HIGHLIGHTS

Knowledgeable Attorneys, Innovative Approach
Widely regarded as leaders in their field, Wilson Sonsini’s trade secret attorneys have often been the first to raise innovative, cutting-edge legal theories that have been adopted in published cases and followed by other law firms.

Regional Expertise
Wilson Sonsini’s team is well versed in the state-to-state differences in trade secret and employee mobility case law; further, the firm has teams in place in key geographies such as California, Washington, Texas, and the East Coast.

Experience in Diverse Venues
In recent years, Wilson Sonsini has handled dozens of trade secret, employee mobility, and unfair competition cases, including matters in California, Maryland, Massachusetts, New York, Texas, Washington, New Jersey, Pennsylvania, Colorado, Utah, Minnesota, Wisconsin, Florida, Vermont, and Delaware.

Wilson Sonsini Earns Honorable Mention in AmLaw’s Litigation Department of the Year Awards
In December 2021, Wilson Sonsini was profiled among the select firms that earned honorable mentions as part of The American Lawyer’s national “Litigation Department of the Year” awards. Earlier in the year, The American Lawyer also selected the firm as a 2021 regional Litigation Department of the Year finalist for California.

OVERVIEW

Wilson Sonsini has the nation’s most in-depth, technology-focused trade secret and employee mobility practice. Our trade secret attorneys are widely published and recognized as leaders in the field. The firm often has been the first to raise creative, cutting-edge legal theories that have been adopted in many published cases and subsequently followed by other law firms. We have advised and represented hundreds of visionary companies, entrepreneurs, investors, and start-up founders—not just in Silicon Valley, but also in innovation hubs around the nation and the world.

We work hand in hand with our patent, copyright, privacy and data protection, employment, antitrust, and trademark colleagues to provide clients with extremely specialized advice across all areas that touch new technology development.

A Regional Focus Where the Law Differs
Trade secret and employee mobility law differs—often dramatically—from state to state. Knowing site-specific case law, how judges handle cases, and how opposing counsel settle disputes is often crucial to achieving a favorable outcome. In turn, clients typically must apply different policies, use different contracts, and plan risks differently where they have multi-state operations. Wilson Sonsini attorneys keep up with case law around the country, with teams in place in key geographies such as California, Texas, and the East Coast.

What We Cover
Trade Secret Law: The firm repeatedly has led the way in developing trade secret law in complex technology cases, with precedent-setting and attention-grabbing wins on issues including trade secret identification, UTSA preemption, inevitable disclosure, threatened misappropriation, bad faith, choice of law, and more.

Restrictive Covenants: Depending on the jurisdiction, non-competition covenants and non-solicitation covenants can be an important part of the legal landscape for litigants and mobile employees. Understanding the risks when hiring employees from a particular state, and understanding one's rights with respect to departing employees located in different states, is a central part of our practice.

Invention Assignment Law: Invention assignment law is an often-overlooked area of IP litigation and counseling, but it can affect valuable patent, trade secret, and other rights. We routinely counsel clients on the correct wording to use in such contracts and represent clients in disputes over the reach of invention assignments.

Works for Hire under the Copyright Act: We provide counseling and represent clients in litigation when copyright disputes—including source-code creation—center on employee authorship and the scope of employment.

Preparations to Compete and Fiduciary Duty: Fiduciary status can transform the risks when employees plan to leave and form a new business, posing important legal questions for employers, departing fiduciaries, and those who hire them. Where fiduciary duty is a category of intellectual property law, we know what the law permits and prohibits, and advise clients accordingly.

NDA Disputes Between Businesses: Not every trade secret dispute involves mobile employees. We frequently have advised clients and litigated disputes where business partnerships come apart and the parties dispute ownership of their work together.

Clean-Room Development: Companies often face a need to develop new technology but risk claims of contamination from licensors, business partners, and former employers. We provide complex, in-depth clean-room planning for a range of high-tech industries, with a relentless focus on the details that reduce litigation risks.

Workforce Training: There may be no better deterrent to trade misuse—whether preventing lawsuits from former employers or reducing the chance that employees take company information when leaving—than hands-on employee training. Wilson Sonsini regularly provides in-person employee training sessions that present key legal principles in an engaging format that engineers, executives, and salespeople readily can understand and follow.

Investment and Deal Diligence: When investors consider funding a new start-up, when a small company needs to present its best face to venture capitalists, or when companies consider a merger or acquisition, conducting diligence on trade secret issues is often a necessary component. We have repeatedly undertaken deal diligence from every possible angle, and we do not shy away from identifying risks—and how to get past them.

Our Counseling Services

For Early-Stage Enterprises. Implementing comprehensive and sound trade secret protection policies is especially critical for new and emerging companies. Our team of experts helps new companies reduce their IP risks right from the start. As new companies identify and attract much-needed talent, we counsel clients on how to avoid claims arising from restrictive covenants, theft of trade secrets, breach of fiduciary duty or the duty of loyalty, and unfair competition.

For Established Enterprises. We advise established companies on such issues as protection of trade secrets, potential disclosures by their business partners or current or departing employees, clean-room development, and lawful methods of hiring talent from other companies to avoid claims of misappropriation and to minimize potential damages. We also assist clients with concerns regarding unusual employee losses or defections due to perceived unfair competition or other unlawful practices. In addition, the firm offers in-house training to help our clients’ employees understand the nuances of trade secret and innovation law—an increasingly important concern, both to protect the company’s own intellectual property and to reduce the risk of misusing the confidential information of other companies, individuals, or third parties.

For Individuals. An entrepreneur’s departure from his or her current employer to create a new venture potentially raises several risks. Careful attention to the timing of one’s departure and the formation of a new company helps reduce these risks. Our attorneys provide valuable and practical advice on these and other related issues.

For Investors. We help venture capitalists, private equity funds, and other investors assess the trade secret, employee mobility, or other IP risks that may be present in a potential investment or acquisition.

Our Litigation Services

In the past several years alone, Wilson Sonsini has handled dozens of trade secret, employee mobility, and unfair competition cases, including matters in California, Maryland, Massachusetts, New York, Texas, Washington, New Jersey, Pennsylvania, Colorado, Utah, Minnesota, Wisconsin, Florida, Vermont, and Delaware. We are expert at representing individuals, start-ups, and established companies in all aspects of these litigation matters, whether prosecuting or defending such cases.