

WHO USES THE U.S.? LAW FIRMS, GLOBALIZATION, AND APPROACHES TO PRESENCE IN THE U.S.

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INTRODUCTION.....	550
I. IDENTITIES OF GLOBAL LAW FIRMS PRESENT IN THE UNITED STATES	554
<i>A. Search strategies, methods, and limitations</i>	556
<i>B. Law firm essentials</i>	559
II. OPERATIONALIZING PRESENCE—HERE AND THERE.....	563
<i>A. The notion of foreign-ness</i>	564
<i>B. What is presence?</i>	568
III. THEORETICAL IMPLICATIONS OF GLOBALIZATION AND PRESENCE	571
IV. CONCLUSION.....	587

INTRODUCTION

Disruptions relating to and preceding the COVID-19 pandemic have led to predictions about the “end of globalization.”¹ In the context of legal

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1. Andrew Ross Sorkin, Jason Karaian, Stephen Gandel, Michael J. de la Merced, Lauren Hirsch and Ephrat Livni, *Wall Street Warns About the End of Globalization*, NEW YORK TIMES (March 24, 2022), <https://www.nytimes.com/2022/03/24/business/dealbook/globalization-fink-marks.html>; Pascal Lamy and Nicolas Kohler-Suzuki, *Deglobalization Is Not Inevitable*, FOREIGN AFFAIRS (June 9, 2022), https://www.foreignaffairs.com/articles/world/2022-06-09/deglobalization-not-inevitable?check_logged_in=1.

services, globalization's end could have significant implications for those who have been on its mainstage, including the United States. Global legal services remain robust from the perspective of the United States: exports of legal services accounted for over \$16.3 billion dollars in 2021, while imports exceeded \$5 billion that same year.² Still, shifts in the forces of globalization, it is suggested, are likely to pivot away from an American orientation towards one that reflects greater diversity in centers of influence and power.³ If this prediction holds sway, it raises a question in the context of legal services about whether and how an increasingly diverse set of actors will perceive the U.S. as an important site for pursuing their global agendas.

This question is related to an issue that has hounded debates around international trade in legal services regarding the impact of state regulation on foreign law firms⁴ interested in setting up shop in the U.S.: that is, what, if any, trade barriers arise as a result of state regulation of lawyers and their services, and how do these affect the ways in which the U.S. is used as a site of global legal services?

To answer these questions, it would be useful to consult data about the foreign law firms that have established offices in the U.S. The home countries of such firms, their approaches to staffing in the U.S., the kinds of clients served and services provided, as well as office size and where in the U.S. they chose to locate are important indicators in predicting the ways that

2. Table 2.2 of *International Transactions, International Services, and International Investment Position Tables*, BUREAU OF ECON. ANALYSIS, <https://apps.bea.gov/iTable/iTable.cfm?reqid=62&step=9&isuri=1&6210=4#> (follow Table 2.2 hyperlink and select "Other business services" and legal services is nested within this). Imports increased each year since 2011, and overall have increased more than four times the amount imported in 2006, when legal services were first reported separately by the Bureau of Economic Analysis. Exports grew each year since 2012, and overall have increased more than four times since first reported separately in 2006. Table 2.1 of *International Transactions, International Services, and International Investment Position Tables*, BUREAU OF ECON. ANALYSIS, <https://apps.bea.gov/iTable/iTable.cfm?reqid=62&step=9&isuri=1&6210=4#>.

3. Wang Huiyao, *Globalization isn't Dead, It's Just Not American Anymore*, THE WASH. POST (May 7, 2022), https://www.washingtonpost.com/business/globalization-isnt-dead-its-just-not-american-anymore/2022/05/06/d36f8908-cda1-11ec-b7ee-74f09d827ca6_story.html.

4. Like trade law generally, there is a particular language used by regulators and commentators to highlight the various relationships inherent in these issues regarding trade in legal services. This includes identifying home country (country of origin), host country (the country to which a foreign host-country firm is expanding internationally), and the term "foreign" instead of "international," to indicate that an organization or person is foreign as to a particular host jurisdiction. See Laurel S. Terry, Carole Silver, Ellyn Rosen, Jennifer Haworth McCandless, Carol A. Needham, Robert E. Lutz and Peter D. Ehrenhaft, *Transnational Legal Practice*, 43 THE INT'L LAW. 943 (2009). This article will utilize the same terminology. The term "foreign law firm" is the term used in regulation of legal services to refer to law firms based outside of a particular home jurisdiction. For purposes of this article, "foreign law firm" refers to a law firm based outside of the United States; "international law firm" is used interchangeably. For a discussion of "based" see *infra* note 30.

changes in global actors could impact perceptions about the importance of the U.S. as a site for global legal services and in establishing a baseline for perceiving change to those global actors. Comparative data would deepen the explanatory power, as well.

Unfortunately, such data have not been available until now. Regulations do not require firms to disclose their presence, and the role of the U.S. as a site of competition for global legal services has not figured prominently in past research. Rather, most research on globalization and legal services has focused on exploring the power of U.S.-based organizations in this competition through the lens of their global strategies, which are generally outward facing.⁵ But if predictions about power shifts in globalization come to fruition, the actors determining global strategies will not necessarily be based in the United States; indeed, they may not intersect with the U.S. at all unless that is seen as an asset.

This issue of the role of the U.S. in the strategies of global legal services actors is at the heart of this article. It pursues this question by describing and drawing on a unique data set developed to learn about foreign law firms with U.S. offices. Using these data, the article addresses three questions: First, what are the essential characteristics of firms that pursue global growth through a U.S. office? While the data include firms long active in the global legal services market—particularly the largest firms (in terms of headcount) that represent global commercial and banking clients—they go beyond this; also included are firms focused on practice areas typically excluded from the conversation on global legal services, and firms that are much smaller than the mega-firms typically highlighted in press reports on global firms. Second, how does presence get operationalized by these firms? Physical presence no longer has the same urgency in many industries since the pandemic began, but even for firms that support a physical office in the U.S.,

5. See, e.g., Bryant G. Garth, *Corporate Lawyers in Emerging Markets*, 12 ANN. REV. L. & SOC. SCI. (2016) (U.S.-based corporate law firms as models of global law firms); Carole Silver, *Globalization and the U.S. Market in Legal Services - Shifting Identities*, 31 L. AND POL'Y IN INT'L BUS., 1093 (2000) (global expansion strategies and activities of U.S.-based law firms); Richard L. Abel, *Transnational Law Practice*, 44 CASE W. RES. L. REV. 737 (1994) (global strategies); but see Ji Li, *Meeting Law's Demand: Chinese Multinationals as Consumers of U.S. Legal Services*, 46 YALE J. INT'L L. ONLINE 72 (2021) (analyzing Chinese law firms and their international reach in serving Chinese clients). Research on global legal education, on the other hand, has emphasized the U.S.'s role in receiving international students; see, e.g., Carole Silver and Swetha S. Ballakrishnen, *Sticky Floors, Springboards, Stairways & Slow Escalators: Mobility Pathways and Preferences of International Students in U.S. Law Schools*, 3 U.C. IRVINE J. OF INT'L TRANSNAT'L AND COMPAR. L. 39 (2018); See also Carole Silver, *States Side Story: Career Paths of International LL.M. Students, or "I Like to Be in America,"* 80 FORDHAM L. REV. 2383 (2012); See also Carole Silver, *Winners and Losers in the Globalization of Legal Services: Situating the Market for Foreign Lawyers*, 45 VA. J. OF INT'L L. 897 (2005).

differences in where these are located and who populates them implicate both the kind of work being done there and state-level regulations of individual lawyers. Last, what theoretical implications can be drawn from analyzing the characteristics of firms that have invested in a U.S. presence, and what does this suggest for the prediction of shifting global dynamics?

These questions relate to Professor Robert Lutz's work on international trade in legal services and lawyer regulation in an international practice context,⁶ as well as to his involvement in the American Bar Association's activities on international law and practice. I was fortunate to become acquainted with Bob early in my effort to become involved in the ABA. Bob epitomizes the warm welcome that anyone wishes for when starting out with a new organization. He offered helpful information, introductions, and insight from his long and diverse tenure within the ABA. We overlapped in several contexts within the ABA, including the Section of International Law (which Bob chaired), its Transnational Legal Practice Committee, the ABA's Standing Committee on International Trade in Legal Services (ITILS, which Bob chaired from 2006-2009), and the Ethics 20/20 Commission. This list is neither exhaustive nor especially descriptive, as Bob's involvement included creating, developing, and leading initiatives. For example, Bob organized numerous fascinating discussions with leaders of global law firms and regulators of major foreign legal markets, as well as those heading regulatory efforts within the U.S.; these informed policy positions and enabled the development of new relationships that could address ongoing challenges. His work illuminated practical implications of the factors shaping competition for a central role in the globalization of legal services. Indeed, it was during these discussions that it became clear that the data described in this article had not been developed and were central to questions about the role of the U.S. in the global agendas of participants in the global legal services market. It is to these data that the article turns next in Section I, below.

6. Robert E. Lutz, *The Regulation of the Transnational Legal Profession in the United States*, 50 THE INT'L LAW. 445 (2017); Laurel S. Terry, Carole Silver, Ellyn Rosen, Jennifer Haworth McCandless, Carol A. Needham, Robert E. Lutz and Peter D Ehrenhaft, *Transnational Legal Practice*, 45 THE INT'L LAW. 943 (2009); Laurel S. Terry, Carole Silver, Ellyn Rosen, Carol A. Needhama, Robert E. Lutz and Peter D. Ehrenhaft, *Transnational Legal Practice: 2006-07 Year-in-Review*, 42 THE INT'L LAW. 833 (2008); Robert E. Lutz, Philip T. von Mehren, Laurel S. Terry, Peter Ehrenhaft, Carole Silver, Clifford J. Hendel, Jonathan Goldsmith, and Masahiro Shimojo, *Transnational Legal Practice Developments*, 39 THE INT'L LAW. 619 (2005); Robert E. Lutz, Philip T. von Mehren, Laurel S. Terry, Peter Ehrenhaft, and Carole Silver, *Transnational Legal Practice: Cross-Border Legal Services: 2002 Year-in-Review*, 37 THE INT'L LAW. 987 (2003).

I. IDENTITIES OF GLOBAL LAW FIRMS PRESENT IN THE UNITED STATES

The topic of this article—the role of the U.S. in global legal services agendas as operationalized through U.S. practice sites—arose during discussions ITILS facilitated about regulation of the legal profession in the context of trade in legal services. Focusing on the United States’s role as a *receiving* country emphasizes inbound legal services—the lesser of the two trade numbers referred to above. How inbound flows of legal services contribute to globalization forces involves exploring notions about what presence in the United States looks like and who is pursuing it. Further, patterns of presence in the U.S. are explored as a first step towards filling gaps in existing research.

Being international through straddling multiple jurisdictions has generally been seen as an asset in the context of legal services, as in myriad other circumstances, and is one way that law firms⁷ can distinguish themselves from their competition.⁸

It signals convenience and investment, where physical presence supports the development of local relationships while simultaneously investing in learning about local culture and language; its symbolic value suggests a capability to reach and serve differently-situated clients and to offer broader expertise that spans from the transnational to the local. An international presence conveys a cosmopolitanism that may contribute to a higher status within local and national hierarchies in the legal profession.⁹ Unsurprisingly, law firms have touted their international characteristics by developing

7. *Lawyers Go Global*, THE ECONOMIST, Feb. 26, 2000, at 79 (“[F]or the biggest and richest law firms ... [b]eing big at home is no longer good enough.”), <https://www.economist.com/business-special/2000/02/24/the-battle-of-the-atlantic>; See also Bruce A. Green & Carole Silver, *Technocapital@BigLaw.com*, 18 NW. J. TECH. AND INT. PROP. 265 nn.8 & 91 (2021); See also Silver, *supra* note 5 (This idea reflects not only the economic understanding of assets, but also the sociological understanding.); See also Nancy J. Reichman & Joyce S. Sterling, *Recasting the Brass Ring: Deconstructing and Reconstructing Workplace Opportunities for Women Lawyers*, 29 CAP. U. L. REV. 923, 941 n.59 (2002), (citations omitted), (“Professional assets accrue from a combination of human capital, social capital, and cultural capital and are the ‘stuff’ from which advancement occurs. Human capital is operationalized as the specific lawyering skills acquired through both legal education and practice experience. Social capital consists of individuals’ ability to draw on relationship networks for establishing support. Although this network may initially consist of other lawyers in the firm, it may then expand to lawyers in the community and, in turn, expand to the acquisition of clients. Theorists such as Bourdieu suggest that success in careers results from the accumulation of these forms of capital.”).

