

## Tonia O. Klausner

SENIOR PRO BONO  
COUNSEL

Litigation  
New York

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## FOCUS AREAS

Commercial Litigation  
Consumer Litigation  
Internet Strategy and  
Litigation  
Litigation

## HIGHLIGHTS

- **Pro Bono Leader**  
Tonia is Senior Pro Bono Counsel at Wilson Sonsini. In this role she helps oversee the firm's pro bono program, especially in the firm's East Coast and international offices. Tonia also leads the firm's efforts in anti-human trafficking work. Prior to joining the pro bono team in 2022, Tonia was a litigation partner in the firm's Internet Strategy and Litigation Group.
- **Representative Clients**  
Tonia has represented household names such as Amazon, Blackboard, Google, Mylan, Netflix, Salesforce, and Twitter. In her pro bono role Tonia works with numerous nonprofit organizations, including Sanctuary for Families, Volunteer Lawyers for Justice, Child First, Thorn, the Lawyers Committee for Civil Rights, HER Justice, and the ACLU of Louisiana.
- **Recognitions**  
Tonia was named in consecutive editions of *New York Super Lawyers* from 2013-2018. In October 2021, Tonia was recognized as the Volunteer of the Month by Volunteer Lawyers for Justice for her work with survivors of human trafficking. In November 2018, Tonia was honored by Sanctuary for Families with an Above and Beyond award for Excellence in Pro Bono Advocacy for her work with a survivor of sex trafficking.

## EXPERIENCE

Tonia Ouellette Klausner is Senior Pro Bono Counsel and a former litigation partner at Wilson Sonsini Goodrich & Rosati, where she helps oversee the firm's pro bono program. She has experience with assisting survivors of domestic violence with name changes, divorces, custody disputes, and other matters, assisting human trafficking survivors with criminal vacatur motions and T-Visa applications, and working with the ACLU on racial justice matters, among many other pro bono representations.

Prior to becoming Senior Pro Bono Counsel, Tonia was a litigator at the firm for 17 years, where she regularly defended companies in matters involving privacy, marketing, and internet-related issues in both federal and state courts. Prior to joining Wilson Sonsini, Tonia served as a law clerk to the Honorable Richard D. Cardamone, U.S. Court of Appeals for the Second Circuit, and was a litigation associate with Arnold & Porter.

## CREDENTIALS

### Education

- J.D., Georgetown University Law Center  
*Magna Cum Laude; Order of the Coif; Senior Articles Editor, The Georgetown Law Journal; Received the International Academy of Trial Lawyers' Student Advocacy Award and the American*

- *Jurisprudence Award in Comparative Law*
- B.A., Political Science, University of Vermont
- *Magna Cum Laude, Phi Beta Kappa*

### Associations and Memberships

- Member, Association of Pro Bono Counsel

### Honors

- Named in the 2013-2018 editions of *New York Super Lawyers*

### Admissions

- State Bar of New York
- U.S. District Court for the Eastern District of Michigan
- U.S. District Court for the District of New Jersey
- U.S. District Court for the District of New Mexico
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the Southern District of New York
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Third Circuit
- U.S. Court of Appeals for the Tenth Circuit

## MATTERS

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### Representative Matters

- Defense of text messaging platforms and mobile apps in putative class actions asserting violations of the Telephone Consumer Protection Act.
- Defense of subscription-based news search engine in copyright infringement action challenging application of fair use defense to automated crawling of news websites and delivery to users of snippets of text together with hyperlink to originating content.
- Defense of website analytics company in a putative class action alleging the undisclosed use of "flash cookies" to track internet-user activity.
- Defense of mobile software manufacturer in putative class actions alleging undisclosed collection and use of geo-location data.
- Defense of food manufacturer in false advertising class action arising out of "part of a balanced breakfast" advertising campaign.
- Defense of internet domain name registrar in consumer class action asserting claims under FACTA arising out of inclusion of credit card expiration information in receipts provided online.
- Defense of internet media company in trademark infringement action brought by Ozzy Osbourne's company arising out of trademark used for outdoor festival.
- Defense of numerous companies in TCPA class actions arising out of companies' text messaging, calling, and faxing practices.
- Defense of internet search engine in First Amendment, fraud, and deceptive trade practices action arising out of search engine's refusal to carry plaintiff's advertisements and alleged removal of plaintiff's site from search results.

