EDD Showcase: EDD Hits $2 Billion

Updated Public Report

By George Socha & Thomas Gelbmann

http://www.lawtechnews.com/r5/showkiosk.asp?listing_id=1676960

The fifth annual Socha-Gelbmann Electronic Discovery Survey Report provides an update on familiar issues, and adds a few new wrinkles.

Not surprisingly, the overall market continues to grow at a slightly reduced – but still vigorous – pace. The largest and more prominent providers appear to be entrenching themselves, consolidating market share and strengthening their brands.

As groups, Tier 1 and Tier 3 providers each picked up a couple percentage points of market share at the expense of the providers in between, the Tier 2 vendors.

The overall number of electronic data discovery providers continues to increase. As fast as providers drop out of the market, or get acquired by others, new ones enter the market.

Drawing on a wide variety of factors, including but by no means limited to revenues reported by providers and expenditures by consumers, for a fifth time we have sought to size the EDD market for the past year.

Our survey covered the 2006 calendar year. Based on our research, we estimate:

- 2006 commercial EDD revenues were about $2 billion, up 51 percent from 2005.
- The top 30 providers collected about $1.08 billion.
- An additional 550+ vendors accounted for another $592 million.
- "Do-it-yourself" firms (law firms and companies doing EDD work they otherwise would have sent to a provider) represented $130 million.

For the first time, we separate out software revenues, which account for about $150 million.

Judging from consumer and provider expectations, we anticipate that the market will grow at approximately 33 percent from 2006 to 2007, 28 percent from 2007 to 2008, and 23 percent from 2008 to 2009.

If these growth estimates are realized, the EDD market will exceed $4 billion by 2009.

Market Leaders

For a fifth year, we ranked EDD service providers. To arrive at these rankings, we conducted a detailed evaluation of a broad array of more than 300 qualitative and quantitative factors.

We set percentage weights for each category and subcategory. We gathered information for each criterion.

For every provider we evaluated, we rated all the information we could get. Our goal was to arrive at results that rewarded the most "well-rounded" providers in each category considered.

We aggregated this information and our evaluations into seven top-level categories. For service providers, we looked at seven factors:

- Experience and reputation (10 percent)
- Capacity (20 percent)
- Types of services (20 percent)
- Software usage (10 percent)
- Law firm rankings (15 percent)
- Corporate rankings (10 percent)
- Revenue (15 percent)

For software providers, we examined a slightly different list of factors:

- Experience and reputation (10 percent)
- Nature and scope of software offered (5 percent)
- Capacity (10 percent)
- How extensively consumers used the software offered (35 percent)
- Law firm rankings (15 percent)
- Corporate rankings (10 percent)
- Revenue (15 percent)

Consistent with our commitment to protect the confidentiality of information provided to us, we do not disclose individual rankings nor do we tie revenue figures to individual providers. Consequently, we grouped providers alphabetically in up to three categories: Top 5, 6-10, and 11-20.

Rankings include top service and software providers overall, as well as within each stage of the EDD process as defined in the Electronic Discovery Reference Model: identification, preservation, collection, processing, review, analysis, production, and presentation.

We chose to use these blends of criteria because we felt it would provide a more nuanced ranking than could be had using any single criterion, such as revenue.

We believe we have taken every effort to assess the information available to us as thoroughly and carefully as we can. Nonetheless, general sets of rankings such as the ones set forth below should never be used as more than a starting point, if that, in determining what service provider one ought to use.

The goal of a consumer should be to find the provider or providers who best fit the consumer's needs and that goal is best achieved by way of a careful comparison of one's needs and the potential providers' capabilities.

It is important to note that our evaluation model relies heavily on information provided through interviews or spreadsheets. We recognize that there may be other providers in this space with the qualifications to rank within the Top 5, 10 or 20; however, the data on them was not available to us.

Of necessity, our approach is limited by the extent to which we could get information. We accepted information from every organization that was willing to provide it to us. However, there were organizations that declined to provide any information, others that provided only selected information, and yet others that said they would send information but never did.

Overall Service Providers

Top 5: FTI Consulting Inc.; Guidance Software Inc.; Kroll Ontrack Inc.; LexisNexis; Zantaz Inc.

