

Technology Strategy and Management

Globalization of Knowledge-Intensive Professional Services

Does the trend toward standardization and modularization of professional services make outsourcing inevitable?

HIGH-END PROFESSIONAL SERVICES such as accounting and legal support are starting to move offshore in the same way that software services did a decade ago. These knowledge-intensive services are similar to software services in some respects, but different in others. It is useful to examine the reasons behind this trend and the associated implications.

Consider legal services: GE Plastics is credited with pioneering offshoring the legal support function by establishing a captive offshore base in India to draft contracts in 2001.^a Since then, the legal departments of other global corporations have followed suit. Law firms are also exploring possibilities either by establishing captive operations, as Clifford Chance had done, or by outsourcing to independent service providers. These so-called legal process outsourcing (LPO) providers are located in Indian cities like Gurgaon, Mumbai, Pune, and Hyderabad to provide legal support in patent filing, contract reviews, legal research, litigation, and compliance.^b Instead of having paralegals and contract lawyers located nearby, corporate legal departments and law firms now man-



Employees of the knowledge process outsourcing firm Evalueserve provide business and market research, data and financial analysis, and intellectual and property rights services to companies worldwide from their office in New Delhi, India.

age professionals carrying out equivalent work thousands of miles away.

Why is the offshoring of professional services—legal services in particular—occurring? The main motivator for offshoring, common across all types of services, is wage arbitrage (access to skilled labor at a fraction of the cost in the U.S. or Europe). In legal services, the hourly rate for associates in the U.S. is typically \$250–\$300, compared to approximately \$60 for U.S. paralegals and \$30 for Indian legal professionals. Offshoring is a tactic used by global cor-

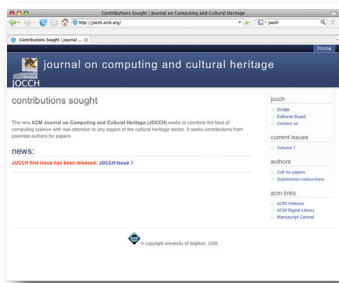
porations to combat law firms' billable hour culture, which centers on the notion that costs cannot be estimated in legal work. Whereas in the past, corporate legal departments were regarded as unavoidable overheads, now they are scrutinized for more cost-effective delivery, in the same way factories have been for decades.

Behind this change in perspective is the strategy to enhance competitive advantage by unbundling corporate functions in finance, human resources, IT, procurement, marketing, and so

^a *Corporate Counsel*, March 2003, p.78.

^b Major LPO providers include CPA Global, Integreon, Evalueserve, Law-Scribe, Mindcrest, Pangea3, Quislex, and Bodhi Global.

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forth. Both large and small enterprises can purchase professional services in these support functions off-the-shelf in global markets.² This involves the application of a global delivery model, perfected by Indian software firms for IT services, to knowledge-intensive professional services.

This all seems sensible, but will the offshore outsourcing of legal services succeed? There are major challenges to managing and capturing profit in this global value chain, including the decomposition, iteration, and disaggregation of work processes.

Work Decomposition

A prerequisite for offshore outsourcing is the breaking up of the value chain into a sequence of tasks, each with clearly defined interfaces. This poses a challenge because lawyers generally believe that decomposition in this manner may not work well. Traditionally, a client entrusted a particular lawyer to carry out an integrated service, with assistance from junior associates, paralegals, and legal secretaries. The integrated service, typically delivered in a 'job shop' craft mode, consists of at least three separable steps: knowledge and information management; consultative advice and representation; and client relationship management. For example, in litigation, document discovery (increasingly dominated by e-discovery) and legal research are part of the first step, which becomes a basis for advising and representing clients in court. Similarly, in intellectual property (IP) work, prior art search and IP portfolio analysis are part of the first step, while commercialization studies of unused patents are aspects of the second step of giving insight and advice.

In the last two decades, information and communication technology (ICT) has enabled the separation of knowledge management from advisory work. ICT has been used primarily to automate processes in data management, for example by developing document assembly software for contract drafting. Legal service, just as manufacturing, is subjected to process thinking to standardize, systematize, and package the law. Thus, the use of technology is a first step toward making legal work more repeat-

able, scalable, and offshoreable. For example, it is expected that document discovery (including e-discovery) will involve breaking a project into clearly defined components that can be worked on by separate teams in parallel. Distance should not matter in managing and coordinating these geographically dispersed teams.

In reality, there are some legal tasks, such as conveyancing, which can be easily packaged and transferred to an offshore destination. But there remain other tasks that are part of, and cannot be completely separated from, the whole. Legal research provides a good example. At one end of the spectrum, a 50-state survey on a particular issue is easily outsourceable as a standalone project. At the other end of the spectrum lies case law research that depends on knowledge of precedents and case interpretation as well as an understanding of the whole case for which research is undertaken.

Another example is document discovery in litigation support. Objective coding, involving entering the time and addressee of each email message, for example, is completely modularizable. By contrast, subjective coding, involving the identification of relevant and privileged information, cannot be done without the full knowledge of the case.

