

IBM eDiscovery Solutions

November 30th, 2010



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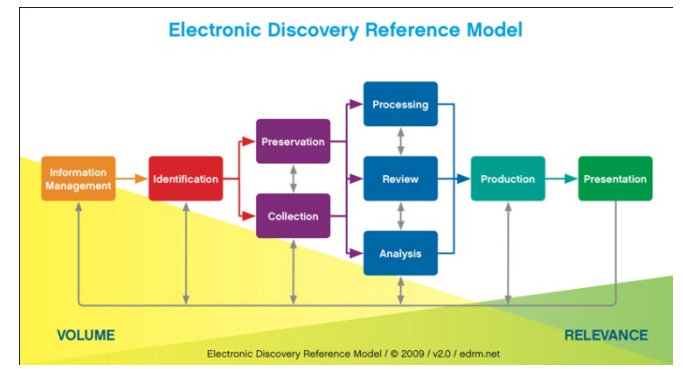
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Agenda



- The eDiscovery challenge
- Meeting the eDiscovery Challenge with IBM eDiscovery Solutions
- Demonstration
- Summary, Q&A



Explosion of Information and Related Legal Obligations Make Legal Information Governance A Pressing Problem



Companies that cite defensible disposal as key result of governance programs

98%

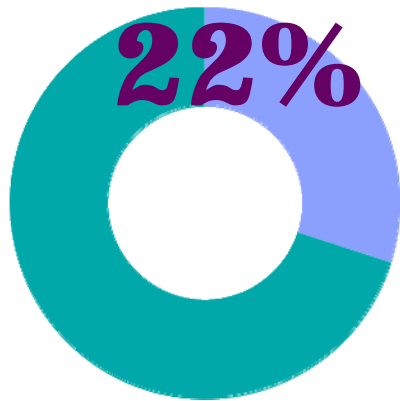
Average cost to collect, cull and review information per legal case¹

\$3M

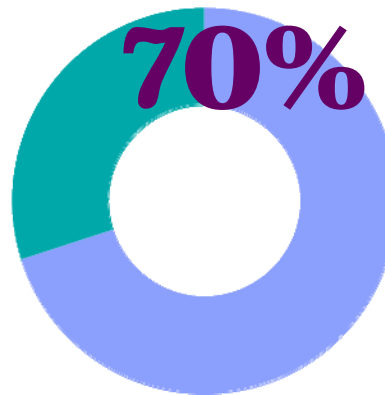
Amount of IT budget spent on storage³

17%

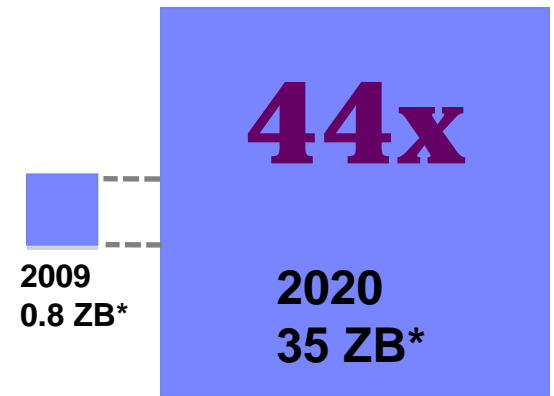
Companies that can defensibly dispose today



Portion of information unnecessarily retained²



Projected future information growth⁴



* Zettabyte = 1 trillion gigabytes

Source: [CGOC Benchmark Report on Information Governance](#), October 2010

Sources:
 1 [Litigation Cost Survey of Major Companies, 2010](#) (from [Conference on Civil Litigation, Duke Law School, May 2010](#))
 2 Industry estimates

Sources:
 3. Information Week Survey, December 2009
 4. [IDC Digital Universe Study, May 2010](#)

The information / litigation eDiscovery tipping point

Increasingly punitive litigation compounded by information growth with no end in sight



Litigation Frequency is Rising¹

More legal disputes expected – estimates range between 75-86 new cases in large organizations

- Economic crisis
- Bankruptcy
- Class Actions
- Regulatory Actions

Litigation Costs are Rising²

Largest uncontrolled cost in U.S. corporations

- **\$115M:** Average litigation costs in 2008
 - \$66 Million in 2000 (increase of 73%, 9% yearly)
 - Hourly rates decreasing; case ESI increasing

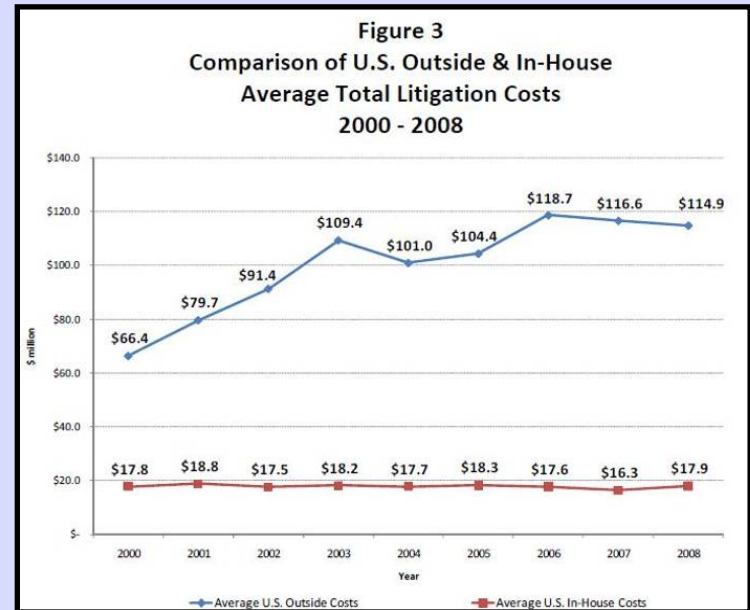
Litigation Waste is Rising

Repeated reviews of expired, duplicated, irrelevant content

- **\$3.5 Million USD²:** Average attorney time and vendor bills to search, retrieve, review, and producing ESI in medium-sized cases
- **1000/1²:** The ratio of pages discovered to pages entered as exhibits
- **70%:** Estimated amount of pages unnecessarily discovered past their retention dates

