Ranking the Top Domestic and Foreign Firms in China – A Snapshot of the Present as a Basis for a Projection of Future Market Trends

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Part 1

A Systematic Approach to Ranking Domestic and Foreign Law Firms in China

Posted 12 July 2013

Last month The Lawyer launched a ground-breaking report on the Asia Pacific 150, providing a unique Pan-Asia overview of the region’s top local and international law firms.

Since there is not one unified Asia-wide legal services market, but a collection of individual markets across more than a dozen key countries and territories, there is still an opportunity to consider how domestic and international firms stack up in each separate market.

There is also more than one way to skin the proverbial cat. To take a slightly different approach than the extraordinarily comprehensive Asia Pacific 150 report by The Lawyer, I decided it would be useful to take a closer look at the Chambers rankings of both Chinese and international firms in China. While the individual Chambers law firm rankings are interesting in and of themselves, the real value is in the larger picture of the China legal services market which emerges as we consider the broader array of data points in a more complete context.

I will first note some of the general trends in the market in this first blog in this series, followed by a detailed look at the top 20 Chinese law firms and top 20 foreign law firms in China (based on this analysis of the Chambers rankings) in the following two blog entries, and in the last blog posting in this four-part series, I will make some projections on where the China legal services market may be heading.

Before I start, though, a word or two on why I use the Chambers rankings as the basis for this analysis may be in order. Quite simply, as will be explored in more detail below, in China, at least among the domestic firms, size and scale do not have the same direct correlation to quality and scope of services as will be the case in other markets or for international law firms in China, so it is useful to draw on some additional data points to assess relative market positioning in terms of quality. Of all of the legal services directories, Chambers has the broadest coverage in China, and the results are generally in line with what most of us in the market observe day to day. Having said that, I was surprised by some of the results, and some of you may be as well.

It is also important to point out that this is not a definitive study and is not intended to replace The Lawyer’s Asia Pacific 150 report, but only to provide some additional market data points specific to China. The Chambers rankings are simply a useful benchmark from which we can make some approximations as to relative market positioning in terms of quality and breadth of services. The limitations of this exercise should be obvious to all informed readers, but the fact remains that the data points cited in this series do highlight some interesting market trends.

Here are some general points which merit mention.

Domestic vs. international firm rankings

Chambers maintains separate rankings for domestic Chinese law firms and international law firms in China, which makes sense since domestic and foreign firms tend to occupy different market segments, although
there is more and more overlap as the domestic firms continue to move up market and, in the absence of sufficient super-premium work, the international firms continue to reach down market into mid-cap deals.

The international legal services directories did not always separate domestic and foreign firm rankings in China. In the early to mid 2000s this created some consternation as some of the top domestic firms seemed to be ranked higher than many of their foreign counterparts, when the clear market consensus at that stage was that the domestic firms tended to play more of an ancillary role as local counsel on deals led by the foreign firms, so when I was at Lovells I was one of the foreign lawyers who campaigned for the directories to do separate rankings for domestic and foreign firms (which, not so coincidentally, also had the effect of moving Lovells up the chart as the top Chinese firms were relegated to the “kids’ table”).

I think the Chinese firms are now quite content with this arrangement, but for completely different reasons – at this stage the top Chinese firms are in relative ascendancy, particularly in terms of mid-cap work (which dominates the market) as well as litigation and regulatory advisory work (where the local firms have a protected market position), and so are happy to be evaluated head-to-head only against their domestic law firm peers and avoid what otherwise would be apples-to-oranges comparison with foreign firms that have quite a different profile and position in the market.

This separation of rankings does create some continuing challenges. For example, prior to this year, Chambers struggled to know what to do with senior foreign lawyers such as myself who had moved to Chinese law firms. Others in the same category would include Carl Cheng (formerly of Freshfields) in Zhong Lun’s Shanghai office, Meg Utterback (formerly of Pillsbury Winthrop) in King & Wood Malleson’s Shanghai office, and more recently Tom Jones (formerly of A&O), now of Fangda in Beijing, and Steve Toronto, who just left his position as general counsel for NBA China (prior to that he headed up the Beijing office of MoFo for many years) to join King & Wood Malleson in Beijing. Previously, since we were not Chinese lawyers we were not included in the rankings for our new firms, and since we were no longer in foreign firms, we were not rated as international lawyers – we were ghosts. Finally, Chambers decided to find a home for us in our new firms’ rankings, so we have now re-emerged from professional purgatory.

On the other hand, Chambers now appears to be somewhat conflicted about how to treat King & Wood Mallesons under this scheme. The current result is that KWM is ranked in both the domestic and international law firm categories, with essentially the legacy K&W side of the firm (referred to in this series as KWm) falling on the domestic side of the ledger and the original Mallesons side (or kwM) still being treated as an international law firm in China. While KWM may not agree with this arrangement, it has its own logic to it, since the strength of the KWm side is based in the mainland China offices while the kwM part of the firm is centered mostly in Hong Kong. More on this in later parts of this series.

**Hong Kong vs. Mainland markets**

This leads nicely into the next point – Chambers now treats Hong Kong as a fully integrated part of the mainland China legal services market for purposes of its rankings of the international law firms in China. This is a bit of a moving target in my view, and there are valid points to support such integration and equally valid counterpoints to suggest that Hong Kong is a completely separate legal market.

In support of the Chambers position would be the fact that more and more of the work of the international firms in Hong Kong is China-related, with more of the regional Asia work being done out of Singapore and other regional offices. It is also true that a growing number of China deals have a Hong Kong element, and Hong Kong arbitration is the preferred dispute resolution venue for China projects.
On the other hand, true China work is done primarily out of Beijing and Shanghai, with Hong Kong playing primarily a supporting role, and that role continues to become more specialised, being comprised more of the true Hong Kong elements of a China-related deal rather than the core China advisory or deal work. Hong Kong also has a separate legal system, and is a much more intensely competitive legal services market – it is very hard for late entrants (including the top Chinese firms) to make a serious dent in the market with so many top international firms firmly entrenched at the top of the tables.

Another indicator is transactional language. Many of the managing partners of global law firms I have spoken with recently have remarked how more and more deal negotiations in Hong Kong are conducted at least in part in Mandarin Chinese. But that means that English is still the default deal language in Hong Kong. The reverse is the case in Beijing and Shanghai – one expects that Mandarin will be the language of negotiation, or at least the negotiations will be conducted in dual language with translation, while it would be much less common (in fact quite rare) for negotiations to be conducted solely in English. (And if you are outside of Beijing or Shanghai, there would be no expectation that negotiations would ever be conducted solely in English.)

