Competitive Plagiarism

Ask most firm leaders to identify those business CEOs that they most admire and they would probably list a small group of highly entrepreneurial names that would include Jack Welch, Steve Jobs, Richard Branson or Warren Buffet. Ask why they admired these particular individuals and you would probably hear about the individual's self-confidence, decisive boldness, the originality of their strategic direction, and contrarian beliefs. However, if you now inquire into what strategies these leaders were themselves advocating in their own firms, the answers you would receive would be depressingly unlike those of the leaders they admire.

To make this point even stronger, imagine the following scenario. All of your peer competitors are invited to share and read each other's strategic plans. As firm leaders mull over and examine each competitor's future strategies they put a check mark next to the actions that their firm is also following and an x next to those that are drastically different. What is the likelihood that there will be exceedingly more check marks than crosses on all plans? (And if my thesis is valid, the implication is that confidentiality of strategic plans is a waste of effort)

Many firm leaders view other competitors, their strategies, performance and experience as the benchmark from which to set standards for their own firm. That kind of competitive comparison makes sense, especially as your firm's performance is often defined by what your peer firms are doing. Where this approach becomes an obstruction is when the logic behind what works for some other firm, why it works and what might work for you is not assiduously examined and thereby results in firms engaging in mindless imitation.

Some actions can render your casual imitation not only ineffective, but in some cases, downright dangerous. Consider these three common examples of competitive plagiarism:

• You adopt the forms or practices some new recruit brings along from their prior firm.

At its most innocent . . . How many of you are using some written job description, practice group business planning template or some other form or procedure brought to your firm by some recruit from a competitive firm?

There is nothing wrong with learning from experience, as long as we're learning from our own unique experience. Blindly copying some other firm's tools, templates, practices, perspectives and procedures assumes that those documents and precedents were developed with precision and can be easily applied in your firm's unique culture. After all, your culture is unique, isn't it? Then why would you be perverting it with some other firm's hand-me-downs!

Numerous firms have gotten into trouble by importing, without sufficient examination and thought, another firm's rancid practices.

• You duplicate the most visible action you see competitors initiating.

Current demand for high-end legal services is proven to be flat. Many firm leaders dangle huge compensation packages to attract rainmakers. Buying revenue by acquiring partners with portable books of business has thrown the majority of the Am Law 200 firms into a lateral hiring frenzy. In fact, nearly every law firm of any significant size, has selected "lateral hiring" as one of their top three strategic projects. How is it working for them?

The research results from Mark Brandon at Motive Legal in the United Kingdom, shows that nearly a third of lateral hires into London law offices had failed within five years. That attrition rate represents only the out-and-out failures; behind the figures lurk a raft of other hires who have failed to meet expectations, but that have not performed poorly enough to warrant dismissal.

Meanwhile, the research of Harvard Business School's Boris Groysberg (Chasing Stars: The Myth of Talent and the Portability of Performance) shows that too many top performers quickly fade when they change firms and often underestimate the degree to which their past success depended upon such firm-specific factors as long-term working relationships, quality of resources and support, and informal systems through which professionals obtain information and get work accomplished.

Ironically — and about 40 percent of managing partners admit — lateral hiring usually is not profitable for the firms that do it. Yet this strategy remains pervasive.

Why do more and more firms persist in this unprofitable strategy? Because they do see clearly how it has worked for *some* of their competitors. Why has it worked for those select firms? My experience suggests, it is NOT the strategy you see that works (in this example, lateral recruitment) but the strategy that you don't see (exceptional efforts in methodical integration) that makes the difference.

• You believe and subsequently copy things you read and hear other firm leaders doing.

It's not what you don't know that will kill you—it's what you know that ain't really so, quipped Will Rogers. Many years back I attended a meeting of managing partners that all belonged to the same network. These leaders came from different regions, did not compete with each other. gathering twice yearly to openly share experiences and challenges. I was slated to speak to the group, but before proceeding to the podium, I had the opportunity to listen to one managing partner tell the group about his firm's experience with initiating and operating ancillary businesses. He told his colleagues how he launched three different enterprises, how they served to get the legal practice closer to clients; how they even acted as a conduit to getting new clients into the door; and how profitable these subsidiaries were performing. By the sheerest of coincidences, fast forward eight months and I'm called in to work with this same firm on some internal conflicts. After a couple of brief meetings with partners around the firm I quickly discern that the level of dissatisfaction couldn't be more extreme and that the substance of partner discontent was in the huge amount of money being squandered on three disastrously unprofitable ancillary business operations.

Did this managing partner knowingly lie and deceive his fellow leaders? Did he feel an overwhelming need to be admired and make himself look good to his colleagues? Or was he in some state of sociopathic denial? I'm frankly not certain as I've now seen this same situation unfold numerous times.

Perhaps most notorious is the legal press where firm leaders are interviewed and asked specific questions about what they are doing in their firms. From thirty years of working in the profession, I can attest, hand-on-heart, that far too much of what is conveyed and then published is fictional! From leadership development efforts to the results achieved from a particular marketing initiative, to some firm's actions to encourage innovation, the precise representations made are way too frequently aspirational, at best. There, frequently, is no factual basis to what is being reported; and yet I will subsequently hear from other firms who are using some firm's anecdotal evidence as the justification for following in the same footsteps as their competitor.

CONCLUSION

The fundamental shortcoming to imitating some competitor's "perceived" action or strategy is that in your urge to copy, an urge often stimulated by consultants who take concepts from one firm to the next, you don't conduct the necessary due diligence to determine whether a specific course of action would really work in your firm. "I'll have what she's having," as a diner in the movie Sleepless in Seattle said to her waitress while watching Meg Ryan fake an orgasm to prove a different point.

You are not going to get ahead by imitating what your competitors are doing; at best you are just going to maintain parity, and it may be parity of decline rather than advance. When every firm chases the same strategies, they all slide inexorably into sameness and mediocrity. The essence of developing an effective competitive strategy is daring to think for yourself, instead of following the herd . . . quite possibly over a cliff.

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