

LPO And The Great Recession

By Alok Aggarwal

Executive Summary

Saratoga, California, April 2010: The economic recession (the Great Recession) of 2008 and 2009 resulted in a sharp drop in international trade, impacting the entire global economy. Recent studies by BTI Consulting Group and Hildebrandt-Citi Private Bank reported that 2008 and 2009 were among the worst years for the legal market in the United States during the last 50 years with billable rates and realised rates dropping by almost 10 percent (after including inflation). On the other side of the Atlantic Ocean too, the Great Recession took its toll; the Clementi proposals in the United Kingdom are further expected to change the way the law firms operate, forcing them to become more efficient and competitive.

In January 2006, Evalueserve, a global research and analytics firm, conducted a study on the state of the Legal Process Offshore outsourcing (LPO) industry, forecasting the industry's revenue and growth potential in its whitepaper titled "Legal Process Outsourcing – Hype vs. Reality." The present article builds on this study and analyses the current landscape and the potential of the LPO industry, especially in light of the recent developments mentioned above. The key findings of the present study are as follows:

- The LPO industry is growing fast, and it is already the fastest growing sub-sector in the Knowledge Process Outsourcing (KPO) domain. Even during the Great Recession, the LPO sector grew by 40 percent each year. Revenue growth between 2010 and 2015 is expected to be approximately 26 percent. Currently, there are over 5,200 professionals in the LPO industry in India and the Philippines, contributing an annual revenue of USD 300 million, and this is expected to reach 18,000 professionals with an annual revenue of USD 960 million by December 2015.
- Almost all of the offshore outsourcing work is being sent from the U.S. and the U.K. More than 90 percent of the LPO work is either being directly outsourced by Corporate Counsels or on behalf of Corporate Counsels (by their preferred law firms). So far, law firms have been hesitant to offshore outsourcing.
- Due to the impact of the Great Recession, there will be pressure on law firms to reduce their overheads related to marketing and sales, general ad-

ministration, Information Technology, accounting, clerical, paralegal, and knowledge management. These overhead expenses account for about 17 percent of the total overhead expenses (of approximately 41 percent) that a typical law firm with 20 or more lawyers incurs in the U.S. By moving most of this work, which is non-billable, offshore, these firms can reduce this cost to approximately 7 percent. Currently, almost no law firm in the U.S. is considering this option.

- The implementation of Clementi proposals in the UK is expected to boost the

LPO industry because law firms are likely to be more efficient. In fact, many law firms have started implementing new models for pricing, designing, and managing better legal work processes; modifying and re-using existing work products and templates; partnering with other legal service providers to provide the entire array of services; and beginning to outsource functions (offshore) that include creating marketing and sales brochures, accounting, Information Technology, clerical, paralegal, knowledge management, secondary research, and legal and library information research.

- Knowledge management (KM) will be a growth area for the LPO industry through which LPO firms can help their clients grow better and faster. In particular, LPO firms can help the in-house KM teams of law firms—especially those with dispersed offices—to consolidate and manage all the available resources into an electronic repository to save cost and increase efficiency.

The Supply Side

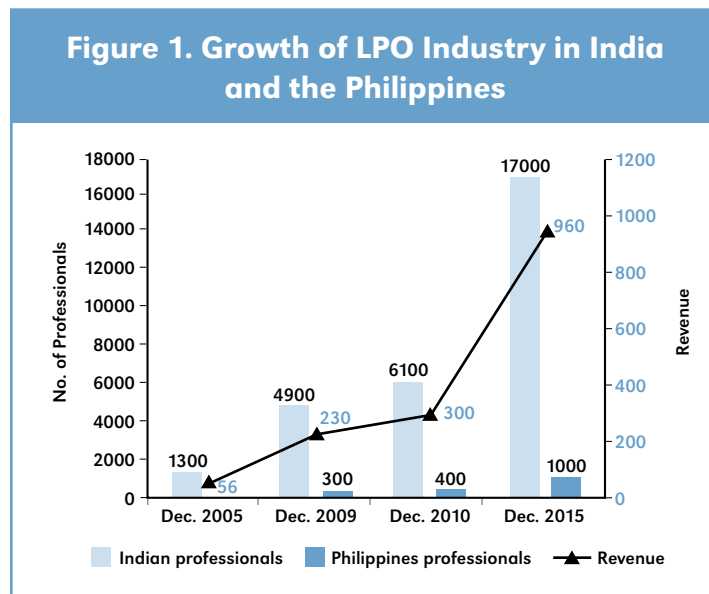
Where has LPO been and where it is going?

