

# Legal Process Outsourcing - Outlook and Opportunities

Legal Process Outsourcing (LPO) refers to the practice of a law firm or corporation obtaining legal support services from an outside law firm or legal support services company. When the outsourced entity is based in another country the practice is sometimes called Offshoring.

LPO services are at a nascent stage with relatively consistent market growth since the early emergence of LPO in 1997. LPO providers have established themselves in Canada, India, the Philippines, US, Israel and Latin America. They traditionally offer services in the areas of document review, legal research and writing, drafting of pleadings and briefs, and patent services outsourcing.

In-house law departments of major multinational corporations outsource some of their work in order to limit costs. Initially, legal process outsourcing gained traction in the Asian subcontinent. However, in recent years the so-called “near shore”, “back-door” “specialized legal firms” have sprung up to satisfy law firms and corporations that demand quality and confidentiality.

## **Why LPO?**

Most firms and corporations outsource primarily to save cash, and this is considered the biggest advantage for legal outsourcing. While an attorney in major legal markets such as the US may charge from \$150–350 dollars/hour when performing rote services, legal process outsourcing firms can often charge a fraction of this. It has attracted major corporations to outsource specific work outside their legal departments.

## **LPO INDUSTRIES AND THE RECESSION**

LPO firms in India had predicted an annual growth of 100 – 200% (2007 – 2010) due to recession related litigation and the increased need to save costs in the US. Their expectations have not been met. The major reason for this is that US lawyers themselves have started looking at alternative fee structures due to the recession and job losses. In spite of some setbacks, the LPO industry has seen growth of about 40-60% in the last one year (2009). Although some areas of practice, such as real estate, have drastically collapsed due to the recession, some areas such as litigation, document review, and corporate compliance, among others, have gained ground, resulting in a good amount of business directed to LPO firms in India.

## **CONFIDENTIALITY AND ATTORNEY-CLIENT PRIVILEGE**

LPO is entirely a different game. In other forms of outsourcing, there are issues like client confidentiality and data security. However, LPO has more complicated issues such as the liability of service providers and violation of the Attorney-Client privileges. During the early years of legal process outsourcing, many law firms hesitated to outsource their work. Attorney-Client Privilege is a doctrine that says anything conveyed between an attorney and his client shall be treated with utmost confidentiality and is exempted from disclosure even in a court of law. However, when either party

discloses confidential information to a third party or the opposite party, the privilege is deemed to be waived.

Similarly, those people who are against legal process outsourcing claim that since communication is being sent to a country other than the US, the confidentiality is broken; hence, the privilege has been waived. However, the American Bar Association clarified this in 2008, clearing the way for the development of legal process outsourcing.

## **GLOBAL LAWYERS**

India has become one of the most popular destinations for companies wanting to outsource legal work. This is so because there are certain very obvious advantages like availability of English speaking, US and UK graduated, qualified lawyers working at less expensive rates. Besides the Indian legal system is based on English common law, much like the US, UK, and Australia. The other major LPO hubs are Japan, France, Australia, South Korea, China, Argentina and the Philippines. Some companies are also looking at setting up their own establishments in these countries to save costs. Many LPO providers are even using US-licensed attorneys residing in foreign countries who are willing to work at discounted rates. Countries like China and Sri Lanka are also stepping in as tough competitors to India. However, Indian legal professionals seem to be the most suitable ones due to their legal education system.

The business of legal process outsourcing emanate from:

- Several MNCs (in-house legal departments)
- Legal research firms
- International law firms
- Legal publishing companies
- Solo attorneys
- Attorneys-at-law

The key compelling reasons for outsourcing by law firms based in UK and US are:

- To adapt to meet changing opportunities
- To focus on broader business issues
- Cost effectiveness
- Increased external focus of the employees
- Access to world-class talent
- 24/7 working

The major legal areas which US law firms cover are:

- Banking laws
- Bankruptcy: business
- Bankruptcy: consumer

- General corporate laws
- Commercial laws
- Civil rights and liberties
- Criminal defense
- IPR laws
- International business laws
- Securities/financing laws
- Tax laws

The general legal market trends specific to operations of law firms in the US are:

- Changing economics: There are restraints on revenues driven by client fee resistance.
- Overheads are escalating, driven by support staff employment costs, IT expenditures, marketing costs, professional liability and health insurance premiums.
- Marketplace Maturation: There are shifts from the sellers' market of the past to a buyers' market in which clients increasingly determine pricing, staffing and strategy
- Firms are earning brand name recognition. The benefit of brand recognition is a 10% to 20% premium in fees and billing rates.
- Marketing expenditures are increasing, now approaching and even exceeding 2 % of revenues in some firms.
- Geographic expansion: In order to access new markets and clients, law firms increasingly are expanding geographically. This is true for diversified, full-service firms.

Local firms are becoming regional, regional becoming national, national becoming international, international going global.

**Patent Prosecution Offshore Outsourcing:** Offshore outsourcing of patent prosecution is increasing. Patent applications and litigation support are the two areas of focus for offshore legal outsourcing to India, New Zealand, South Africa and other English Speaking, low-labour cost locations around the world. India leads in the LPO industry.

The following advantages make India the leader in the legal process outsourcing industry:

- Vast resource of talented English speaking lawyers
- Pay rate between 10 to 15% of that of US lawyers
- Helping US law firms operate 24x7- friendly government policies for IT and ITES exports
- India, like the US, is a common-law jurisdiction rooted in the British legal tradition
- Appellate and Supreme Court proceedings in India take place exclusively in English
- Indian legal opinions are written exclusively in English

Types of services covered in the legal research and information area

- Draft research memoranda, law surveys and comparisons of the laws of various jurisdictions with respect to US federal and state case laws, statutory laws and regulations
- Collection, organising, reviewing data and preparation of the due diligence reports pursuant to a due diligence investigation, including M&A due diligence and due diligence related to SEC filings and financings
- Review documents for transactions and litigation and preparing appropriate reports
- Preparation of legal opinions for all practice areas and of briefs and facts at all levels of courts  
Patent oriented services
- Patent Portfolio Analysis
- End-To-End Patent Application Drafting and Filing
- Patent Mining and Administration
- Competitor Analysis
- Patentability Assessment
- Licensing Support
- IP Monitoring
- Patent Claims Mapping
- Patent and Technology Landscaping

### **Current market size**

Current forecasts indicate the market size in 2011 to be \$850 million with a growth rate of approx 34%.

Global Market for LPO.

The current addressable potential (demand) is expected to be in \$3 billion by 2015. While India is expected to take approx 60% of the market they have currently tapped only 5-10%.

### **Global LPO outlook in 2011/12**

The forecast of the 2011 LPO market is showing high growth in all areas of the legal community. The main user of LPO continues to be Corporate Law Departments, who are forecast to add \$129 million of spending in 2011. Law firms are shaking off traditional caution and are fuelling 41% of the projected growth. On these forecasts, it is expected that at least nine high profile deals will be announced by law firms in the next 12 months.

Public sector use of LPO is the largest new source of growth in 2011. Political considerations and ongoing caution across all sectors will support the growth of the on-shore delivery market, though India remains the most common delivery location.

## **Drivers of LPO growth**

The global LPO market is expected to grow 34% (\$217 million) in 2011, from a base of \$640 million, to \$857 million. Corporate legal departments are the largest drivers of the growth; closely followed by UK-based law firms. US law firms are very active in the market but continue to be cautious relative to their UK counterparts.

Overall the US market continues to be constrained by political considerations. Ongoing discussions in Congress continue to create an environment in which potential buyers of LPO services are trading cautiously. This will remain an issue until at least 2012 and is holding back US.