

CHINA: US firms on the rise

The last few years have seen many US firms expand their presence in China. **RAVINDER CASLEY GERA** looks at whether they could overturn UK firms' traditional dominance in the world's fastest-growing legal market.

As the world reeled from the collapse of Lehman Brothers in October 2008, scant attention was paid to the news that a seven partner-team had quit Allen & Overy's Hong Kong office for Latham & Watkins.

But Latham's bold move was indicative of a wider trend. For years, US firms have been content to practice US law in China from small offices. But recently, they have gone for growth: establishing local law practices, opening new offices on the mainland, and raiding UK rivals.

The top British firms, who dominated the biggest deals in China for more than 20 years, now face serious competition.

"In five or ten years' time, there's a very high chance that the majority of the leading international firms in China will be of US origin," predicts Michael Liu, leader of the team who moved from A&O to Latham.

The American invasion

City firms had a head start in China. Hong Kong's status as a British colony meant UK lawyers could easily obtain Hong Kong practising certificates. And its close trade ties with the UK made Hong Kong an attractive proposition. Between 1974 and 1990, most top City firms established an office in Hong Kong. And from there they expanded onto the mainland. By 2002, all the magic circle firms, apart from Slaughter and May, had added Beijing and Shanghai to their networks.

US firms, for the most part, lagged behind. Though Baker & McKenzie and Shearman &

Sterling may have entered Hong Kong in the 1970s, Skadden, Arps didn't arrive until 1989, and Latham & Watkins until 1994.

In recent years, all this has changed. US law firms have poured into China. Forty-four of the top 50 US law firms now have a presence in the country. Seventeen of these opened their first Chinese office in the last five years (see tables, page 18). In 2000, 10 of the top 50 US firms had two offices in China; none had three. Now 12 have two offices and 16 have three.

And US firm offices in China have been growing not just in number, but in size. Since 2005, Skadden has expanded its Chinese presence from 29 lawyers to 55; Simpson Thacher & Bartlett has increased from 16 lawyers to 42, and Latham and Watkins from 16 lawyers to 56.

Some of the newer arrivals, too, have been growing quickly. Weil Gotshal & Manges only opened its first Chinese office, in Shanghai, in 2004. Now it has offices in all three major cities with 30 lawyers between them. "We expect that figure to increase to 50 in the next two years," says Akiko Mikumo, the firm's Asia managing partner.

UK strengths targeted

In many cases, particularly in Hong Kong, US firms have achieved their growth by raiding UK firms. Latham & Watkins' swoop on A&O was the latest in a stream of eye-catching raids by US firms on British rivals in China. Skadden kicked off the trend in 2005, poaching partners from Linklaters and Simmons & Simmons. The

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following year, Freshfields China chief Michael Moser quit for O'Melveny & Myers; a year after, his replacement Doug Markel jumped ship for Simpson Thacher.

Then came the Latham move. "It's totally changed the landscape for our China practice," says Joe Bevas, a partner in Latham's Hong Kong office. "It more than doubled our partnership overnight." The move left A&O with just four corporate partners in their biggest Asian office.

At the same time, two massive mergers between local firms and US firms in early 2008 – JSM with Mayer Brown, and Richards Butler Hong Kong with Reed Smith – mean that two of the largest law firms in Hong Kong are US-run.

And US firms have been targeting a former UK stronghold: Hong Kong law. Prior to 2005, most top-tier US firms in Hong Kong – including Skadden, Latham & Watkins and Shearman & Sterling – offered only US law, advising on investment between China and the US and New York listings by Chinese companies. UK firms had Hong Kong listings and Chinese M&A largely to themselves.

Now that, too, has changed. Skadden and Latham & Watkins both obtained a local Hong Kong law practice as a result of their raids on UK firms. So far this year Shearman & Sterling and Goodwin Procter have added Hong Kong law practices; Cleary Gottlieb plans to join them later this year.

The adoption of Hong Kong law has proven a trigger for rapid expansion in Hong Kong. Shearman & Sterling plans to double in size in Hong Kong by the end of 2010.

"The adoption of Hong Kong law has been the biggest factor driving our growth," says Alan Schiffman, co-head of Skadden in Asia. "For over a decade prior to 2005, when we added our Hong Kong practice, we had fewer than 20 lawyers in Hong Kong; since then we've grown to almost 50."

