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The Coming Invasion of the Body Snatchers: Are Offshore Law Firms Going to Invade the United States?

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December, 2011**

They're coming.

The coming months and the coming years will mark an increased invasion of foreign based law firms and other providers of legal services into the United States. They will likely be coming from all corners of the world. And, they will be looking to snatch your business.

First, we have the [acknowledged](#)

[intention](#) of UK based behemoth [Herbert Smith](#) (1,500 or so lawyers) to re-open a United States office, after an absence of two decades. The new office, expected to open within the year will be populated by both United States and foreign qualified lawyers. [Jonathan Scott](#), a senior Herbert Smith lawyer announced that the new New York City office focused on dispute resolution, including international arbitration and investigations. Following the Watergate

era admonition to “[follow the money](#),” the premium fee yielding dispute resolution and internal investigation practices seem extremely likely areas for firms like Herbert Smith (and AmLaw 100 firms) to continue to exploit. The issue, of course, is that as the supply of high end law firms having the capacity to deliver quality dispute resolution work and internal investigations on a global scale and the competition for this work continues to grow, price competition will ineluctably come in to play.



The British invasion is not new, nor will it end soon. British Magic Circle firms have invaded and have taken an increasingly dominant role in the US market for almost two decades. London, which seems hell bent on being the Imperial home for the lawyers to the world, has already sent formidable firms here, including Clifford Chance, Linklaters, Allen & Overy, Freshfield, and Lovell Hogan. The last [British invasion](#) on these shores began with the Beatles in 1963 and last I heard, Mick Jagger and Paul McCartney are still playing to sell out audiences. The point is that, based on my count, fewer than 20 of the UK’s 100 largest law firms have taken to the US stage at this writing.

As the market in the Euro Zone continues to stagnate, law firms in that market will likely look to the American market as new sources for revenue. One recent example is Ireland’s [A&L Goodbody](#), which long had a single lawyer outpost in New York, [announced just yesterday](#) ambitious plans to open a Silicon valley branch and reinvigorate its New York operations. The Germans may not be far behind.

From the other side of the globe, the real game changer may well be the announced merger of China’s [King & Wood](#) and Australia’s [Mallesons Stephen Jaques](#). As announced in [The Asian Lawyer](#), “[t]he combined firm will number some 1,800 lawyers, and is positioning itself clearly as an alternative in the region to the large U.S. and U.K. firms that have traditionally dominated major cross-border deals.” It matters little if the combined entity will soon open a US office (although my raw guess is that they eventually will), the combined firm will be competing directly with both AmLaw 100 and Golden Circle firms for core cross border work.



As I [previously observed](#), “the profession must be mindful of the Chinese business model, which seems to be the Chinese asking foreigners to come to China and perform a service or build a product, followed by the Chinese saying “let me see how you do that.” That in turn is followed

by “teach us how to do that,” and ultimately “okay, we now know how to do that on our own, so you can leave and we will do so on our own.”

The West has not only taught Chinese law firms how to practice law in the Western style, but, the West has also taught the Chinese to operate globally and on the global expanse. Indeed, the two largest law firms in China, [Dacheng](#) and [Yingke](#), are preparing to open bases in London. The United States will not be far behind. [Broad & Bright](#), one of China’s leading law firms with 60 lawyers, is set on moving to the West. [It is now in merger talks](#) with 2,900 lawyer [Clifford Chance](#). Since you have by now read the Broad & Bright web site through the link above, you know that Broad & Bright has acted as counsel in China for some of the world’s largest corporations and on its surface, does not need Clifford Chance to funnel more work to its offices. Broad & Bright is one of those rare firms that can easily be a net exporter of legal services. Thus, should the Clifford Chance talks fail, it would not come as much of a surprise that Broad & Bright (or a similar sized and placed Chinese law firm will simply say “okay, we now know how to do this on our own and we don’t need a Western law firm to open our own international law firm.”



