THE eDISCOVERY ALPHABET

eDiscovery is a complex process. But like any involved undertaking, you first need to master the basics. And even seasoned experts can benefit from taking a step back to re-visit the fundamentals. This eDiscovery alphabet can help you do just that.

AUTOMATION

Organizations are creating and storing more documents than ever — and in more formats and locations than ever. The eDiscovery process requires identification, collection, processing, and review of growing volumes of documents that has to happen within timeframes that aren't budging. While there are still portions of the process that will require human participation, there are opportunities throughout every phase of discovery that can benefit from automation.

BYOD

"Bring your own device" (BYOD) is here and it's creating eDiscovery complications. In addition to further increasing data volumes and creating accessibility hurdles, BYOD makes consistent and efficient collection of data from personal devices a challenge. With BYOD, the need for a sound information governance strategy is more important than ever (see Governance).

CLASSIFICATION

Effective classification creates visibility and efficient discovery. Prioritizing accelerates review; classification enables organizations to focus on key documents with sharper insight.

DEFENSIBILITY

No one wants to lose a case or face sanctions as a result of a discovery problem. Making sure eDiscovery is performed in a defensible manner at every stage is critical. Courts don't seek perfection, but they do require a good-faith effort. Demonstrable consistency, with reporting that documents what was done throughout the process, offers good proof of a good-faith effort.

EARLY ASSESSMENT

Early case assessment (ECA) and early data assessment (EDA) are both valuable efforts to help you determine case strategy and develop your discovery plan. But these should not be treated as separate processes. When combined and appropriately implemented, the processes can provide early intelligence and insight to inform better decisions early in the case.

FALSE POSITIVES/NEGATIVES

Traditional keyword searches often return results that are bloated by false positives while leaving behind many of the false negatives that go unreviewed. Keyword searching should be used in combination with other tools to minimize false positives and uncover false negatives (see Keywords).

GOVERNANCE

Organizations that effectively manage their information in advance of discovery pave the way to increase the effectiveness, and decrease the cost, of eDiscovery. A sound information governance strategy can help defensibly eliminate sensitive and junk documents as well as reuse classifications across matters.

HIT COUNTS

Looking at hit counts early in the process can be useful. But just looking at numbers doesn't provide understanding of the results. You also need to start understanding the contents of those documents earlier rather than later so that you can effectively build your case strategy and plan your eDiscovery project effectively (see Early Assessment).

INNOVATION

The legal field is characterized more by tradition than by innovation. But innovations in technology are leading to changes in the way documents are created, archived, and retrieved; therefore, innovation is required to evolve the eDiscovery process accordingly. This requires a thorough understanding of the key problems, and then finding new ways to address those problems to truly deliver improvements to the process (see Technology).

JUMP DRIVES AND OTHER STORAGE DEVICES

With storage technology getting smaller and more portable, it's easier than ever to store data — and harder than ever to keep track of where all that data is stored. A comprehensive information governance process with well-defined policies and procedures is critical (see Governance).

KEYWORDS

Keywords target content and are an important tool in the eDiscovery toolkit. But to get the most value from keyword searching, you need to make sure that you are using keywords as part of an iterative process to target what you know and then investigate those results — the contents, not just the hit counts — to uncover what you don't know.

LINEAR REVIEW

Linear review treats the review process like an assembly line, starting at the beginning and working through the document set until the end of the line is reached. This approach is not only inefficient, especially when there are millions of documents involved, but it is fragmented, making insights more difficult to discover.

METADATA

Metadata is an extremely useful tool to help navigate the growing mass of data within an organization. Metadata provides valuable information, for example about who received emails and from when and where they were sent. It can also uncover insights such as the chain of command within an organization.

NEAR-DUPLICATE DETECTION

Near-duplicate detection ensures that your searches identify not just the documents containing exact matches to your queries, but also close matches such as slight variations of the same sales presentation where only a few words change.

ON-SITE EDISCOVERY

Sometimes it's preferable, or even necessary, to perform discovery at the facility where the ESI is maintained due to privacy or other regulatory requirements. This requires teams to travel to the data rather than the other way around. But those teams need access to the same tools and systems they have "at home" to ensure a consistent process.

PROCESS

Many companies still react to discovery matters in an event-driven manner and rely on a patchwork of standalone activities for records management, management of ESI, and eDiscovery to solve for each case. But to improve effectiveness and consistency, eDiscovery should be established as a business process.

QUALITY CONTROL

Discovery mistakes can have serious consequences. Implementing quality controls throughout the process will uncover problems quickly, when they can be more easily rectified. Documenting your quality control process will help ensure defensibility (see Defensibility).

REPORTING

Reporting is an often-overlooked but critical component of any eDiscovery project. It's a way to see the story the data has to tell and to communicate that story to others invested in the process. It's also a way to document the process for defensibility (see Defensibility).

SPEED

eDiscovery happens on a timeline with deadlines set by the courts or investigative bodies. Therefore, it's critical that every step of the process is executed in a highly efficient manner.

TECHNOLOGY

When it comes to legal review, machines can't replace humans. But with growing data volumes and the high cost of discovery, technology plays a critical role in automating portions of the process where it makes sense — allowing humans to focus on the elements that most need their attention (see Automation). Technology can also address other discovery challenges, such as providing mobility when needed (see On-site eDiscovery).

UNSTRUCTURED DATA

Structured data, which typically resides in databases or leverages XML and similar approaches, is relatively easy to find and manage. Unstructured data, however, can pose challenges. Today's technologies have gotten pretty good at dealing with text-based unstructured data, such as in Word or PDF documents. But increasingly, data is being stored as pictures, videos, and other non-language-based formats and eDiscovery must be able to incorporate this type of unstructured data in the process.

VISUALIZATION

The eDiscovery process generates a lot of data about the process itself and about the case. In order to make the best decisions, you need to be able "read" the data in a way that makes it easy to spot trends and anomalies, investigate what you know, and uncover what you don't know. Raw stats delivered in tabular format simply present data, but it can be hard to uncover the story of the case. Visualization reveals patterns that can help you better understand what you're looking for.

WORKFLOWS

Establishing consistent and iterative workflows — and using eDiscovery technologies that are built around those workflows — is critical to ensuring that data about the case is delivering insights throughout the entire process. Building in stop points for quality checks and key decision points helps ensure that the process is efficient and stays on track (see Quality Control).

e**X**ABYTES, **Y**OTTABYTES AND **Z**ETTABYTES

Data volumes are exploding and that creates challenges for eDiscovery. Savvy organizations are devising proactive strategies — including information governance programs (see Governance) and automation technologies (see Automation) — for dealing with the mass amounts of data before a matter arises.

Now I Know My ABCs…

Like a best-practice discovery approach, learning is an iterative process that is most effective when you continue to enhance what you know — and also uncover what you don't know so you can investigate further.

About Mindseye

Mindseye is a leading provider of eDiscovery software solutions. The company's flagship eDiscovery platform helps organizations manage risk, minimize legal exposure, and eliminate wasted time and money throughout the discovery process. Organizations that use Mindseye can quickly input and access early data to make cost and resource estimates, formulate strategy and case direction, and ultimately move less but more relevant data to review.

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