Pitney Bowes

Optimizing Resources for Efficient eDiscovery

"Best Site" outsourcing of eDiscovery improves accuracy and consistency, reduces document volume, and saves time and money

White Paper

For decades, legal discovery was performed through tedious manual processing and review of paper documents. With the propagation and rampant use of electronic data — especially email — legal discovery activities have seemingly shifted overnight from physical warehouses to virtual datastores and into the world of electronic discovery, or eDiscovery. The proliferation and "consumerization" of electronic tablets and smart phones only adds to the astounding amount of data, the number of storage locations, and the complexity of gathering relevant information pertaining to a legal matter.

Like painting the Brooklyn Bridge, in-source eDiscovery projects are never complete. By the time a firm designs, builds and implements an on-site solution, the process must start anew or else fail to meet new discovery standards.

Corporate General Counsel offices, as well as the law firms that serve them, have myriad — and sometimes conflicting — points of view about eDiscovery. Often, litigators are reticent to rely on their firm's in-house resources because they cannot scale fast enough or keep pace with rapidly evolving technology and processes. As a result, litigators often will engage local or national third party providers, whose sole business purpose is to provide litigation support services and, hence, keep current with industry best practices and technologies. To compound the legal discovery challenge, firms with multiple offices may use different in-house and external solutions in each region or office. The result is a mish-mash of eDiscovery technologies, method-ologies, and resources within a single firm.

General Counsel also struggle with eDiscovery decisions and management and often question their outside litigators' technology and pricing model recommendations. And who can blame them? As a rule, litigators are not formally trained in technology and process management and only a small fraction of law firms have established truly repeatable and measurable eDiscovery best practices. For many firms, eDiscovery methodologies are as varied as the

number of attorneys — and, in some instances, the number of cases — living inside the firm. Corporations, however, cannot shoulder the eDiscovery burden alone. At a minimum, they must rely on outside counsel to know the applicable law and develop the underlying case strategy and facts in view of that law. In addition, corporations have their own businesses to run — legal disputes distract from that core mission. Worse still, managing legal discovery tech-nologies and processes is a further burden and nuisance.

Painting the Brooklyn Bridge

Technical, business, and legal developments demand that law firms that opt to try to manage the bulk of their eDiscovery operations in-house continually invest in on-premise eDiscovery resources. A decade ago, many firms obtained their first licenses to basic "search and sort" eDiscovery software. Just a few years later, conceptual organization and data analytics technologies were all the rage. Only a year or two after that, "early case assessment" was in vogue. Over the past eighteen months, predictive coding and self-collection have garnered the headlines. What's next? Like painting the

Brooklyn Bridge, an in-sourced eDiscovery program is never complete. By the time a firm designs, builds and implements an on-site solution, the process must start anew or else fail to meet new discovery standards.

In addition to the perpetual technology chase, a vibrant eDiscovery operation demands significant investment in specialized personnel, who must be continuously trained, motivated and paid consistent with market standards. These professionals are in high demand at law firms, corporations, and technology and service providers, making them even more difficult to retain.

Scalability is another significant challenge. Most firms handle a wide variety of litigation and eDiscovery projects, which come in all sizes and varieties. On one end of the continuum are smaller, less complex, and less urgent matters (e.g. state civil litigation). At the other end are huge-volume, highly-complex (based on data type, sources and languages), and time-sensitive matters (e.g. major intellectual property, securities or antitrust litigation, or white collar criminal cases). Given the wide variety of matter types, a one-size-fits-all approach to managing eDiscovery makes no sense, although consistent chain-of-custody and legally defensible search and review techniques remain paramount.

To handle all types of matters effectively and efficiently, firms must decide whether to invest in infrastructure, technologies and staffing — and run the risk of carrying that significant overhead during slower work periods — or to build more modest capabilities and teams and hope to scale up quickly when more complex project work demands it. The investment choice is rarely clear or easy.

Reduced number of documents = reduced costs

One way or another, having access to leading technology and project management is critical to keeping a lid on eDiscovery costs and achieving optimum results. The amount of potentially discoverable documents, even in a medium-sized matter, can drive the cost of litigation well beyond client expectations and budgets.
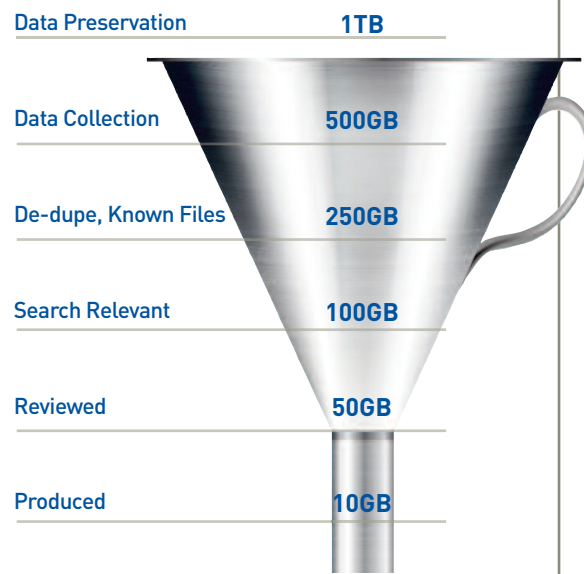
The initial task of identifying and culling out non-responsive documents, system files and duplicates, can exceed more than 75 percent of all total documents in many matters, and requires continuous investment in the best-of-class technologies, processes and personnel.

