

# Controlling The Chaos Of E-Discovery

Chris Dodd

KIERSTED / SYSTEMS LP

General counsel face tight deadlines and even tighter budgets, but today's technology can help control costs and risk amid shifting regulations and seemingly limitless data. Close collaboration with litigation professionals from top law firms and Fortune 100 companies has equipped Kiersted / Systems to respond with innovative solutions and best practices that we are eager to share.

## Practical Ways To Control E-Discovery Costs

Cost control is a top priority, particularly during the review phase of electronic discovery. Expenses mount dramatically as attorneys' time is tapped to evaluate electronically stored information (ESI) and determine what is relevant and privileged. The key is to substantially reduce the initial volume of data to review, continue to minimize the quantity of data that requires higher level of review expertise, and use the right expertise level for appropriate tasks.

The power of workflow (intelligent item routing) and validation (work product quality control) are strong allies in maximizing resources. A solid workflow process streamlines review activities so reviewers do not get bogged down. Automated workflow routing maximizes reviewers' productivity and keeps them on track and busy. For example, Kiersted's K4 platform eliminates waiting time and administrative delays by empowering attorneys to independently assign themselves bins of relevant documents to review. Simultaneous work efforts are possible when all users have active control, and self-administration capability means less work for the project manager, system administrator and docket manager. Real-time validation ensures that items are marked consistently with rules set for the specific project. Working in tandem with workflow, validation enforces the rules that govern linear progression of documents from one milestone stage to the next.

In addition, we encourage organizations to take advantage of our infrastruc-



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ture and avoid heavy investments in computer hardware and software. Kiersted has in place the production capacity to accommodate any situation, and we bring economies of scale. Clients can send us their data, or our forensic team can retrieve it onsite. An added benefit is that native files and ESI are viewed using software located wholly on Kiersted's servers, so no trace material is ever left behind on reviewers' machines.

## Time Is Money

Technology that offers search functionality, workflow, and dynamic display of the material can enhance the entire review experience in ways that translate into cost savings. A fully configurable workflow process, combined with integrated quality controls, ensures efficiency and consistent results. Rules-based processes help avoid coding inconsistencies, incorrect privilege calls and other errors that require expensive changes as a deadline approaches.

An easy-to-use system brings multiple benefits. For example, a clever and intuitive user interface design helps prevent staffing and training issues. Our K4 review platform typically has reviewers up to speed in less than 30 minutes and thus equipped to begin the coding and culling process almost immediately. The flexible interface lets reviewers customize the review panel's appearance so they can burrow through a huge amount of material in a very short time.

On the technical side, features to look for that enable a fast and efficient review experience include full text plus parametric searching with hit highlighting; programmable "hot" keys to simplify and streamline coding of editable fields; group tagging of related or selected documents using hot keys; customizable subjective coding fields such as issue tagging, privilege, responsive, hot, and comments; and dynamic document filters to show only documents relevant to a current workflow stage or items that failed validation.

A single click allows reviewers to validate a bin of items, receive real-time feedback on validation errors, and seamlessly return to clear any issues, iteratively reducing the number of problem items until the entire corpus of documents under review passes validation and is ready to move forward in the

workflow. Using these convenient project-specific shortcuts, reviewers can zip through documents one by one or select a group of items for bulk coding and immediately move to the next item on the list.

Built-in speed and agility are essential when displaying items in their native formats. As a reviewer moves from one document to another, an embedded viewer instantly updates the chosen extracted document text, image, or a true copy of the document in its native format.

Additionally, a smoothly running review project relies upon intuitive management and auditing tools. Metrics can reflect productivity and throughput of individual reviewers as well as subjective coding breakouts and analysis. Such metrics, along with custom reports to help monitor project status, make it much easier to effectively administer a case.