This is reflected in the staffing of foreign law firms offices in Hong Kong as compared with Beijing and Shanghai. Hong Kong still provides a comfortable home for non-Chinese speaking international lawyers, but this group of foreign lawyers is not well represented in Beijing and Shanghai, not just due to linguistic reasons but also because of the differences in the legal systems and the general way in which business transactions are conducted in China as opposed to Hong Kong. Even the way deal documents are drafted differs significantly from Hong Kong to mainland China, not just structurally but also in terms of written Chinese.

So the Chambers’ position to lump the Hong Kong and mainland China markets together (for the international firms but not the domestic Chinese firms) is open to debate, but in the end, this formulation is another driver for assessing domestic and international firms separately since the international firms’ relative positions in the broader China market are heavily influenced by their market position in Hong Kong, while the domestic firms are evaluated only based on their capabilities in mainland China, and principally in Beijing and Shanghai.

As a side note, Chambers has started to rate firms in certain regional markets within China, but other than Shenzhen (home to the second stock exchange, where all of the top national firms have a competitive office), it is not clear that these regional rankings are all that instructive. For example, ZL and KWm both have top-rated presences in Guangdong and Sichuan and no presence in Zhejiang, but we would not suggest that Jun He (band 2 in Guangdong and no presence in Sichuan or Zhejiang) and Fangda (not ranked in any region outside of Beijing and Shanghai) are somehow incapable of running deals in other regions of China. Similarly, none of the top national firms in China would concede anything in the regions to firms like Grandall, Da Cheng and Yingke, all which have franchise operations across China (Grandall is ranked band 1 in Guangdong, Sichuan and Zhejiang, while Da Cheng has only a single band 3 ranking for Sichuan and Yingke has no rankings for its regional offices).

**Consolidation of Positions at the Top of the Market**

When composite rankings (using weighted scoring) are taken into account, there are clear break-away groups of law firms leading the way in the China market, with a leading group of four firms on both the domestic law firm side (Zhong Lun, KWm, Jun He and Fangda), and another group of four firms on the international law firm side (Bakers, CC, Links and A&O). On the international law firm side, within the leading break-away group of four firms, there is identifiable separation between the top two firms (Bakers and CC)
and the next group of two firms (Links and A&O), followed by a further drop-off for the rest of the top 10 firms in the rankings, while on the domestic law firm side, the top four is a bit more of a 3+1 configuration (with Fangda chasing the other top three firms in the number four slot), with a much steeper drop-off thereafter among the trailing domestic firms (see charts in later blog entries).

Such composite rankings clearly reward the larger full-service firms which have the potential to be ranked in more practice areas. This accounts for why Fangda ranks below ZL, KWm and Jun He – Fangda has consciously adopted a narrower platform and is extremely competitive in each of the disciplines in which it actively practices. But much the same could be said for Jun He, which is also smaller in scale than KWm or ZL, but is in a virtual statistical tie with KWm, which is significantly larger than both JH and ZL. (Of course, rankings are not the only measure of success. Revenues per partner/lawyer are higher at JH and Fangda, given their focus on more profitable practice areas and heavy reliance on foreign clients, while ZL has higher profits per partner than KWm due to a different approach to cost management.)

A similar observation can be made about some of the China offices of the top New York firms, like Skadden, Sherman & Sterling and Simpson Thatcher – these firms are fabulously successful in China as super corporate boutiques, but since they do not aspire to be full-service in China they do not show as well when composite scores as used. I suspect this is why Chambers does not present composite rankings, because it is not clear that a band 1 ranking in shipping is the equivalent of a band 1 ranking in corporate M&A.

Still, as long as we understand the obvious limitations of this approach, there is value in looking at composite scores as this presents of picture of who in the market offers both breadth of practice and quality of service. After all, the rationale for the growth of full-service business law firms is the ability to provide the full range of legal services at the highest standard of quality under one roof. Composite rankings present a useful and informative snapshot of who is in the best position to deliver top quality services across the spectrum in the market. And in this case, all of the leading firms are very strong in all of the traditional core corporate and banking practice areas, so are not rising to the top of the table on the back of a string of top ratings in ancillary practice areas alone.

Moreover, the distinct advantage in the rankings that the leading groups of firms have over the rest of the market suggests that the Matthew Principle (unto those who have shall be given and from those who have not shall be taken away) may be in operation in the China legal services market and the momentum of the leading group may be difficult to stem. Having said that, as will be noted in subsequent blogs in this series, there have been some dramatic changes in the rankings in the last 5-10 years on both the international law firm side and the domestic law firm side, so we cannot rule out further shifts going forward.

The UK Firms Lead the Way on the International Side

Nine of the top 12 international law firms in the composite rankings are UK-based firms, while the remaining eight firms bringing up the rear in the second 10 are all from the US (charts to come in subsequent blog). This is an even higher concentration of UK firms at the top than 10 years ago. The dominant position of the UK firms in China reflects the historical strength of UK firms in Hong Kong, which is one of the reasons that I opted to join Lovells rather than returning to a US firm when stepping down as Asia general counsel of Nortel Networks (may it rest in peace) in 2001.

But even this fact does not tell the entire story, and it is probably more accurate to say that the top twelve firms are all able to draw upon strength in their respective Hong Kong offices to provide a foundation for their overall China operations (and since the Chambers rankings treat Hong Kong as an inseparable part of
the China market, strength in Hong Kong is obviously recognized and rewarded in the China rankings overall. More on this point in part three in this series.

The Beijing Firms Lead the Way on the Domestic Side

This is a point I have made in prior blogs – many foreign lawyers assume that Shanghai is the New York of the Chinese legal profession and Beijing is the Washington D.C. equivalent, but the indisputable fact is that the Beijing firms dominate the Chinese legal market. Of the top 20 domestic law firms, 16 are based in Beijing. China has not yet achieved full “rule of law” but has a variant that is more aptly described as “rule by law” or “rule by approval”, and since Beijing is the seat of government it is also the ultimate source of law, which emanates not just from the legislative bodies but also from the powerful ministries. Beijing firms seized the early advantage they had by virtue of their proximity to the key government departments and ran with it, never looking back.

One telling fact is that of the Shanghai-based firms, only Fangda has a competitive Beijing office, while all of the top Beijing firms are strong competitors in Shanghai. In that regard, Beijing is more like New York – it is very hard for other domestic law firms from other cities to crack into the top tier of the Beijing market. That is unlikely to change in the near or even the medium term.

Size Matters – Except for Domestic Chinese Law Firms

The Lawyer’s Asia Pacific 150 report ranks firms based on number of lawyers for the very sensible reason that this is a more reliable basis for comparison across the region since revenues and profits will differ from market to market within the region. This works very well for international firms who base staffing levels on demand for legal services which can be delivered in a profitable manner. This connection breaks down among many Chinese law firms where the norm (certainly outside the top tier of domestic firms) is for each partner, rather than each practice group or office, to operate as an individual profit center.

