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COVER STORY

California companies, firms score on IPOs in a slower year

By Melanie Brisbon
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Twenty-one California-based companies went public in the U.S. in 2016, raising a collective $1.78 billion. That's down from 37 initial public offerings last year that raised $4.78 billion.

The state was home to nearly half of all technology companies that went public in 2016.

All the California companies that went public last year averaged a gain of 38.6 percent from the offer price, compared to a gain of 23.6 percent for companies outside the state.

Here's a roundup of the 10 largest offerings by California companies and the attorneys involved, using data provided by Renaissance Capital LLC, a firm which tracks IPO activity globally.

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Jeffrey D. Saper, vice chairman of Wilson Sonsini Goodrich & Rosati PC, advised on three California IPOs: Nutanix Inc.'s $237 million IPO, BlackLine Inc.'s $146 million IPO and NantHealth Inc.'s $91 million IPO.

#1 Issuer: Nutanix Inc.
Offering valuation: $237.92 million

Company counsel: Wilson Sonsini Goodrich & Rosati PC

Underwriter's counsel: Fenwick & West LLP

Offering date: Sept. 30

Nutanix Inc. tops the list of California companies that went public last year. Wilson Sonsini Goodrich & Rosati PC advised the company in its IPO, a deal that raised more than $237 million.

The San Jose-based software company first announced it would go public at the end of 2015. But the company didn't start its "road show" or presentations for potential investors until several months later.

"If you look at the stock market performance at the beginning of 2016, it wasn't that robust," said Mark B. Baudler, a Wilson Sonsini partner. "It just so happened that 2016, especially for the first half of the year, was challenging for technology IPOs."

"Nutanix elected to wait until the market was more favorable," he added.

Baudler led the Wilson Sonsini team along with Jeffrey D. Saper, vice chairman of the firm, and Andrew D. Hoffman, a partner, all of Palo Alto.

"The company spent a lot of time thinking about the messaging of who they are and how they think about themselves," Hoffman said. "I think that's a really important part of the story."

"If you're a potential investor or someone who doesn't know about the company, one of the first things you want to figure out is what is their mission, what do they do, and how they do it differently from everybody else?"

The company's decision to hold off on going public brought challenges for their outside counsel. Attorneys had to continually update Nutanix's registration forms with the Securities and Exchange Commission and be prepared to move forward with the IPO proceedings at a moment's notice.

The IPO could have been delayed if attorneys were not prepared.

"We don't want to ever be a gating item for our clients," said Hoffman. "We worked closely with both the legal team and the finance team at Nutanix to make sure that we were keeping the documents fresh and ready for whenever they wanted to do their road show and consummate their IPO."

The company saw demand and interest for its stock during its presentations to potential investors and upsized the offering as a result, Hoffman said.

Nutanix initially planned to price its shares from $11 to $13 each, but later increased the price, offering 14.87 million shares at $16 apiece.

Partners Jeffrey R. Vetter in Mountain View and James D. Evans, resident in Seattle, New York and Mountain View, led the Fenwick team advising the underwriting syndicate. Neither could be reached for comment.

Goldman, Sachs & Co., Morgan Stanley & Co. LLC and J.P. Morgan Securities LLC served as representatives of the syndicate. "That was reflected in both the strong demand during their IPO and the strong performance they enjoyed since their IPO."

#2 Issuer: Twilio Inc.
Offering valuation: $150 million

Company counsel: Goodwin Procter LLP

Underwriter's counsel: Latham & Watkins LLP

Offering date: June 23

Goodwin Procter LLP advised Twilio Inc. in its IPO. The San Francisco-based company offers a cloud communications platform as a service.

Twilio is what is known as a unicorn, a startup company valued at over $1 billion.

"Twilio was the first venture-backed unicorn technology IPO," said Tad J. Freese, a partner at Latham & Watkins LLP. "There were a lot of eyes on the IPO in terms of how it was going to go."

"The CEO of Twilio had a very strong vision of what he thought his company's story was and should be," he said.

Freese led the Latham team advising the underwriting syndicate along with Christopher L. Kaufman, also a partner in Menlo Park.

Goldman, Sachs & Co. and J.P. Morgan Securities LLC served as representatives of the underwriting syndicate.

Twilio decided to use its communications technology throughout the IPO process, which brought about issues attorneys had to work through with the SEC.

They took a "cutting edge approach" for the presentations for investors, Freese said.

