

U.K. Market Trends in Managing Electronic Evidence

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The reliance and use of electronic evidence within legal processes has changed dramatically over the past 10 years. Lawyers are now utilising their knowledge of technology to a far greater extent than ever before. Below are just a few examples of the developments experienced in the U.K.:

Knowledge & Compliance

There is now a wealth of lawyers who have actively undertaken investigations or cases involving some kind of electronic evidence. While these cases vary significantly in their size and matter (see below) there has been growth in this area, leading to a substantial rise in the number of technically savvy lawyers. This is, in part, due to the threat of investigations from institutions such as the SEC and DOJ which has enhanced the demand from corporate clients for their legal advisors to better understand the implications of their information technology (IT) systems as they relate to legal matters.

For organisations with international offices throughout Europe and further abroad, the difficulties are compounded as documents and data are located in multiple locations. Multi-national companies must develop plans for managing electronic data during disclosure – or face costly and time-consuming repercussions. It is in these new areas that law firms must develop expertise if they are to truly support their international clients. Lawyers taking proactive steps to understand the challenges associated with managing electronic evidence within multiple jurisdictions will undoubtedly lead the way. Those who resist learning about the complexities of electronic evidence, risk finding themselves in the situation where they have a mass of client information and limited understanding of what their options are.

In-House Roles & Responsibilities

Technologies for retrieving, reviewing and disclosing documents are now commonplace in U.K. cases where electronic and paper evidence sit side by side in repositories controlled by lawyers. These products and services are no longer a new concept, with legal teams often managing most, if not all, of the review via a variety of product and services. Increasingly, in-house legal and technical teams at law firms and corporations are collecting their electronic data, providing it to disclosure service providers to process, filter or search, and conducting the review from their desktop through a sophisticated online document review tool.

The adoption of these technologies and enhanced knowledge means that teams are now conducting tasks including implementing keyword and concept searches, and setting authorisation rights for individual reviewers, all with little intervention from those providing the review tools. As the functionality of legal technologies develops, legal teams will undoubtedly utilise products and services which give them even more control and flexibility within their legal processes, saving both time and money.

Competition

With Enron and Morgan Stanley fresh in the memories of in-house counsel and board members, corporations are increasingly conscious of the potential risks associated with electronic document management policies, or the lack thereof. The impact has made corporate clients focus more stringently on the services they provided and those they receive. Competition is more fierce than ever before to secure the large, high profile contracts with a wider range of services and knowledge.

One noticeable trend is the growing number of U.K. law firms seeking competitive advantage through the promotion of their understanding and management of various legal technologies. In particular, firms outside of the magic circle are challenging their larger rivals for the high profile clients and cases by highlighting the benefits of such technologies to their clients. Technology is now, therefore, helping lawyers manage the complexities of the challenges it brings, and those embracing it are competing on higher levels than ever before.

Furthermore, the visibility of U.S. law firms within Europe continues to grow. While the number of firms setting up in the U.K. has slowed slightly, U.S. firms remain a competitive force throughout Europe, particularly in Brussels as they extend their support for corporate clients globally. Lawyers in the U.K. are increasingly extending their range and reach of services to better assist their international clients, including the technology to help their legal processes. This is in part due to competition from U.S. firms and local rivals, but increasingly as a natural progression in today's electronic-based environment.

Case Sizes

Lawyers and their clients are now able to benefit from an expanding range of solutions available to them for retrieving, reviewing and disclosing electronic evidence. In previous years the market perceived technology's role was to assist in only large document intensive investigations or cases. Lawyers have begun to realise that utilising technologies throughout a much wider range of case sizes can benefit the processes of both their own businesses and those of their clients. Those adopting legal technologies on small, medium and large size investigations or cases stand to gain significant competitive advantages.

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