Litigation Cost Survey of Major Companies

2010 Conference on Civil Litigation, Duke Law School



eDiscovery Costs Per Case *	Amount
Average	\$621,880 to \$2,993,567
High End	\$2,354,868 to \$9,759,900

1. "Fulbright's 6th Annual Litigation Trends Survey Report", 2009. FULBRIGHT and Jaworski (by permission)
 2. Litigation Cost Survey of Major Companies", 2010 Conference on Civil Litigation, Duke Law School, May 2010

eDiscovery and Retention are Global Concerns

Global business requires cultural and localized approaches



- **eDiscovery is governed by jurisdictional procedural rules, e.g.:**
 - AUS Practice Note CM6
 - Canada Rules of Civil Procedure
 - Hong Kong Practice Direction 5.2
 - Singapore Practice Direction No. 3
 - U.K. Civil Procedure “Practice Direction” Rule 31
 - U.S. Federal Rules of Civil Procedure (FRCP)

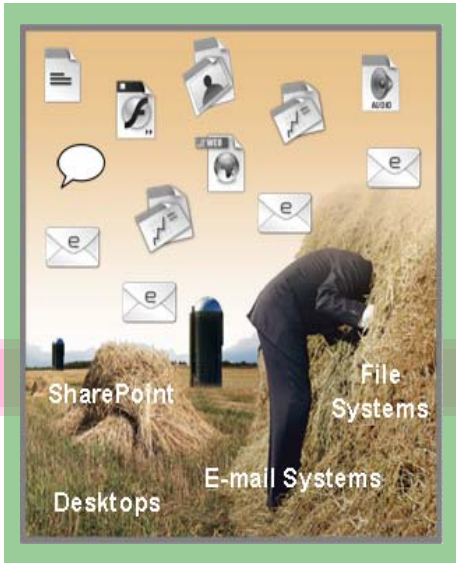
- **Flattened global boundaries make eDiscovery a concern for any multinational/global organization**
 - Litigation resulting from U.S. business activities
 - Freedom of Information Acts for public sector across global jurisdictions (*85 countries and counting*)
 - Tactically transacting litigation in US to leverage discovery – IP & patents
 - International Data Transfer Laws, governed by regional, local privacy, and data protection laws
 - Personal data in U.S.: Financial, Health
 - Personal data in Canada: Health, Personal Information Collected in the course of commercial activity
 - EU Privacy Directives: Financial, Health, Email, and more ...personal consent required
 - Blocking Statutes: preventing transfer of data used in foreign judicial proceedings
 - France, Germany, Italy, Spain, Switzerland (Hague Evidence Convention Article 23)
 - People’s Republic of China (PRC) State Secrecy Laws

- **Regulatory and other compliance requirements resulting from financial transactions, e.g.:**
 - U.S. SEC provisions for retention & production of customer communications
 - U.K. FSA Conduct of Business (COB) provisions for retention and production of financial transaction records

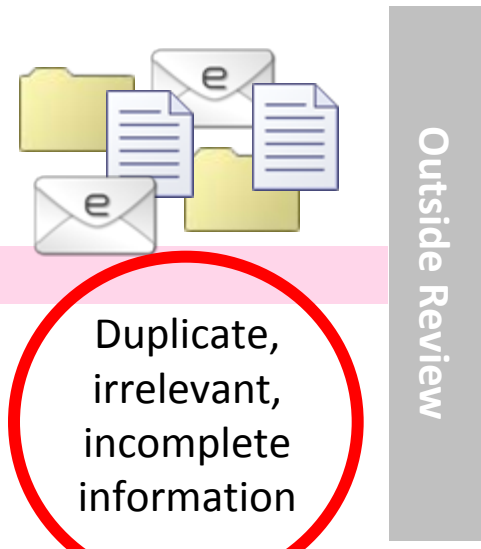
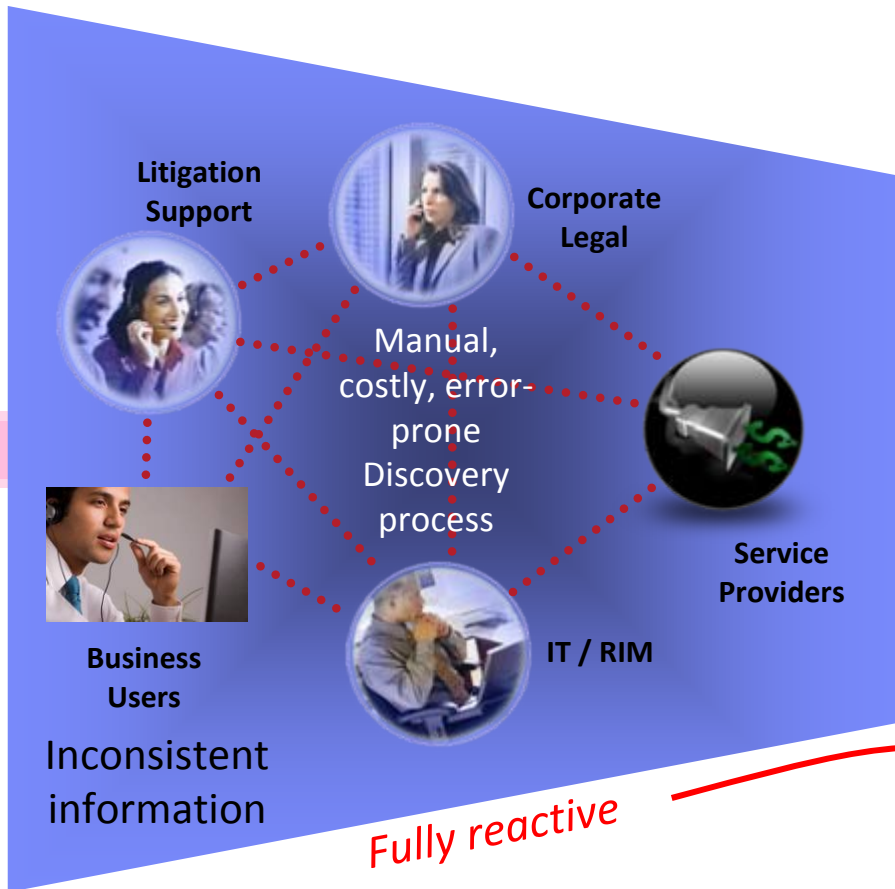
- **Standards and best practices for retention and eDiscovery continue to evolve globally**
 - ISO 15489 • ISO 16175 • DoD 5015.02-STD • AS 15489 • VERS • MoREQ2
 - The Sedona Conference® Working Group on International Electronic Information Management, Discovery and Disclosure (WG6)
 - EDRM (Electronic Discovery Reference Model) and its Information Management Reference Model
 - FedISA, Fédération de l’ILM, du Stockage et de l’Archivage



What happens today with traditional, reactive eDiscovery?



