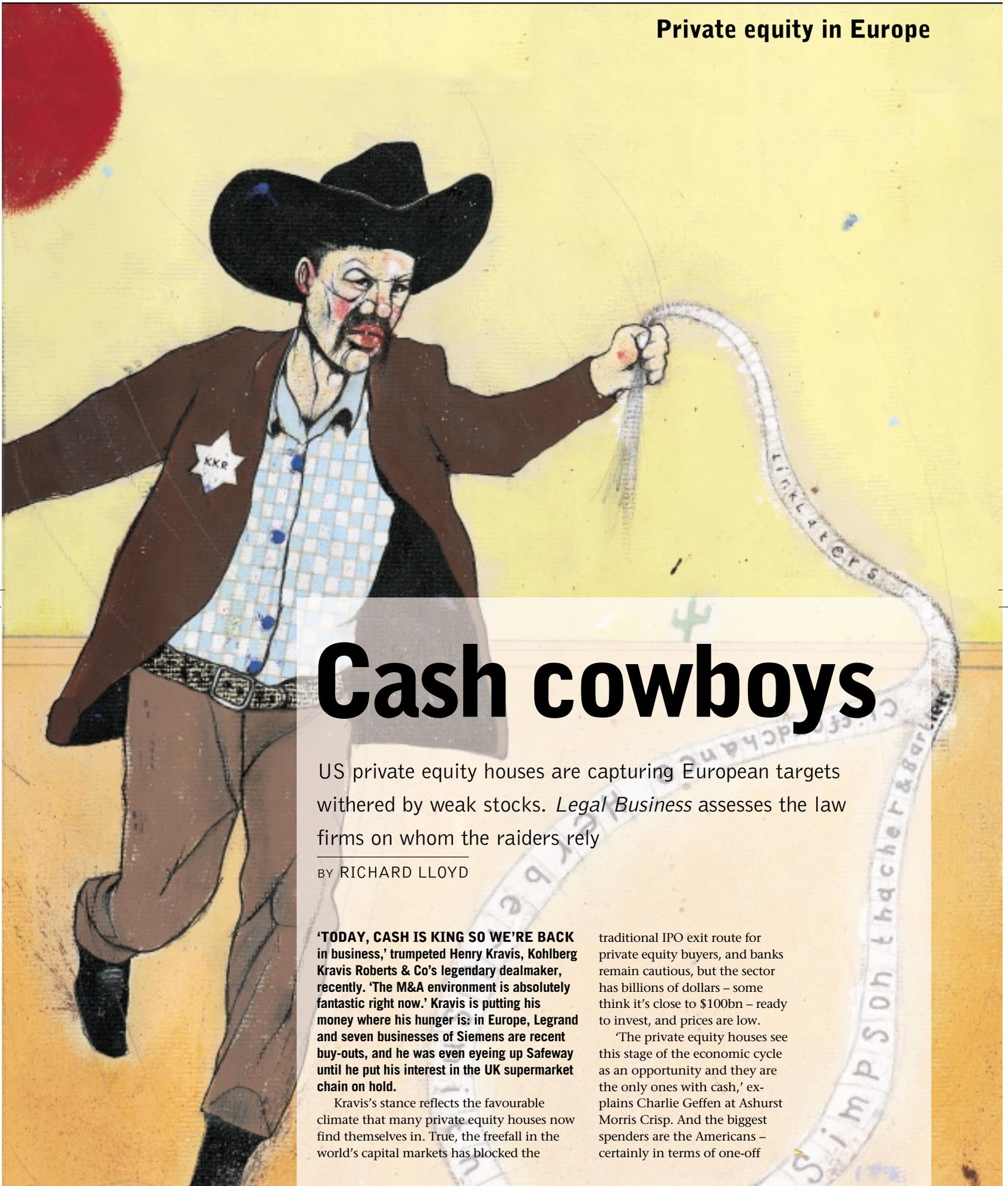


Private equity in Europe



Cash cowboys

US private equity houses are capturing European targets withered by weak stocks. *Legal Business* assesses the law firms on whom the raiders rely

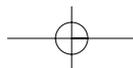
BY RICHARD LLOYD

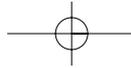
'TODAY, CASH IS KING SO WE'RE BACK in business,' trumpeted Henry Kravis, Kohlberg Kravis Roberts & Co's legendary dealmaker, recently. 'The M&A environment is absolutely fantastic right now.' Kravis is putting his money where his hunger is: in Europe, Legrand and seven businesses of Siemens are recent buy-outs, and he was even eyeing up Safeway until he put his interest in the UK supermarket chain on hold.

