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## RIDING OUT THE STORM



S. Todd Rogers / Daily Journal

**SURVIVORS**— “We just didn’t know it at the time, but there was a revolution that was beginning, and we were in the middle of it,” said partner Ed Taylor, right, with Jim Scheller, left, and Jim Salter, at the Sunnyvale office of Blakely Sokoloff Taylor & Zafman LLP.

By Xenia P. Kobylarz  
Daily Journal Staff Writer

SUNNYVALE — Ed Taylor’s career as a patent lawyer started innocuously enough. As the youngest associate in a small patent firm in Los Angeles, Taylor drew the unglamorous assignment of helping a fledgling 12-employee company from Mountain View secure patents on a tiny silicon chip containing 2,300 microscopic electronic transistors.

The year was 1969 and the company was Intel Corp.

Taylor still writes patents for Intel, but along the way the modest four-attorney patent practice he co-founded with three friends in 1975, Blakely Sokoloff Taylor & Zafman, had grown to as many as 110 lawyers by 2001, and it maintained 10 offices in California, Colorado, Oregon, Texas and Washington.

“If anyone had told me that we would grow from four attorneys to eight attorneys I would

### A Patent Firm That Began Before Anyone Else Has Lasted Longer Than Anyone Else and Blakely Partners Don’t Plan to Stop

have been satisfied with that. I did not once imagine we would grow to this size,” Taylor, 64, said during a recent interview at his firm’s Sunnyvale office.

“We just didn’t know it at the time, but there was a revolution that was beginning, and we were in the middle of it.”

A lot of investors and their lawyers got rich during the boom. Now that the boom years are over, once high-flying law firms either have fled the area or vastly retrenched.

Blakely has no plans to join the exodus - not by a long shot. Taylor said the firm has every

intention of staying and riding out the downturn.

“In my time here, I have witnessed two revolutions,” Taylor said. “The computer revolution was a more realistic one than the Internet revolution, but we still profited from it. We’ll just stay the course and we’ll wait until the third one happens.”

Such profession of faith in the region’s economy is rarely heard these days, but Blakely is not like most law firms. As Jim Salter, managing partner of the Sunnyvale office, puts it, Blakely attorneys see themselves as technologists first and lawyers second.

Salter, like most of the Blakely attorneys in Sunnyvale, holds an engineering degree. He worked for 10 years as a computer programmer before going to law school. Taylor also is an engineer by training and worked for the U.S. Air Force maintaining fighter planes.

“We believe in our clients and we believe in our business model. So far, both have served us well,” Salter, 48, said.

Blakely has been here since 1983, when Taylor moved from the firm’s Los Angeles headquarters to open an office at the behest of Intel. The office soon became the firm’s profit center, as startup clients including Apple Corp. started generating high-volume patent work. At its peak, the Sunnyvale outpost housed more than 60 lawyers. Its Silicon Valley practice became so successful that the firm was able to open another office in San Jose to serve its South Bay clients. Today, Silicon Valley still accounts for more than half of Blakely’s firmwide attorney count and generates most of the firm’s income.

In fact, of the many law firms that depended on Silicon Valley companies for business, Blakely appears to be surviving the prolonged downturn better than most.

During the tumultuous period of 2001- 2002, the firm laid off only six associates and closed two satellite offices in La Jolla and Austin, Texas. It managed a 15 percent slide in firm revenues by shrinking its attorney ranks to its original pre-boom size of 80 lawyers firmwide. The downsizing was done through natural attrition.

Meanwhile, other tech-dependent law firms have shed hundreds of lawyers and staff members or merged with out-of-town firms to survive; others, notably Brobeck Phleger & Harrison, have folded. Even closer to home, Blakely’s longtime rival patent boutique, San Jose’s Skjerven Morrill & McPherson,

# ■ BLAKELY: Believing in Tech

permanently shut its doors in March after 27 years.

Skjerven's closure appeared particularly ominous for Blakely. The two firms shared the same client base and offered the same level of patent expertise. Skjerven was Silicon Valley's first full-service IP boutique. It handled high-stakes patent litigation and maintained a busy patent-prosecution practice. It experienced the same frenetic growth as Blakely during the boom and by 2001 had 140 lawyers in three offices in California and an office in Texas.

The market for mid-size patent firms seemed shaky even before Skjerven's closure. Since 2000, IP boutiques Lyon & Lyon; Limbach & Limbach; and Majestic, Parsons, Siebert & Hsue have shut down Valley pioneer Flehr Hobbach Test Albritton & Herbert merged with Minneapolis-based Dorsey & Whitney last summer.

So how did Blakely avoid the fate of Skjerven and the others?