8. For a discussion of other types of capital seen as valuable by law firms, see Green & Silver, *supra* note 7, at 265 (discussing technology).

9. Yves Dezalay & Bryant G. Garth, *DEALING IN VIRTUE: INTERNATIONAL COMMERCIAL ARBITRATION AND THE CONSTRUCTION OF A TRANSNATIONAL LEGAL ORDER* (1998) (discussing the value of cosmopolitanism in international commercial arbitration).

international offices, hiring lawyers with international experience and credentials, attracting international clients, and highlighting when disputes and deals contain international connections or implications. This has been especially important for certain law firms that otherwise lack connections to global matters and actors.¹⁰

But while internationality is attractive to law firms and lawyers, it can also be crucial to the jurisdictions *receiving* international firms, lawyers, and law students. There is a competition of sorts among jurisdictions over degrees of being international. One element of this competition reflects how welcoming a jurisdiction is to law firms wishing to establish an international presence, which reflects, in part, the jurisdiction's regulatory approach to foreign law firms and lawyers.

Regulation of legal services in the U.S. is addressed by individual states, typically through rules governing individual lawyers and their qualification to practice in that state.¹¹ Such regulation may give rise to states having data relating to the number of foreign-educated lawyers who have passed their bar exam or obtained a limited license to practice, such as the foreign legal consultant or in-house counsel license.¹² Missing from this, however, is

10. Jing Li, *All roads lead to Rome: Internationalization strategies of Chinese law firms*, J. OF PROF. & ORG. 156, 175 (2019) (“As such, internationalization often carries symbolic value and works as ‘cosmetics’ for these periphery firms to enhance their professional image in front of the clients.”).

11. Lawyer licensing, like occupational regulation generally, is often seen as an example of “‘private interest theory’ [which] sees “rules [as] created in order to protect the interests of lawyers. This is an application of the capture theory of regulation, which holds that regulation is typically ‘acquired’ by the regulated group, and ‘designed and operated primarily for its benefit’ . . . [T]he dual nature of professional self-interest . . . has a pecuniary aspect (professionals’ desire for market-control or market-shelter to enrich themselves), but it also manifests itself in their desire to set themselves above and apart from other workers and service providers.” Noel Semple, Russell G. Pearce, and Renee Newman Knake, *A Taxonomy of Lawyer Regulation*, 16 LEGAL ETHICS 258, 261-264 (2014).

12. In earlier works, I have written about foreign lawyers’ access to particular statuses of qualification, whether through a bar examination or licensing as a foreign legal consultant. See Carole Silver, *Regulating International Lawyers: The Legal Consultant Rules*, 27 HOUSTON J. OF INT’L L. 527 (2005). The ABA’s Model Rules take the approach that lawyers licensed outside of the United States must requalify if they intend to practice in the United States on an ongoing basis (See MODEL RULES OF PRO. CONDUCT r. 5.5 (emphasizing Model Rule on Temporary Practice by Foreign Lawyers); for temporary practice a separate license is not required. *Id.* While states differ in their adaptation of these model rules and not all states have adopted each (or any) of the rules, these regulatory approaches typically leave law firms outside of direct regulation. See ABA Comm. on Multijurisdictional Prac., *Charts on State Adoption of MJP Recommendations* (emphasizing charts on In-House Corporate Counsel Registration Rules (2021), Foreign Legal Consultants (2015), and Temporary Practice by Foreign Lawyers (2015)), available at https://www.americanbar.org/groups/professional_responsibility/committees_commissions/comm_ission-on-multijurisdictional-practice/. Consequently, there is no regulatory element of governance of the legal profession that yields a list of foreign firms present in the United States. Like other organizations, law firms are subject to regulations stemming from their entity status.

information about the presence of foreign law *firms* because state regulation of legal services typically does not address law firms.¹³

Moreover, while many firms promote their international-ness as capital, others may perceive a U.S. presence differently and seek to mask this expansion. A U.S. presence might be perceived as competitive with organizations that have been a source of referrals or implicate political repercussions from a home country government or client. These influences may dissuade a law firm from broadcasting their U.S. presence. Other foreign law firms may see disclosure of a U.S. presence as problematic if they are uncertain about compliance with the applicable regulatory strictures of state licensing regimes. This may be reflected in ambiguities around staffing or the permanence of presence, among other things.

This article aims to take a first step at filling that void by exploring the “who” and “how” of foreign law firms’ presence in the United States. Because regulation does not trigger a registration or notification requirement, there is no obvious way to develop a list of relevant firms. In subpart A, we address our strategy for compiling data, followed by an analysis of the characteristics of these firms.

A. Search strategies, methods, and limitations

Without data derived from regulatory filings, the search for global firms with U.S. offices necessarily relies in part on self-disclosure by the firms. Many law firms promote their global footprints through their websites and other media.¹⁴ But this promotion does not necessarily guarantee detection of foreign firms in a search for those with a U.S. presence, because the conception of a global firm may reflect a preference for the U.S. version of globalization and inadvertently exclude other models.¹⁵ At the same time, as noted above, U.S. presence is not universally perceived as an asset to be flaunted.

Nevertheless, public listings provided a starting point for compiling data about foreign firms with U.S. offices. We reviewed the lists compiled by

This could require filing if a firm is organized as an LLP or LLC, for example, as well as to satisfy IRS requirements. However, none of these filing regimes gives rise to a searchable database by type of service provided. *But see* ILL. STATE CT. R. 721, 2 (requiring registration of law firms). Instead, a different strategy is necessary to identify those firms.

13. *But see* ILL. STATE CT. R. 721, *id.*; N.J. CT. R. 1:2-9 <https://www.njcourts.gov/attorneys/assets/rules/r1-21.pdf> (addressing particular kinds of law firm organizations, such as professional service corporations, limited liability companies and registered limited liability partnerships, among others).

14. *See generally infra* notes 36, 38, 39, 47, 53, 54, 65, 67, 68, 69, 73, 76, 82, 84, 85, 87, 107, 125, 139.

15. *See, e.g.* Garth, *supra* note 5.

publications like *The American Lawyer* that focus on identifying the largest firms by revenue and headcount,¹⁶ and investigated each firm through its website to identify its home office, origins, and office locations. This approach yielded names of firms that were pioneers in internationalizing the legal profession, such as the British Magic Circle, as well as other law firms that are well known both within and beyond their home countries.

To gather additional information about firms that might be regional leaders but not make it onto these lists, we also targeted law firms based in particular jurisdictions that exhibited one of three internationalizing movements: foreign direct investment into the United States,¹⁷ sending significant immigrant populations to the United States,¹⁸ and sending international students to the United States.¹⁹ We hypothesized that each of these factors could generate the need for legal services that might support expansion of a law firm from the home country of the investors, immigrants, or students. Using these forces as a guide for selecting jurisdictions to focus the search, we used the Chambers and Partners Global Guide to identify

16. See Roberto Jiménez, *The 2021 Global 200: Ranked by Gross Revenue*, THE AM. LAW. (Sept. 21, 2021, 3:00 AM), <https://www.law.com/international-edition/2021/09/21/the-2021-global-200-ranked-by-gross-revenue/>.

17. These particular jurisdictions include the United Kingdom, Japan, Canada, Germany, Ireland, France, Switzerland, The Netherlands, Singapore, Spain, China, Belgium, Israel, Australia, and Sweden.

See Michael Cortez, *Foreign Direct Investment in the United States*, ESA Issue Brief No. 06-17, U.S. DEPT. OF COM. (2017),

<https://www.commerce.gov/sites/default/files/migrated/reports/FDIUS2017update.pdf>; Besides these leading countries, Thailand, Argentina, Chile, Brazil, Turkey, Greece, South Korea and Denmark are the countries with the fastest-growing FDI. See also *Foreign Direct Investment (FDI): United States fact sheet*, SELECT USA, <https://www.selectusa.gov/FDI-global-market> (select download to display fact sheet).

18. See *Modern Immigration Wave Brings 59 Million to U.S., Driving Population Growth and Change Through 2065, Chapter 5: U.S. Foreign-Born Population Trends*, PEW RESEARCH CENTER (Sept. 28, 2015), <http://www.pewhispanic.org/2015/09/28/chapter-5-u-s-foreign-born-population-trends/> (explaining that the specific countries leading the foreign-born population in the United States have shifted from Ireland, Germany, the U.K., Canada, and France in 1850, to include Sweden, Russia, Italy, Poland, Mexico, China, Philippines, Cuba, India, and Vietnam since then to 2013).

19. Of the places of origin of international students in the United States from 2015 to 2016, China, India, South Korea, Saudi Arabia, Canada, Vietnam, Taiwan, Japan, Mexico, Brazil, Iran, Nigeria, Nepal, United Kingdom, Turkey, Germany, Kuwait, France, Indonesia, and Venezuela are among the top 20. See *Top 25 Places of Origin of International Students, 2015-16*, THE CHRONICLE OF HIGHER EDUCATION (Aug. 13, 2017), <https://www.chronicle.com/article/top-25-places-of-origin-of-international-students-at-u-s-colleges-2015-16/>.

leading law firms based in these jurisdictions.²⁰ Eventually, we searched through Chambers' listings for 195 countries and regions.²¹

Not wanting the search to be constrained by Chambers' strategy and limitations, we also reached out to organizations and individuals who were knowledgeable about global actors in the legal profession, including those participating in this world. ITILS was helpful in this search, as were contacts from the ABA generally; in addition, we consulted with experts from the Law Societies of England and Wales and Hong Kong, the International Section of the New York Bar Association, and international law students.²² The search included contacting embassy and consulate websites for law firms recommended to represent foreign nationals in legal matters in the United States. In addition, we consulted other sources focused on firms that were internationally active: Legal 500,²³ HG.org, International Law Office Directory, Martindale-Hubbell and Uniworld's online research platform.²⁴

Further, to try to assess the comprehensiveness of our data, we consulted lists of the largest firms in particular countries, including the top sixty in the United Kingdom ranked by revenue.²⁵ These searches resulted in no additional firms being added to the list.

Finally, we consulted published lists of international lawyers who had qualified as Foreign Legal Consultants in jurisdictions where their names were made publicly available, and, working through Google and LinkedIn,

20. Chambers utilizes fields of practice as a sorting mechanism; we initially focused on fields we considered most relevant in light of the industries leading in foreign direct investment in the U.S. during the period from 1980 through 2016, but eventually expanded to a comprehensive search of practice areas. *See generally Chambers Global*, CHAMBERS AND PARTNERS (2022), <https://www.chambersandpartners.com/guide/global/2>.

21. We excluded U.S. territories from the search.

22. We considered working through lists of foreign-licensed lawyers working in the U.S. to identify their employers, thinking this would bring to light some foreign-based law firms, among other employers. While certain states publish lists of lawyers licensed as Foreign Legal Consultants, this is not universally available for all states with such a licensing category. Moreover, because all internationally-licensed lawyers are not registered in the state where they are practicing, this approach was of only limited utility.

23. As useful as they are for identifying organizations service elite clients, directories such as Legal 500 and Chambers are not comprehensive. *See generally THELEGAL 500*, <http://www.legal500.com/> (last visited Oct. 27, 2022).

24. *See generally* UNIWORLD ONLINE, <https://uniworldonline.com/> (last visited Oct. 27, 2022).

