



Another Kind Of Room With A View

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By Christy Burke

The Off-Site Document-Review Room Offers A Viable Option For Case Review Demands

Ramping up for document-review is a challenging prospect, requiring a firm to react quickly and aggressively, depending on the requirements of the case. The timeline for reviews can be extremely long, requiring attorneys to spend months sifting through information or very short, at times requiring firms to use contract attorneys to scale up to several times their original staffs' size to meet deadlines.

"When very large document-review projects come up, it places terrific strain on the firm's infrastructure," says Nick Gaglio, an associate at Axinn Veltrop & Harkrider, a New York-based firm that concentrates on anti-trust and intellectual-property litigation. "For some document-intensive review projects, there is enormous pressure from the client to finish the review quickly."

Gaglio says that sometimes, his firm's staff balloons from 23 attorneys to more than 200, supplementing the staff with contract lawyers to get through material faster. It's a case-by-case need that the firm has come to juggle adroitly on demand.

"We can accommodate some people in-house, but it's simply not economical to rent a space all year-round for this contingency, so we need to look outside for a solution," Gaglio says.

So, with the kind of work pressure Gaglio's referring to, what does the firm do?

"We rely on our litigation-support vendors to provide off-site document-review rooms," he says.

Vendors are offering off-site document-review rooms (DRRs) more frequently for customers who see the value these resources provide, and the DRR market is expanding. For example, Datum Legal of New York, a litigation-support services outfit (formerly Duplicating USA) was scheduled to open a state-of-the-art DRR in Midtown Manhattan this month.

"Our goal is to assist our clients with their discovery-management needs," says Chris Egan, managing partner of Datum Legal, "so we made it a priority to build a high-tech document-review facility which could be up and running within hours."

Axinn's Gaglio says that he has used several vendors to provide off-site space, and he is looking forward to Datum Legal opening its DRR so that he will have another resource for review space and technical support. DRRs provide a central location where staff and contract attorneys can do collaborative document-review, either short-term or long-term.

The State Of e-Discovery Adoption

Judging from the publicity that e-discovery is receiving, one would think that all law firms, especially the large ones, would have immediately outfitted their offices with the best technology to facilitate electronic-document-reviewing, establishing on-site review rooms with top-quality software, maximum connectivity bandwidth and new workstations. In reality, this proactive approach appears to be more the exception than the rule. According to legal-industry consultants George Socha and Tom O'Connor, who have been observing the progress of the adoption of e-discovery technology, there are still relatively few law firms using electronic-discovery tools. Several factors support this phenomenon. Large firms generally have an abundance of physical space, technology and personnel, but these aren't always accessible for document-review projects. These firms historically have relied on third-party vendors to process their paper and electronic documents, and recently, large firms have also voiced the need for off-site DRRs provided by their litigation-support vendors.

Socha says there are three major types of law firms in particular that are using electronic-discovery tools that would stand to benefit from using an off-site DRR:

- Large firms with the technology bud-gets to support purchase of e-discovery tools;
- High-end niche firms that specialize in a highly vertical practice area; and
- Joint-defense or plaintiff situations where a neutral place is needed to host the discovery data.

Compelling reasons for attorneys at large and small firms to review off site are easy to name. Review, for instance, can be a long, involved process requiring ready access to resources, quick turnaround and the right technology. According to some attorneys and litigation-support managers, the following factors prompted case teams to use off-site DRRs during the discovery phases of their cases.

Motivating Factors For Using DRRs

Space Limitations

Big and small law firms report lack of space to accommodate review teams for the short- or long-term, especially if there was a need for attorneys to have a collaborative team-reviewing environment, which was preferable. Among litigation-support managers, there's a feeling that having all reviewers in the same room was a benefit, at least for the first few days to ensure communication between contract and staff attorneys who could discuss questions and comments freely in a group.

For certain cases, reviews can last several months, which can tie up space and tax some firms. DRRs provide comfortable, fully furnished space on an hourly, daily, weekly or project basis so that teams can use them as needed. Depending on the vendor, DRR facilities can accommodate small groups of attorneys, or considerably larger teams.

"Space is always tight," says Moshe Azoulai, litigation-support manager of international law firm Simpson Thacher & Bartlett. "When we bring contract attorneys for an online document-review project, document-review rooms give us an option for quick deployment with the entire infrastructure already in place."

Speed And Convenience

Litigation-support companies are accustomed to responding to tight deadlines. A turnkey vendor can completely outfit a DRR so that lawyers can be up and running in 24 to 48 hours of submitting their paper and electronic files to the vendor. Once on site at the DRR, attorneys and staff can be quickly trained on the various review technologies available there so that they can begin reviewing immediately after document production is completed.

Managers should verify with the vendor that the DRR has tight security and surveillance in place to ensure the safety of documents and personnel. If necessary, some vendors can arrange for 24/7 access to the space for lawyers working well outside normal business hours.

Note that using a vendor-provided DRR eliminates the problem of involving your firm's IT staff to dedicate and set up computers, servers, phones and software for reviewers — red tape that can lead to bureaucratic headaches, more delays and higher costs.