6-11 (includes ties): Electronic Evidence Discovery Inc.; Encore Legal Solutions; Ernst & Young; Fios Inc.; KPMG; Renew Data Corp.

12-20: CaseData; Cricket Technologies; DTI Global; eMag Solutions; First Advantage; IE Discovery Inc.; Onsite3; SPi; Stratify Inc.

Overall Software Providers

Top 5: Attenex Corp.; CT Summation; FTI Consulting Inc.; Guidance Software Inc.; LexisNexis.

6-11 (includes ties): Cataphora Inc.; Clearwell Systems Inc.; DocuLex; Isys Search Software; Oracle Corp. Zantaz Inc.

Top Service Providers by E-Discovery Stage

Identification

At the identification stage of the EDD process, providers help determine the scope, breadth and depth of electronically stored information (ESI) that might be pursued during discovery.

Top 5: Electronic Evidence Discovery Inc.; Guidance Software Inc.; KPMG; Kroll Ontrack Inc.; Lexis- Nexis.

6-10: AEA Group; Encore Legal Solutions; Fios Inc.; First Advantage; Zantaz Inc.

Preservation

Preservation providers help ensure that ESI is protected from destruction or alteration.

Top 5: Electronic Evidence Discovery Inc.; Guidance Software Inc.; KPMG; Kroll Ontrack Inc.; Lexis- Nexis.

6-10: Encore Legal Solutions; Ernst & Young; Fios Inc.; Renew Data Corp.; Zantaz Inc.

Collection

Collection providers assist with gathering ESI from various sources (tapes, drives, portable storage devices, networks, etc.).

Top 5: Electronic Evidence Discovery Inc.; Guidance Software Inc.; KPMG; Kroll Ontrack Inc.; Lexis- Nexis.

6-10: Ernst & Young; Fios Inc.; Renew Data Corp.; SPi; Zantaz Inc.

Processing

Processing providers work to reduce the overall set of ESI through de-duplication, culling, and similar strategies and, as necessary, convert ESI to more readily useable formats.

Top 5 (includes ties): Electronic Evidence Discovery Inc.; Fios Inc.; KPMG; Kroll Ontrack Inc.; LexisNexis; Onsite3.

7-10: Capitol Digital Document Solutions; Epiq Systems Inc.; Renew Data Corp.; SPi.

Review

Review providers help evaluate ESI for relevance and privilege. Some review providers offer ASPs or other platforms while other providers offer actual review services.

Top 5: Electronic Evidence Discovery Inc.; Fios Inc.; KPMG; Kroll Ontrack Inc.; LexisNexis.

6-10: Encore Legal Solutions; Epiq Systems Inc.; LIT Group Inc.; SPi; Stratify Inc.

Analysis

Analysis providers help evaluate ESI to determine such information as key topics, important people, specific vocabulary and jargon, and important individual documents. Analysis also is performed throughout the EDD process to assess the validity of the work performed at each stage.

Top 5: Fios Inc.; KPMG; Kroll Ontrack Inc.; Lexis- Nexis; Stratify Inc.

6-10: CRA International Inc.; Encore Legal Solutions; Ernst & Young; SPi; Zantaz Inc.

Production

Production entails the delivery of ESI to various recipients such as opposing counsel. Included within this are issues about form of production (native, .tif, etc.), delivery media (CD, FTP site, etc.), and the configuration of the ESI and related data for loading into specific software packages.

Top 5: Electronic Evidence Discovery Inc.; Fios Inc.; KPMG; Kroll Ontrack Inc.; LexisNexis.

6-10: Encore Legal Solutions; Epiq Systems Inc.; Onsite3; Stratify Inc.; TrialGraphix Inc.

Presentation

Presentation providers help present ESI at depositions, hearings and trial.

Top 5: Encore Legal Solutions; FTI Consulting Inc.; Kroll Ontrack Inc.; LexisNexis; Zantaz Inc.

6-10: AEA Group; CT Summation Inc.; Merrill Corp.; TrialGraphix Inc.; Trilantic.

Top Software Providers by E-Discovery Stage

Identification (includes ties): Attenex Corp.; AXS-One Inc.; DocuLex; Guidance Software Inc.; LexisNexis; MetaLincs; and Zantaz Inc.