25. In addition to reviewing the sixty largest firms on this list, we also investigated ten firms ranked below the sixty largest firms. Locations for each firm were found in its website, listed either under "offices" or "contact." *See The Lawyer's Top 200 UK law firms revealed*, THE LAW. (Jan. 1, 2021), <https://www.thelawyer.com/top-200-uk-law-firms/>.

identified their employers; we then explored whether these employers were foreign firms with U.S. offices.²⁶

We began the work described here in the fall of 2017; the search went through multiple waves through the spring of 2020, when we finalized what we considered a comprehensive database. But to ensure that the data was not overinclusive, they were updated in the winter of 2022 to cull firms that no longer had a U.S. presence. No new firms have been added since 2020.

B. Law firm essentials

The search for law firms with a United States presence uncovered a substantial variety of organizational breadth, from global firms with thousands of lawyers and offices covering the globe to solo practices. Further, differences in the connections among locations within particular organizations—each presented as a firm—also became salient; this included characterizations of single firms, networks, affiliates and liaison offices. In addition, the nature of the expertise offered by these organizations came into focus in the search; firms that are multidisciplinary, such as the law arms of the Big Four accounting firms, can be perceived and represented as engaged in legal practice outside of the U.S., but regulations in most U.S. jurisdictions limit lawyers to practice within lawyer-owned organizations, resulting in these being viewed as something other than law firms in the U.S.²⁷ These and related issues are considered in this subsection.

Global growth was pursued by many elite U.S.-based law firms through the establishment of a web of overseas offices aimed at serving clients based in the U.S. Sidley, originally a Chicago-based law firm, provides an example. By the time the firm opened an office in Singapore in 1982, it already had gone through the process of opening overseas offices in Brussels and London. It tapped longtime Sidley partner, George McBurney, to create the

26. The three states making this information available were California, Texas, and Florida. We searched the name of each certified FLC in these three states and were able to find eleven foreign firms with U.S. presence from the California list, seven from the Texas list and one from the Florida list. Using information from the FLC list and LinkedIn, we searched where the FLCs are working or had worked before. See *Foreign Legal Consultant List*, STATE BAR OF CAL., <https://www.calbar.ca.gov/Admissions/Special-Admissions/Foreign-Legal-Consultants-FLC/Foreign-Legal-Consultants-List> (last visited Nov. 17, 2022); See also *Foreign Legal Consultant Certification*, STATE BAR OF TEX., https://www.texasbar.com/AM/Template.cfm?Section=Foreign_Legal_Consultants1&Template=/CM/HTMLDisplay.cfm&ContentID=34463 (last visited Nov. 17, 2022); See also *Certified Foreign Legal Consultants*, FLA. STATE BAR, <https://www.floridabar.org/directories/find-aflc/> (last visited Nov. 17, 2022).

27. See MODEL RULES OF PROF. CONDUCT r. 5.4(a) (prohibiting fee-splitting with non-lawyers); See also W. Bradley Wendel, *Making Sense of the Fee-Splitting Rule*, JOTWELL, (Feb. 27, 2018), <https://legalpro.jotwell.com/making-sense-fee-splitting-rule/>.

Singapore office, with the intention that the office would serve as a regional base for the firm's U.S.-based clients that had operations in Singapore and the Asia-Pacific region. The firm identified a trusted partner as its proxy, and he began to develop relationships not only with clients active in the region but also with the legal profession present in Singapore, including both other foreign law firms with Singaporean offices, Singaporean law firms and local and foreign lawyers. The foreignness of Sidley's operation in Singapore was emphasized by the American-ness of its lawyers and their expertise in U.S. law—they had no particular tie to the region, much less the country.²⁸ While Singaporean regulations prohibited them from advising on local law or hiring locally-licensed lawyers to do so, Sidley's approach was also common to other law firms during the early period of foreign expansion.²⁹

Similar characteristics are apparent in many of the firms identified in our data, including Loyens & Loeff, a firm based in the Netherlands with an office in New York. Loyens limits its work in New York to advising on “Dutch and Luxembourg tax, corporate, fund and finance law who provide expertise in these areas to the North American market, with a specific focus on the U.S. The office does not provide advice on matters of U.S. law.”³⁰ None of the firm's New York office lawyers have studied law in the United States, and none are admitted in New York. The closest connection to U.S. law identified in these lawyers' profiles is having studied U.S. tax law through a program unaffiliated with a U.S.-based law school or organization.³¹

While this approach was common for the firms identified through our search, it was not exclusive, and other organizational forms also allowed firms to claim a U.S. presence. For example, LATAXNET and WTS Global are networks of seemingly independent law firms focused on tax advising. LATAXNET is a network of tax and legal firms in Latin America.³² It also is related to WTS Global, the member firms of which are also focused on

28. In full disclosure, the same approach of staffing with lawyers who had neither local ties nor local expertise carried on through the mid-1980s when my husband was the office managing partner.

29. See Silver, *Shifting Identities*, *supra* note 5, at 1145 (“Foreign offices were staffed exclusively with lawyers trained in the firm's home office, which ensured quality control and supported the connection between the foreign and home offices.”).

30. *New York*, LOYENS & LOEFF, <https://www.loyensloeff.com/en/en/about-us/offices/new-york/> (last visited Oct. 27, 2022).

31. See, e.g., *Frank van Kuijk*, LOYENS & LOEFF, <https://www.loyensloeff.com/en/en/our-people/frank-van-kuijk-en-p10796/> (last visited Oct. 27, 2022) (referencing profile for Attorney, Frank van Kuijk).

32. See *What makes us unique*, LATAXNET, <https://lataxnet.net/what-makes-us-unique/> (last visited Oct. 27, 2022) (“LATAXNET is a tax network of highly specialized Latin American professional firms covering 19 countries running all the way from Mexico to Argentina.”).

providing tax advice. Three U.S.-based law firms are part of WTS Global.³³ Law firm networks have been studied as a mechanism for global expansion by professional service firms.³⁴ In this research, the various ways in which networks promote and facilitate global spread is founded on the organizational integrity of member firms, as distinct from their networks. Overall, our research uncovered six law firms that described their approach to having a U.S. presence as affiliating with a U.S.-based firm, whether separately or as a member of a law firm network.³⁵ The six firms were different from one another in terms of home country³⁶ and the nature of their affiliate or network relationship. Two of these law firm networks and affiliations of firms³⁷ were characterized by ambiguity in the description of the relationships, which made it difficult to determine whether a firm was part of the same organization or independently owned.³⁸

A different challenge to an ideal-type of foreign law firm with a U.S. presence is raised by organizations that offered multidisciplinary services like EY Law, ILC Legal (the law firm of PricewaterhouseCoopers) and German-based Rödl & Partner. The multidisciplinary nature of these firms complicates their status in the United States because state regulation in most U.S. jurisdictions limit the practice of law to organizations owned solely by

33. See *WTS in USA*, WTS GLOBAL, <https://wts.com/global/locations/united-states~location?language=en> (last visited Oct. 27, 2022).

34. See Rany Salvoldi and David M. Brock, *Opening the black box of PSF network internationalization: An exploration of law firm networks*, 6 J. OF PRO. AND ORG. 1 (2019).

35. For information on law firm networks, see *id.*

36. The six firms were from China, Israel, Portugal, Spain, Uruguay and Venezuela.

37. In some sense, firms that are organized as vereins raise a similar issue about the nature of their organization. These are explored in the context of the question of their being foreign firms.

38. This is the case, for example, with Miranda Alliance, a Portuguese organization that itself is a network or alliance of independent law firms. The U.S. office is identified as a “liaison office” rather than “member,” and the difference between these is not clearly explained. *Liaison Offices*, MIRANDA LAW FIRM, <https://www.mirandalawfirm.com/en/alliance/firms/offices/houston-usa>. Similarly, the website of the S&P Law Firm from China describes its relationship with U.S. law firms as facilitating its global reach—suggesting that there is no U.S. office of the firm itself: *About*, S&P LAW FIRM, <https://www.splf.com.cn/EN/0201.aspx> (“S&P has... established long-term and stable strategic cooperative relationship with some law firms in the major cities in China as well as those in the USA, UK, Canada, Australia and Hong Kong.”). But on LinkedIn, the firm describes itself as “a general practice US law firm located in the San Francisco Bay Area and is the US branch office of one of China’s prestigious large-scale law firms, Beijing S&P Law Firm. S&P offers professional legal services to multinational corporations from US and Asia.” S&P Law, LINKEDIN, <https://www.linkedin.com/company/s&p-law-llp/about/>.

lawyers.³⁹ Nevertheless, it is undeniable that these firms are competitive in the war for talent and clients in the United States as well as elsewhere.⁴⁰

Solo practices also present a challenge to the ideal of a foreign law firm supporting different office locations with distinct lawyers attached to each. Solo practices are, by definition, representations of a single individual, who cannot themselves be present in multiple locations at once and thus challenges the idea of being foreign. Nevertheless, solo practices can present themselves as multi-office international firms. On one hand, the difference between a firm with two lawyers and one with a single lawyer may not seem particularly significant; on the other hand, if presence is the key ingredient to being foreign, how can a single-lawyer firm qualify, at least on an ongoing basis?

An example is useful in explaining the dilemma. The Markou Global Legal Group (MGLG) describes itself as having three office locations: New York, Cyprus, and Athens.⁴¹ Maria Markou is the sole lawyer associated with MGLG. The firm's website describes her as "born in Athens, Greece and . . . licensed to practice law in both Greece and New York."⁴² Her practice areas include real estate transactions and immigration in the United States, Greece, and Cyprus, among other fields. Markou's presence in the United States reflects the sorts of international characteristics that are relevant in any study of international lawyers and legal careers, including U.S. legal education (an LLM from St Mary's University School of Law in Markou's case) and New York's determination that this qualified for bar eligibility purposes.⁴³

However, in considering how a solo practice fits into the conceptual framework of a law firm, research on professional service firms tilts away from inclusion. Scholars define professional service firms—including law firms—in terms of several characteristics that assume multiple owners and

39. *But see* Karen E. Rubin, *Non-Lawyer Ownership of Law Firms is Trending – But is it a Good Idea?* OHIO LAW. (Mar. 22, 2021), <https://www.ohioabar.org/member-tools-benefits/practice-resources/practice-library-search/practice-library/2021-ohio-lawyer/non-lawyer-ownership-of-law-firms-is-trending--but-is-it-a-good-idea/> (describing loosening of barriers around multidisciplinary practice).

40. David B. Wilkins and Maria J. Esteban Ferrer, *The Integration of Law into Global Business Solutions: The Rise, Transformation, and Potential Future of the Big Four Accountancy Networks in the Global Legal Services Market*, 43 L. & SOC. INQUIRY 981, 1006 (2018); *See also* Bryant G. Garth and Carole Silver, *The MDP Challenge in the Context of Globalization*, 52 CASE W. RES. L. REV. 903 (2002) (analyzing the pre-Enron period of expansion of the Big Four).

41. *See Contact Us*, MARKOU GLOBAL LEGAL GROUP, <https://www.markoulegallyvirtual.com/contact-us/> (last visited Oct. 27, 2022) (each of the locations is shown with an icon indicating location, but none are live links; the non-U.S. locations do not provide addresses).

42. *Maria Markou*, MARKOU GLOBAL LAW GROUP, <https://www.markoulegallyvirtual.com/attorney/maria-markou/> (last visited Oct. 27, 2022).

43. *See* N.Y. Ct. R. 520.6, *available at* <https://www.nycourts.gov/ctapps/520rules10.htm>.

professionals populating a firm.⁴⁴ Firms involve relationships, which in turn require more than one person. The focus on organizational characteristics also serves to distinguish individual professionals from firms. At the same time, solo practice remains the norm in many countries, and communications technology expands the possibilities of practicing in multiple countries simultaneously for sole practitioners. This is even more significant today, after the experience of the COVID pandemic when remote work became the norm for many lawyers.⁴⁵

In the ways described above—from networks and affiliates to solo practices and multidisciplinary firms—the ideal type of law firm is challenged. At the same time, however, each of these variations offers an alternative approach to developing a United States presence underlying a claim of spanning boundaries. In this way, their differences provide insight into the ways in which legal services are crossing borders, and the kinds of organizations that perceive claiming a U.S. presence as beneficial.