Although it started from a very small base and had only 1,300 professionals in December 2005, research studies conducted by Evalueserve [1], Gartner [2], IDC [3], Outsourcing Institute [4], Legal Forest [5], ValueNotes [6], and others show that LPO is the fastest growing sub-sector in the Knowledge Process Outsourcing (KPO), a term introduced and analysed by Evalueserve in 2003 [7]. Research conducted by

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Evalueserve shows that in December 2009, about 5,200 professionals (4,900 in India and 300 in the Philippines) were providing legal outsourcing services; however, this number is expected to grow to 6,400 by December 2010 and to 18,000 by 2015, as shown in Figure 1 below. Almost all offshore outsourcing work is being sent from the U.S. and the UK, and this trend is likely to continue in the near future.

Evalueserve's analysis shows that the revenue growth between 2010 and 2015 is expected to be approximately 26 percent. LPO firms in India and the Philippines will generate approximately \$300 million in 2010 and \$960 million in 2015. Even during the economic recession of 2008 and 2009 (a.k.a. the Great Recession, a term coined by Peter Morici, an Economist and Professor at the R.H. Smith School of Business at the University of Maryland, College Park, Maryland, U.S.A.), the LPO sector grew by 40 percent in 2008 and in 2009; this is in stark contrast to the general KPO industry, which grew by only 5 percent each year during 2008 and 2009.



Source: Evalueserve Research

Legal outsourcing in the U.S. got a boost when the American Bar Association (ABA) came up with the Formal Ethics Opinion 08-451 in August 2008. In this widely publicised opinion, the ABA Standing Committee on Ethics and Professional Responsibility stated that “The outsourcing trend is a salutary one for our globalized economy” and went on to point out that “Outsourcing affords lawyers the ability to reduce their costs and often the cost to the client,” thereby allowing law firms to better represent clients “effectively and efficiently.” The ABA’s opinion also

resulted in over 33,000 media and other Web sites reporting or commenting on it, thereby creating substantially more awareness of the LPO industry, especially among corporate in-house legal departments and law firms. Ethics panels from New York City, Los Angeles, San Diego, Florida, and North Carolina have already confirmed that there is nothing necessarily unethical about legal work being carried out by lawyers or non-lawyers at offshore locations, provided the work is carefully supervised and edited by attorneys admitted to the bar in the U.S.

What Are The Services Being Provided By LPO Firms?

In December 2009, about 5,200 LPO professionals in India and the Philippines were providing the following services:

- **Electronic Document Management Services:** According to our estimate, 1,800 professionals were providing the following services:

- Word processing, creative design, legal transcription, legal coding, data digitisation, key word, XML tagging, and archiving services

- Research, tagging, and summarisation services for updating legal databases (e.g., Lexis-Nexis, Westlaw)

- **Electronic Document Discovery Services:** These include collecting, filtering, processing, and reviewing electronic records and scanned or OCRed (Optical Character Recognition) versions of printed records) etc., for potential discovery in litigation. We estimate that 1,600 professionals were providing these services in December 2009.

- **Intellectual Property Services:** These include the following services:

- Higher-end (associate level) services including prior art searching, freedom-to-operate studies, overlap and evidence of use analysis, and landscaping with respect to patents and trademarks; we estimate that 700 professionals were providing these services in December 2009.

- Paralegal services in IP, e.g., proofreading, and docketing & maintenance of patents, etc.; we estimate that 600 Indian professionals were providing these services in December 2009.

- **Associate Level LPO Services:** As per our estimate, 500 professionals were providing the following services:

- Using templates to produce preliminary drafting of pleadings, employee contracts, non-disclosure

agreements, licensing agreements, supplier agreements, lease agreements, vendor agreements, and distributor agreements, etc.

–Providing help with due-diligence services including reviewing non-disclosure agreements, supplier agreements, board resolutions, and shareholder resolutions.

–Higher-end legal research, 50-state legal surveys (in the U.S.), case law summarisation, etc.

Essentially, Electronic Document Management services, some aspects of electronic document discovery, and docketing and maintenance of trademarks and patents are quite similar to other lower-end business processes (such as finance and accounting) because these services require some – but not necessarily deep – knowledge of law in a given jurisdiction. The other services mentioned above require substantial domain knowledge and a fairly deep understanding of the law. Some of these services are very ‘qualitative’ in nature, wherein every word and punctuation mark is crucial, and where culture and trends in a given jurisdiction can also play a significant role.

