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# What's Hot, What's Not

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By Zack Needles  
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PHILADELPHIA - A battered economy kept mergers and acquisitions cold for the second year in a row, as financial/economic crisis and energy/alternative energy practices topped the "Hot" list in legal consultant Robert Denney's 20th annual "What's Hot and What's Not in the Legal Profession" report.

Denney said in the report that the state of the global economy and a new presidential administration will make this coming year "even more" challenging than last year for many firms and nearly every prediction in the report was based on one or both of those factors.

High on Denney's "Hot" list were commercial litigation ("When the economy is bad, more people litigate") and foreign corrupt practices law ("According to Levick Strategic Communications, prosecutions under the FCPA doubled last year and will show comparable increases this year.")

Antitrust work will be "red hot" with the new administration, said Denney, as will federal regulatory practices, "but only for firms that already have a strong practice and reputation."

Denney expressed a similar take on the energy/alternative energy practice, specifically "the licensing of new or expanded nuclear power plants," which he said will be busy "but only for firms that already have the expertise and client base."

Health care is hot and "will get even hotter when reform gains momentum," Denney said, and estate planning will boom because of a combination of people re-evaluating their retirement plans and portfolios in a down economy and the changes to tax law that are "almost definitely coming."

Intellectual property made the hot list for the 10th consecutive year as "Chinese and German companies in particular are looking to U.S. markets because of the continuing trend to weaken patent owner/plaintiff positions, which will further increase patent litigation," the report said.

Labor and employment law — especially if Congress passes the Employee Free Choice Act — will remain hot, as will elder law, the report said.

Firms are staffing up their bankruptcy groups and environmental law "was

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hot even before the elections," but immigration law, though it is currently busy, could see a slowdown if the recession postpones changes, the report said.

Denney listed covered bonds as the only area that's "getting hot," but said white-collar crime will see a boom once federal prosecutors begin investigating mortgage brokers and financial institutions, as will class actions against financial institutions.

There were no shockers in the "cold" category, which comprised structured finance and securitization, mergers and acquisitions and real estate, though Denney said the latter two may not be far from experiencing an uptick.

M&A, he said, could benefit from troubled companies looking for "shelter."

Saul Ewing managing partner David Antzis, whose own practice includes M&A, said the practice area didn't have quite as bleak a year as some may think but acknowledged that 2009 is uncertain.

"2008 hasn't been too bad. I think we found there were enough transactions in the pipeline that our transactional, M&A practice had a decent 2008," he said. "But I don't think it's any question lawyers in transactional departments are taking a look at the difficulties [companies are having] in financing new deals and what effect it will have in 2009."

But Antzis said there will still be opportunities for transactional lawyers as companies with "strong balance sheets and substantial cash" look for good deals in an ailing market.

He also said there is merit to Denney's theory that increasingly desperate companies will be looking to bolster their ranks through M&A.

"If there are two companies that each have some deficiencies, a merger of the two is a possibility," he said.

Denney also said in his report that real estate could start to make a comeback by late summer of next year.

"There's a pent-up desire for people to buy homes," he said in an interview with The Legal . "I think it will really start turning [the real estate market] around by midyear or a little bit later."

Denney's picks for hot foreign legal markets this year included Tokyo, Beijing and Seoul, as well as Brazil, which he said has a strong economy.

The United Arab Emirates remained on the list from last year, when Denney said Dubai was "white hot" with several U.S. firms opening offices in the region.

Domestically, the report said, Reno and Las Vegas are both hot but are largely dependent on the health of the real estate market and Chicago is benefitting from regional and national firms that don't have offices in the city but continue to "scour the market."

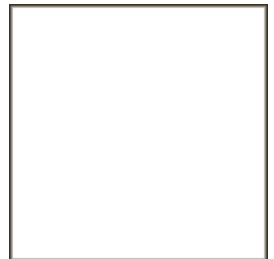
One possibly surprising hot zone Denney named in this year's report is Charlotte, N.C., which he lists along with the Research Triangle — Raleigh, Durham and Chapel Hill — home to three major North Carolina universities.

