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SharePoint eDiscovery:

Legal Considerations and Best Practices

About the Speakers



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Today's Agenda

- SharePoint overview and its scope of proliferation
- Case law involving discovery of SharePoint sites
- SharePoint eDiscovery challenges and considerations
- Best practices and requirements for proficient eDiscovery of SharePoint sites
- New technologies addressing eDiscovery and enterprise search for SharePoint
- Q & A



SharePoint Proliferation

- Over 300 million licenses sold
- Fastest growing Microsoft product
- SharePoint is about supporting “Sites” and “Teams”:
not centralization
- SharePoint supports virtualized deployment



SharePoint Content Growth

- The average SharePoint user experiences nearly 75% content growth in 12 months
- Size of content stored in SharePoint environments
 - 50% with more than 1 terabyte of content
 - 15% with more than 10 terabytes of content
- Number of SharePoint farms
 - 25% have 1 SharePoint farm in their environment
 - 36% have 4 or more SharePoint farms



SharePoint eDiscovery Requirements

- **Identification:** mapping forests, sites, business units, locations and users
- **ECA/Identification:** in place search, preview, rapid collection
- **Preservation:** collection or in-place, version preservation, preserve metadata and source
- **Review:** presentation of content in context, making sense of static snapshots, relating multiple views of same documents, version clustering
- **Production:** package context with content, chain of custody, load files



Two Notable Cases Involving SharePoint Discovery

- **Monsanto v DuPont, 2011 WL 1004852 (E.D. Mo., March 18, 2011)**
 - Discussing logistics of search for responsive data in SharePoint and other shared data storage sites pursuant to a stipulated discovery protocol.
- **Wolters Kluwer Financial Services Inc. v Scivantage, 2007 WL 1098714 (S.D.N.Y., April 12, 2007)**
 - Court authorizes “imaging” of a SharePoint server.



Beware of the Potential Liability for Leakage of Confidential or Sensitive Information from SharePoint

- **Wellogix, Inc. v. Accenture, LLP, 788 F.Supp.2d 523 (S.D.Tx. April 22, 2011)**
 - Claim that plaintiff's proprietary information placed in a SharePoint site was taken by competitors through access improperly provided to the site.
- **Devon Robotics v. DeViedman, 2012 WL 3627419 (E.D. Pa. August 23, 2012)**
 - Allegation that non-disclosure agreement violated by permitting improper access to a SharePoint site containing proprietary information.

It's all about tracking what's loaded into a SharePoint site, who is given permission to access it (including access by non-employees), and whether that access permits ability to "read" only or "read-write."

Best Practices for SharePoint Discovery

- First step is identifying particular SharePoint sites that may contain responsive ESI
- It usually is not feasible to search all the company's SharePoint sites
- Ask the custodians to which SharePoint sites they stored responsive ESI
- Talk to the company's SharePoint administrator (IT or IT Security)
 - They can determine to which sites particular employees have access.
 - They can also determine which "groups" in Active Directory include the custodians at issue, when the entire group has access rights to particular SharePoint sites.



Best Practices for SharePoint Discovery (cont'd)

- **Once you have identified the relevant SharePoint sites**
 - Understand that it is impractical to “image” the SharePoint site with traditional discovery tools
 - Specialized tools, like X1, can enable:
 - Preservation of the content of the SharePoint site
 - Early Case/Data Assessment of the contents of the SharePoint site
 - Forensic collection of ESI from the SharePoint site
 - Either the entire contents or targeted collection based on keyword searches
- **Consider entering into a discovery stipulation with opposing counsel on how to approach SharePoint discovery**
 - Based on interviews with custodians
 - Based on which employees or project teams had access to which sites

2011 Forester Research study identifies main reasons for adoption of SharePoint:

- Flexible collaboration platform
- Reduce maintenance through consolidation of existing tools
- Support team activities on single platform
- Documents and records management
- Deploy ECM platform
- Leverage user familiarity with MS Office apps



The Real World

- **Distributed Enterprise Data**
 - multiple storage location
 - Search and eDiscovery ad hoc
 - not easily accessible
 - SharePoint = siloization



eDiscovery Pain

- SharePoint sites and forests sprouting through the enterprise, but legal has no visibility or plan to preserve or collect
- Custom templates create new context, objects and custom metadata – lists, workflows, embedded programs.
- SharePoint 2007/2010 – No mass export and poor/incomplete search – manual single item export. Inaccurate search results (source: eDJ Group)
- eDiscovery tools limited to doc libraries, leave site context behind
- Explosive review costs from raw files and fields – 10x Costs according to industry analysts
- Global sites, connectivity, single instance storage

SharePoint 2013 – Improved but Still Limited eDiscovery Capabilities

- Just released March 27, 2013
- Hold in place capabilities, improved export
- No matter management features or workflow
- No review or ECA in place
- All search results must be blindly exported for initial review
- No tagging, annotations or reporting
- New FAST index – improved but limited file types
- Limited to 1,500 mailboxes/sites per search
- No ability to save search results



“Centralization runs counter to the realities of the working world where information must be distributed globally across a variety of devices and applications....At the same time, the Federal Rules of Civil Procedure essentially put the burden on organizations to be accountable for all information, to be able to conduct eDiscovery on a moment’s notice. **As we’ve seen, the challenge is daunting.**”