II. OPERATIONALIZING PRESENCE—HERE AND THERE

At first glance, the idea of presence seems straightforward: firms open offices by acquiring space and allocating staff. But to determine which firms to include in these data, firms must first be categorized into those that are foreign and those that are domestic. These terms carry ambiguity on top of the issues raised above. For example, how do law firm mergers unifying into a single organization from home and abroad get coded into bifurcated categories of foreign and domestic? Relatedly, as alternatives to the historical model of presence are developed—particularly in the aftermath of the pandemic—they complicate our understanding of both where firms are based, and how they might be present in the United States. These questions are addressed below.

44. See Empson, L., Muzio, D. Broschak, J., & Hinings, B., *Researching Professional Service Firms: An Introduction and Overview*, THE OXFORD HANDBOOK OF PRO. SERV. FIRMS, Aug. 2015; See also Andrew von Nordenflycht, *What Is a Professional Service Firm?*, 35 THE ACAD. OF MGMT. REV. 155 (2010).

45. Moreover, remote work appears to be the trend going forward for at least some elite firms. See, e.g., Dan Packel, *More Large Law Firms Are Embracing Remote Associate Hires*, THE AM. LAW. (May 10, 2021), <https://www.law.com/americanlawyer/2021/05/10/more-large-law-firms-are-embracing-remote-associate-hires/>; see also David Thomas, *Quinn Emanuel tells U.S. lawyers they can work from anywhere, forever*, REUTERS (Dec. 20, 2021), <https://www.reuters.com/legal/legalindustry/quinn-emanuel-tells-us-lawyers-they-can-work-anywhere-forever-2021-12-20/>.

A. *The notion of foreign-ness*

One challenge implicit in this research relates to the quality of being foreign. Foreignness implies a relationship to multiple locations where one location is primary. Determining the primary location—or home base—might reflect a firm’s origin, but other factors also might be relevant, including how a firm identifies itself or where most of its lawyers work, for example.⁴⁶

Our assessment of a firm’s home country generally reflected its origin, and in most cases, this was neither contentious nor difficult to determine. The Canadian law firm Stikeman Elliott, for example, describes its origin in Montreal as the partnership of Heward Stikeman and Fraser Elliott.⁴⁷ It was the first Canadian firm to open an office in London and later, in New York. The firm’s description on its website clearly establishes its Canadian identity as foundational.

For certain firms, however, ascertaining a home location was complicated, and this was particularly the case for law firms that resulted from cross-border mergers. Mergers might involve relatively equal players—such as the combination of the U.S. firm Hogan & Hartson and U.K. firm Lovells—so that the resulting firm is more or less weighted in several jurisdictions at once. Alternatively, mergers might be more lopsided in terms of size—such as the merger of UK-based HFW (with London as its largest office, supporting over 250 lawyers⁴⁸) with a seventeen-lawyer Texas law firm—leading to a foreign law firm with what might be seen as a U.S. outpost, clearly smaller in size than the non-U.S. offices of the firm.⁴⁹ In between these extremes are many other combinations.

Our research identified fourteen firms resulting from mergers between foreign- and U.S.-based firms (Table 1). These merged firms challenge the notion of home country because the identity of the merger partners vies for different directions in determining “home.” Indeed, in its ranking of the highest revenue-generating law firms, *The American Lawyer* has relinquished the idea of home jurisdiction in favor of characterizations of “national” and “global” in circumstances reflecting mergers, among others.

46. Baker McKenzie, for example, has more lawyers based outside of the United States than in U.S. offices. But Baker’s origin was as a U.S. law firm.

47. *See Our History*, STIKEMAN ELLIOTT, <https://www.stikeman.com/en-ca/firm/firm/history> (last visited Oct. 27, 2022).

48. *See HFW in the UK*, HFW, <https://www.hfw.com/London> (last visited Oct. 27, 2022).

49. *See HFW Merges With US Firm Legge Farrow In Major Strategic Drive Into US Energy And Marine Markets*, HFW, <http://www.hfw.com/HFW-merges-with-US-firm-Legge-Farrow> (last visited Oct. 27, 2022).

Relatedly, firms organized as vereins, such as DLA Piper⁵⁰ and Dentons,⁵¹ have grown through merging with existing law firms. But while these firms are not easily categorized according to a home country, they nevertheless provide competition for firms that expand through greenfield investment,⁵² like Stikeman Elliott.

Table 1: Merged firms and firms involved in mergers

Home country	Firm name
Argentina	Cabanellas, Etchebarne & Kelly ⁵³
Argentina	Rattagan Macchiavello Arocena ⁵⁴
Italy	Santa Maria Studio Legale Associato ⁵⁵
UK	Bryan Cave Leighton Paisner ⁵⁶
UK	Clifford Chance ⁵⁷
UK	Dentons ⁵⁸
UK	DLA Piper ⁵⁹

50. *Legal Notices*, DLA PIPER, <https://www.dlapiper.com/en/us/legalnoticespage/#:~:text=DLA%20Piper%20International%20LP%20and,legal%20or%20other%20client%20services> (last visited Oct. 27, 2022).

51. *Legal Notices*, Dentons, <https://www.dentons.com/en/legal-notices> (last visited Oct. 27, 2022).

52. Greenfield investment refers to organic growth through creating an office and staffing it through moving lawyers already working for the firm to the new office supplemented by incremental hiring of new lawyers, as opposed to growth through acquisition of an existing firm as a means of expansion.

53. Now part of DLA Piper.

54. Now part of Dentons.

55. Now part of Greenberg Traurig.

56. Berwin Leighton Paisner merged with U.S.-based Bryan Cave in 2018. See Lisa Mayhew, *Merger creates new global law firm, 'Bryan Cave Leighton Paisner'*, BRYAN CAVE LEIGHTON PAISNER (Feb. 26, 2018), <https://www.bclplaw.com/en-US/news-events/merger-creates-new-global-law-firm-bryan-cave-leighton-paisner-llp.html>.

57. UK-based firm Clifford Chance merged with NY-based firm Rogers & Wells in 2000. *Who we are and how we work*, CLIFFORD CHANCE, https://www.cliffordchance.com/about_us/who-we-are-and-how-we-work/our-story.html (last visited Mar. 12, 2022).

58. See Xiumei Dong, *How Dentons' US Ambition Is Driving Some Partners Away*, LAW 360 (Aug. 4, 2021), <https://www.law360.com/pulse/articles/1409658/how-dentons-us-ambition-is-driving-some-partners-away>.

59. DLA Piper began as a merger in January 2005 of UK-based DLA and two U.S.-based firms, Gray Cary Ware & Freidenrich and Piper Rudnick. *The DLA Piper story*, DLA PIPER, <https://timeline.dlapiper.com/> (last visited Oct. 27, 2022) (“JANUARY, 2005: DLA Piper

UK	Eversheds Sutherland ⁶⁰
UK	Hogan Lovells ⁶¹
UK	Holman Fenwick Willan ⁶²
UK	Kennedys ⁶³
UK	Norton Rose Fulbright ⁶⁴
UK	Withersworldwide ⁶⁵
UK	Womble Bond Dickinson ⁶⁶

Fundamentally, the very possibility of combining through merger is one way to assess regulatory consequences. Ownership conditions requiring citizenship or other local ties, for example—which are characteristic of the approach certain countries⁶⁷—often are not found in U.S. regulations, although local licensing rules (focused on individual lawyers) nevertheless demand attention in mandating that partners must be licensed as lawyers; at the same time, qualifications outside of the United States have sufficed.⁶⁸ As

Rudnick Gray Cary is born as the result of the largest merger in the history of the legal profession.”)

60. Debra Cassens, *Weiss, Sutherland and Eversheds agree to merger*, ABA J. (Dec. 16, 2016), https://www.abajournal.com/news/article/sutherland_and_eversheds_agree_to_merger (noting the merger was announced in late 2016).

61. *Our History*, HOGAN LOVELLS, <https://www.hoganlovells.com/en/about-us/our-history> (last visited Oct. 27, 2022) (“Hogan Lovells became a top 10 global legal services provider on 1 May 2010 through an unprecedented combination of two firms with international credentials, U.S.-based firm Hogan & Hartson and European-based firm Lovells.”).

62. *See* Dong, *supra* note 58.

63. *Where we are*, KENNEDYS LAW, <https://kennedyslaw.com/where-we-are/north-america/united-states/> (last visited Oct. 27, 2022) (“Kennedys was established in the United States in June 2017 by the merger with US-based insurance firm Carroll McNulty & Kull.”).

64. UK-based Norton Rose merged with U.S.-based Fulbright & Jaworski in 2013, and with U.S.-based Chadbourne & Parke in 2017. *Our history*, NORTON ROSE FULBRIGHT, <https://www.nortonrosefulbright.com/en/global-statement/history> (last visited Oct. 27, 2022).

65. *See Building Broad Expertise: An Interview with Stephen Liss and Deidre O’Byrne, Partners, Withers Bergman, LLP*, LEADERS ONLINE (Jan. 1, 2010), https://www.leadersmag.com/issues/2010.1_jan/rob/liss-obyrne.html.

66. Merged with firms in Washington, DC and in Atlanta.

67. For example, Mexican regulation of the profession requires a “favourable resolution from the Foreign Investment National Commission” if foreign participation in a law firm exceeds 49%. International Bar Association, *Mexico International Trade in Legal Services*, INT’L BAR ASS’N, https://www.ibanet.org/PPID/Constituent/Bar_Issues_Commission/ITILS_Mexico (last visited Oct. 27, 2022).

68. *See* Dave Bohrer, *Fee Sharing with Foreign Lawyers*, GREENFIELD (Feb. 15, 2010), <https://www.flatfeeipblog.com/2010/02/articles/fee-sharing/fee-sharing-with-foreign-lawyers/> (describing state ethics opinions on this issue).

a result, a merger with a U.S.-based firm that has U.S.-licensed lawyers produces a ready-made U.S. office.

But while merged firms may seem distinct from greenfield growth because of blurring the notion of foreign-ness, it is difficult to distinguish the consequences of other means of growth that do not involve technical mergers. For example, it is common for firms to hire teams of lawyers to develop or grow a new office. UK-based Clyde & Co used this strategy in several U.S. office locations. As the firm described:

in the back of office launches in Washington D.C., Chicago and Los Angeles during 2017, last December the firm took on a team of 15 partners from collapsed U.S. firm Sedgwick The hires increased the size of Clydes' U.S. partnership by about a third and were closely followed by a ten-strong hire in Miami, including a further two litigation and commercial focused partners.⁶⁹

While our focus on organizations rather than lawyers supports perceiving differences in these two growth mechanisms, the similarity in outcome in terms of immediate growth or presence suggests this distinction may be more form than substance.

On the other end of the spectrum from merged firms is the case of solo practices. Here, too, determining foreign-ness is problematic, but the problem lies in the blurred distinction between organization and individual. Identifying the home country of a solo practice raises the question of whether the individual lawyer can be considered distinct from the firm. On one hand, solo practices may morph into small firms, a transition highlighted in research on lawyers' careers.⁷⁰ On the other hand, in the case of a single-person organization, can the firm's home country differ from the individual's? The MGLG firm, featured above, described its primary location only in terms of its individual lawyer.⁷¹ Thus, the jurisdiction that was home to the lawyer also serves as home to the firm.

69. *A Laser-like Focus- How Clyde & Co Transformed Its US Presence In Little Over A Year*, LAW.COM (May 9, 2018), <https://www.law.com/international-edition/2018/05/09/a-laser-like-focus-how-clyde-co-transformed-its-us-presence-in-18-months/>.

70. Bryant Garth & Joyce Sterling, *Rethinking the Solo Practitioner*, AFTER THE JD (Jan. 5, 2021) (unpublished manuscript) (on file with authors).

71. See *Maria Markou*, MARKOU GLOBAL LAW GROUP, <https://www.markoulegallyvirtual.com/attorney/maria-markou/> (last visited Oct. 27, 2022) ("Location: 85 Broad Street, 16th Floor," runner at the top of the website provides the same address); but see *Contact Us*, MARKOU GLOBAL LAW GROUP, <https://www.markoulegallyvirtual.com/contact-us/> (last visited Oct. 27, 2022) (showing icons for locations in New York, Cyprus and Athens, Greece).