Bigger deals

The US assault is beginning to bear fruit. Some of the largest deals in China in recent years have been led by US firms. Leisure company Sands China carried out a US\$2.5 billion IPO on the Hong Kong Stock Exchange in November 2009. It took Hong Kong advice from Sidley Austin and PRC advice from MWE China, a mainland firm established in alliance with McDermott, Will & Emery as part of their China launch. Earlier that year, Latham & Watkins advised aluminium company China Zhongwang on its US\$1.3 billion Hong Kong IPO.

In M&A, too, US firms are carving out a presence on larger and larger deals. Skadden advised investment bank Nomura on its complex US\$230 million acquisition of Lehman Brothers' Asian businesses, a deal led from the Hong Kong office. Shearman & Sterling advised Sichuan Tengzhong Heavy Industrial Machinery Co. in October 2009 on its attempted purchase of General Motors' Hummer brand. "The more expertise you can offer, the more of a deal you can do, and the better deals you get," says Alan Schiffman of Skadden.

The progress of US firms can be seen in *Chambers Global's* China rankings. In corporate, Skadden has moved from tier 2 to tier 1 in the last two years, placing it alongside Linklaters, Freshfields and Clifford Chance and Slaughter and May and ahead of Allen & Overy. Simpson Thacher has moved from the third to second tier, and Weil Gotshal has reached the second tier just two years after opening in Hong Kong.

UK firms admit that their strong position in Hong Kong may have left them exposed to the US firms' buildup. "UK firms had a tremendous advantage in being able to establish in Hong Kong more easily, but it means they got a bit cosy," says one magic circle partner. "US firms didn't have that head start, so they've been very



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Jeremy Hunt, partner, Allen & Overy

aggressive in targeting Chinese clients on the mainland.”

A rapidly expanding market

Given China’s rapidly increasing economic clout, a surge in law firm investment is hardly surprising. But the particularly quick upturn in investment by US firms since 2005 has specific causes. One such cause, the principal driver of law firms adopting Hong Kong law practices, is equity capital markets.

In the 1990s, equity capital markets was a profitable but somewhat commoditised practice in Hong Kong, catering primarily for UK companies conducting secondary listings. But since the mid-2000s a number of Chinese companies have listed in Hong Kong in a series of increasingly vast IPOs. At the same time, Chinese listings in the US, the core practice of many US firms in Hong Kong, have tailed off.

According to IFLR, in 2006, there were 41 listings on the Hong Kong stock exchange totalling US\$386 billion; the same year, there were nine

listings in the US by Chinese companies, totalling US\$1.12 billion. With Hong Kong law practices, US firms could bid for Hong Kong listings; without it, as one magic circle partner puts it, they were “left on a shrinking iceberg.”

At the same time, major American private equity firms, including Blackstone and KKR, began establishing operations in China. Weil, Gotshal and Manges and Kirkland & Ellis both say the move into China by US private equity clients was a key driver of their China launches. “The market began in 2005 for private equity in China, for both fund formation and buyouts,” says Kirkland & Ellis Hong Kong partner David Eiche. “We opened our first office in 2006 and we’re focused on private equity work.”

Though the expansion of US firms has been driven by a few key practice areas, the larger US firms are rapidly broadening their offering. In Hong Kong, for example, Skadden recently launched a disputes practice, while Latham recruited its first real estate partner in February.

“Hiring Hong Kong lawyers won’t catapult US

firms into the premier league,” says Jeremy Hunt, a corporate partner at Allen & Overy in Hong Kong. “But it enables them to bid for that business and begin building a profile.”

A mountain to climb

UK firms acknowledge that US firms have become serious players. “There’s no question that a handful of US firms, notably Skadden, have really changed the landscape,” says Jeremy Hunt. “They don’t have the full offering that the magic circle firms have, but they have the core capabilities in equity capital markets and corporate that they need to compete.”

