

ASSOCIATES ON-CALL

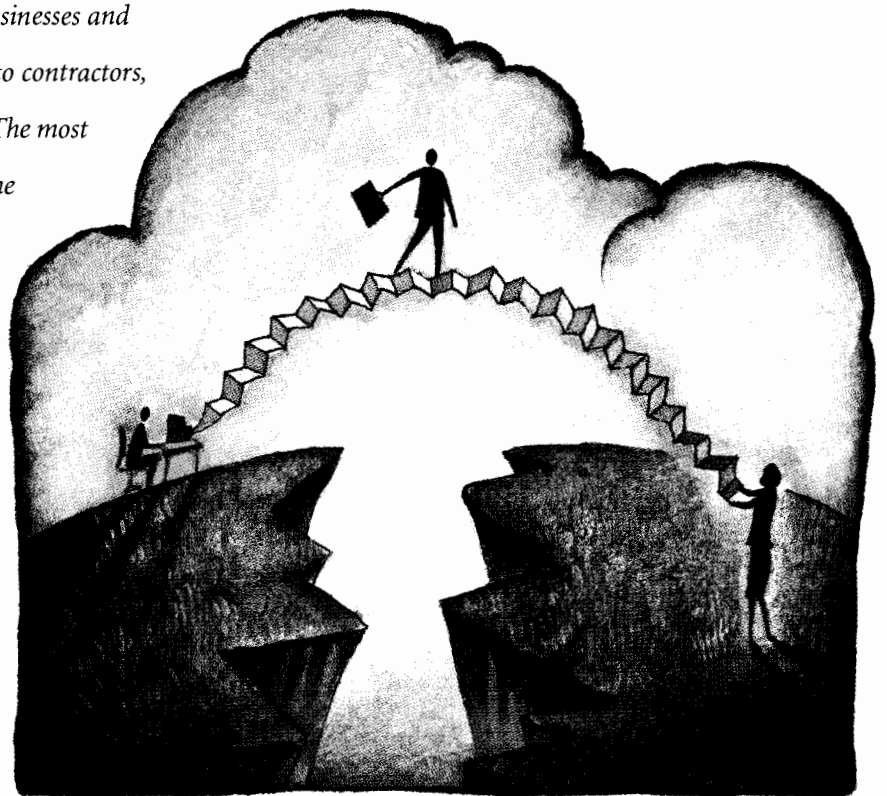
looking big while staying small

Law firms are taking a cue from other businesses and outsourcing more of their primary work to contractors, here and in overseas locations like India. The most popular task, so far, is legal research, but the trend is extending into legal opinions and document preparation. Need some quick, cheap, temporary help? Get in line.

By Simon Hally

It's an old problem for small and mid-sized firms: what to do when a client shows up with a multifaceted problem requiring some quick but in-depth and high-quality research. Then there's the panic that sets in when a case comes on for trial sooner than expected and extra help is needed with document preparation. Rather than lose the whole file, or hiring a body that won't be needed later, more firms are outsourcing the work to lower-cost, specialty outfits. Their location can range from London, Ont., to Vancouver or potentially even India, but lawyers who use such services say the geography hardly matters; they end up with speedy, reliable service at a low cost. And that makes them, and their clients, pretty happy.

"There's no question that there's a growing acceptance" of outsourcing, says Stephen Taran, who founded Taran Virtual Associates: The Legal Outsourcing Network in London, Ont., in 1997, shortly after he was called to the bar. "I was the original virtual associate," he says, "doing everything from photocopying to trial



work" for other lawyers. Since then he has grown his firm to more than 50 lawyers with a wide range of experience, who work as independent contractors on jobs ranging "from a five-hour research project to hundreds of hours spent assisting a firm on a major trial.

"When I started, my major challenge was convincing lawyers they could outsource work without a loss of quality," Taran says, "but now they know the quality of the lawyers in our network is exceptional."

His clients include lawyers who outsource court appearances, discoveries,

drafting and research on demand; corporate counsel who need assistance with drafting, due diligence and litigation; legal publishers who use Taran's "virtual authors" to update loose-leaf texts; and authors who require research or ghostwriting services. Most of Taran's clients are located in Ontario, although some, especially in-house legal departments, are based in the United States.

As his contracted lawyers' overheads are low, Taran is able to bill his clients at well below market rates, which allows them to mark up the fees and earn a profit on outsourced services, while their clients

in turn still pay competitive rates for expert legal work.

A somewhat more specialized legal services supplier is OnPoint Legal Research Law Corporation of Vancouver, which has been conducting research and providing writing services for lawyers since 2000. Sarah Picciotto, the firm's founder, president and senior research lawyer, says OnPoint now has more than 200 clients, mainly 10-lawyer or smaller firms. Currently, most of those clients are in British Columbia, although the firm recently expanded into Alberta and is eyeing the Ontario market.

Outsourcing research enables small firms to add a level of expertise, Picciotto says. "It's like having an associate on call, and it keeps overheads low because you only pay for what you use," not for the downtime a staff member might have.

In Calgary, meanwhile, Bottom Line Research and Communications, established by Barb Cotton in 1993, offers similar services, also on a contract basis. Cotton is the firm's primary research lawyer, and works with a team of legal research consultants who have experience as law professors, clerks with the Alberta Court of Appeal, and lawyers in full-service law firms.

