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THE BRITISH ARE COMING, AND US POWERHOUSE LAW FIRMS ARE TAKING NOTE.

THE MAGIC CIRCLE IS ABOUT TO CRACK THE USA. YES. REALLY.

BY NICK CRASNER

Nick Crasner, strategic advisor to the boards of US law firms explains why the prestigious UK Magic Circle firms are taking their fight to the world's biggest legal market, and why this time it might finally be a success.

The UK Magic Circle is on the brink of a golden age of expansion into the USA.

Between 2022 and 2027 they will, finally, break into the US market. By the end of that period, they will have well-respected offices in New York, Washington, Chicago, Los Angeles, San Francisco and Houston, with a phase-two launch into additional cities shortly after.

I know it is a bold claim. And I know that UK firms have been talking about cracking the US for years and haven't managed it. I also know that some people will take my prediction with a pinch of salt (we can't forget Clifford Chances' unsuccessful foray into California between 2002 and 2007 when the firm took a short-sighted view on the region and closed while the Californian economy faltered). But this time, there are some very good indications that things are going to be different.

In the past, UK law firms have followed the same, broad, and failure-prone, US expansion plan. They set up an office with an opportunity presented to them by a charitable contingent recruiter, maybe in New York or Washington. They talk big about making a splash, hire some relatively middle-tier partners that are on the market, and never really scale.

While the US management team of these UK law firms is busy trying to grow in ones and twos with on the market laterals, the London HQ decides that the scale won't be achieved quickly enough and starts pursuing mergers. However, the London based global leaders quickly (sometimes not quickly enough) discover that mergers are difficult, because US firms are set up very differently, have very different profitability and starkly opposite cultures that are impossible to integrate. The London leaders of UK law firms also realise that their lockstep models are not sustainable in the US market, where individual partners get paid an enormous amount of money for personally developed clients, and the business that goes with them.

Being British, the UK firms have historically soldiered on with a stiff upper lip, but they haven't properly tried to invest in, and grow their brands, nor have they invested successfully in high calibre laterals (who are never 'on the market') to be in a position to compete in the US. Some eventually leave as a result.

Meanwhile, back home in London, Millbank, Latham & Watkins, White & Case, Kirkland & Ellis and others, continue to open their chequebooks and hire partners and groups from these UK law firms with relative ease.

What have the US firms been doing right that the Magic Circle haven't?

The historic defensive position of the Magic Circle was to field teams of lawyers, make sure that no individual lawyer was bigger than their amazing brand (which no one can deny they have in the UK, Europe, Middle East and Asia markets) and rely on partner loyalty as the means to retain their talent. Furthermore, the Magic Circle have focused on their ability to provide equity partners with a constant funnel of opportunities, global panel relationships that they can feed from and an old school club (some might say boys club) where the partners share work with one another and hunt in packs.

But this defence hasn't been enough to protect their talent from defecting to the largest global PE and M&A firms in the shape of Latham & Watkins, Kirkland & Ellis, White & Case, Skadden, Simpson Tatcher and one or two others.

In the last decade, more than 100 Magic and Silver Circle partners have been picked up by the US firms in London market. In the last ten years for example, Quinn Emmanuel has managed to hire renowned arbitration duo Stephen Jagusch and Anthony Sinclair from Allen & Overy, amongst others and Kirkland & Ellis has managed to hire an endless list of partners (particularly corporate partners) from the Magic Circle - David Higgins, Roger Johnson and David Holdsworth to name but a few. Until recently, hardly any had moved laterally, the other way.

So, what is driving this?

Bluntly, it comes down to money. Or, in polite management-speak 'compensation structures'.

Today, if a US firm wants to hire a UK or European partner, they could well offer to pay them £10 million a year, and go one step further by providing this deal to them with a guaranteed period of 3 – 5 years.

It's a trump card that was actually taught to the top end corporate firms by the aggressive middle market US law firms who used guarantees as they came out of their home market of Pittsburgh, Chicago, Houston or the West Coast, and took on New York.

US law firms can do this because they are more profitable and because they have a flexible pay structure. With average partner profits of £2 million a year, the Magic Circle could stretch to £10 million for some people if it really wanted to. However, with the majority using a lockstep structure, which awards seniority not performance, their pay structure just won't allow it.

This means that US law firms can simply offer to more than double the pay of people they want to recruit, knowing full

well that the UK firms can't match them. And, whilst we know that there are other motivators than compensation, we also know that when push comes to shove, cash is king.

Interestingly these US firms are also now able to offer laterals from the Magic Circle, the global platform and brands that they didn't previously have whilst they grew outside of their native US homes

The changing tide....

