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BREAKING THE ALGORITHM

Neel Chatterjee's offbeat recipe for Silicon Valley success

BY JOE MULLICH PHOTOGRAPHY BY GREGORY COWLEY



Neel Chatterjee

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Officially, Neel Chatterjee is a partner in Goodwin Procter's intellectual property litigation practice. But that title is almost an afterthought on his business cards, where, in bold type, he describes himself as "Partner and Very Handsome Man."

Chatterjee smiles mischievously when asked about the card. "It adds a layer of humanity to the legal services," he says. "And it's one of the most useful recruiting and business development tools I've ever had. But that's not the reason I do it. It's just in my nature."

Rick Runkel, general counsel at software company Synopsys, says Chatterjee "sees legal angles others don't and he's exceptional in oral arguments." In one IP case, a judge made a tentative statement that he was going to rule against Synopsys across the board, knocking out several of the company's patents. "Faced with a total loss, Chatterjee listened, dug in, and turned the judge around," Runkel says.

He adds, with a smile, that Chatterjee is also a "crazy person."

Chatterjee's fingerprints are all across the technology IP landscape. He wrote one of the first articles about copyright on the internet. He has handled high-profile cases that shaped the legal nuances of internet scraping, the process of extracting data from websites, and the Computer Fraud and Abuse Act. He defended Mark Zuckerberg and Facebook in the famed Winklevoss case that was turned into the film *The Social Network*.

Then there's what he calls his "goofy" personality. In college, he was a DJ for a morning zoo radio show. Just before the pandemic, he tried standup in front of a crowd of 200 at a New York comedy club, with part of his set focused on his parent's "disappointment" that he became a mere lawyer rather than a doctor or engineer.

"The reality is that I love an audience," Chatterjee says. "The biggest laugh I got was the bit about where my mom drove right by me when I had a flat tire."

He adds, "If you look at the standard successful lawyer in the standard law firm, I just don't fit that, nor do I really want to. I have a weird, quirky demeanor, which I'm proud of, but I never really knew if I would be able to work within a law firm."

BECOMING A TECHNOLOGY LAWYER might have been embedded in Chatterjee's DNA. His grandfather was a physics professor in India, his mother a teacher, principal, and eventually an assistant superintendent, who introduced the practice of asking technology companies to donate outdated computers to schools in Silicon Valley. His father, an engineer, came to the Bay Area in the early '70s, where he was among the designers of one of the first supercomputers.

Chatterjee, now 52, was raised in Silicon Valley, a place synonymous with innovation. He recalls telling his dad at a young age, "I don't know what I want to do with my life, but I want to be on the cutting edge of things. I want to do something that the world hasn't seen yet."

There would be obstacles to surmount first, starting with difficulties learning to read as a child.

Then there came the rejections. At Dartmouth, where he graduated with a BA in government and economics in 1991, he posted every single rejection letter he received from law schools outside his dorm room. After his second year at Vanderbilt Law School, he covered his living room with the rejection letters from law firms he had applied to. Of 882 applications, he got 11 interviews and two offers.

"THE MOST FUN IS GIVING ENTREPRENEURS THE FREEDOM TO DO THE GREAT THINGS THEY WANTED TO DO. I AM NOT GOING TO MAKE THE NEXT GREAT SEMICONDUCTOR OR BRING WI-FI TO THE WORLD, BUT I CAN BRING CREATIVITY TO THIS UNDEFINED LEGAL SPACE."

"Almost 900 times I simply didn't fit in," Chatterjee says. "Most people who practice law just sail through it, but rejection has been a way of life for me. To the extent I tried dating, I got turned down a lot. As an outside lawyer, you are pitching a lot of engagements, and you're not getting everyone. In a courtroom, there is a 30 percent chance something crazy will happen that I can't predict or control. I've felt I've had to spend my career proving myself, over and over again."

When his kids are having a tough time, Chatterjee mentions a tiny trophy his mom has kept over the years. He tells them: "In high school, I went to speech and debate tournaments every weekend, and that is the sum total of the awards I received. But I kept at it, because I liked it, and thought I would get better."

