

ALM Research

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Litigation Dogfight

By Francesca Heintz

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In legal thrillers, there's usually a late-night scene in which the good guys pore through cardboard boxes for the crucial document that will save the day. But in real life, lawyers are just as likely to be staring at computer screens as three-ring binders. Though paper is far from obsolete, firms are increasingly turning to electronic discovery software to do their dirty (or at least tedious) work for them.

But which software?

As part of our Litigation Department of the Year competition [January], we asked firms to tell us what kind of software they're using. (We asked these questions two years previously, too.) Sixty-seven firms responded to three questions:

- | What software do you use to manage discovery documents or to help map out a case?
- | What coding and scanning vendors do you primarily use?
- | What electronic evidence provider do you primarily use?

Judging by the array of responses we received, the litigation software business is wide open, with firms picking from an almost overwhelming number of products and providers. Powerhouses like CT Summation, Inc., and LexisNexis Corporation continue to buy smaller companies in an attempt to consolidate their holdings, and established software lines such as Summation and Concordance still predominate. (LexisNexis bought Concordance in 2006.) But litigation and e-discovery consultants, as well as law firm litigation support heads and chief information officers, say the market remains fragmented.

"The truth is, nothing rules the day," says George Socha, Jr., the founder of Socha Consulting LLC, an e-discovery consulting company. "Every week, if not every day, I get a notice from someone that they've got a new software tool."

Still, the major players remain fairly constant. For managing discovery documents, the names at the top varied little from two years ago, with LiveNote, Concordance, CaseMap, TimeMap, and Summation staying in the top five. There was a bit of a shuffle among electronic evidence providers, with On-Site Sourcing and FTI Consulting, Inc., moving into the top five to join Fios, Inc., Applied Discovery Inc., and Kroll Ontrack Inc.

(Electronic Evidence Discovery and CaseCentral dropped out.) Among coding and scanning vendors, On-Site Sourcing, Inc., still leads, with Compulit (now owned by Pitney Bowes Inc.), Merrill Corporation, Ikon Office Solutions, Inc., and Datum Legal closely following. Document Technologies, Inc., which was second place in our last survey, and Kroll Ontrack, which was third, slid out of the top five.

Some firms seek change. Bruce Blank, director of litigation support at Foley & Lardner, says that he's been pulling away from the older tools when he can, citing as factors their inability to keep up with increasing discovery demands and price increases. Instead, Foley now employs a Web-based document review product called Relativity, launched by kCura Corporation in 2001. Blank says that the product allows screen options to be customized for individual users.

Consultants say that software companies are under pressure from firms to make litigation—and especially discovery—cheaper and more efficient. "The bulk of the cost is really in the amount of time a lawyer spends reviewing documents," says Ron Friedmann, senior vice president of marketing at Integreon Managed Solutions, Inc. "If you can accelerate this process, you can really cut costs."

As a result, Friedmann says, legal software companies in the last five years have had to develop more advanced search tools. Traditional searches used the Boolean method, which searches expressions using such connectors as "and" and "not," and proximity searches, which look for documents with certain words in a specified area. Now the focus has turned to conceptual searches that organize results according to relevance, which saves time. Another innovation is near-duplicate detection software, which weeds out documents that are almost exact copies of each other, cutting back on the number of documents lawyers need to review.

Friedmann cites Stratify, Inc., and Attenex Corporation, e-discovery companies that employ conceptual searching in their products, as examples of splashy recent additions to the market. (Iron Mountain Incorporated, an information protection and storage company, acquired Stratify in October 2007.) Attenex debuted on our survey this year with a total of eight mentions in two categories, while Stratify moved up from five mentions in our last survey to a total of 19 in two categories in this one. Still, these tools lag behind Concordance's 49 mentions and Summation's 25.

"In technology terms, [the search tools used by older products like Concordance and Summation] are dinosaurs," says Thomas Barnett, special counsel at Sullivan & Cromwell and head of the firm's electronic discovery and compliance department. "They have a strong foothold, but eventually people will realize they're not as effective." (LexisNexis says its update of Concordance, released in May, includes options for both simple and conceptual searches. CT Summation confirms that its products do not do conceptual searches but can integrate with products that do.)

Although Sullivan & Cromwell uses both Stratify and Attenex, Barnett says even newer search tools, such as those from Digital Mandate, LLC, Cataphora, Inc., and H5

Technologies, Inc., are the next frontier. These products received few mentions in our survey, but Barnett says that their search techniques—which combine advanced technical search methods with human input—reduce the amount of data that needs to be reviewed.

Not all firms are writing off the old favorites. DLA Piper director of litigation support Mary Pat Poteet says that developers of older software have made smart, strategic updates to their products. "The most important thing they can do is to stay competitive in their pricing structure and to listen to what their user base wants in future releases," she says.

At Shearman & Sterling, the primary litigation software tool is still Concordance, which chief information officer Tony Cordeiro says remains one of the best discovery organizers on the market. Still, he says, big firms can't afford to limit themselves to a single vendor's offerings. "There is no one right answer," he says. "That's why all these vendors exist." In other words: Don't look for the market fragmentation to end anytime soon.

E-mail: fheintz@alm.com.

What coding and scanning vendors or litigation support service bureaus does the firm primarily use?

Product	Number of mentions
On-Site Sourcing	21
Merrill	15
CompuLit	13
Datum Legal	9
Ikon	9
DTI	8
Encore	8
Spi	8
Williams Lea	8
ALC Legal Technologies	7
Kroll Ontrack	7
Medleh Group	7
Capital Legal Solutions	5
ImageNet	5
Superior Glacier	5

One hundred fifty-two additional vendors and service bureaus received four mentions or fewer.

What electronic evidence provider does the firm primarily use?

Product	Number of
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	mentions
Kroll Ontrack	36
Applied Discovery	17
On-Site Sourcing	17
FTI Consulting	16
Fios	14
Stratify	14
First Advantage	12
Electronic Evidence Discovery	8
LECG	7
Renew Data	7
CaseCentral	6
Guidance	6
Merrill	6
Zantaz	6
DTI	5
Ikon	5
SPI Litigation Direct	5
TrialGraphix	5

One hundred thirty-four additional vendors and service bureaus received four mentions or fewer.

What software does the firm use to manage discovery documents and transcripts or to help map out a case?

Product	Number of mentions
LiveNote	56
Concordance	49
CaseMap	47
TimeMap	28
Summation	25
IPRO	21
Sanction	14
Trial Director	12
iConect	11
Opticon	9
Ringtail	7
NoteMap	5
Stratify	5

Sixty-two additional vendors and service bureaus received four mentions or fewer.

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