This is best demonstrated by the fact that neither of the two largest Chinese law firms, Yingke and Dacheng, which are also the two largest firms in the Asia Pacific region, rank in the top 10 Chinese domestic firms based on the Chambers rankings. In fact, one of the two fails to rank in the top 100 domestic firms based on the Chambers rankings. The Lawyer Asia Pacific 150 report already clearly notes that size does not always equal quality, citing revenues per partner and other factors, but the Chambers rankings underscore the point even more dramatically.

At the same time, if one were to rank the domestic Chinese firms by taking the ratio of total Chambers rankings to number of lawyers, Fangda and Jun He would jump to the top of the tables given their high number of rankings notwithstanding their relative smaller size and scale. So this is just another example that what works outside of China does not always work in China.

These observations should be sufficient to set the stage for the more detailed analysis to come. Coming up in part 2, we will take a closer look at the top 20 Chinese law firms based on the weighted scores from the Chambers rankings. As will be seen, after the top 10-15 firms, the field thins out very quickly on the Chinese law firm side. In the medium to longer term, that may prove to have significant implications for the development of the legal market in China.
Part 2

A Look at the Top Domestic Law Firms in China – Too Few Chinese Firms at the Top

Posted 26 July 2013

This is part two of a four-part series on current status of the China legal services market, and as promised in the last blog, we will now turn to an analysis of the Chambers rankings of the top 20 Chinese law firms.

In the first part of this series, we already underscored a few key points about the local Chinese firms: (1) there is a 3+1 break-away group of leading domestic law firms, comprised of Zhong Lun, the King & Wood side of KWM (or KWM for these purposes), Jun He and Fangda, (2) the Beijing firms dominate the top 20, taking 16 of the top spots, and (3) size does not directly equate to quality in China.

None of those three points should be controversial. Much of what follows may well be.

Before we reveal the chart, we need to talk briefly about methodology. The intention was to keep things simple. The key elements of our analysis included the following:

- We assigned four points for a band 1 ranking, three points for band 2, two points for band 3 and 1 point for band 4, and the sum was our weighted score. It bears repeating that this weighted score was not created or calculated by Chambers, but is one way of defining relative positioning based on the Chambers rankings as published.
- We did not differentiate between “core” practice areas and “non-core” practice areas. A band 1 ranking in environmental law, for example, was given equal weight to a band 1 ranking in corporate M&A. This seemed to be sensible as a conceptual matter, but as will be shown, it did not always produce sensible results, particularly at the bottom end of the spectrum.
- We did, however, disregard the rankings for regional offices in Sichuan and Zhejiang, but kept the regional rankings for Guangdong, which includes the important Shenzhen market, which traditionally has been fully integrated into the national practices of the top domestic law firms. When Sichuan (principally Chengdu offices of national firms) and Zhejiang (Hangzhou) were included, this introduced some serious distortions into the bottom part of the rankings. It also begged the question of why these regions were included while other regions, like Henan (Wuhan), were not. At the end of the day, the strength of the Chinese legal profession remains rooted in Beijing, Shanghai and to a lesser extent in Shenzhen. In my view, the other regions are not important enough to warrant a separate ranking, and I also am not especially confident that Chambers knows their way around the other regions as yet.
- We also tallied the number of partners in each firm listed as a leading lawyer in the Chambers rankings, but this was used only as a tie-breaker, as there was otherwise a fairly consistent correlation between the number of top rankings and the number of leading lawyers. If the same lawyer was ranked in more than one category, he or she was still counted only once.

Rankings for KWM excluded rankings of the legacy Mallesons side (kWM in this series) under the international law firm categories, virtually all of which were Hong Kong based in any event. See the first blog in this series for a further explanation of the rationale for this separation (which was done by Chambers and
not by us). On the same rationale, leading kwM lawyers recognized by Chambers in international firm categories were not included in the KWm tally of listed lawyers.

Otherwise, we accepted the rankings as published by Chambers even where we were of the view that the rankings were in some respects suspect. The Chambers process isn’t perfect, but it is highly professional, and represents the best approximation available in the market in my view. At the same time, it is very possible to quibble with the choices we have made in this analysis as outlined above, so we are more than happy for people to disagree with the methodology and the results.

With that introduction and disclaimer, here are the 2013 composite rankings for domestic firms in China.

**Chinese domestic firm rankings 2013**

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### Chinese domestic firm rankings 2013

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Some observations on the rankings of the domestic firms from the above chart:

**Firms on the rise**

I suspect some may be surprised to see Zhong Lun at the top of the rankings, with the most band one rankings, most total rankings and most partners rated as leading lawyers among all Chinese law firms. This was a little surprising to me as well, since ZL has traditionally seen itself as the “little brother” in the Big 3 (and that was my view as I joined ZL in 2011), but ZL has actually been at the top of the charts among Chinese firms for the past two consecutive years (2012-2013). This represents a fairly rapid ascent up the charts for ZL. In the mid-2000s ZL was more in the middle of the pack of a dozen or so good Beijing firms, but (no thanks to yours truly) by the end of the last decade ZL had rocketed into the top three along with KWm and Jun He.

The real surprise, though, has to be Grandall’s cracking the top 10 as one of the leaders of the trailing group behind the leading quartet. If the rankings for regional offices were not removed from the analysis, Grandall’s ranking would jump up one notch, since three of its five band 1 rankings were for regional offices. Either way, I personally found Grandall’s performance to be quite impressive and worthy of note.

**Moving in the wrong direction?**

The other big surprise for me had to be Haiwen’s fall into the second ten. A decade ago Haiwen may have been considered to be one of the top three to five domestic firms, and they are still a very good firm with a strong reputation, so it was surprising to me to see that the firm had no band 1 rankings in its traditional areas of strength. I had expected to see it remain on par with Commerce & Finance, which like Haiwen is more of a super corporate boutique, very strong in its core practice areas with modest additional coverage in other ancillary areas. This may be more a quirk of the rankings, but it may be indicative of a broader trend for the firm.

**Not where you might have expected**
Overall, I think the list of the top 15 firms is relatively uncontroversial, although some may argue about relative positioning. Some may also have expected Dacheng, the largest firm in China, to be comfortably in the top 10 but it ended up just outside the top 15 at number 16. Still, that is a very respectable result by comparison with the second largest Chinese law firm, Yingke, which was well outside the top 100 law firms in China based on these rankings.

**Who are these guys?**

I had to ask some other local Beijing lawyers who Run Ming (#15 on our list) and Sunshine (#19) were. My sources also didn’t know these firms. Turns out Run Ming is based in Beijing, and I suspect they just did a superior job with their marketing presentation to Chambers than many of their similarly situated peers. Alternatively, it may be that they are an up-and-coming firm that we should pay attention to.

