

ClearyGolaw News

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Alumni Interview Duncan Davidson (1978–1980)

By Christopher Reszczynski



Duncan Davidson is a founder and managing director of Bullpen Capital, the leader in Post Seed rounds. Previously he was a managing director at VantagePoint Venture Partners, a large VC fund, where he focused on telecom and digital media investments. Prior to becoming a venture capitalist, he was a serial entrepreneur, having founded or served as a senior executive at four startups: Covad Communications, InterTrust Technologies, SkyPilot Network, and Xumii. Covad and InterTrust were multi-billion-dollar IPOs in the late '90s; SkyPilot was bought by the smart-grid firm, Trillium; and Xumii was bought by the largest mobile software company in Europe, Myriad Group, where it now represents half its market value. He led the InterTrust IPO in 1999 and the secondary in 2000 (at the peak of the dot-com bubble!), and has served on several public boards, including Genuity, Inc. and DSL.net.

When did you work at Cleary and what practice group were you in?

I worked at Cleary from 1978 to 1980 and worked as a generalist in the computer law group.

Why did you choose Cleary?

It was partly the firm's reputation, and I also wanted to work with a law firm that had the best computer law practice. At the time, computer law was a nascent field. You could name four or five people in the entire field everyone wanted to work with. One of those people was Bill Fenwick, who had a practice at Cleary. By the time I joined Cleary he departed and founded the well-known firm Fenwick & West. Cleary also drew my attention because the people there are a little sharper. They want to figure things out a little bit better. It's what makes it a special place.

Why computer law?

At the time I joined Cleary, computer law was a very new field, which made it fun. Someone like me, fresh out of law school, could get to a good role in it very quickly. Being a new field also meant you could be a generalist. You could have one computer client and you could do everything for them, from IP to securities law to venture capital funding. Nowadays many times you have to specialize very quickly.

What was your fondest memory at Cleary?

My fondest memory of Cleary was a dinner I had with a senior partner, whose name I don't even remember anymore. He was an amazing lawyer. I asked him, "What's changed in the legal field?" He gave me a series of stories, which were stunning. I mean, I still remember a couple of them to this day about how the

law has changed and what caused it to change. And, he was sort of wistful, because in the old days (this was the '40s and '50s), he had much more control over advising clients than he did in the '70s. It was an epic moment. I cherish that moment. The wealth of knowledge and experience and wisdom that partner had, and I got to hear about a tiny bit of it.

What sorts of skills did you gain from your experiences at Cleary that you brought forward with you in your career?

I learned a lot at Cleary. One specific thing that I had to learn, and subsequently unlearn, was what I would call the New York style of law. When negotiating a contract in New York, you put in a lot of the reps, warranties, and covenants that you can use as leverage. On the West Coast, at least with computer contracts, there is more of project-funding mindset, like a construction project. These same provisions were considered a nuclear option to be avoided. Instead, parties put in terms to get the project done without a lawsuit. I used the knowledge I gained in New York defensively to help me identify the provisions counterparties were trying to sneak into contracts.

What led you to leave Cleary and transition to the business side of deals?

I left Cleary to work for one of the better computer law firms on the West Coast because that was where the field was centered. But then I got drawn to go into venture capital, where I became a deal attorney for a venture capital firm I worked with. This was a natural transition, since as a deal attorney I was doing some of the same work. I eventually became more and more involved on the business side of deals.

What did you do after working at a venture capital fund?

Most people don't remember this, but there was a dotcom bottle of sorts in 1981–1983. A PC bubble. If you look at the number of tech IPOs, the second highest number of IPOs after 1999 was in 1983. The bubble burst quickly between June and July 1983—we had a company go public in June, but a company ready to go out in July that did not. After the 1983 bubble, I moved up the food chain and moved to Washington, D.C. to work on leveraged buyouts, which became the new thing to do.

I continued to do advisory work for the venture fund and worked for a consulting organization for a few years. I did consulting work for a number of clients, including Disney, AT&T, DirecTV, Intel, Motorola, and Apple. After consulting on a number of projects, I joined the dotcom craze and started several tech companies.

What is the favorite job you've had?

My favorite job ever was pitching a dotcom IPO at the peak of the bubble. This was a company called InterTrust, which I joined in late 1997/early 1998. We took the company public in 1999. We nailed the offering, which wasn't easy. The company was worth over \$8 billion at the peak of the bubble. My work with InterTrust is also my favorite because of the range of emotions you experience with a startup—when you are in a startup, the highs are really high and the lows are really low. At one point, we thought the company was going to run out of money. Prior to InterTrust, I founded a company called Covad, which went public in October 1998. These two IPOs were back to back. Once the dotcom bubble burst, things were not as easy.

Having lived in cities across the U.S., where has been your favorite place to live?

It's hard to say what city is my favorite. I have lived in many great cities including New York, Washington, D.C., Denver, and San Francisco. My favorite city to visit is New York, but I don't think I would move back there. I like Denver because it has these great moments where the snow will fall and a day later, it's sunny and the snow melts. But I came back to San Francisco and settled here. The energy is quite extraordinary, and I am happy to be a part of it.

Is there anything that you would have done differently on your path to where you have gotten?

I'm sure. Steve Jobs made this comment during one of his commencement speeches: "You connect the dots in your life, looking backwards." So you sort of bumble forward and look back and say, "Oh yeah, that's what I was doing." I did not understand the epic importance of the decisions I made along the way. I could have gone to Apple in-house prior to their IPO; but then I could have gone to 50 other companies in-house and been stuck in a position I wasn't as excited about.