

Curious about legal process outsourcing? The cost advantage — about \$25 an hour — is just one reason it's catching on. You just have to be willing to send the work halfway around the world.

Bangalore Ca



For Joel Heft, a chance meeting with Gavin Birer in 2009 was a fortuitous event. Heft, deputy general counsel for the consumer credit reporting agency, Equifax Inc. in Toronto, had been looking into outsourcing some of his company's legal work. Meanwhile, Birer had been overseeing the growth of Legalwise Outsourcing Inc, the first Canadian legal firm to use an Indian subsidiary in Bangalore to service Canadian clients.

It wasn't long before the two sat down and ironed out a legal process outsourcing (LPO) agreement covering everything from service level and pricing to security and confidentiality.

Joel Heft

*Deputy general counsel
Equifax Inc., Toronto*

"If you've got a 10-person department and you think you're going to be able to replace your 10 lawyers with these 10 in India, you're looking at it wrong. If you're looking at supplementing the work your department does with a very solid resource, then yes."

At first Legalwise performed "routine, repetitive" tasks for Equifax — document review and supporting e-discovery work. It also worked on standard form contracts "with a rigid set of rules around completing that first draft contract," says Birer.

As the client's comfort level rose, Legalwise moved on to more complex tasks. According to Birer, it's now common for his company to do "associate level" work for Equifax, from receiving questions and comments to making revisions to agreements.

Weighing the risks

Legal process outsourcing has been around for close to 10 years, but law firms — Canadian ones in particular — have been slow to embrace it as a way to control legal costs.

Part of the reason is that legal outsourcing carries its own set of risks. Clearly data security is a concern just as it is for other forms of outsourcing. But LPOs carry unique concerns, such as worries about solicitor-client privilege violations. And law being an inherently conservative business, there is still some apprehension about the quality of output being generated by lawyers working in faraway jurisdictions.

By Patti Ryan

Photography by Paul Eekhoff

But the perception of outsourcing legal work abroad is quickly changing, as the frenetic growth of the LPO market has shown. According to Forrester Research, an independent research firm, LPO revenues will grow from an estimated \$640-million in 2010 to more than \$4-billion by 2015.

Birer reckons that the growing acceptance of LPO comes mostly from corporate law departments.

Indeed, following the economic downturn of the past couple of years, companies were forced to take a harder look at their total legal spend. "Show me a general counsel today who doesn't have pressure on budgets and pressure on resources," says Birer. Shipping work to India can cost as little as one-tenth of what it would cost in Canada. Typical rates for LPO services are around \$25 per hour.

But as they experienced the benefits of high-quality work being done at lower cost, legal departments also have come to realize that having a dedicated workforce on the other side of the world offers a number of other advantages, including round-the-clock coverage, efficient project management and a better resource allocation.

When Canadian lawyers are packing it in and heading

home for the night, Indian lawyers are starting their days. Many files can be returned to clients by the next morning. That's "24/5 functionality," says Birer.

And while some lawyers see outsourcing as a threat to their livelihood — in Connecticut, a bill was introduced earlier this year to prohibit the outsourcing of the drafting, review or analysis of legal documents — others like what they get out of it. By handling high volumes of repetitive work, LPOs make it easier for lawyers in the home country to focus on higher-end work.