Another solo practice identified in our research was the Law Office of Stephan Grynwajc (LOSG).⁷² The LOSG website uses the internet address “transatlantic-lawyer.com” which nicely tees up the questions of the firm versus lawyer and international presence. Grynwajc describes being “a French lawyer (Avocat), a UK lawyer (Solicitor), and a lawyer in Canada and the U.S.”⁷³ LOSG’s website advances the notion of the practice as a firm, using the word “firm” to describe the practice and the title “Managing Partner” to describe Grynwajc. The firm identifies a network of other lawyers it works with in particular jurisdictions.⁷⁴ It describes its services as involving qualifications to practice law in more than one jurisdiction as follows:

Our dual qualification as lawyers in the EU, the U.S., and Canada, combined with our many years of professional experience in France, the UK and the U.S., allows us to be ideally positioned to understand the needs of both European companies looking to establish themselves or expand in North America, and of U.S. and Canadian companies interested in doing business in Europe.⁷⁵

But in terms of physical presence, the firm lists just one office, located in New York. In this sense, despite the cross-border qualification and services provided, the firm itself does not satisfy the condition of being *foreign*.

The search for firms based outside of the United States implicitly assumes that they share particular characteristics that give rise to their identification of one home country. But, as the discussion above reveals, this is overly simplistic, and various organizations that elude such a characterization nevertheless participate in offering services in the United States that implicate global presence.

B. *What is presence?*

The idea of presence has become more complicated during the Covid-19 pandemic. The development of the article’s research design regarding the way U.S. jurisdictions regulate legal practice takes physical presence as a foundational concept.⁷⁶ Our strategy targeted and identified firms with a

72. LAW OFFICE OF S. GRYNWAJC, <https://www.transatlantic-lawyer.com/> (last visited Oct. 27, 2022).

73. *Id.*

74. *Id.* (referencing the “Our Network” section of the website).

75. *Id.* (referencing the “Services” section of the website).

76. See Laurie Webb Daniel & Philip George, *Twin ABA Ethics Opinions Cover What You Need to Know about Remotely Practicing Law*, AM. BAR ASSOC. (May 15, 2021), <https://www.americanbar.org/groups/litigation/committees/ethics-professionalism/practice/2021/twin-aba-ethics-opinions-cover-what-you-need-to-know-about-remotely-practicing-law/>.

physical office in a particular location in the United States, where one or more lawyers would work more or less permanently. But firms may signal a connection to services offered in the United States through an ambiguous description of physical presence, through ad hoc or temporary visits, as well as through means that stand apart from the traditional approach of lawyers-on-the-ground.

One twist on ways of being present in the United States involves firms that describe having a U.S. office but do not identify a particular address. For instance, China-based Jingshi uses a map to show its global branches, including a location in the United States. The U.S. link leads to a phone number, fax, and email address, but a specific location address is not provided.⁷⁷ Elsewhere on the website, the firm explains that “[o]verseas branches in Germany, Poland, Singapore, Cambodia, and Toronto have already established and in New York, Washington, London, Sydney, and Warsaw will be in operation soon.”⁷⁸ Through these means, the firm claimed the United States, even if it is temporarily being served through an office in Canada.

A second way of signaling a U.S. presence involves using a U.S. post office (P.O.) box address. Websites of nine law firms, each based either in the Dominican Republic or Venezuela, listed a U.S. P.O. box rather than a street address; some of these firms also provided a U.S. telephone number. Email communications with lawyers in several of these firms explained that offering a U.S. address was intended to circumvent unreliable communications services in their home country. At the same time, lawyers explained how challenges at home led to their client’s increasing mobility, and thus they were drawn to certain areas in the United States.⁷⁹ Consequently, the U.S. contact information offers a signal by these firms that might be particularly meaningful to some clients that are attempting to neutralize the uncertainty inherent in their home country’s political and economic environments. The firm’s use of a U.S. address acts as a code, of sorts, as well as a practical opportunity.

A third approach to claiming capability extending to the U.S. is through the designation of U.S. experts as the mechanism for a global reach. Sometimes described as a “U.S. desk,” firms following this approach did not provide a physical presence in the United States, yet still claimed something equivalent in its reach. An example of this is the Italian firm BLB Studio Legale. BLB describes its U.S. desk as “allow[ing] BLB to operate on the

77. *Branch Global*, JINGSHI, <http://en.jingshi.com/Branch/Index> (last visited Oct. 27, 2022).

78. *About Us*, JINGSHI, <http://en.jingshi.com/About/Index.html> (last visited Oct. 27, 2022).

79. The firms in this category are not identified here, in order to prevent this research from jeopardizing their positions at home.

international level thus enabling investors and entrepreneurs coming from USA, Europe and Asia to be assisted with the highest competence and without language or cultural barrier.”⁸⁰ Similarly, the Winheller firm, based in Germany, describes its U.S. desk as “composed of U.S. and German qualified counsel that will help you plan, and prepare, execute and manage all the legal requirements to start your business in the U.S by providing you with the advice and tools you will need to succeed.”⁸¹ One of the lawyers staffing this desk is Paul Bess, described as “admitted to the State Bar of Florida as an Attorney and Counselor of Law. With his center of life in Germany, he works as a U.S. Attorney at Law in Germany and provides legal counsel and representation in all U.S. business, contracting, and corporate legal matters.”⁸²

A U.S. desk can be used to distinguish a firm among its home country competitors, as was done by Austrian firm Alix Frank—and in this way it functions much as a physical office, albeit with distinctly different regulatory consequences. The U.S. desk is set out in the context of practice areas on the firm’s website. Alix Frank clearly promotes this, writing there that “[v]ery few other Austrian law firms have more experience in doing business in the USA than we do.”⁸³ Overall, each of these firms uses the U.S. law expertise of their lawyers to aim at the same audience that would be clients for a U.S. office of the firms. In this way, the firms signal the importance of the U.S. legal market without investing in a physical operation.

In addition to these examples, our research uncovered additional ambiguities related to presence. These included instances where a physical location in the United States was identified but it was not clear whether lawyers were working in that location,⁸⁴ as well as firms that identified a U.S. city as the site of their office but provided no specific address. In these instances, the firms present U.S. offices as part of their portfolios, suggesting that the value of claiming an office might overcome any risks associated with doing so in a way that was ambiguous.

80. *USA Desk*, BENEDETTI LORUSSO BENEDETTI, <https://www.blblex.it/page.php?id=5&grp=5&lang=en> (last visited Oct. 27, 2022).

81. *U.S. Legal and Tax Advice in Germany*, WINHELLER, <https://www.winheller.com/en/business-law/international-business-law/us-desk.html> (last visited Oct. 27, 2022).

82. *Paul Bess*, WINHELLER, <https://www.winheller.com/en/about-us/attorneys/paul-bess.html> (last visited Oct. 27, 2022).

83. *US Desk*, ALIX FRANK, <https://www.alix-frank.com/en/practice-areas/us-desk> (last visited Oct. 27, 2022).

84. See Rachel Stern & Su Li, *The Outpost Office: How International Law Firms Approach the China Market*, 41 LAW & SOC. INQ. 184 (2016) (describing similar phenomena in China-based offices of foreign law firms).

III. THEORETICAL IMPLICATIONS OF GLOBALIZATION AND PRESENCE

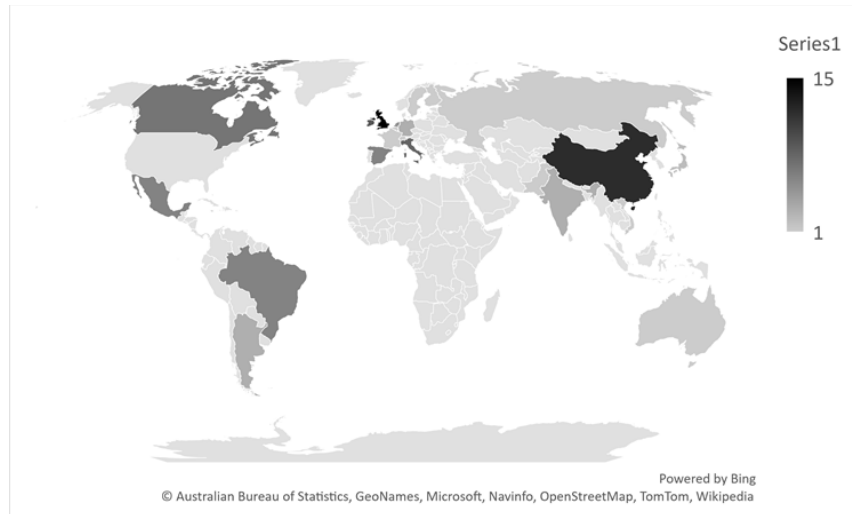
The discussion above highlighted the variety of ways that firms claim a U.S. presence, as well as ambiguities inherent in the notions of firms and foreignness. This diversity is significant both to understanding when and to whom a claim to U.S. capabilities is perceived as valuable, as well as to regulators interested in learning about the myriad ways that firms approach the U.S. legal services market. Another goal of this research is to provide some overview of the home countries of firms present in the United States. The relationship of these characteristics to theories of globalization might help explain these patterns of presence. To that end, this Part III focuses on a subset of the firms identified in the research: those with an identifiable home jurisdiction, focused exclusively on legal services, and with an identifiable U.S. location indicating physical presence. In other words, the focus here is on firms that reflect the characteristics of the ideal-type foreign firm with a U.S. office, described earlier. In all, ninety-seven such firms were identified; here they are referred to as the “core foreign firms” or CFFs.

This group of CFFs are characterized by impermanence—change is as typical as stability for this group. For example, more than 15% of the CFFs identified in the spring of 2020 had either closed their U.S. office or merged with a U.S.-based law firm by the winter of 2022. The pandemic likely explains some of these changes but opening and closing overseas offices has been common for firms regardless of their home country or the location of their overseas office, too.⁸⁵ These changes might be stealth: closures, for example, are not necessarily announced; they were confirmed through analysis of the firms’ websites as well as media reporting and other sources such as LinkedIn. This article, then, speaks only as of a particular moment to illustrate what expansion into the U.S. looks like for foreign law firms.

The CFFs are based in twenty-five different home countries that provide the historical foundation for the firms and can frame the primary clients of a firm, its competitors and the ways in which it measures status, firm structure, and culture, and, in turn, expectations about avenues of global growth. One might expect that home country would influence the way a firm perceives the value of having a U.S. presence as well as the shape of that presence.

The largest group of CFFs is from the U.K., which is home to more than 15% of the firms. China is the second most common home country with slightly over 12% of firms based there. The firms’ home countries are reflected in Figure 1, below, which depicts higher concentrations with increasingly dark hues.