Kravis's stance reflects the favourable climate that many private equity houses now find themselves in. True, the freefall in the world's capital markets has blocked the

traditional IPO exit route for private equity buyers, and banks remain cautious, but the sector has billions of dollars – some think it's close to \$100bn – ready to invest, and prices are low.

'The private equity houses see this stage of the economic cycle as an opportunity and they are the only ones with cash,' explains Charlie Geffen at Ashurst Morris Crisp. And the biggest spenders are the Americans – certainly in terms of one-off





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'All the US firms have decisions to make on what to do with their non-US teams.'

Edward Braham, Freshfields Bruckhaus Deringer

> deals. Last year saw Madison Dearborn Partners' buy-out of Jefferson Smurfit, the Irish packaging company, for £2.37bn, and KKR's Legrand and Siemens acquisitions for £2.4bn and £1.1bn respectively. In 2001, it was a similar story as Hicks, Muse, Tate & Furst, together with the British buy-out specialist Apax Partners, bought Yell, while the Valentia consortium, a group of three US private equity houses, acquired the Irish telecoms company Eircom.

Market conditions in America are forcing US private equity investors to look to Europe. Money is available, uninvested in the US, but the American market is mature and a lot of the plays have already been made.

Not surprisingly, US law firms have been successful in winning a large proportion of the leading instructions. But, as our table of the ten most active US private equity investors in Europe from the past three years shows, UK firms have more than held their own. It all makes for a complicated picture of conflicts and referrals.

Deal rustling

Pick out the largest US LBO houses and more often than not you can name their US legal adviser with the certainty of night following day. Think KKR and Simpson Thacher & Bartlett; The Carlyle Group and Latham & Watkins; Clayton, Dubilier & Rice and Debevoise & Plimpton; or Madison Dearborn Partners and Kirkland & Ellis – relationships that are among the deepest in the private equity world.

In the UK market, by contrast, the greater threat of conflicts and the smaller number of law firms with the necessary corporate clout has meant that private equity houses pick and choose from a pool of advisers. True, Ashursts bags the rump of Cinven's instructions, but Freshfields

Bruckhaus Deringer has picked up work in the past, while Clifford Chance's steady flow of deals from Duke Street Capital has been interspersed with transaction wins from the latter for Simmons & Simmons and Slaughter and May.

On the Continent, the waters have been muddied further. Take KKR's recent European buying spree. Simpson Thacher naturally picked up a large share of the work, but although Clifford Chance is KKR's favoured European adviser, there have been key roles for Linklaters' Paris office on Legrand and Simpson Thacher best friend Herbert Smith on KKR's aborted interest in Safeway.

As one in-house lawyer at a US private equity house highlights, this can have its advantages. 'Having a panel is fine if you're BP, but for a private equity house I think it's odd,' he notes. 'Every deal is so bespoke that you need a range of firms to choose from and you also avoid the threat of conflicts.'

Soros Private Equity, for example, has shown a clear preference for working with a large number of advisers. In the US, it has close links with Simpson Thacher and Paul, Weiss, Rifkind, Wharton & Garrison, while in Europe it has used Allen & Overy, Ashursts,



Braham: drive to win

Freshfields, Macfarlanes, Kirkland & Ellis and Shearman & Sterling.

As US firms have extended their English law capability, so private equity investors have had a larger pool of advisers to turn to.

Lateral thinking

Since the leading US firms started to pay serious attention to building up their English law capacity in the mid 1990s, their greatest success has been in developing credible finance practices. Shearman & Sterling and its highly regarded project finance team is one example, White & Case on the acquisition and project finance side another, and Latham & Watkins on high-yield debt a third.

On the corporate side, however, few have shown a desire to develop a full-service offering and high-profile laterals have been fewer and further between than in the banking community. Where such hires have been made, most have come on the private equity side. Extending private equity relationships in the US to Europe is the obvious aim.

Private equity specialist Charles Fuller, one of the highest profile laterals of 2002 when he moved from Simmons & Simmons to Latham & Watkins, has only been in the latter's Broadgate offices a matter of months, but is already working on a deal for a West Coast private equity house. 'It's just the sort of deal that I moved to handle,' he enthuses.

In 2001, Skadden, Arps, Slate, Meagher & Flom chose to make one of its rare London lateral hires when it poached buy-out specialist Allan Murray-Jones from Lovells. An earlier example was Mike Francies, who joined Weil, Gotshal & Manges from CC in 1998 and has since cemented the firm's relationship with Texan buy-out house Hicks, Muse, Tate & Furst. Kirkland & Ellis has also impressed with its efforts in London.

