order). The Court has also managed the case in tandem with a similar action brought by the DOJ and several other states in the Eastern District of Virginia, resulting in a summer scheduling adjustment to account for overlapping legal issues. The court conducted a thorough analysis of various states' laws regarding civil penalties and concluded 12 out of 17 states—including Texas—were entitled to a jury trial on whether they have a right to civil penalties sought under their respective state antitrust laws. The five states that were not entitled to a jury only sought or were only able to seek equitable relief. The court similarly held that the majority of the states were entitled to a jury trial on whether they are entitled to civil penalties under their respective DTPAs because that relief was "not intertwined with or incidental to any requested equitable relief." *Id.*

Why It Matters: Judge Jordan's June 2025 ruling underscores that a plaintiff's right to a jury trial in an antitrust case hinges on whether the plaintiff is seeking civil penalties or only equitable relief.

***X Corp. v. World Federation of Advertisers (advertiser boycott):*** X alleges a horizontal group boycott orchestrated by advertisers through an industry body, seeking treble damages and injunctive relief under the federal antitrust laws. Filed in Wichita Falls (N.D. Tex.) on August 6, 2024, the pleadings evolved in 2025. *X Corp. v. World Fed'n of Advertisers*, No. 7:24-cv-00114 (N.D. Tex. filed Aug. 6, 2024). Defendants have moved to dismiss, arguing X's pleadings do not plausibly allege an agreement under *Twombly*, fail to show antitrust injury, and cannot proceed as a per se group boycott given the absence of foreclosure of a necessary input or dominance in a defined market. Defendants also press First Amendment protections.

Why It Matters: This case tests how courts will treat allegations of advertiser group boycotts under antitrust precedent.

**Related development:** *Rumble Inc. v. World Federation of Advertisers*. This case involves a similar antitrust suit against the industry body in the X case. *Rumble Inc. v. World Federation of Advertisers*, No. 7:24-cv-00115 (N.D. Tex. Aug. 13, 2025). Judge Jane Boyle—the same judge presiding over the X case—dismissed the group boycott claims without prejudice for lack of personal jurisdiction and improper venue, holding that Clayton Act § 12's nationwide service and special venue provisions are not satisfied, rejecting Rule 4(k)(2) jurisdiction on the existing record, and denying transfer as moot—without reaching the merits.

***X/xAI v. Apple & OpenAI (Fort Worth)***: In August 2025, X and xAI filed federal antitrust suit in Texas challenging the Apple-OpenAI integration. The court kept the case in Fort Worth notwithstanding venue objections. X and xAI allege a system-level tie between Apple's Siri generative AI chatbot capabilities and ChatGPT. Defendants disagree with the allegations and contend that their agreements aren't exclusive. Apple's and OpenAI's respective motions to dismiss were denied on November 13. The court held that the arguments were better suited for summary judgment. *X Corp. et al. v. Apple, Inc. et al.*, No. 4:25-cv-00914 (N.D. Tex. filed August 25, 2025).

Why It Matters: The lawsuit concerns competition in the AI marketplace.

## ESG & INVESTMENT MANAGEMENT

***State of Texas et al. v. BlackRock, Inc., State Street Corporation, and The Vanguard Group, Inc. (ESG)***: Texas is leading a coalition of states alleging concerted conduct among asset managers to pressure coal companies to achieve "net zero" carbon impact and thereby reduce coal output. In 2025, the DOJ and FTC filed a Statement of Interest focused on the contention that Section 1 applies fully to coordinated ESG restraints. The court denied the defendants' motions to dismiss the antitrust claims (while dismissing some consumer protection claims), allowing both the section 1 and novel Clayton Act § 7 claims to proceed into discovery. *Texas v. BlackRock Inc.*, No. 6:24-cv-00437 (E.D. Tex. filed Nov. 27, 2024); see U.S. DOJ Antitrust Statement of Interest (June 2025).

Why It Matters: This dispute is at the intersection of antitrust law and political controversies surrounding ESG (Environmental, Social, and Governance) investing and involves an unprecedented use of section 7 against managers of index funds.

## HEALTHCARE & PRIVATE EQUITY

***FTC v. U.S. Anesthesia Partners (USAP) / Welsh Carson (roll-up)***: The FTC alleged that Welsh Carson had systematically acquired anesthesiology practices in Texas with the goal of creating a dominant monopolistic anesthesiology provider. Welsh Carson filed a motion to dismiss, and Gibson Dunn filed an amicus brief for the American Investment Council in support thereof. In 2024, the court dismissed Welsh Carson as a defendant for procedural reasons but allowed the FTC's case against U.S. Anesthesia Partners (USAP) to proceed. In 2025, the FTC finalized a consent order limiting Welsh Carson's future anesthesia investments and imposing notice obligations, while litigation against USAP continues in the Southern District of Texas. *FTC v. U.S. Anesthesia Partners, Inc.*, No. 4:23-cv-03560 (S.D. Tex. May 13, 2024) (order); Welsh Carson consent developments (Jan.–May 2025). After the court dismissed the FTC's claims against Welsh Carson for procedural reasons, the FTC's continued pursuit through administrative routes, eventual settlement with Welsh Carson, and the resulting consent order reflect current scrutiny over the healthcare industry.