85. *See Id.*

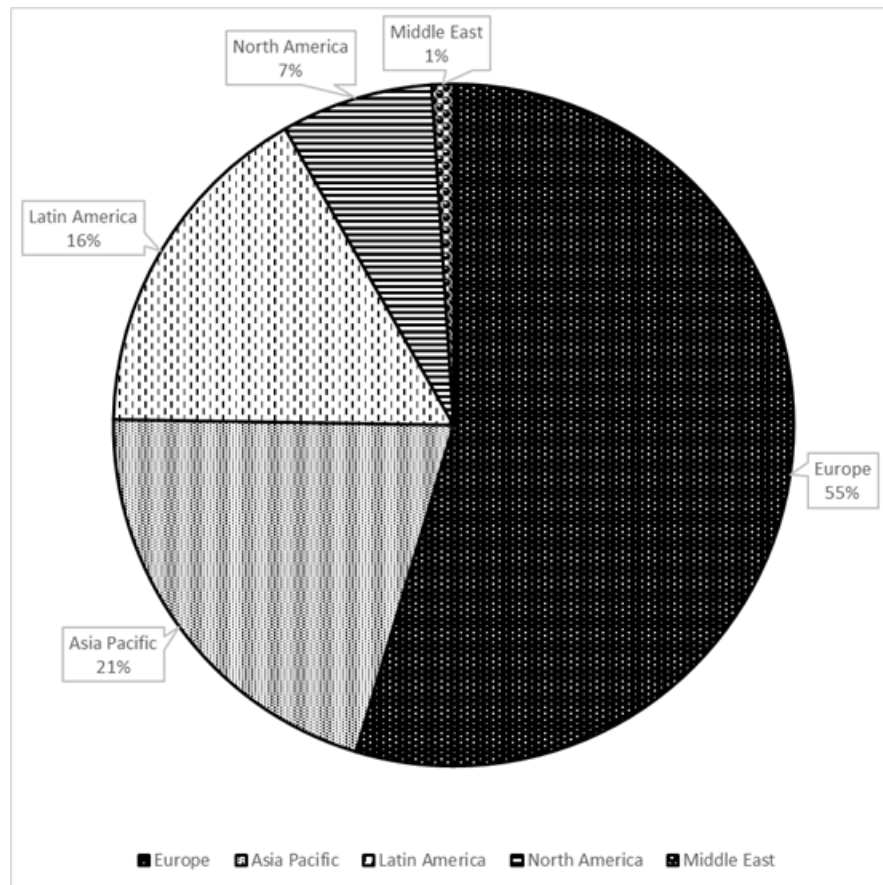
Figure 1: Home countries of the CFFs

While the CFFs as a group hail from twenty-five sending countries, just over half of these—thirteen countries—account for more than 85% of the CFFs. These jurisdictions are home to between two and fifteen CFFs each.⁸⁶ Twelve countries are each home to a single CFF.⁸⁷

To provide more of an overview of where these firms originated, Figure 2 depicts the sending regions of the CFFs. Europe is the largest sending region, accounting for a majority of the firms. In this group, the UK and Ireland dominate, together sending approximately 45% of the European firms and nearly one-quarter of all of the CFFs. As Figure 2 depicts, firms from Asia Pacific and Latin America also figure importantly in the mix of CFFs.

86. The thirteen countries are the UK, China, Ireland, Italy, Canada, Brazil, Mexico, Spain, Netherlands, Argentina, Germany, India, Japan (in order of the number of firms with U.S. offices in each jurisdiction).

87. The twelve countries are Australia, Belgium, Finland, France, Israel, Jamaica, Luxembourg, Pakistan, Russia, Sweden, Switzerland, Vietnam.

Figure 2: Home regions of the CFFs

One theory of global growth suggests that firms expand to jurisdictions that have familiar characteristics, such as shared language or legal system.⁸⁸ Research suggests that this relationship between cultural distance and international expansion is complex, and that differences related to the mechanism of establishment, among other things, may point in different directions regarding the importance of distance.⁸⁹ Using this idea of cultural distance to explain the firms choosing to expand into the United States, just

88. Sjoerd Beugelsdijk, Tatiana Kostova, Vincent E. Kunst, Ettore Spadafora & Marc van Essen, *Cultural Distance and Firm Internationalization: A Meta-Analytical Review and Theoretical Implications*, 44 J. OF MGMT. 89, 93 (2018).

89. *See id.* at 96-97.

under 40% of the firms are based in eight common law or mixed-common law jurisdictions. These include the U.K., Ireland, and Canada, which together account for approximately 32% of the CFFs overall and are among the top five sending jurisdictions in terms of number of firms. English is an official or common language in each of the common law countries.⁹⁰ Overall, then, thirty-eight of the CFFs are based in countries that share these fundamental commonalities with the United States. These characteristics might simplify a move for lawyers from the firm's home office to the United States, as well as facilitate gaining access by enabling them to take a bar examination in certain of the most significant U.S. legal markets, where regulations recognize legal education in an English-speaking common law jurisdiction as an advantage for bar eligibility purposes.⁹¹

Another theory explaining global growth is that expansion reflects investment, meaning that one would expect law firms from countries leading in investment into the United States to expand in order to support the investors from their home countries at the site of their investment.⁹² The largest sources of foreign direct investment during the period when these data were collected were United Kingdom, Japan, Canada, and Germany.⁹³ Today, these same four countries are among the top five in terms of inbound FDI, although the rank order has shifted somewhat and Netherlands has joined the group.⁹⁴ Together, these five jurisdictions are home to approximately one-third of the CFFs.

One also might consider how competition among global law firms shapes expansion. For example, there could be a relationship between

90. See generally *Languages World Factbook*, CIA, <https://www.cia.gov/the-world-factbook/field/languages/> (last visited Oct. 27, 2022) (showing individual country listings that describe English as the official language for five jurisdictions, stating "most commonly used foreign language" for one of the jurisdictions, as a "subsidiary official" language in one, and as the most commonly spoken in another). For Canadian firms, the website of each firm was reviewed to determine whether they were based in Quebec or in another Canadian province. All were based outside of Quebec. Home location was determined either by reference to the firm's history, or if that was not available, through the order of office listing unless listed in alphabetical order.

91. See Carole Silver, *Regulatory Mismatch in the International Market for Legal Services*, 23 J. OF INT'L L. & BUS. 487, 519 (2003) (analyzing rules governing admission of foreign law graduates).

92. Ji Li, *supra* note 5; James Faulconbridge, *Professional Service Firms as Agents of Economic Globalization: A Political Perspective*, 6 J. PROF. AND ORG. 72, 74 (2018); Michael Hit, Leonard Bierman, Klaus Uhlenbruck & Katsuhiko Shimizu, *The Importance of Resources in the Internationalization of Professional Service Firms: The Good, The Bad, and The Ugly*, 49 ACAD. OF MGMT. J. 1137 (2006).

93. Cortez, *supra* note 17, at 2.

94. *Direct Investment by Country and Industry, 2020*, BUREAU OF ECON. ANALYSIS (July 22, 2021), <https://www.bea.gov/news/2021/direct-investment-country-and-industry-2020>.

jurisdictions that have been the site of investment by U.S.-based law firms, and those sending firms into the United States. These firms would have become accustomed to interacting through competition for talent and clients, for example, as well as the development of particular practice expertise.⁹⁵ Thus, considering where U.S.-based law firms have focused their overseas expansion might shed light on which jurisdictions are home to law firms expanding into the U.S.

U.S.-based law firms have pursued global growth through foreign offices in fits and starts, with a group establishing offices in Europe as early as the 1960s, and several firms expanding internally well before that.⁹⁶ By the 1970s, it became even more common to support an office overseas, with London being the target for a group of elite U.S.-based firms.⁹⁷ Waves of office openings in other global cities followed, particularly in the Asia-Pacific region and elsewhere in Europe.⁹⁸ An analysis of U.S.-based law firms included in the American Lawyer 200 and NLJ 350 (referred in this article as “AmLaw-NLJ firms”) reveals that these firms support more than 600 offices in sixty-six jurisdictions outside of the United States.⁹⁹ Table 2 sets out the relationship between sites of significant U.S. firm interest, taken from the sites of overseas offices of U.S. firms on the AmLaw-NLJ list, and the home countries of the CFFs. The proportions of all AmLaw-NLJ firms with offices in a particular country, and the proportion of all CFFs from that country, are reported in Table 2, below.

95. See Sida Liu, *Globalization as Boundary-Blurring: International and Local Law Firms in China's Corporate Law Market*, 42 LAW & SOC. REV. 771 (2008).

96. See Silver, *supra* note 5, at 1110.

97. *Id.* at 1113.

98. *Id.* at 1114-1115.

99. Daniella Isaacson, *Going Global: Where in the World are Top U.S. Law Firms Located?*, LAW.COM (Sept. 29, 2016, 10:43 AM), <https://www.law.com/sites/ali/2016/09/29/going-global-where-in-the-world-are-top-u-s-law-firms-located/>.

Table 2: Comparison of interest in particular jurisdictions: foreign office locations of U.S. AmLaw-NLJ firms and home country of CFFs

Target jurisdiction	% of all AmLaw-NLJ firms with offices in the Target jurisdiction ¹⁰⁰	% CFFs from Target jurisdiction
UK	42.0%	15.5%
China	37.5%	12.4%
Germany	20.5%	3.1%
Belgium	19.5%	1.0%
France	17.5%	1.0%
Japan	17.0%	2.1%
Singapore	12.5%	--
UAE	12.5%	--
Russia	10.5%	1.0%
Brazil	8.5%	6.2%
Mexico	8.5%	6.2%
South Korea	8.5%	--
Italy	8.0%	8.2%
Australia	6.5%	1.0%
Poland	5.5%	--
Canada	5.0%	7.2%
Saudi Arabia	5.0%	--
Spain	4.0%	6.2%
Netherlands	3.0%	5.2%
Vietnam	2.0%	1.0%
Argentina	1.5%	3.1%
Ireland	0.5%	9.3%
India	0.5%	3.1%
Israel	0.5%	1.0%

100. This column does not sum to 100%; figures reflect the percentage of all AmLaw-NLJ firms with offices in each of the target jurisdictions.

Notably, the UK and China are both important sending jurisdictions for firms expanding into the United States, and sites of U.S.-based firms' expansion. Overall, nearly 80% of the jurisdictions that are sites of substantial investment by U.S.-based firms also serve as home-base for one or more CFFs. These CFFs may be vying with U.S.-based firms for clients as well as talent in their home jurisdictions as well as in the United States and perhaps elsewhere. They also may be serving the same clients, albeit from different perspectives in terms of legal expertise. More generally, this overlap suggests that in locations where business interests attract U.S. elite law firms, signals of being international are seen as valuable for law firms in the local legal market, as well.

Law firm growth requires access to talent. Expansion into the United States might reflect this by following the supply of home country lawyers with U.S.-practice capabilities, including having a license to practice. Such lawyers could help firms bridge cultural distance, among other things.¹⁰¹ As a practical matter, lawyer licensing generally requires some U.S. legal education in the United States as a prerequisite to take a state bar exam.¹⁰² Consequently, there may be a relationship between countries sending substantial numbers of students to the United States for legal education, and the home countries of foreign law firms supporting U.S. offices—perhaps staffed by lawyers who have earned a U.S. law degree and passed a U.S. bar exam. Research about the career aspirations of international law graduates, particularly those who have earned an LL.M, found widespread interest in practicing in the United States for at least some period of time. Foreign law firms could capitalize on this talent to staff their U.S. offices.

To gain insight for this purpose into the home countries of international law students, reference is made to visa data for the period 2008-2012 for students who enrolled in U.S. law schools. Table 3 reports on the top sending countries during the period of 2008-2012 for students studying law in the United States, either in an J.D. or LL.M program. This is matched in the Table below with information on the number of CFFs from each sending country.

101. Beugelsdijk et al., *supra* note 88.

102. See National Conference of Bar Examiners, *Comprehensive Guide to Bar Admission Requirements, Chart 4: Foreign Legal Education*, NCBE, <https://reports.ncbex.org/comp-guide/charts/chart-4/> (last visited Oct. 27, 2022).