Preservation (includes ties): AXS-One Inc.; CT Summation Inc.; FTI Consulting Inc.; Guidance Software Inc.; LexisNexis; and Zantaz Inc.

Collection (includes ties): Clearwell Systems Inc.; Guidance Software Inc.; Isys Search Software; LexisNexis; Merrill Corp.; and Zantaz Inc.

Processing (includes ties): Attenex Corp.; CT Summation Inc.; DocuLex; Equivio; Guidance Software Inc.; LexisNexis; and Oracle Corp.

Review (includes ties): Attenex Corp.; CT Summation Inc.; FTI Consulting Inc.; Guidance Software Inc.; LexisNexis; and Zantaz Inc.

Analysis (includes ties): Attenex Corp.; CT Summation Inc.; FTI Consulting Inc.; Guidance Software Inc.; LexisNexis; and Zantaz Inc.

Production (includes ties): Attenex Corp.; Cataphora Inc.; CT Summation Inc.; FTI Consulting Inc.; LexisNexis; and Zantaz Inc.

Presentation: CT Summation Inc.; FTI Consulting Inc.; Guidance Software Inc.; LexisNexis; Merrill Corp.; and Zantaz Inc.

Influencing Issues

Key factors driving the EDD market last year fell into a few broad categories.

• Who buys electronic data discovery services, and who controls the relationships with the providers after the onset of the engagement, continues to be problematic. Opinions between corporations and law firms about these issues continue to diverge, more so than in any other area we examined.

• Consumers and vendors alike continue to evidence confusion in several areas. They blur the distinction between services and software providers. For example, they frequently identified software-only companies as top service providers.

• Software as a service, or SaaS, continues to grow in prominence, due to a combination of convenience, ease of use, and improving feature sets.

• Many consumers also seem to have bought into the "commoditization myth," the idea that EDD services rapidly are becoming commodity items where the primary differentiator is cost. Based on what we have heard as we gathered information, we have arrived at a very different conclusion: Purchasers are seeking high value services but try to pay only commodity prices. Three factors seem to be the main contributors. First, ever-tightening client budgets are putting on the squeeze. Second, provider marketing often conveys the message that EDD is easy, and that therefore, by implication, consumers should shop by price. Finally, some law firms appear to be looking for a quick and simple way of comparing providers — price — rather than doing the harder but more valuable work of assessing the providers' capabilities.

• Consumers and providers also have placed greater emphasis on topics to which they previously paid little or no attention:

1. Providers and law firms both are looking to expand consulting services considerably. It is not clear what strategies they will adopt to find, train, and retain competent and qualified staff; we have not seen evidence of any so far. In particular with the history of turnover and talent migration from organization to organization, this will be very difficult for both groups to achieve.

2. Litigation readiness is high on the list for providers. The question is how corporations will choose to attack the issue. Will it be through information or records management initiatives? If so, who will they look to for guidance? Who will they trust to help them address these issues?

Scope and Methodology

The 2007 Socha-Gelbmann Electronic Discovery Survey examines the demands for and consumption of commercial EDD services and software.

This year we started with data from or about 115 provider and consumer organizations. For each organization, we created a spreadsheet file containing between 35 and 38 worksheets, each worksheet representing a top-level category information, such as Capacity, Experience/Reputation, Revenue, etc. From these spreadsheets, we created 93 consolidated spreadsheets. These files are organized by topic, such as software usage, electronic discovery work volume, geographic coverage, project sizes and the like. We use these spreadsheets for the hundreds of analyses we perform to examine areas such as the differing views held by consumers and providers.

To perform the analyses, we use a variety of Excel tools such as filters (ways of working with subsets of data); analytic functions such as IF, vlookup , average, max and countif; and PivotTables reports (interactive reports that combine and compare large amounts of data).

We also use the information in the consolidated spreadsheets to rank providers. We use two ranking models, one for services providers and the other for software providers. Each ranking model consists of four levels of factors. The top level factors for services providers, for example, are experience/reputation, capacity, types of services, software usage, consumer ranking ‹ law firms, consumer ranking ‹ corporations, and revenue. We assign a weight to each factor, 10% for experience/reputation, for example. The weights for the factors at each level add up to 100%. In all, we evaluate about 300 factors.

