Controlling E-Discovery With A New Model

By John Tredennick

IN COLORADO, as across the nation, litigation costs are devouring ever-greater percentages of corporate revenue. An increasingly sizable portion of these costs is attributable to electronic discovery. As data volumes grow, so does the expense of finding and producing relevant documents.

One study found that average corporate litigation costs as a percent of revenues grew 78 percent from 2000 to 2008. Another found that, for Fortune 200 corporations, the average e-discovery cost for a mid-sized lawsuit is $3.5 million.

As corporate counsel look to control these costs, one increasingly popular method involves upending the traditional approach to e-discovery. Rather than leave their outside counsel to independently manage e-discovery on a case-by-case basis, they are consolidating the process through a unified data repository.

By housing all their legal matters together, they gain greater control and efficiency across cases and counsel.

The traditional ‘by the case’ approach

Consider how e-discovery typically works. For each new matter, the corporation retains outside lawyers and turns it over to them. The outside lawyers decide how to handle e-discovery and what e-discovery technology to use.

This means that electronic documents are collected, processed, searched, reviewed and produced solely for the matter at hand. When the matter is complete, all of the work that went into the process is effectively shelved.

From the outside lawyer’s point of view, this makes sense. However, for corporations with multiple legal matters, it is inefficient. Commonly, a corporation holds core documents that will be potentially relevant to multiple legal matters. Once such a document is used in one case, it makes little economic or practical sense to start from scratch the next time it is needed.

This repetition becomes a multiplier of cost. For each case in which the document is stored, the corporation incurs costs. For each case in which the document is loaded and processed, the corporation incurs costs. For each case in which the document is reviewed, the corporation incurs costs. For each case in which the document is produced, the corporation incurs costs. For each case in which the document is stored, the corporation incurs costs.

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How multi-matter repositories differ

Multi-matter repositories provide a more efficient alternative. They upend the traditional approach by enabling the corporation to impose efficiency and eliminate redundancy across all its legal matters.

With a multi-matter repository, the same document can be used in multiple matters. The document is loaded and processed just once, and all metadata, coding calls, privilege calls and redactions adhere to the document.

Rather than leave it to outside lawyers to select the e-discovery technology, the corporation selects and configures the platform and then requires that its outside lawyers use it. An immediate benefit of this approach is greater consistency across all cases and counsel.

In the typical set-up, a multi-matter repository uses four types of databases:

- **Core repository.** The central repository of all the corporation’s processed records, it provides one-stop access to cases and global administrative features.
- **Case sites.** Each matter has its own database where review and production are performed.
- **Production sites.** These house the productions, both outbound and inbound, associated with each individual case.
- **Production repository.** A searchable repository of all the company’s outbound production records for all matters.

Once documents are loaded into the core repository, copying them to individual case sites is fast and simple. All tagging for each document is saved to the same record and can be associated with one or multiple matters.

Benefits of a multi-matter repository

The benefits to a corporation are several. Most directly, a multi-matter repository saves money by eliminating duplicate costs. Savings come from eliminating the duplicative costs that result from redundant file processing, storage and conversion.

Besides eliminating duplicate costs, the corporation also retains the value of its investment in the legal and technical work done in each case. For example, rather than review the same document for privilege in each new case, it is reviewed just once.

Similarly, redactions can be reused across cases, providing further savings on review costs.

A key benefit for a corporation is greater control over and insight into all of its legal matters. Another is that a multi-matter repository reduces the likelihood of mistakes due to vendor hand-offs and of exposure due to inadvertent disclosures of privileged or confidential information.

Also, when a new case comes along, the corporation’s legal team gets a running start out of the gate.

Multi-matter repositories save corporations money by eliminating waste and enhancing efficiency.

They allow corporate legal departments to store documents once and deploy them as needed across all legal matters. They enhance corporate oversight of matters and simplify tracking and reporting across all cases.

It is little wonder then that, as corporations struggle to manage discovery costs, many are choosing to upend the traditional approach and control their cases through a multi-matter repository.

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