Five Business Models Of Providing LPO Services

Currently, there are more than 120 LPO providers, but only 12 have 100 or more LPO professionals. With respect to the offshoring of legal services, the following five models seem to be emerging:

- **Pure-play Providers:** There are about 55 LPO providers who are essentially subsidiaries of Indian law firms; these subsidiaries have an average of five professionals each. In addition, there are approximately 20 standalone LPO firms who are not subsidiaries of any Indian law firms, but have been usually founded or co-founded by lawyers. Those with more than 100 professionals include Mindcrest, Manthan Legal, Pangea3, UnitedLex, and Quislex.

- **Broad-based KPO and BPO Providers:** There are approximately 10 KPO providers (e.g., Evaluate-serve, Integreon, RRDonnelly (OfficeTiger), CPA Global) who provide a substantial amount of LPO services. Additionally, there are about 10 large IT Outsourcing and Business Process Outsourcing providers (e.g., Infosys, Wipro), but they are not gaining much traction because of the low volume in the LPO sector.

- **Captives of Corporate firms:** About 15 multinational corporations have captives in India, e.g., GE, Phillips, Motorola, and DuPont. Although some other large companies are also trying to emulate this model, they are unlikely to succeed unless

their offshore LPO centres have a critical mass of at least 100 professionals. This is because a captive with less than 100 professionals will be unable to provide good career paths to its professionals, and will face substantial attrition because the job market in this sector is expected to remain ‘hot’ for the next 4–5 years.

- **Captives of Law firms:** Currently, Indian law does not allow ‘foreign’ (i.e. non-Indian) law firms to practise in India. Some law firms in the U.S. and the U.K. are setting up subsidiaries, so that these captives do not practise law in India, but provide legal and paralegal services only for export purposes. One of the few law firms that have captives includes Clifford Chance, which has a captive near Delhi that mainly provides IT, finance and accounting, and clerical support; it also has 20–25 professionals providing LPO services. Similarly, Baker & McKenzie has a captive in the Philippines doing desktop publishing.

- **Joint Ventures between firms:** By and large, joint ventures (JV) have not worked out. The JVs between Cantor-Colbourn and Lall-Sethi; between Lee-Hayes and Lakshminarayan (called Bluefile); and between Office Tiger (now RR Donnelly) and Hildebrandt were all dissolved within three years of their inception.

The Demand Side

Corporate Counsels and their divisions are beginning to outsource.

More than 90 percent of the LPO work is either being directly outsourced by Corporate Counsels or on behalf of Corporate Counsels (where they are often “pushing” their preferred law firms to use LPO firms). In December 2009, excluding IP, out of the 3,900 LPO professionals, less than 15 percent were working at the same level as first or second year associates in law firms in the U.S. or the UK; the remaining 85 percent or more professionals are involved in lower-end work (e.g., paralegal).

IP is an exception where more than 50 percent of the work is high end. This is partly because many Global 5000 corporations already have R&D centres in India from where they are also filing patent applications, trademarks, and copyrights, etc., and therefore this activity is strongly synergetic in nature.

So far, law firms have been opposed to offshore outsourcing because of their risk aversion due to conflict of interest issues and leakage of confidential data. Perhaps even more important is the fact that they need to inform their client that they are outsourcing some of the work to India or the Philippines, which results

in the client giving them a mark-up and profit worth GBP 10 per hour or USD 16 per hour. On the other hand, if these law firms use their in-house associates, they typically earn a profit of GBP 30–40 per hour or about USD 50–65 per hour.

The Effect Of Recession On U.S.-Based Law Firms

BTI Consulting Group [8] and Hildebrandt—Citi Private Bank [9] reported 2008 and 2009 were among the worst years for the legal industry in the U.S. during the last 50 years. In 2009 alone, the external counsel spending dropped by 10.8 percent. During 2007 and 2009, the billable rates and realised rates for law firms dropped by almost 10 percent (after including inflation). More and more clients are unwilling to pay the currently prevailing fees to law firms and are “disaggregating” legal services—in both litigation and transactional matters—to achieve efficiencies through a combination of their traditional law firms, lower cost law firms, and offshore outsourcing. Most importantly, the current downturn does not seem to be a “cyclical blip” but a harbinger of more fundamental and long-lasting changes in the legal market, especially because from 1998 to 2007, law firms were able to raise their rates at 6 percent—8 percent per year, which is not likely to be the case going forward.

