



eDiscovery an untapped solution to creating order electronically
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Globally, eDiscovery has been around for a few decades, but not as we know it now. According to IBM Marketing Cloud's 10 Key Marketing Trends for 2017, 90% of the data in the world today has been created in the last two years alone. So, it is no surprise that organisations are increasingly faced with vast volumes of data, from which, they must identify the relevant issues and documents, normally under tight deadlines. eDiscovery encompasses the locating, searching and properly dealing with electronic and hard copy data on behalf of all businesses and industries.

Often, the data is sought, located, secured, and searched with the intent of using it as evidence in a civil or criminal legal case. eDiscovery allows lawyers to focus on data that matters to claims and defences in dispute. eDiscovery can pull together various data sources including handwritten notes, work diaries, hard copy files, email, instant messages, word processing files, spread sheets and other electronic content that may be stored on desktops, laptops, file servers, mainframes, smartphones, employees' home computers or on a variety of other platforms. This allows teams to review all data, regardless of its source, together and maintain the proper context and chronology of the entire data set.

The use of eDiscovery is becoming increasingly important in the context of civil litigation and today represents a substantial portion of the litigation process. Companies that fail to produce electronic data in a timely or appropriate manner face the risk of paying significant sanctions and fines, not to mention loss of corporate reputation, loss of revenue and public embarrassment.

The focus is really on being time and cost efficient, transparent and reducing the administration burden. As the ecosystem changes, we have seen a trend in outsourcing the discovery aspect to specialist eDiscovery services. In-house legal teams are taking a more hands-on approach for greater insight into spend. We are only going to see further growth in this type of outsourced legal services with the ever-increasing discovery demands.

Essentially, if you can outperform your opponent in terms of discovery, you can pretty much determine the outcome of the case. Some of the ways eDiscovery assists are:

- Practical experience in collection of data and local data protection laws across the globe
- Securely storing data in a centralised platform for collaboration of review teams across various locations at anytime
- Significantly reducing the number of documents to be reviewed by implementing deduplication, advanced searching techniques and machine learning
- Finding the illusive "smoking gun" by uncovering unknown colloquial language or code words being used in the data set through analytics
- Multilingual review attorneys increasing accuracy, reducing risk and cost of translation

Deloitte Discovery is a collaborative mix of computer forensic professionals, technicians, legal professionals, investigators and analytics specialists. The eDiscovery professional's role is still expanding and evolving, and it will undoubtedly continue to do so with the prime responsibilities typically including:

- Advising over compliance with data privacy rules and legislation
- Assisting on preservation and litigation hold procedures
- Securely preserving, transferring, collecting, storing and disclosing data, locally and globally
- Implementing cost and time efficient document review workflows for any size legal teams.

The use of eDiscovery has assisted large corporates globally to deal with as well as effectively manage business challenges that would have otherwise been labour intensive. Some challenges that this service could assist with in the local market include:

- An organisation that would have been raided by the Competition Commission and need to understand the case it may have against them before it does
- Proactively identifying if there is any fraud taking place in the organisation, particularly if a new business has been acquired.

Organisations need to address the technological challenges of today's complex investigation and litigation environments by implementing thorough practical approaches, supported by specialist technology and processes such as computer forensics, document review, electronic discovery and readiness, data hosting, identification, recovery, processing and analysis of all available sources of electronic and hard copy evidence, in a timely and cost-effective manner. eDiscovery is undoubtedly the solution.

For more information:

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