Table 3: Comparison of home countries of CFFs and students pursuing master's and J.D. programs in U.S. law schools

Home country	% of CFFs	% of visas for master's program students	% of visas for J.D. students
U.K.	15.5%	1.2%	2.4%
China	12.4%	22.7%	19.3%
Italy	8.2%	1.8%	1.6%
Ireland	9.3%	0.5%	0.4%
Canada	7.2%	2.3%	25.0%
Spain	6.2%	1.2%	1.3%
Brazil	6.2%	4.2%	2.3%
Argentina	3.1%	0.8%	0.2%
Mexico	6.2%	2.4%	0.6%
India	3.1%	4.2%	2.4%
Netherlands	5.2%	0.6%	0.2%
Germany	3.1%	3.6%	0.8%
Australia	1.0%	1.1%	0.7%
France	1.0%	3.5%	2.2%
Israel	1.0%	2.2%	0.7%
Japan	2.1%	6.8%	1.2%
Vietnam	1.0%	0.2%	0.2%
Belgium	1.0%	0.7%	0.1%
Finland	1.0%	0.2%	0.1%
Jamaica	1.0%	<0.1%	0.7%
Luxemburg	1.0%	0.1%	--
Pakistan	1.0%	0.3%	0.5%
Russia	1.0%	1.1%	0.5%
Sweden	1.0%	0.4%	0.4%
Switzerland	1.0%	1.6%	0.1%

While proportions are not aligned for many of these countries across categories of firms and students, nearly all of the home countries of the CFFs are represented in the home countries of international law students. The ready supply of home country law graduates can support growth for CFFs by

serving as a source for hiring that combines home country knowledge and expertise, including language fluency where relevant, with exposure to the U.S. legal system.¹⁰³

An additional theory to explain global expansion suggests that international offices can contribute to the image of firms that otherwise are on the periphery,¹⁰⁴ whether that vulnerability arises because of the economic position of their home country or the status of their firm within their home country market for lawyers, or other reasons. For these firms, being international can provide the sort of signal that boosts their competitiveness, almost without regard to the financial results of the operations overseas.¹⁰⁵ Seven of the CFFs' home countries are within the Global South, accounting for approximately 27% of the firms. It may be more uncommon for firms based in these countries to support a U.S. office, for example, so that the symbolic capital of the presence is magnified. Presence may enable firms to compete at home, touting their U.S. presence as a way to attract clients and signal that the firm is international. Relatedly, the regulation of the home country legal market also may lead to greater value placed on a firm being international. India's regulatory barrier for international law firms,¹⁰⁶ for example, may relate to greater competitive advantage within India for a reputation as international, which can be achieved through foreign offices.

The discussion above does not suggest homogeneity within home country groups. There are indications of important variation among CFFs from the same home jurisdiction. For example, of the Indian CFFs, the location of their U.S. offices—Chicago, Florida, New York, and Silicon Valley—suggests different purposes to their expansion. Difference also is clear in the credentials of lawyers present in the U.S. offices of firms from the same home jurisdiction. For example, two Canadian firms, McCarthy Tétrault and Osler, Hoskin & Harcourt, have approached staffing from different angles. McCarthy describes the services in its New York office as limited to Canadian law. The firm's profiles of its New York office lawyers stress their Canadian experience and credentials, although the managing

103. See Carole Silver, *Educating Lawyers for the Global Economy: National Challenges*, KYUNG HEE UNIV. L. REV. 1, 8 (2009); Carole Silver, *The Case of the Foreign Lawyer: Internationalizing the U.S. Legal Profession*, 25 FORDHAM J. OF INT'L L. 1039, 1042 (2001).

104. Jing Li, *supra* note 10.

105. See generally Dezalay & Garth, *supra* note 9 (explaining the reputational benefit from international activities).

106. Swethaa Ballakrishnen, *India's Legal Profession: Present and Future, A Revised Sociological Portrait*, in LAWYERS IN 21ST CENTURY SOC'Y, 713 (Richard L. Abel, Ole Hammerslev, Hilary Sommerlad & Ulrike Schultz, eds.) (2020).

partner of the office is admitted in New York in addition to Ontario.¹⁰⁷ Both of the New York lawyers focus on M&A and related practices. Osler, in contrast, staffs its New York office with a similarly small group of just four lawyers, but each is admitted in the United States.¹⁰⁸ More significant is that the profiles of two of their lawyers describes their practices as involving advising on U.S. law in addition to Canadian law.¹⁰⁹ This distinction puts Osler in a position of competitor with others staking a claim to U.S. law expertise, in contrast to McCarthy. In this difference, it is obvious that the ways in which a U.S. office adds value to a firm are not universal, even for firms from the same home country.

Further insight into the types of capital that may arise from a U.S. office can be gained from analyzing where CFFs situate their U.S. offices. Nearly three-quarters (73.2%) of the CFFs support only one office in the United States; approximately 65% of the single-office CFFs have chosen New York as their U.S. location. Each of the CFFs from Canada and Argentina, for example, support just one U.S. office and have sited it in New York.¹¹⁰ At the same time, there are some notable exceptions to New York-centricity: five of the Mexican firms support a single U.S. office but not one of these is in New York, nor are the U.S. offices of the other Mexican CFFs; each of the Mexican CFFs chose Texas or Southern California locations instead.¹¹¹ Similarly, the two Indian law firms with single U.S. offices chose sites in

107. See *Matthew Cumming*, MCCARTHY TÉTRAULT, <https://www.mccarthy.ca/en/people/matthew-cumming> (last visited Oct. 27, 2022); See also *Firuz Rahimi*, MCCARTHY TÉTRAULT, <https://www.mccarthy.ca/en/people/firuz-rahimi> (last visited Oct. 27, 2022).

108. *Gawain Chan*, OSLER, <https://www.osler.com/en/team/gawain-chan> (last visited Oct. 27, 2022); *Jason Comerford*, OSLER, <https://www.osler.com/en/team/jason-comerford> (last visited Oct. 27, 2022); *Terence W. Doherty*, OSLER, <https://www.osler.com/en/team/terence-w-doherty> (last visited Oct. 27, 2022); *Rob Lando*, OSLER, <https://www.osler.com/en/team/rob-lando> (last visited Oct. 27, 2022).

109. *Rob Lando*, OSLER, <https://www.osler.com/en/team/rob-lando> (last visited Oct. 27, 2022) (“He provides concurrent advice on both the U.S. and Canadian law aspects of structuring, planning and executing public and private cross-border corporate finance and M&A transactions.”); *Jason Comerford*, OSLER, <https://www.osler.com/en/team/jason-comerford> (last visited Oct. 27, 2022) (“Jason’s primary emphasis is on assisting Canadian and U.S. clients with U.S. corporate finance and mergers and acquisitions transactions. . . . Jason advises clients on U.S. corporate governance matters, assists public companies with their periodic reporting obligations under the U.S. Securities Exchange Act of 1934 and compliance with New York Stock Exchange and NASDAQ regulations.”).

110. The Canadian CFFs are Bennett Jones; Blake, Cassels & Graydon; Davies Ward Phillips & Vineberg; McCarthy Tétrault; Osler, Hoskin & Harcourt; Stikeman Elliott; Torys. The Argentinian CFFs are Alfaro-Abogados; Marval, O’Farrell & Mairal; Pérez Alati, Grondona, Benites, Arntsen & Martínez de Hoz.

111. The Mexican CFFs are SMPS Legal; F. Pena Gama & Associates; J.A. Treviño Abogados; Pickoff Attorneys; Martin-Sanchez; Cacheaux, Cavazos & Newton.

Chicago and Florida, instead of New York;¹¹² the third Indian CFF lists two locations in the United States, one in New York and the other in Silicon Valley.¹¹³ The variation in U.S. office location highlights differences in firm clientele as well as their goals for the U.S. practices, but also may reflect the personal circumstances of their lawyers. These U.S. outposts, after all, offer individual lawyers a valuable form of capital that helps in building a global career, but firms also develop their footprints around the personal preferences of their lawyers. Table 4 sets out the locations for all U.S. offices of CFFs supporting only one U.S. office.

Table 4: U.S. Locations for Firms with a Single U.S. Office (n=66)

U.S. Location	% of single-office CFFs in this location	# of single office CFFs in this location
New York	56.9%	41
California(including Southern California (5), Northern California (6))	15.3%	11
Texas (Houston (4), Austin (1), Dallas (1))	8.3%	6
Florida (Miami (2))	4.2%	3
Washington D.C.	4.2%	3
IL (Chicago (2))	2.8%	2

All but two of the CFFs with more than one U.S. office support a New York location.¹¹⁴ The second most common location for this set of twenty-six law firms is California; while the firms tilt towards Silicon Valley as their preference, Southern California is a close second. Because firms may have multiple offices in a single state—or even region within the state—there are more offices in California than in any other U.S. jurisdiction for these

112. *Offices*, KOCCHAR & CO., <https://kochhar.com/offices/> (last visited Oct. 27, 2022); *Contact Us*, LAW QUEST INT'L, <https://www.lawquestinternational.com/contact/#1588341019938-1c21f4f0-1832> (last visited Oct. 27, 2022).

113. NISHITH DESAI, <https://www.nishithdesai.com/> (last visited Oct. 27, 2022).

114. One firm, Banjoko Law, based in Kingston, Jamaica, supports two New York offices, one of which is in Brooklyn. *Contact Us*, BANJOKO LAW, <https://banjokolaw.com/index.aspx?TypeContent=CONTACTUS> (last visited Oct. 27, 2022).

multiple-office CFFs. Table 5 describes the U.S. office locations of these multi-office CFFs.

Table 5: U.S. Office Locations for CFFs with More Than One Office in the U.S.

State/City	% of offices of multi-office CFFs in this location	# of offices of multi-office CFFs in this location
California (Southern California (5), Northern California (21))	40.8%	29
New York	35.2%	25
Washington D.C.	9.9%	7
Texas	7.0%	5
Seattle	2.8%	2
Atlanta	1.4%	1
Chicago	1.4%	1
Denver	1.4%	1
Kansas City	1.4%	1
Las Vegas	1.4%	1
Miami	1.4%	1
New Jersey	1.4%	1
Phoenix	1.4%	1

The significant investment in California for these firms is an obvious difference compared to single-office firms, for which New York is the dominant location. More specifically, firms with multiple offices in the United States trend towards the Silicon Valley area for their California offices; six firms supported offices in Silicon Valley, including firms with multiple offices in the area.¹¹⁵ Establishing offices in California suggests that

115. *U.S. Locations*, OSBORNE CLARKE, <https://www.osborneclarke.com/locations/usa> (last visited Oct. 27, 2022); *Offices*, A&L GOODBODY, <https://www.algoodbody.com/offices> (last visited Oct. 27, 2022); *Contact Us*, MATHESON, <https://www.matheson.com/contact-us>.

firms are aiming to serve the particular clients based there – including those in tech industries, and likely also reflects the rise of private equity, since California has received the largest share of private equity investment in recent years.¹¹⁶

Overall, the offices of these multi-office firms are concentrated in just five U.S. locations: California, New York, Washington D.C., Texas, and Washington (Seattle). Other locations on Table 6 reflect offices of just one law firm, Clyde & Co. from the UK, which specializes in shipping matters (contentious and transactional), among other areas.¹¹⁷ It is also the only CFF with more than five U.S. offices.

While noted above, the variation among firms from the same country is characteristic of much of these data, yet notable differences raise questions for future research. For example, each of the firms from the Netherlands supports a New York office, whether as a sole office or one of two. Irish law firms are focused on New York and California: eight of the nine have an office in New York, while six have an office in Northern California, either alone (1) or along with their New York location. Ten of the twelve China-based CFFs support a New York-based office; six support a California office, but no CFF has focused exclusively on California. New York remains the center of activity for most CFFs. The relationship of these U.S. preferences to strategies that are U.S.-centered or firm-wide, and to office size and role within the firm, might be areas for future research.

Practice areas and the credentials of lawyers practicing in U.S. offices offer additional insight into what these firms are gaining from their U.S. presence, but neither of these is available across all of the CFFs. There is not sufficient detail about either lawyers or practice areas to provide a granular analysis of what the CFFs are doing in particular locations, but general observations are possible. Mergers and acquisitions and corporate transactions generally comprise the mainstay of practice for these firms in their U.S. offices. This is the case for both firms with large U.S. offices like UK-based Freshfields,¹¹⁸ those with smaller offices such as the eight-

(last visited Oct. 27, 2022); *Contact Us*, WILLIAM FRY, <https://www.williamfry.com/contact-us/overview>, (last visited Oct. 27, 2022) (noting each firm listed above also had offices in both the Palo Alto area and San Francisco).

116. *Top States & Districts*, AM. INV. COUNCIL, <https://www.investmentcouncil.org/topstates> (last visited Oct. 27, 2022).

117. *Department Profile Clyde & Co LLP*, CHAMBERS & PARTNERS, <https://chambers.com/department/clyde-co-llp-shipping-litigation-global-2:329:20987:1:85> (last visited Oct. 27, 2022); *see Expertise*, CLYDE & CO, <https://www.clydeco.com/en/expertise> (last visited Oct. 27, 2022) (noting areas of practice in the Americas).