"You could dial a number and get a link to the prospectus texted to you," Freese said. "That is not something that is typically done. We had to work with the SEC to make sure they were OK with the prospectus delivery."

Anthony J. McCusker, Rezwan D. Pavri and Andrew T. Hill, partners in Menlo Park, led the Goodwin team. They could not be reached for comment.

Twilio offered 10 million shares at $15 each to raise about $150 million without deducting underwriting discounts and offering expenses. The company launched a successful secondary offering in the months after it went public.

"It was a pretty smooth IPO and a very successful IPO in that the stock has traded up and has stayed up since it started trading," Freese said.

#3 Issuer: BlackLine Inc.

Offering valuation: $146.2 million

Company counsel: Wilson Sonsini Goodrich & Rosati PC

Underwriter's counsel: Latham & Watkins LLP

Offering date: Oct. 28

A duo of firms helped BlackLine Inc. go public last year.

Wilson Sonsini Goodrich & Rosati PC advised BlackLine, a provider of financial controls and automation products for accounting, in its IPO.

Therese Tucker, the company's founder and CEO, is said to be the first woman to lead a venture-capital-backed Los Angeles startup to an IPO, according to other media reports.

BlackLine shares started trading on the Nasdaq Global Select Market on Oct. 28. The company offered 8.6 million shares of its common stock at $17 each. BlackLine gave the underwriting syndicate a month-long option to buy up to 1.29 million additional shares.

Latham & Watkins LLP advised the syndicate, led by Goldman, Sachs & Co. and J.P. Morgan Securities LLC.

BlackLine said it expected to use the proceeds from the offering to repay debts and for general corporate purposes, including working capital, research and development activities, sales and marketing activities and capital expenditures along with funding growth initiatives.

The Wilson Sonsini team, was co-led by Palo Alto partners Jeffrey D. Saper and Katharine A. Martin, along with partners Allison B. Spinner and Lisa Stimmell. Associates Shannon R. Delahaye, Lauren B. Lichtblau, Andrew S. Gillman, Wendy Guo and Emily Ly also advised.

Steven B. Stokdyk, a Los Angeles partner, led the Latham team with assistance from associates Brent T. Epstein and Brian Ahn. Partners Samuel R. Weiner and Michelle L. C. Carpenter also provided counsel along with associates Kathryn A. Harrington and Hannah C. Cary. The lead attorneys in the deal could not be reached for comment.

#4 Issuer: e.l.f. Beauty Inc.

Offering valuation: $141.666 million

Company counsel: Latham & Watkins LLP

Underwriter's counsel: Ropes & Gray LLP

Offering date: Sept. 22

E.l.f. Beauty Inc. was one of a small handful of companies in the personal care and cosmetics industry to go public last year. With the acronym short for eyes, lips and face, e.l.f. Beauty relied on Latham & Watkins LLP for guidance in its IPO, which raised more than $141 million without including offering expenses.

"A lot of the cosmetics companies are either already public or they are owned by larger public companies," said Tad J. Freese, a partner at Latham. "We didn't have a lot of recent precedent because it had been a while since a cosmetics company had gone public."

Attorneys didn't see the lack of recent precedent as an obstacle because e.l.f. is a little different from some of its competitors in the beauty industry, Freese said.

Freese led the Latham team advising e.l.f. along with Kathleen M. Wells, a Menlo Park partner.

E.l.f., based in Oakland, targets millennials with a range of products including concealers, eyeshadows, eyeliners, lipsticks, mascaras and beauty tools. Most of the company's products are sold for less than $6 online and in retail stores like Target Corp., Wal-Mart Stores Inc., Gap Inc.'s Old Navy chain and CVS Health Corp.

"Because they are a retail company, it was very interesting marrying their sales and marketing efforts at a product level together with what we were doing to sell the stock in the IPO and making sure that we were not crossing any lines," Freese said. "You can do things when you're selling eyeshadow and lipstick that you can't do when you're selling securities."

Attorneys overcame that challenge by working carefully on all of the documents that had to be submitted to the SEC.

"We probably spent more time than you typically would working on prospectus language and some of it resulted in refining the marketing materials on the product side as well," Freese said. "It was a layer of effort that is not there when you don't have a company that actually sells products."

The company first announced it would sell 8,333,333 shares of its common stock from $14 to $16 each, but it later increased the price $17 apiece. The shares actually opened at $24 each during the first day of trading and rose as high as $27.40 that day.