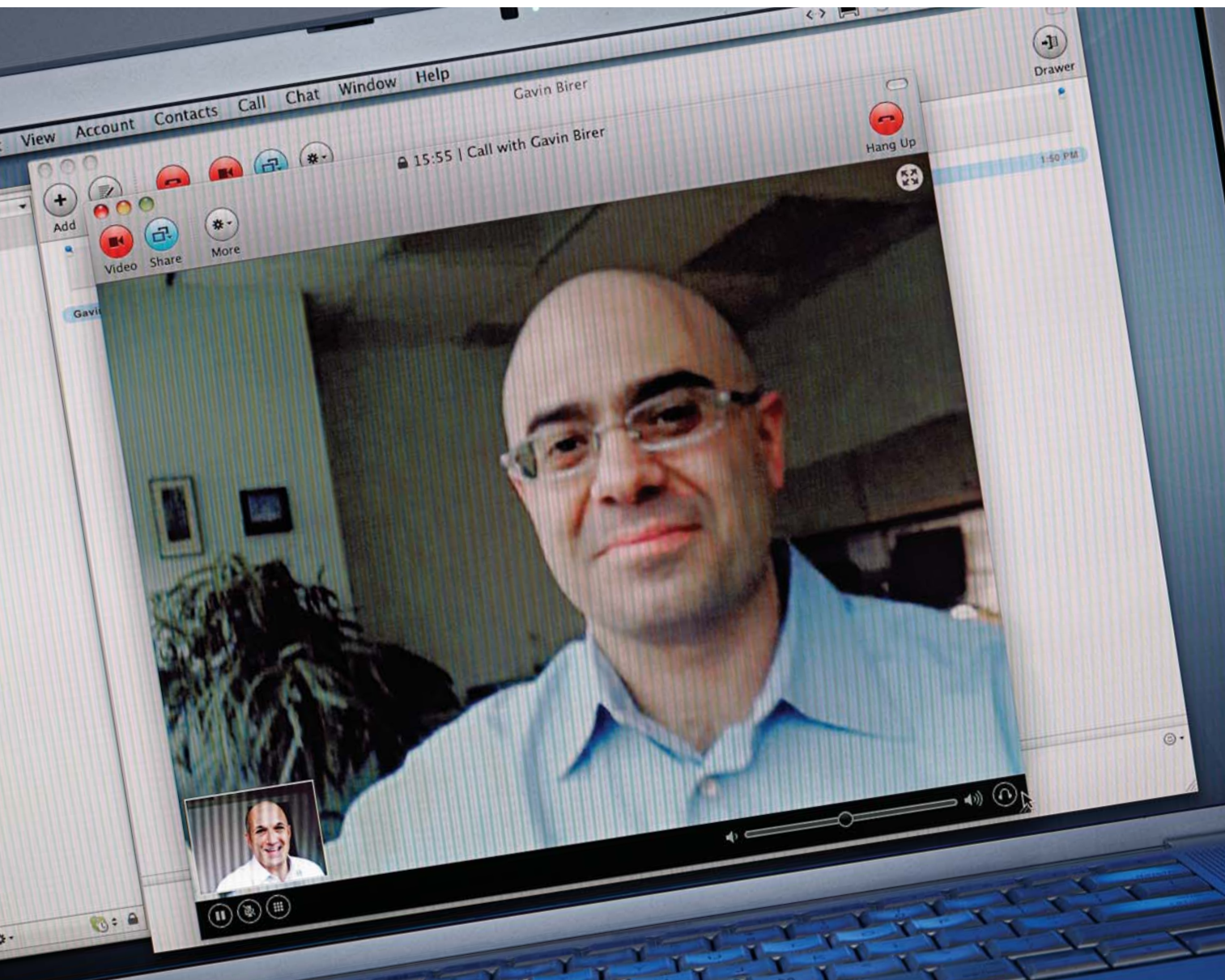
"It actually just helps them do their jobs better," says Heft.

Gavin Birer

Founder and president

Legalwise Outsourcing Inc., Toronto

"If you're not [outsourcing] are you truly giving value to your clients?"



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In India we trust

When Birer founded Legalwise in 2006, it was the first Canadian LPO. Another Canadian outfit, LexEdge, entered the fray in 2007, and there are several international players that have made a name for themselves: Mindcrest, Quislex, CPA Global, Pangea 3, Evalueserve and Integreon Managed Solutions Inc.

Birer has 25 lawyers working in two offices in Bangalore, but expects to double or even quadruple the size of his legal team over the next year or so. Legalwise lawyers are full-time salaried employees.

