

# Managing Brand Equity when Law Firms Merge

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ALM Intelligence  
**FELLOWS**



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**Mary K previously served as chief marketing officer for Howrey LPP where she played an instrumental role in the firm's strategic planning initiatives and the integration of a major merger partner. She developed and launched new positioning and advertising for the firm and led the development of its new corporate identity.**

**Before transitioning to the legal field, Mary K spent ten years as a business director and brand manager for Kraft Foods, where she developed and implemented profit and revenue growth strategies for some of the company's most important products.**

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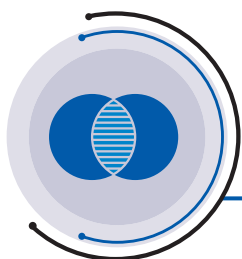
At Zeughauser Group, we know that most high-performing law firms constantly work at becoming stronger versions of themselves. They do that by growing in their areas of focus in ways that help increase profitability and maintain or improve quality, consistency, and culture. Fortunately, most law firms have achieved organic growth over the last few years. In 2020, US law firms achieved strong growth in gross revenue and PPEP despite the pandemic. Following on the heels of this was a 2021 where the Am Law 100, driven by unprecedented demand, posted gains that were bigger and more universal than ever before, resulting in the group's best top line performance in a generation. Furthermore, demand increases combined with rate, productivity, and realization improvement across 2021 also resulted in stratospheric PPEP growth in some firms.

These conditions are part of the motivation to grow for many firms. Because of compounding, the largest and most profitable firms benefit the most when demand is strong. The spectacular increases in revenue and

PPEP that many of those firms experienced allowed them to invest in legal and other professional talent at unprecedented levels. Many mid-size firms are under pressure to increase their scale so that they can keep up with those investments, and as part of that, meet the market on compensation for associates and partners who they want to attract and retain.

Large and wealthy firms can grow organically, supplementing that growth by acquiring high-profile but expensive lateral partners who can generate significant revenue and profits. Many firms determine that mergers and other combinations should be on the table to fast-forward the achievement of their strategic priorities. Growth is not the only motivation for seeking a combination, but it is clearly one of the major drivers. Many firms find it difficult to grow as rapidly as they would like in highly competitive areas by relying on organic and lateral growth alone. That leads them to put the merger option on the table in the hopes of finding firms to combine with that will fast-forward their progress in areas where they choose to focus.





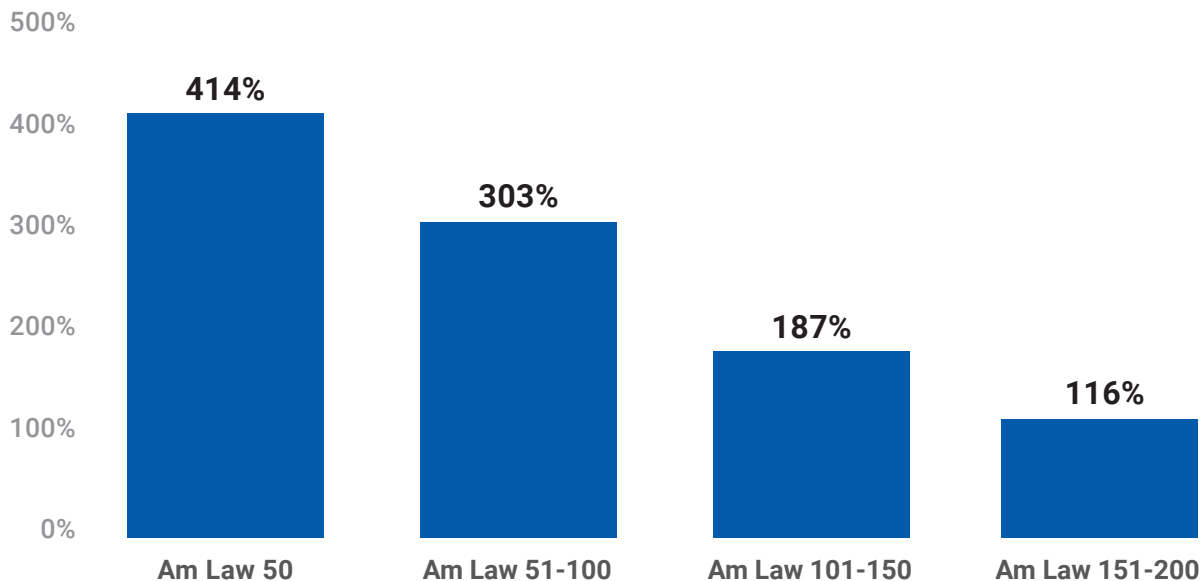
## The Urge to Merge or Combine Is Strong

At any given time, many firms across legal market segments are engaged in conversations about combinations. According to data from ALM Intelligence, such conversations resulted in 845 mergers and acquisitions in the ten years ending December 31, 2021. Forty-eight firms engaged in at least four mergers during the decade and 39 of those were firms in the Am Law 200. These mergers included mergers of large firms such as Troutman Pepper, Faegre Drinker Biddle, and Norton Rose Fulbright (with Chadbourne). Many others were acquisitions by large firms of smaller firms, some as small as a handful of lawyers.

