

# AUSTIN BUSINESS JOURNAL

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## Tusker outsources to India; \$25 an hour for an attorney

by Jean Kwon Austin Business Journal Staff Writer

When Austin-based software company Bluecurrent Inc. went up against Dell Inc. in a trade secret lawsuit over a year ago, it had a fighting chance – thanks to its lawyers in India.

Tusker Group LC, hired by Bluecurrent's attorneys, reviewed over 70 million pages plundered from both companies' computers during the exhaustive discovery phase of litigation. The locally based company employs lawyers in India to perform litigation document review.

As a result, Bluecurrent, which settled with Dell [Nasdaq: Dell] last year for an undisclosed sum, spent five to 10 times less than what it would have cost to use domestic attorneys.

"We needed to be creative to leverage the amount of money the client had to commit to litigation and get the most bang for the buck," says Jay Ellwanger, a partner at boutique firm DiNovo Price Ellwanger LLP who led Bluecurrent's case. "This was one way of doing that."

Over 40 attorneys at Fulbright & Jaworski LLP handled the Dell case at "obviously a considerable expense," says Ellwanger, who declined to say how much Bluecurrent's fees cost.

At \$25 an hour for Tusker's services, compared to hundreds of dollars an hour for domestic attorneys, the savings are make-or-break for a small company like Bluecurrent, says Ellwanger.

"It levels the playing field," says Ellwanger.

Referred to as "legal process outsourcing," the practice of outsourcing aspects of the legal process overseas to countries like India that share the U.S. and British common law system is growing. Higher-skilled jobs have been slow to jump on the outsourcing bandwagon, with

risk-adverse lawyers skittish about the idea. But as costs for legal services go sky-high, more companies are demanding an alternative.

"Necessity is the creator of invention," says John Thickett, Tusker Group's chief financial officer.

Five-year-old Tusker declines to disclose revenue but says it handled about a hundred cases last year for 30 clients – its highest number to date. The company has grown to 300 employees, with the majority in India. Domestic offices include New York, Houston and Dallas.

Revenue from legal process outsourcing has grown almost 50 percent from 2006, to \$218 million last year, according to ValueNotes, a business research firm in Pune, India. That figure will nearly triple to \$640 million by the end of 2010, it estimates.

There are currently 80 to 100 companies worldwide that do some aspect of legal process outsourcing, says Dario Olivas, Tusker's general counsel. Tusker fills the niche of strictly document review, which occurs after the discovery phase of litigation when opposing parties exchange all documents that may be relevant to the case. The two sides often must review tens of thousands of documents to prevent the disclosure of confidential information and to build facts to support their case.

"One of the strategies in David and Goliath cases is, if you are the Goliath, you want to demand tremendous amounts of information from the much smaller David," says Thickett. "Then, in turn, you snow them with documents, which is financially crippling to a small company."

According to a study by KPMG International, about 58 to 90 percent of the cost of litigation is in the review of documents.

**"It levels the playing field" in David vs. Goliath lawsuits.**

Jay Ellwanger  
Partner, DiNovo Price  
Ellwanger LLP