Why It Matters: This case illustrates the FTC's ongoing attention to roll-up investor strategies and consolidation in the healthcare sector. But its novel attempt to go after the private equity sponsor, in addition to the portfolio company, failed.

## SPORTS & ENTERTAINMENT

***Houston Texans PSL litigation (TFEAA):*** In April 2025, Personal Seat License holders sued the Texans in Harris County, asserting Texas Free Enterprise and Antitrust Act claims tied to resale restrictions. Plaintiffs allege coordinated policy changes foreclosing competition in the Texans' season-ticket aftermarket.

Why It Matters: This case illustrates how Texas antitrust law can surface in secondary-market disputes.

## INDUSTRIAL

***JSW Steel v. Nucor JSW (Tariff Exclusions):*** JSW alleged that domestic steel producers conspired to block its access to imported steel slab by coordinating objections in the Section 232 tariff-exclusion process and then refusing to sell domestic slab. *JSW Steel (USA) Inc. v. Nucor Corp.*, No. 22-20149, (5th Cir. Mar. 17, 2025). The Fifth Circuit affirmed dismissal at the pleading stage, holding that the alleged coordinated regulatory advocacy was protected petitioning under Noerr-Pennington and that the remaining refusal-to-deal allegations—parallel credit requirements and technical deviations—did not plausibly plead a Section 1 agreement under *Twombly*.

Why It Matters: The decision reinforces that coordinated regulatory advocacy before Commerce and BIS is broadly insulated from antitrust liability, even when competitors' submissions move in lockstep.

## TEXAS BUSINESS COURT: NEW FORUM, EARLY SIGNALS

The Business Court (launched Sept. 1, 2024) is producing opinions on jurisdiction and complex commercial issues, with an active dedicated appellate court (the Fifteenth Court of Appeals). The Legislature expanded the Court's jurisdiction via H.B. 40 (effective Sept. 1, 2025), lowering monetary thresholds for the amount in controversy to \$5 million and broadening case types—changes likely to attract more complex antitrust and unfair-competition filings to Texas state court. Specifically, the Business Court has jurisdiction over antitrust actions involving either “state or federal securities or trade regulation” or “qualified transactions” involving obligations of at least \$5 million. Tex. Gov't Code §§ 25A.001(14), 25A.004(b)(3). This creates an exciting venue for plaintiffs to bring business-related antitrust claims with large damages at stake.

Why It Matters: Texas's specialized Business Court could be poised to attract more antitrust litigation to the state in the coming years.

The following Gibson Dunn lawyers prepared this update: Scott Hvidt, Ashley Johnson, and Gregg Costa, with contributions from Arjun Ogale, Jed Greenberg, and Warren Bloom.

Gibson Dunn lawyers are available to assist in addressing any questions you may have regarding these developments. Please contact the Gibson Dunn lawyer with whom you usually work, the authors, or any leader or member of the firm's Texas Antitrust and Competition team:

Scott K. Hvidt – Dallas (+1 214.698.3317, [shvidt@gibsondunn.com](mailto:shvidt@gibsondunn.com))

Ashley E. Johnson – Dallas (+1 214.698.3111, [ajohnson@gibsondunn.com](mailto:ajohnson@gibsondunn.com))

Gregg Costa – Houston (+1 346.718.6649, [gcosta@gibsondunn.com](mailto:gcosta@gibsondunn.com))

Betty X. Yang – Dallas (+1 214.698.3226, [byang@gibsondunn.com](mailto:byang@gibsondunn.com))

Russ Falconer – Dallas (+1 214.698.3170, [rfalconer@gibsondunn.com](mailto:rfalconer@gibsondunn.com))

Liz Ryan – Dallas (+1 214.698.3219, [lryan@gibsondunn.com](mailto:lryan@gibsondunn.com))

Attorney Advertising: These materials were prepared for general informational purposes only based on information available at the time of publication and are not intended as, do not constitute, and should not be relied upon as, legal advice or a legal opinion on any specific facts or circumstances. Gibson Dunn (and its affiliates, attorneys, and employees) shall not have any liability in connection with any use of these materials. The sharing of these materials does not establish an attorney-client relationship with the recipient and should not be relied upon as an alternative for advice from qualified counsel. Please note that facts and circumstances may vary, and prior results do not guarantee a similar outcome.

If you would prefer NOT to receive future emailings such as this from the firm,  
please reply to this email with "Unsubscribe" in the subject line.

If you would prefer to be removed from ALL of our email lists,  
please reply to this email with "Unsubscribe All" in the subject line. Thank you.

© 2026 Gibson, Dunn & Crutcher LLP. All rights reserved. For contact and other information, please visit our [website](#).