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Defensible Disposal Of Data: IBM Solution Eliminates Corporate “Junk”

The Editor interviews Deidre Paknad, Vice President of IBM’s Information Lifecycle Governance (ILG) Solutions Business, former CEO of PSS Systems, and founder of the Compliance, Governance and Oversight Council (CGOC).

A major theme from LegalTech® 2013 concerns the need for companies to proactively address the burdens and costs of e-discovery, such as by developing information governance strategies that provide for the defensible disposal of data.

In a keynote session, Hon. Andrew J. Peck, United States Magistrate Judge for the Southern District of New York, remarked, “If 2012 was the year of predictive coding or technology-assisted review, 2013 or ’14 seems to be information governance.” Judge Peck added, “it really would be helpful if systems were in place to get rid of the junk.... Part of the reason e-discovery is so expensive is because companies have so much data that serves no business need.... Companies are going to realize that it’s important to get their information governance under control to get rid of the data that has no business need ... in ways that will improve the company’s bottom line.”

A pioneering thought leader in this area and the coiner of the phrase “defensible disposal” many years ago, Deidre Paknad leads the Information Lifecycle Governance business at IBM. She drives IBM’s Information Economics Strategy and Solutions offering, which helps corporations address the rising volume of information and the value, cost and risk this creates for them.

Editor: What are your thoughts about Judge Peck’s remarks at LegalTech 2013?

Paknad: He is spot on! Improvements in e-discovery technologies and vendor price reductions aren’t enough to keep pace with the rising volume of data generated and stored in organizations, so it’s necessary to address the root volume issue. Judge Peck has spoken at several Compliance, Governance and Oversight Council (CGOC) events that focus on defensible disposal of unnecessary data as a primary lever to reduce cost and risk. He’s heard first-hand from hundreds of corporate CGOC members how important but challenging it is to determine what to keep and what to delete. In my opinion, the focus on data disposal is long overdue, and organizations that don’t address it will face more cost and risk than peer firms.

Many of my customers have a 50 percent annual growth rate in storage capacity, which means that 10 petabytes of data in 2010 will become 34 petabytes in 2013. To put that in a “byte size” the legal community will appreciate, a petabyte is *one million times more data than a gigabyte*. Measured in files or documents, there are about 1.4 billion files per petabyte. By 2015, the 10 petabytes of data from 2010 will have aged five more years, and a large portion will no longer be needed for business, legal or regulatory purposes. At \$5 million per year to store each petabyte, this wastes \$50 million a year on storage and leaves 14 billion files – or 10 million gigabytes – for e-discovery at \$5,000 per gig.



Deidre Paknad

Legal organizations used to assume that an express or implied “no delete” policy would prevent spoliation and avoid the risks of related settlements and sanctions. Today, the financial exposure to e-discovery at these data volumes is far higher than any sanctions or spoliation-based settlements we’ve ever seen. If an organization had to do e-discovery on one percent of that old data, it would cost \$5 billion.

Editor: How are organizations dealing with these volumes, and why can’t they dispose of data routinely today?

Paknad: It isn’t easy to deal with this volume growth, in large part because the organization that buys and provisions storage and infrastructure for data doesn’t itself decide what to keep and what to delete. These decisions are made by the business people who need information for profit purposes, the records team that decides what to keep for regulators or policy goals, and the legal department that determines what is required for legal holds.

Most discussion about legal/IT collaboration centers around how IT can help legal collect data more easily, with almost no discussion as to how legal can help IT dispose of data that is no longer needed. Many organizations still don’t communicate holds to IT, and those that do typically provide a list of *who* is on hold, not *what* is on hold. The only data set that IT organizes by person’s name is email, which leaves them guessing as to what is on hold in the other 70-90 percent of the data they manage.

Often focused on regulatory needs, retention schedules typically ensure the

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retention of data but not the disposal of unnecessary data. Almost no IT organization manages its data by record code, so mapping the schedule to the data is almost impossible or requires a level of manual labor and time that no IT team has in today's economic climate. Few legal and records organizations appreciate the pressure, complexity and rate of change IT organizations face in managing data that doubles every 24-36 months.

Editor: Sounds like legal, records, business and IT need to work together. What are companies doing to foster this?

Paknad: Awareness of the need to dispose of digital debris and the fundamental dependencies across these stakeholders is growing very rapidly. However, these stakeholders aren't motivated or measured in the same way, and most are strapped for resources. While there may be spurts of enthusiasm, volunteerism or episodic clean-up, the compound data-growth rate overtakes these small or unorganized efforts almost immediately.

CIOs are being asked to slash budgets 5-10 percent a year, incredibly while managing 50 percent more data every year, so they are motivated to reduce data-storage costs and complexity. Concurrently, many discovery-savvy attorneys are driving change in their organizations, and records management leaders have long lobbied for better lifecycle governance. What galvanizes organizations from awareness to improvement is the recognition that information lifecycle governance programs can *improve information economics*, not just address risk and compliance needs. The economic improvement galvanizes CIO sponsorship and the organizational resources to drive change, where risk-only initiatives are often difficult to fund or scale when budgets are so tight.

Editor: What do you mean by "information economics"?

Paknad: By that I mean the value that an organization realizes for its information and the cost and risk incurred to achieve that value. To borrow from our example, in 2013 the organization will pay for 34

petabytes of data – of which only 20 petabytes may have actual value – and it will perform e-discovery on 7-10 unnecessary petabytes of data at huge cost. The residual 14 petabytes of debris (i.e., data with *no value*) cost \$70 million a year to store, effectively increasing the IT costs for valuable data by one-third.