Disorganized, dispersed, lost or overly retained information



Drives high cost & risk



Reactive vs. Proactive eDiscovery Strategies



Reactive Strategies

Defensibility Risks

- ✗ **eDiscovery Silos**
 - ✗ *eDiscovery case repository silos don't address enterprise level requirements*
 - ✗ *Lack of integrated lifecycle retention increases chances for policy failures*
- ✗ **Manual Legal Hold Preservation**
 - ✗ *Tracking via spreadsheet by legal team, weak collaboration with IT*
 - ✗ *Manual "Self Preservation" requires significant user training burden and adds defensibility gaps*

Unmanageable, Escalating Costs

- ✗ **Outside Review:** *Case volume and manual review policies often result in high outside review costs*
- ✗ **Unnecessary Review:** *Repeated inside and outside counsel reviews of expired, duplicated, unnecessary content, repeated case to case*

Proactive Strategies

Increased Defensibility

- ✓ **Integrated Repository**
 - ✓ *Single repository manages eDiscovery and retention obligations in tandem with active business content needs*
 - ✓ *De-duplication and single instance storage increase retention and disposition policy enforcement*
- ✓ **Automated, Collaborative Legal Hold Preservation**
 - ✓ *Legal & IT stakeholders collaboratively link policies to information assets for consistent, automated execution*
 - ✓ *Auditing and reporting of hold status and execution increases transparency*

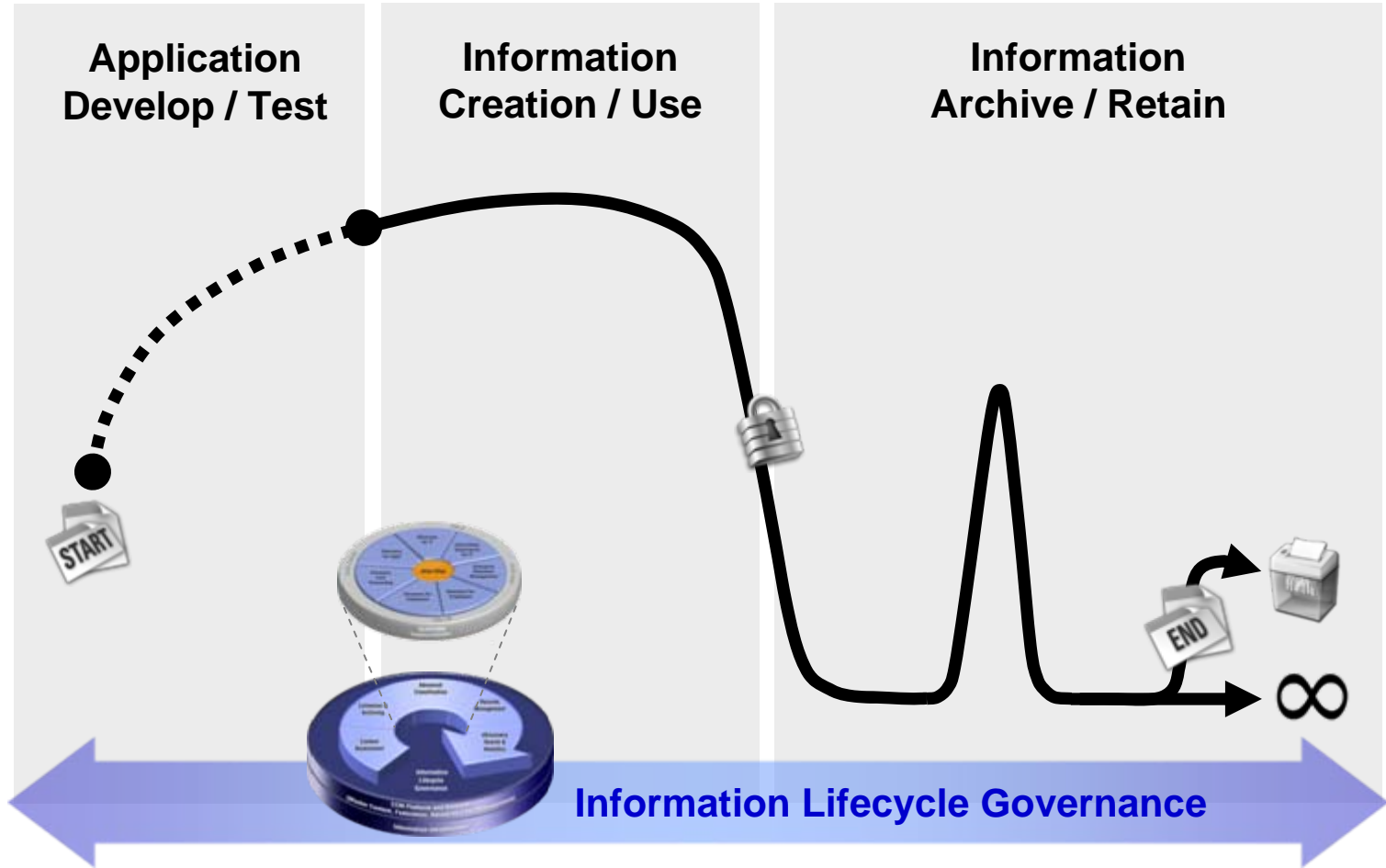
Reduced Costs

- ✓ **Inside Review:** *Inside counsel attorneys leverage advanced analytics for early case insights to form litigation tactics*
- ✓ **Defensible Disposition**
 - ✓ *De-Duplication and defensible disposition reduce downstream case volume processing and reviews of expired content*