Denney told The Legal the Charlotte market is currently financially stronger than Atlanta's and is "starting to attract more out-of-state firms," particularly those from the southeast part of the country.

## MARKETING & BUSINESS DEVELOPMENT

Denney's report trumpeted increased spending on marketing and business

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development and cited legal consultant Bob Weiss' opinion that "snail mail" is still a more productive way to distribute marketing materials than e-mail.

Still, the legal profession continues to forge ahead into the electronic age, as Denney reports that more and more firms are using video to communicate internally and externally and that social networking Web sites are becoming popular as attorneys have increasingly begun utilizing sites like LinkedIn, Facebook, Legal OnRamp and Twitter.

Gina Rubel, president of Furia Rubel Communications Inc., said these sites can be used to great advantage for business development and relationship building but only in the right hands.

"Lawyers need to truly know their audience," she said. "These tools work, but [attorneys] have to know who they're reaching out to."

Another marketing trend Denney noted in the report is the use of humor on law firm Web sites.

"Not a strategy for most firms but effective for some small and mid-size firms to distinguish them from their competition," Denney said in the report.

Alan C. Promer, a litigator at Hanglely Aronchick Segal & Pudlin, was also one of the masterminds behind the firm's Web site.

Redeveloped four years ago, the site includes a humor-based section called "Lighter Side" and each attorney bio features a link to a page entitled "Hearsay and Heresy," which features an amusing anecdote about the attorney that ranges from mostly true to borderline absurd.

"I think we want to exhibit our personality on the firm's Web site," Promer said. "We're not a gigantic firm. We operate in a market where there are other really large firms. It makes sense to put a foot forward for our sense of humor. It gives us personality and shows recruits and even clients that we're three-dimensional; we're people."

Of course, firms interested in utilizing humor on the Web have to be mindful of their diverse audiences.

"We're a law firm, we don't want to put off a client with too much silly stuff," Promer said, but added, "I'm sure there are people who hit [the site] and said, 'I don't get it,' or, 'I don't like it,' but we're willing to take that risk."

One new trend in business development Denney told The Legal he was surprised by was the phenomenon of full-time client interviewers.

"The concern is that this is not being done by a partner in the firm. Is the information getting fed back to the firm?" he said. "It's a new approach, and we are surprised by it."

## OTHER TRENDS & ISSUES

Denney's report stressed the importance of hiring lawyers and staff that "have lived in more than one country, speak several languages and can work in multicultural teams" for firms aspiring toward globalization.

It also detailed a number of methods firms are employing to try to maximize capital and keep employees and clients happy, such as alternative billing methods, de-equitization of low-producing partners, commoditization and eliminating lockstep pay.

The report also asked whether the burgeoning trend of social responsibility among firms will stand the test of time.

"More firms are committing to sustainability, green initiatives, diversity and



significant community involvement," he said. "But will the economy make them cut back on this?"

Many large firms are in trouble, Denney said in the report, and the recent dissolutions of Heller Ehrman and Thelen "are not the final ones," while many boutique firms are enjoying continued success.

"Companies are increasingly using them because of the depth and quality of their expertise in specific areas such as intellectual property, employment law and immigration," he said.

The report also said nonlawyer executives, such COOs, CFOs, CMOs, diversity and sustainability directors and practice group administrators have also become popular as of late.

Recently, Pittsburgh-based Pietragallo Gordon Alfano Bosick & Raspanti named a nonlawyer, certified public accountant as its first chief administrative officer.

Not long before that, Flaster Greenberg hired a human resources director to manage its Cherry Hill, N.J., office.

Denney said in the report that this trend indicates more firms are realizing that "while the practice of law is a profession, a law firm is a business."

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