While the value of information declines over time, the cost to manage it remains basically constant, so there is a widening gap as costs exceed value over time. Also, e-discovery risk increases as information ages and context is lost, so there is an even larger gap as value declines and risk increases. Equally important, if business people are drowning in their own data, they have a very difficult time actually getting value from information older than six months to a year!

By 2015, those 34 petabytes from 2013 will be 76 petabytes, and the cost-to-value gap and risk-to-value gap are compounded, further emphasizing the importance of improving information economics. See Figure 1.

Figure 1

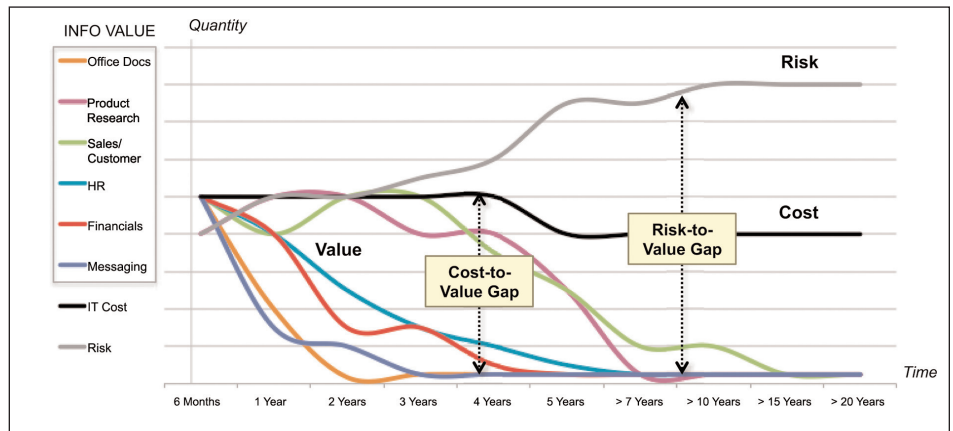
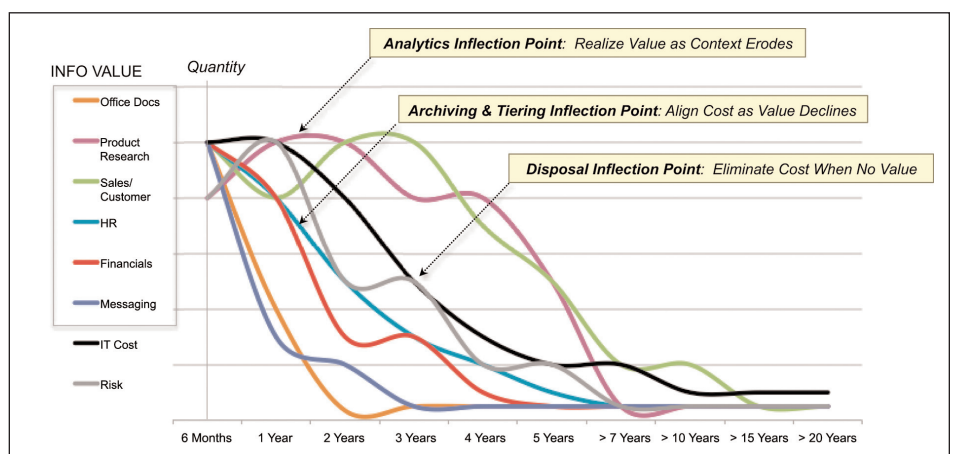


Figure 2



Organizations can and should improve their information economics by using more sophisticated analytics to extract value from data as it is generated more rapidly. Archiving and information-tiering align cost and risk to declining information value over time, and timely, defensible disposal ensures that when need is gone so is the data, cost and risk. Because information, litigation and regulation dynamics change continuously and involve different stakeholders, it is almost impossible to optimize information economics with "people glue." Only a holistic, systematic approach can close the value, cost and risk gaps. See Figure 2.

Editor: Improving information economics sounds strategic for any organization with large data volumes that faces high litigation or regulatory risks and requirements. Is that what your clients are saying?

Paknad: Yes, absolutely. I've been working on this particular problem for a

decade; I spent the first five years primarily with legal executives but now spend the vast majority of my time with CIOs, chief data officers and information economics strategy leaders addressing this challenge.

Almost every CIO says the same thing: it makes perfect sense to throw out the debris, but how do we do that at scale? Most have tried spot cleanup and records management days, but the rising tide of data just washed away any benefit from small disposal efforts. The growth rate of data and the complex legal/regulatory environment require more systemic approaches that enable retention of necessary data as well as defensible and continuous disposal of debris on an “information campus” that is tens of petabytes large.

We developed IBM’s Information

Economics Strategy and Solutions to help organizations meet these challenges. The strategy includes methods to measure and improve information economics, transform siloed processes and enable organizational change. Our solution automates and instruments retention schedules and legal holds on the true information campus, while tiering and archiving data as it ages out to ensure compliance, sustain routine defensible disposal, and align cost and risk to value over time.

By addressing the root cause of excess data – the disconnect between legal holds, retention schedules and information assets, and the stakeholder silos responsible for them – IBM is reducing risk and e-discovery and IT costs and eliminating excess data and infrastructure. To use our example again, eliminating those 10 old petabytes of data saves

an organization \$50 million year after year.

Editor: Where can organizations learn more about IBM’s Information Economics Strategies and Solutions?

Paknad: A good resource for developing or enhancing an information governance program to improve information economics is the CGOC corporate practitioners’ forum (www.cgoc.com). The ILG Leaders’ Guide is a great reference tool on the economics, processes, and capabilities companies need to break through the silo walls to defensibly and continuously dispose of debris. The Leaders’ Guide and more information on IBM’s solutions and strategy can be found at <http://www-01.ibm.com/software/ecm/disposal-governance/>.