"Small law firms don't have the resources for high-quality research," Cotton says. "We offer fast turnaround — we can meet a deadline of a couple of days if needed."

Bottom Line Research currently provides about 150 small firms and sole practitioners in Alberta with services such as quick searches, research memoranda with supporting materials, briefs, factums and e-factums, appellate documentation, specialty research in the legislative libraries and ghostwritten papers. Cotton has done so well that she may expand into other provinces.

Rob Hyndman, a technology lawyer in solo practice in

Toronto who has a particular interest in outsourcing, believes it has the potential to transform the legal profession by levelling the playing field for small and large firms. "The common wisdom now is that you've got to be big or you've got to be focused," he says, but outsourcing enables small firms and even sole practitioners to bring on extra people with a variety of skills as needed, giving them the staffing advantages enjoyed by bigger firms, but without the overheads.

Large firms, which Hyndman describes as "the high-overhead/high-cost model," are essential for certain cases, he says. "The work they do on high-value transactions with significant complexity won't be affected by the outsourcing model. If eBay is buying Skype, they need a big team with a large range of skill sets, so they need a large law firm. But more generic or standard types of business law can be provided equally well by either large or small firms, and the large firms are expensive for that kind of work. Large clients typically go to their large law firms for everything, because it's simpler. The small to medium-sized practitioners have had a hard time getting that work, as they don't have enough skill sets, or business flexibility, in-house."

The "outsourcing model" changes all that, Hyndman says. It gives small firms "an opportunity to dramatically leverage their local market knowledge, experience and client relationships." Outsourcing to India, in particular, is "one of the unsung opportunities to take on new volumes of business," he adds. With today's technology, "it's much easier to outsource now than it was 10 or 15 years ago, and there's no reason why patent applications, for example, shouldn't be prepared anywhere."

Increasingly, while law offices in Manhattan, Dallas and Los Angeles are closed for the night, work for their clients continues halfway around the world in New Delhi, Hyderabad and Bangalore. It's still a rarity for Canadian lawyers, though. "I think some Canadian firms are doing it, but they don't want to talk about it as they're sensitive to the impression being made," says Hyndman.

"They may be worried that clients will be concerned about deterioration of quality."

For a growing number of U.S. lawyers, that concern has been outweighed by the demonstrated benefits of outsourcing certain functions to India: substantially lower costs and quick, sometimes overnight service. Outsourcing to India "is much more pronounced in the U.S., especially in the legal departments of large technology corporations, less so with U.S. law firms," says Hyndman. "It's in the early days in the U.K. now and it will come here in Canada."

Many U.S. firms are relying on Indian suppliers for advanced work that requires fully trained lawyers. David Perla, the American

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co-founder of Pangea3, which conducts document reviews, patent and trademark applications, contract management, research and other legal services from its offices in Mumbai, said recently, "More than 50 percent of our revenue is high-value work rather than routine, high-volume work. This came as a surprise to us but we handle it well."

Charges for Indian legal services are usually billed at a hourly rate, ranging anywhere from US\$15 to \$80 per hour, depending on the expertise and experience of the people involved, or on a per-project basis.

Part of the reason it seems to work so well is the compatibility of the Indian legal system which is based on English common law; in India, legal training is done solely in English, legal opinions are written exclusively in English and all appellate and supreme court proceedings are conducted in English. Indian law schools graduate more than 200,000 students annually — five times as many new lawyers each year as the U.S. produces — and they are typically paid a fraction of what their counterparts in North America or Europe earn.

Not everyone who has tried outsourcing legal services overseas is delighted, however. Some U.S. lawyers have backed

away due to concerns about client confidentiality, information security, and responsibility for the accuracy of the work. Others feel that while there may be advantages to having basic back-office tasks done by properly trained workers overseas, it's another matter entirely to outsource sensitive or complex work to people they will never meet, even if those people are fully trained lawyers.

Probably the biggest concern about outsourcing legal research, in particular, would be quality assurance, says Joan Bilsland, a research lawyer at Burnet, Duckworth & Palmer LLP in Calgary. Although her firm, with 120 lawyers, does its own research in-house, Bilsland says if she were to consider outsourcing it to another country such as India, she would worry about "proper control of the research being conducted. In law, one term can mean a lot of different things, so someone in another culture might well miss the small differences in meaning.

"Also, I would imagine you would be getting a one-shot type of research," she adds, and it would be difficult to review the details of the report with the researcher.

Quality of work is a recurring theme in the outsourcing business. Although competition from Indian vendors is not an

issue for OnPoint Legal Research, or at least not yet, Sarah Picciotto says she is confident that offshore companies would not be able to match the experience her people have in working in Canadian courts, nor their ready access to paper sources such as loose-leaf texts and other secondary materials that are not available online.

"The people we hire have all been lawyers and they all have litigation experience," says Picciotto, who claims the quality of their work is of a "much higher calibre" than that obtained in-house by large law firms, which typically use more junior staff to do research.

For her part, Barb Cotton of Bottom Line Research says, "With 10 very experienced staff lawyers, four of them full-time, we provide a very high-quality product."

And Stephen Taran in London, Ont., says, "Quality is something that is absolutely fundamental. Lawyers will feel a reluctance [to consider outsourcing services to India] if they are not satisfied that quality will be provided. India is a different jurisdiction altogether — will they be familiar with the nuances of Canadian law even though they have a similar legal system? It might be okay for basic services, but I don't see this as a threat to my business." □

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