In 1995, he clerked for Magistrate Judge Patricia Trumbull, in the U.S. District Court for the Northern District of California. In those early internet days, the district was fast becoming a hotbed of IP litigation. Judge Trumbull told Chatterjee he had a facility for cases about technology. "I didn't really care for securities litigation, like the big class-action stuff," he says. "Employment stuff was OK. IP stuff was just far more interesting and creative, where the rules didn't seem very clear or understood. There was a lot of opportunity to do new things."

Two years later, he joined Orrick, Herrington & Sutcliffe and developed a practice centered on complex, technology-driven litigation. He recalls sitting in a conference room that eBay shared with another company. At that point, the young internet marketplace had two in-house lawyers and a law school intern, so they tapped Chatterjee.

"A guy walks in that looks like a Canadian Mountie, but he was actually from the Fish and Wildlife Service," he says. "He was serving a subpoena because someone was trying to sell a live duck on eBay and they wanted to know who it was." The incident led to developing eBay's original community guidelines and rights, and Chatterjee played a significant role.

He adds: "eBay was a pioneer in defining a lot of online liability, including key protections that social media relies on today," he says. "And if you really think about eBay, it was the very first social network because the way that trust was developed by buying and selling things on eBay was through a feedback forum about the community members. A lot of the legal



stuff that defined internet commerce was driven much more by eBay than almost anyone else.”

At times, the legal landscape was evolving so quickly that Chatterjee had to act more like a private investigator than a lawyer. In 1999, he helped develop the first ever anti-piracy campaign for a film. *Phantom Menace* was poised to blow up at a time when stolen copies of other big movies, like *The Matrix*, were popping up on websites within days of their release, complete with subtitles. People would sit in the hearing-assisted seats in movie theaters, plug their camera into the microphones, and get high-quality sound.

“In the dark corners of internet chat rooms, people were talking about the illicit sites,” Chatterjee says. “We developed some tools to know which internet services were actually provided the [stolen] content for download. The problem was you couldn’t sue them, because if you sued them, you’d lose too many days before you got to court.”

Instead, his team implemented a 24-7 operation where they would send out notifications under the Digital Millennium Copyright Act, telling internet providers: *Some of my copyrighted stuff is on your system, and you need to block it or take it down.* “It wasn’t about sending people to jail,” Chatterjee says. “It was about stopping the rapid distribution of copies of the film.”

In 2008, he represented Mark Zuckerberg and Facebook against the Winklevoss twins, the famous case at the center of 2010’s *The Social Network*. He dismisses the film as a “*Law and Order*” episode that didn’t reflect the true personalities or legal issues of the matter.”

The most interesting fact of the case Chatterjee can talk about was a dispute about where college students live for purposes of court jurisdiction, such as on campus or in their parents’ homes.

“The first time that Mark Zuckerberg testified in court, it was about where he *lived*,” Chatterjee says. “I’d walk outside the courtroom and there would be 100 cameras! For that. The media would focus on these procedural matters that no one normally cares about, and which, in the grand scheme of litigation, were not important.”

Some people might look at IP litigation as dry affairs. Chatterjee sees them as morality plays, where he is representing the person behind some innovation that will better the world.

For example, in the Facebook case, the judge issued a statement that “dorm room chit chat does not make a contract.”

“If you look at the first paragraph of our brief, that’s *exactly* the scene we tried to establish, though we didn’t use the phrase ‘dorm room chit chat,’” Chatterjee says. “There were a bunch of college students sitting around talking about all sorts of stuff. But there was only one person in that room who was a visionary who could build a great company, and that was Mark Zuckerberg.”

Chatterjee admits that high-profile cases are fun. “But the most fun is giving entrepreneurs the freedom to do the great things they wanted to do. I am not going to make the next great semiconductor or bring Wi-Fi to the world, but I can bring creativity to this undefined legal space.”

THE CASE HE MOST likes to speak about, though, doesn’t have an Aaron Sorkin/David Fincher movie attached.

In 2004, he represented a gay couple who sued adoption.com for violating California discrimination laws by refusing to post their profiles on a website where prospective birth mothers could see them, citing that it only posted profiles of married, opposite-sex couples.

