

Magic Quadrant for E-Discovery Software

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The e-discovery market landscape has shifted dramatically as end users have begun to demand more complete e-discovery functionality. Many vendors are responding with broader end-to-end functionality. New products, acquisitions and shifts in buying patterns have led to a radically altered picture.

Strategic Planning Assumption

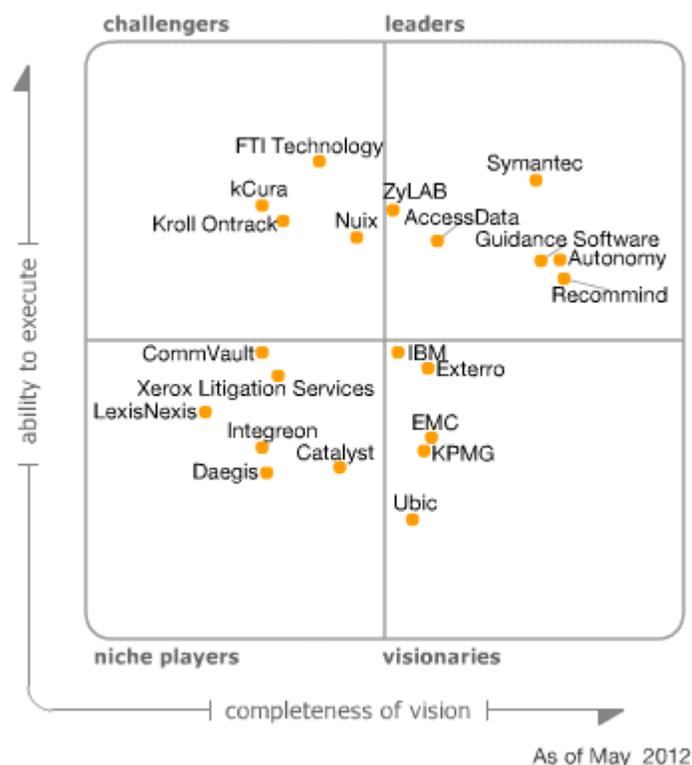
E-discovery vendors will generate up to one-third of their revenues outside North America during the next three years, up from 15% in 2010.

Market Definition/Description

The market covered by this Magic Quadrant contains vendors of e-discovery software solutions for the identification, preservation, collection, processing, review, analysis and production of electronically stored information (ESI) in support of the common-law discovery process for litigation, regardless of delivery method.

Magic Quadrant

Figure 1. Magic Quadrant for E-Discovery Software



Source: Gartner (May 2012)

Vendor Strengths and Cautions

AccessData

Founded in 1987, [AccessData Group](#) is a privately held company, with a workforce of over 450, that has addressed the e-discovery market since 2008. In 2010, AccessData merged with CT Summation, and it retained the Summation brand together with the AccessData FTK brand. Together, the two product sets give AccessData coverage of the Electronic Discovery Reference Model (EDRM — see "The Electronic Discovery Reference Model and Market Demand Use Cases" in the Market Overview section for more information), from identification to production. It also has early case assessment (ECA) capabilities. The AccessData eDiscovery solution is built on the company's forensics processing and collection technology, FTK, which enables targeted forensic collection of data from a wide variety of sources, including desktops, servers and structured data stores. In addition, AccessData's search methodology supports multiple relevancy models, file-culling methods and concepts, which enables the solution to be used for a wide range of investigation types, including those into inappropriate activity, remote intrusion, e-discovery and personally identifiable information (PII). AccessData added ECA capabilities to its solution in 2009.

The company's Summation suite — including heritage products iBlaze, Enterprise and CaseVantage, as well as the newer Summation Express and Pro products and Summation Litigation Support Services — covers the review, analysis and production stages of the EDRM.

Strengths

- Identification, preservation and collection are difficult and technically complex parts of the process, so the ease of use of AccessData's software in these areas is a differentiator, as is its method of collecting electronic material without disturbing metadata.
- One of the most widely known litigation support applications, Summation, part of the AccessData Summation product set, is an important asset, which gives it full-spectrum EDRM coverage.

Cautions

- AccessData has a large customer base of small legal clients, which it will need to continue to support from a sales and service perspective. This may limit its ability to expand into the large enterprise segment without additional investment.
- The company must invest further in its marketing and sales organizations to ensure the market understands its technically revamped and integrated product suite, as well as to continue the strong growth it saw in 2011.

Autonomy

[Autonomy](#) was acquired by publicly traded HP (NYSE: HPQ) in October 2011, and is being operated as a separate information management software group within HP. Founded in 1996, Autonomy entered the e-discovery business in 2007 via its acquisition of Zantaz. The company offers Autonomy eDiscovery, which is the newest release, and also incorporates what was known as Autonomy Stratify, Introspect and Investigator & ECA. This modular application spans investigation through review and production. In addition, the company offers Autonomy Legal Hold (ALH) for the preservation and collection of data. A set of information management products, including records management, archiving and data protection, is available as well. Products are offered on-premises or as a service, and over half its customers are corporate (25% are law firms and 10% are service providers). Traditionally, Autonomy has primarily sold direct, but the acquisition by HP is changing this — for example, the company recently launched an e-discovery appliance that it has put into the HP reseller and distribution channel. Customers should expect improved strategic partnerships (with HP Enterprise Services, PwC and Accenture, for example) as part of the HP deal as well. Autonomy shows up in many competitive situations — buyers like the company for its broad set of functionality, vision and market leadership.

Strengths

- Autonomy's technology is rated very highly by many customers: positive feedback includes ease of use, extensive functionality and scalability, as well as a good focus on the legal user.

- Autonomy has a wide range of products that cover each stage of the EDRM model, with various deployment models available for each.

Cautions

- Some customers report that support is not responsive, even in the face of substantial deployment or functionality issues, and that their issues are ignored until they are escalated. These customers report that it takes a big effort to get Autonomy to respond.
- Feedback from clients and prospects indicates that the sales teams can be difficult to negotiate with, that the product is expensive, and that sales is not selling the right solution to the problem.

Catalyst

[Catalyst](#), a privately held company with over 140 employees, entered the e-discovery market in 2000. Catalyst's platform is grid-based, allows for automated loading of data, and covers processing through search, analytics, review and production. In addition, Catalyst recently released OnRamp, which is an enterprise connector that allows corporations to automatically load raw or processed files into the Catalyst e-discovery platform. It is designed as a product to be delivered via the cloud, but with the user having full control over the platform and processes. It is sold using a software-as-a-service (SaaS) model. Catalyst is focused on automating as much of the e-discovery process as possible; it supplements the rest of the processing through production phases with human expertise where necessary. Catalyst has a partnership with [BIA](#), which allows the remote collection of data from multiple sources into the Catalyst repository. Catalyst also has an integration with Exterro, its preferred partner for full EDRM coverage. Catalyst provides specialized consulting services around its product and services, notably expert assistance with large-volume data searching, analytics and information retrieval using subject matter experts.

Strengths

- Catalyst's foreign-language capabilities are industry-leading and its search technology is best-in-class, as is its focus on search expertise.
- Catalyst's products for uploading and processing data and producing data as a business process utility are highly scalable and cost-effective. This focus on cloud-based self-service is a key differentiator.

Cautions

- Recent partnership announcements with BIA and Exterro, while positive, demonstrate the extent to which the market has shifted to favor full EDRM solutions, which Catalyst does not have.
- Catalyst must focus more on marketing to emphasize its differentiation from other SaaS review and analysis vendors.

CommVault

[CommVault](#) is a publicly traded company (NYSE: CVLT) that entered the e-discovery market in 2007. It came from a content archiving and unified data management background, and has moved into the information governance and management space with a set of product capabilities that address the needs of legal and compliance archiving buyers. Its current product, Simpana Archive, is sold with modules for ESI collection, including cloning (backup) and archiving, and content indexing for search and e-discovery. Simpana's content index and search capabilities are based on Fast Search & Transfer indexing technology. Simpana's archiving technology focuses on retention life cycle management, enterprise search, information workflow, records declaration, privacy and security, e-discovery and compliance, again drawing on the core platform features. Simpana Content Director is an add-on process and workflow engine that provides content classification and e-discovery functions. CommVault's key differentiators are deduplication across the entire body of collected and archived information (as well as backup), the ability to retain and dispose of data in this archive, and an information governance message, which together give it a larger technological and strategic footprint than other vendors.

Strengths

- CommVault's unique vision of the market — which encompasses archiving, backup and a proactive approach to information management as the ultimate answer to e-discovery — is not an easy one to communicate to the market. The company's comprehensiveness with respect to information management precludes it from selling to clients that need a quick response to an imminent e-discovery situation.
- CommVault has a larger technological and strategic footprint than other vendors.

Cautions

- CommVault must gain market share in the core information archiving sector to be on a par with its most direct competitors.
- Because CommVault's value proposition is based on the underlying archiving platform, decision cycles are longer. In addition, implementation delays result from the need to have various decision makers involved. CommVault has a limited ability to sell to legal buying centers, which is essential in this market.

Daegis

[Daegis](#) is a publicly traded company (Nasdaq: DAEG) that has competed in the e-discovery market since 2003. Daegis's e-discovery capabilities extend from information management through processing, analysis, review and production. Daegis believes that its Cross-Matter Management methodology helps increase efficiency throughout the e-discovery process by repurposing custodian data and attorney work products across multiple matters, eliminating data handoffs and double processing, while targeting and reducing datasets through iterative search. Daegis' e-discovery platform, which is available as a hosted offering, is an integrated technology and services

solution. The company's hybrid business model also includes e-discovery-related services such as project management and document review.

Strengths

- Customers report that they are impressed with the quality of Daegis's project managers, service and support, which they cite as being highly personalized.
- Daegis has products that span the EDRM.

Cautions

- Daegis's growth has not kept pace with the rest of the market.
- Daegis's staffing profile indicates that the majority of its revenue comes from services.

