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## Litigation Firms Planning to Merge

By **NATHAN KOPPEL**

A wave of consolidation is washing over the legal industry as firms increasingly look to grow through mergers, a sign that some firm leaders are bullish on the legal market's health.

The latest combination involves two litigation firms, McKool Smith in Dallas and Hennigan Dorman LLP in Los Angeles, which quickly decided to combine and are expected to officially merge Sept. 12.

McKool Smith specializes in intellectual-property litigation and has almost doubled in size over the past five years to its present 135-lawyer head count. Earlier this year, the firm won a \$345 million verdict for Versata Software Inc. in a patent infringement suit against SAP America Inc. and its parent SAP AG. All told, it has snared a total of \$1 billion in damages during the first half of 2011.

Hennigan Dorman has represented the Roman Catholic Archdiocese of Los Angeles in about 1,000 cases alleging misconduct by clergy. It also was among a

group of firms representing shareholders in a securities class action suit against Countrywide Financial Corp. that settled this year for about \$625 million.

Many firms in recent years have been downsizing, shedding costs and staff due to declines in practice areas such as mergers and public offerings. While the industry still hasn't bounced back to its prerecession highs, some firms have greater confidence about the economy and are looking to grow market share through mergers, according to industry consultants.

Firm combinations can be costly and difficult to pull off, often foundering over cultural differences, disputes over divvying profits or conflicts of interest between firms' respective clients.

"Coming out of the recession, quite a few firms have shifted from survival mode and are dusting off their strategic plans to grow," said Ward Bower, a principal at consultancy Altman Weil Inc. If they are well executed, he said, mergers can allow each firm to increase their profitability over premerger levels.

Firms with litigation expertise are particularly attractive targets, added Kent Zimmermann, an industry consultant with Zeughauser Group. "In the U.S., litigation is by far the dominant source of spending on legal services," he said. Overall, he said, "there is more interest now [among firms] in merging than at any time in the past 10 to 20 years."

There were 28 mergers among law firms in the first half of 2011, up 47% from the first half of 2010, according to Altman Weil. The merger market has been particularly active among small to midsize firms, which hope to expand into new geographic markets and to try to keep pace with growth by their corporate clients, Mr. Bower said.

The combined firm, which will be called McKool Smith Hennigan in California and McKool Smith in the rest of the U.S., will number about 170 lawyers, with offices in Dallas, Houston, Los Angeles, New York and Washington, D.C.

"We were looking to grow in California, to augment

our patent litigation practice," said firm founder Mike McKool, noting that he starting talking to J. Michael Hennigan, a founding partner at the Los Angeles firm, about a possible merger in June.

"We wanted to have a bigger footprint and to have a presence on the East Coast," Mr. Hennigan said. "We think we lose opportunities because we are perceived as a West Coast firm." And, at 35 lawyers, the firm also loses work because it is perceived as "too small" for some cases, he said.

Messrs. McKool and Hennigan said they quickly realized their two firms were similar in terms of focus on litigation and willingness to handle cases on a contingency-fee basis, in which the firms earn fees only if they are able to recover damages for clients. The combined firm will still seek to handle a majority of its business through billable hours.

"The firms' cultures, the way we approach our practices, is virtually identical," Mr. McKool said.