### Select Wins

- *ACA International v. FCC*, 885 F.3d 687 (D.C. Cir.) (represented salesforce.com in successful appeal from 2015 FCC Omnibus TCPA Declaratory Ruling)
- *Boring v. Google, Inc.*, 362 Fed. Appx. 273 (3d Cir.) (affirming dismissal of invasion of privacy claim arising out of Google Street View feature of Google Maps)
- *Bonime v. Avaya, Inc.*, 547 F.3d 497 (2d Cir.) (affirming dismissal of Telephone Consumer Protection Act class action based on novel statutory construction argument regarding application of state law limitation of class actions to TCPA claims filed in federal court)
- *Narson v. GoDaddy.com, Inc.*, No. CV-08-0177-PHX-SRB, 2008 WL 2790211 (D. Ariz.) (granting motion to dismiss Fair and Accurate Credit Transactions Act class action based on statutory construction of FACTA precluding application of FACTA credit card truncation requirements to online receipts)
- *Petroliam Nasional Berhad v. GoDaddy.com, Inc.*, No. 09-5939 (N.D. Cal.) (granting summary judgment to domain name registrar defendant on direct and contributory cybersquatting claims based on customer's alleged use of domain registration and forwarding services in connection with plaintiff's trademarks; concluding in matter of first impression that domain name registration and forwarding are not "uses" covered by the Anticybersquatting Consumer Protection Act and that a claim for contributory cybersquatting did not exist against a domain

name registrar that merely provides registration and routing services). Decision affirmed by Ninth Circuit.

- *Devine v. Epsilon*, No. 4:11-CV-01823 (S.D. Tex.) (obtained early dismissal of a putative class action arising from a data breach that was limited to the disclosure of email addresses and names)
- *Greenky v. Google Inc.*, Index. No. 101174/2010 (N.Y. Sup. Ct.) (granting motion to dismiss an action arising out of Google's linking to a website that allegedly contained defamatory content; court adopted Google's argument that claims for injunctive relief arising out of content provided by a third party on a website are barred by Section 230(c) of the Communications Decency Act)
- *Fastware LLC v. Gold Type Business Machines Inc.*, Case No. 07-CV-4040 (D.N.J.) (denying preliminary injunction seeking to bar GTBM from selling or distributing software providing mobile access to criminal databases, based on claims for copyright infringement and violation of the Digital Copyright Millennium Act)
- *Rumble v. Waterhouse*, No. 5:05-CV-133 (WDO), 2007 WL 2506698 (M.D. Ga.) (granting motion to dismiss civil RICO class action arising out of alleged unauthorized sale of insurance in Georgia)
- *Langdon v. Google, Inc.*, 474 F. Supp.2d 622 (D. Del.) (granting motion to dismiss fraud, deceptive practices, and constitutional claims arising out of Google's refusal to carry plaintiff's advertisement and its alleged removal of plaintiff's site from Google's search results)

## CLIENTS

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### Representative Clients

- Amazon
- Blackboard
- eHealth
- Google Inc.
- Mylan
- Netflix
- Place IQ
- Salesforce.com
- Twitter

## INSIGHTS

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### Select Publications

- Co-author, "[W-2 Phishing Scammers Are Targeting Tech Companies](#)," WSGR Alert, January 30, 2017
- Co-author, "FCC Signals Enforcement of TCPA 'Prior Express Written Consent' Rules," WSGR Alert, June 16, 2015
- Co-author, "FCC Chairman Circulates Proposed Rulings on 'Autodialer,' 'Recycled Numbers,' and Other TCPA Issues," WSGR Alert, May 28, 2015
- Co-author, "New State Laws Enacted to Address Marketing Calls and Texts to Cellular Numbers," WSGR Alert, February 10, 2015
- "Appellate Courts to Address What Constitutes an 'Automatic Telephone Dialing System' Under the TCPA," *Eye on Privacy*, October 2014
- Co-author, "[Court Rejects Broad Definition of 'Autodialer' Under TCPA](#)," *Law360*, August 4, 2014
- Co-author, "Websites and Apps Have More COPPA Options," WSGR Alert, July 23, 2014
- Co-author, "Important Changes to the FCC's Telephone Consumer Protection Act Rules Take Effect on October 16, 2013," WSGR Alert, October 15, 2013
- Co-author, "FTC Announces First Settlement Involving Privacy and the 'Internet of Things,'" WSGR Alert, September 9, 2013
- Co-author, "Delta Wins Dismissal of California AG Mobile App Privacy Action," *Eye on Privacy*, September 2013
- Co-author, "Digital Advertising Alliance Releases Guidance on the Application of Its Self-Regulatory Principles to the Mobile Environment," WSGR Alert, July 25, 2013
- Co-author, "FTC Confirms Expanded Kids Privacy Rule Effective Date Is July 1, 2013: Online Advertisers and Services Displaying Ads Among Potentially Affected Enterprises," WSGR Alert, May 19, 2013
- Co-author, "[Clapper v. Amnesty International USA](#): The U.S. Supreme Court Strengthens Defendants' Shield Against Privacy Class Actions," *Eye on Privacy*, May 2013
- Co-author, "Online Interest-Based Advertising Icon to Be Used on Facebook to Give Greater Transparency and Choice Regarding Targeted Ads," WSGR Alert, February 11, 2013
- Co-author, "Social Networking Mobile App Developer Agrees to Pay \$800,000 and Implement Comprehensive Privacy Program to Settle Claims for COPPA Violations and Deceptive Privacy Practices," WSGR Alert, February 5, 2013
- Co-author, "FCC Declares Opt-Out Confirmation Text Messages Allowable under the TCPA, Makes No Sweeping Changes to Its Interpretation of the Statute," *Eye on Privacy*, January 2013
- Co-author, "Company That Purchased and Sold Sensitive Consumer Data Agrees to \$1.2 Million Settlement with FTC," *Eye on Privacy*, November 2012