IBM Has an Integrated Family of Offerings to Govern the Entire Lifecycle



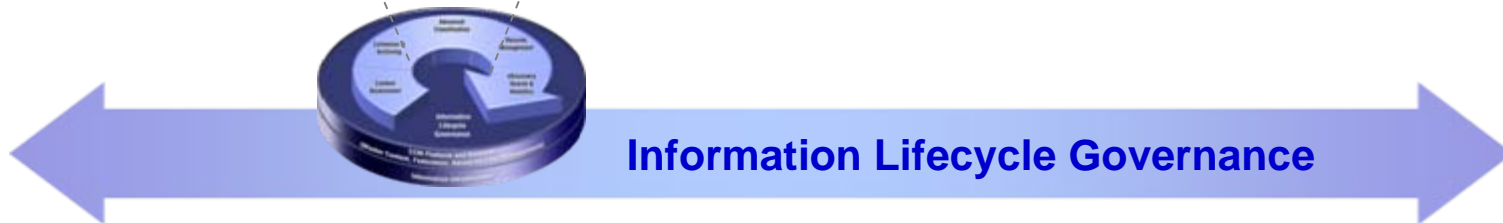
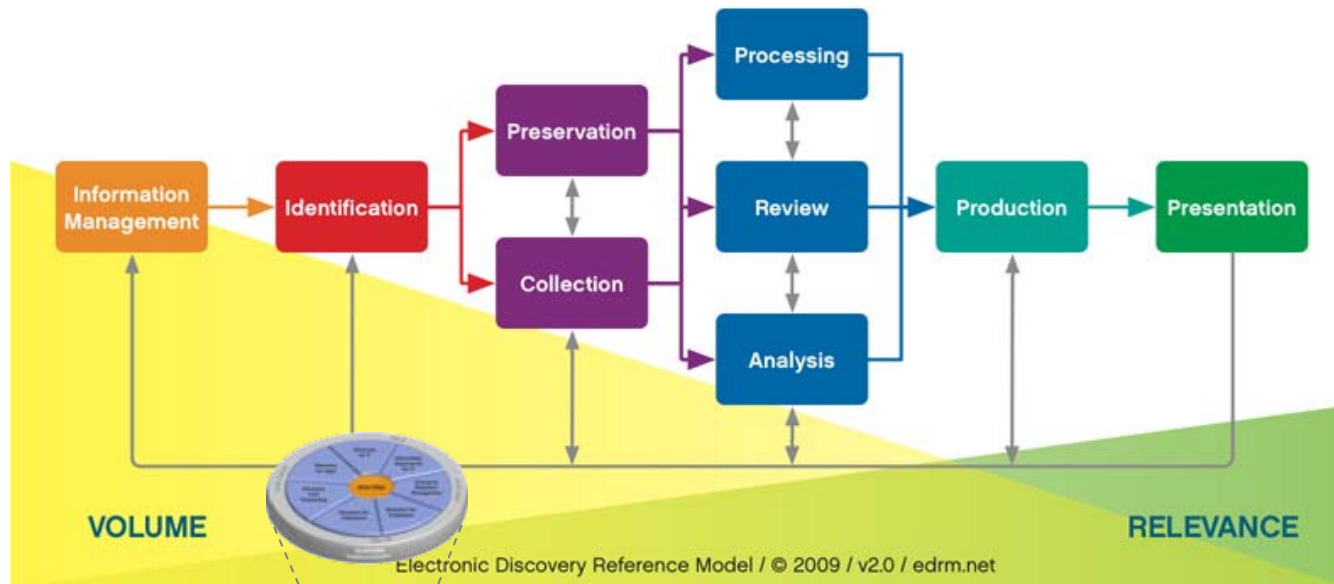
Typical Information Lifecycle



The Same Solutions Reduce Cost, Risk and Waste During The Electronic Discovery Process



Electronic Discovery Reference Model



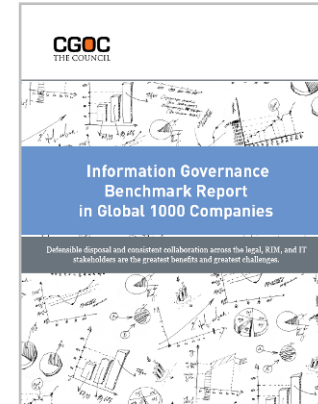
Industry Participation & Domain Expertise

- **Founded Corporate Governance Oversight Council (CGOC)** in '04, sustaining sponsor
 - Corporate practitioners forum focused on intersection of discovery, retention and governance
 - 800 corporate legal, RIM and IT members as well as members of the judiciary
 - ~20 programs per year, professional networking site and resource portal

- **Active member of Sedona Conference** since 2005
 - Active in Legal Hold, Social Media, Structured Data and Glossary efforts and participant in bi-annual working group meetings

- **Active member of EDRM** since 2007
 - Currently lead IMRM sub-group 6 and conducted recent survey on behalf of EDRM

- **Active member of ARMA International**
 - Certified Records Managers (CRMs) on staff
 - Board, regional, committee, and task force leadership and participation