Thus, the reductionist strategy to decompose legal support work into modular parts may be difficult to implement in practice. If this sort of decomposition is easier said than done in software development, many lawyers believe, rightly or wrongly, that such things are virtually impossible for legal work. Thus, although few would doubt that some simple legal support work may be subjected to such decomposition, how much of core legal services can (and should) be decomposed in this manner remains an open question.

Work Iteration

Legal work is not performed entirely offshore, but instead the work moves back and forth between the client's home base in the U.S. or Europe and the offshore outsourcing site in India or the Philippines. This onshore/offshore mix arises out of necessity in the nature of legal work. For example, in drafting contracts, an offshore LPO

provider may create a first draft based on a template, followed by contract negotiations by the client law firm, which results in requests for adding and modifying clauses. There may be several iterations of onshore negotiations and offshore contract modifications before the final contract is produced.

Similarly in litigation support, an LPO provider may undertake document discovery for a client law firm in New York. Here, the iterative back-and-forth between the client and the LPO provider occurs due to the client's quality check on the provider's work and court-imposed deadlines for submitting specific types of documents.

Distance involved in offshore outsourcing poses a challenge to this iterative nature of work as it requires smooth handoffs and handbacks. The traditional model of doing legal work, in which an associate may walk over to instruct contract lawyers and paralegals face-to-face, is not amenable to thinking about managing the handoffs and handbacks in a systematic manner.

It was the rapid rise in legal fees that caused law firms to use more contract lawyers within the U.S. borders. But these contract lawyers, hired through staffing agencies, come and go. Some leading India-based LPO providers think that with more stable employment in India, it is easier to set up robust processes offshore than onshore, using tighter project management with milestones. Thus, ironically, U.S. law firms may hire contract lawyers located nearby on a short-term basis, while they attempt to establish longer-term stable relationships with legal professionals at a distance. It may well be that necessity is the mother of invention, and that distance is forcing LPO providers to take process control, project management, and data security more seriously. But it is not yet clear how much of legal work can be easily shifted from a traditional model to this model of process-based iteration without undermining quality.

Work Disaggregation

Offshore outsourcing will affect the way we think about professional work and the nature of professionalism itself. The shift from highly qualified to less qualified occupational skills has been

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well under way in legal, medical, and other professional fields for reasons that have nothing to do with offshore outsourcing. However, ICT facilitates disaggregating a particular piece of work into finer standardized process steps. And the more process steps are disaggregated, the more it becomes possible to enable a non-lawyer to do legal support work. Thus, lawyers' work has become more fragmented in the same way that craftsmen were deskilled by Frederick Taylor's scientific management theory a century ago. Moreover, ICT technology further undermines the advisory function of the legal profession, as more clients rely on self-service in consuming legal services.³ Ultimately, it is the changing nature of professions onshore that enables the offshore outsourcing of professional services.


At the same time, there is an inherent pull toward keeping the profession whole, which mitigates against the de-professionalization of lawyers. In particular, some believe that even the most segmentable low-end legal work will suffer from poor quality without proper legal training. Thus, some patent attorneys may claim the knowledge of how to prosecute a patent is essential to do the most elementary aspects of patent search and drafting.

Moreover, the legal profession is self-regulated with nationally based jurisdiction. Thus, lawyers may be deemed to be less offshorable than paralegals, who in turn are less offshorable than other legal support workers precisely because the two defining characteristics of jobs that cannot be offshored apply to the legal profession.¹ So, not only does legal work require face-to-face

personal communications and/or contact with end users of the service; specific legal work must be also performed at a U.S. work location rather than overseas. Given current regulation, Indian lawyers are not permitted to practice law in the U.S. or England, while U.S. or English lawyers are not permitted to practice law in India. India-based LPO providers therefore merely supply legal support work, but never practice law in their clients' jurisdiction.

Thus, the global delivery of legal services is likely to further blur the boundary between what is done by a qualified professional and what can be done by non-qualified personnel with supervision from a qualified professional. But exactly how offshore outsourcing will affect the nature of professions is uncertain because of multiple forces at play.

Conclusion

There are several reasons why the offshore outsourcing of professional services is occurring. But there are some unknowns, especially in relation to the nature of professions that will affect the future of this phenomenon. The factors motivating offshore outsourcing are strong, and the pressures to offshore will remain. But the experience with the offshore outsourcing of software development sheds some light on just how difficult it is to deal with issues of work decomposition and iteration. The trajectory of global delivery of software work does not initially appear to translate well into that of professional services due to an additional factor of uncertainty in the nature of self-regulation of professions and the boundary of professional work. Thus, it is not advisable to draw too many conclusions about the future of the professional service offshoring from the experience thus far with software offshore outsourcing. 

References

1. Blander, A.S. How Many U.S. Jobs Might Be Offshorable? CEPS Working Paper No. 142, 2007.
2. Palmisano, S. The globally integrated enterprise. *Foreign Affairs* (May/June 2006).
3. Susskind, R. *The End of Lawyers?* Oxford University Press, 2008.

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