Ropes & Gray LLP advised the underwriting syndicate, led by J.P. Morgan Securities LLC and Morgan Stanley & Co. LLC.

Thomas Holden, a partner who divides time between San Francisco and Boston, led the Ropes team. He could not be reached for comment.

"The IPO demonstrated the fact that there's still a lot of interest for quality issuers," Freese said.

#5 Issuer: Coupa Software Inc.

Offering valuation: $133.2 million

Company counsel: Gunderson Dettmer Stough Villeneuve Franklin & Hachigian LLP

Underwriter's counsel: Davis Polk & Wardwell LLP

Offering date: Oct. 6

Issues related to "gun-jumping" and a tough market were some of the challenges attorneys faced in helping Coupa Software Inc. in its transition from privately held to publicly traded.

Gunderson Dettmer Stough Villeneuve Franklin & Hachigian LLP advised the San Mateo-based company that provides a platform designed to help businesses manage their spending. Redwood City partners Daniel E. O'Connor and Richard C. Blake led the Gunderson team.

"The company has an annual customer conference, called 'Inspire', that was falling right in the potential time of the IPO," Blake said. "We wanted to make sure the SEC wasn't going to see the conference as gun-jumping and allege that we were offering the IPO through that event," he said.

Rules related to gun-jumping are designed so that investors can make decisions based on the full disclosure in the prospectus, not on the information disseminated by the company that has not been approved by the SEC. A gun-jumping allegation could have delayed the IPO process.

Attorneys overcame that obstacle by working with the SEC and monitoring the topics discussed during the conference.

"We had a dialogue with the SEC from the very beginning," Blake said. "We spoke to them about the conference and why we didn't think it would be gun-jumping."

"We made sure that the company didn't talk about the IPO during the conference," he added.

Rob Bernshteyn, the CEO and president of Coupa Software, released a book called "Value as a Service" as the company was going public.

"Since copies of the book ended up going to some of the institutional investors on the road show, the company decided to file the full book with the SEC to make it easily available to everyone," said Sarah K. Solum, a Menlo Park partner at Davis Polk & Wardwell LLP.

"Filing a book as a free writing prospectus was probably a first, both for the deal team and the review team at the SEC," she added.

"The challenge was less of a legal issue and more of an execution issue, given the amount of material involved and the deal timing," she said.

Solum led a team of Davis Polk attorneys advising the underwriting syndicate. Morgan Stanley & Co. LLC, J.P. Morgan Securities LLC and Barclays Capital Inc. led the syndicate.

The underwriters fully exercised their option to buy additional shares in the offing. Altogether 8,510,000 shares were sold at $18 each. The company announced that the IPO raised $153,180,000 in aggregate gross proceeds.

The attorneys overcame the challenges through trust and teamwork, Solum said.

"The individuals involved — from company executives to outside advisers — worked together in an atmosphere of integrity, candor and accountability," she said. "I credit Coupa's general counsel, Jon Stueve, and the rest of the management team for setting that tone for the IPO and for assembling a very high quality team of both internal and external service providers."

#6 Issuer: Quantenna Communications Inc.

Offering valuation: $107.2 million

Company counsel: Wilson Sonsini Goodrich & Rosati PC

Underwriter's counsel: Davis Polk & Wardwell LLP

Offering date: Oct. 28

Wilson Sonsini Goodrich & Rosati PC advised Quantenna Communications Inc. in its $107.2 million initial public offering.

Quantenna, headquartered in Sunnyvale, manufactures Wi-Fi chipsets.

"It was one of the first major semiconductor IPOs in years and we didn't quite know how the market would respond," said Arthur F. Schneiderman, a Wilson Sonsini partner in Palo Alto. "Lately, semiconductor companies have been less favored of investors."

"It doesn't have the same margins and potential as some of the software companies."

Schneiderman led the Wilson Sonsini team along with John T. Sheridan, also a Palo Alto partner.

Many companies in the semiconductor industries announced mergers and acquisitions in 2016, but there were very few IPOs.

"The news of an IPO often attracts potential buyers, so a lot of companies sell before they go public," said Alan F. Denenberg, a Menlo Park partner at Davis Polk & Wardwell LLP. "With Quantenna, it went the full route to an IPO, and it hit the planned timetable."

Davis Polk advised the underwriting syndicate. Morgan Stanley & Co. LLC served as the lead representative for the syndicate.