[CGOC Benchmark Report on Information Governance](#), October 2010





eDiscovery Preservation Hold, Search and Analytics

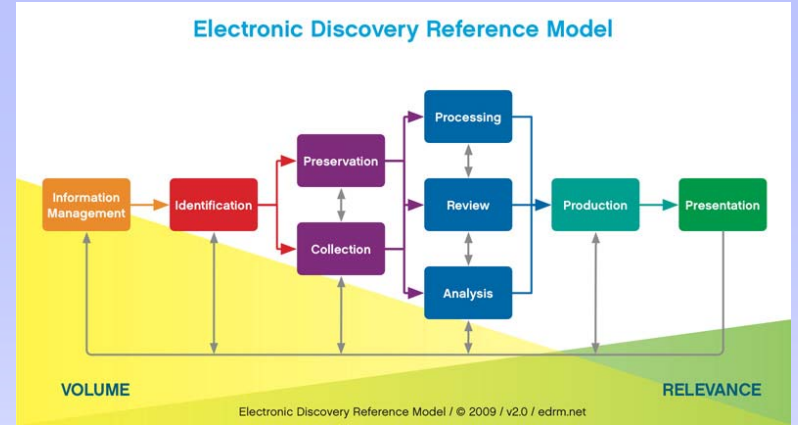
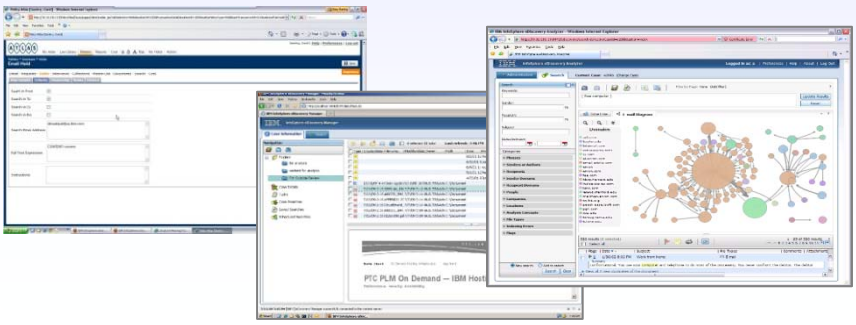
PSS Atlas Discovery Solutions
IBM eDiscovery Manager
IBM eDiscovery Analyzer

Rigorous eDiscovery Policy Enforcement
Best in-class solution for legal holds, evidence collection, audit trail, case and cost assessment

Proactive ESI Management
Via proven, scalable IBM Information Lifecycle Governance solutions

Agile Litigation Responses
Powered by advanced content analytics for rapid case insights and faster decisions with reduced costs

Defensible Processes
Optimized eDiscovery processes – authentic and audited – to help reduce risk



IBM and PSS Systems eDiscovery Solutions:

Expedited Enforcement of Legal Hold Policies
Attorneys rapidly define holds that are automatically executed, minimizing IT burdens and reducing risk

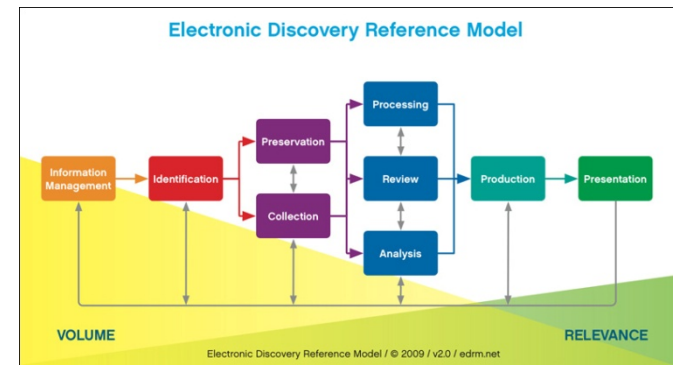
Comprehensive, Defensible Preservation
Search, de-duplicate, and preserve relevant case content as litigation commences or is reasonably expected

Breakthrough Case Insights for Agile eDiscovery
Advanced conceptual searches and semantic analysis help in-house attorneys rapidly interrogate and cull content for early case assessment

Agenda

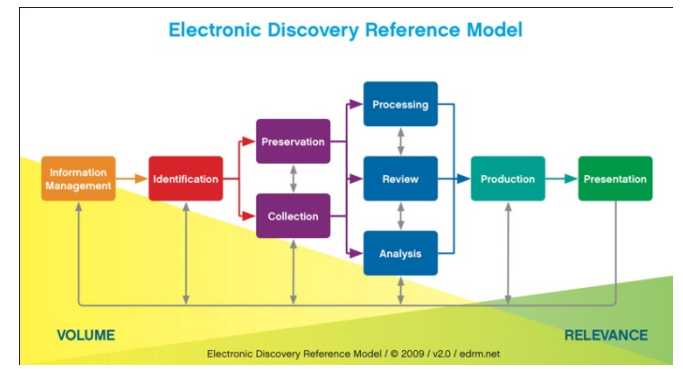


- The eDiscovery challenge
- Meeting the eDiscovery Challenge with IBM eDiscovery Solutions
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IBM eDiscovery Manager

Comprehensive, Defensible eDiscovery Search and Preservation



- Provides key functions for IT response to eDiscovery:
 - Create cases, assign users to cases
 - Manage ESI in place for multiple cases
 - Search and cull case relevant ESI
 - Hold and lock down the result set
 - Preview for relevancy
 - Schedule recurring searches for handling ongoing matters
 - Keep change audit tracking, report authenticity and chain of custody
 - Export result set in native or EDRM XML format for detailed attorney / investigator / auditor review

The image displays three overlapping screenshots of the IBM eDiscovery Manager web application interface. The top screenshot shows a search results page with a table of email messages, including columns for Type, Email Date, Sender, Subject, Category, and Expiration. The middle screenshot shows the 'Case Information' page with a navigation pane on the left and a list of search results. The bottom screenshot is a 'Schedule Search' dialog box with the following fields and options:

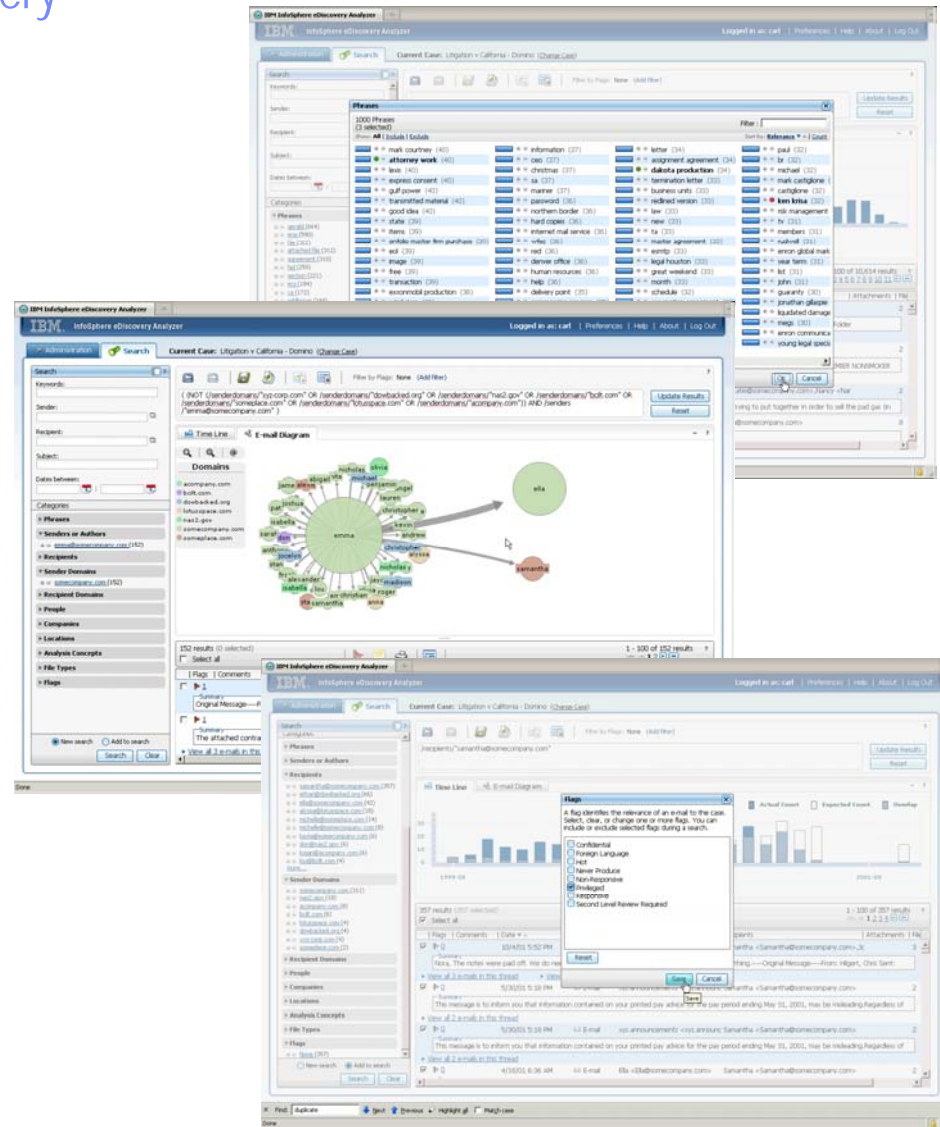
- Select a document from the results list to preview:** (Empty)
- Create a new scheduled search.** (Modify existing scheduled searches on the Scheduled Searches pane of the Case Information page.)
- Show only results not already in the case
- * Search name:** California Search
- Description:** Search for new content that may be added
- * Start date:** 02/04/2010
- * Start time:** 15:30
- * Search results folder:** California
- Repeating
 - * Repeat interval:** 7 days
 - * Repeat until:** 02/12/2010
- Buttons:** OK, Cancel

IBM eDiscovery Analyzer

Breakthrough Case Insights for Agile eDiscovery



- Tool for attorneys, investigators, auditors and supporting specialists for early case assessment and smart culling to lower review costs
 - Quickly reduce case matter to a much smaller and relevant data set
 - Gain early insight into a case, understand key facts, communication patterns and threads, locate key pieces of evidence, and form early case strategies
 - Flag, dynamically link related concepts, detect near-duplicates, organize and prioritize documents for review
 - Gain a clear view of available case matter, prepare query set reports with search result counts to effectively negotiate queries and terms during Meet & Confer
 - Preserve chain of custody to ensure security, auditability, and defensibility



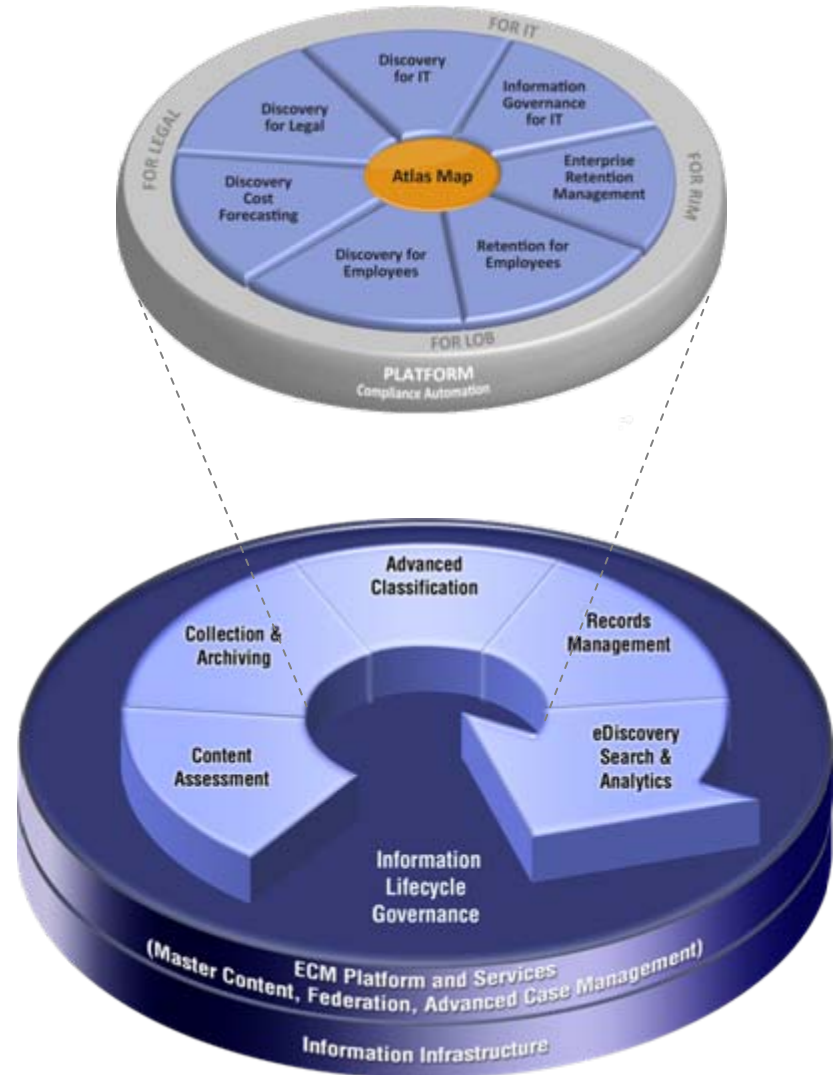
IBM and PSS Systems

A winning combination for a Smarter Planet



First Comprehensive and Integrated Enterprise Solution for Legal and Information Lifecycle Governance