Barry Murphy

eDiscovery Journal, Forrester Research

Traditional eDiscovery and Enterprise Search Architecture:
“Boil the ocean” migration and centralization

Requirements for SharePoint eDiscovery Solution

- Quick and easy installation where data resides
 - No heavy physical footprint
 - Multitudes of distributed SharePoint silos
- Index and search in place for eDiscovery ECA
- Targeted preservation
 - Follow custodian user permissions
- Retain “native” document and context



Summary: X1 Rapid Discovery

- **Key Advantages**

- Fast, Remote Deployment
 - Index and search in place w/out centralizing documents
 - Uniquely deployable on demand into decentralized or virtualized silos
- Strong SharePoint Support
 - Contextual review and production
 - Search and ECA in Place
 - Multi tenant review, segmented queues, saved searches
 - Apply tags and annotations
 - Incremental preservation (full versioning support)
 - Maps to custodian access
 - Search and Preservation of all Key SharePoint Data
 - Libraries, lists, and sublists, as well as all metadata (including custom metadata).

About X1

- Founded by Idealab
- Providing next generation search and eDiscovery for cloud and the enterprise
- Powered by award winning and patented X1 search technology
- Driven by a proven and experienced eDiscovery team
- Over 400,000 active users
- Supporting over 500 enterprise customers

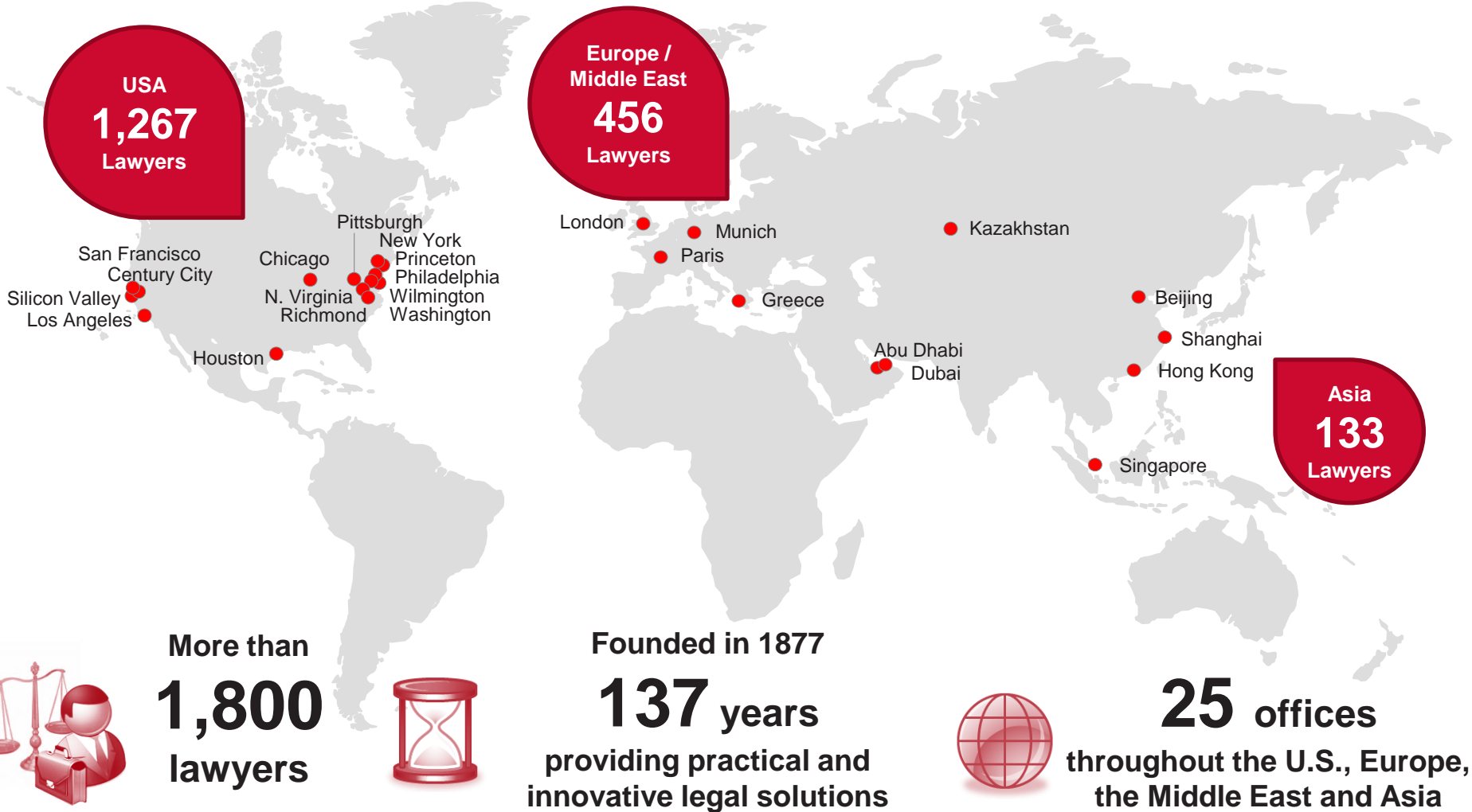
NETWORKWORLD®

X1 wins test of six third-party search tools for Windows desktops

*Clear Choice Test
Network World*

“...Our Clear Choice Test winner is X1 Professional Client. In every test scenario it proved superior.”

About Reed Smith: Global Platform



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