

LEGAL BUSINESS

Outsourcing in-house counsel: trailblazing firms lead the way

By Michael Rappaport
Toronto

Who are you going to call when you can only pay for or justify hiring one-fifth, one-third or one-half of a lawyer? This conundrum is faced by smaller businesses that can't afford full-time in-house counsel and bigger businesses which may be swamped by loads of legal work at hectic times of the year, yet can't make the case for adding another full-time lawyer to their legal department.

Businesses might try dialing up Toronto-based Cognition LLP or Montreal-based Delegatus Legal Services Inc. These two innovative law firms specialize in helping companies obtain experienced in-house counsel at reasonable rates by providing independent in-house legal counsel on an as-needed basis.

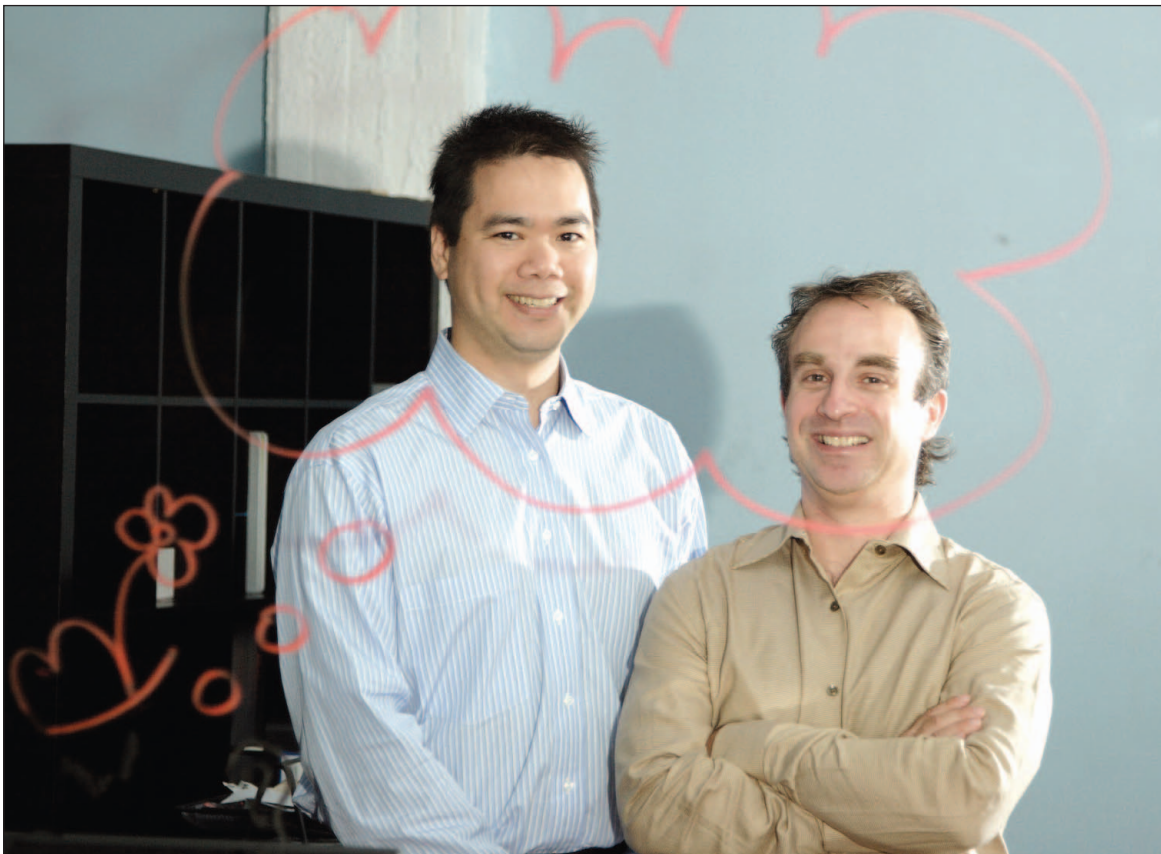
The dynamic duo of Joe Milstone and Rubsun Ho were neighbors, who both spent several years working as in-house counsel, before deciding to join forces and co-found Cognition in April of 2005.

"On a steady basis a company may have sufficient legal needs for four and a half lawyers, we can provide that extra half," Milstone explains enthusiastically. "Our model is to provide companies with 'bandwidth on demand' so that businesses only pay for its in-house legal services as it is used. We can place an experienced lawyer in-house on an as-needed basis, whether part-time or full-time for a period of weeks or months or an ongoing relationship."

Both Cognition and Delegatus subcontract lawyers to work as part of a company's in-house legal team or to work part-time as in-house legal counsel. In particular, they are focused on providing services for smaller businesses who lack the funds to hire full-time in-house legal counsel and larger companies with cyclical legal needs, which spike at busy times of the year.

"Small and medium sized businesses with limited legal budgets can have a lawyer come in once or twice a week and review contracts and other legal issues and reassure them that they are correct," says Pascale Pageau, the founder of Delegatus.

