



# 4<sup>th</sup> E-Discovery Course

Utilizing Third Parties in eDiscovery

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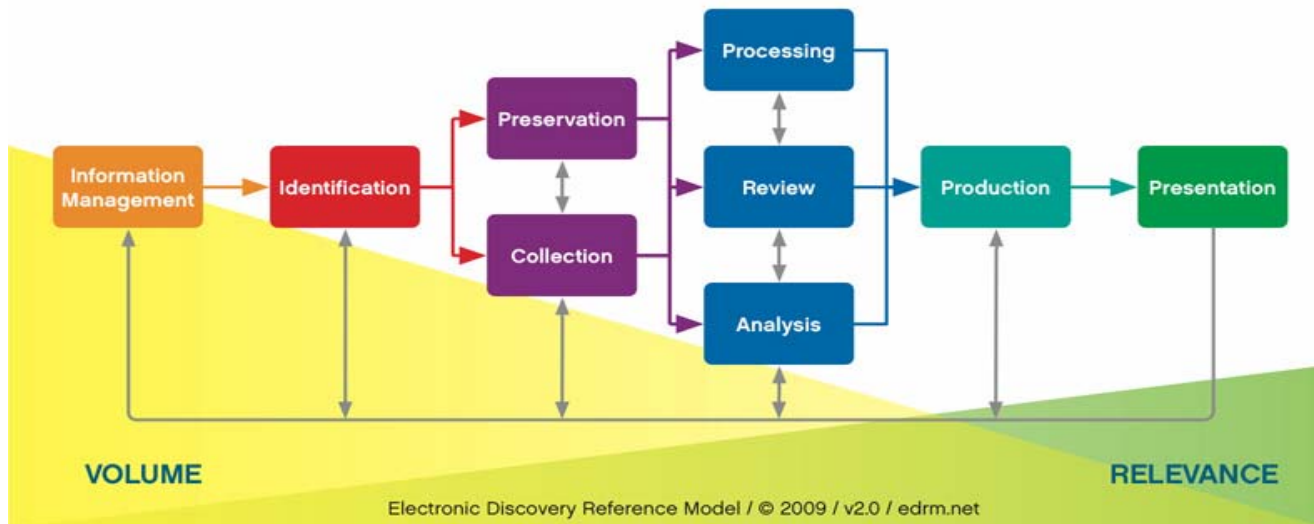
A hand is shown using a computer mouse. The background is a blue-tinted image of a laptop keyboard and mouse, overlaid with a pattern of binary code (0s and 1s).

## E-Discovery

“The reality of e-discovery is it starts off as the responsibility of those who don’t understand the technology and ends up the responsibility of those who don’t understand the law” - Craig Ball

# E-Discovery Defined

## Electronic Discovery Reference Model





## Outsourcing vs. In-house

- Volume of data is growing as the result of new media [Twitter/Facebook]
- Options are needed to respond to cost pressures
- Is one option really better than another?



# In-house Considerations

A Balancing Act...



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## In-house: COST

- Specialized EDD Processing software
- Hardware: PCs, Storage space, Network resources
- Trained personnel
- Ongoing training / mentoring
- Estimate setup cost - \$\$\$
- Ongoing operating cost - \$\$\$
- Volume thresholds



## **In-house: BENEFIT**

- Increased control of project
- Accountability to firm and client
- Demonstrated commitment to technology and efficiency
- Revenue stream / potential profit centre



## **In-house: RISK**

- Liability
- Conflict of Interest
- Lack of Defensibility
- Lack of Expertise
- Cost recover



# In-house CHALLENGES

- Resource Requirements - human & tech
- Complexity of EDD processing
- Time requirements
- Volume of data



# Bringing E-Discovery In-house

- Don't want IT staff at the firm that are not dedicated to Lit Support *"Jack of all trades and master of none"*
- Documented, well defined and proven methodologies for processing EDD
- Audit trails at each point, proper reporting of results
- Adequate hardware and software
- Adequate training and mentoring program
- Maintenance of hardware and software



# Bringing E-Discovery In-house

- Projects over # GB
  - *Understand your threshold capacity*
- Projects with complex data
  - *Understand your limitations*
- Projects with tight deadlines
  - *Understand your capabilities*



# Outsourcing Considerations

A Balancing Act...



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# Outsourcing: COST

- No investment in specialized EDD Processing software required
- No investment in hardware required
- Minimal training & mentoring
- Lower per unit costs
- No setup or operating costs
- Can bill direct to client [disbursements costs and expert consulting fees]



# Outsourcing: **BENEFIT**

- Focused team
- Wealth of industry knowledge 'it's all we do'
- Often 24/7 availability
- No cost to the firm or organization



# Outsourcing: RISK

- Liability
- Conflict of Interest
- Lack of Defensibility
- Lack of Expertise
- Budget Communication



# Outsourcing: CHALLENGES

- Selecting the right provider
- Developing the right strategy
- Assigning the right edd team
- Estimating volume, time and cost
- Comparing costs



# Key Outsource Provider Attributes

- High-quality service
- Impeccable reputation
- Fairly priced
- On-schedule delivery
- Flexibility
- Excellent technical and operational capabilities
- Insured
- Invests in technology
- Experienced staff

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## The E-Team

- Technology-savvy Lawyer(s)
- Litigation Support Staff
- Law Firm IT
- Client Staff
- Client IT
- External Consultant / Provider



## Trends to watch

- Top 5 trends for Litigation Support Outsourcing in 2010 - Litigation Support Today Nov-Jan 2010 Edition
  - Doing more with less
  - Alternative legal delivery models
  - Strategic focus
  - Talent migration
  - Globalization of litigation support



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