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FEATURE

New York State of Mind

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image: Digital Vision
Photography

In 1996, Yahoo Inc. used Silicon Valley-based Venture Law Group to handle its sizzling-hot IPO. But this year, when Yahoo bought France's bargain-hunting Web site Kelkoo for \$575 million, it tapped a New York shop to work the deal.

Sunnyvale, Calif.-based Yahoo also hired Skadden, Arps, Slate, Meagher & Flom to manage its \$1.8 billion acquisition of Pasadena's Overture Services Inc. in 2003.

After years of nibbling crumbs left by the Wilson Sonsini Goodrich & Rosatis of the Valley, Big Apple firms are finally taking a big bite.

"The little Yahoos and the little [Hewlett-Packards] are now grown up," said San Francisco legal recruiter Avis Caravello. "They have very sophisticated needs that New York firms argue are best served by firms with global M&A practices -- namely, themselves."

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Kevin Baker, general counsel of Fremont Partners, a San Francisco-based private equity fund, agreed.

"Any time a company goes from startup to middle market, it upgrades its counsel for more sophisticated counsel," said Baker, who worked at Los Angeles-based O'Melveny & Myers for nine years.

Shifts in the marketplace have created a toehold for New York firms. Many of New York's elite law firms opened outposts in Silicon Valley during the dot-com bubble of the late 1990s. Back then, it was fashionable for local companies to take their IPOs and technology deals to homegrown California firms. Gotham shops kept busy by serving their East Coast clients' local needs and picking up new clients where they could.

As the Valley emerges from the dot-com bust, new market forces are at play. The Sarbanes-Oxley Act and other accounting rule changes make deals more complex and clients more cautious. Conservative New York firms, with their expertise in complicated financial transactions and experience in down markets, have new appeal.

"There's a greater appreciation for people who've been around the block, who know how to do more complicated things and have been through down cycles," said Rod Howard, a Silicon Valley-based partner at New York's Weil, Gotshal & Manges.


"Corporate scandals have made companies and boards more cautious," Howard added. "You won't get criticized for hiring a [top New York firm]."

While New York firms are making inroads into Silicon Valley, native firms are still the teams to beat. Yahoo General Counsel Michael Callahan said his company continues to do plenty of corporate and patent work with the firm that took it public, VLG, now a unit of San Francisco-based Heller Ehrman White & McAuliffe.

And Wilson hasn't lost its mojo.

The Silicon Valley firm is currently advising Sunnyvale-based Juniper Networks Inc. on its acquisition of NetScreen Technologies Inc., also in Sunnyvale. The deal is the largest technology M&A transaction announced since the Hewlett-Packard-Compaq deal, which Wilson also handled in 2001. And in the coming months, Wilson, with close ties to Google Inc., is expected to represent the company in the most anticipated initial public offering in several years.

"We exemplify how a firm can service both the startup side of the corporate market as well as the most



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sophisticated M&A and corporate finance transactions for global enterprises," said Wilson partner Martin Korman.

Yahoo isn't the only company shelling out work to New York outfits in recent years.

Santa Clara-based Affymetrix Inc. used Heller Ehrman to handle its IPO in 1996. But in 2003, the biotech company turned to New York's Davis Polk & Wardwell to work on a \$100 million convertible notes offering. Fremont-based Abgenix Inc. hired Wilson to take it public in 1998. Four years later, the biotech company tapped New York's Simpson Thacher & Bartlett to manage a \$200 million convertible notes offering, among other work.

Yahoo's migration to Big Apple counsel may be the most high profile in the region. The company's relationship with Skadden began in 2000 with small transactional business, according to Callahan. The first "really significant piece of business" with Skadden was the acquisition of HotJobs.com in 2001.

"I knew the local team ... and its strength in corporate transactions and complicated M&A work. I wanted that experience close to home," Callahan said.

"The benefit of the national resources is important because you have access to the specialty groups," he said. "You have in-house antitrust expertise, employee benefits expertise."

Yahoo also used Davis Polk in 2002 to manage its \$235 million purchase of Inktomi, a Foster City-based search technology provider. And if one New Yorker on the deal weren't enough, Skadden showed up on the other side of the table. Though Wilson had taken Inktomi public in 1996, the company turned to Skadden to manage its 2002 acquisition by Yahoo.

Fremont Partners' Baker finds that the smaller Silicon Valley firms don't have all the same legal disciplines as Skadden, such as IP, securities, international law, real estate and tax. Large firms' one-stop-shopping is more cost efficient, he said. "Any time you do sophisticated legal transactions and you don't have [experts] in your firm, it costs you more."

Kenton King, who heads Skadden's Palo Alto and San Francisco offices, said his firm's local wins are largely a matter of timing.

"I'd like to say we're great lawyers, but the truth is ... it was a booming market for lawyers" when the Palo Alto office opened in 1998, he said. "The key is to do good work for clients. People who've used us tend to come back."

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