When push comes to shove

'The strongest push has been from Kirklands,' says one partner at a leading City firm. 'It's got a number of very serious players in London and has hired Nigel Dunmore from DLA.' Dunmore joined in 2001 to head a UK law team, having worked with Kirklands on the English side of a number of deals while he was at DLA.

Of course, it helps if you have one of the strongest brands for private equity work in the world, with Bain Capital and Madison Dearborn as clients. But even by the firm's



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standards, Kirklands' London office is very focused on the private equity market.

'We have around 35 people in our London office and about 75% of their activity is tied up with private equity,' says Stuart Mills, the firm's managing partner in London. From that team, the firm provides specialist banking, IP, IT and insolvency advice. On the banking side, Kirklands has moved partner Bronwen Jones, formerly

with Wilde Sapte and Ashursts, back to London from New York. In addition the firm has added an insolvency practice and is understood to be on the lookout for tax specialists.

In contrast to Kirklands' hires, English law capability remains an area of contention for some US firms. 'All the US firms have

decisions to make on what to do with their non-US teams,' points out Edward Braham, a corporate partner at Freshfields Bruckhaus Deringer. The choices taken so far have varied between cherry-picking a couple of corporate specialists *à la* Skadden Arps, to offering greater depth in the mould of Weil Gotshal.

Simpson Thacher is clearly looking at its English-law offering. Rumours persist that it is on the lookout for an English-qualified >

BUY-OUT BONANZA: LEADING US PRIVATE EQUITY HOUSES IN EUROPE (BY NUMBER OF DEALS SINCE 1999)

PRIVATE EQUITY HOUSE (BUY-OUTS COMPLETED)	LEGAL ADVISERS	SELECTED SUCCESSES
JP Morgan Partners (11)	Allen & Overy	Deals undisclosed
	Ashurst Morris Crisp	Acquisition of a 51% stake in FundsHub from Investia
	Clifford Chance	€360m sale of minority stake in Getevision Telecinco and Publiespana (Spain)
	Freshfields Bruckhaus Deringer	Limited auction for Klöckner Pentaplast and €925m syndication of equity by Cinven, €120m LBO by limited auction of SiTeco Beleuchtungstechnik
	Hammonds	€40m equity refinancing of City Reach International
	Linklaters	LBO of Vision Networks
	SJ Berwin	Deals undisclosed
BancBoston Capital (9)	Jones Day Gouldens	MBO of Menzies Hotels and investments in Audio Holding and Mobil Rom
	Simmons & Simmons	Investment in Categori Software
The Carlyle Group (9)	Allen & Overy	€700m acquisition of Casema (Netherlands) by Carlyle and others
	Ashurst Morris Crisp	Part of consortium, Vivendi Publishing buy-out, formation, Carlyle Internet Partners Europe
	Clifford Chance	Acquisition of QinetiQ
	Freshfields Bruckhaus Deringer (Munich)	Advised on the take-private of Honsel (partner Dr Norbert Rieger)
	Jones Day Gouldens	Deals undisclosed
Soros Private Equity Partners (7)	Wilmer, Cutler & Pickering	Advising European Venture Funds – Accucard, Omiris, Skillvest, Apama, Surplex
	Allen & Overy	€20m second round investment in Speed Ventures, £264m take-private of Delancy Estates
	Ashurst Morris Crisp	Deals undisclosed
	Freshfields Bruckhaus Deringer	Part of consortium on Eircom
Texas Pacific Group (7)	Kirkland & Ellis	OnCue Telecommunications, Sports.com
	Macfarlanes	€3bn Eircom transaction
	Ashurst Morris Crisp	Investor in Punch Taverns' acquisition of Allied Domecq's UK pubs business
	Cleary Gottlieb Steen & Hamilton	Acquisition of Gate Gourmet, Swissair's airline catering business
Goldman Sachs (6)	Weil, Gotshal & Manges (Frankfurt)	Acquisition of Bankgesellschaft Berlin
	Brobeck Hale and Dorr	£11.5m investment in Mediasurface
	Freshfields Bruckhaus Deringer	Buy-out of Cognis business of Henkel in Germany
Kohlberg Kravis Roberts (6)	Shearman & Sterling	Part of consortium on Eircom
	Allen & Overy	Acquisition of seven companies from Siemens, £627m bid for Wassall Plc (UK)
	Clifford Chance	Acquisition of seven companies from Siemens
	Herbert Smith	Proposed bid for Safeway
Hicks, Muse, Tate & Furst (5)	Linklaters (Paris)	Acquisition of Legrand
	Weil, Gotshal & Manges	Yell £2.14bn LBO
Lehman Bros (5)	Allen & Overy	Acquisition of equity interest in Pubmaster
	Clifford Chance	Strategic investment in financing of Knight Roundtable Europe
	Freshfields Bruckhaus Deringer	Property MBO – Burford Holdings
Morgan Stanley (5)	Allen & Overy	Participation in InterXion (Netherlands) by Morgan Stanley and others
	Freshfields Bruckhaus Deringer	Takeover of Acorn
	Shearman & Sterling	Acquisition of energy storage business of Invensys
Warburg Pincus (5)	Freshfields Bruckhaus Deringer	Part of the Eircom consortium, several partners work on Warburg Pincus funds