The growth in revenue for larger firms provides some perspective on why, for some firms, bigger is better. From 1998 to 2020, Am Law 50 firms grew revenue nearly four times faster than the Am Law 151 to 200 firms. Revenue growth literally increased as scale increased suggesting that larger firms were able to attract more clients and more talent in proportion to their size.

### Am Law 50 grew revenue nearly 4X faster than Am Law 151-200

*Am Law 200 gross revenue growth by segment (1998-2020)*



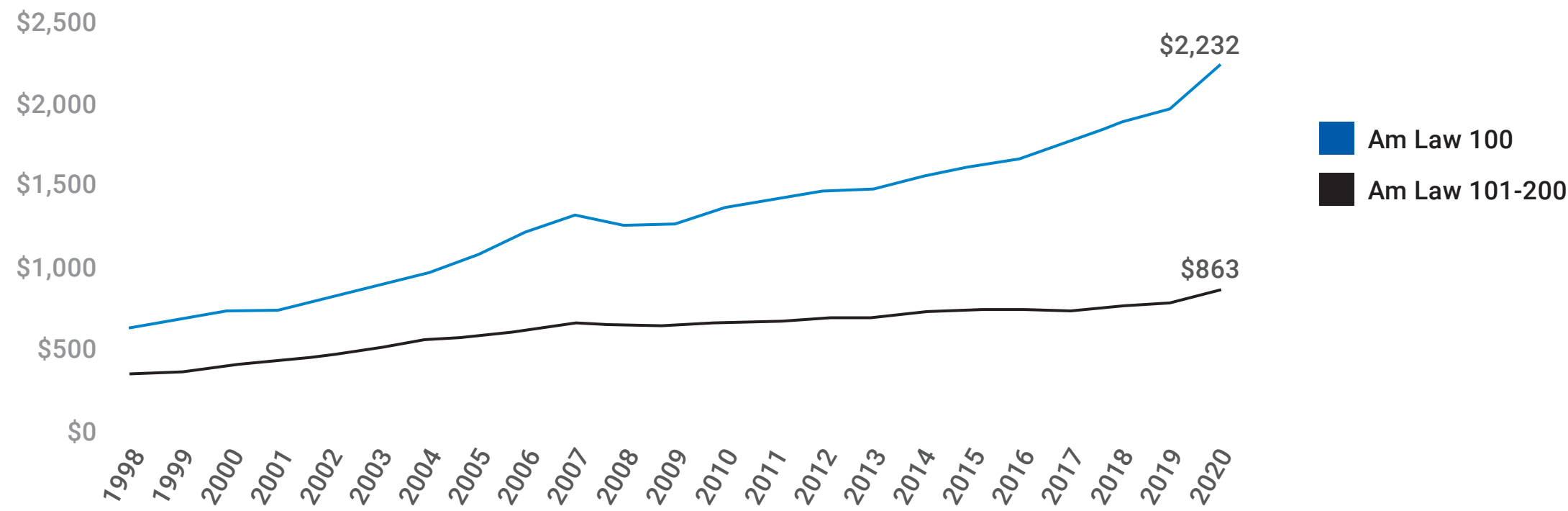
Source: Am Law 200. ZG Analysis.

This long-term trend has materially impacted profits as well. In 1998, the Am Law top 100 were 75 percent more profitable, as measured by PPEP, than the second 100. By 2007, the year before the great recession, the first 100 were 98 percent more profitable, or about double. And in 2020

the top 100 were 160 percent times more profitable. The larger firms have increasingly pulled away from smaller firms in their ability to increase profitability year over year. This has significant implications for attracting and retaining talent.

**Am Law 100 growing its PPEP nearly 2x the rate of Am Law 200, providing a talent advantage**

*PPEP by segment (\$K, averages)*



Note: Averages calculated by taking the sum of net income divided by the sum of equity partners of each segment of a year-by year basis. Firms switching between segments are counted based on which one they were grounded with in each given year.

Souce:American Lawyer. ZG Analysis.