Sunshine is in Hangzhou, the only regional law firm to make the top 20, even after filtering out the regional office rankings. Sunshine was rated in energy and environmental law categories, nationally, not just regionally. It has to be said – this is a bizarre result. I am guessing this was a junior researcher who was assigned to Zhejiang. The only other rational conclusion would be that the rankings in these categories should be thrown out altogether on the basis that these practice areas are not well enough developed on the domestic law firm side to merit full-on rankings (oops – there goes a band one ranking for ZL in environmental law, but the other Big 3 firms would also take similar hits, so this would not change things at the top).

Of the other firms on the list that may not be as well known outside of China, it is important to give some love to Han Kun and Fen Xun. These are two very strong boutique firms with excellent lawyers and outstanding reputations in their areas of expertise.

**Where are they?**

Some good firms don’t make the top 20 because they are so highly specialised. IP giant Liu Shen falls into this category. TransAsia rode impressive strength in two care practice areas, employment and TMT, to a mid-20s ranking. Beijing-based Tianyuan was also in the mid-20s, just behind TransAsia.

Concord & Partners and Zhong Lun W&D fell into the third group of 10, while other well-known firms like Broad & Bright and Duan & Duan ended up in the middle of the bottom half of the top 100 firms on the list. I would have expected Broad & Bright and Concord to have rated higher than Run Ming, which made the top 20. It may just be a matter of presentation in the submission to the Chambers researchers. Broad & Bright in particular has long been rumoured to have a close working relationship with one of the Magic Circle firms, which would seem to contradict the surprisingly low ranking of Broad & Bright,

**Best Chinese firms you never heard of**

Top of my list for best Chinese law firm that no one outside of China has heard of is Tiantong, a specialist Supreme People’s Court appellate firm. (Full disclosure: Tiantong is a member of the Sino-Global Legal
Alliance or SGLA, which I set up while at Lovells. After my move to ZL, I have had not continuing connection
with the SGLA.) Based on official figures, Tiantong had the top revenue per lawyer in all of Beijing, at RMB
4m, or roughly £400,000. To put this in perspective, this is about double the average revenue per lawyer of
the top-tier domestic firms. This result is all the more impressive when you take into account that all of
Tiantong’s clients are domestic Chinese clients. Who says Chinese clients won’t pay (at least for litigation
work on a scale fees basis)?

Best regional law firm – I would give the award either to Winners in Tianjin or to T&C Law Firm in Hangzhou.
(T&C is also an SGLA member firm. Winners is not.)

Ten years ago Winners asked their partners to take some strong medicine in the form of some radical
changes to the firm’s management system to move the firm from a traditional structure to something that is
perhaps as close to a true western management structure as one will find anywhere in China. In essence
they burned down the firm and started over with a small remaining core and have built it back up from there.
They are now the clear “winners” (pun intended) in the Tianjin market.

Sunshine’s high rankings notwithstanding, T&C has dominated the local legal services market in Zhenjiang
for two decades. The founding partner of the firm once lamented to me that it was not good to be the sole
“king of the mountain” in town. Business is better when there are two to three top firms. (Cue old joke: sole
lawyer in small town was starving until a second lawyer hung out his shingle.)

Final observations

For an economy as vibrant as China’s, it is not a good sign that there are so few firms at the top of the heap.
It would be better for the overall health of the market to have eight to 10 truly outstanding full-service
domestic law firms leading the way, followed by a very strong group of 12 to 15 firms with their particular
areas of competitive strength. But that’s not what we have at present, and it is not clear that there is a path
to that ideal scenario.

Domestic demand for legal services in not line with the level of overall economic growth, and the local firms
outside of the leading group have significant challenges with their basic management infrastructure. There is
very little lateral movement of partners between the leading quartet of Chinese firms, but there is
movement of top talent from the trailing firms (and from foreign firms) to the top domestic firms, which
suggests that the top group will continue to ascend while the trailing firms remain static or decline in relative
terms. Undoubtedly, some of the trailing firms will take up the challenge and climb up the rankings, but they
will need to do so soon, before the gap widens further. As the overall market demand grows, it will not be a
zero sum game, but the winners are likely to gain strength in both actual and relative terms.

In part 3 to come, we will turn to the foreign firms in China. On that side of the ledger, the field is already
quite crowded, and many new entrants as well as many long-time players in the market will find significant
challenges ahead.
Part 3

A Crowded Field of Leading International Law Firms in China – with Non-US Firms Leading the Way

Posted 1 August 2013

In this part 3 of this four-part series, we will now turn to an analysis of the Chambers rankings of the top 20 foreign law firms in China.

As previously noted in part 1 of this series, there is a clear break-away group of four firms at the top of the charts, and overall the UK firms lead the way, holding nine of the top 12 spots, with US firms taking the final 8 positions in the top 20.

So which non-UK have taken the remaining three spots in the top 12? The chart below will answer this question, but raise another equally important question – can we say that any of the three non-UK firms in the top 12 are truly US firms?

Before we reveal the top 20 list on the international law firm side in China, a brief recap of the ground rules is in order. We used the same basic principles as for the domestic firm weighted scores, but we did have to make some adjustments as described below:

- As in the case of the weighting of the rankings for the domestic law firms, we again assigned four points for a band 1 ranking, three points for band 2, two points for band 3 and 1 point for band 4, and the sum was our weighted score.
- The M&A rankings presented a bit of a dilemma in that there are two groups, elite firms and highly recommended firms, each with separate band rankings in each category. We opted to treat only elite firm M&A rankings as true bands 1, 2 and 3, and all other M&A rankings were treated as band 4 by default in this weighting process.
- It bears repeating that this weighted score arrangement was not created or calculated by Chambers, but is one way of defining relative positioning based on the Chambers rankings as published.
- We again did not differentiate between “core” practice areas and “non-core” practice areas. A band 1 ranking in shipping disputes, for example, was given equal weight to a band 1 ranking in bank finance. Unlike the situation with the domestic firm rankings, this did not appear to create any significant distortion in the weighted scores.
- We included both Hong Kong-based and China-based rankings as long as they fell under the general heading of international firms in China. As mentioned in the first blog in this series, Chambers included Hong Kong as an integral part of China for purposes of these rankings, and while there may be legitimate differences of opinion as to the propriety of that arrangement, we have accepted that for purposes of this analysis.
- We again tallied the number of partners in each international firm listed as a leading lawyer in the Chambers rankings, and used this only as a tie-breaker. As before, if a lawyer was rated in more than one practice area, we still only counted him or her once.
- Rankings for KWM included only the rankings of the legacy Mallesons side (kwM in this series) under the international law firm categories, virtually all of which were Hong Kong based in any event. See
the first blog in this series for a further explanation of the rationale for this separation (again, this was done by Chambers and not by us).

• Otherwise, we accepted the rankings as published by Chambers even where we may have had different (and probably less informed) views of the market. All in all, I would venture that Chambers has a better sense of the relative positioning of the international firms in China because of a better understanding of the standing of these same firms in their home markets and globally.