EMC

Publicly traded [EMC](#) (NYSE: EMC) acquired Kazeon in 2009 and offers the product as its e-discovery solution. The company claims over 500 customers, 70% of which are corporate clients. The solution is largely targeted at the IT buyer. Kazeon is packaged as an appliance, and offers functionality predominately focused on collection and ECA. The product can capture data from various data sources, including file shares, SharePoint, Documentum and EMC SourceOne archiving, and Symantec Enterprise Vault archive repositories, among others. Kazeon has recently been integrated with EMC Avamar to support collection from endpoint devices as well. Data can be held in place or collected into one of the Kazeon supported repositories (such as Documentum or SharePoint). Kazeon also supports processing functionality, including deduplication, ingestion of native files, classification and categorization using rule-based methodologies. Many customers cite the product's low price — EMC tends to include Kazeon as part of larger deals for Documentum or storage. EMC also offers SourceOne, sold through the backup and recovery solutions division, as a solution for the information management (archiving) component of the EDRM model.

Strengths

- EMC offers technologies that complement Kazeon in terms of providing more comprehensive information management: for example, integration with Avamar File System enables the collection of data from endpoints, while integration with SourceOne enables support for data captured in an EMC archiving repository.
- Users cite scalability, searching and culling as positive product features; sales and support are responsive, and professional services are highly rated.

Cautions

- Some customers express dissatisfaction with Kazeon's integration with partner products, and look to EMC to improve both partner relationships and platform support.

- Clarity of product direction and support for emerging technologies are cited as areas for improvement, particularly in the broader context of EMC product offerings.

Exterro

[Exterro](#) is a privately held company, founded in 2004, which entered the e-discovery market with its workflow software in 2005. It is an enterprise software development company that specializes in workflow management, with a well-regarded suite of applications for data mapping, in-house litigation holds and project management. It has one of the few platforms on the market that includes data mapping, which enables organizations to track their ESI at an organizational level. Exterro's Fusion Integration Hub allows integration of existing legal, e-discovery and other systems, such as archiving and content management systems. Exterro has expanded the applications in the Fusion suite to span the EDRM and includes in-place ECA, collection, culling, review and production capabilities, giving it the range of functions most often requested by organizations wanting to bring e-discovery tasks in-house.

Strengths

- Exterro's software is easy to understand and purchase, and it fulfills the very important need of legal departments to manage litigation processes flexibly.
- Exterro now has full-spectrum EDRM capability and clients report that pricing is very reasonable.

Cautions

- Exterro must grow and differentiate to gain market share in a market that is consolidating in terms of functionality and number of vendors.
- Exterro must invest in marketing to make the market aware of its full-spectrum capabilities.

FTI Technology

[FTI Technology](#) is a separately reported business unit of FTI Consulting (NYSE: FCN), a publicly traded company founded in 1982. FTI has acquired two well-known companies in the e-discovery market: Ringtail Solutions and Attenex. In 2010, FTI released a version of Ringtail's software that combines familiar features from both of these companies' well-known products in a simplified and modernized product set. It performs functions from processing through to production — including ECA, review and analysis — and is available via a SaaS or enterprise model. Pricing models include user-based on-premises and SaaS. In addition to software, FTI provides a broad range of e-discovery consulting and other services, from international data collection and on-site analysis and review with its Investigate offering, to legal review and full legal process outsourcing with its Acuity offering. FTI Harvester for Microsoft SharePoint combines software and services for the collection of SharePoint data.

Strengths

- FTI has powerful technology and a leading platform for machine-assisted review, pushing the limits of scalability and performance. A recently revamped user interface has made the product even stronger.
- The breadth and depth of the expertise at FTI makes it a leading global provider among large litigious companies that frequently need expert assistance, global evidence-gathering teams and productivity-enhancing products. The company performs well all over the world, whereas others in its class do not necessarily have the presence or "bench strength" to cover the globe, which is what many corporations need.

Cautions

- FTI needs to expand its EDRM coverage to reclaim a leadership position.
- FTI has many advanced features and must invest in educating the market about the power of its solution, which many end users still perceive as complex.

Guidance Software

[Guidance Software](#) is a publicly traded company (NYSE: GUID) that was founded in 1997 with a focus on forensic data collection and analysis. In early 2012, Guidance acquired CaseCentral, a privately held company founded in 1993, and entered the e-discovery market in 1994. Guidance now has over 500 employees, post-acquisition. Guidance Software provides coverage for the full range of EDRM functionality, including an auditable repository-based means of identifying, collecting, preserving and processing data for e-discovery and a fully featured SaaS-based review and analysis platform with CaseCentral. The EnCase product range allows data to be searched and categorized for ECA before or after collection. There are three EnCase products, which all use the same underlying technology, applicable to this market: EnCase Enterprise (for internal investigations and small-scale e-discovery collection and processing); EnCase eDiscovery (for small-scale to large-scale e-discovery); and EnCase Cybersecurity (for information management, such as data auditing and clean-up). The CaseCentral eDiscovery Platform is used for ECA, analysis, review and production of documents and emails pertaining to litigation, regulatory requests and internal investigations. CaseCentral has multimatter management, along with sophisticated semantic analysis capabilities for legal review and analysis, workflow and reporting features to track and manage the progress of review, and a range of configurable options. The latest release includes machine-assisted review features.

Strengths

- The CaseCentral acquisition gives Guidance Software full-spectrum e-discovery coverage.
- Guidance's pricing for CaseCentral review and production is fully transparent and easy to understand, similar to its enterprise software pricing.

Cautions

- Although it can be used for single cases, CaseCentral's model is most advantageous to those with multiple cases, because of its multimatter management strategy, which allows attorney work product reuse.
- Legal users of EnCase say that they would like to have more training, while the product receives lower ease-of-use ratings than some of its competitors. However, the acquisition of CaseCentral may change this dynamic.

IBM

[IBM](#) (NYSE: IBM) offers e-discovery as part of its Information Lifecycle Governance (ILG) strategy. In October 2010, IBM acquired PSS Systems and its Atlas portfolio, subsequently launching a new strategy focused on defensible disposal. IBM's new ILG portfolio is segmented into the following solution areas, supporting functionality across much of the EDRM model: defensible disposal, e-discovery, value-based archiving, and records and retention management. The e-discovery solution area includes IBM Atlas eDiscovery Process Management for both legal and IT, IBM Atlas eDiscovery Cost Forecasting and IBM Atlas eDiscovery Policy Federation Framework. The Atlas portfolio provides APIs that support a wide variety of connections to other systems, including email systems, SharePoint, document management systems and desktops (via the IBM FastBack product), among others. IBM eDiscovery Manager and eDiscovery Analyzer are also part of this solution area. IBM Content Collector for Email, Files and SharePoint are part of the value-based archiving solutions. Analysis capabilities include cost forecasting, with dynamic re-forecasting as data is collected and production decisions are made. Prior to the acquisition by IBM, PSS had founded the Compliance, Governance and Oversight Council (CGOC) — a forum of over 1,700 legal, IT, records and information management professionals dedicated to discovery, retention, privacy and governance practices. IBM continues to play a leading role in this group.

Strengths

- IBM's brand and marketing power, along with its deep customer relationships, enable it to reach a large base of potential clients.
- Clients report that Content Collector, eDiscovery Analyzer and eDiscovery Manager are easy to use and have improved dramatically in the past few years. With expanded policy syndication functionality, IBM retention and hold policy syndication includes InfoSphere Optim's structured data archive repositories, enabling this functionality across both structured and unstructured data.

Cautions

- Requests for improvements from customers most frequently concern Atlas products' ease of use, particularly for larger holds, support for emerging technology and clarity of product direction. IBM sought to address these issues in 2011 with the launch of Atlas 6.

- Total cost of ownership for the solution can sometimes be high — cost and functionality were cited most frequently as reasons why organizations purchased an alternative solution. IBM must work to overcome the perception that IBM solutions are only for "IBM shops."

Integreon

[Integreon](#) is a private company, founded in 1998, specializing in providing support services for law firms and corporate legal departments. Integreon has made significant investments in its e-discovery business since entering the market in 2005, including acquisitions of Bowne's litigation support business in 2006, Datum Legal in 2008 and Onsite3 in 2009. Integreon has invested in defensible process capabilities and software to create an integrated end-to-end e-discovery solution, from collection to global managed document review, with a mix of its own products and those of a wide array of third parties. Integreon's collection product (Seek & Collect), hosted review product (eView) and enterprise processing product (Electronic Evidence Enterprise) were evaluated for this analysis. These products focus on the collection, processing, review, analysis and production of ESI, and are available under SaaS and enterprise pricing models.

Strengths

- Integreon has a strong brand and reputation in the legal community, and the ability to access legal buying centers.
- Integreon has deep client relationships, and provides a range of services, including concierge-style offerings, to a select client base.

Cautions

- Integreon differentiates on its service offerings, but although it rates very highly in that respect it needs more software focus to compete in this market. Integreon must invest in marketing to raise its visibility in the market.
- As a major provider of legal process outsourcing solutions, Integreon is a diversified company that also provides other legal products and services — which means that software development may compete internally for resources, resulting in less frequent or expansive software releases.

kCura

A privately held company founded in 2001, [kCura](#) entered the e-discovery market in 2006. With an exclusive focus on the review, analysis and production of documents, kCura's Relativity product is now considered "best in class" by many legal end users, particularly legal solution providers. While the Relativity team at kCura focuses on technology development, the product itself is sold directly to corporations and is also available as a SaaS offering from a wide range of well-known service providers and hosting partners. Historically, the attorney review application market was dominated by three or four products, which sufficed before the huge increase in the numbers and types of electronic information that lawyers have to deal with. Relativity is a product designed in, and for, the present age of ever-increasing volume, velocity and variety of data.

Strengths

- kCura focuses exclusively on legal end users and the review of production parts of the e-discovery process. This focus has enabled it to produce best-of-breed technology and to grow very quickly and profitably.
- kCura's technology is flexible and open, which allows customers to easily customize the workflows and integrate it with other software.

Cautions

- kCura must increase its focus on building corporate relationships.
- kCura must acquire partners addressing the left-hand side of the EDRM, as the market increasingly demands a full-spectrum EDRM solution.

KPMG

[KPMG](#) has moved decisively from being primarily a service provider to fielding a robust technology suite that covers the identification to production phases of the EDRM. Its identification, collection and processing capabilities are called Discover Radar Collector, while additional processing review analysis and production capabilities are offered via the SaaS-delivered Discovery Radar. Key differentiators for KPMG include its Global Evidence Tracking System (GETS) and its software-assisted review, which includes software-based, integrated, flexible sampling methodologies, along with a review cost estimator.