In recent years however, there has been a changing of the tide that looks different from the usual flutter of growth, as Magic Circle firms have started to do less quiet creeping into the US and rather have been much bolder and more aggressive.

We have also seen nearly all of the Magic Circle firms relocate homegrown talent to New York for example, Allen & Overy moving David Christensen from Australia to New York (having previously been in the London office for many years) and Freshfields moving Alan Ryan, an iconic antitrust partner, from the firms highly rated Brussels office to Silicon Valley.

On the lateral recruitment front, back in 2019 Freshfields started to lead the charge of UK Law firms gaining traction State side, and it was when they hired renowned deal rainmaker Ethan Klingsberg and his team from Cleary Gottlieb, followed quickly by a brave (some might say brazen) launch in Silicon Valley, that the market realised how serious they were about their US strategy.

Since then, the firm has gone on to hire on the East and West Coast, from US powerhouses such as Latham & Watkins, Kirkland & Ellis, Davis Polk, Sidley and more. The results of these acquisitions are clear – in Q1 2021 Freshfields advised on more than \$76 billion in US announced deals, the tenth highest of any global law firm.¹

More recently, this Magic Circle hiring has become even less quiet and British. With more UK firms catching onto an effective strategy, previously only really (successfully) leveraged by Freshfields.

The most recent example of this was A&O launching an authoritative raid on White & Case in Northern California and Silicon Valley, where they hired a total of eight partners and 40 lawyers with the team including one of the world's leading IP litigators, Bijal Vakil, who took on the role as global co-head of the firm's technology practice.

In line with the above, it is only a matter of time until we see Linklaters under the watchful eye of impressive new senior

partner Aedemar Comiskey, and Clifford Chance under the guided strategy of Evan Cohen (regional managing partner for the Americas) make strides in North America, not least to avoid falling behind the firms they have so long called their stiffest competition.

So, what's changed?

The Magic Circle has started to play the Americans at their own game, by offering guaranteed salaries to US lawyers that they want to poach.

To the surprises of many, they can do this in the US because their American operations are either set up as US LLPs that are fully owned by the UK LLP, or they have delicately tweaked their compensation structure to allow them to take the fight to the US law firms. It means that, while the firms are owned and controlled by the London office, the US partners don't need to be made partners of the UK firm or they can exploit the loophole allowing the US Partners to be compensated outside of the lockstep.

Of course, one eye-catching raid doesn't necessarily herald a full invasion, but our American cousins have taught us that, in their legal market, money trumps loyalty. And now the Magic Circle have learned how to open their wallets stateside to get in on that phenomenon.

Why should the Magic Circle pursue this policy, and what is in it for US lawyers and clients?

It is a simple fact that law firms need to keep growing or get eaten. Increasing law firm revenue is only possible by existing lawyers doing more hours and thus billing more, or by adding additional talent.

The US is the world's biggest legal market, accounting for over 50% of a global legal industry which is expected to exceed \$1 trillion in value in 2021.² And it is very profitable because there is complex work, a culture of litigation and aggressive deal making that isn't the norm in other markets. If UK law firms want to grow and match the per-partner profitability of US firms, quite simply, they need to get embedded in America.

From a law firm client's perspective, it's critical too.

UK Magic Circle firms pride themselves as being a go to advisor for all of their client's needs – something that isn't possible without a) having full service offices (which can mean different things to different firms based on their specialisation) in locations that are core for key clients (including the US), b) having a platform that works seamlessly together globally and

¹ [Freshfields touts U.S. inroads one year after Silicon Valley launch | Reuters](#)

²² <https://www.statista.com/statistics/605125/size-of-the-global-legal-services-market/>

c) having a platform that can take on and execute, to a very high standard, inbound and outbound transatlantic transactions.

Take Freshfields for example, moving into California was a strategic play for them, positioning themselves as the one stop shop for US tech giant clients like Pay Pal and Google that they already advised elsewhere in the world, but also for International firm clients who had aspirations to invest in the fast-growing US market.

Conclusion:

Magic Circle law firms are doing the right thing by expanding into the US. Global clients want it to happen and that alone is enough to go on.

And if you are a lawyer, it is true that the top tier US firms have serious social cachet. But, then again, so do the Magic Circle.

If a Magic Circle firm opened up on your home turf, and offered you a pay rise, you'd certainly think about it – wouldn't you?

In short, clients want US expansion to happen, US lawyers want it to happen, and the Magic Circle wants it to happen. This time, it looks like the Magic Circle firms have worked out how to make it happen, as well.

I guess we now sit and watch in anticipation, because, if the UK doesn't crack the US market this time with **this much** rationale, then it clearly never will.