• Again, it is very possible to quibble with the choices we have made in this analysis as outlined above, so feel free to disagree with the methodology and/or the results.

With that introduction and disclaimer, here are the 2013 composite rankings of international law firms in China.

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<th>Band 1</th>
<th>Band 2</th>
<th>Band 3</th>
<th>Band 4</th>
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There are a few things that jumped right out at me when we finished this compilation.

**Bakers by a nose**

Baker & McKenzie leads the way in these rankings, but with only the smallest of margins over Clifford Chance, and even then it depends whether you want to look at total band 1 rankings (Clifford Chance wins), total overall rankings (Bakers wins), or use this weighted scoring (Bakers by a nose).

Twenty years ago, Bakers was on top, with only Coudert Bros and White & Case in the same league. Fast forward to ten years ago, when Bakers exiles had populated half of the foreign firms in China which had proliferated around the turn of the new millennium, and many in the market were talking about a supposed irreversible decline in the fortunes of Bakers in China. That has clearly been proved wrong.

In retrospect it is apparent that Bakers in Hong Kong and China has enjoyed a higher degree of stability in its partnership than perhaps any international firm in China, where the laterals merry-go-round never seems to stop spinning. As I once heard a managing partner of a leading London-based firm once say, you can never bet against Bakers in international markets, and that has continued to be borne out in this market.

**UK strength at the top of the table**

The majority of the top 10 international firms in China are the traditional leaders from the UK market – Clifford Chance, Linklaters, Allen & Overy (A&O), Freshfields Bruckhaus Deringer, and Herbert Smith Freehills. No surprise that this quintet is in the top 10 – they have been firmly entrenched at the top of the charts for 15 years or more – but it is a surprise that Freshfields has slid down to the bottom of the top 10. In the early 2000s, Freshfields was the consensus top dog in the market, in a much stronger position at the time than Clifford Chance, Linklaters or even Bakers, having raided Coudert Bros. and Bakers for top first generation “old China hand” talent. Most of that first generation talent has now retired while a few of their other top performers of the second generation of China lawyers have moved on. Freshfields is still very formidable (as witnessed by its lead role on the Alibaba IPO), but (at least according to these rankings) it is no longer top of the market as it once was in China.
Of this quintet, Clifford Chance and Linklaters have continued to go from strength to strength. In the mid 2000s, Linklaters had taken the dominant position in the market off the back of its extraordinary financial institutions M&A practice. Word on the street was that Linklaters was charging full London rates and achieving full (or, if possible, better than full) utilisation, making it the most profitable law firm China during this heady period. Clifford Chance was never far behind, and has just kept marching forward. Recording 15 band 1 rankings is a remarkable achievement in this market, even taking into account that much of this is generated from the firm’s strong Hong Kong base.

A&O and Herbies have swapped positions in the market over the last ten years. In the early 2000s, Herbies had effectively leap-frogged up to near the top of the tables with a very strong capital markets and M&A practice led by some very savvy foreign-qualified Chinese lawyers, while A&O was struggling a bit to find the right combination of partners to get it up to the top end of the table. Herbies has since slid back down a bit, not too much, while A&O has clearly found its footing and marched back up to the front.

I am pleased to see that my old firm, Hogan Lovells, has maintained a top ten position in China in the composite rankings, down only a few slots from its top-five ranking in the mid 2000s. I still consider this to be a UK-based firm for these purposes even with the merger with Hogan & Hartson; the Asia operations of Hogan Lovells are run from London, and the legacy Lovells side has continued to lead the way in Hong Kong specifically and China generally.

Much the same observation can be made about DLA and Norton Rose/Fulbrights (apologies to the NRF style mavens) – both really should be treated as UK firms for these purposes since the US side had not had made a significant splash in the China market rankings pre-merger. We have added the Fulbright Jaworski rankings to the Norton Rose rankings in China for purposes of this analysis, adding to the weighted score only where there were non-duplicative rankings. The Fulbrights side has a very solid team comprised of several top lawyers I know and respect, but based on the Chambers rankings, the addition of the Fulbrights China team helped Norton Rose make only a modest improvement in their overall rankings and relative positioning, reinforcing the proposition that this is primarily a UK firm for these purposes.

The leading UK contingent is rounded out by Simmons & Simmons, which moved into position just outside the top ten. Simmons has always been a very capable player in the China market, but this does mark a bit of an advance up the table over the last several years in my view.

**Where are the US firms in the top group?**

No matter how you slice it, the UK firms are clearly on top in the China market, but are there really any US firms in the top group?

It is open to debate whether Bakers should be considered a US firm. Twenty years ago when I was with Bakers’ China practice, it was common to hear partners talk of jettisoning the weaker US offices so the stand-alone international practice could flourish more easily. That’s not going to happen, but it does underscore the sentiment within the firm that it is an international firm not just a US firm (a view shared by
many in the market), and in China it was the Hong Kong office, not Chicago, that acted as the launching pad for the hugely successful Beijing and Shanghai offices.

One of the biggest surprises in the top 10 on the international side is the rise of Mayer Brown JSM. Ten years ago, JSM was probably outside the top 20 firms in mainland China (excluding Hong Kong) in the market consensus view, and Mayer Brown was not really on the radar screen. The fact that the combined firm has been able to jump queue into the top five based on these composite rankings is very impressive, but I think most market observers would again chalk this up to the strength of the original JSM side of the firm in Hong Kong, while the combined firm’s presence and profile in mainland China generally would not be considered to be as strong.

But query whether we should consider this a true US firm for these purposes – based on the experience of so many other top US firms over the last 10 years, I expect it would have been very difficult for Mayer Brown to have made this leap on its own without the foundation which JSM offered in the market, so it again underscores the importance of Hong Kong in these composite rankings and in the China legal services market on the international law firm side.

The international side of KWM is unique among the leading group of firms in Hong Kong and China in that it is clearly neither a US or UK firm. More impressively still, it is not founded on the base of an indigenous Hong Kong firm. The Mallesons side of KWM (which we are referring to as kwM in this series) has been in Hong Kong for some time, and historically has had a very strong presence in projects and construction in the China market generally, but it was a significant surprise to me to see it advance all the way up to number six in these composite rankings, which clearly evidences that it has expanded well beyond its original base.

In fact, taking a closer look at its individual rankings, it becomes apparent that aside from construction, where it continues to be extremely strong on the international side, its other areas of strength all coalesce in the financial services sectors, including insurance, debt capital markets, derivatives, securitisation and the like. But the kwM team’s rise is due more to the overall breadth of its practice capability, with nine band 3 rankings, more than any other firm in the top 20 on the foreign firm side, demonstrating a deep and solid core of strength across a significant range of specialist areas.