If going forward these law firms are only able to increase their rates that are consistent with the prevailing inflation, they need to reduce their total overhead especially that related to marketing and sales, general administration, Information Technology, accounting,

clerical, paralegal, and knowledge management. As shown below in Table 1 [10], the total overhead accounts for about 41 percent of the total cost at a typical law firm with 20 or more lawyers. Out of these, 17 percent can be moved offshore, thereby reducing the overhead to 7 percent (instead of 17 percent), which would essentially increase the law firms’ profit margin. Currently, almost no law firm in the U.S. is thinking about reducing its overhead by using offshore resources.

Effect Of The Recession And Clementi Proposals On UK-Based Law Firms

The Great Recession has hurt the law firms in the UK almost as much as in the U.S. Furthermore, the implementation of Clementi Proposals in the UK is likely to force these firms to become more efficient because these proposals state that “commercial entities” should be allowed to own law firms, raising the prospect of law firms being floated on the stock market and allowing finance, management, and other business professionals to become partners in legal practices.

To mitigate the effect of the Great Recession and to pre-empt Clementi Proposals, many large law firms, especially those in the “Magic Circle,” are beginning to implement new pricing models (and doing additional pricing analytics); designing and managing better legal work processes; modifying and re-using existing work products and templates; and partnering with other legal service providers to provide the entire array of services (from “commodity work” to “customised”). In addition, some of these law firms are beginning to offshore many of the following functions: marketing and

sales support; finance and accounting; Information Technology (IT); clerical; paralegal; knowledge management; legal research; and library information and research services. For example, by 2012, Clifford Chance’s captive centre outside Delhi is likely to employ 300 professionals performing most—if not all—of these functions.

Law Firms Outsourcing In The Future

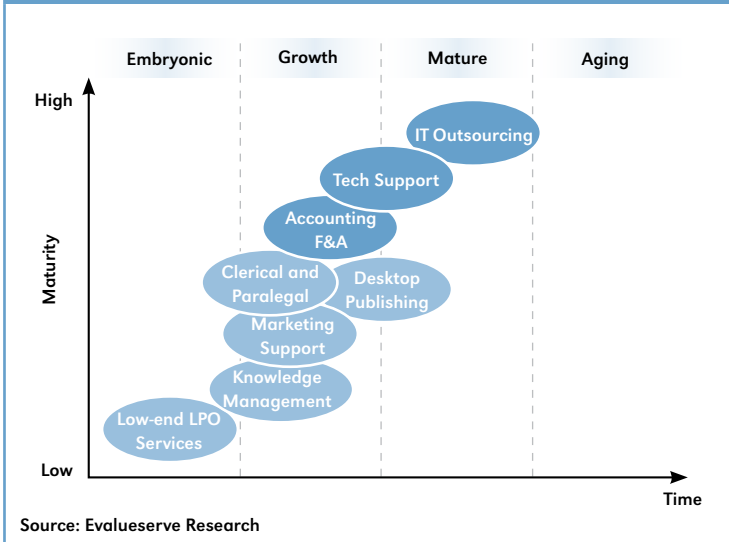
Figure 2 shows an evolution of Offshore Outsourcing for other (non-legal) industries during 1990 and 2010. IT outsourcing is the

Table 1. Average Overhead Expenses Per Lawyer

S. No.	Overhead Type	Percentage of Total Expenses	Comments
1	Occupancy Expenses	6.2 percent	Not offshoreable
2	Equipment expenses	2.3 percent	Not offshoreable
3	Other expenses (malpractice insurance, settlements, payments to previous partners, etc.)	12.5 percent	Not offshoreable
4	Reference expenses	1.2 percent	Not offshoreable
5	Promotional expenses	1.8 percent	0.9 percent potentially offshoreable
6	Paralegal expenses	4 percent	All 4 percent potentially offshoreable
7	Other staff (HR, admin, IT, clerical)	13.1 percent	12.1 percent potentially offshoreable

Source: 2008 Survey of Law Firm Economics, Altman Weil, Inc.

Figure 2. Evolution of Offshore Outsourcing for Corporations: 1990-2010



oldest of all, and is now considered to be mature, whereas low-end LPO services and Knowledge Management outsourcing services are relatively new. We believe that the legal industry will skip some of this evolution (that other industries have gone through) and outsource many functions depicted below simultaneously. We also believe that large-scale offshore outsourcing of Associate level LPO work is at least 3–4 years away.