The cost of a million-document matter is astounding; it might take 17,500 hours for attorneys and support staff to collect, review, cull, and process the documents and cost in excess of $1.5 million. And that doesn't take into account the cost of software licenses, hardware, and infrastructure overhead.

A better approach is to outsource eDiscovery services to an expert in legal document

Typical Data Volume Flow

Data Preservation	1TB
Data Collection	500GB
De-dupe, Known Files	250GB
Search Relevant	100GB
Reviewed	50GB
Produced	10GB

management that can build and staff a best-of-breed, scalable operation to provide a combination of on-site, near-site and/or off-site eDiscovery services. The right outsourcing partner can provide:
▸ World-class technology
▸ Current best practices in eDiscovery
▸ The optimum level of resources, while minimizing the need for capital investments or hiring additional staff

An experienced outsourcing partner can help a client satisfy all three requirements, as part of its service level agreement, at a fraction of the cost the firm would otherwise incur. With the ability to balance labor resources, maximize infrastructure across numerous projects and leverage regional and national service centers, an outsourcing partner can easily save a client 50 percent in total eDiscovery costs.

Access to technology and talent
Outsourcing also provides access to the latest technologies, processes and talent to help address the various stages of the Electronic Discovery Reference Model — specifically, data

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identification, preservation, collection, processing, review, analysis and production. Experienced outsourcing partners can help design, build and execute a practical, cost-effective and defensible eDiscovery plan, leveraging their continuous infrastructure, technology and talent investments.

Premium outsourcing platforms are highly secure and compliant with pertinent industry standards and regulations. As a result, huge volumes of junk and non-responsive files can be safely eliminated up front, significantly

pound sledgehammer. It may work, but the approach is overkill, operationally inefficient and gives rise to new risks..

A better approach anticipates and deploys "Best Site" solutions and services by providing firms a tool kit from which they can choose the right people, processes and technologies for each job. If a matter changes in scope, complexity or timing, a Best Site program can quickly adapt, because it is designed to anticipate the fluidity of legal disputes and discovery.

For example, electronic data concerning a
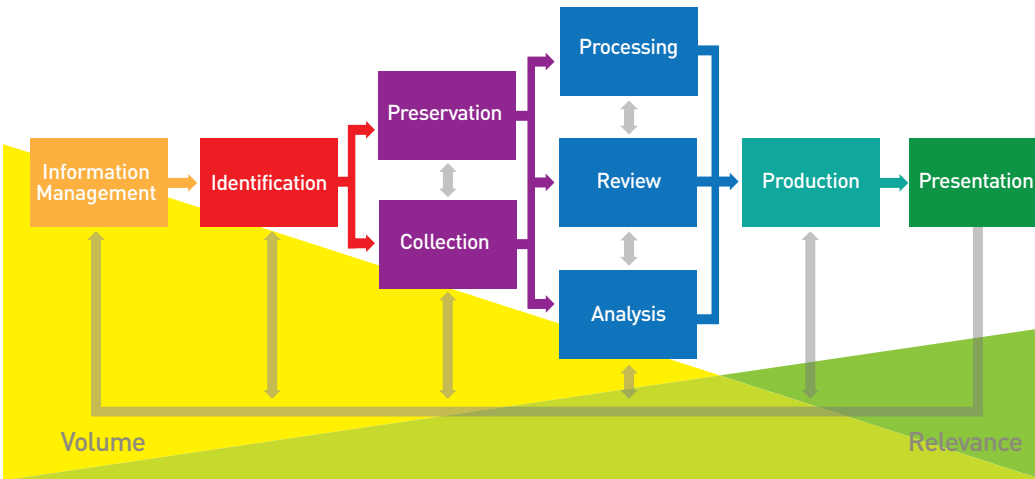
Electronic Discovery Reference Model

reducing the time and expense of eDiscovery. In addition, use of early case assessment, conceptual organization, data analytics and predictive coding solutions lead to more accurate and insightful document review. The right outsourcing partner will also optimize its combination of services and technologies to keep costs commensurate with the scope and stakes of each project.

"Best Site" services for the right hybrid solution

Squeezing large legal discovery projects through less scalable, on-premises solutions is a risky proposition, especially where time and defensibility of process are paramount. Over-loading systems with complex file types, search queries, workflow and production criteria can stymie basic software applications and the brightest litigation teams, thereby imperiling critical client matters.

