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Internet & Technology

Q & A

Digitally Blind Justice Eyes Discovery

Paper Rules In Court

Online start-up helping legal discovery process enter the electronic age

BY NICK TURNER

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Digital communication has exploded over the past 20 years. But in the legal world, paper still rules.

Take the typical corporate lawsuit. In a suit's discovery phase — when the two sides share evidence that's relevant to the case — lawyers may exchange hundreds of boxes of paper documents, and sometimes thousands.

Most of these documents, such as e-mails, were created electronically. But they're still printed out and passed to the other side on paper.

Lawyers are overwhelmed by all the paper, which has to be scanned into a computer or paged through manually.

The paper deluge adds to legal costs, and it hurts both sides.

The plaintiffs can't always find important evidence. And defendants can't be sure what they're giving to the other side.

In their rush to print out documents and pass them over, they may reveal sensitive data that aren't even relevant to the case.

Is there a better way? Ap-

plied Discovery Inc. thinks so.

The company, founded in 1999, aims to bring the discovery phase into the digital age. Instead of printing out discovery documents, it keeps them in electronic form and stores them for clients on a special Web site.

A discovery process involving 350,000 pages of documents could cost more than \$750,000 and take six months, company officials say. With Applied Discovery, it costs \$70,000, or 20 cents a page, and takes just three days.

Michael Weaver, chief executive of the Bellevue, Wash.-based company, recently spoke with IBD about his business.

IBD: *Why is the paper-based discovery process so onerous?*

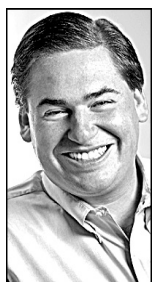
Weaver: When a discovery request goes out to a company, the law firm will advise that company to go print everything out and send it over.

To put that in perspective, a 1-gigabyte file — of e-mails, say — can generate about 75,000 pages of printed information. So you've got rooms filled with banker's boxes of documents, and you're talking about only a few gigabytes of data.

The other issue is when they print it out, there's duplicate information. There's information that's not relevant to the case.

Also, you can have an e-mail that mentions an attachment, and that attachment can be in a completely different box. So you're getting information that's completely out of order.

Michael Weaver



■ Applied Discovery Inc.

■ CEO

■ 41 years old

■ B.S., mechanical engineering, University of Florida; MBA, St. Mary's University (Texas)

The thought out there is still that paper is cheap, and I can handle paper and I can look at paper.

IBD: *Why is it done this way?*

Weaver: There is still this predisposition toward handling paper. And it tends to be the initial reaction of the firm to start generating a lot of paper because they want to get the information over to the attorneys as soon as possible. But the cost of litigation is increasing every time they print a page.

The thought out there is still that paper is cheap, and I can handle paper and I can look at paper. In actuality, there's no way to keep track of paper documents in any way that's cost-effective.

IBD: *So how do you improve on that?*

Weaver: We bypass this whole printing process. We

take backup tapes, hard drives — wherever the data is stored — and we process it. We send it through a proprietary, patent-pending, high-volume process that will take all that information and put it into an easy-to-review standard format. We use the Adobe Acrobat PDF format.

At the same time, we extract the "meta" data from these documents. Meta data is essentially every other piece of information that's not on the printed page, such as the file size. Or in the case of e-mail, a blind cc (carbon copy) which never gets printed out.

IBD: *So you get more information than if you relied just on printed pages?*

Weaver: Exactly. And what's included in that is the relationship between documents. So you can follow the thread of an e-mail conversation.

An attachment to an e-mail is right there in the same format as the e-mail itself, and there's a link to that attachment.

And after we've done all this, we put it online in a secured Web site, specifically designed for that client.

IBD: *How quickly could this catch on?*

Weaver: It's spurred on by a few things. First of all, people are realizing that there's just too much information out there to be able to handle by hand anymore. Second, you're seeing a lot of the judges in many dis-

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tricts starting to support electronic discovery. They're saying, "You need to produce this in an electronic fashion." They've yet to standardize what fashion that is, but at least they're moving in that direction.

IBD: *What kind of companies are embracing electronic discovery?*

Weaver: Those who are up against a limited time frame, when there's a huge amount of information to go through.

Our initial cases came from large-scale litigation and large-scale Hart-Scott-Rodino Act second requests.

IBD: *What are Hart-Scott-Rodino Act second requests?*

Weaver: When two colossal companies merge, and the Federal Trade Commission or the Justice Department reviews the information, they will issue a second request for information.

That second request says, "You didn't give us enough information to determine the relevancy of this merger. Therefore, in the next 30 to 45 days you have to produce everything."

You get a bunch of people running around trying to produce the information and trying to review it before they produce it. But they generally can't review it in that time frame. So they end up copying everything and sending it over.

Now they can come to us. We can get the information online within a few days. They then have attorneys from all over the world review it online. That's another benefit you get from our service. You can access it from everywhere in the world. You can have New York litigation, and your attorneys can access it from a beach in Texas.

IBD: *What other kinds of companies are interested in this?*

Weaver: We're getting calls from corporations that have nothing to do with any litigation. They're seeing what's going on out there. They want to start looking at their own information before any type of litigation occurs so they can see what skeletons they have in their closets, what issues they have. Maybe they don't have issues, but they want to start going through the process.

IBD: *If electronic discovery takes off, what are the long-range impacts?*

Weaver: This is a giant white-collar productivity tool. Corporations are going to save a ton of cash.

Litigations are going to be settled quicker. There may be less of them once plaintiff attorneys understand how efficient a company is. There may be fewer nuisance lawsuits. If the government starts adopting this technology, that's going to save everybody a lot of money.