This breadth of practice area coverage, which is perhaps disproportionately rewarded in a composite scoring system such as we have employed here, also reflects the increasing size and scale of the firm in Hong Kong. The combined KWM is now one of the largest firms in Hong Kong, positioning it to play (and thus be recognised) in more areas of specialism. But a closer look at the data also reveals that the kwM rankings are based almost exclusively on the position of the firm in Hong Kong, where 18 of the 19 ranked individuals in kwM are based, with the lone ranked individual international lawyer in China in kwM being a guilo with a regional portfolio based in Shanghai. Thus, the composition of the kwM team itself tends to reinforce and confirm the rationale for the binary international vs. domestic lawyer/law firm approach taken by Chambers in the China rankings.

A related interesting question is whether KWM + kwM creates a new dominant player in the combined domestic plus international law firm sectors in the China market. On the domestic side, we haven’t seen a
significant impact of the addition of kwM to the already strong KWm position in China to this point. Not sure how the kwM piece is viewed by their international law firm competitors in China and whether the combination with KWm is a true game changer in that market segment. Given the very strong position of both sides of the KWM merger in the China rankings, I think we will see some impact as the two halves are more fully integrated in China, but it likely will be a question of degree.

**The US chasing pack**

Based on the foregoing analysis, it could be argued that there is no true US firm in the top 12 in Hong Kong and China. But US firms fill the rest of the slots in the 20 and 12 of the next 20. (Only five UK firms make the next 20.)

Most of the chasing pack of US firms have remained comfortably in place in the top 20 over the last five to 10 years, with some shifting of positioning within that grouping. Of this group, Sidley seems to have advanced the most, but all are excellent firms, and the composite rankings are for the most part bunched quite closely together in the middle part of this second 10, so it is probably unwise to draw too many conclusions in this regard.

Even so, it is worth noting that the average composite score of the second 10 shows a more than 70 per cent drop-off in comparison with the break-away group of the top four international firms and is less than half of the average composite score of the top ten firms, evidencing a narrower service offering and/or a slightly lower overall ranking among this group.

**So what does this all mean?**

This top 20 list includes a strong group of foreign firms, and the firms just outside the top 20 on the foreign side are also very good firms. The next 10 on the list includes such firms as Simpson Thatcher, Davis Polk, MoFo, Slaughters, Kirkland & Ellis, Latham & Watkins, and Weil Gotshal. For these firms, their positions in the rankings are defined not by their quality but by the fact that their practices are more focused in this market as they do not aspire to be full-service firms here in China, which makes perfect sense. (For those of you who are counting, I obviously did not list all of the firms in the third group of 10. There are also a lot of good firms in the fourth group of 10 whose names I will not recite here. Apologies to all who feel overlooked, but this way everyone else can argue that they belong in the open slots not listed here.)

But how many of the foreign firms are making money in China? My comment in a prior blog that 70 per cent of foreign firms in China were not even covering on-the-ground operating costs and another 20 per cent were not covering partner compensation received a bit of attention. It should be underscored that these are not my figures. I was much more optimistic – my personal (possibly unfounded) estimates were that only 50 per cent were not covering local office costs with another 30 per cent not covering all partner draws. The more pessimistic estimates reflected the consensus view from other presumably knowledgeable sources. I don’t think anyone actually knows.
But there are more than 200 foreign law firms in China, so can we safely assume that the top 20 firms topping the composite rankings list are all part of the profitable 10 per cent of the foreign firms in China? That is probably a bit of a stretch. If I were a betting man, I would happily wager that Bakers and the top UK firms are doing very well, certainly better in Hong Kong and China than most of the US firms. However, some of the US firms on the top 20 list are definitely still in investment mode, while some other US firms both inside and outside the top 20 are also doing just fine, thank you very much. It’s a mixed bag even among the top 20-30 firms in the rankings, but the farther you drop down the list, the greater the likelihood you are operating in the red in China.

The more interesting question may be how many firms are able to achieve a contribution of more than 5-10 per cent of global firm revenues from Asia, let alone from China. (Hint: read The Lawyer’s Asia Pacific 150 report.) Perhaps the more important question is whether growth opportunities in China can help counter-balance flat revenues and profits in the home markets of the international law firms? We will plan to talk about that, and other issues, in the final installment of this series.

Part 4

Some Thoughts on Future Market Trends – Who Will Have the Upper Hand?

Posted 8 August 2013

Earlier this year I attended an event for managing partners and equivalents of more than 100 top law firms from the US, UK, Asia and South America. The largest contingent was from US firms. I have represented Zhong Lun at this event for the last two years.

The atmosphere last year (in the wake of the Dewey LeBoeuf collapse) was a bit tense. The mood this year remained quite sober. Law firm revenues were flat, again. Costs were increasing, again. The consensus was that it was a zero-sum game in the market and that in order to grow your business, you had to take work from your competitors, all of whom were positioning to take clients and work from you.

The economists presented a mixed bag: the overall economic outlook in the US was in some respects hopeful (read: shale oil and gas) but overall still not great (see QE dependency), but predictions for the UK and European economies were generally negative to dire (presumably, no explanation required).

From my perspective, two main themes emerged in this year’s meeting:

• **Merge or die.** One managing partner predicted that the US legal market would consolidate to a leading group of 30 firms. Twenty of the firms were already in position, and the scramble was on for the remaining 10 spots. It sounded like both a prediction and an invitation to dance. An unscientific survey of the other attendees (OK, I spoke with a half dozen other managing partners during breaks) revealed that there was strong agreement that this was the irreversible direction of the US market.

• **Go east, go south.** Economists presented compelling statistics to demonstrate that economic growth was centered almost exclusively in the emerging markets in the east and the south. China always looks so good in these charts, and the entire southern hemisphere shows well, too. Half of the
managing partners in the room made two calls: first, to their brokers to shift their investment portfolios to emerging economies, and second, to their PAs to book flights east and south. No charts were shown on how closely the legal services markets in these jurisdictions tracked overall economic growth; the correlation was simply assumed (incorrectly, in my view).

So, what does all of this have to do with this series of blogs on the relative positioning of domestic and international law firms in China? It depends on how one reads the tea leaves, but a clearer understanding of the current market positioning helps us shape a clearer image of what the future may hold.

(Re)setting the Table

To recap our snapshot of the China legal services market based on the Chambers rankings:

- There is a break-away group of the Big 3 +1 firms plus another trailing group of another 8-10 generally very solid firms on the domestic side, but there is a significant drop-off in quality or scope of services (or both) thereafter.
- On the international side, the UK firms are dominant, claiming nine of the top 12 spots. No true US firm is in the top 12, but the US firms fill out the rest of the top 20 and most of the next 10-20 slots.
- Although there is some overlap (as the international firms continue to play down-market and the domestic firms continue to reach up-market), for the most part the international firms and the domestic firms occupy different segments of the legal services market in China.
- In addition, the Chambers rankings for the international firms lump together Hong Kong and mainland China as a single integrated market, while the domestic firms are judged only on their local practice capability in the mainland China market. Consequently, it is not possible to make an apples-to-apples comparison of the international and domestic law firms in China based on the Chambers rankings.