That does not mean that smaller firms are not thriving in some cases. However, those tend to be firms with clearly defined strategies and leadership status in their markets, whether they are geographic, sectors, or practices.

In other words, they have competitive scale within the markets in which they participate.



## Anticipated Post-combination Firm Names Can Kill the Deal

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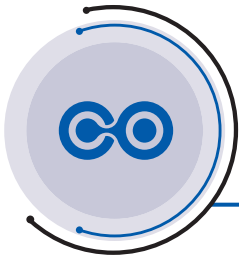
Though many mergers and combinations are consummated every year, we know from our experience advising on combinations that many possible combinations end up being scuttled. This happens at various stages of the process, from early conversations right up to and including partner votes.

There are many reasons why firms decide to call the whole thing off. Mismatches of financial metrics, culture, market strengths, and conflicts are often culprits. The name of the new firm can also be a deal breaker. However, when the stars are aligned in most other respects, i.e., the firms have significant synergies that should lead to a stronger firm, greater than the sum of its parts, differences over the name can often be resolved.

Brand names are routinely changed in many industry sectors due to combinations or other circumstances. The companies involved take significant steps to transfer the equity of the legacy names to a new name. As an example, in 2019 SunTrust Bank combined with BB&T. Both banks and all or part of their names had antecedents in the 19th century. Nevertheless, the leaders of the new bank decided to jettison both names and call the new entity Truist. Although it started as a corporate name, the bank recently rolled out the new name to customers, applying the name, logo, and look and feel to almost 3,000 branches, its website, and all customer communications.

If the sixth largest banking organization in the country can walk away from brand names that are more than 100 years old, why is this such a stumbling block for law firms? Sometimes it is out of respect for founders who are still alive. That said, many firms have jettisoned part of their names in the absence of a merger even when name partners are still practicing at the firm. It seems to be much more of a sticking point in the context of a combination, when one of the names may end up being more prominent and another may become the second name or even disappear completely.

In these cases, firm leaders express genuine concern about the loss of brand equity, which may be described as clients thinking the firm has left the scene, ultimately resulting in a loss of revenue for the lawyers whose firm has been absorbed in a combination. They may also associate the diminution of their name as a loss of face and potentially a loss of influence in a combined firm.

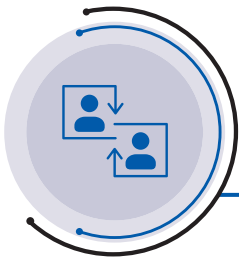


## How to Name the Combined Firm

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Regardless of the reason for concern, the question should be what is in the best interest of both firms. Will the loss of the name result in a loss of brand equity and ultimately a decrease in revenue and profitability? In combinations involving larger firms it may be best to include the names of both firms. That said, in the decades since firms began engaging in traditional marketing, most have realized that they are best off with a short name that is easy for clients to remember. Even if they retain a longer name, they most often use the short name, also known as the street name that the market uses when referring to the firm, in their branding. Think of Skadden vs. Skadden, Arps, Slate, Meagher & Flom as an example. The latter appears on the firm's website but the red and white logo that features the name Skadden is much more prominent.

Even though there are often disagreements about which name comes first in a combination, the diminution of brand equity is not nearly as important a concern in that case. Whether the firm is called Smith & Jones or Jones & Smith is probably not going to concern clients or recruits. There are many examples of firms that thrived after a merger regardless of the order of the names. And yes, some firms did poorly or even failed after a significant merger, but on close inspection, the names had nothing to do with their performance. Postmortems on Dewey & Leboeuf, which failed some years after the merger of two prominent firms, did not cite the name of the combined firm.



## Retaining the Brand Equity of the Both Firms Is Critical

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Although experience indicates that firms can perform well even after an established brand name disappears from the market, it is important to take steps to retain the equity associated with the retired name. After all, the point of the merger is to enhance the firm's market position in part by strengthening the firm's brand. The lawyers and other professionals joining another firm seek to build on their existing relationships by accessing new or broader capabilities that come with becoming a larger firm.

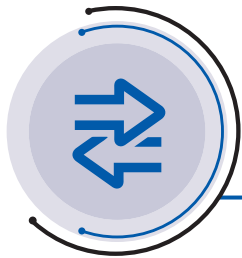
This is a good place to remind ourselves of how a brand functions for a law firm. Brands are not simply a set of symbols—name, logo, and look and feel. The symbols evoke a set of expectations in the minds of clients, recruits, employees and other stakeholders, which is how we define brand. Every law firm has a brand, that is, its lawyers and clients have a set of expectations they associate with the firm. Those expectations, based on overall impressions and experience with the firm, reduce anxiety about

choosing one firm over another. For the strongest legal brands, the brand differentiates the firm from its competitors and is associated with a leadership position in a particular market. A strong brand translates directly into revenue and profitability for law firms because it increases market share and allows for premium pricing. Brand equity refers to the value associated with the brand because of the associations stakeholders have with the brand.