Strengths

- KPMG is not a traditional software vendor and its business model does not include commission-based selling, but rather focuses on business development via long-standing corporate relationships. This positions it very well to sell to the corporate market.
- KPMG has learnt lessons from its experiences as an e-discovery service and software provider in very difficult and high-stakes cases. Its expertise shows in the approach it takes to building scalable software for process efficiency and flexibility.

Cautions

- KPMG's business model relies on deep and long-standing relationships with a select client base, which contrasts with many of the other vendors that are aiming at the mass market with large sales forces.
- KPMG is perceived as an expensive, high-value option in the marketplace.

Kroll Ontrack

Privately held [Kroll Ontrack](#), founded in 1985, launched its new e-discovery product, Verve, in late 2011. In addition to Verve, Kroll Ontrack offers an outsourced review platform (Ontrack Inview), early data assessment (Ontrack Advanceview), and a hosted e-discovery repository solution (Ontrack Guardian) ancillary to its services business. Verve is a SaaS or cloud-based version of these platforms, purchasable and accessible via the Web by customers wanting to upload data, select processing criteria, conduct early data assessment and review, and manage production within their organizations. While 50% of Kroll Ontrack's customers are corporate, its penetration into law firms is significant and represents the other 50% of its customer base. As a dominant review platform player, its support for identification, collection or preservation is currently minimal, although enhanced functionality in this area is on the road map. ECA and machine-assisted review capabilities are available today in Ontrack Advanceview and Ontrack Inview, respectively. Both capabilities are also available in Verve. Kroll Ontrack's representation as a solid service provider of processing, analysis and review means that its new on-premises SaaS/cloud products will be considered by enterprises that want to bring e-discovery in-house. In addition, as Verve is a new product, Kroll Ontrack is just beginning to build channel and service provider programs — none are available at present.

Strengths

- Hosted services are easy to use, and Kroll Ontrack is responsive to requests for enhancements. Sales and support staff are attentive and easy to work with.
- Kroll Ontrack has a trusted brand, a well-established presence and a reputation for service excellence, which will continue to serve it well as a service provider and should carry over into dealings with its software customers.

Cautions

- Verve is a new product and, as such, features may be limited. For example, collection from database management systems is limited to support for Microsoft SQL Server only, and no API is available.
- Prospects cite the e-discovery service's high cost and inflexible pricing model as a reason for selecting an alternative vendor.

LexisNexis

[LexisNexis](#) is a private subsidiary of a public company, Reed Elsevier (NYSE: ENL, NYSE: RUK). It entered the e-discovery market in 2003. For this Magic Quadrant we evaluate only the traditional Concordance and LAW PreDiscovery software offerings. Concordance is a document review tool covering review, analysis and production on the right-hand side of the EDRM. It has a long history and a great deal of brand recognition within the legal industry, being familiar to many lawyers. Concordance software has long been the mass-market tool of the legal profession for document review. LAW PreDiscovery is a processing and culling tool that allows all documents to be processed ahead of legal review, allowing for ECA. Concordance and LAW work together to cover

processing, review, analysis and production, in addition to ECA. LexisNexis has made significant investments in its products.

Strengths

- LexisNexis is a strong and trusted brand in the legal profession, for which it offers a range of products and services.
- Pricing for both Concordance and LAW PreDiscovery software is deemed very reasonable by users, and there is solid and responsive customer support.

Cautions

- LexisNexis has been slow to respond to changes in the market, and its software development lags behind that of its competitors.
- LexisNexis ends up on many shortlists but it is frequently discounted for its lack of functionality.

Nuix

[Nuix](#) is a privately held company that was founded in 2000 and entered the e-discovery market in 2007. It is based in Sydney, Australia, and its geographic progress has been from Asia/Pacific to EMEA and on to North America. Nuix's biggest strength and most proven technology lies in the fast processing of data and enabling of early assessment of data in any given matter. It is also particularly strong in its support for multiple languages, especially double-byte character set ones, and in its ability directly to support and index difficult container files types, such as major archives and entire email and workplace collaboration systems (for example, EMC EmailXtender, Symantec Enterprise Vault, IBM Lotus Notes, Microsoft Exchange and SharePoint), and all major forensic collection formats. Nuix is building software to carry out litigation holds and can collect data from a variety of sources. Nuix modules are collectively called the Nuix eDiscovery Platform, Nuix Enterprise Collection Centre, Nuix Fast Review and Nuix Legal Hold. Because of the technical architecture, Nuix clients report that these tasks can often be accomplished more rapidly than with competitive products. This makes the Nuix toolset popular with legal discovery service providers, many of which use the product as part of their own workflow systems.

Strengths

- Nuix's capabilities extend beyond what it can do in e-discovery, and clients report that although they buy it for its processing and data analysis capabilities for litigation, they end up using it for information governance, data categorization and clean-up exercises.
- Nuix has an outstanding feature set, transparent and affordable pricing, and a clear corporate strategic vision.

Cautions

- Nuix needs to increase its presence in direct corporate sales via its growing channel.

- Nuix needs to expand its functionality by adding more review-focused capabilities in order to meet growing client demand for full-spectrum EDRM.

Recommind

[Recommind](#) is a privately held company that was founded in 2000 and has competed in the e-discovery market since 2007. Recommind had a strong background in providing search, knowledge management and information retrieval to law firms, which positioned it well for the surge in demand for e-discovery software. Recommind's Axcelerate eDiscovery suite can perform litigation holds, collection, processing, review, analysis and production. With a heritage in enterprise software, Recommind's pricing is straightforward for all deployment options, including on-premises and in the cloud. Recommind has long been known for its effective approach to search, and it has used its engineering knowledge of semantic analysis to launch predictive coding, which helps reduce the amount of manual labor required in the initial stages of a document review exercise. As review is the most expensive part of the discovery process, predictive coding has the potential to reduce costs dramatically. Based on its range of functionality, Recommind should be on the shortlist of any company with a high case load that aims to bring e-discovery in-house or use a hybrid/hosted model in order to cut costs.

Strengths

- Recommind developed and helped popularize predictive coding, and has garnered market attention and market share with its patented predictive coding workflow.
- Recommind has full-spectrum EDRM functionality and multiple deployment options, including on-premises, cloud-based and hybrid.

Cautions

- Recommind is generally regarded as a relatively expensive option, and although it makes customer shortlists quite frequently, it has sometimes been discounted because of its price. The company says it has recognized this issue and as of 1Q12 has issued revised pricing with more flexible options.
- Recommind must educate the market about its full-spectrum capabilities, as well as its comprehensive list of deployment options, as it is still perceived as a behind-the-firewall, right-hand-side solution.

Symantec

[Symantec](#) is a publicly traded security, storage and information management company (NYSE: SYMC) that acquired Clearwell Systems in May 2011 for its e-discovery products. Clearwell covers the identification, preservation, collection, processing, review, analysis and production stages of the EDRM, along with ECA. Symantec has a large number of customers across its e-discovery portfolio. Clearwell supports connectors to SharePoint, document management systems (Alfresco, Documentum, IBM Content Manager and FileNet, Interwoven, and OpenText), numerous email archives, file systems and network-attached storage. The Identification and Collection Module is

integrated with the other Clearwell Modules, so collected data can be processed, analyzed, reviewed and produced without import/export. Analysis is supported via a Web browser, and iClearwell provides access to the eDiscovery Platform from an iPhone or iPad. The solution is offered as an appliance, and is available through a network of partners and via legal services providers as hosted SaaS. In addition to Clearwell, Symantec offers Enterprise Vault as an on-premises archiving solution, and has recently acquired LiveOffice, its longtime OEM partner for Enterprise Vault.cloud. Both of these archiving solutions include e-discovery functionality. Symantec is highly committed to the information governance market, as evidenced by these recent acquisitions and by the formation of a separate information management group with a dedicated sales force.

Strengths

- Symantec (Clearwell) is cited by its customers as being easy to buy, implement and use. It is particularly well regarded by legal professionals in terms of ease of use.
- Symantec (Clearwell) is one of the most referenceable brands in the market, and is often cited by organizations as their primary e-discovery provider/solution.

Cautions

- Integration of Clearwell and Enterprise Vault is under way, as is integration of Clearwell and Enterprise Vault.cloud. Customers should understand the road map and potential disruptions to Symantec's established portfolio.
- Some customers state that Clearwell lacks key functional requirements, particularly in linear document review. Prospects and customers state that they would like an alternative to Symantec's volume-based pricing model.

Ubic

[Ubic](#) is a publicly traded company and a new entrant to this year's Magic Quadrant. It has a suite of products for e-discovery, which it calls Lit i View. The majority of Ubic's business involves Japanese, Chinese and South Korean companies involved in common-law litigation. Ubic has extensive experience and expertise in handling hundreds of international matters, with its specialized focus on Asian languages, and its facilities, language skills and staff in those regions, being a strong differentiating factor. Ubic's software supports the two distinct clusters of e-discovery functionality: preservation and collection behind the firewall on the left-hand side of the EDRM; and processing, review and analysis via hosted SaaS on the right-hand side.

Strengths

- Ubic has full-spectrum EDRM coverage, from identification to production.
- Ubic is uniquely competent in Asian-language processing and review.

Cautions

- Ubic must establish itself against very strong U.S.-based brands if it wants to make inroads into the U.S. market, as this is where the majority of the business is and will remain.
- Ubic must differentiate beyond its Asian-language competence against a number of similar offerings.

Xerox Litigation Services

Xerox (NYSE: XRX) entered the e-discovery market in 2002 and has over 300 employees working in its e-discovery business, [Xerox Litigation Services](#). It is focused on collection, processing and hosting, along with review and analysis and production, through the OmniX review platform and Categorix automated document classification system. All the offerings are delivered via a SaaS model. Xerox Litigation Services covers the collection, processing, review, analysis and production phases of the EDRM. Its targets are Fortune 100 companies with large litigation portfolios. Xerox believes in the traditional e-discovery service provider model, which relies on reasonable software for review and analysis, and excellent project managers and e-discovery consultants, along with deep customer relationships. Xerox's acquisition of Affiliated Computer Services (ACS), a business process outsourcing and IT services consultancy, has added depth and breadth to Xerox's sales and delivery capabilities in the e-discovery market.