Impact of continued global consolidation in the international market

If these predictions are correct, the potential implications for the China legal services market could be quite substantial. But first we have to guesstimate what level of consolidation we are talking about in the US market. For example:

- Is the end game in the US a new top 30 or a new top 40 or a new top 50? For purposes of simple symmetry, let’s suggest a target of a new top 40, including the current top 20 (which we will not define) and a new group of 20.
- Is it the entire AmLaw 100 consolidating down to a new top 40, or is it some subset of the AmLaw 100? Let’s assume the latter, which suggests that outside of the current top 20, we have some 40-50 additional firms in the AmLaw 100 that are going to coalesce into the second 20. Some of this will take the form of full firm-firm mergers, while other firms will be cannibalised an office, group or team at a time and disappear or drop down the rankings.
- How many tiers of firms will there be in the new top 40? Clearly not all of the new top 40 will be in the super-elite category, and some differentiation will need to occur. I think there could be three tiers, with the second and third tiers differentiated more by practice areas, industry segment strengths and geographical coverage (both in the US and internationally).
It is important to remember that this (still speculative) consolidation scenario currently addresses only the US firms, but once the US firms are in play, the top-tier UK firms, which have not yet established a truly competitive presence in the US, will pounce as well, resulting in a very fluid situation, the end result of which is hard to predict, except to project that the UK firms will end up with a stronger foothold in the US than they currently have. But the second and third-tier US firms will also have greatly strengthened their position.

Most (but not all) of the US new top 40 will naturally aspire to expand their global footprints to the east, the south and all other points on the map to try to compete with the established global leaders. Some anticipate that there will be a small group of five to 10 elite global firms that will hoover up the super-premium international deals, which would potentially leave us with another 20-25 international firms in the trailing aspirational class picking up significant high-end/mid-cap cross-border deals. Under this scenario, the current land rush among the international law firms in Asia, Africa, MENA and Latin America will accelerate. China will be high on this list for continued international expansion.

**How might global consolidation play in China?**

Under this assumed scenario, the pecking order of the international firms in Hong Kong and China will not change overnight because of the existing strong positioning of the UK firms in Hong Kong, which provides an important foundation (even irrespective of the Chambers’ framework under which the Hong Kong and mainland China markets are lumped together).

So the top end of the current top 20 international firms in China may not shift much, but over time the new top 20-40 international firms in China will be crowded much more closely together in terms of size, scope of practice, and quality. In the early stages, some of these China offices of the newly consolidated US firms will combine two money-losing offices in China and thus will continue to lose (more) money. But as these US firms consolidate further, their combined money-losing China offices will achieve more breadth and depth, and then the China offices of the US firms which are left behind will be progressively squeezed out of the China market, and become the walking dead. So we very likely end up with 30 pretty solid China offices of top US law firms, which can operate on a sustainable, if not fully profitable, basis, and which when added to the UK top 10 firms in China, creates a fairly formidable top 40 foreign firms (with high marks for unintended alliteration to boot).

So what would that mean for the Chinese domestic firms? My first response after doing the overall analysis of the domestic and foreign law firm rankings in China in the prior blogs in this series is fairly self-evident: by comparison with such a group of 40 top foreign firms in China, the China domestic law firm bench is still pretty thin.

This in turn suggests an equally unremarkable possible regulatory response: if the Ministry of Justice (MOJ) in China really understands that it very well may be 40 against 15 in terms of strong foreign firms versus competitive Chinese domestic firms, then there is a real possibility that China will not liberalise its market as quickly as many hope and as early as I originally expected (I have long predicted that the China market will open up more within this decade). The MOJ has historically taken the position that it cannot (or will not) further liberalise the market until the local firms are sufficiently mature. The analysis of the Chambers
rankings undertaken in this series of blogs suggests that while there are several very strong domestic Chinese firms with very significant competitive advantages, even vis-à-vis the foreign firms, maybe there are not yet enough strong domestic firms to open the door further to the foreign firms.

As outlined in my prior blogs earlier this year (preceding this series), as a practical matter the scope of permitted legal advisory services open to foreign firms in China is already quite broad, at least in the areas of principal interest to foreign firms, which (naturally) are among the most lucrative, so maintaining the regulatory status quo is not necessarily a serious problem for the international firms. But, similarly, growth of the China offices of the international firms does not change the overall dynamics in the market, many of which trends tend to favor the domestic firms, at least in respect of several important segments of the market, including both in respect of inbound as well as outbound legal matters.

Foreign clients are more and more independent in respect of their selection of outside counsel, even in markets outside their home jurisdictions, so the growth of the China offices of the new top 40 foreign firms will not necessarily mean that their clients in their home markets will always follow them to their overseas offices. Some will and some won’t. And as these clients establish a larger presence in China, complete with local in-house counsel, the original ties of the client to the foreign firm in the home jurisdiction will naturally become further extenuated.

For Chinese enterprises going abroad, there will also be a natural segmentation of the market between foreign firms utilising their own international networks and domestic Chinese firms working with top independent law firms around the world. This market segmentation will be based on the nature of the deal and plain old client preference. These trends will continue.

From a profitability perspective, a new round of expansion by foreign firms in China would drive up compensation for talent in a still limited pool, drive down pricing as deal competition increases, further squeezing profits, thus ultimately proving not to be sustainable. The inherent challenges will be exacerbated by the fact that the growth of the China economy is slowing, and the rate of growth of the legal services market in China, particularly on the outbound side, has never been commensurate with the overall economic growth rate. It has all the makings of too many firms chasing too few deals for fees which are too low (at least for the typical cost base of international law firms).

So (to answer the question posed at the end of my last blog), China alone is not likely going to rescue the stagnant profits of many of the prospective new members of the new top 40 US firms, but nor will it be possible for these firms to ignore China. If this scenario actually plays out as projected, it will certainly make for a very interesting few years in the China market as the lateral partner hiring merry-go-round would be set to spin at an ever increasing pace until halted by exhaustion or achievement of a happy equilibrium through a rising tide of profitable work.

Prospects for future Sino-foreign law firm “mergers” (aka “strategic alliances”)

So is there another way forward? Everyone looks at the KWM merger as a harbinger of things to come, but perhaps they should also look at the Mayer Brown JSM merger as a successful market entry strategy. Others
may also want to look at the McDermott Will & Emery (MWE) link-up with MWE China Law Offices, an “independent” domestic firm. Norton Rose has already indicated publicly that it wants to find a top Chinese firm to join its newly expanded global platform, and I am sure there are many other international firms with similar designs.

The challenge with the Mayer Brown approach is that there are very few dance partners in the Hong Kong market who are both suitable and available, and those who are available likely will not have a platform from which to push effectively into the mainland China market. The Mayer Brown JSM tie-up may end up being a sui generis kind of market entry strategy.