The challenge in any merger is to ensure that the equity of the merged firms is transferred to the new firm. This will ensure that clients and other stakeholders know that the old firm is now part of a larger, but most importantly, stronger firm. For clients, stronger means that the new firm

can provide *clients with a better experience*. For the firm's current and future professionals, stronger means providing a *better place for the firm's professionals to have a career*.

Although firms may have other reasons for merging, such as shoring up the firm's financials or improving its position in a market, improving the client, owner, and employee experience should be paramount. If those things do not happen, the combined firm will not be greater than the sum of its parts. Mergers based on a desire to be bigger that don't have a basis in client and talent benefits are far less likely to succeed. Transferring the equity of the legacy firms to the new firm is much easier when the client and talent strategies underpin the merger.



## Transferring Brand Equity: The Process

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So how do firms ensure that the brand equity is transferred to the new firm? Firms that are successful in transferring the equity of the legacy firms to the combined firm embrace these steps:

1. **Value proposition.** Identify the value proposition of the new firm including tangible benefits that will translate into a better experience. For clients, these may include additional breadth and depth in current services offered, better technology, greater diversity, more efficiency, more lawyers who understand their industry, and the ability to serve clients seamlessly in more geographic markets. For talent, these may be greater financial strength, increased diversity as well as ability to achieve other ESG goals, access to more and better clients, a stronger brand, improved professional development, and more talent with which to collaborate.
2. **Internal Communications.** Educate the firm's lawyer and staff about the value proposition of the combined firms. This means holding meetings with groups with similar interests to discuss the value proposition as it relates to those groups, for example, practice groups, sector teams, local offices, client teams, recruiting teams, and functions. Work with the groups to identify specific talking points they can use when speaking and writing about the firm.
3. **Broadcast the value proposition to the relevant market using every available tool.** If a small firm combines with a large firm, the tools can be targeted to clients of the small firm. With a larger combination, those tools can be employed to reach a broader market though targeting is still important. Ensure that these communications emphasize the benefits of the combination vs. dry facts—firm size, markets, and history. Tools include:

- Earned media, i.e., press coverage
  - Announcements communicated via the website, social media, and email communications
  - Events that provide value to clients and prospects but also showcase the benefits of the combination and introduce new people to existing clients
  - Digital communications such as alerts and newsletters, preferably incorporating short messages about the combination in substantive communications that the client is likely to value
4. Call, visit or write key clients that will be affected by the change to discuss the specific benefits to them of the new firm. This may include introductions to new partners but only if they have something tangible to offer the client, e.g., insights that may benefit the client's business. Special attention should be given to clients shared by the legacy firms. The firm has an opportunity to get started on the right foot by connecting all the lawyers who work with that client and having them develop a collaborative approach to working with those clients in the future. The left hand must know what the right hand is doing, or the firm may lose ground with those clients.
  5. Create messages specific to people you want to recruit. Tailor them to law students, associate laterals, and partner laterals. Incorporate those messages in your recruiting materials and conversations. Engage the search firms you work with and use their feedback to help hone the messages.

Overlooked but critical to success is repeating the messages in various ways over time. Most people need to be exposed to a message a few times before they remember it. You will get tired of the message long before the market does. After all, most of your clients and recruits are hearing from many different law firms through myriad vehicles on any given day. If they hear a relevant message from you at the right time—when they are looking for a firm that really knows a particular issue, for example, and they get a timely alert from you—they are most likely to be receptive to it. If they have heard and seen the message a few times in other, relevant ways, it is more likely to resonate.

Creating a plan to transfer brand equity takes time, effort, and the advice and leadership of experienced marketing and business development professionals, ideally those with a track record of helping firms transfer brand equity in successful combinations. Many firms are tempted to skip this step. But it will help ensure the long-term success of the combination.

The legal industry is highly fragmented compared to other professional services sectors such as accounting and management consulting so combinations will continue to be important to the industry. If the combination will otherwise benefit both firms, a name change should not be a deal breaker. On the contrary, many of the steps firms should take to integrate a combination regardless of the firm's name will help ensure that the marketplace knows the name of the firm where their lawyers now practice. Most important, they will understand why they should choose that firm for more of their needs. When those steps are in place, the talent will follow.

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