While US firms have begun to challenge for core work, however, it’s not yet clear that they pose a serious threat to the dominance of the UK firms – at least, so far. Growth in an increasingly competitive market like China is a slow business. Michael Moser declared when he moved to O’Melveny & Myers in 2006 that the West Coast firm was “determined to build the biggest platform in China.” Now, with 64 lawyers, it still lags far behind Freshfields, the smallest ‘UK global elite’ firm in China with 114 lawyers.

US firm practitioners admit that the UK advantage is deep-seated. “They’ve been here two decades longer than US firms, on average. They’ve enjoyed great benefits from that, and those advantages won’t disappear overnight,” says Thomas Albrecht, Asia managing partner of Sidley Austin.

Establishing a presence in core areas, in a market as longstanding as Hong Kong, takes time. It’s notable that the US firm which has carried out many of the largest Hong Kong IPOs, Sidley Austin, was one of the first to adopt Hong Kong law back in the 1990s. Observers say it could take newer practices years to establish themselves in the market. “Equity capital markets is very reputation-based,” says Jean Thio, who left Debevoise & Plimpton in Shanghai for Clifford Chance in

China: new arrivals

US firms arriving in China, 2000-2010

K&L Gates	2000	McDermott Will & Emery	2007
Paul Hastings	2002	Akin Gump	2007
O’Melveny & Myers	2002	Foley & Lardner	2007
Weil Gotshal	2004	Pillsbury Winthrop	2007
WilmerHale	2004	Mayer Brown	2008
Holland & Knight	2004	Greenberg Traurig	2008
Hunton & Williams	2005	Dechert	2008
Baker Botts	2005	Ropes & Gray	2008
Kirkland	2006	Winston & Strawn	2008
Morgan Lewis	2006	Goodwin Proctor	2008
Bingham McCutchen	2006	Proskauer Rose	2008
Reed Smith	2007	Steptoe & Johnson	2010

“It’s hard to recruit a top team of Hong Kong lawyers. The longer firms wait, the harder it will be to get good people.”

Matthew Bersani, Asia managing partner, Shearman & Sterling

2008. “The first question asked is, ‘What’s on your deal sheet?’”

In corporate, too, the largest US firms have still far to go. Although US firms have acted on some major deals in China in recent years, they are still largely reliant on US clients. In two major deals recently, for example, US firms advised home clients, while Chinese firms turned to UK firms. Skadden advised Coca-Cola on its proposed US\$2.5 billion takeover of Huiyuan Juice, who were advised by Freshfields; and Hogan & Hartson (now Hogan Lovells) advised Ford on its US\$1.8 billion sale of Volvo to China’s Geely, also advised by Freshfields.

What’s more, for US firms to carry on expanding requires them to continue hiring strong players away from UK firms. Already, there are signs this may be becoming more difficult. Observers say that the team Latham took from Allen & Overy, though large, did not represent the best or most successful members of A&O’s corporate group. And when Shearman & Sterling added a Hong Kong law practice earlier this year, it did so by raiding another US firm, O’Melveny & Myers.

“It’s hard to recruit a good team of Hong Kong lawyers – I know because I just did it,” says Matthew Bersani, Asia managing partner for Shearman & Sterling. “Those firms that are currently holding out will eventually have to move into Hong Kong law, but the longer they wait, the harder it will be to get good people.”

China will provide

US firms have no qualms about the challenges of growing to the size of the magic circle firms in China. But they say that’s not their aim. “We don’t have to play catch-up,” says Thomas Albrecht of Sidley Austin. “Our priority is to grow in our chosen areas while maintaining quality.” As Joe Bevas of Latham & Watkins puts it, “We aim to be between the magic circle model, of a large full-service presence in China, and the old Wall Street

model of a small, US law-focused practice.”

This hardly means the UK firms can relax. Smaller US practices, tightly focused on the most high-end transactions, can still transform a market – no-one would say the US firms have not done that in London. “We’re watching the US firms very closely,” says Mark Harvey of Linklaters. “We see that they are building up quite quickly. I’m not losing sleep over it, but we’re not complacent about it by any means.”

Given the pace of China’s growth, it may be that the US firms will succeed in growing without significantly harming the UK firms’ practices.

“If there’s a hint of confidence in my voice, it’s confidence in China as a place to do business,” says Harvey. “It will carry on growing and producing more and more of the kind of complex work which we want to do. There’s enough work to go round.” ■

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