Salter, who has managed the office since 1996, offered a no-nonsense answer: "We cut costs as much as we could and stayed the course."

Cutting costs meant holding off upgrading the firm's computer system and plans to offer clients Web access to their files. The firm closed two less-profitable offices and limited associate hiring.

Unlike its competitors, Blakely had established a management structure worthy of a larger firm even before the boom hit. The firm's management committee comprises five partners chosen by the entire partnership to serve two-year terms to handle day-to-day operations. The partners also hired a chief financial officer to handle financial and strategic planning.

"We certainly tried to come up with a strong leadership and get participation from the senior and junior partners," Salter said. "And we also know that we needed a day-to-day, ongoing scrutiny of all firm policy management decisions."

"I think we've prepared for the lean times well enough that when it finally came the effect was significant but not precipitous," he said.

Even so, the firm faced some tough times, according to longtime Blakely partner Jim Scheller.

Like other corporate firms that invested heavily in Internet startups, Blakely had its share of failed dot-com clients. Some simply vanished without a word, leaving unfinished business and unpaid bills.

"Yes, we got sucked in by the dot-com snake-oil just like everyone else," Scheller, 46, joked. "It was so easy — especially when clients come into your office saying that they will be the next Bill Gates and they will take over the world."

One former client, he said, earned the dubious distinction of being named the dumbest dot-com by Forbes magazine.

But Scheller, added that along with the bad bets, the firm also made some good ones. For example, SnapTrack, a digital mapping software developer in San Jose, was bought by Qualcomm for \$1 billion. Scheller helped the company build a 50- patent portfolio on technology that integrates global positioning systems into cell phones. Another client that survived the Internet collapse and still churns out regular work for the firm was eBay.

Meanwhile, the firm's more established clients remained loyal. Intel and Apple remain two of Blakely's largest sources of patent work. Other longtime clients such as Applied Materials Inc., Guidant Corp., Sony Corp. and Sun Microsystems Inc. farm out substantial work to Blakely.

"They are the meat and potatoes of patent law," said IP practice consultant Katharine Patterson.

Blakely's clients keep coming back because the firm has established a reputation for producing consistently good patents, she said. The firm's real strength, she added, is its lawyers' ability to absorb their clients' technology and understand their business.

"It's like having your own experienced in-house people, without going through the hoops of hiring and recruiting patent attorneys," Patterson said.

One satisfied client is Steve Poizner, SnapTrack's founder. Poizner has done business with Blakely since 1985, when he started his first software company in San Jose. That enterprise, like SnapTrack, depended on technology licensing for income.

"Our patent portfolio was everything to us, and it was critical to the success of our business that we had all our patents nailed down in crystal-clear language so that venture capitalists could understand their value," Poizner said.

"Not only do [Blakely attorneys] know patent law, but they are very creative in dealing with their clients," he said.

Blakely lawyers often join teams of engineers and management executives in planning licensing strategies, Poizner continued.

"They are very thorough and very flexible in working with companies who are in the startup mode," he said. "And they have really good interpersonal skills dealing with engineers."

Chip Lutton, head patent attorney at Apple, said his firm's long relationship with Blakely has become a real advantage for both parties. Taylor wrote the company's early patents on the Apple II, the firm's first commercially successful computer.

"They know Apple's technology really well and they have become very efficient at doing their work for us," Lutton said. "We trust them fully."

Companies like working with Blakely because the firm's lawyers have a varied array of expertise, Lutton added.

"They are really a kind of jack-of-all trades in patent specialty," he said. "No matter what technology or patent law issue you have, if you need one place to go where somebody would know [the answer], Blakely is a pretty good bet."

Another success factor is Blakely's long tradition of putting associates through intensive training. Even summer associates are expected to work on real cases and learn the basics of patent prosecution, according to Salter.

"There is a significant investment that we make in training young patent associates," Salter said.

Most of the solo practitioners and small patent firms in Silicon Valley can trace their roots to Blakely, Patterson said.

"The firm has become a great incubator for talent out here," Patterson said. "There are at least a dozen Blakely spin-offs out there, not to mention the many Blakely patent lawyers who have gone in-house."

Other patent firms have been hurt by partner and associate defections, but not Blakely.

"Losing people is part of doing business," Salter said. "That doesn't mean you stop training people. There's a fixed percentage of them who will ultimately leave to go in-house or be a solo, and we just plan for that."

Scheller is optimistic about Blakely's prospects.

"We are definitely seeing some recovery, but it is a slow recovery that to some people doesn't seem like one at all," he said.

"As long as you're prepared financially to weather the storm, then you'll be around when the economy bounces back. That's what we're doing here. We're prepared to wait."