"We made a schedule in July with the October 28 as the offering date," Schneiderman said. "As that date got closer, timing became an issue because of the election. It was quite a tumultuous time and that affects the market."

Attorneys worked together and were ultimately able to stick to their schedule. The offering successfully launched as planned. Quantenna offered 6.7 million shares at $16 each, raising more than $107 million without subtracting offering expenses and underwriting discounts.

The offering also included a directed share program which allowed Quantenna employees around the world to buy shares in the company's IPO. This portion of the offering was also successful.

"This was quite unique to see that a semiconductor company could have a successful IPO in a world that seems more into social media, software and biotech offerings," Schneiderman said.

#7 Issuer: iRhythm Technologies Inc.

Offering valuation: $107 million

Company counsel: Wilson Sonsini Goodrich & Rosati PC

Underwriter's counsel: Davis Polk & Wardwell LLP

Offering date: Oct. 20

A team of Wilson Sonsini Goodrich & Rosati PC attorneys, led by Palo Alto partners Philip H. Oettinger (pictured) and Calise Y. Cheng guided iRhythm Technologies Inc. as it leaped from privately held to publicly traded.

iRhythm Technologies priced 6,294,118 shares of its stock at $17 each, which yielded about $107 million without deducting offering expenses and underwriting discounts.

The San Francisco-based company develops technology designed to monitor heartbeats. The company also generates reports to physicians based on the results from the monitors.

"The company doesn't make its money by selling the device — it makes its money by selling the report," said Oettinger, one of the lead Wilson Sonsini attorneys handling the matter. "Positioning the company in the S-1 was interesting as one had to describe the different constituencies who were going to benefit from the product."

"You've got the patients who are going to benefit from the doctor getting more information, then you've got the physicians who've got an actionable report from a lot of data that gets run through an algorithm."

Insurance companies and health care facilities like hospitals were also amongst the constituencies. Another issue attorneys had to work through was timing.

"The IPO market got off to a slow start in 2016," Oettinger said. "There was slowing growth in China, then we had worries about ISIS bombings and then Brexit.

"Part of the challenges we faced with iRhythm was will the IPO market be ready when the company is ready to go public?"

The obstacles didn't end there.

"We had a Foreign Corrupt Practices Act allegation from one of the company's distributors," Oettinger said. "The company position was that it didn't hold merit, but it became an issue for the offering."

An internal investigation resulted from the allegation. The parties involved in the deal worked together to overcome all of the issues.

"We had to figure out how to disclose the allegation in the S-1 and we had to figure out who to report it to — the SEC, the DOJ or both," Oettinger said. "As a result of the investigation, we had to update the bankers, we had to update their counsel and we had to update the company accountants."

Alan F. Denenberg led the team of Davis Polk & Wardwell LLP attorneys advising the underwriting syndicate. J.P. Morgan Securities LLC and Morgan Stanley & Co. LLC were the lead banks for the syndicate.

The underwriting syndicate fully exercised its over allotment option and the company announced it actually sold more than 7.2 million shares of its stock in the IPO.

Denenberg said iRhythm was a "well received IPO."

"It launched and went better than anyone could have expected."

#8 Issuer: Talend SA

Offering valuation: $94.5 million

Company counsel: Wilson Sonsini Goodrich & Rosati PC and Jones Day

Underwriter's counsel: Goodwin Procter LLP; Gide Loyrette Nouel AARPI

Offering date: July 29

Talend Inc. went public last year with help from a quartet of law firms. Wilson Sonsini Goodrich & Rosati PC advised Talend on domestic laws.

Talend, a software vendor specializing in big data integration, said it would offer 5.25 million shares of its common stock in its initial public offering from $15 to $17 each. The company has its U.S. headquarters in Redwood City, but it is incorporated in France.

"There were some issues related to foreign private issuers that we had to work through," said Mark B. Baudler, one of the lead partners on the deal. "Corporate governance policies need to work for a French company where a large number of employees are not in the U.S. but the headquarters is in the U.S."

Steven V. Bernard and Andrew D. Hoffman, Wilson Sonsini partners in Palo Alto, led the firm's team advising Talend along with Baudler.

Attorneys handled that issue by tailoring aspects of the deal to the company's specific needs. They also sought help from Talend's French counsel: Jones Day attorneys in Paris.

"The challenge is to not only help a company through the IPO process but to help it succeed in the future," Baulder said. "One of the reasons why you have local counsel is to make sure you don't have a misstep by doing something for a Delaware company that you couldn't do for a French company."

