

The Impact of Legal Process Outsourcing (LPO) You Might Not Have Noticed

By Ron Friedmann

January, 2012

Law firm outsourcing began several years ago and its impact is starting to grow. Ron Friedmann examines the development of various outsourcing models and where LPO is going in the future.

Legal process outsourcing (LPO) has been a hot topic for several years. What impact has it had on the legal market and what is its future? I'll assess the impact, which is considerable, by analogy to computer "operating systems" (OS). As for its future, though market trends cut two ways, I expect LPO to continue growing.

A Brief History of Legal Market Operating Systems

In the personal computer world, the OS is the set of rules that runs the hardware and controls applications. It is a good way to think about how any complex system works, including the corporate legal market ("BigLaw").

Of particular interest is how a wide-spread computer OS can lose its grip on the market. For three decades, the Microsoft OS (first DOS and now Windows) dominated. Three recent developments, however, threaten that dominance: (1) the growth of Mac OS sales; (2) the substitution of smart phones and table computers for PCs; and (3) the advent of cloud computing makes the OS matter less. As with Windows, the grip of BigLaw OS is loosening...

For much of the second half of the 20th Century, the BigLaw OS was simple. A weak general counsel hired large law firms to provide a range of services and then unquestioningly paid their bills. That changed when General Electric hired Ben Heineman as general counsel in the late 1980s. He built a first-rate law firm inside the company, paving the way for the rise of large, high quality law departments.

By the late 1990s, the BigLaw OS evolved. Corporate law departments played a much bigger role. That change, however important, simply moved bodies from outside counsel to in-house law departments. It did not change how lawyers did their work.

Even in the 1990s, some realized a better upgrade was needed for the BigLaw OS: disaggregate (or "unbundle") routine legal work so that tasks can be automated or delegated to lower cost professionals. [Richard Suskind](#), author of *The End of Lawyers?*, was and still is the most eloquent proponent of this idea. During the boom legal market of 2000 to 2007, the unbundling idea went nowhere. Large firms hired ever more lawyers, increased billing rates, and grew partner profits. Like Windows, BigLaw seemed forever.

LPO Ushers in a New Legal Market OS

In spite of the boom, a new way of working slowly emerged. By 2004, several LPO providers began unbundling from BigLaw high volume legal tasks such as document review, contract management, and due diligence.

The OS of LPO – how it works – differs dramatically from that of lawyers. BigLaw prides itself on its artisanal approach. Few large law firm lawyers would write, much less follow, a playbook or best practices guide. In contrast, LPO providers stress a systematic approach and cost reduction. LPO providers rely on industrial disciplines that include process improvement, metrics, service level agreements (SLA), formal governance plans, lower cost labor, detailed playbooks, defined accuracy rates, and frequent progress reports.

This new OS is most visible in e-discovery. BigLaw document review historically was a lackadaisical affair, with few controls and high hourly rates. No wonder that even in the go-go era of the prior decade, a few law departments found attractive the higher quality and 50% savings that the LPO OS offered.

We can now look back to the early buzz about LPO – moving legal work to India – and understand that it missed the main point. Location matters less than implementing industrialized processes. India is just one destination for lower cost labor and lower cost labor is just one element of the LPO OS.

The New Legal Market OS: "We Are All Legal Outsourcers Now"

LPO providers have grown quickly in the last few years but remain a small percent of the BigLaw market. LPO impact, however, has been disproportionate to its revenues. Specifically, we now see wide adoption of many LPO OS elements by BigLaw. The examples below speak volumes:

- *Process Improvement.* Seyfarth Shaw has received wide and positive press for its [Seyfarth Lean](#) program for client work (modeled on Lean Six Sigma).
- *Metrics.* Metrics play a growing role in legal work. For example, statistics will ultimately determine the outcome of the e-discovery debate about [computer-assisted versus human document review](#). Another example is that law department [analysis of e-billing data could rationalize client selection of outside counsel](#).
- *Project Management.* Formal governance of legal work has been surprisingly absent. The rush is on, however, to correct this by adopting [legal project management \(LPM\)](#) at the matter level. Today, LPM focuses on individual matters; tomorrow, its precepts will likely apply to portfolios of matters and the lawyer-client relationship.
- *Low Cost Labor.* Deploying lower cost workers is not the exclusive reserve of LPO providers. Several US and UK law firms own and operate "captive centers" in low cost locations such as Wheeling, Dayton, Belfast, Manila, and Delhi. These centers provide IT, marketing, KM, finance, secretarial, and other legal and business support.