- PSS Systems Legal Information Governance solutions
- IBM ECM Information Lifecycle Governance solutions
- PSS Systems methodology, CGOC community, best practices and tools
- IBM global reach, scale, capabilities including services and systems



Atlas Enterprise Discovery Management

Proven, Sustainable Solution for Rigorous Discovery

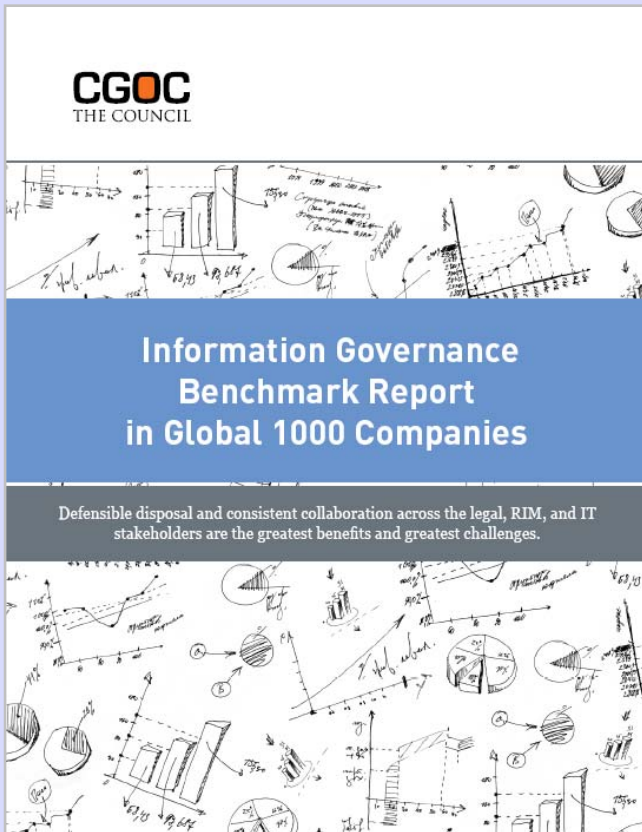


The screenshot displays the Atlas Enterprise Discovery Management interface. The top section shows a 'Holds' list with columns for Request, Type, Name, Status, Author, and Date. Below this is a 'Cost Modeling' table with columns for 'Request' and 'Amount' (split into 'Document Count' and 'Document Size'). A bar chart at the bottom visualizes the cost data across different categories.

Request	Amount
1	\$1,200,000
2	\$2,500,000
3	\$1,800,000
4	\$3,200,000
5	\$2,100,000
6	\$1,500,000
7	\$2,800,000
8	\$1,900,000
9	\$3,500,000
10	\$2,300,000

The most comprehensive discovery workflow management solution used by the world's largest enterprises. Provides a single, cohesive legal holds system with discovery workflows for legal, RIM, IT and employees as well as cost and risk analytics. Enables organizations to leverage outside counsel more efficiently by pre-interviewing custodians electronically, reducing the scope of data collected and reviewed, and ensuring a reliable, defensible process record.

NEW! Survey of Information Governance Practices in Global 1000 Companies Released by CGOC



NEW! [Benchmark Report on Information Governance in Global 1000 Companies](#)

The first study to combine legal, IT, and RIM stakeholder perspectives, forming the most complete picture of information governance practices and challenges in Global 1000 companies. Conducted in collaboration with the Information Management Reference Model (IMRM) project within Electronic Discovery Reference Model (EDRM).

"This Benchmark Report and the survey results it contains are important tools for legal, records and IT executives who want to improve their information management practices."

George Socha, co-founder, EDRM and president of Socha Consulting

Report cited in [Lawyers for Civil Justice formal comment](#) submitted to the Advisory Committee on Civil Rules on November 12, 2010 regarding problems related to preservation of information in litigation

IBM Information Lifecycle Governance Solutions and Best Practices



IBM Information Lifecycle Governance Solutions

Learn More!

Manage the Lifespan of All Your Information.
Discover 5 solutions that enable you to leverage your unstructured content for its hidden business value.

- Current Assessment
- Collection & Archiving
- Advanced Classification
- Records Management
- eDiscovery Search & Analytics

Dive into Information Lifecycle Governance

IBM Information Lifecycle Governance (ILG) leverages the solutions, or services, to expand on an agile IBM Enterprise Content Management platform. It makes the enterprise volume, extensive variety and endless velocity of your information trustworthy. From trust comes business value, and you can build both with:

- Current Assessment:** Take charge of content in the wild and decide what information to manage, trust and leverage.
- Collection & Archiving:** Manage the explosion of information volumes and types.
- Advanced Classification:** Reduce the burden on users by accurately automating classification of content in its proper context.
- Records Management:** Proactively improve defensibility, lower risks and costs, and confidently dispose of information.
- eDiscovery Search & Analytics:** Quickly and cost effectively respond to eDiscovery, audit and internal investigation requests.

