

Antitrust Merger Clearance



HIGHLIGHTS

■ Our Team Takes on the Most Complex, High-Stakes Deals

Wilson Sonsini's merger clearance team is consistently engaged by clients involved in the most complex deals, and some of the most high-stakes transactions involving market-leading companies, across a range of industries and jurisdictions.

■ Consistently Top-Ranked in U.S. and Global Surveys

Based on the firm's prominence and prevalence in high-stakes, complex deals, Wilson Sonsini's merger clearance team is consistently top-ranked by clients and colleagues in annual surveys in the U.S. and abroad.

■ Wilson Sonsini Represents Market Leaders in the Most Competitive Industries

Wilson Sonsini represents market-leading companies in many of the most competitive sectors, including the technology, life sciences, media, financial services, retail, grocery, transportation, and consumer product industries.

OVERVIEW

Wilson Sonsini's merger clearance team has earned recognition throughout the antitrust community through its constant connection to the most complex deals involving market-leading companies undertaking high-profile transactions. Their prevalence in high-stakes deals is matched only by their proven ability to deliver what clients need: favorable agency reviews of proposed mergers, or if needed, successfully intervening on behalf of third parties that may be impacted by transactions in their markets.

The merger clearance team has represented clients in the most competitive sectors, including the technology, life sciences, media, financial services, retail, grocery, transportation, and consumer product industries. A brief representative list of clients would include: Advent, Altera, Associated Wholesale Grocers, Autodesk, Bungie, FanDuel, ForgeRock, GoDaddy, Mandiant, Plaid, Poly, Google, Seagate, Tractor Supply Co., Trulia, and WeddingWire.

Wilson Sonsini's team represents buyers and sellers before U.S. and international antitrust agencies, including the Federal Trade Commission, the Department of Justice, and the European Commission. Importantly, the team includes attorneys who previously held senior leadership positions at these agencies.

Our team's detailed understanding of the regulatory agencies involved in reviewing proposed mergers positions us to advocate on behalf of clients before each agency, and to represent their interests, regardless of whether the client is a buyer or seller on a particular deal, or seeking to intervene in a given transaction.

Our strong relationships with our clients—and our ability to understand their businesses and growth strategies—enable our attorneys to communicate to the DOJ and FTC the reasons our clients decide to engage in M&A activity. Those explanations are often a critical factor in obtaining favorable results before the antitrust agencies. Keeping clients' business goals in mind, our merger antitrust team:

- **Collaborates** with attorneys from Wilson Sonsini's robust M&A and litigation practices to provide our clients with the best representation possible.

- Ensures the development of the strongest case possible for approval of our clients' mergers by an ingrained culture of **teamwork** that enables us to demonstrate the dynamics of a deal to the antitrust agencies.
- Takes a **winning** approach that has led to Wilson Sonsini's representation of clients in some of the most significant technology and non-technology mergers and acquisitions of the past ten years.

While Wilson Sonsini's antitrust merger team is truly global in scope, it operates as a singular unit that tackles the largest, most complex, and most high-profile antitrust mergers throughout the world—and it does so with an unmatched record of success.