Conversely, throwing premium off-site technology solutions at every discovery project — regardless of complexity, size or timetable — is akin to hitting a one-inch nail with a sixteen-

typical supplier contract dispute could first be loaded into a firm's on-premises solution. Several boxes of hard copy files also could be scanned on-site, leveraging the firm's copy center capabili-ties, converted into searchable text (.tiff or .pdf files and then OCR'd), and loaded onto a local network review platform. The firm may elect to manage the copy center itself, or as many firms have, engage a professional outsourced partner to run the copy, mail, scan and eDiscovery operations.

If the volumes of electronic files or hard copy documents spike significantly or the timetable accelerates, the firm could also leverage the partner's more robust near-site data centers or even more scaleable cloud-based offsite capabilities — still in an entirely consistent, defensible and price-sensitive manner. For example, if the supplier contract dispute takes a turn because of more complicated price fixing or revenue recognition issues, thereby triggering broad and urgent SEC, FTC and/or DOJ inquiries, the Best Site partner's highly-scalable, highly-efficient and highly-secure national datacenter capabilities could be deployed. Without a Best Site solution, firms are forced to try to push

Best Site eDiscovery Saves Company 22 Percent.

During 2011, Pitney Bowes Legal Solutions leveraged its "Best Site" approach to further reduce the overall processing costs of eDiscovery services for a Fortune 100 technology company by 22 percent. By all measures, the Fortune 100 company was a sophisticated user of eDiscovery services and already had designed, built and implemented a combina-tion of on-site and off-site processes to help manage several pending complex litigations. Pitney Bowes Legal Solutions optimized and automated many of those pre-existing processes and workflows to drive even great efficiency.

Process improvements that helped further reduce litigation costs included:

▸ Improving network connections for better file transfer rates.
▸ Improving the processing application to better identify and handlie truncated Lotus Notes emails.
▸ Modifing the ESI quality control process.
▸ Refining the company's exception resolution application that compiles exception types, flags new exceptions, stores resolu-tion decisions, and provides resolution instructions.
▸ Streamlining ingesting, culling and processing specific views in an NSF mail store instead of the entire NSF.
▸ Refining the processes for handling specific views in an NSF instead of processing the entire NSF.
▸ Creatinga standardized work order template.
▸ Creating wrapper applications to assist importing the company's files from other culling processing software.

huge volumes of data into their own limited on-site application, or they must start anew in a much more robust cloud-based platform, after having salvaged little, if any, of their original attorney work product.

A Best Site solution provides a better choice.

One size doesn't fit all

Clearly, with eDiscovery services there is no one-size-fits-all solution. Services must be tailored to fit the exact need of the project. Smaller projects can be handled on-site or securely uploaded through a portal for off-site handling. If the volume suddenly mushrooms, data can also be sent via hard drive or other media for offsite processing. Services for mid-range projects might be a hybrid of on-site and offsite services that can expand and contract as needed. For larger firms that require the maximum service level, a Best Site partner can design, build and manage a small footprint on-site, staffed with experienced project managers to offer the optimum levels of technology and personnel, without forcing the firm to carry significant overhead during slower work periods. The Best Site partner carries that risk..

For large-scale discovery, an outsourcing partner can scale its services quickly to meet the increased load — something impractical or impossible to do with an in-house solution. An outsourcing partner can also act as a conduit between the client and the firm to facilitate document sharing and eDiscovery.

Hybrid, Best Site solutions offer the flexibility and efficiency to meet the wide variety of needs a firm may have while saving 50 percent or more in costs and minimizing risk.

The evolution of eDiscovery

The acceptance of the business need for eDiscovery has really been defined in the last five years. Today, according to a whitepaper by analyst firm Osterman Research, eDiscovery represents 35 percent of the total cost of litigation and companies that fail to produce emails in a timely or appropriate manner face the risk of millions of dollars in sanctions and fines.[1] Managing eDiscovery is evolving rapidly from something that might have been managed on an in-house basis with existing staff, to a multi-faceted and disciplined process that involves a significant level of resources, expertise and capital investment.

By right-balancing insourcing and the outsourcing of eDiscovery, law firms get access to the latest best-in-breed technology, experienced project management, and proven methodologies.

[1] Osterman Research, The Growing Importance of E-Discovery on Your Business, June 2008

About Pitney Bowes Legal Solutions

Pitney Bowes Legal Solutions is a leading provider of document management, eDiscovery and litigation support services designed to help law firms, corporate legal departments and government agencies operate more efficiently and effectively. A division of Pitney Bowes Management Services, Pitney Bowes Legal Solutions delivers innovative services on-site, near-site and off-site, based on client needs.

For more information, please visit the Pitney Bowes Legal Solutions website at: www.pb.com/services/Industry-Services/Legal-Solutions

Pitney Bowes

Pitney Bowes
World Headquarters
1 Elmcroft Road
Stamford, CT 06926-0700
888 245 PBMS
www.pb.com/management-services