Proskauer



Contact

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David Munkittrick represents companies in consequential disputes where competition, innovation, and creative enterprise intersect. He is often engaged when legal doctrine is evolving, business models are under pressure, and the outcome of litigation carries industry-wide implications. Known for his calm approach to complex issues, he develops strategies that are creative but disciplined. David brings clarity and structure to intricate matters while grounding advocacy in a rigorous understanding of how his clients' businesses function.

David's practice spans antitrust, copyright, and high-stakes commercial litigation across the modern economy, from pharmaceuticals and healthcare, to automotive, music and live entertainment, sports and trading cards, agriculture, financial services, hospitality, and technology. He is increasingly called on for matters at the intersection of antitrust, copyright, and AI, where market-power and creative-rights questions entangle.

He is at the forefront of data access issues, having represented Bright Data in closely watched and precedent-setting litigations involving the right to access public web data and testing the contours of competition law in technology-driven markets.

David has tried bench and jury cases involving price discrimination and group boycott claims, defended Fortune 500 companies in some of the highest-profile

investigations and litigations of the past decade, and counseled clients through the full litigation life cycle. His antitrust experience also includes defending clients in federal class actions and competitor suits alleging monopolization and exclusionary conduct, as well as representing companies in investigations before the DOJ and FTC.

A former practicing musician, David represents major music and entertainment companies and artists in infringement, ownership, and licensing disputes, including matters involving digital distribution and evolving media platforms. His clients include the NMPA, Sony Music Entertainment, U2, Madonna, Live Nation, UMG, and Warner.

An active commentator on developments in antitrust and copyright law, David writes and speaks frequently. In addition to his monthly *Law360* column, “FTC Focus,” his writing has been featured in the *GCR Private Litigation Guide*, Proskauer’s privacy and antitrust treatises, and the Fordham IPLJ Symposium.

Outside the firm, David serves on the board of the Lorelei Ensemble and was previously on the board of the New York Choral Society. He has taught the Law and Music course at the Eastman School of Music. An accomplished classical pianist, David made his Carnegie Hall debut while at Proskauer, performing as part of a piano trio.

Matters

Antitrust — Trial Wins

- **In the Matter of Benco/Schein/Patterson (FTC).** Defended Henry Schein, Inc. in a months-long FTC group-boycott trial. Schein was the only defendant to obtain a complete dismissal of the complaint.
- **Mathew Enterprise, Inc. v. Chrysler Group LLC** (N.D. Cal.; 9th Cir.). Trial counsel for Chrysler in the successful defense of a $5.1 million Robinson-Patman price-discrimination action, affirmed on appeal.

Antitrust — Sports, Media, and Entertainment

- **X Corp v. National Music Publishers' Association, Inc., et al.** (N.D. Tex.). Counsel for NMPA and 14 music publishers in antitrust action filed by X Corp. alleging group boycott and refusal to deal.
- **Casey's Distributing, Inc. v. National Football League, Inc., et al.** (S.D.N.Y.) and **Franz v. National Football League, et al.** (S.D.N.Y.). Counsel for the NFL and its 32 member clubs in the consolidated putative class actions alleging conspiracy to monopolize online retail market for licensed NFL merchandise.
- **Jones v. Fanatics, Inc.** and **Scaturo v. Fanatics, Inc.** (S.D.N.Y.). Defense of NFL in the putative class actions alleging a conspiracy among to monopolize the market for fully licensed major-league trading cards.
- **Learfield Communications / IMG College.** Counsel for Learfield in the U.S. Department of Justice's investigation of its merger with IMG College, which combined the two largest providers of collegiate multimedia rights.
- **The Broadway League v. Telsey et al.** Counsel to The Broadway League regarding application of the antitrust labor exemption to a purported union of independent casting-director businesses.

Antitrust — Health & Pharma

- **United States v. The New York and Presbyterian Hospital** (S.D.N.Y., E.D.N.Y.). Defense of NYP in the U.S. Department of Justice challenge to the hospital system's payer contracting practices, alongside the related private antitrust actions.
- **CarePoint v. RWJBarnabas Health** (D.N.J.). Counsel to RWJBarnabas in antitrust disputes arising out of New Jersey hospital operations.
- **In re Generic Pharmaceuticals Pricing Antitrust Litigation** (E.D. Pa., MDL 2724). Long-running defense of Lupin Pharmaceuticals in the consolidated state-AG, class, and direct-action price-fixing actions

- **Castro v. Sanofi Pasteur Inc.** Defended Sanofi Pasteur against a nationwide putative class action alleging monopolization of the U.S. meningitis-vaccine market through bundling and exclusionary conduct.

Other Antitrust

- **In re Turkey Antitrust Litigation** (N.D. Ill., No. 19-cv-08318). Counsel for Butterball, LLC in the consolidated antitrust actions alleging an conspiracy to exchange competitively sensitive information and restrain turkey supply.
- **TrueEx LLC v. MarkitServ Ltd.** Defense of antitrust claim seeking to impose a duty to deal in the alleged market for post-trade processing of interest-rate swaps.
- **New Mexico State Investment Council v. Bank of America Corp. et al.** (D.N.M.). Defense of MarkitServ in multi-defendant financial-markets antitrust action concerning credit-default-swap markets.