Strengths

- Connection to Xerox's R&D resources (Parc and Xerox Research Center Europe) for semantic modules and other technologies will continue to enable Xerox Litigation Services to respond flexibly and capably to demands to process increasing volumes of ever-more-diverse data. Examples of commercialized technology from Xerox R&D include Categorix, email analytics, clustering and foreign-language identification tools that are widely used by Xerox Litigation Services' client base.
- Access to the ACS sales force, along with a core of experienced and well-known discovery attorneys, gives Xerox Litigation Services an opportunity quickly to claim mind share and market share against SaaS and service provider competitors.

Cautions

- Xerox does not aim to break out of the traditional litigation service provider model, and although Gartner believes this approach to be sustainable, it is also limited.
- Despite having long-standing client relationships — including Fortune 500 corporate clients that have worked with Xerox Litigation Services since the company's inception — the company competes in a part of the market in which clients sometimes use multiple vendors for different types of matter and where there is therefore little brand loyalty.

ZyLAB

[ZyLAB](#) is a privately held company that was founded in 1983. It is now a veteran information retrieval and archiving vendor specializing in e-discovery, and has language capabilities and a geographic distribution wider than those of any other vendor. It offers the ZyLAB eDiscovery and Production system, which is based on the ZyLAB Information Management platform. Thanks to its long heritage in search and information retrieval, ZyLAB's capabilities include identification, collection, preservation, processing, review, production and ECA, based on strong textual analytics and other semantic technologies. The company offers its products through a software licensing and installation model, and as SaaS. ZyLAB is highly referenceable, extremely stable and enjoys a loyal client following, despite its low-key approach to marketing. ZyLAB's ability to recruit and retain talented personnel is key to its success, and its recruitment of thought leaders in 2010 demonstrated this again. ZyLAB's functionality is equal to any of the market leaders, and it should be considered alongside them.

Strengths

- ZyLAB is very well known to, and represented in, federal, state and local governments; legal teams and courts; corporate counsels and executive boards; and law enforcement, security, intelligence and investigative agencies.
- ZyLAB addresses text, images, audio and video very effectively.

Cautions

- ZyLAB is — and, according to the company's founder, will remain — privately held, which is sometimes a hurdle for corporate procurement departments.
- ZyLAB supports only Microsoft operating systems.

Vendors Added or Dropped

We review and adjust our inclusion criteria for Magic Quadrants and MarketScopes as markets change. As a result of these adjustments, the mix of vendors in any Magic Quadrant or MarketScope may change over time. A vendor's appearance in a Magic Quadrant or MarketScope one year and not the next does not necessarily indicate that we have changed our opinion of that vendor. It may be a reflection of a change in the market and, therefore, changed evaluation criteria, or of a change of focus by a vendor.

Added

KPMG met the inclusion criteria for the 2012 Magic Quadrant.

Ubic met the inclusion criteria for the 2012 Magic Quadrant.

Note: HP entered the market in October 2011 via its acquisition of Autonomy. HP has retained the Autonomy brand and is therefore referred to in this document as Autonomy.

Dropped

CaseCentral was acquired by Guidance Software in early 2012.

Clearwell Systems was acquired by Symantec in 2011.

Epiq did not meet one or more of this year's inclusion criteria.

Iron Mountain's digital business was acquired by Autonomy in 2011.

Ipro did not meet one or more of this year's inclusion criteria.

Inclusion and Exclusion Criteria

To be included in this Magic Quadrant, a vendor must sell enterprise software licenses, a software appliance or SaaS conforming to Gartner's definition of SaaS (see Note 1). This Magic Quadrant contains *only* vendors that sell software licenses, software appliances or software subscriptions, although some of these vendors do also provide legal services — indeed, in some cases that is the main part of their business in financial terms.

To be included in this Magic Quadrant, a vendor must also address at least two of three broad functional areas, relating to the EDRM, that we have chosen to reflect the clustering of users' wants and needs and the process of e-discovery. Although we have seen a shift in buyers asking for end-to-end functionality, there are still a significant number that will want left-hand-side or right-hand-side EDRM functionality only:

- **Left-hand side of the EDRM:** Identification, collection, preservation and processing vendors that have either a workflow-based system for attorneys to track custodian-led collection, or a search and information access system for IT and legal departments to use. Vendors that focus on this functionality should also have ECA or early data assessment functionality. The target end users for this kind of e-discovery software are IT and legal professionals (for Gartner's definition of ECA, see Note 2 and "Early Case Assessment: E-Discovery Beyond Judges and Regulators Is About Risks, Costs and Choices").
- **Right-hand side of the EDRM:** Vendors focused on processing, reviewing, analyzing and producing documents, either in ECA or at a later state of review, whose products include features such as document categorization, redaction and mechanisms to mark documents as privileged or to categorize and process them in other ways. This category includes vendors of the attorney review platforms that the legal community has used for 10 years or more to perform document review (it encompasses the older term "litigation support databases"). Many vendors that offer right-hand-side review capability are also increasingly offering some form of machine-assisted review. Broadly speaking, this is the application of machine learning and analysis techniques to enable document prioritization for human review or to otherwise enable a focus on a reduced set of potentially responsive documents. The target end users for this kind of e-discovery software are legal professionals.

- **Information management:** Vendors offering information management or repository functionality plus e-discovery functionality on the left-hand side of the model, typically functions for litigation hold, collection and export of data from the repository for review. Vendors must have components that allow for ad hoc collection of data outside the archive, conforming to what is described in the first bullet above. If the software does not include components for identification, custodian-led collection tracking, preservation and collection outside the normal archiving process, it is not included in this Magic Quadrant. The target end users for this kind of software are IT and legal professionals.

Vendors with end-to-end functionality covering the whole EDRM are also included. There has been a definite increase in customer demand for end-to-end e-discovery functionality in 2011 and 2012.

In addition, vendors must satisfy quantitative requirements regarding market penetration and customer base. Specifically, they must:

- Generate at least \$20 million in revenue per year from the sale of e-discovery software.
- Own the intellectual property and copyright to the software.
- Have at least 50 customers in production.

The vendors shown in this Magic Quadrant have met these inclusion criteria, including the revenue threshold. However, there are many other vendors in the market that Gartner tracks. The following list (which is purely representative) details e-discovery vendors that Gartner tracks but does not formally rate in its Magic Quadrant.

Epiq Systems

Epiq Systems is a public company (Nasdaq: EPIQ) that provides software and services globally and covers a wide range of e-discovery and document review solutions. All of Epiq's offerings can be delivered on-premises, as hosted solutions or as SaaS.

Ipro

Ipro is a private company that was founded in 1989 as an e-discovery specialist. It has evolved over the years and enjoys a strong reputation among law firms and service providers. It now offers full-spectrum EDRM coverage. It supports SaaS and concurrent-user pricing. Ipro has focused its efforts on software engineering to produce robust code that can be deployed in different ways. Its software is easy to use, the company offers transparent pricing, and it is willing to work with other vendors in collaborative partnerships. The company thoroughly understands the changing market landscape for e-discovery and has a good road map for meeting the evolving market conditions. It must acquire channel partners and other means of addressing the corporate e-discovery market. Ipro has demonstrated more vision than many competitors in the e-discovery market in terms of both functionality and acknowledgment of changing market conditions by seeking partnerships with corporate software providers. It has a strong brand, a sterling reputation in the legal community and the ability to access legal buying centers.

Orange Legal Technologies

Founded in 1995 as The Litigation Document Group, the company rebranded itself as Orange Legal Technologies in 2008 to correspond with the introduction of its proprietary e-discovery technology, the OneO Discovery Platform. OneO is an integrated and Web-accessible platform that provides online ECA, processing and review of unstructured data from a hosted centralized repository. In 2011, the company introduced its second proprietary offering, PurpleBox. This is a downloadable virtual appliance that enables in-place collection and assessment of newly discovered and previously privileged (work product) ESI across multiple document repositories. Additionally, the company has strong partnerships that allow for the integration of emerging technologies, to include predictive coding and legal hold, into its offerings.

ZL Technologies

ZL's Unified Archive provides a highly scalable platform for archiving, e-discovery, records management and compliance, which can support billions of messages and/or documents within one repository, with fast ingestion and search. It provides the complete suite of e-discovery functions in the archive, including preservation/legal hold, collection, processing, case management, review, analytics, data visualization, redaction and production.

Evaluation Criteria

Ability to Execute

Product/Service: The core goods and services offered by the vendor that competes in/serves the defined market. According to the selection criteria, vendors that address the left-hand side of the EDRM must have some instantiation of identification, preservation or litigation hold, collection and processing (which some call "culling") functionality. First-pass review, preliminary document categorization and tagging, or what some vendors term ECA, is a highly desirable function, but varies significantly in how vendors implement it. Vendors addressing the right-hand side of the EDRM must offer some processing, review and analysis features, such as search, categorization and tagging capabilities. Ease of use, intuitive user interfaces, attorney-focused workflow, advanced but transparent semantic analysis features, native file format review, and foreign-language support are all considered desirable features from the end user's point of view. Vendors were also evaluated by customer ratings for ease of use, platform support, support for emerging technologies and overall functionality. The rating also took into account the number of times a vendor appeared on prospect shortlists but was not selected because of a lack of product functionality.

Overall Viability (Business Unit, Financial, Strategy, Organization): Viability includes an assessment of the overall organization's financial health, the financial and practical success of the business unit, and the likelihood that the business unit will continue to invest in the product, offer the product and advance the state of the art within the organization's product portfolio. Gartner has a standard financial rating methodology that we used to rate the vendors. It is based on publicly reported numbers for public companies, and on numbers supplied to Gartner and verified by us, for their last business year. It does not depend on absolute values but on relative ones, and thus seeks to remove the disparities that exist in a market where a vendor the size of HP or IBM competes with

startups. These ratings, plus relative growth, provide us with our final rating. This rating is not just numeric, but also takes into account factors such as whether there is a strong management team, employee retention and longevity. Gartner estimates that the enterprise e-discovery software market came to \$1.0 billion in total software vendor revenue in 2010. The five-year compound annual growth rate (CAGR) is approximately 16%.