No Paper Weight: General file compliance, removable DLP

Smart Archive: Data Lake for digital retention & classification of information

Information Governance Process Maturity Model and Assessment Kit

Process assessment and business case development methodologies, templates, and delivery models

Assess Process Maturity

PROCESS	Level 1: FOUNDATIONAL (Ad-hoc)	Level 2: MANAGED (Structured)	Level 3: SEMI-AUTOMATED (Semi-structured)	Level 4: AUTOMATED (Fully automated)
1. Legal Hold	Multiple custom spreadsheets.	Standardized custom spreadsheets.	Single to organization, periodic, comprehensive legal hold notices in all units including multiple legal hold notices, legal hold notices transferred to organizations, and open legal holds.	Continuous update of custom rules, responsibilities, automatic updates if another alerts, automatically use existing capabilities for similar notices.
2. Data Retention	Unlinked collection from data sources, custom-based rather than information based, spreadsheet tracking files.	Identify data sources by organization, understand back up capabilities.	Data linked right back and data stored to organizations, and open legal holds.	Automatically rule based, systems and legal, information and records in holds.
3. Publish Review	Individual notices, certifications, no escalations or audit, description of record or information subject to hold requires information and manual effort to comply.	Customized email box for confirmations, increase and communication, website, an review.	Systematically send notices and reminders, measure and track confirmations, ability to manage escalations, employees can link up their holds as any time, comprehensive status for request rate (1, 2, 3, 4, 5, 6, 7, 8, 9, 10).	Publish to system, program to automate hold enforcement, if compliance violation, employee can link up their holds during routine data management, automatically flag holds to respond to the system.
4. Informative Collection	Add legal request process and follow up.	Quarterly or monthly manual for collection and counsel follow up.	Drive auto interview with system follow collection, response completed manually for collection and counsel follow up.	Individual responses programmed to collectors, custom-specific collectors, individual, interview results shared with outside counsel to interview by exception, from that interview, attorney's collect already from custodian, or any system.
5. Custodian Definition	Isolated and duplicate spreadsheets of custodian and information between IT and legal, multiple copies of the collected data.	Consolidated, central database spreadsheets of custodian and information, archive server without redundancy.	Of an identified, central to custodian and content, avoid replicating, auto logging of the collected, search, open of custodian, IT software tool up.	From that interview, attorney's collect already from custodian, or any system.
6. Review Notice	Image drives or over collect from custodian, over collect custodian, high quantity of data for review.	Image drives or over collect from custodian, over collect custodian, high quantity of data for review.	Quantity of data reviewed from rights request custodian, leveraging or/or using metadata, avoid the enterprise wide.	Out of an identified, central to custodian and content, avoid replicating, auto logging of the collected, search, open of custodian, IT software tool up.
7. Cost Control	Image drives or over collect from custodian, over collect custodian, high quantity of data for review.	Image drives or over collect from custodian, over collect custodian, high quantity of data for review.	Image cost forecasts are automatically generated as soon as the hold is request, with an operational contribution for matters.	Image cost forecasts are automatically generated as soon as the hold is request, with an operational contribution for matters.
8. Monitoring/Compliance	Best practices varies from over matters, status.	Normal, but manual reporting of legal holds to summary reporting and over matters, responses, custodian, collected inventory, and matters.	Automated notices and escalations, online audit trail, management reporting on discovery status, custody with legal hold cases, custodian, collected inventory, and matters.	Automated notices and escalations, online audit trail, management reporting on discovery status, custody with legal hold cases, custodian, collected inventory, and matters.

Determine Risks & Costs

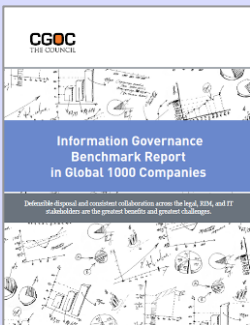


Fact-finding toolkit & interview methodology

Information governance risk & cost calculator

Compliance, Governance and Oversight Council (CGOC)

Corporate practitioners forum with 800 members focused on advancing legal hold, discovery, retention and information governance practices



Just Released
CGOC Benchmark Report on Information Governance

PSS Systems and IBM deliver value and capabilities to all governance stakeholders while also supporting organizational alignment



Key Stakeholder Alignment



Legal



IT



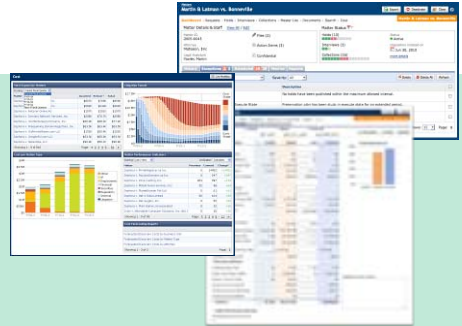
RIM

Stakeholder Value

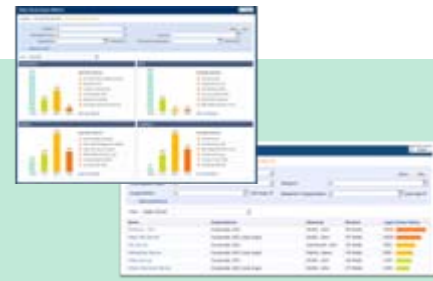
Reduce costs and risks
 Improve legal hold process
 Enable rigorous eDiscovery

Reduce storage costs
 Govern information assets
 Optimize archiving, classification

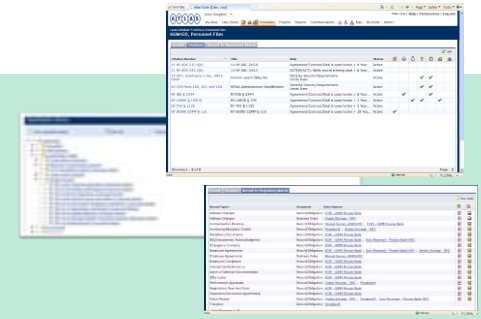
Manage records and non-records
 Improve and enforce retention
 Enable defensible disposition



Atlas Discovery for Legal
 Atlas Discovery Cost Forecasting
 Integration to IBM eDiscovery Manager
 Atlas Discovery for Employees
 Best Practices, Assessments



Atlas Discovery for IT
 Atlas Information Governance for IT
 Best Practices, Assessments



Atlas Enterprise Retention Management
 Atlas Discovery for Employees
 Best Practices, Assessments



IBM eDiscovery Manager
 IBM eDiscovery Analyzer
 IBM Datacap Taskmaster

IBM Content Collector for Email
 IBM Content Collector for Files
 IBM Content Collector for SharePoint
 IBM Content Collector for SAP
 IBM Content Analytics
 IBM ECM Repositories
 IBM Information Archive

IBM Enterprise Records
 IBM Classification Module

IBM eDiscovery Solutions

Q&A

