



University of Wisconsin-Madison

UW E-Business Consortium

"Helping Industry Gain Competitive Advantage Through E-Commerce and E-Business"

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Project Report

Legal Discovery (E-Discovery) Processes and Technologies

Project Sponsor

American Family Insurance

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Executive Summary

In December 2006, the Federal Rules of Civil Procedure underwent changes. The new rules define document-handling requirements that companies must fulfill if they are sued. Electronic records are now as much a part of a case as are paper records, and the e-discovery amendments have created new challenges for companies. As storage capacity grows and becomes cheaper, the ability of systems to maintain and preserve massive amounts of information is a challenge. This environment makes it imperative for companies to urgently establish effective e-discovery practices in consultation with their general counsel and also work with a vendor to strengthen and restructure data search procedures.

The goal of this project was to help American Family Insurance (AmFam) research and identify leading practices and enabling technologies for e-discovery. Our project involved three main areas of work:

- Researching how other companies accomplish their electronic document discovery process in the event of any lawsuit. We did this by interviewing and benchmarking e-discovery practices of three UW E-Business Consortium member companies. This allowed us to understand the issues and challenges associated with e-discovery and how these companies are addressing them.
- Insights on leading practices from the perspective of law firms. We interviewed partners at two leading law firms in Wisconsin to gather advice on leading practices based on the experiences of these firms in assisting clients with e-discovery.
- Evaluation of vendors that provide e-discovery specific software products or services. This assessment was done based on overall research of the vendor landscape as well as by sending a Request-for-Information questionnaire to a select group of vendors.

The high-level findings of e-discovery leading practices from the project can be summed up as follows:

a) Every company needs to have an efficient and effective process for dealing with e-discovery requests. If a company does not yet have such a process in place, it needs to begin by forming a core group (comprising of IT, legal counsel, HR, etc.) to formulate a strategy and plan for the e-discovery process.

- b) Identify the company's requirements for e-discovery related cases, assess your current processes and systems to support e-discovery requests, and conduct a gap analysis.
- c) Based on the requirements gathered, select a suitable vendor that can support your e-discovery needs.
- d) Develop scenarios of various e-discovery requests and verify that your company will be able to respond to them satisfactorily.
- e) Promote cross training among IT and legal personnel, and build awareness across the company regarding e-discovery related policies.

In summary, e-discovery is a complex and rapidly evolving issue. Our research indicates that the vendor landscape is nascent with a large number and variety of vendors of software products and services. As a result, organizational processes for e-discovery are still at the stage of maturing, as companies struggle with determining the most cost-effective and efficient way for responding to e-discovery requests.

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