Technology, Data Access & Web Scraping

- **Meta Platforms, Inc. v. Bright Data Ltd.** (N.D. Cal., No. 23-cv-00077). Counsel for Bright Data in the closely watched scraping suit brought by Meta over the collection of public Facebook and Instagram data. In January 2024, the court granted Bright Data summary judgment, ruling that Meta's Terms of Use did not prohibit scraping of public data when logged out of the platforms.
- **X Corp. v. Bright Data Ltd.** (N.D. Cal., No. 23-cv-03698). Counsel for Bright Data in X Corp.'s breach-of-contract and tort suit over scraping of public X (formerly Twitter) data. Achieved precedent-setting copyright preemption ruling, and defeated X's motion to dismiss Bright Data's antitrust counterclaims.
- **Google LLC v. SerpApi, LLC** (N.D. Cal., No. 25-cv-10826). Counsel for SerpApi in Google's DMCA suit regarding access to public search-results data.

Copyright & Entertainment

- **Sony Music Entertainment et al. v. Marriott International, Inc. (D. Del., No. 24-cv-00598)** and **Sony Music Entertainment et al. v. OFRA Cosmetics, LLC (S.D. Fla., No. 23-cv-62073).** Plaintiffs' counsel for Sony Music Entertainment and affiliated labels in leading copyright cases over corporate use of unlicensed sound recordings in social-media advertising.
- **Belvac Production Machinery, Inc. v. Adonis Acquisition Holdings** (D. Del.). Successfully defeated preliminary injunction in copyright action alleging infringement of software code.
- **Archie MD, Inc. v. Elsevier, Inc.** Defense of Elsevier against allegations of mass copyright infringement; obtained dismissal of the vast majority of claims on summary judgment.
- **Francescatti v. Germanotta.** Defense of Lady Gaga in copyright infringement litigation over the song "Judas"; obtained complete dismissal on summary judgment.
- **Rose v. Hewson.** Defense of U2 against claims that "The Fly" infringed the plaintiff's song; obtained complete dismissal on a motion to dismiss.
- **Cole v. Blackwell Fuller Music Publishing.** Defense of music publishers in copyright dispute regarding rights to Bob Marley songs; obtained dismissal on a motion to dismiss.
- **AREC v. Jerri Jones.** Twice obtained dismissal of breach-of-contract claims over royalties relating to Dixie Cups songs.

Other Complex Commercial Litigation

- **Financial Oversight and Management Board for Puerto Rico.** Defense of the Oversight Board, in its own right and as the debtors' representative, in litigation related to the restructuring of approximately $74 billion of Commonwealth bond debt and $50 billion of unfunded pension obligations.
- **Rock 'n Play Sleeper Product Liability MDL.** Defense of Mattel, Fisher-Price, Target, Walmart, Amazon, and Buy Buy Baby in product-liability

litigation arising from the Rock ‘n Play Sleeper.

- **Katz v. The Donna Karan Co. LLC.** Successful defense of a putative class action under FACTA, with two appeals to the Second Circuit.
- **PBGC v. The Renco Group, Inc.** Trial counsel for Renco in ERISA litigation.
- **VICI Racing v. T-Mobile USA, Inc.** Defense of T-Mobile in a contract dispute.
- Represented former partner in mutual fund investment firm in arbitration asserting breach of partnership agreement

Practices

Antitrust Technology Task Force, Antitrust, Copyright, Litigation

Industries

Health Care, Private Capital, Entertainment

Market Solutions

Proskauer+Tech, Artificial Intelligence

Education

Indiana University Maurer School of Law, J.D.
cum laude
Oberlin College, B.A.
with highest honors
Oberlin College, B.Mus

Admissions & Qualifications

New York

Court Admissions

U.S. Court of Appeals, First Circuit
U.S. Court of Appeals, Second Circuit
U.S. Court of Appeals, Third Circuit

U.S. Court of Appeals, Ninth Circuit

U.S. District Court, New York, Eastern District

U.S. District Court, New York, Southern District

Memberships

American Bar Association: Antitrust Section

New York State Bar Association: Entertainment, Arts and Sports Law Section

New York City Bar Association: Science and Law Committee

Awards & Recognition

Best Lawyers: Ones to Watch in America 2026-2027

Concurrences Antitrust Writing Award — Business Article, Intellectual Property (2025)

Benchmark Litigation — Future Star (2025)

Managing Intellectual Property — Rising Star (2022–2025)

The Legal 500 United States — Antitrust: Civil Litigation / Class Actions: Defense (2023–2025)

The Legal 500 United States — Intellectual Property: Copyright (2022, 2024–2025)

The Legal 500 United States — Media, Technology and Telecommunications: Media and Entertainment Litigation (Leading Lawyer 2025; ranked 2022–2023)