

EXECUTIVE OVERVIEW

E-DISCOVERY AND E-DISCLOSURE:

This Market Is Now In Session

The costs of e-discovery and the volume of data involved continue to increase, yet spending on solving the problem is nondiscretionary even in a downturn

IM | INFORMATION MANAGEMENT

4 FINDINGS

- Corporations are bringing more of the e-discovery process in-house. **PAGE 22**
- Reactive e-discovery is being used as a proxy for proactive risk management software and services purchasing. **PAGE 6**
- E-discovery is a US-driven market expanding in Europe and Asia. **PAGE 23**
- E-discovery costs are out of control, especially in large organizations. **PAGE 6**

5 IMPLICATIONS

- Law firms' influence on technology choice will abate as companies move to earlier stages of e-discovery and do more in-house. **PAGE 22**
- Savvy companies will purchase e-discovery offerings not only for reactive e-discovery, but also for proactive risk management. **PAGE 6**
- US vendors need to be aware of cultural differences in other markets, while European vendors should learn from the best and worst practices in the US. **PAGE 23**
- Service-provider pricing may shift from per-GB to some other model. Managing cost is becoming at least as big a driver for proactive e-discovery technology as mitigating risk is. **PAGE 6**
- Information volumes won't decrease, so intelligent archiving and more precise search will be crucial. **PAGE 19**

1 BOTTOM LINE

- E-discovery is an evolving market, and the understanding and adoption of e-discovery is going to be obligatory for companies both large and small. Since litigation will only increase during the financial downturn, spending on e-discovery will be nondiscretionary. Larger companies should consider e-discovery as part of an ongoing risk-based information management strategy.

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Executive Summary

Legal discovery is nothing new, but the emergence of the digital information age has presented organizations with an unprecedented challenge as the paper trail has transformed into an electronic trail. The volume of electronic data stored – and thus fair game in a pretrial e-discovery process – is enormous. And both the volume of data and the rate of its growth are increasing rapidly. This now comprises not only structured data found in databases, but all sorts of unstructured data from emails, documents, instant messages, and even audio and video, such as voicemail. Changes to the US Federal Rules of Civil Procedure, which codifies the discoverability of data, have acted as a wake-up call to organizations – that they need to get a better handle on their digital information.

Accordingly, e-discovery (or e-disclosure, as it's often referred to outside of the US) has emerged over the past two years in particular as a white-hot opportunity attracting a wide range of IT vendors, which have developed technology products and services they claim can help organizations not only meet the growing e-discovery burden, but do so in a cost-effective manner. The latter point is increasingly relevant in the current economic climate. The reality is that the traditional way of performing e-discovery – hiring outside legal experts to trawl through data stores to find relevant data – is increasingly not viable from both a cost and effectiveness perspective.

Technology has the potential to transform e-discovery from a largely reactive, repetitive, manual and resource-intensive process into a proactive, repeatable, automated and efficient one. At its heart is a range of software capabilities that will help firms classify and index their digital information so that when a discovery request arrives, the relevant data can be identified and securely retained, as well as made available to opposing counsel. The idea is that this can become a light-touch, in-house process controlled by the organization's legal department, with minimum intervention from internal IT and costly third-party legal-review experts.

Of course it's no surprise that we're still a long way from achieving this utopia. IT vendors have been quick to seize on the opportunity, and many are aggressively developing or acquiring technologies to create integrated offerings that span the multiple steps of a comprehensive e-discovery strategy. But 'end to end' e-discovery packages are still few and far between, and the market is still fragmented, which is likely to lead to confusion among end users. However, necessity is the mother of invention, and increasingly, fewer organizations can afford to ignore this challenge, especially those in highly regulated or litigious industries.

This report is an attempt to bring some clarity to this hot and fast-moving – and fragmented yet consolidating – market, and in doing so enable a variety of stakeholders – end users, financiers, IT vendors and service providers – to better understand the current technology market landscape and where it’s heading. The backbone of the report is a comprehensive discussion of the vendors we consider to be the key market players in e-discovery, as well as our interpretation of how they map to the Electronic Discovery Reference Model (EDRM), a widely used framework that breaks the e-discovery process into a number of related steps. We also provide an overview of what we consider the main market drivers, from both the US and international perspectives, discuss the potential disruptive technologies, and take a look at how suppliers may consolidate further.

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