Though some LPOs have operations in the Philippines, South Africa or elsewhere, India remains the preferred off-shore delivery location — and for good reason. “Firstly, English common law is the background,” says Birer, “and

English is for most people a first language. There are a high number of lawyers in India compared to other jurisdictions. And lastly, and probably most importantly, the cost of living in India is a fraction of what it is in other developed-country jurisdictions.”

It’s estimated that India has more than a million lawyers, and its law schools produce an additional 60,000 to 80,000 graduates annually. U.S.-based LPOs with operations in India are now the largest single employers of lawyers in India, says Birer. They are trained to understand the needs and characteristics of the North American market.

According to Ramya Ramachandra, a Legalwise managing lawyer in Bangalore, the challenge of adhering to rigorous standards is not taken lightly. But attracting talented lawyers to work for an LPO is easy enough. For many Indian lawyers a career with an LPO is considered a “preferred choice,” she says.

“The pay package at an LPO, the work-life balance it offers, the unique opportunity for Indian lawyers to get a Western-style experience and the growth opportunities available are some of the reasons why LPOs are gaining increasing popularity,” she says. “The perception that veteran legal professionals

L’ABC de l’impartition juridique

Préoccupés par le secret professionnel et la qualité de leurs services, les juristes canadiens ont été lents à s’engager dans la voie de l’impartition. Mais les perceptions changent, particulièrement au sein des contentieux.

La rencontre entre Joel Heft et Gavin Birer était presque providentielle. En 2009, Heft, conseil général adjoint chez Équifax à Toronto, cherchait à impartir une portion du travail juridique de sa compagnie. Au même moment, Birer supervisait la croissance de Legalwise Outsourcing, la première entreprise canadienne à utiliser un partenaire indien à Bangalore pour servir des clients d’ici.

Ça n’a pas été long avant que les deux hommes concluent une entente d’impartition de services juridiques, couvrant une gamme complète de questions, du niveau des services impartis aux honoraires, en passant par la confidentialité.

Au départ, Legalwise menait des tâches plutôt « routinières et répétitives », comme la révision de documents ou le soutien de l’administration électronique de la preuve (e-discovery). Mais tandis que le niveau de confiance a augmenté, Legalwise a gradué vers des tâches plus complexes. Selon Birer, il est maintenant commun pour sa compagnie d’abattre du travail généralement confié à des avocats juniors, comme de recevoir des questions et des commentaires ou de réviser des ententes.

Cette forme de sous-traitance est en cours

depuis une dizaine d’années, mais les firmes — particulièrement les firmes canadiennes — ont été lentes à l’adopter comme moyen de baisser leurs coûts.

La pratique, il est vrai, vient avec sa part de risques et d’appréhensions. La sécurité des informations et le secret professionnel en sont des exemples. Et le droit étant un domaine plutôt conservateur, des craintes demeurent quant à la qualité des services fournis.

Mais les perceptions changent et la croissance frénétique du marché en est la preuve. Selon Forrester Research, une firme de recherches indépendante, les revenus de l’industrie pourraient passer de 640 millions \$ en 2010 à plus de 4 milliards \$ en 2015.

Selon Gavin Birer, ces chiffres sont poussés à la hausse par une plus grande acceptation au sein des contentieux. Avec le ralentissement économique des dernières années, en effet, les compagnies ont dû examiner leurs dépenses juridiques de plus près. L’expérience a pu leur permettre de constater les avantages liés à un travail de qualité livré à meilleur prix, 24 heures par jour.

On évalue le nombre d’avocats en Inde à plus d’un million. Ses facultés de droit en produisent

entre 60 000 et 80 000 de plus chaque année. Les compagnies américaines d’impartition étant les plus grands employeurs de juristes en Inde, les juristes indiens sont formés pour comprendre les besoins et les caractéristiques du marché nord-américain.