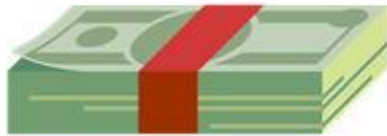
LPO’s, sometimes called “[non-](#)

[traditional law firms](#)” have watched their gross revenues increase almost ten-fold over the last five years, to an estimated \$2,500,000,000 in 2012 with some estimating a doubling of that number by 2015. [As I have said](#) in the past, it is a major mistake to simply think of LPO’s as limited resource providers of ancillary services to law firms and corporate legal departments. Rather, they are alternate providers of legal services, which can provide a full range of legal services to United States consumers of legal services at an enormous price advantage. The only areas in which these entities are precluded from competing directly with United States law firms are appearing in judicial proceedings, signing legal opinion letters or otherwise directly providing advice to a corporation on American law. A number of LPO’s, particularly on the Indian sub-continent, have affiliations of one form or another with Indian law firms.

[The thin barrier preventing LPO’s from grabbing even more slices of the legal spend pie](#) will easily evaporate. There are a variety of different means for those affiliates to establish or acquire a United States law firm. Thus, an LPO could easily establish a very real law firm branch office in the United States, populated by US duly qualified lawyers which in term could make eviscerate the thin boundary which would give these offshore entities the ability to offer the full array of legal services – including appearing in judicial proceedings, signing legal opinions and direct counseling,

LPO’s, owned by offshore entities and owned by either US investors or by US law firms are [sprouting United States branch offices like weeds](#). Those US branch offices already have the infrastructure in place to function as full service law firms, often with technology already in place that is complete

state of the art. And there are many a small or medium sized law firm that would presumably welcome the capital and assured revenue stream from a successful well capitalized offshore LPO to buttress its own sagging fortunes.



In 2011, United States law firms [met the challenges](#) of reduced legal spends and new competition through reducing headcounts, merging to create more critical mass and consolidating back office and support functions, or by shutting their doors. Professor Steve Harper avers that in 2011 there were a total of [43 law firm mergers](#). Those shutting their doors, often with disastrous [consequence to the firm's individual partners](#), include the splashy [Howrey](#) implosion, Florida based Yoss, LLP as well as Ruden McCloskey ([which didn't quite go down without a fight](#)), New York's Snow Becker and Krause, Atlanta based [Shapiro Fussell Wedge & Martin](#), Los Angeles based [Silver & Freedman](#), Denver based [Isaacson Rosenbaum](#), foreclosure mills Steven Baum and David Stern and 150 lawyer Austin based Clark Thomas & Winters. And there are more than a few [commentators who suggest](#) that Arnold & Porter's acquisition of the remnants of Los Angeles based Howard Rice and Bryan Cave's acquisition of Denver based rapidly shrinking Robert Holme & Owen largely staved off the closures of the acquired firms. A similar suggestion

arguably applies to [McKenna Long's "acquisition" of Luce Forward](#), with the former plainly planning on doing a material house cleaning of the latter.



[Well then, Ollie, that's a fine mess we're in.](#)

Despite admonitions concerning the imprudence of predicting the future by such luminaries as John Kenneth Gailbraith ("the only purpose served in making predictions about the future is to lend credibility to astrology") and Yogi Berra ("the future is hard to predict because it hasn't happened yet"), I tremulously suggest that we are certainly likely to see the following over the coming months:

- Continued merging of middle market law firms to create larger regional or super regional law firms.
- Further reducing headcount and support staff.
- Acquisitions by foreign law

firms or alternative providers of domestic US based law firms.

- Some US law firms meeting the invasion of foreign law firms and alternative legal service providers by counter-attacks, landing branches on foreign shores, despite the known risks attendant to that approach.
- Law firms establishing subsidiaries to compete with lower priced alternative providers.
- Law firms establishing strong affiliations or joint ventures with alternative legal service providers.
- Continued de-equitization and other reductions in force, in order to keep law firms right sized and maintain PPEP at a level sufficient to adequately compensate all of the firm's important stakeholders.
- Enhanced collaboration, both vertically between the law firm and its important institutional clients, as well as horizontally with alternative providers of legal services as well as with law firms to which the client may have downsource work to.
- Increased price competition for premium work as well as increased commoditization of other lines of work.

- Increased reliance on RFP's.



We are in for some challenging times. Most well managed law firms will continue to survive and thrive. Some law firms will inevitably appear on lists published next December of law firms that sadly didn't make it.

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