REPRESENTATIVE MATTERS

Mergers

- Represented Poly in its \$3.3 billion acquisition by HP. The transaction combined the collaboration technology company with a multinational information technology company. The deal was unconditionally cleared by regulators in the U.S., China, Columbia, Mexico, and by the European Commission. While COFECE cleared the deal unconditionally, it levied a gun-jumping fine against the parties, triggering a jurisdictional dispute between the IFT and COFECE, which had to be resolved by the court.
- Represented Mandiant in its \$5.4 billion acquisition by Google. The transaction was investigated by the DOJ and was subject to a Second Request before clearance. The acquisition combined the internet giant's existing security portfolio with Mandiant's cybersecurity and threat intelligence capabilities.
- Represented Bungie in its \$3.6 billion acquisition by Sony. The FTC reportedly investigated the deal over concerns that Sony would foreclose rivals by making Bungie's content exclusive to PlayStation. But under the merger agreement, Bungie would continue to retain the "ability to self-publish and reach players wherever they choose to play." The acquisition was subject to a Second Request before clearance.
- Represented ForgeRock in connection with its successful \$2.3 billion acquisition by Thoma Bravo. The transaction combined ForgeRock's identity security platform with Thoma Bravo's portfolio company Ping Identity. The acquisition was subject to a DOJ Second Request before clearance.
- Represented Altera in its acquisition by Intel, an all-cash transaction valued around \$16.7 billion. The transaction combined Intel's semiconductor manufacturing processes with Altera's FPGA technology. The deal was subject to investigations by the FTC, the European Commission, and China's Ministry of Commerce, and was cleared unconditionally by the DOJ.
- Wilson Sonsini has represented Google on antitrust matters in all of its major transactions, each of which has been subject to significant antitrust scrutiny, including:
 - Google's \$3.1 billion acquisition of DoubleClick, one of the leaders in the online advertisement-serving business. When the deal was announced, public advocates and others said the transaction would create "extreme market concentration." Wilson Sonsini convinced the FTC that, in fact, the companies were in different complementary spaces, and the transaction was cleared.
 - Represented Google in its acquisition of ITA Software, a major source of information about airfares used by airlines, travel agents, and Google's competitors. When the transaction was announced, the travel industry reportedly was "...worried that Google could end up wielding too much influence in the sector." Nonetheless, DOJ cleared the transaction within eight months, subject to a condition that only required licensing of ITA software on a nondiscriminatory basis.
- Represented Deutsche Telekom, T-Mobile's parent company, in T-Mobile's merger with Sprint, which was completed on April 1, 2020. The transaction is one of the largest telecommunications deals in history, creating "The New T-Mobile" with an enterprise value of approximately \$146 billion and more than 125 million customers. The completion of the transaction represents the successful culmination of a multi-year process involving multiple in-depth reviews by federal and state regulatory authorities.
- Represented Careem in its \$3.1 billion acquisition by Uber. A pioneer in the Middle East's ride-hailing economy, Careem operated in 15 countries in the greater Middle East region at the time the transaction was announced and the company was expanding services across its platform to include mass transportation, delivery, and payments.
- Represented Trulia in its \$3.5 billion acquisition by Zillow, a transaction that combined the two leading real estate listing portals. At the time the transaction was announced, the companies reportedly had a combined 61 percent share traffic for online home listings, and were described as "dominant." Wilson Sonsini successfully convinced the FTC to clear the transaction within six months of the deal announcement.
- Defended Qualcomm against a \$105 billion takeover attempt by Broadcom. The transaction would have been the largest technology merger in history and faced significant antitrust scrutiny in the U.S., China, the EC, and other jurisdictions. Wilson Sonsini worked with Qualcomm to secure the necessary regulatory commitments and protections to guard against the uncertainty raised by the proposed acquisition, and devised a strategy to protect the company from a prolonged and uncertain regulatory review.
- Represented Seagate Technology in its \$1.4 billion acquisition of the hard-disk-drive (HDD) business of Samsung Electronics, a transaction that combined two of the world's largest HDD manufacturers. The transaction, which had worldwide implications, was reviewed by more than 12 jurisdictions and received significant scrutiny from the FTC, the European Commission, and China's Ministry of Foreign Commerce.
- Represented Tractor Supply Co. in its \$320 million acquisition of Orscheln Farm & Home stores. The transition was closed after clearance from the FTC, in which Tractor Supply Co. will sell a portion of the acquired stores. The store locations retained are to be refitted to Tractor Supply branding, expanding the company's regional reach across the Midwest.
- Represented Price Chopper Supermarket in its merger with Tops Friendly Markets. The deal increased the footprint of the two supermarket chains to approximately 300 store locations. The merger allowed for the companies to maintain separate branding while overseen by a new parent company.
- Represented Southeastern Grocers in connection with the sale of 62 of its stores to Ahold Delhaize in a transaction second requested by the FTC, and investigated closely by several State Attorneys General, including from North Carolina, South Carolina,

and Georgia. The transaction cleared without any remedy, even though the consolidation resulted in markets concentrating far more substantially than previously had been allowed by the FTC. Wilson Sonsini convinced the FTC to consider far more product markets than traditional grocers, which had been the standard in all previous reviews.

- Represented Lucky's Market, a Colorado-based natural and organic supermarket chain that operates 17 stores in 13 states, in a strategic partnership with, and investment by, Kroger. Wilson Sonsini facilitated the development of complicated governance and distribution provisions that required antitrust counseling and creative solutions to significant business concerns.
- Represented Associated Wholesale Grocers (AWG) and Affiliated Foods Midwest Cooperative (AFM) in a merger of the two leading retailer-owned cooperatives. Despite significant geographic overlaps in the Midwest, Wilson Sonsini successfully argued that the merger would allow its member customers to benefit from additional scale and buying power.
- Advised The Food Partners' and Indiana Grocery Group's bid in a bankruptcy auction of 20 Strack & Van Til stores in the Midwest. Indiana Grocery Group was awarded the winning bid in the auction, unseating Albertsons' (Jewel-Osco) stalking horse bid and allowing the region's largest and best known independent supermarket chain to remain under the original owners' control. The critical aspect of the bankruptcy court not to accept Albertson's bid.