



## Dot-coms have speculators and lawyers seeing dollar signs--again

[by Frank C. Lee]

Like a phoenix rising from the ashes, some Internet entrepreneurs like Google are turning profits. And where there is money to be made and business to be done, there are lawyers.

"The impact of the recession and the bursting of the dot-com bubble was very strong and is still being felt today," said E. Patrick Ellisen, a partner at Foley & Lardner in Silicon Valley. "Things in general, though, are beginning to turn around in the Valley."

With many Fortune 100 companies in this location known as one of the premiere high-tech corridors in the country, Silicon Valley stretches roughly from San Jose to just south of San Francisco in an area of California about 50 miles long and 10 miles wide.

"Companies were being created daily. Money was flowing quite freely. Companies were going public very quickly," said Patrick A. Pohlen, a partner in Latham & Watkins' Silicon Valley office and a member of the firm's corporate department.

Mr. Pohlen is one of the nation's leading attorneys in representing high-growth technology and life-science companies and the financial institutions--venture capitalists and investment banks--that finance them.

"In terms of servicing tech clients, it is different in that a lot of it is about measuring risk vs. reward," said Mr. Pohlen, whose firm's clients include Yahoo and Adobe.

"The bond that is created with a tech company is just so different because you're there, literally, from the beginning as he has an idea and tries to get funding, for example, and that bond is unique, I think."

It seems like only yesterday that the dot-com

bubble burst in Silicon Valley. Stock prices fell; so did investors' faces. But plucky e-commerce portals with "virtual storefronts" like Amazon.com eventually posted profits and are now hitting their strides.

"We had friends who lost their jobs during the recession," said Gary E. Weiss, a partner-in-charge of Orrick, Herrington & Sutcliffe's Silicon Valley office.

"You can measure the loss in any number of ways. For example, I commute from San Francisco, and it was an hour-and-20-minute commute. Now, it's a 45-minute commute."

Mr. Weiss has represented clients such as Lucent Technologies and Handspring, Inc., in civil and criminal matters involving trade secrets, inevitable misappropriation, industrial espionage, and employee raiding.

"But we don't merely represent companies; we represent people who worked there too. And it was very difficult to watch, especially people you were close to, while we lost clients entirely," Mr. Weiss said.

A deluge of dot-coms with too much capital and "get-rich-quick" dreams led to the Gold Rush folly of some, whereas those with "why-hasn't-someone-thought-of-this-before?" business ideas are in the black, like NetFlix.com, an online DVD-rental service.

"Good companies make it through tough times, and then they start getting profitable again, regardless of whether you're an Internet company, an airline, or a car manufac-

turer," Mr. Pohlen said.

Since its Aug. 19 initial public offering, Google's stock has traded in the range of \$95.96 to \$201.60. And according to Department of Commerce figures, e-commerce accounted for 1.7 percent of all U.S. consumer sales in the second quarter of 2004.

After the dot-com boom of the late 1990s and bust of 2000, venture capital funding all but dried up. Now, however, investors are ready to put their toes back in Internet waters.

"Certainly venture-capital investing has been up in the last two years, compared to four years ago, when it seemed like anyone with a coherent business plan--and some even without--was getting funded," said Mr. Ellisen.

A member of Foley & Lardner's intellectual property department, Mr. Ellisen focuses his practice on intellectual property and general commercial litigation, as well as intellectual property protection, counseling, and exploitation.

"Something like 20 percent of employees in Santa Clara County were laid off during the recession," said Mr. Ellisen, who is experienced in copyright, trademark, and trade secret matters.

"There were businesses built on the overly optimistic premise on how integral the Internet would be in people's lives--that everybody would be shopping on the Internet whether they owned a PC or not."



Still, according to JupiterResearch, a leading international research advisory organization specializing in business and technology market research, overall online ad spending is expected to nearly double by 2009 to \$16.1 billion.

The sales of music, movies, games, and other digital products of e-commerce and new ways to use "Wi-Fi," the popular term for wireless high-speed Internet access over short distances, are expected to drive the growth of the next phase of the Internet.

"Today, we all carry around little cell phones, and we have complete mobility and portability that's now been translated into e-mail. You have laptop computers connecting to networks wirelessly and communicating with people," Mr. Pohlen said.

Ten years ago, the consumer version of the web grew out of the academic and military Internet that had been around since 1969. Amazon.com was founded in 1994, eBay and Yahoo in 1995, followed by other companies hoping to jump on the Internet bandwagon.

In 2003, Amazon.com's market capitalization climbed 79 percent to \$9.7 billion. Yahoo, over the same time period, has climbed 63 percent to reach a corporate value of \$15 billion. And eBay is up 61 percent to reach \$28.4 billion.

"Technology has totally changed the way business is done. But the lesson learned from the dot-com bust is that profitability still matters. You still have to show a way at the end of the day to make money," Mr. Ellisen said.

Law firms and investment banks are now hiring again, and "traffic here is getting difficult again--commutes taking longer--and that's usually a sign that the economy is improving," Mr. Pohlen said with a chuckle.

"Things are now, I would describe them,

'strong and steady,' but I don't think it's because dot-coms refused to die. I think it's because people are continuing to execute and create great, new ideas."