Sales Execution/Pricing: This covers a vendor's capabilities in all sales and presales activities, and the structure that supports them. This includes deal management, pricing and negotiation, presales support and the overall size and effectiveness of the sales channel. One of the major demands of today's corporate market is transparent, predictable and flexible pricing. Vendors that do not address, or are not trying to address, this demand are demonstrating that they do not understand the direction in which the market is moving. Other factors considered include the fielding of legal overlay sales teams to champion the company, act as thought leaders and close deals, if necessary. This is an especially important consideration for technology companies. Transparent, flexible and predictable pricing is essential in the e-discovery market to address the increasing influence of corporate buying centers in deciding the terms of many e-discovery purchases. All vendors had to document their deployment and pricing models — that is, whether their software was available as an appliance, through a standard enterprise software license or as SaaS. The experience, professionalism and responsiveness of a company's sales teams is important, and we evaluate these factors on the basis of client and reference input. A vendor's ability and willingness to perform proofs of concept (POCs) is also important, and references told us that, with certain vendors, "try before you buy" arrangements or POCs were so successful that they did not even open their tendering process to competitive bidding. For smaller vendors, having service providers, technology-focused system integrators or larger technology vendors as channels is particularly important. There was also a customer rating component to this criterion.

Market Responsiveness and Track Record: The ability to respond, change direction, be flexible and achieve competitive success as opportunities develop, competitors act, customer needs evolve and market dynamics change. This criterion also considers the vendor's history of responsiveness. It concerns the organization's ability to meet its goals and commitments. Factors include the quality of the organizational structure, including skills, experiences, programs, systems and other vehicles that enable the organization to operate effectively and efficiently. Track record is determined by how quickly a company can respond to changing market needs. Here, we looked at the company's overall customer numbers and accounts, along with how frequently they were mentioned as potential providers on prospect shortlists. This data came from customer references and Gartner's inquiry service.

Marketing Execution: The consistency, clarity, quality, creativity and efficacy of programs designed to deliver the organization's message to influence the market, promote the brand and the business, increase awareness of the products, and establish a positive identification with the product, brand and organization in the minds of buyers. This "mind share" can be driven by a combination of publicity, promotional initiatives, thought leadership, word of mouth and sales activities. For vendors that come from technology markets, presence in legally focused publications and at tradeshows, and membership of professional and trade associations, is important. Equally, for vendors that come from legal markets, presence in technology-focused publications and at tradeshows, and membership of professional associations, is important. All vendors will benefit

from an ability to attract and retain industry thought leaders, especially those known in legal circles. Finally, and perhaps most importantly, vendors must have a clearly articulated product set that clients can quickly understand and purchase. How well a vendor executed was also evaluated on the basis of the number of customer references it had, other than those it explicitly provided to us.

Customer Experience: Relationships, products and services or programs that enable clients to succeed with the products evaluated. Specifically, this criterion includes implementation experience, and the ways customers receive technical support or account support. It can also include ancillary tools, the existence and quality of customer support programs, availability of user groups, service-level agreements and so on. We judge these factors on the basis of written and oral interviews with reference clients, as well as client inquiry data. Evidence of vendor displacement, poor client service and incompetent or overly aggressive sales techniques was taken into account. Additionally, reports of "shelfware" or displacement were taken into account when checking client references, as software that ends up not being deployed, or that is displaced, is clearly not meeting users' basic needs. Customer experience was rated by a numeric scale provided by references on support and sales, along with a count of how many times references reported that vendors were being replaced and the numbers of negative comments Gartner received about the vendor, both from reference surveys and through Gartner's inquiry service.

Operations: Not rated, but we include operational criteria within Marketing Responsiveness and Track Record, rating the organization's ability to deliver on its stated aims as a direct result of operational effectiveness.

Table 1. Ability to Execute Evaluation Criteria

Evaluation Criteria	Weighting
Product/Service	High
Overall Viability (Business Unit, Financial, Strategy, Organization)	Standard
Sales Execution/Pricing	Standard
Market Responsiveness and Track Record	Standard
Marketing Execution	High
Customer Experience	High
Operations	No Rating

Source: Gartner (May 2012)

Completeness of Vision

Market Understanding: A vendor's ability to understand buyers' wants and needs and to translate that understanding into products and services. Vendors that show the highest degree of vision listen to and understand buyers' wants and needs, and can shape or enhance them. In the e-

discovery market, vendors demonstrate understanding through their interpretation of existing and emergent case law and timing of responses to that case law, and by whether and how they address the market's three segments (law firms, corporations and service providers), and two buying centers (IT and legal end users). We used customers' numeric rating of a vendor's legal and technical expertise as one component in determining a score for this criterion. We also used a correlation between what various vendors said about each other to determine whether or not they had an independently verifiable view of the competitive landscape, which any vendor must understand in order to be at maximum effectiveness. Everyone has competitors, and a realistic understanding and recognition of the strengths and weakness of one's competitors is a large component of market understanding.

Marketing Strategy: A clear, differentiated set of messages, communicated consistently throughout the organization and externalized through a website, advertising, customer programs and positioning statements. In the e-discovery market, vendors must understand the dual buying centers of the legal and IT departments and create appropriate marketing programs to reach them. They should understand and use the EDRM in their marketing communications; have a clear statement of differentiation — for example, forensically sound collection, advanced search, and predictive coding functions, or full EDRM coverage; and demonstrate thought leadership by hiring appropriate legal personnel to champion them in industry forums.

Sales Strategy: The strategy for selling products that uses an appropriate network of direct and indirect sales, marketing, service and communication affiliates to extend the scope and depth of market reach, skills, expertise, technologies, services and the customer base. Vendors selling to enterprises' legal departments or law firms must have legal expertise to champion their services and close deals. Gartner also looks for consistency in sales techniques, and for willingness and ability to perform POCs and other demonstrations that the software can do what it claims. Although POCs are impossible in some cases, the number of vendors that offer them is substantial. Finally, the ability to sell and deploy tools quickly is important because of the sometimes unforgiving deadlines that regulators and investigators impose on organizations.

Offering (Product) Strategy: There were two major trends that characterized this year's market. First, clients were looking for broader functionality across the EDRM, encompassing both the left- and right-hand sides. Second, machine-assisted review, referred to by some vendors as predictive coding, a form of machine learning, has become a requirement for products that lawyers use. Companies that have not responded to these trends are now "behind the curve." Vendors were rated on both the presence of these differentiators and how well they worked. Additionally, we factored in whether vendors also offered "additional" functionality that related to e-discovery, specifically archiving and multimatter management of cases. The market has become increasingly intolerant of "point" solutions for things like litigation hold functionality and of moving data from one system to another. In 2011, increased emphasis was placed on machine-assisted review techniques, particularly those that use machine learning to help human experts train systems to categorize documents appropriately. This trend has a long way to run, as the underlying issues and technologies must be tested and understood by the legal community, but the outcome is inevitable due to the nature of the problem. Reliable machine-assisted techniques are essential in order for the system to continue to function effectively and — to quote from the first rule in the U.S. Federal

Rules of Civil Procedure — "secure the just, speedy and inexpensive determination of every action and proceeding."

Business Model: The soundness and logic of the vendor's underlying business proposition. A business model is the rationale for how an organization creates, delivers and captures value. A number of factors were considered. A vendor's mix of corporate, law firm and solution provider clients is an important factor. Buying decisions, even for attorney review platforms, are increasingly being made by corporations, not law firms. Although a vendor can address all three segments, and some do, being too ambitious here or failing to match products, marketing and sales resources to these segments indicates a lack of market understanding and therefore an unworkable business model. The second key consideration in this criterion was the number of service and project management personnel a company had in its e-discovery groups, versus the number of software developers, with the software development model being favored over the service delivery one. In the e-discovery market it is also important that companies that combine products and services have a clear differentiation between the two, and that the incentives for their sales forces do not rely on using software to sell services. Because this Magic Quadrant has a software focus, Gartner has paid particular attention to the way in which a company is earning its money and subsequently investing it. In our evaluation of vendors' business models, Gartner evaluated the subcriteria of goals (whether there is a vision that can be expressed in a single declarative sentence), objectives (whether there are quantitative targets), audience (whether the company has a clear understanding of its current and prospective clients), strategy (whether there is a road map tying goals, objectives and audience together) and tactics (whether the company is doing the right things to achieve its objectives).

We have excluded three vision criteria from our evaluation of the e-discovery market:

- **Vertical/Industry Strategy:** This is not important at this stage in the market's development. If a company has such a strategy, it is covered by the Market Understanding criterion with its three segments of law firms, corporations and service providers.
- **Innovation:** Gartner's formal definition of innovation is not "product innovation" but "direct, related, complementary and synergistic layouts of resources, expertise or capital for investment, consolidation, defensive or pre-emptive purposes."
- **Geographic Strategy:** Given the jump from 7% to 15% of vendor revenue coming from outside North America, we would expect most vendors, particularly the larger ones, to have a sales and marketing presence in Europe and Asia/Pacific, and also to have a strategy for addressing these growing markets. Next year, depending on the data from the various markets, we will add this to our evaluation criteria.

Table 2. Completeness of Vision Evaluation Criteria

Evaluation Criteria	Weighting
Market Understanding	Standard
Marketing Strategy	Standard
Sales Strategy	Standard
Offering (Product) Strategy	High
Business Model	High
Vertical/Industry Strategy	No Rating
Innovation	No Rating
Geographic Strategy	No Rating

Source: Gartner (May 2012)

Quadrant Descriptions

Leaders

The Leaders in this year's Magic Quadrant have three primary characteristics.

First, they have functionality that covers both the left-hand side (identification, preservation or litigation hold, collection, ECA and processing) and right-hand side (processing, review, analysis and production) of the EDRM. A presence in the enterprise information archiving (EIA) market, as evidenced by inclusion in "Magic Quadrant for Enterprise Information Archiving," and functionality known in the market as machine-assisted review or predictive coding, were also factors that we considered. While Gartner recognizes that not all enterprises — or even the majority of them — will want to perform legal review work in-house, more and more are dictating what review tools will be used by their outside counsel and/or legal service providers. As practitioners become more sophisticated, they are demanding that the data change hands as few times as possible. They see this as a way to reduce both costs and risks. This is a continuation of a trend we saw developing last year, but it has risen dramatically in importance, as evidenced both by inquiries from Gartner clients and as reported by the vendors themselves, as the priorities of their customers and prospects.

The second characteristic is that Leaders' business models clearly demonstrate that their primary focus is software development and sales, versus provision of services. There are several vendors with mixed software and service models in the Leaders quadrant, but their commitment to software

development, as evidenced by the size of their development teams, contrasts with their professional services personnel.