- *Alternatives to BigLaw Lawyers.* [Axiom Law](#) places ex-AmLaw-200 lawyers in law departments for fixed duration, well-defined projects, at much lower cost than BigLaw. More recently, some law firms are arguably emulating its model, for example [Fenwick & West's FLEX](#).
- *Budgeting.* More sophisticated firms are applying technology to create matter budgets and track progress. For example, [Reed Smith trademarked ouRSite®](#), which supports LPM, budgeting and reporting. New-model law firm Clearspire developed its own [technology platform, Coral](#), which, among other functions, breaks matters into discrete elements for fixed prices and more effective management and reporting.

These examples show that the “real story of LPO” may well be BigLaw’s adoption of the LPO OS, which Indian LPO providers pioneered.

One Surprise of the New Legal OS: "Ownership is Irrelevant"

A new OS always offers some surprises. Who knew how useful smartphones and tablet computers would be and what we could do with them? Or that this new technology would quickly kill the netbook market?

One surprise of the "LPO OS" is that ownership matters far less than many thought. Law firms typically believe in the equation "ownership = control = quality". This equation can be true but it is not a logical certainty. If clients believed it, they would not outsource so much work to law firms! To be sure, anecdotes about outsourcing problems abound. So too, however, do anecdotes about poor support by law firm owned-and-operated functions (e.g., IT, marketing, or finance).

The urge to own is ultimately about control. The LPO OS – with defined SLAs, objective metrics, a governance structure, and regular reporting – offers plenty of control. Ownership therefore turns out to matter much less than many think.

The Future of LPO

That BigLaw has adopted many elements of the LPO OS suggests LPO will continue to grow. The real questions are who will provide the service and where.

On the question of where, LPO in India faces challenges. The shrinking differential between US and India labor rates reduces the incentive to send document review offshore. (Fronterion’s recent “[Ten for 2012](#)” discusses the labor cost difference and other LPO trends.) The leading LPO providers now provide onshore service as well and so have adapted to this challenge.

On the question of who, the candidates are LPO providers, law departments, or law firms. Some law firms and law departments have gone the captive route: WilmerHale offers a [document review service](#) staffed by lawyers in Dayton; Orrick offers a suite of [Global Corporate Solutions](#) powered by a team in Wheeling; and [Deutsche Telecomm](#) has set up a low-cost captive in Berlin. Other law firms have

Law Practice TODAY

THE MONTHLY WEBZINE OF THE ABA LAW PRACTICE MANAGEMENT SECTION

announced relationships with LPO providers (e.g., [Simmons & Simmons](#) and [Mallesons](#)) and many law departments work with LPO providers.

Captives validate the LPO OS and create pressure for more firms and departments to follow. I expect that owned-and-operated centers will be the exception, not the rule. Most firms and departments lack the scale to build efficient centers and doing so is not their strength.

So LPO will likely continue to grow. Since lawyers give great weight to reputation and references, the leading LPO providers will likely continue to siphon share from smaller players.

The wildcard in predicting the future of LPO is the client. If general counsels continue to complain more than act, then LPO will grow relatively slowly. If however, they use their market power to obtain better value, they will likely demand the LPO OS. In that case, both LPO providers and forward-acting law firms will benefit.

Ron Friedmann has spent over two decades improving law practice and business with technology, knowledge management, and outsourcing. His work experience includes Integreon, Prism Legal Consulting, Mintz Levin, WilmerHale, Bain & Co., and two legal software companies. Ron has a JD from NYU Law; he is a trustee of the [College of Law Practice Management](#), blogs at [Strategic Legal Technology](#); and Tweets [@ronfriedmann](#).