118. *See Our Professionals*, FRESHFIELDS, <https://www.freshfields.us/contacts/find-a-lawyer/?Name=&t=&Service=&Role=&Location=&Office=8504&Industry=> (last visited Oct. 27, 2022).

lawyer New York office of France's Gide Loyrette Nouel,¹¹⁹ and firms with just a single lawyer in the United States, such as Brazil's Machado Meyer.¹²⁰ Other common areas of practice for these firms include intellectual property and general corporate and commercial matters.¹²¹ Firms also offer litigation and dispute resolution advice,¹²² and several specialize in immigration law.¹²³ As described earlier, certain CFFs focus exclusively on the law of their home jurisdictions or regions,¹²⁴ while others offer U.S. law advice.¹²⁵ Client type also differs substantially: individuals are the focus of German firm, Heming & Heming, for example, which describes its main areas of practice as including estates, tax, child abduction, and family matters.¹²⁶ But a focus on business clients is more common for the CFFs. As Irish firm Matheson describes on its website, it provides legal services to "internationally focused companies and financial institutions doing business in and from Ireland."¹²⁷

Practice areas reflect the credentials of lawyers in the firms' U.S. offices, but firm websites do not always provide clear descriptions of either credentials or admission status of the lawyers. For example, Dillon Eustace,

119. *Where We Work*, GIDE LOYRETTE NOUEL, <https://www.gide.com/en/regions/the-united-states> (last visited Oct. 27, 2022).

120. *Thales Saito*, MACHADO MEYER, <https://www.machadomeyer.com.br/en/lawyers/thales-saito> (last visited Oct. 27, 2022).

121. Russin is a Vietnamese law firm. *See International Presence*, RUSSIN & VECCHI, <https://www.russinvecchi.com.vn/about/international-presence> (last visited Oct. 27, 2022).

122. *Appleton Luff – Washington D.C. Office*, APPLETON LUFF INT'L LAWYERS, <https://www.appletonluff.com/locations/washington-dc> (last visited Oct. 27, 2022); *U.S. Offices*, CLYDE & CO, <https://www.clydeco.com/en/locations/us> (last visited Oct. 27, 2022).

123. Australia's Da Gama Pereira And Associates Pty Ltd, for example. *About Us*, DAGAMA PEREIRA, <https://dagamapereira.com.au/about-us/> (last visited Oct. 27, 2022); Immigration is also among the practice areas offered by Jamaican firm Banjoko Law. *Carmelita Riley, Consultant*, BANJOKO Law, https://banjokolaw.com/lawyer/Carmelita-Riley,-Consultant_cp10961.htm (last visited Oct. 27, 2022).

124. *See* Loyens & Loeff from the Netherlands, which advises only on Dutch and Luxembourg law. *Our People*, LOYENS & LOEFF, <https://www.loyensloeff.com/en/en/our-people/?offices=new%20york> (last visited Oct. 27, 2022).

125. *United States*, ALLEN & OVERY, https://www.allenovery.com/en-gb/global/global_coverage/north_america_and_canada/united_states (last visited Oct. 27, 2022) ("Our Boston, Los Angeles, New York, Silicon Valley and Washington, D.C. offices are the core of the global U.S. practice with 225 of our U.S. qualified lawyers based there. . . . As more than 74% of our work involves more than two countries, our U.S. practice is fully integrated with our offices in Europe, Asia, South America, Australia and Africa to provide our international and domestic clients with seamless solutions and a global reach that is unmatched by any other U.S. firm.")

126. *Team*, HEMING & HEMING, <https://www.hemming-law.com/en/team/> (last visited Oct. 27, 2022).

127. *About Us*, MATHESON, <https://www.matheson.com/about-us> (last visited Oct. 27, 2022).

an international financial services law firm based in Dublin, Ireland,¹²⁸ supports a one-lawyer office in New York where David Walsh is the resident lawyer and partner in the firm.¹²⁹ Walsh's profile does not list admission to the New York Bar, and his name does not come arise in a New York registered attorney search.¹³⁰ His profile also does not indicate that he is a registered special legal consultant. According to Walsh's profile, he "works closely with colleagues in the Dillon Eustace Dublin and Cayman offices to keep clients up to date on key legal, regulatory and industry developments in the U[nited States]."¹³¹ Walsh earned an LL.M. from the University of College Dublin and he is a member of the Law Society of Ireland.¹³²

Certain firms claim a long-term commitment to the U.S. market and experience in the United States. One example is Brazilian firm TozziniFreire, where Marcio Mello Silva Baptista is the sole lawyer in the firm's New York office.¹³³ Silva Baptista has been a partner at TozziniFreire since 1998. His U.S. credentials include an LL.M from New York University earned in 1997, and a specialized degree in Comparative Law from the University of Wisconsin in 1989.¹³⁴ He is admitted to the New York State Bar¹³⁵ and is involved with U.S.-based professional groups, including serving as the Vice-Chair of the Latin America & Caribbean Committee of the American Bar Association and on the board of the Brazilian American Chamber of Commerce in New York.¹³⁶ Before joining TozziniFreire, he practiced with three notable U.S. firms, Cleary Gottlieb, Morrison & Foerster, and Morgan Lewis.¹³⁷

Among those CFFs that describe these details about their lawyers, home country legal education and admission is the norm for many, but it also was

128. DILLON EUSTACE, <https://www.dilloneustace.com/> (last visited Oct. 27, 2022).

129. *David Walsh*, DILLON EUSTACE, <https://www.dilloneustace.com/people/david-walsh> (last visited Oct 27, 2022).

130. *Attorney Online Services – Search*, N.Y. STATE UNIFIED CT. SYS., <https://iapps.courts.state.ny.us/attorneyservices/search?7&tab=attorney> (search "David" for first name and search "Walsh" for last name).

131. *David Walsh*, *supra* note 129.

132. *See David Walsh*, LINKEDIN, <https://www.linkedin.com/in/david-walsh-6b416514b/> (last visited Oct. 27, 2022).

133. *See Marcio Mello Silva Baptista*, TOZZINIFREIRE, <https://tozzinifreire.com.br/en/advogados/marcio-mello-silva-baptista> (last visited Oct 27, 2020).

134. *Id.*

135. *Attorney Online Services – Search Marcio Mello Silva Baptista*, N.Y. STATE UNIFIED CT. SYS., <https://iapps.courts.state.ny.us/attorneyservices/wicket/page/DetailsPage?6> (last visited Oct. 12, 2022).

136. *Marcio Mello Silva Baptista*, *supra* note 133.

137. *Id.*

common for these U.S. offices of firms to be staffed with lawyers who had earned a U.S. LLM and been admitted to practice (either through full admission or a limited foreign legal consultant license). While it was relatively unusual for these offices to be staffed with lawyers with no ties to the firm's home country, there were exceptions, particularly in offices with larger headcounts. Freshfields is illustrative, and the U.S. managing partner, Sarah Solum, is one of many Freshfield lawyers with no obvious tie to the U.K.¹³⁸ But U.K. credentials do turn up in Freshfields' U.S. offices, such as in the managing partner of the Silicon Valley office who received his education outside of the United States.¹³⁹

The information on longevity of these offices is not always available. French firm Gide Loyrette touts its long commitment to the United States on its website: "Gide has been present in New York for over three decades, having established its New York office in 1984."¹⁴⁰ Irish firm Dillon Eustace opened in New York in 2009, almost a decade after establishing its first international office in Tokyo.¹⁴¹ Japanese firm TMI Associates opened its Silicon Valley office in 2014,¹⁴² where the lawyers specialize in M&A, healthcare and patent law. Because our search did not seek to expand the list of CFFs during the period of the pandemic, it is not possible to offer insight into whether foreign firms established new U.S. offices during the last two years.

The analysis in this Part suggests that multiple theories of globalization are consistent with patterns of presence for the CFFs. These include the influence of countries leading in foreign direct investment into the United States (which reflects approximately one-third of the CFFs), and relatedly the connection of English-speaking common law jurisdictions that may facilitate establishing and operating an office here (which reflects approximately 39%

138. See *People - Sarah K. Solum*, FRESHFIELDS, <https://www.freshfields.us/contacts/find-a-lawyer/s/solum-sarah/#qualifications> (last visited Oct. 27, 2022) (describing credentials as including an LLM and JD from Duke University School of Law, and undergraduate degree from St. Olaf College; admission in New York and California).

139. This managing partner, Alan Mason, is admitted to practice in California. *Alan Mason*, The State Bar of California, <https://apps.calbar.ca.gov/attorney/Licensee/Detail/338217> (last visited Oct. 27, 2022); Alan Mason is also licensed to practice in France, England and Wales. *Alan Mason*, FRESHFIELDS, <https://www.freshfields.us/contacts/find-a-lawyer/m/mason-alan/> (last visited Oct. 27, 2022).

140. *The U.S.*, GIDE LOYRETTE NOUEL, <https://www.gide.com/en/regions/the-united-states> (last visited Oct. 27, 2022).

141. *About*, DILLON EUSTACE, <https://www.dilloneustace.com/about> (last visited Oct. 27, 2022).

142. *Firm Profile: TMI Associates*, THE LEGAL 500, <https://www.legal500.com/firms/31196-tmi-associates/30501-tokyo-japan/#:~:text=TMI's%20overseas%20presence%20enables%20the,and%20international%20venture%20capital%20and> (last visited Oct. 27, 2022).

of CFFs, and overlaps with FDI to some extent). A third approach builds on difference to posit that firms from the Global South may see more value in a U.S. presence, which is relevant for approximately one-quarter of CFFs.

In addition to considering home country, differences in the work being done by firms in the United States seem important and perhaps less obvious in terms of pattern. Additionally, more insight could be gained if the history regarding office openings were available, including considerations like timing, organizational strategy and the influence of individual opportunity in shaping these decisions. At the same time, practice areas, clients and home country parallels could also figure deeply in understanding patterns of the presence of the CFFs. Still, these sorts of materials might not explain future approaches, since plans when offices are opened are not static.

IV. CONCLUSION

The goal of this article is to explore the role of the United States in the strategies of global legal services actors by considering the essential characteristics of firms that pursue global growth through a U.S. office. But without a registration requirement for foreign law firms, the conceptual contests described in this paper around recognizing firms, foreignness and presence may frustrate attempts to gain insight into how the U.S. figures in the range of actors likely to drive global legal services in the future.¹⁴³

Much work is left to be done to fully understand this landscape. This includes gathering and analyzing data regarding the establishment and growth of offices of the firms, as well as addressing the question of whether these steps were pursued as part of a strategy of growth or as a byproduct of accommodation and opportunistic behavior towards their lawyers. This will help understand differences regarding choices around U.S. locations, investments in practice specialties and approaches to staffing.

But an assumption underlying this research, including questions for future scholars, is its U.S.-focus. It is not clear that globalization's future will reflect the U.S. context as paramount. Rather, perhaps the focus of firms in their overseas expansion is more on competition at home. How does

143. Of course, to the extent the states are curious about presence, or considering regulating law firms, they will be operating in the dark. See Steven McKoen, *Law Firm Regulation: What's It All About?*, 76 THE ADVOCATE (VANCOUVER) 379, 381 (2018) (the Law Society of British Columbia found that "In order to regulate law firms, [it] must of course know who the law firms are. Accordingly, all firms (which by definition, will also include sole practitioners but will not . . . include government law departments or in-house counsel) will be required to register with the Law Society through a simple registration process in which the name of the firm, the firm's business address(es) and the names of the lawyers practicing through the firm will be confirmed.").

having a U.S. office affect hiring? Could a U.S. office serve as a reward of sorts for lawyers who stick with the firm for a certain period – that is, does the opportunity to live in the U.S. serve as a meaningful asset for firms? Is the ability to attract particular kinds of clients within the home jurisdiction, and to gain traction in building a reputation for certain legal expertise there, buffeted by the signal of a U.S. office? These questions may not specifically highlight the role of regulation in expansion decisions, but they nevertheless can contribute to understanding the ways in which the United States is valued by outsiders who perceive the potential for gain from a presence here.