



June 2, 2012

# Lawsuit Shakes Foundation of a Man's World of Tech

By **DAVID STREITFELD**

Palo Alto, Calif.

MEN invented the Internet. And not just any men. Men with pocket protectors. Men who idolized Mr. Spock and cried when Steve Jobs died. Nerds. Geeks. Give them their due. Without men, we would never know what our friends were doing five minutes ago.

But are these men trapped in the past even as they create the future?

That's the debate that has sprung up here since Ellen Pao, a junior partner in her early 40s at the distinguished venture capital firm of [Kleiner Perkins Caufield & Byers](#), filed a [sexual discrimination lawsuit](#) against the company and her colleagues there.

[The complaint](#), laced with accusations of professional retaliation after spurned sexual advances, has riveted Silicon Valley, whose venture capitalists generally prefer media attention for their businesses and deals, not themselves. Instead of talking about the New New Thing, people are discussing an old, old problem. And they are taking sides.

Although the accusations have yet to be heard in court, even some of Ms. Pao's critics concede that she is exposing an uncomfortable truth about Silicon Valley: starting tech companies in 2012 is still a male game, and so is funding them.

Her complaint goes further. It depicts venture capitalists here as a group of 21st-century men who may be hard at work building the 22nd century but, when it comes to dealing with women in the workplace, are stuck firmly in the caveman era — or at least in the 1950s. It's a portrait that many women in tech find all too familiar.

“You talk to any woman in technology and she will have a personal story or know a story where she

felt conscious of her gender in subtle or significant ways,” said Kathy Savitt, 48, the chief executive of [the social commerce start-up Lockerz](#). Sometimes, she said, it’s as mild as realizing, “I’m the only chick in the room.” Other times, “it’s a lack of relevance, a feeling you can see an end to your opportunities.”

With the number of women in Silicon Valley so meager, a prominent discrimination lawsuit does not surprise Ms. Savitt. This place runs into trouble with women on a regular basis, most memorably in recent years when the C.E.O. of Hewlett-Packard resigned after inappropriate conduct with a former reality TV actress who was working for him.

Still, Ms. Pao’s lawsuit has injected talk of sexual politics into a conversation that generally sticks to money and eyeballs and business plans, monetization and enlightenment of the masses. Men in Silicon Valley may not behave any worse than men anywhere else, but people here like to think it’s all a meritocracy.

The shock really stems from where the scandal is taking place. Ms. Savitt knows Kleiner well; the firm is financing Lockerz. She cannot comment on the suit but expresses her deep admiration for the Kleiner crew. The firm is one of the few exceptions to the venture world’s disinterest in hiring women. A quarter of its 50 partners are female.

That fact fits awkwardly with the lawsuit’s claim that one male executive, Randy Komisar, told Ms. Pao that women would never succeed at Kleiner “because women are quiet.” Another male executive, Chi-Hua Chien, is quoted in the suit saying women were not being invited to a big-deal dinner because they would “kill the buzz.”

Neither Ms. Pao nor any of the parties mentioned in the lawsuit would comment on it.

Kleiner is an unlikely defendant for another reason. It is particularly conscious of its image. “As Kleiner Perkins sees it, the Florence of the Renaissance had the Medicis, the American steel industry had the House of Morgan, and Silicon Valley in the late 20th century has Kleiner Perkins,” David A. Kaplan wrote in “The Silicon Boys” in 1999.

That was when the firm was at its peak, the money behind Netscape, Genentech, Amazon and a little start-up called Google.

“If you believe every allegation in the complaint, it’s appalling and an important window into how

the valley works,” Mr. Kaplan said. “But I’m somewhat skeptical. The clichés you hear in the valley are about the pranks, the obsessiveness, the Foosball tables. You don’t really hear about randiness and mistreatment of women. That doesn’t prove it’s not there, but that’s not the lore.”

Of course, it depends on your perspective. Sandy Kurtzig was one of two female engineering students in her class at Stanford in the late 1960s and is still in the game, with a start-up funded by Kleiner. She always tried to take the valley’s sexism in stride — “When men made passes, I just downplayed it so the guy doesn’t feel he’s being put down when rejected” — but is disappointed by its persistence.

“I am shocked there aren’t more women in high positions in Silicon Valley,” Ms. Kurtzig said. “I always thought the world was going to be gender-blind.”