For each factor, we develop a rating scale. We base the rating scale on information we have gathered in connection with that factor. For many of the factors we use a range of scales, choosing the best fit for each factor ‹ such as a relatively granular scale of 1-7 to an elementary 0-1 scale.

We multiply the weightings by the ratings to arrive at numeric scores for providers. The higher the score for a provider, the higher the provider’s ranking.

By "electronic data discovery" we mean the activities surrounding the identification, preservation, collection, processing, review, analysis, production and presentation of electronically stored information that started its life in electronic form and remained in electronic form until it and the discovery process collided.

For the 2007 survey, we gathered information from 115 organizations — 71 services and software providers and 44 law firms and corporate legal departments. We also gathered information from secondary sources.

We do not pay participants. Participants will receive a participants' report. For organizations that provided meaningful data and who also subscribe to the report, we provide information about how they ranked. All participants were promised anonymity.

The cost to subscribe to the survey is $5,000. Details are posted at www.sochaconsulting.com/2007survey.htm.

Factors

We built our analysis around more than 300 factors. The top-level factors were:

Experience/Reputation: The length and depth of the providers' experience in the EDD industry, the breadth and depth of the organizations' offerings, and their reputations.

Software: The breadth of use in the EDRM stages, intended installation (ASP, network, etc.), and frequency of use by consumers.

Capacity: The level of resources that providers dedicated to the EDD market.

Types of Services: The types of services providers offered as defined in EDRM.

Software Usage: The breadth of software the providers used in delivery of services, including the level of software use in each EDRM stage.

Rankings by Law Firms: Law firms' views on providers — who the law firms used, who they preferred, and their perceptions of volume and quality of services and overall reputation.

Rankings by Corporations: Corporations' views on the same issues.

Revenue: Estimated annual revenues for the providers, calculated to exclude revenues for activities other than EDD.

Tiers

We divided providers into four groups.

Tier 1 providers: established in the market; revenues averaging $36 million; national or international in scope; widely recognized in the market; offered a broad range of services.

Tier 2 providers: averaged $5.7 million in revenues; offered a wide variety of services; may be national or regional in scope.

Tier 3 providers: the remainder of providers active in the EDD arena; may be smaller versions of the Tier 2 providers; might be larger organizations that only devote a small portion of their energies to EDD.

The Do-It-Yourself operations: law firms and corporations doing electronic data discovery work internally that otherwise would have been sent to a provider.

Disclosures

Since 2003, Socha Consulting has provided paid consulting services to (or has been reimbursed for travel expenses by) a number of the services providers named in this report, and has provided paid consulting services to (or have received software at no charge from) a number of the software providers named. Socha Consulting also has provided consulting services to a number of services and software providers not mentioned in this report, including potential EDD providers and consumers, venture capital groups, private equity firms, and others.

Gelbmann & Associates, an independent management consulting firm focused on the legal sector, has not provided any paid consulting services to any of the providers named in this report. Since 2005, approximately 115 EDD services and software providers, law firms, and corporations have participated in the EDRM Projects. Among those organizations are ones mentioned in the 2007 Survey Report. Participating organizations pay a fee to be active in the projects. Used to defray the costs of managing the EDRM Projects, that fee is paid to Socha Consulting and Gelbmann & Associates. Full lists of the participating organizations are available at:

- 2005-2006 Electronic Discovery Reference Model Project: http://www.edrm.net/wiki/index.php/Project_Participants

- 2006-2007 Projects:
  - Metrics Project: http://edrm.net/metrics_participants.php
  - XML Project: http://edrm.net/xml_participants.php

- 2007-2008 Projects:
  - Evergreen Project: http://edrm.net/evergreen_participants.php
  - Code of Conduct Project: http://edrm.net/coc_participants.php
  - Metrics 2 Project: http://edrm.net/metrics2_participants.php
  - XML 2 Project: http://edrm.net/xml2_participants.php

George Socha (george@sochaconsulting.com) is president of Socha Consulting, and Thomas Gelbmann (tom@gelbmann.biz) is the principal of Gelbmann & Associates. Both are based in St. Paul, Minnesota. Socha is a member of the LTN Editorial Advisory Board.

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