

With All Eyes on Tech in DC, Covington Seizes the Moment in Silicon Valley

By Xiumei Dong

As Silicon Valley's large technology companies increasingly face regulatory scrutiny, a firm that has a century's worth of experience dealing with government affairs has seen its business grow in Northern California's tech hubs.

Covington & Burling, which was founded in 1919 by Judge J. Harry Covington and Edward Burling in Washington, D.C., made its inroads to the West Coast in 1999 by opening an office in San Francisco.

In the course of two decades, the San Francisco office has grown from two attorneys to nearly 90. The Washington, D.C.-based firm also opened an office in Palo Alto in 2008, which has about 40 lawyers, and a Los Angeles office in 2015, which has 35 lawyers.

All told, Covington has 162 attorneys based in California. And it recently recommitted to the San Francisco market, relocating its office to a new space in the Salesforce Tower, the city's tallest high-rise.

"This is the newest building in San Francisco, it is the tallest



The Mission Street entrance of Covington & Burling in the Salesforce Tower, San Francisco's tallest skyscraper.



Left to right: Ingrid Rechtin, Jeffrey Davidson, Kevin Poloncarz, Lindsey Tonsager, Clara Shin and Denny Kwon, all partners in Covington & Burling's San Francisco office in the new Salesforce Tower.



Left to right: Denny Kwon, Lindsey Tonsager and W. Douglas Sprague

building in San Francisco, it is an exciting place to be,” said partner Simon Frankel, who chairs Covington’s intellectual property rights practice group. “We are surrounded here by many significant tech clients that we work with regularly, so I think it was also seen as very consistent with what we are doing in California, in San Francisco.”

Frankel joined Covington’s San Francisco office in 2006 from Howard Rice Nemerovski Canady Falk & Rabkin, a mid-size San Francisco firm that later merged with Washington-based Arnold & Porter in 2011.

Looking back, he said, 20 years ago clients would have discrete problems, such as litigation, government investigation and corporate transactions. But “now, very often, you see these problems coming in trio or quintuplet,” he said.

The firm initially expanded into San Francisco to serve the region’s growing tech clients, Frankel said. However, over the years, its services have expanded to other industries, including life sciences, financial services and securities.

“If you look at the areas where our California lawyers are active, you see a whole range,” Frankel said, providing a list of practice areas that include white-collar investigation and defense, intellectual property, technology transactions, commercial disputes and insurance coverage litigation.



Left to right: Denny Kwon, Ingrid Rehtin and Clara Shin.

“We live in a tremendously regulated economy, you don’t have to be a very significant company to have to think about it [or] face federal regulation [and] potential scrutiny on a broad variety of fronts,” Frankel said. “So, we can assist companies with all of their concerns.”

More Regulations, More Work

In recent months, the federal government has signaled that it is stepping up scrutiny of the world’s biggest tech companies by putting forward antitrust oversight, leaving them to deal with new rules and federal lawsuits.

According to Frankel, the increased regulatory actions have brought more work to the firm, companies become more active to ensure they are not violating laws, to avoid massive fines by local and federal government.

“We have seen more work,” Frankel said, “We are working seamlessly with lawyers in other offices, particularly in Washington, [doing] more work advising tech companies on

acquisitions as they face antitrust scrutiny, as well as assisting clients with antitrust litigation.”

California lawyer Denny Kwon, who left Wilson Sonsini Goodrich & Rosati to join Covington in February, said he too has noticed a growing legal need among his tech clients.

“I found in my own practice where companies that have those increasing legal needs—the technology and life science industry, in particular, get increasing scrutiny from regulators—that it was important to my clients to have that expertise at their law firms to be able to solve those issues,” Kwon said.

Kwon moved to the Bay Area in 2008 when his wife, Christine Wong, relocated from New York to serve as an assistant U.S. attorney in the Northern District of California. During his 10-plus years at Wilson Sonsini, Kwon represented public and private companies, private equity firms and investment banks.

“It is not just that D.C. is looking at tech, it is that the companies

out here are much more engaged in the regulatory process,” said partner Lindsey Tonsager, who moved to San Francisco about 12 years ago from Washington.

Tonsager, who focuses much of her work on privacy and data security issues and co-chairs Covington’s artificial intelligence initiative, said there has been a growing interest in her practice as new regulations come into play, such as the General Data Protection Regulation and the California Consumer Privacy Act of 2018.

“It is not just general technology companies,” she added. “If you look at all of the industries that are significant in the Bay Area, whether it is financial services, life science, health care, retail ... all of them considered themselves technology companies, and all of them are much more heavily regulated.”

Extending the Roots Into Tech

Over the past two decades, Covington has solidified its place in California with such notable clients as Airbnb, Facebook and Uber.

The firm has added three partners to its California offices over the past two years, according to ALM Intelligence. Including associates, of counsel, and other attorneys, Covington said it has added a total of 56 lawyers in California during the two-year period.

“There is no doubt that they are one of the go-to investigation/government regulatory firms. However, in the aggressively competitive Silicon Valley/San Francisco legal market, practice area predominance alone is likely not enough to move the needle for any firm as it pertains to lateral partner recruiting,” said San Francisco legal recruiter Avis Caravello.

In terms of departures, Covington said it has only lost one partner from its California offices over the last two years. That partner went to a client: Uber.

Covington has long been working with Uber on corporate and government-related matters. Early in the year, The American Lawyer recognized Covington’s litigation department as California Regional Litigation Department of the Year, highlighting the firm’s role in an internal investigation and cultural audit for Uber after workplace harassment claims became known to the company.

Covington’s investigation, led by former U.S. Attorney General Eric Holder and then-partner Tammy Albarrán, produced 47 recommendations, including changes to senior leadership, board oversight, internal controls, training, diversity and inclusion efforts, and human

resources policies. Uber’s board unanimously approved the firm’s suggestions.

Aiming to continue her work on Uber’s culture, Albarrán left Covington last March to become a deputy general counsel for the ride-hailing company. Shortly after hiring Albarrán, Uber added another Washington, D.C.-based Covington partner, Keir Gumbs, to its in-house team last August.

Albarrán continues to work with former Covington colleagues on Uber legal issues, including “all of our government investigations,” she said. “And they’ve been doing a phenomenal job of that.”

Covington’s attorneys also acted as Uber’s special counsel for its much-anticipated initial public offering. According to Albarrán, Covington’s lawyers assisted Uber on corporate governance matters with regard to the IPO. She said Uber chooses to work with Covington largely so it can “leverage the D.C. regulatory expertise that the firm has.”

“As companies become more and more regulated, that expertise becomes incredibly, increasingly more valuable,” she added.

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