KLEINER’S headquarters in an office park near here does everything possible to minimize the moment. A low-slung building that is obscured if not overwhelmed by vegetation, it looks like the home of a laid-back research center for the promotion of world peace. The parking lot has one Porsche, but otherwise Lexus is about as fancy as it gets. Venture capital wants to change the world without drawing attention to itself.

While Kleiner has seen its magic touch somewhat dimmed of late — it came very late to the money fountain that was Facebook — a lawsuit like this could permanently kill the buzz. Already, it has eclipsed the mid-May announcement of the firm’s 15th fund, a \$525 million investment pot. Which, despite all those women at Kleiner, is being run by one woman and nine men.

Ms. Pao, who came to Kleiner with the dream of helping direct such a fund, graduated from Princeton with a degree in electrical engineering. She got a law degree from Harvard and worked for Cravath Swaine & Moore for two years doing international deals. She returned to Harvard for a business degree and worked for a variety of tech companies, including BEA Systems and Tellme Networks. Her geek cred is pretty unassailable.

In 2005, she came to Kleiner as a junior partner, working as chief of staff to [John Doerr](#). He was one of the main evangelists who shaped the modern Internet, a geek’s geek who became a billionaire. But, unlike many here, money never seemed his primary goal.

Ms. Pao’s role was to help Mr. Doerr identify investments, interview executives and write speeches.

According to the suit, her troubles began almost immediately when another junior partner, Ajit Nazre, made inappropriate sexual advances. Eventually, the complaint says, Ms. Pao “succumbed to Mr. Nazre’s insistence on sexual relations on two or three occasions.” When she put an end to the relationship, it says, he “started a consistent pattern of retaliation against her.” This went on for five years, it contends.

The harassment part of the suit pales in comparison to the retaliation part, which blends into an allegation of a general effort to keep women in their place. Kleiner, Ms. Pao’s lawsuit says, discriminated against her and other women “by failing to promote them comparably to men, by compensating them less than men through lower salary, bonus and carried interest, by restricting the number of investments that women are allowed to make as compared to men.”

The firm, which has about 80 employees here with a handful more in China, is accused of failing to act when complaints of sexual harassment or discrimination were made. Ms. Pao says women are excluded from meetings and discussions. The firm fails to provide opportunities for visibility and success inside and outside the firm for women as compared with men, the complaint says.

Kleiner supporters have some questions, even if they do not necessarily wish to go on the record: Why did a talented woman stay for so long at a place that was treating her so poorly? Also, how is it that you can’t remember how many times you slept with someone who harassed you?

And how is it possible that Mr. Doerr never listened to her assertions of retaliation and discrimination? Mr. Doerr declined to comment, but his supporters have an answer. The first that anyone at the firm knew of her concerns, they say, was just five months ago — at which point Kleiner promptly brought in a lawyer to investigate. He found no basis to her complaints, the firm says.

If you take the Kleiner line, Mr. Nazre was less the instigator than the victim; he had a consensual affair with Ms. Pao and now is being portrayed as a harasser. The suit says he left the firm after the investigator’s report at the beginning of the year, implying a cause and effect. People inside Kleiner say he left of his own volition before the inquiry began.

Mr. Nazre has not surfaced since the lawsuit was filed. A voice-mail message box belonging to him was full late last week. He did not answer messages through his LinkedIn page, which says he still works at Kleiner.

Kleiner supporters said that the firm made repeated efforts to achieve a resolution, but that the parties could not come to terms. The lawsuit was filed in San Francisco Superior Court on May 10, but was not reported in the news media until two weeks later.

BOTH sides in the case are bringing out high-profile legal firepower. Ms. Pao is represented by the employment law specialist Alan B. Exelrod, who won a significant victory against the law firm of Baker & McKenzie in a harassment case. Kleiner is represented by Lynne C. Hermle, an equally celebrated employer defense lawyer. Ms. Hermle successfully defended I.B.M. in a case in which an employee said she was fired after complaining about sexual harassment.

Ms. Hermle has until June 13 to file a response to the accusations. “The complaint has no merit whatsoever,” she said. Mr. Exelrod declined to comment.

Ms. Pao is known to the small world of venture capitalists here. Her husband, Alphonse Fletcher Jr., whom she married after the physical relationship with Mr. Nazre ended, is not. But he is well known in New York and has become the object of considerable fascination in the tech world.

