

Antitrust Litigation



HIGHLIGHTS

■ Recognition in Antitrust Litigation

Wilson Sonsini's antitrust litigation practice is ranked among the best in the world. Past recognitions have included: *AmLaw* "Antitrust Litigation Department of the Year," *Global Competition Review* – "Litigation of the Year," "Litigation of the Year (Non-Cartel Prosecution)," and *Law360* "Competition Group of the Year."

■ Proven Litigation Talents Valued by Clients

Clients have commented in *Chambers USA*: "Their litigation skills are exemplary. They demonstrated unparalleled advocacy, preparation, and confidence in the courtroom."

OVERVIEW

Wilson Sonsini's antitrust litigation team brings a depth and diversity of antitrust litigation experience that is unmatched. Our antitrust litigators are routinely hired to represent companies such as Amphastar Pharmaceuticals, Google, Hitachi Chemical, Live Nation, Mylan, Netflix, Seagate, Symantec, and Walgreens in their most important antitrust litigation matters both in the United States and around the world. Wilson Sonsini's antitrust litigators:

- **Serve** as trial counsel for company plaintiffs and defendants, including a significant docket of federal class action and "follow-on" cases after government enforcement.
- **Defend** companies and secure dismissals or summary judgment in competitor litigation, class actions, and non-class actions.
- **Negotiate** favorable settlements in cases brought by individuals or class actions.
- **Represent** company plaintiffs in cutting-edge litigation matters brought against competitors.
- **Engage** in company investigations, agency-facing work, and antitrust counseling.
- **Rely** on substantial government experience to solve problems for clients and support their business goals.

Wilson Sonsini's antitrust practice consistently wins cases brought under the Sherman Act, Clayton Act, Robinson-Patman Act, and state competition and consumer protection statutes. We have successfully represented clients in defense of antitrust claims seeking large treble damages awards that threaten the viability of their businesses.

In addition to a successful track record in class action and treble damages cases, our attorneys have a wealth of experience in antitrust cases that raise novel and complex intellectual property issues. Our expertise, in combination with Wilson Sonsini's unparalleled intellectual property litigation and patent law experience, has led to numerous client victories. We have represented clients in cases where we defended business practices that raised cutting-edge antitrust concerns, including claims challenging IP licensing practices, standard-setting activities, and patent pools.

REPRESENTATIVE MATTERS

Representative Matters

- Successfully defended **Google** in litigations filed by KinderStart, Person, TradeComet, and MyTriggers. In each case the plaintiffs challenged Google's Search rankings and AdWords quality score adjustments as acts of monopolization, and all were dismissed.
- Successfully defended **Google** in ongoing antitrust and contract litigation in the Northern District of California filed by Dreamstime, a stock photo website. Dreamstime alleged that Google reduced its rankings and entered into promotional deals with other stock photo websites, including Getty and Shutterstock, which favored those sites. In its January 28, 2019 Order, the court dismissed these claims with prejudice, holding that the alleged "mistreatment of Dreamstime as a customer of Google... even by a monopolist, does not necessarily reduce competition in the relevant market."
- Wilson Sonsini's antitrust litigators represent **Mylan** in high-stakes civil litigations as both a plaintiff and a defendant, including in *In re Generics*, one of the largest alleged conspiracy cases ever. Wilson Sonsini serves as one of five liaison counsel for over 50 defendants in the matter. In another action, Wilson Sonsini represented Mylan as a plaintiff against Celgene in an antitrust case that was resolved when Celgene agreed to pay Mylan \$62 million.
- Representing **Seagate Technology** as a plaintiff against certain Japanese manufacturers accused of price-fixing on suspension assemblies used in hard disk drives.
- Represented pharmaceutical company **Amphastar** in related antitrust and patent cases that were resolved in a global settlement after a successful First Circuit appeal. In June 2019, Amphastar announced that it has entered into a settlement agreement with Momenta/Sandoz, under which Momenta and Sandoz agreed to pay Amphastar \$59.9 million.
- Represents **Symantec** in *NSS Labs, Inc. v. CrowdStrike, Inc.*, et al, an ongoing antitrust litigation pending in the Northern District of California and filed by plaintiff NSS Labs, a cybersecurity testing vendor. Plaintiff alleges refusal to deal claims against Symantec and CrowdStrike, manufacturers of cybersecurity platform products known as endpoint protection products, other testing vendors, and the Anti-Malware Testing Standards Organization. On August 13, 2019, notwithstanding an amicus brief from the DOJ, Judge Freeman granted defendants' motion to dismiss, with leave to the plaintiff to replead.
- Represents **Hebei Welcome Pharmaceutical and North China Pharmaceutical Group (NCPG)** in the closely watched case concerning vitamin C exported from China. Wilson Sonsini successfully persuaded the Second Circuit to overturn a \$150 million judgment against Hebei and NCPG. When the Supreme Court later granted cert to hear the appeal, Wilson Sonsini filed the respondents' brief and argued before the Court. The case has now been remanded to the Second Circuit.
- Representing **Hitachi** and two subsidiaries in follow-on litigation relating to a price-fixing investigation by DOJ. Wilson Sonsini has successfully guided Hitachi through complex strategic decisions raised by the parallel nature of the ongoing criminal investigations and civil litigation and negotiated favorable settlements with the class plaintiffs and numerous opt-out plaintiffs. Wilson Sonsini continues to represent Hitachi against a small number of opt-out plaintiffs.
- Defended **Walgreens** in a consolidated class action litigation regarding 1-800 CONTACTS' allegedly unlawful search advertising bidding agreements. Plaintiffs allege that some of those agreements between Walgreens (and its former subsidiary Vision Direct) and 1-800 CONTACTS, entered into in order to settle trademark litigation, unlawfully caused the prices of contact lenses sold online to increase. Wilson Sonsini negotiated a favorable settlement, resolving all actions against Walgreens.
- Defended **Transitions** in a long-running litigation in which class action plaintiffs and a competitor-plaintiff alleged that Transitions engaged in unlawful exclusive dealing and a refusal to deal. Wilson Sonsini successfully represented Transitions in defeating class certification in the Multi-District Litigation (MDL). The competitor-plaintiff Vision-Ease's refusal to deal claims were dismissed in the District of Delaware, and the parties settled the remaining claims.
- Represented **Netflix** in a major victory in the Ninth Circuit, which affirmed the dismissal of all claims by a class of subscribers that accused Netflix of conspiring with Walmart to illegally allocate and monopolize the online DVD rental market. Wilson Sonsini also successfully obtained a dismissal of claims by Blockbuster subscribers that they were allegedly harmed by indirect effects of the same conduct.
- Secured the dismissal of antitrust claims brought against **Live Nation** by a rival concert promoter and venue operator It's My Party. Plaintiff claimed that Live Nation had engaged in anticompetitive tying of promotion and venue services in order to monopolize the market for concert promotion. After the lower court granted Live Nation's motion for summary judgment, Wilson Sonsini also fended off plaintiff's appeal to the Fourth Circuit.
- Defended **Live Nation** in a case brought by classes of concertgoers alleging that the company had monopolized a market for live rock concerts. Wilson Sonsini defeated class certification, and the district court's ruling was affirmed by the Second Circuit. Wilson Sonsini then secured dismissal of claims brought by concertgoers from two cities, resulting in all plaintiffs dismissing their claims.