On the Chinese law firm side, there are many potential affiliation partners and even some potential merger partners for foreign law firms to approach, but as demonstrated by the weighted scores of the China top 20 law firms based on the Chambers rankings, there are not many good quality domestic law firms from which to select. The general lack of internal integration of most Chinese firms, including many of those in the top 20, presents a significant obstacle to a true firm-to-firm relationship. In most cases, foreign firms will find that they are in fact connected only to a group of partners in the firm who will tend to hold the relationship too close to the vest to make this interesting to top foreign firms.

Such affiliations are plentiful and relatively easy to achieve, but they have little if any impact in the broader market. The MWE approach is more unique and should be considered to be substantially more successful but only within a modest scope given the modest scale of the operations. MWE China places very respectably in the mid 20s based on weighted Chambers rankings of Chinese domestic firms, but the firm’s weighted score is still only about one-tenth of the leading weighted scores among the domestic firms. More tellingly, there is only modest separation in the weighted scores of the firms ranked 21 to 100 – a single additional band one ranking in any practice area, core or non-core, would jump a firm in the bottom part of the top 100 to the mid 20s. Still, overall this actually reflects quite positively on the strength of the core partners in MWE China, who are very well respected in the local market, but it also reflects the fact that their scope and scale are modest by any measure. As successful as this arrangement may be for MWE as an alternative to opening its own offices in China, it is widely considered to be a bit of a non-event in the broader market context.

Moreover, there are clear limitations to this type of strategic alliance. Under MOJ rules, foreign firms cannot share costs or profits with a local firm. A foreign firm can work side-by-side with a domestic firm but each firm must bill separately for its own services. This can be done on a prime-sub basis as well, with either firm fronting the client relationship (subject to tax considerations), but the principle remains. This means that the foreign firms cannot directly obtain the benefit, in whole or in part, of the individual profitability of partners and associates in the local affiliated firm on an integrated financial model basis. It is possible to have offsetting service fees paid both directions or to agree to other fixed-fee allocations that may approximate such a profit-sharing arrangement, but the more direct and transparent the arrangement, the higher the risk that this may be deemed to contravene the proscriptions against sharing of profits.

Integration issues
Sounds a bit like a Swiss verein structure on a smaller scale without the shared brand, doesn’t it?

All of these regulatory restrictions on affiliations apply equally to so-called mergers, which in fact cannot be true mergers with full financial integration in China for these very reasons, hence the Swiss verein structures. Many of the top global firms get a bit snippy when talking about Swiss verein “mergers” – a shared brand with multiple independent financial systems and, in some notable cases, separate know-how and email systems do not qualify as a true merger, so these “unbiased” experts say. But that is all one can hope for with a Chinese “merger” partner.

One more important thing – the name of the “merged” Sino-foreign law firm. The KWM experience (being the only relevant experience in the market) is instructive. The registered name of KWM in China is 金杜 (jin du), the literal translation of which refers to three of the five elements (gold, wood and earth) and obviously bears no direct relation to the firm’s English name King & Wood or for that matter King & Wood Mallesons, neither of which is registered. The firm’s Chinese name has remained unchanged after the KWM merger; the Chinese name of Mallesons, which is well known in the market, does not appear anywhere in the registered name of KWM in China. The English name is not required to be registered so KWM can use whatever English name they please.

Perhaps the MOJ wanted to have K&W with the lead name in the merged firm to suggest the primacy of the Chinese firm in the merger process as a point of national pride. The managing partner of a leading Canadian firm told me that he sees K&W as an “SOE” and expects that the MOJ has instructed K&W to pursue its plan of global expansion as part of the overall global strategy of “China Inc.” I personally do not see it that way. From my observations, the top Chinese firms operate as purely commercial organisations and are not direct extensions of the Chinese government in any shape or form. But they are also quite savvy and follow the market trends, and in some cases, as with K&W, break the mould in a fairly dramatic way. And no doubt national pride does come into play with the level of governmental support K&W has received in terms of its international strategy.

But there is another critical element at play here, and that is that the international activities of the Chinese law firms effectively are not regulated by the MOJ, while the activities of foreign firms in China are. That probably suggests that if there are to be future Sino-foreign law firm mergers, the name of the “merged” firm may have to have the Chinese law firm name in the lead to satisfy MOJ requirements that domestic law firms be independent of foreign control in China, which probably also dictates that the same naming conventions be followed globally for sake of consistency and purposes of common brand building.

So if you are a top-10 global firm whose partners are eager to change your firm’s name to “Zhong Lun [your firm’s name here]”, give me a call. I expect if we could achieve some real second-mover advantage, we would be open to talk! Of course, as mentioned in prior blogs over the last two years, I don’t see ZL or any of the other top-tier Chinese law firms following K&W’s lead in any time soon, but this also points out that no top international firm is likely to be willing to link up in a similar fashion with any second- or —third-tier Chinese firm (the only ones likely to be willing to “merge”) if it means that it will have to rebrand globally with the Chinese firm’s name.
Other implications of potential further global consolidation for the top Chinese firms

At a recent conference I chatted with the leading legal industry consultant who brokered the KWM merger and shared with him my view that we were unlikely to see other Sino-foreign law firm mergers. He replied that we would need to keep our eyes open and be prepared to react as market conditions continue to change.

We may both be right. For the moment, I think all of the top Chinese firms think their interests are better served by remaining independent and having lots of friends. But if we eventually end up with 40 strong international firms with a global footprint and a stronger presence in China, that will result in a different set of dynamics in the China legal services market, and the top Chinese firms will need to respond accordingly since with more mouths to feed in China these firms will be the source of fewer referrals to the Chinese firms (although as noted above, foreign clients will still come directly to the Chinese firms in many cases and there will still be many opportunities to work side by side with the new top 40 global firms as we now do with the top international firms in China on the bigger deals).

But the top Chinese law firms will not be alone in this regard. All of the top independent law firms around the world will be in the same boat, and there will still be compelling reasons to remain independent (after all, it is not possible for any global firm to have a top-tier presence in each key jurisdiction around the world), but there will likely also be compelling reasons for these top independent law firms to forge a closer alignment among themselves in order to fend off increasing competition from the new global top 40 firms. It will be interesting to see how these trends play out.

Conclusion

I hope the observations in this series add some points for consideration for all current and prospective players in the China legal services market. Some points are undoubtedly controversial and others are probably flat out wrong (certainly, I readily concede that the new Asia Pacific 150 report issued by The Lawyer is much more extensive and useful as a strategic guide in Asia in almost all key respects), but if nothing else, it should spark additional conversation. Only time will tell, and we will all be scrambling to keep up with and (where possible) race ahead to take advantage of the ever-changing market conditions.

ABOUT THE AUTHOR

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