## Capturing What Matters

Organizations are using SharePoint's content management and enterprise search capabilities to share processes, improve efficiency, and foster collaboration by letting multiple parties edit and track versions of documents. A project with SharePoint data is really no different than any other project containing a mixture of email and documents, but beware of tools that are not fully capable of forensic collection. Some solutions grab the embedded files from the SharePoint document library, but lose the context and metadata (data that provides information about other electronic data) that is critical for both review and authentication as evidence. An integrated platform with built-in capability can handle it all – paper, email, server files, personal hard drives, and personal documents – as well as SharePoint content.

Be sure to cover all sources to avoid missing different types of a document or a previous version that could be crucial in understanding the matter at hand and how relevant that document might be. All functionality inherent in the document's native format must be preserved, whether the attachment is an Excel document, an email, a PowerPoint slide, or a PDF. Metadata multiplies dramatically with SharePoint and must be preserved so the review team can assess it and properly produce it. For example, people often include in their emails a link to a document rather than attaching it. New techniques are available that take the reviewer to the actual linked document instead of only showing an email that says, "See document below," with no actual document.

New content types such as wikis and blogs create some interesting challenges. The interrelated data of postings and multiple replies should not be treated as separate entities. Reviewers need to see everything in context and understand how it all relates.

All of this need not be a huge burden, either. We can preserve SharePoint data for electronic discovery using existing back-up techniques so clients do not need to install anything new or adopt

any new technology. Then we restore the data to a protected read-only nonpublic stance that makes it a part of our review platform where we preserve the richness of all of the content. Reviewers can see the context of other items and put the entire picture together. This reduces the body of material in a defensible way.

Furthermore, a sound technology approach does not disrupt the SharePoint application during normal business operations or over-collect huge volumes of information, thereby increasing cost. One method is to identify specific sites rather than backing up the entire network. Then use a solid culling mechanism to start whittling down the data by looking for duplicates and relevance through search terms and various techniques. This narrows a potentially large collection down to a relatively small review set.

An added bonus involves the legal hold process. If there is potentially relevant content in a site, clients can put the site on temporary hold, harvest that content, cull it quickly and then park it. This essentially sets up a staging area for content that will flow through for processing and review.

## Top Tips For Business Leaders

*Contain costs by selecting technology that fits.* We help our clients find the best answer to the right question and avoid getting backed into a corner with the wrong solution. Efficiency is not merely a vague bullet point – a customizable, intuitive interface that streamlines the review experience can directly help leverage resources and complete electronic discovery projects on time and on budget, not to mention inspiring greater confidence in the results.

*Reduce risk with a defensible methodology that preserves metadata and maintains context.* Set up, steward and enforce processes automatically with workflow and validation. Select an integrated system to enable a secure process that follows the rules, avoids procedural missteps, and collects all information vital to litigation proceedings. Without sacrificing flexibility, be able to demonstrate a sound, consistent process in compliance with legal requirements.

*Insist on flexibility in your approach to processing.* The changing technology landscape introduces new challenges every day, and electronic discovery becomes more complicated. Whether in-house or outsourced or a blend of both, the wise approach remains nimble and responsive to adjust to these challenges in real time. Do not limit your review capabilities. Technology offers the ability to very quickly assess information and to slice and dice it any way you want it. At Kiersted, we call it "dynamic case assessment" because our clients need to assess cases both early on and as they evolve over time. Review your data in your own way with dynamic filters that help zero in on data, prioritize and make snapshot assessments on the fly. The ultimate payoff is clearer understanding that enables smarter decisions based on the whole picture.

*Chris Dodd is Vice President of Operations at Kiersted / Systems LP. He has contributed his extensive consulting and project management experience to support complex litigation and IT projects for many Fortune 500 companies and "Top 100" law firms. Kiersted's proprietary KEPS platform for electronic discovery includes the easy-to-use K4 Rapid Review system for accuracy, reliability, security, quality and speed. Corporate legal departments and major law firms have relied on Kiersted / Systems for e-Discovery and legal technology consulting for more than 25 years. For more information on advantages of systematic approaches to litigation technology, please contact the author at (866) 543-7789 or visit [www.kiersted.com](http://www.kiersted.com).*

Please email the author at [cdodd@kiersted.com](mailto:cdodd@kiersted.com) with questions about this article.