Malgré tout, l’acceptation grandissante de l’impartition des services juridiques n’est pas uniforme : aux États-Unis, certains dénoncent ce qu’ils décrivent comme une pratique illégale du droit. Un projet de loi a même été déposé plus tôt cette année au Connecticut pour proscrire la rédaction, la révision et l’analyse de documents juridiques de la gamme de services pouvant être impartis.

Mais ultimement, la pratique risque d’être jugée principalement en fonction de ses résultats : sa capacité à offrir des coûts concurrentiels et flexibles, sa vitesse d’exécution et la qualité du travail livré. Pour le reste, Gavin Birer a déjà noté des changements majeurs au sein même des cabinets juridiques. Il fut un temps où celles-ci s’inquiétaient de la perception de leur clientèle, surtout en terme de qualité. Or, maintenant, les firmes s’en vantent presque, dit-il. « Parce que si vous ne le faites pas, vos clients en ont-ils vraiment pour leur argent? » N

Ramya Ramachandra

Bangalore, India

"The pay package at an LPO, the work-life balance it offers, the unique opportunity for Indian lawyers to get a Western-style experience and the growth opportunities available are some of the reasons why LPOs are gaining increasing popularity."



have toward the LPO industry is gradually changing too."

In terms of her own career, Ramachandra says joining Legalwise has been a smart move. She had been working at a traditional law firm, but didn't enjoy the traditional "sink or swim" approach. She appreciates that Legalwise offers her an opportunity to hone her business and management skills, and says her prospects there look promising, with plenty of room for growth.

Since LPO lawyers can be required to do a lot of routine, repetitive work, it might be fair to wonder whether the "cream of the crop" prefer to concentrate their energies elsewhere. But as Ramachandra points out, lawyers everywhere have to do repetitive work at least some of the time, whether they're based in India or Canada, at a law firm, LPO or law department. In fact, she says the higher-end LPOs in India are attracting highly capable lawyers who are interested in working with international clients. As an example, two lawyers currently with Legalwise ranked first and second among lawyers

graduating from more than 25 law colleges (each graduating 100 to 150 students) in Bangalore.

In any case, Ramachandra doesn't actually find her work to be particularly routine or repetitive. "The work has been diverse in nature and quite challenging," she says.

More than a leap of faith

Legal process outsourcing isn't for everyone. Sending confidential files halfway around the world to be reworked by people you've never met requires careful planning and a good deal of patience.

According to Heft, Equifax spent considerable time at the outset going through its agreements with Legalwise line-by-line.

"We created a library in both countries of standard form documents that we would use," says Heft. "We spent a lot of time walking through those with them before they ever actually worked a file on their own. And at the beginning we did our own internal, 100-per-cent review of everything they did."

The ethics of outsourcing

When legal process outsourcing started to take off, some bar regulators in the United States “thought the sky was falling,” says Simon Chester, a partner with Heenan Blaikie LLP in Toronto. They envisioned a need for special guidelines to govern the practice, which was considered unprecedented and potentially risky.

Since then, law societies and bar regulators have concluded that the LPO is not that different from situations where lawyers employ others, including co-counsel or specialists, to help serve clients. “And when we do that, we have certain obligations,” says Chester. “LPO doesn’t differ completely from those things.”

LPO can take a few different forms, and the rules of conduct to keep in mind differ depending on the circumstances. A law firm could decide to offshore some of its support functions, such as billing and finance, or a client could decide to engage an LPO company directly. In both cases, there needs to be a level of comfort with the LPO’s quality control and confidentiality protocols. But the stakes are higher when a law firm working with a client decides to employ an LPO company to perform work for that client.

In that case, says Chester, all of the usual principles pertaining to confidentiality, conflict, and responsibility for delegated work continue to apply, but need to be contemplated in the context of LPO:

1. Conflict of interest — as in, the need to avoid it. “You need to make sure that the person who you’re dealing with, who’s providing the support, doesn’t have a conflict of interest,” says Chester. “You need to have procedures in place to check conflicts.”