The third characteristic is that Leaders performed well financially and from a growth perspective. This does not favor only large companies, but takes into account a number of factors, including overall average market growth (see "Market Trends: Expect Disruption and Divergence in the E-Discovery Software Market, 2012").

Full-spectrum EDRM coverage is now a requirement, not an option, for a vendor to be considered a Leader. Thus, a number of vendors that had previously been considered Leaders have moved into the Challengers or Visionaries quadrants.

There are six Leaders this year.

Autonomy was acquired by HP in October 2011, and is retaining its brand as the information management software business unit of HP. Autonomy is a brand and marketing powerhouse that appears on many clients' shortlists. It was well positioned to capitalize on the demand for full-spectrum EDRM. It also has a leading enterprise information archiving product.

AccessData and Guidance Software both have strong forensic collection tools, having evolved from that space. Both have also acquired attorney review products — Guidance bought CaseCentral and AccessData bought Summation — and both focus on software development and sales, rather than professional services.

Recommind evolved from the enterprise search space, thus qualifying it to perform left-hand-side collection tasks. Its attorney review tool features well-developed predictive coding functionality, and Recommind led the market in developing and marketing this functionality.

Symantec purchased Clearwell in 2011, giving the company breadth in its offering. Symantec now appears on almost all shortlists and is cited by many of its competitors as being among their top three competitive threats.

ZyLAB is a privately held company that has been in business for many years, serving the enterprise search, government forensics and law enforcement markets. Last year it changed its strategy to focus solely on the e-discovery market. It has extremely high rates of customer satisfaction for both functionality and support.

Challengers

Challengers score strongly for their ability to execute, but fall short in some aspects of their vision. Former Leaders that have moved into the Challengers quadrant this year failed to anticipate market demand for full-spectrum EDRM coverage. One of the primary features of the e-discovery market is that many large litigious companies continue to pursue hybrid strategies when it comes to managing their litigation burdens: that is, they use in-house and outsourced capabilities. Many of the Challengers address this aspect of the market very well; that is, they offer legal process outsourcing with good software solutions that clients can buy in several ways, or they serve the still very large legal solution provider channel.

There are four Challengers this year.

FTI Technology has a good blend of software and services, as well as being one of the largest vendors in the market in terms of revenue. FTI is one of the most technically capable vendors in the market, turning its field experience into high-quality review software that is well regarded. It has a very high proportion of developers and a favorable mix of corporate clients, as compared to law firms, as Gartner believes law firms are increasingly being dictated to by their corporate clients in terms of which review software to buy. The sophistication of Ringtail (a processing, review analysis and production engine) as a review tool is rated very highly by its users. The product has advanced visualization capabilities and very solid technology-assisted review features. To reclaim a position in the Leaders quadrant, FTI must address clients' desire to move the upfront part of the e-discovery process in-house, by addressing the left-hand side of the EDRM.

kCura has strong market penetration among law firms and service providers, and has demonstrated leadership characteristics in the market for attorney review platforms, or right-hand-side EDRM. Although kCura has continued to grow its market share, its focus on developing its right-hand-side capabilities may serve to limit its ultimate progress, given the market demand for full-spectrum EDRM. It is trying to break into the enterprise market, but currently does most of its business through solution providers.

Kroll Ontrack is a large and powerful competitor in the e-discovery software and services market. Like FTI, it is a good example of a provider that customers can turn to for both software and services. Kroll has recently revamped its software offerings and that change has been well received in the market. It has also made significant strides in making its pricing and provisioning strategies more transparent.

Nuix offers strong choices for preservation, collection and processing, along with ECA, and is frequently seen on shortlists alongside several Leaders. It has achieved very strong revenue growth during the past year, driven by its transparent pricing model and relatively low cost. It must continue to increase its market share and expand its functionality. Nuix's vision ultimately reaches into information governance, and because the market is headed in that direction (Gartner believes), it is well positioned to continue to do well.

Visionaries

Visionaries are either on a par with or ahead of the market in terms of their product offerings. This year's Visionaries share several characteristics, the first of which is that they offer full-spectrum EDRM coverage. We also looked at their business models, in terms of their mix of corporate clients to other types, such as law firms and service providers. Finally, Visionaries show a strong commitment to continued innovation, evidenced by their investment in technical development resources.

There are five Visionaries this year.

EMC has moved from a position in the Challengers quadrant. It acquired Kazeon, which does have review capabilities, to round out its offerings, but does not seem to be making effective use of the

asset to gain traction in the marketplace. Based on our reference survey and Gartner inquiry data, EMC is on far fewer shortlists than its main rivals and overall has less of an impact on the market. This accounts for its position in the Visionaries quadrant. It must demonstrate more sales and marketing effectiveness in order to fulfill the promise of its early vision.

Exterro's Fusion platform is alone in being built on top of a general-purpose workflow engine and integration hub. This means it can handle not only the e-discovery process across departmental and complex organizational structures, but can also serve as a platform for integrating IT systems (for example, archiving, content management, HR and cloud-based storage), as well as other e-discovery applications. The company has expanded its offerings to include more EDRM functionality, which now extends from identification to production. Exterro's growth has been strong in 2011, and its Ability to Execute is improving, though still hampered by the company's relatively small size, as evidenced by its lower market profile.

IBM has a strong information management offering and is often the first choice for its existing customers. IBM appears on many shortlists for both existing and potential new customers, but is also sometimes cited as expensive. Although IBM does have a breadth of functionality, some clients perceive purchasing from it to be complicated. IBM is reaching beyond e-discovery and talking to its clients about the upstream challenges in information governance and excess data. This strategy has gained traction and is becoming a buying driver, with some large enterprise organizations speaking publicly about savings, including lower e-discovery costs. IBM provides first-pass review and analysis with its ECA solution, although it does not have a review analysis and production toolset. IBM partners with several review solution vendors and point-solution providers with its Atlas eDiscovery Process Management application.

New entrant KPMG has long had an attorney review and analysis platform, Discover Radar (DR). By adding left-hand-side collection capabilities and making changes to DR, KPMG has qualified for inclusion in this Magic Quadrant. Its Visionary status is confirmed by its leading machine-assisted review capabilities, which include a transparent way of conducting statistical sampling and training its predictive document review engine. Its professional services group has longevity and experience in assisting clients with complex legal matters. Its thought leadership is reflected in its software development. Because its business model does not include direct sales — which would be at odds with its overall corporate mission of being an objective third-party auditor and professional service provider — its Ability to Execute is not the same as a firm that has direct sales and marketing functions. There is no doubt, however, about the strength of this part of its business and its commitment to serving the e-discovery market.

New entrant Ubic specializes in Asian languages and has a strong presence in Japan, South Korea and China, with local data centers and skilled staff. It offers full-spectrum EDRM coverage, which accounts for its position in the Visionaries quadrant.

Niche Players

Niche Players do well in one segment of the market or have a limited ability or willingness to innovate or outperform other vendors. This may be because they focus on a particular function, or they may be struggling to remain relevant in a market that is moving away from them. Niche Players may have reasonably broad functionality but limited implementation and support capabilities, and

relatively limited customer bases. Some Niche Players have very large customer bases but have been slow to respond to rapid changes in the market — changes they must address if they are to remain relevant. Note that while several of the vendors in the Niche Players quadrant have strong legal process outsourcing offerings and reputations, the focus of this Magic Quadrant analysis favors those with software-focused models. In terms of business model, these vendors have chosen one that they believe in and that they regard as sustainable over the long term. By retaining their positioning here, they seek to differentiate in the part of the market that they have chosen to focus on. Gartner wishes to stress that potential clients should consider using these vendors, as their offerings may represent the "best in class" for certain project or company needs. Several of these vendors do have full-spectrum EDRM coverage, but some focus on parts of the EDRM, mainly the right-hand side for processing review analysis and production. They remain true to their vision of the market, and this commitment and focus will help to ensure their continued viability.

Context

E-discovery is now a well-established fact in the legal and judicial worlds. More and more law firms are seeing review software, especially technology-assisted review software, as a tool to help them do their jobs better. Judges, regulators and other government officials are seeing e-discovery software as the only way forward in a business world that presents them with more and more data to be sifted and analyzed in order to determine the facts of matters and investigations. Corporations all face litigation and regulation of some sort and in some quantity, and are creating business processes to manage these things and purchasing software to support the processes. The underlying driver is the same for all: digital data growth is explosive and digital data is the stuff of business and business disputes. National and international legal and regulatory systems depend on digital information to function and they must have software to assist them, due to the volume, variety, velocity and complexity of the information they have to deal with. The growth of the e-discovery market is thus inevitable, as is the acceptance of technological assistance, even in professions with long-standing paper traditions.

The e-discovery market has been subject to various disruptions in the past five years. The market was once characterized by many small providers and some large ones, mostly employed indirectly by law firms, rather than directly by corporations. Thus, specialization, custom services and very manual processes were the order of the day. Because law firms had little incentive to control costs, and every incentive to reduce risk, the amount of money that was spent on these services was considered immaterial to the overall cost of a case. That situation changed gradually as data volumes increased and the courts began to notice that the cost of e-discovery sometimes outweighed the amounts in dispute.

Purchasing decisions frequently reflected long-standing trusted relationships, which meant that even a small book of business was profitable to providers and the effects of customary market forces were muted. Providers were able to subsist on one or two large law firms or corporate clients. This situation is changing as law firms are being forced to change their practices around fee structures. The recession and its focus on costs of all descriptions has caused many corporations to take direct control back from law firms, to look to control the outside service providers that they

use directly, and to shorten their list of vendors to just a few providers. This has caused a lot of market disruption and is set to cause a lot more. In some cases, ballooning data volumes have so far offset decreasing prices, increased competition and fewer clients for some of these vendors, but that situation will not continue. We expect that 2012 and 2013 will see many of these providers cease to exist as independent entities for one reason or another — by means of merger or acquisition (see Note 3), or business failure. This is a market in which differentiation is difficult and technology competence, business model rejuvenation or size are now required for survival.