Marcia Mills is general counsel for Mxi Technologies, Ltd; an Ottawa based software and services firms. She says the advantages of outsourcing some of their in-house legal needs to Cognition are twofold. "Firstly, we can hire legal help when required without adding to our full-time head count. Secondly, their prices are much



Rubsun Ho and Joe Milstone are reflected in a thought bubble drawn in marker on the wall-sized mirror in their office, which they use to map out their work flow. Photo by Paul Lawrence.

more reasonable than big firms."

Despite offering legal services at rates below the big firms, Cognition and Delegatus have healthy relationships with the major firms. "Big firms view us as partners, not competitors," Pageau insists. "We have provided subcontract work for bigger firms, to help them with smaller files to cut costs for their clients."

Less expensive, highly experienced

Keeping costs low while providing highly experienced counsel are the keys to the success of Cognition and Delegatus. Both Cognition and Delegatus reduce overhead by operating as virtual law firms with minimal office space.

"Delegatus rents office space when needed and maintains a small service centre," Pageau says. "The six lawyers who work for Delegatus either maintain their own office or work from home or work directly in the client's office."

"Companies shouldn't have to pay for Class A office space, fancy furniture and artwork," Ho protests. Cognition maintains a small office in a former studio several blocks from Bay Street (in a previous incarnation the studio was used for teaching pole dancing; the poles are long gone, but the mirrors running the length of one wall still remains).

The rates at Cognition and Delegatus are substantially lower than at the major firms.

"If we compare Delegatus' rates with those of major firms in

Montreal, we charge about 50 per cent less for similar levels of experience," Pageau says.

"We are very flexible on our rate structure," Milstone says. "We can tailor our rates to what the client needs, whether it is hourly, daily or a fixed fee. Our rates approximate the fractional cost of hiring additional in-house counsel."



Pascale Pageau

"Given the level of experience of our lawyers, we probably charge about a third of the rate of Bay Street," Ho chimes in.

Cognition and Delegatus are both extremely cost conscious. Neither firm charges retainers. Nor do they charge for many ancillary fees such as photocopies,

faxes and long distance calls.

"We don't charge retainers and clients are free to come and go as they please," Ho proclaims. "We also don't charge for regular out-of-pocket expenses."

"We've both been in-house counsel, so we are very vigilant in not duplicating efforts on a matter," Milstone says. "If we consult with each other we don't bill our time twice."

While Cognition may offer more reasonable rates, there are some types of legal work which they have to turn away or turn to other firms for assistance with.

"Cognition acts much like any general counsel – that is, we are generalists and focus primarily on in-house type work and bring in outside counsel with more expertise where any specialized knowledge is required, or where a team of people and administrative infrastructure is needed for complex or document intensive issues," Ho elaborates. "Accordingly, while we'll trade demand letters and negotiate contentious disputes, we won't typically represent a client on a matter that proceeds to litigation. Similarly, we use outside counsel for advice and representation on tax matters, competition issues, patent applications, organized labour and large or complex corporate transactions."

Balancing work and life

The elusive quest to achieving work/life balance has attracted many lawyers to Cognition and Delegatus.

Pageau was on her second maternity leave from a big firm in Montreal when she decided to found Delegatus in 2005, so that she could spend more time with her children.

"Although my hours vary a lot, I generally work 30-35 hours per week now, instead of the 40-50 hours per week that I worked when I was at a big firm," Pageau says.

The desire for more flexible hours and working arrangements draws many lawyers to Cognition's doors. "Lawyers can work for us full-time or part-time, on-site or at home," Milstone says.

On the flipside, more entrepreneurial lawyers are enticed by the opportunity to work more and earn higher salaries.

"Our lawyers receive a percentage of the billing for every hour worked. If they work more hours they can earn more than they would at a law firm, where they are not paid overtime," Milstone explains. "In addition, our lawyers have the tax benefits of being independent contractors."

Nina Moritsugu joined Cognition because she was interested in growing her own practice after spending two years on maternity leave. She says Cognition has a real entrepreneurial approach to practicing law, which is dramatically different than the big firms which she has worked for in the past.

In the near future Delegatus plans to increase their network of lawyers from six to 10 to 12 professionals in complementary fields. Pageau cautions that her desire to expand is not at any cost but must come at a natural pace.

"Organic growth is our aim. We are very strict in our selection criteria and all of our professionals must have a solid experience in large law firms or corporations for at least five years. Therefore, the level of service a client gets is constant and we can clearly see that they really appreciate to work with efficient seasoned professionals."

Cognition, which started out in 2005 with only two lawyers, currently has a stable of 14 lawyers who work as subcontractors. What's more, the firm is expanding rapidly. Cognition has recently hired two lawyers in Ottawa and is expecting to hire one more in fall. They've just placed a want ad for a lawyer in Calgary. Next year, Cognition is looking to expand to Vancouver and potentially Montreal and the Maritimes in the near future.

"We expect to grow to about twenty lawyers when all the new people come on board," Ho says, beaming with pride.