The Technology Factor

Each case's agreements between counsel and the courts are different. That being the case, the document-production and document-reviewing requirements will be unique to particular cases. DRRs can provide high-quality workstations, secure and fast Internet access, phone and fax lines, and additional space for war rooms and client meetings.

Software Applications And Reviewing Tools

Software flexibility is essential, and DRR vendors need to support multiple applications to fulfill most conceivable reviewing needs. Effective DRR vendors are not locked into specific reviewing software of each type, and are flexible enough to adapt to the firm's team and case specifications.

"U.S. Attorneys' offices across the country have standardized on Concordance and IPRO," notes attorney Tom O'Connor, director of The Legal Electronic Document Institute (LEDI), a Washington non-profit organization fostering e-documents education and standards. "Also, there is the presence of electronic filing. Private attorneys need to be in a position to match that technology when working on a case."

Indeed, technology matching by vendors is critical for off-site data hosting, too.

Mary Pat Poteet is national litigation-support manager for DLA Piper Rudnick Gray Cary and vice president of the International Law Technology Association's (ILTA, formerly LawNet) Litigation Support Peer Group.

Poteet says: "If we use an outside vendor to host the data for us, it is helpful if they use the same technology that we do. That way, when we get the database back, we can use it internally and drop the database onto our server. We don't want to convert any data or import/export from other technologies. That is risky and can lead to corruption, incomplete conversion or loss of data."

Not even use of proprietary technology for processing data is a problem.

"They convert it back to our technology before sending it to us so we can just drop it onto our system," Poteet explains.

Another comfort to law firms strapped with big-order e-discovery projects is that a full-service DRR will provide the implementation and on-site training for the major categories of reviewing software:

- Image-only review;
- Native format review; and
- Conceptual review (documents are clustered together by common content).

Connectivity And Network Security

Because most case teams review discovery documents online, connectivity is also a major issue at law firms, some of which have slower Internet connections.

"Big-volume cases are becoming increasingly common, especially when multiple plaintiffs or defendants are involved," LEDI's O'Connor says. "In cases where there are multiple parties on the defense side, there is an enormous constraint due to the lack of good technology. On one of my current cases, we are using panel public defenders. Many of these attorneys only have dial-up Internet access since they are small-firm or solo practitioners. This renders them completely ill-equipped to deal with a large volume of electronic-discovery documents."

State-of-the-art DRRs should eliminate connectivity-speed problems. They offer high-speed connections (up to T-3s), along with the highest network security protocols to protect data, and to make data accessible and searchable at a productive pace.

Electronic Storage Space

Storage, of course, is a key consideration when dealing with paper documents and electronic information. DLA Piper's Poteet says she sometimes taps a combination of multiple vendors to fulfill her needs, depending on the circumstances of the case.

"We have a case now where 40 people are reviewing data," she says. "One vendor processed the documents and another vendor is hosting the data for us. When a case comes up with several terabytes of data, we can host it internally if needed, but it is often easier to have an outside third party host the data for us."

Contract Attorney Access Restrictions

Law firms can have strict rules barring contract attorneys from having full or partial access to their main offices. This can be problematic, especially if the contract attorneys are playing a key role in the review process. A DRR can be used to allow the entire team — including contract attorneys — to freely participate in the review process.

Determining The Need For An Off-Site DRR

e-Discovery consultant Socha points out that before deciding to use an outside DRR, the firm must do a thorough analysis of the case situation, covering factors including:

- Size of the matter;
- Duration of the matter;
- Risk to the company;

- Whether the firm is acting alone or with others;
- Whether a system is being shared with the other side;
- Whether the client may want the firm to use its own internal system to review documents;
- What type of searching capabilities are permitted, and to whom will they be made available; and
- How much flexibility there is for review method.

Selecting The Right DRR

When selecting a litigation-support company to provide a DRR, it's important to evaluate options according to criteria suiting the team's specific needs. Many top litigation-support vendors are opening facilities to provide customers with whatever they may need. These vendors are finding that demand among clientele requires a DRR to stay competitive in their industry.

When looking for a DRR/litigation-support resource, consider these tips:

- Look for a turnkey operation;
- Tour and inspect the review space;
- Require best-of-breed technology;
- Consider costs; and
- Evaluate performance in advance by using test data.

Conclusion

Document-review rooms provide a lifeline for firms to reach for as they wade through boxes of paper, and terabytes of e-documents and e-mail.

As O'Connor of LEDI states, a sea change is occurring in this area of litigation, with the role of document custodian changed from the past, when attorneys went to court reporters' offices to review paper documents. Today, litigation-support vendors take the custodial role "seriously," and will continue refining DRRs with technology and know-how to meet market demand.

Christy Burke is founder and president of Burke & Company LLC, a New York business-consulting and marketing firm. Burke represents technology firms that assist lawyers working with electronic documents, e-discovery and other legal applications. Reach her at cburke@burke-company.com.