The e-discovery software market is in a phase of high growth, increasing maturity and inevitable consolidation. Nevertheless, new players are still entering it to capitalize on the growing opportunities, and existing vendors in adjacent spaces are adding functionality to their offerings. Big vendors — such as HP, Symantec, IBM and EMC — have made acquisitions in this space and we expect that other big players will do the same, or build offerings of their own within the next 12 to 24 months. The next big round of acquisitions will be of legal review tools, with the capacity to perform the review, analysis and production functions carried out by lawyers and paralegals, in service firms, law firms, corporations and government agencies.

This Magic Quadrant will help CIOs, general counsel, IT professionals, lawyers, compliance staff and legal service providers understand the dynamics and landscape of the market for e-discovery software.

Market Overview

Evolution of the Market So Far

The market for e-discovery software has moved rapidly since 2006, when the U.S. Federal Rules of Civil Procedure were amended. This year, software vendors are responding to several new, and dramatically different, buyer requirements. First, there is more call for full EDRM functionality. Whether or not customers actually use the review and analysis capabilities that the software provides, these are becoming "tick box" requirements for companies when considering vendors. Second, those providing capability on the right-hand side — review and analysis — are required to have ever more sophisticated and verifiable machine-learning techniques to be able to analyze, code and group documents and quickly get to what might be relevant in any given case. Vendors are calling this "predictive coding" or "technology-assisted review" and 2012 has seen the first court opinion on the matter (*Da Silva Moore v. Publicis Groupe & MSL Group*, No. 11 Civ. 1279 (ALC) (AJP) (S.D.N.Y. Feb. 24, 2012)). The inevitable pressure to reduce costs and at the same time to ensure that no potential evidence is missed and that justice is done will prove irresistible drivers for this kind of application of technology. In truth, the techniques here are not revolutionary, and many have been around in the world of semantic analysis and machine learning for many years. What is different is that they are being applied to processes previously thought to be amenable only to human knowledge and effort. As the legal profession and judicial bodies learn the efficacy and inner workings of these techniques, they will become ever more widely accepted, and within five years they will be part of standard operating procedure.

Further changes, reflected in opinions and cases worldwide, have come about as the result of an increasing focus on national and international legal considerations, particularly the numerous and often conflicting requirements about the exchange of electronic information for regulatory and legal purposes across international borders. From a technology perspective, this has led to vendors diversifying their technology deployment and data storage offerings, to account for different national regulations, particularly regarding data protection and privacy.

International Aspects

Whether due to civil litigation in common-law countries, a request for interception or a criminal investigation, the need to hand over data is something that organizations must deal with — see "Gartner Privacy Survey, 2011" — and the USA Patriot Act is particularly important in this context, along with the Foreign Corrupt Practices Act and the U.K. Bribery Act. Although discovery as such is unique to common-law jurisdictions, many organizations in non-common-law jurisdictions face civil litigation in common-law countries and are therefore subject to discovery orders and interrogatories. Changes to the financial services regulatory structure in the U.K., starting in 2011 and culminating in 2013, will have an effect on the e-discovery market in the U.K., and we expect that demand for e-discovery products and services will accelerate. Additionally, in criminal matters all jurisdictions are subject to subpoenas that compel organizations to produce information.

The increased interest in e-discovery worldwide is evidenced by the jump in vendors' revenue numbers for business outside North America. It rose from 7% to 15% in our most recent survey period (2009 to 2010).

For a list of important e-discovery decisions, see Note 4.

The Rise and Evolution of E-Discovery Vendors

Historically, the e-discovery product and service market was very narrow and specialized. It catered solely to the needs of litigious and usually large organizations that were direct purchasers of these products and services, and to law firms that served as outside counsel during litigation. These law firms typically made purchasing decisions based on risk reduction or convenience, rather than cost-effectiveness.

Now, we see a greater focus on information in electronic form and the functionality needed to manage that. The explosion of data across the business and consumer worlds has also shaped the evolution of this market, as it has for many others.

This year, we expect to see a consolidation of functionality to deal with electronic information across a spectrum that includes identification, preservation, collection, ECA or early data assessment, processing, review, analysis and production of data. The market will contain software pure-plays (e-discovery only), as well as product groups or divisions in large well-known IT providers. The more traditional part of the market, hosted review and analysis, and service providers still command a large share of the total available business, though that part of the spectrum is consolidating and maturing. Note that legal service providers are not the focus of this Magic Quadrant, although some of the vendors in the Magic Quadrant do provide these services.

Gartner estimates that the enterprise e-discovery software market came to \$1 billion in total software vendor revenue in 2010. The five-year CAGR to 2015 is approximately 16%.

Vendor revenue has focused on the U.S., which accounted for 85% of market revenue in 2010. Growing awareness of e-discovery issues in Europe, for both common-law and non-common-law jurisdictions, will result in expanding growth outside North America through 2012. It is worth noting that all vendor revenues outside the U.S. almost doubled between 2009 and 2010 (see "Market Trends: Expect Disruption and Divergence in the E-Discovery Software Market, 2012").

There are a number of adjacent software markets, including enterprise information archiving, enterprise content management, enterprise search and content analytics. We expect to see vendors in these areas extend their offerings to include e-discovery, and vendors already in the e-discovery market acquire additional capabilities from the content analytics or workflow sectors, for example.

The Electronic Discovery Reference Model and Market Demand Use Cases

No analysis of the e-discovery market would be complete without mentioning the [Electronic Discovery Reference Model \(EDRM\)](#), which describes a framework for e-discovery to which technologies should be mapped.

Four groups of buyers of e-discovery products and services, distinguished by use case, may be defined in relation to the EDRM:

- First are those who wish to take the initial phases of the e-discovery process in-house, either for the first time or to supplement or replace existing tools. In this use case, IT managers are the decision makers, with the legal department being a strong influencer, typically with the power of veto.
- Second, there are those who want to take greater control of the process and cost of document review. These buyers begin with the processing phase of discovery, functionality for which is typically bundled with some form of ECA capability (see "Early Case Assessment: E-Discovery Beyond Judges and Regulators Is About Risks, Costs and Choices"). This group of buyers may also wish to purchase enterprise software or SaaS that facilitates review, analysis and production of relevant documents. In this use case, legal staff are the decision makers (or at least strong influencers) and these days may come to IT with a shortlist of vendors that have targeted them specifically. In this case, the IT department will be asked to help in the evaluation and maybe even pay for the application, but since the end user is ultimately a legal professional, can only influence the decision.
- Third are those that wish to consolidate the functionality of the left-hand side and the right-hand side of the e-discovery process. Although corporations do not necessarily want to do their own document review and analysis, they do want to make the process as cost-effective as possible, with as few handoffs of data from one system or one group to another. These are buyers who are looking for platform solutions, and interestingly this requirement often comes from the legal department, which is looking to reduce the risk of data handoffs and the costs imposed on them by allowing software decisions to be made by others, particularly outside law firms. Even if the legal department is not asking for an integrated platform solution, it is dictating the terms to its law firm, requesting that specific review technology be used. Of course, IT may also drive

this consolidation decision, but both groups will certainly be involved in both the specification and selection of the system, should an integrated solution be what the corporation is looking for. We have seen a large upsurge in user requests for full-spectrum EDRM functionality. Whether that functionality will be used initially, or at all, remains an open question. Corporate buyers do seem minded to future-proof their investments in this way, by anticipating what they may wish to do with the software and the vendor in the future.

- Fourth are buyers focused on information governance or information management who already own archiving or content management systems and want to use them as the basis of an e-discovery strategy. These are generally IT buyers influenced by legal, records and information management, and compliance professionals. It is clear from our inquiry service that the desire to bring e-discovery under control by bringing data under control with retention management is a strategy that both legal and IT departments pursue in order to control cost and reduce risks. Sometimes the archiving solution precedes the e-discovery solution, and sometimes it follows it, but Gartner clients that feel the most comfortable with their e-discovery processes and most in control of their data are those that have put archiving systems in place or undertaken information governance programs that are technology-independent. However, these two markets (EIA and e-discovery) are still separate. Many EIA vendors offer enough functionality to satisfy a company's requirements to hold and search data for legal or regulatory investigations, at least initially. It cannot be assumed that all who want EIA software will go on to buy some other kind of e-discovery product.

Likely Future Market Directions

The reason e-discovery is now a pressing issue for many companies is clear: ESI in all its many forms dominates in legal proceedings because modern business is mostly conducted using electronic communications and electronic records. Regulators require this ESI to be archived for proof of compliance. Governments of all nations, except the least developed, also produce and disseminate information primarily via electronic channels. We expect the market for e-discovery software to continue to grow.

Consolidation in the service provider market is under way and likely to continue. This is mainly being driven by the disintermediation of law firms, pricing pressure and the need to develop economies of scale in data management. We expect that the number of firms claiming to have e-discovery products and services will shrink by 25% over the next two years.

These service firms will take one of two routes: large firms that are "one-stop shops" but not technology developers; and large firms that are one-stop shops with proprietary technology for all aspects of the EDRM, not just the traditional hosting and review that has long sustained the industry. Although there is room in the market for regional or specialist players, this part of the landscape is the one that is consolidating and shrinking fastest. The larger players will need international presence in the form of data centers and local legal personnel in order to be competitive as the market opens up geographically.

The software vendors are responding to several new buyer requirements, described above: full EDRM functionality, ever more sophisticated ways of understanding very large datasets and

focusing on what is important, and the corporate desire to have as few vendors (whether software or service vendors) in the mix as possible. Pricing transparency and simplicity remains a non-negotiable client demand.

The amount of non-U.S. business continues to grow for e-discovery vendors. Although legal and regulatory systems differ across the world, they all face the common challenge of dealing with a growing volume of ESI, so that they can fulfill their obligations and enforce laws and regulations. We have noticed increasing interest from non-U.S. clients in e-discovery and e-disclosure, as well as in other categories of investigation that might require similar software tools. Additionally, vendor revenue figures suggest a slow trend toward increasing adoption in Europe. In 2009, 87% of vendor revenue came from North America (see "Market Trends: E-Discovery Software Is a Buyer's Market, Worldwide, 2010"), down from 90% in 2008. In 2010, 15% of vendor revenue came from outside the U.S. Although North America will remain the most active and lucrative market, we expect that many vendors will realize up to a third of their revenue outside North America during the next three years.