[Mr. Fletcher](#), known as Buddy, has recently been in the news [for suing the Dakota](#), the apartment building on Central Park West, for not letting him buy a fifth unit. Mr. Fletcher, a former president of the Dakota board, said he needed the new rooms, which adjoin his main apartment, to accommodate his growing family that includes not only Ms. Pao but also their young daughter.

Mr. Fletcher, who is black, is accusing the Dakota of racial discrimination and defamation. The Dakota responded to the suit by saying its concerns were not racial but financial: it did not think that Mr. Fletcher could afford another apartment.

An account of the suit in The New York Times noted that in 2003 and 2006, workmen on Mr. Fletcher’s Connecticut estate had accused him of sexual harassment. Mr. Fletcher denied the allegations, which were settled out of court. He declined to respond to a request for comment.

Before the marriage, Mr. Fletcher had lived at the Dakota with his longtime boyfriend, Hobart V. Fowlkes Jr.

“I must admit that I do not know Ellen as intimately as I obviously know Buddy,” Mr. Fowlkes wrote in an e-mail. “However, my interactions with Ellen have never been anything but positive.”

He added that he was “extremely touched” that they asked him to be the godfather of their

daughter, “given the circumstances.”

FORGET about the Facebook I.P.O. For some entrepreneurial women, Ms. Pao’s lawsuit was the more significant event of the last month.

“When the news broke, we stopped what we were doing and were, like, ‘Whoa,’ ” said Claire Mazur, a founder of [Of a Kind, an e-commerce start-up](#) based in New York.

Ms. Mazur said she never had a problem getting meetings with venture capitalists. “But it’s definitely harder to talk to male investors who don’t have as much experience with retail and fashion,” she said. “That kind of personal connection can be key to getting funding.”

Or, as another e-commerce entrepreneur put it, “You’re trying to explain to a man why shopping is fun.”

Speaking only on the condition of anonymity — you never can tell whom you’re going to be asking for money — some entrepreneurs are more despairing.

One woman said she interviewed at a top venture firm in 2000 after coming out of business school. “I was told point-blank that they once had a woman and it didn’t work out,” she said. “That was 12 years ago and they haven’t had a single woman partner since.”

Kleiner, whatever its problems, actually hired women. So this executive worries that the message of the case to others will be: We were right to stick with the guys. She said she just got off the phone with a venture-backed chief executive who found out she was pregnant. The board was already moving to dump her.

The cold stats: Women make up just 9.1 percent of the board members of Silicon Valley companies, compared with 16 percent of Standard & Poor’s 500 companies, [according to Spencer Stuart](#), the headhunting firm. The National Venture Capital Association estimates, based on a recent survey, that only about 11 percent of investing partners at venture firms are women.

The ratio is not much higher for the entrepreneurs these firms back. In 2009, only 11 percent of companies that received venture backing had a female C.E.O. or founder, according to Dow Jones VentureSource.

IT’S a retro state of affairs, although that isn’t stopping Silicon Valley from protecting its own,

which means Kleiner. One Kleiner-backed woman said in an interview that she didn't think much of Ms. Pao's suit. "Anybody can sue anybody for anything, right?" Then she called back and said that she had now read the blogs and news articles about it, that the whole thing was a mess, that she was speaking out of ignorance and could she just stay out of it?

Few lawsuits like this make it to a jury, but Ms. Pao's case might be an exception. And some on both sides want the case to go to trial. Any settlement by Kleiner could look like an acknowledgment of guilt. The firm, meanwhile, is playing as aggressive a defense as it dares, given the legal constraints.

Owen Thomas, a former Valleywag gossip columnist and a longtime Silicon Valley observer, saw the situation this way: "If a tenth of this is true, Kleiner Perkins has a problem."

The women of the firm are certainly not united behind Ms. Pao. One of them, Beth Seidenberg, a general partner, took the unusual step of issuing a statement.

"I was drawn to the firm because of its diversity and have excelled here as have other women," she said. "Everyone has an equal opportunity to succeed" at Kleiner. In an interview, she repeated those points.

Last week, [Mr. Doerr](#) posted a lengthy message on the firm's Web site, saying Kleiner Perkins would "vigorously defend our reputation." He did not mention his former aide by name. The next day, Kleiner announced that it was hiring a new female partner.

*Christine Haughney and Jenna Wortham contributed reporting.*