“Richard Butler, who was one of the members of the couple, was a patent attorney, though we didn’t know each other,” he says. “My wife was pregnant at the time, so they adopted a child at the same time my daughter was born.”

As a result, adoption.com pulled out of business in California, and the case law that Chatterjee developed was helpful for other suits that were filed against the company.

Chatterjee likes taking cases that promote inclusivity. He got his first summer associate job via a diversity career fair—one of two offers he received.

As he got older, he began to think about his earlier experiences. “When someone gave me a nickname like ‘Gandhi,’ was that a good thing or a bad thing?” he asks. “I didn’t know back then.” He would go to job interviews and be asked what he thought of Hadji, an Indian character on a popular children’s cartoon called *Johnny Quest*. “That sailed right by me at the time,” he says. In 2005, he founded the Bay Area Diversity Career Fair, now one of the most successful career fairs for the legal industry.

For 20 years, he’s been on the Board of Directors of the Law Foundation of Silicon Valley, a nonprofit that focuses on rights

of under-represented individuals and families. He's handled many cases for the organization. Most recently, during the pandemic, Chatterjee led a group of lawyers who went into court and obtained an order that the city of Gilroy had to turn over records documenting police activity related to the city's homeless encampments. "We largely prevailed in the case, and the sole issue for us on appeal is whether governmental entities have a duty to preserve documents when a Records Act request is made," he says. "The appeal transcends the homelessness issue and raises a larger public-policy issue associated with governmental accountability."

"He is amazingly engaged in the community," Runkel says. "He's all about looking out for the downtrodden and disadvantaged. He is an amazing advocate for people in society who typically don't have access to the law."

And, of course, his "nature" shows up.

Immediately after Donald Trump's election, when Chatterjee was with Orrick, he formed an informal group of advocates called "Stick It to the Man."

SITTM's point, he wrote to colleagues then, was to " ... inspire people. The solution is not to wring your hands and complain. It's to express your opinion and to protect the unprotected."

The group took on several pro bono cases that opposed Trump's policies, among them a Freedom of Information Act request for information about ICE's treatment of detainees and a lawsuit regarding the same. The detainees received a settlement, and SITTM was awarded attorneys' fees for the FOIA request.

Chatterjee remembers being in D.C. for a hearing the day after the election. "I felt a sense of foreboding," he says. "A woman actually stopped me when I was walking and asked if I would pray with her. It was surreal." Chatterjee took his team to the front of the White House to inspire people with messages of hope. Chatterjee's sign simply said, "Free Hugs."

"I got a lot of good hugs," he says.

He gets the metaphoric kind from his fellow practitioners.

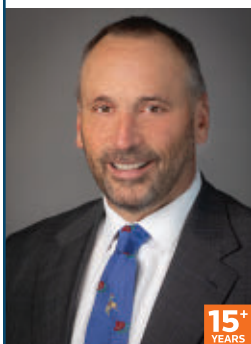
"He doesn't take himself too seriously, which is to his credit," says Elizabeth Pipkin, a partner at McManis Faulkner in San Jose and president of the board of Law Foundation of Silicon Valley. "It's one of the reasons he's so beloved in the Bar." Another reason is the effort he puts into mentoring and helping others. Pipkin recalls a time she was having trouble with her opening arguments in a complex trade secret case.

"I was stuck in the weeds, and Neel came to my office all weekend and helped me refine my argument so I was ready for trial on Monday," she says. "How many people would do that for free, just to help a friend, on a case that wasn't theirs? But I don't think mine was a unique experience."

"I really believe my ability to do what I do is a privilege, not a right, and not everybody thinks of it that way," Chatterjee says. He adds: "If I were a conventional lawyer, I don't think I'd be very successful." **SL**



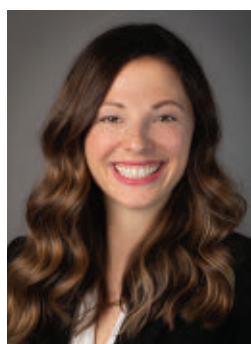
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