The Five-Year Outlook: Information Governance Reduces the Data Pile

The entire e-discovery industry is founded on a pile of largely redundant, outdated and trivial data. During the past 10 to 15 years, corporations and individuals have allowed this data to accumulate for the simple reason that it was easy — if not necessarily inexpensive — to do so. Managing data and content from the point of creation to the moment of deletion was something that many tried to do by various means, including enterprise content management systems and enterprise information archiving. The goal of controlling the end of the content life cycle, however, was often not realized. E-discovery has proved to be a huge motivation for companies to rethink their information management policies. The problem of determining what is relevant from a mass of information will not be solved quickly, but with a clear business driver (e-discovery) and an undeniable return on investment (deleting data that is no longer required for legal or business purposes can save millions of dollars in storage costs) there is hope for the future (see "Information Governance: 12 Things to Do in 2012").

Unlike other technology markets, the market for e-discovery products and services is not being driven simply by market forces and technological innovation. National and international regulations, laws and judicial decisions also influence it, sometimes greatly, and decisions made by regulators, law makers and judges — not always informed by an understanding of technology — often have unintended consequences. Nevertheless, there is no reason to believe that the evolution of the market will not continue, as a matter of necessity. Judges have demonstrated an ability and a willingness to understand how technology can help in the administration of justice, which is their primary role.

Recommended Reading

Some documents may not be available as part of your current Gartner subscription.

"Magic Quadrants and MarketScopes: How Gartner Evaluates Vendors Within a Market"

Acronym Key and Glossary Terms

ECA	early case assessment
EDRM	Electronic Discovery Reference Model
EIA	enterprise information archiving
ESI	electronically stored information
POC	proof of concept
SaaS	software as a service

Evidence

The evidence for this Magic Quadrant includes analysis of vendor reference surveys, phone interviews and Gartner's inquiry service, along with briefings and demonstrations from vendors regarding their product functionality and business position.

Note 1 Software as a Service

SaaS is a delivery model more than 10 years old. In its early days, it was called the "application service provider" model, but SaaS has since grown in scope and acceptance.

Gartner defines SaaS as "software that is owned, delivered and managed remotely by one or more providers."

In a pure SaaS model, the provider delivers software based on a single set of common code and data definitions that is consumed in a one-to-many model by all contracted customers at any time, on a pay-for-use basis, or as a subscription based on usage metrics.

During the past few years, vendors have taken multiple approaches that meet our definition of SaaS (see "Four Components Define Software as a Service").

Note 2 Early Case Assessment

ECA software products and services are intended to facilitate informed decision-making during the early stages of a dispute. They may estimate how much ESI must be evaluated for a case, where it resides, and what software, outside services and resources will be necessary to evaluate it in a compliant and credible fashion. They may also facilitate investigation of data that represents risks or rewards to the parties involved in the case or compliance action. There is another term — early data assessment — that the EDRM group has defined as part of the identification process. This process is one of simply identifying what the relevant data is and where it might be located, and any policies pertaining to it (for further information, see the [EDRM description of ECA](#)).

Note 3 Mergers and Acquisitions

In the following list the vendor named before the dash acquired the vendor or vendors named after the dash:

- AccessData — CT Summation (July 2010)
- Altegrity — Kroll (June 2010)
- Anacomp — CaseLogistix (May 2007)
- Autonomy — Zantaz (July 2007), Interwoven (March 2009), CA's information governance assets (June 2010), Iron Mountain (May 2011)
- CA — iLumin (October 2005), MDY Group (June 2006), Orchestra (January 2009)
- Doar Litigation Consulting — Inference Data (April 2010)
- Document Technologies, Inc. (DTI) — Daticon EED (September 2010)
- EED — Daticon (June 2008)
- EMC — Kazeon (September 2009)
- Epiq Systems — Encore Discovery Solutions (May 2011)
- FTI Technology — Ringtail Solutions (February 2005), Attenex (July 2008)
- Guidance Software — CaseCentral (February 2012)
- HP — Autonomy (October 2011)
- Huron Consulting — Axis Technologies (August 2006), Trilantic (November 2010)
- IBM — FileNet (August 2006), PSS Systems (October 2010)
- Integreon — Bowne's litigation support business (January 2006), Datum Legal (June 2008), Onsite3 (May 2009)
- Interwoven — Discovery Mining (July 2008)
- Iron Mountain — Stratify (October 2007), Mimosa Systems (February 2010)
- Kroll — TrialGraphix (September 2007)
- LexisNexis — CourtLink (December 2001), Applied Discovery (July 2003), CaseSoft (July 2006), Dataflight Software (July 2006)
- Marsh & McLennan Companies — Kroll (July 2004)
- Océ Business Services — CaseData (October 2006)
- Pitney Bowes — Ibis Consulting (April 2006)
- ProofPoint — Fortiva (June 2008), NextPage (January 2011)
- RenewData — Digital Mandate (August 2009)

- Seagate — MetaLINCS (December 2007) [Has since exited the market]
- Symantec — Veritas (July 2005), Vontu (December 2007), Clearwell Systems (May 2011), LiveOffice (January 2012)
- Thomson Reuters — CaseLogistix, from Anacomp (July 2010)
- Unify — AXS-One (June 2009); merged with Daegis (June 2010)
- Wolters Kluwer — Summation Legal Technologies (December 2004)
- Xerox — Amici (June 2006)
- Xiotech — Daticon (January 2006) [Daticon was later sold to EED]

Note 4 Important E-Discovery Decisions

- Zubulake v. UBS Warburg, 217 F.R.D. 309 (S.D.N.Y., 2003)
- Zubulake v. UBS Warburg, 216 F.R.D. 280 (S.D.N.Y., 2003)
- Zubulake v. UBS Warburg, 220 F.R.D. 212 (S.D.N.Y., 2003)
- Zubulake v. UBS Warburg, 2004 WL 1620866 (S.D.N.Y., 20 July 2004)
- Pension Committee of the University of Montreal Pension Plan, et al. v. Banc of America Securities, LLC, et al., 05 Civ. 9016 (released 11 January 2010)
- National Day Laborer Organizing Network v. U.S. Immigration and Customs Enforcement Agency, 2 011 WL 381625 (S.D.N.Y., 7 February 2011)
- Victor Stanley, Inc. v. Creative Pipe, Inc., 250 F.R.D. 251 (D. Md., 2008)
- Victor Stanley, Inc. v. Creative Pipe, Inc., 2010 WL 3530097 (D. Md., 9 September 2010)
- Lorraine v. Markel American Insurance Company, 241 F.R.D. 534 (D. Md., May 4, 2007)
- Mancina v. Mayflower Textile Servs. Co., 253 F.R.D. 354 (D. Md., 2008)
- Citizens for Responsibility & Ethics in Washington v. Executive Office of the President, No. 1:07-cv-01707-HHK (D.D.C., 8 January, 2008)
- United States v. O'Keefe, 2008 U.S. Dist. LEXIS 12220 (D.D.C., 18 February 2008)
- Equity Analytics, LLC v. Lundin, 248 F.R.D. 331 (D.D.C., 2008)
- Anti-Monopoly, Inc. v. Hasbro, Inc. et al., 1995 U.S. Dist. LEXIS 16355; 1995-2 Trade Cas. (CCH) P71,218
- Da Silva Moore v. Publicis Groupe & MSL Group, No. 11 Civ. 1279 (ALC) (AJP) (S.D.N.Y. Feb. 24, 2012)
- Da Silva Moore v. Publicis Groupe SA, No. 11 Civ. 1279 (ALC) (AJP) (S.D.N.Y.)

Evaluation Criteria Definitions

Ability to Execute

Product/Service: Core goods and services offered by the vendor that compete in/serve the defined market. This includes current product/service capabilities, quality, feature sets and skills, whether offered natively or through OEM agreements/partnerships as defined in the market definition and detailed in the subcriteria.

Overall Viability (Business Unit, Financial, Strategy, Organization): Viability includes an assessment of the overall organization's financial health, the financial and practical success of the business unit, and the likelihood that the individual business unit will continue investing in the product, will continue offering the product and will advance the state of the art within the organization's portfolio of products.

Sales Execution/Pricing: The vendor's capabilities in all pre-sales activities and the structure that supports them. This includes deal management, pricing and negotiation, pre-sales support and the overall effectiveness of the sales channel.

Market Responsiveness and Track Record: Ability to respond, change direction, be flexible and achieve competitive success as opportunities develop, competitors act, customer needs evolve and market dynamics change. This criterion also considers the vendor's history of responsiveness.

Marketing Execution: The clarity, quality, creativity and efficacy of programs designed to deliver the organization's message to influence the market, promote the brand and business, increase awareness of the products, and establish a positive identification with the product/brand and organization in the minds of buyers. This "mind share" can be driven by a combination of publicity, promotional initiatives, thought leadership, word-of-mouth and sales activities.

Customer Experience: Relationships, products and services/programs that enable clients to be successful with the products evaluated. Specifically, this includes the ways customers receive technical support or account support. This can also include ancillary tools, customer support programs (and the quality thereof), availability of user groups, service-level agreements and so on.

Operations: The ability of the organization to meet its goals and commitments. Factors include the quality of the organizational structure, including skills, experiences, programs, systems and other vehicles that enable the organization to operate effectively and efficiently on an ongoing basis.

Completeness of Vision

Market Understanding: Ability of the vendor to understand buyers' wants and needs and to translate those into products and services. Vendors that show the highest degree of vision listen to and understand buyers' wants and needs, and can shape or enhance those with their added vision.

Marketing Strategy: A clear, differentiated set of messages consistently communicated throughout the organization and externalized through the website, advertising, customer programs and positioning statements.

Sales Strategy: The strategy for selling products that uses the appropriate network of direct and indirect sales, marketing, service and communication affiliates that extend the scope and depth of market reach, skills, expertise, technologies, services and the customer base.

Offering (Product) Strategy: The vendor's approach to product development and delivery that emphasizes differentiation, functionality, methodology and feature sets as they map to current and future requirements.

Business Model: The soundness and logic of the vendor's underlying business proposition.

Vertical/Industry Strategy: The vendor's strategy to direct resources, skills and offerings to meet the specific needs of individual market segments, including vertical markets.

Innovation: Direct, related, complementary and synergistic layouts of resources, expertise or capital for investment, consolidation, defensive or pre-emptive purposes.

Geographic Strategy: The vendor's strategy to direct resources, skills and offerings to meet the specific needs of geographies outside the "home" or native geography, either directly or through partners, channels and subsidiaries as appropriate for that geography and market.

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