Future Of Knowledge Management

Knowledge Management (KM) is becoming an integral part of most law firms' business develop-

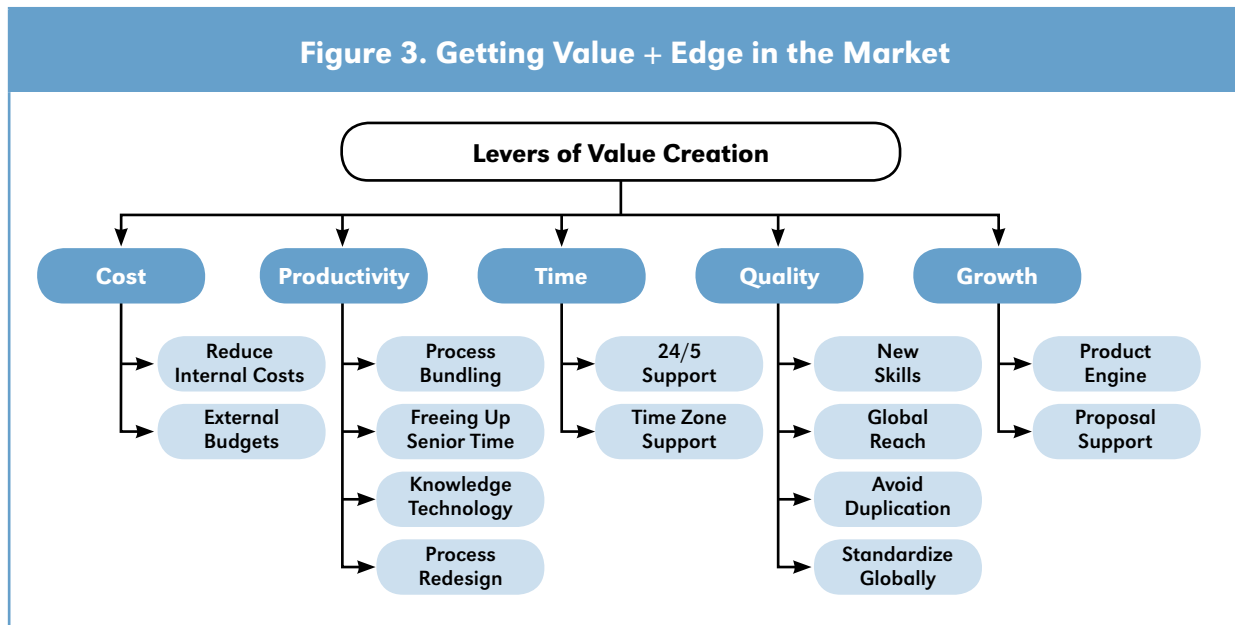
ment function. It is not surprising that all Amlaw 100 (in the U.S.) and Magic Circle (in the U.K.) law firms have their own KM groups. Knowledge Management for law firms entails consolidating legal precedents, research memos, case information, various contracts, and research material into an easily accessible repository for dissemination across practice groups. In addition, Customer Relationship Management (CRM) databases and Proposals' databases are now part of KM because many proposals given by law firms have to span several countries and geographic regions. Since law firms often struggle to establish "best in breed" knowledge management groups in-house, offshore outsourcing of Knowledge Management services is an area where tremendous growth is likely to occur. Since most large law firms are themselves dispersed geographically in the U.S. and the U.K.—if

not across the world—they find it difficult to make their processes uniform and often end up re-doing the same work in two or more offices, and can use offshore outsourcing at a reasonable cost.

Getting Value + Edge In The Market

Figure 3 illustrates some of the areas where offshore outsourcing providers can add greater value, thereby creating an edge for their clients in the market. These areas include cost advantage, productivity improvement, same-time zone support, quality improvement, and 24-by-5 support (in some cases, even 24-by-6).

Figure 3. Getting Value + Edge in the Market



Conclusion

The Great Recession and the implementation of Clementi proposals are likely to help the LPO industry grow faster, but more importantly, they would help in much stronger growth of the following areas because the law firms in the U.S. and the U.K. need to become more efficient: marketing support, non-legal research, and Knowledge Management services. Many law firms have already started implementing new models for pricing, designing and managing better legal work processes, modifying and re-using existing work products and templates, partnering with other legal service providers to provide the entire array of services, and beginning to offshore functions such as marketing and sales, accounting, Information Technology, clerical, paralegal, and knowledge management. ■

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