Private equity house deal volumes provided by Initiative Europe



Private equity in Europe

> M&A specialist to go with the recent hire of A&O banking partner Euan Gorrie. His move was largely driven by a desire to service KKR with English finance expertise.

A partner at a top-ten City firm offers his interpretation of Gorrie's hire: 'US lawyers are notoriously possessive about their clients. They see their clients paying more attention to Europe and they want to be a part of that.' Being a part of that, however, requires local advice.

Getting local

Weil Gotshal, for example, thanks to a credible English law practice, has been successful in converting Hicks, Muse, Tate

capability, so the UK firms have structured their US law practices for private equity means. Freshfields, for example, has hired tax partner Claude Stansbury from Washington, DC tax boutique Ivins, Phillips & Barker. Edward Braham admits that his input in structuring



Greaves: hitting it off

It's who you know

Firms need the resources and the infrastructure, but also the contacts. 'The market remains influenced by individual contact and comfort with advisers,' confirms Marco Compagnoni, Lovells head of private equity. One in-house lawyer at a private equity house adds: 'On a deal, if I know there is good chemistry between someone here and a partner at a law firm, then I'll go with that firm.'

At what was Gouldens, corporate partner Adam Greaves has forged close links with BancBoston Capital, one of the most active American private equity investors in Europe since 1999. 'I hit it off with one of the guys at BancBoston Capital and over the past eight years they've been one of my most active clients,' he reveals. He first came across BancBoston in 1994 through its London office when he was

'US private equity houses have become very sophisticated in familiarising themselves with local markets.'

Gerry Cater, Wilmer, Cutler & Pickering

& Furst from an American client into a transatlantic one. 'They gave us a chance and we took it,' says London managing partner Mike Francies. Since then, Weil Gotshal has won prime roles advising on Hicks Muse's £2.14bn acquisition of Yell and its purchase of the ambient food businesses of Nestlé.

Local input has also proved invaluable at Wilmer, Cutler & Pickering's London office. Through partner Gerry Cater, who moved to the UK in 1999, the firm has close links with The Carlyle Group. Cater admits that when the US private equity houses started looking to Europe, it was unfamiliar territory. 'You need to navigate a bit more,' he says, before adding: 'But now the US houses have become very sophisticated in familiarising themselves with local markets.'

As US firms have addressed the need for English law



Mills: tied up with private equity

European deals involving US investors has been vital. 'We talk to him a lot about tax advice involving US funds and investments they make in European targets,' he says.

Stansbury's hire is part of Freshfields' drive in recent years to win more US private equity deals. Braham comments: 'We take the US private equity houses very seriously and over the past couple of years we have done a

lot of work to adapt our practice to fit with their requirements.' It's paying off – as the table reveals, the firm has picked up work from the Valentia consortium including Soros Private Equity, Goldman Sachs and Warburg Pincus on the buy-out of Eircom, and from Morgan Stanley and The Carlyle Group in Germany.

working on a deal in which it was looking to invest. 'Anything routed to Europe tends to come through me,' he adds. Gouldens' merger partner Jones Day has also picked up work from BancBoston in London through private equity specialist Daljit Singh.

As the gateway into Europe, City-based UK firms have proved adept at picking up a series of deals from the leading US houses. But as a partner at a top ten practice concedes, 'no one has cornered the market'.

The same goes for the US firms in London. A lack of English law capability or an international network of real depth has held many back from translating US relationships into transatlantic ones.

'Is there more competition from US firms?' asks James Baird, a private equity specialist at Clifford Chance. 'I don't think so – you need a network to handle European cross-border deals,' he concludes. Perhaps, but it's no secret that US firms are scouring the City for high-calibre deal-makers. And as the likes of KKR, Madison Dearborn and Hicks Muse continue to search Europe for buy-out targets, so corporate practices will scramble to bag more of the work. It's high noon for the City's private equity teams. **LB**

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