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Head of Portland M&A law office foresees favorable environment for deals (Q&A)

BY BRANDON SAWYER
Data Editor, Portland Business Journal

K&L Gates LLP is tied for No.12 on The List of law firms practicing M&A law and No. 43 on The List of law firms in general, but don't let its relatively small Portland footprint fool you. If we ranked by global attorneys or employees, it's by far the biggest firm in town and the 23rd largest in the world by 2016 revenue according to AmLaw.

A major part of its work is navigating companies through the intricate legal tangles of major M&A deals using attorneys from its offices all over the map. The firm's top executive in the Portland office, Brendan Gutierrez McDonnell, brings a global perspective to M&A activity in Oregon.

His comments have been edited for brevity and clarity.

After an onslaught of prominent M&A of Oregon firms during 2015 and 2016, why did activity slow down in 2017 and what will get it going again? (Because of) our global platform, we tend to get busy in a way that some other firms in town don't, so we didn't really see the lull in 2017, but it sort of makes sense that there was one. When the market goes up, sellers actually get a little afraid that they're going to miss the top of the market, so they're less likely to sell. Usually the best time for M&A activity is right after you hit the top and it gets a little choppy, because the seller has just realized, "I don't want to miss the market, and I'm concerned there could be a bigger downturn."

So, choppy waters can actually be quite good for M&A and if you add in some other factors, the corporate tax rates are very favorable. That allows for more cash for borrowers. You also have better returns on their investments. Quite frankly, we all know that there is a lot of cash in these companies and a lot of cash at PE (private-equity) funds that needs to be invested.

I think disruption is going to be a big factor. Artificial intelligence, blockchain, robotics, energy, computing power, driverless vehicles – all those things are happening very rapidly and companies want to keep up. They'll use acquisitions to stay on top of disruption and make sure that their own company is staying relevant and has the resources, the technology and the market position to be successful.



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Which industries are most active now? I think that you're seeing the convergence of industries, which is interesting because you used to hear that people would only stay vertically in their investments, and what we've learned from Amazon, which has expanded from being an online bookseller to being the world's greatest online retailer, a web services company, a grocer, possibly a business lender, a health care provider coming up soon.

So, all this convergence is not just going vertical in your industry segment but across industries where you can use the technology and the resources that you have in a way to attack other markets. Some examples would be energy and construction, retail and technology. Companies are really looking horizontally across different industries to see if there might be some synergies between the two markets, and they can attack both in a better way.

After Lattice and Qualcomm deals were blocked by the Trump administration and given new U.S. and foreign tariffs, are you concerned about clients' ability to buy, sell or merge their businesses? I do think that good M&A lawyers are going to have to analyze more carefully the regulatory approvals for large transactions, speaking of HSR, the Hart-Scott-Rodino filing that you need to do to comply with the anti-trust laws, and then CFIUS, the Committee on Foreign Investment in the U.S. Those regulatory schemes have upgraded

impact, especially if you have a foreign buyer involved or industries that might be sensitive to U.S. security. That can be quite expansive now as to what's included.

If you have a foreign acquirer, you have to be more careful in what you do. I wouldn't say that it's a huge damper, but certainly in the real sensitive industries like technology, even in the middle market there, if there's a drone or semiconductor manufacturer that has some impressive technologies, there might be some impacts in CFIUS that you wouldn't have thought about before.

How is K&L Gates local M&A practice doing and what is the outlook? We had double-digit growth in 2017, and I expect double-digit growth on top of that in 2018, so we are very busy. Maybe that's why I'm so optimistic. I think we're a little unique.

We have the best international platform here and most of our acquisitions involve companies that have operations in Asia, Europe, Australia, the Middle East or South America. When we have acquisitions, we might do a deal and somebody's got a subsidiary in China or India or the U.K. You worry about the antitrust laws in the U.S., but there are antitrust laws in the European Union and in other countries in Asia that you must worry about, and you must coordinate those filings and make sure to address them and have them analyzed. Even just dealing with the due diligence in those countries, it's very specific.

Many companies now have operations in foreign countries. Strategically, they might want to make some of their products elsewhere because there might be a tax advantage or even a tariff advantage to it. We just closed a transaction and have several other significant transactions in the pipeline. It feels very robust to us. I see work well into the third quarter. I can't really look beyond that.

I definitely think that Oregon does have interests in certain specific industries where you can see foreign investors looking at us – in the food products industry, in the semiconductor industry, definitely the footwear and apparel industry, and obviously forest products. It's becoming more global in its approach as well. In any industry now with disruption, you're going to have to have an approach to deal with having modern logistics, using unique technology to do things better, faster or more intelligently.