- Co-author, "Court Rejects Privacy Claims Arising from LinkedIn's Alleged Sharing of Unique Identifiers and Browsing History with Advertisers and Other Third Parties," *Eye on Privacy*, September 2012
- Co-author, "FTC Proposes Additional Revisions to Children's Online Privacy Protection Rule," *Eye on Privacy*, September 2012
- "FTC Proposes Additional Revisions to Children's Online Privacy Protection Rule," WSGR Alert, August 10, 2012
- "Supreme Court Favors First Amendment Right to Use Data Obtained During Commercial Transactions for Targeted Marketing over Privacy Concerns," *Eye on Privacy*, May 2012
- Co-author, "FTC Releases Final Privacy Report, Sets Forth Best Practices, and Calls for Federal Privacy, Data Security, and Breach Notification Legislation," WSGR Alert, March 29, 2012
- Co-author, "Recent Facebook Settlement Spotlights FTC Interest in Representations to Consumers Regarding Online Privacy," WSGR Alert, December 6, 2011
- Co-author, "FTC Proposes Significant Revisions to Children's Online Privacy Protection Rule," WSGR Alert, September 20, 2011
- Co-author, "Federal Court Approves the Application of the CAN-SPAM Act to Messages Sent within Social Networking Platforms," WSGR Alert, April 19, 2011
- Co-author, "Federal Trade Commission Announces Settlement in Online Behavioral Advertising Case," WSGR Alert, March 16, 2011
- Co-author, "California Supreme Court Holds that Businesses May Not Request and Record Consumers' ZIP Codes for Credit Card Transactions," WSGR Alert, February 16, 2011
- Co-author, "Ninth Circuit Holds that Increased Risk of Identity Theft Is Sufficient for Article III Standing: Privacy Class Actions Likely Tougher to Dismiss," WSGR Alert, January 24, 2011
- Co-author, "Department of Commerce Proposes New Privacy Framework, Recommends Creation of New Privacy Policy Office," WSGR Alert, January 5, 2011
- Co-author, "FTC Releases Latest Privacy Report, Proposes New 'Do Not Track' Mechanism," WSGR Alert, December 13, 2010
- Co-author, "U.S. Supreme Court Upholds Employer's Inspection of Employee's Text Messages—*City of Ontario v. Quon*," WSGR Alert, June 21, 2010
- Co-author, "Supreme Court Decision May Open Door to More Class Litigation over Fax Marketing in Federal Courts," WSGR Alert, April 26, 2010
- Co-author, "FTC Issues New Guidelines for Online Behavioral Advertising," WSGR Alert, February 17, 2009
- Co-author, "Recent Computer Fraud Case Shows Continued Importance of Protecting Information Assets and Risks of Litigation," WSGR Alert, February 5, 2009
- Co-author, "Children's Privacy Violations Lead to \$1 Million Penalty," WSGR Alert, December 17, 2008

### Select Speaking Engagements

- Panelist, "Navigating U.S. Business Disputes: A UK/European Company's Guide to Avoiding U.S. Litigation," Wilson University, November 17, 2020
- Panelist, "Privacy and Data Security," WSGR FinTech Conference: Current Issues Facing Fintech Companies and Investors, Menlo Park, California, February 9, 2017
- Speaker, "Latest TCPA Cases That Are Making Waves in the Courts," Clearwater Compliance Summit, Clearwater Beach, Florida, December 6, 2016
- Panelist, "What Lawyers Need to Know About Big Data Business Models and Predictive Analytics to Help Their Company's Data Business," 13th Annual Stanford E-Commerce Best Practices Conference, Palo Alto, June 6, 2016
- Presenter, "FCC Issues Comprehensive TCPA Ruling—What Any Business That Communicates by Call or Text with Consumers Needs to Know," WSGR Webcast, July 17, 2015
- Speaker, "Privacy Academy," 2013 Practical Privacy Series, IAPP Conference, New York, October 2, 2013
- Panelist, "Cyber and Social Media Risks—What Board Members Should Know," Summit Director & Officer Training Conference, Park City, Utah, December 2011
- "Privacy & Data Governance: Navigating the Legal Maze," Corporate Board Member Annual Boardroom Summit, New York, October 7, 2011
- "Litigation Risks Associated with Sharing Internet User Data with Third Parties and How to Reduce the Risk of Becoming a Class Action Defendant," IAPP Global Privacy Summit, Washington, D.C., March 10, 2011
- "The FTC's Consumer Privacy Report and What It Means for Companies Now," WSGR Webinar, December 10, 2010