2. Confidentiality. LPOs may actually do a better job of protecting confidentiality than North American law firms, says Chester. “They maintain things like clean desk policies. Their computers will not have anything that permits information to be downloaded. They won’t be able to take information home. They won’t be able to take a computer home. If you talk to people at Integreon or the other major LPOs, they will tell you that of course they’re aware of the need to protect confidentiality, and in fact they have even higher standards than law firms do, because if they don’t, they lose their entire business.”

3. Transparency. You need to be completely transparent with the client, says Chester, and the client has to approve of everything and be satisfied that there is quality control. Firms should also fully disclose any administrative charges applied to the outsourcer’s work, and all additional premiums should be reasonable.

4. Responsibility for the quality of the work. If something goes wrong, says Chester, “a Canadian law firm is not going to be able to turn around and say, ‘Well, it wasn’t our fault, it was the fault of XYZ Corporation in Chennai or Bangalore.’” Law firms engaging LPOs are responsible for ensuring the work is properly done.

There are currently no special rules in Canada to govern legal outsourcing, however, the American Bar Association (ABA) Commission on Ethics 20/20 is looking at adapting the rules of conduct in the United States to deal with the new reality of global practice. Chester strongly suspects that if the commission issues new guidelines, it wouldn’t take long for them to be adapted (if there are special or additional provisions) in Canada. **N**

It just makes sense, says Heft, to start with basic, routine tasks. “Like anything else, whether it’s a legal process outsourcer or a new lawyer, you’re not going to throw the most complicated matters at them Day 1. You’re going to start them off slow and work up to a level of confidence.”

When clients are ready to send work to Legalwise, they upload documents and data themselves directly to the Legalwise server, which is located in Canada. The Bangalore lawyers will access that database and work off it to create legal content.

“Unlike many LPOs that send the data to India, we’ve taken the view that Canada is a conservative environment and it’s more appropriate for us to be working off a system that’s located in Canada,” Biring explains. The Legalwise system offers remote access from anywhere, as long as there is an internet connection. The connection is of the “https” (Hypertext Transfer Protocol Secure) variety, providing the same level of security and encryption as online banking.

Typically, a client will begin by uploading a legal request form, which often originates in the firm’s business unit. The form provides background on what the client is asking the law group in Bangalore to do. At the same time, the client will upload the various forms of documents or contracts they want Legalwise to work on based on the legal request form.

When the lawyers in Bangalore arrive at work in the morning, they’ll check the database and access the data. “They will review what they need to do, and then they will produce the work product, which is available on the system again for the client to download when they come in the next morning,” says

Biring, adding that the work must undergo strict quality control before delivery.

“When the first lawyer does the work, they put it in our system with a ‘completed’ status,” Biring explains. “But that work is not yet available to the client to be downloaded. Only once it goes through quality control and the quality control lawyer puts it into ‘cleared’ status is it available for the client to download.”

That kind of quality control is often unaffordable in Canada because the cost of having one lawyer review another’s work is prohibitively high, says Biring. Often the work will simply go straight to the client, having been reviewed by a single lawyer. “But people make mistakes, and two sets of eyes on something is always better than one,” says Biring. “Done correctly, it should offer the client the opportunity to have both the work performed and then quality control done on it before the client sees it.”

In the end, LPOs are being judged by results: their ability to compete on cost flexibility, rapid turnaround, and quality. As for the optics of doing business with LPO companies, Biring has noticed a major shift in attitudes even among law firms. There was a time when they worried that outsourcing legal files to India would reflect poorly on the quality of their service. Those that sent work abroad might even keep quiet about it. Now, law firms are beginning to point to their outsourcing of legal work as “a badge of honour,” says Biring. “Because if you’re not doing it, are you truly giving value to your clients?” **N**

Patti Ryan is a freelance writer based in Ottawa.