Goodwin Procter LLP advised the underwriting syndicate, led by

Goldman, Sachs & Co., J.P. Morgan Securities LLC and Barclays Capital Inc. Gide Loyrette Nouel AARPI, a law firm headquartered in Paris, counseled the syndicate on French law.

Richard A. Kline, Anthony J. McCusker and Andrew T. Hill, partners in Menlo Park, led the Goodwin team. Renaud Bonnet led the Jones Day team. Jean-Marc Desaché and Arnaud Duhamel led the Gide Loyrette Nouel team. None could be reached for comment.

Talend actually priced its shares at $18 apiece, $1 more than it had initially planned. The company's shares opened at $27.66 on its first day of trading, up nearly 54 percent from the IPO price. The IPO raised an estimated $94.5 million.

"I think Talend helped open the markets for other technology company IPOs because of how well it was received," Baudler said.

#9 Issuer: NantHealth Inc.

Offering valuation: $91 million

Company counsel: Wilson Sonsini Goodrich & Rosati PC

Underwriter's counsel: Cooley LLP

Offering date: June 2

Wilson Sonsini Goodrich & Rosati PC advised NantHealth Inc., formerly known as Nant Health LLC, in its initial public offering.

The company offered 6.5 million shares of its common stock at $14 each, reflecting a 1-for-5 1/2 reverse stock split of the company's common stock as NantHealth converted from a limited liability company to a corporation, according to the SEC filing.

NantHealth is a provider of cloud-based information technology for the health care industry with offices in Culver City and London. Its software, middleware and hardware system infrastructure aim to improve decision-making by collecting, indexing, analyzing and interpreting data points.

Cooley LLP advised the syndicate of underwriters, led by Jefferies LLC and Cowen and Co. LLC.

NantHealth said it expected to use the net proceeds from the offering for issues related to its Phantom Unit Plan and for general corporate purposes, such as commercializing new products and to in-license, acquire or invest in complementary business, technologies, products or assets, according to the SEC filing.

Jeffrey D. Saper, vice chairman of the firm in Palo Alto and partner Martin J. Waters in San Diego led the Wilson Sonsini team. None could be reached for comment.

Partners Charles S. Kim and Sean M. Clayton in San Diego led the Cooley team along with San Francisco partners David G. Peinsipp and Andrew S. Williamson.

#10 Issuer: Protagonist Therapeutics Inc.

Offering valuation: $90 million

Company counsel: Cooley LLP

Underwriter's counsel: Latham & Watkins LLP

Offering date: Aug. 11

Milpitas-based Protagonist Therapeutics Inc. tapped Cooley LLP for counsel in its initial public offering. The clinical-stage biopharmaceutical company started trading toward the end of the summer.

"One of the biggest challenges was around timing," said Michael E. Tenta (pictured), a Cooley partner in Palo Alto. "When we started, the market for biotech IPOs was essentially closed."

"The challenge was for the company was to decide whether to invest the resources to go public and when to hit the market."

Tenta led the Cooley team along with Kenneth L. Guernsey, a partner resident in Palo Alto and San Francisco.

Protagonist Therapeutics develops peptide-based new chemical entities.

"Historically, peptides have been a less common form of therapeutic, as compared to small molecules and biologics, because of stability issues in the body," said Brian J. Cuneo, a partner at Latham & Watkins LLP. "Protagonist had the unique challenge of educating investors about the advancements in developments of their constrained peptides and how they are targeting well-known biological pathways."

Cuneo led the Latham team advising the underwriting syndicate with Alan C. Mendelson, also a Menlo Park partner. Leerink Partners LLC and Barclays Capital Inc. served as representatives for the underwriting syndicate.

Protagonist Therapeutics was also waiting to receive feedback from the U.S. Food and Drug Administration, regarding one if its clinical trials. Attorneys overcame this obstacles by collaborating with other parties in the deal.

"It was a joint effort between the company and its counsel, the underwriters and us as underwriters counsel — putting together a timeline and strategic game plan for the offering that allowed us to get receive and incorporate feedback from the FDA between confidential submissions and public filings," Cuneo said.

The efforts were successful. The IPO raised about $90 million without deductions for underwriting discounts and offering expenses.

"During the dark days for life science IPOs early in 2016, the company had the foresight to get ready for an IPO," Tenta said. "When the skies opened up and that dark clouds was lifted, they were one of the few biotech IPOs that was able to get out in August."