



2011 DIY E-Discovery Trends Survey by Kroll Ontrack

9 Trends in the Evolution of E-Discovery

By now, most corporations and law firms intimately understand the complexities and realities of e-discovery, and many organizations are re-examining their e-discovery processes and tools to gain efficiencies and reduce costs across the Electronic Data Reference Model (EDRM). With more options than ever before, litigation support professionals, lawyers and IT staff are grappling with these timely questions:

Can my organization better manage costs and increase control over discovery by bringing e-discovery tools in-house or in-firm?

Which components of the EDRM are best in-sourced or outsourced?

Under what circumstances should my organization avoid in-sourcing e-discovery?

What are the risks and benefits of cloud-based e-discovery?




Kroll Ontrack, with Harris Interactive, conducted a survey¹ of attorneys at Fortune 1000 corporations and medium- to large-sized law firms to ask these very questions.

E-discovery is constantly evolving, and if organizations are standing still, they are losing ground. **Eighty-six percent of survey respondents in-source some aspect of e-discovery**; however, corporations and their counsel do not agree on the drivers for when to in-source or outsource a discovery matter or on who gets to make this decision.

When purchasing a DIY discovery platform, **ease of use, security, and compatibility with existing platforms are the most important factors**; however, corporations and law firms feel hamstrung by disjointed, inadequate DIY discovery technologies, which decrease efficiency, quality and defensibility.

Inside and outside counsel are looking to be e-discovery cloud pioneers, with 80 percent of attorneys expecting more corporations and law firms to leverage the cloud within the next two years. Whether a company or law firm needs to be up and running with a discovery project quickly or is looking for the easiest and cheapest solution to integrate, maintain and use, the clear answer is the cloud (also known as software as a service or SaaS). Data from market research firm, IDC, concurs, revealing that cloud computing will reduce the cost of IT infrastructure ownership by as much as 54 percent.



However, not all clouds are created equally, as **survey respondents flagged concerns over data security and privacy**. Market research firm, Gartner, brings confidence to the cloud, stating that overall, cloud-based computing will be more secure than what most organizations have today and by 2015, security is not going to be number one on the list of cloud-computing concerns.

Gone are the days of a one-size-fits-all approach to discovery. Corporations and law firms are evolving their e-discovery practices to address cost consciousness and leverage internal resources and knowledge. New technology options make this evolution possible, promising faster, less expensive and more intuitive results. Examine these nine trends and learn how your corporate and law firm counterparts are putting the evolution of e-discovery to work for them.

*This survey was conducted online within the United States by Harris Interactive on behalf of Kroll Ontrack between Sept. 6-16, 2011 among 204 lawyers employed in medium-large law firms or as in-house counsel for Fortune 1000™ companies. No estimates of theoretical sampling error can be calculated; a full methodology is available.

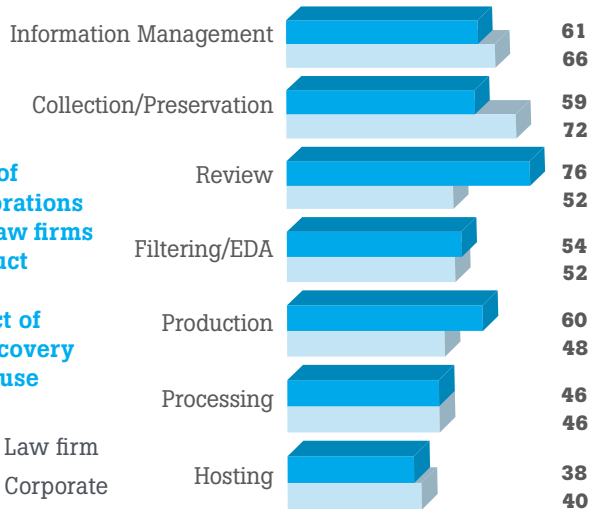
More e-discovery is conducted in-house or in-firm than most practitioners would expect.

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Percent of corporations and law firms conducting in-house activities across the EDRM

86% of corporations and law firms conduct some aspect of e-discovery in-house

Law firm
Corporate

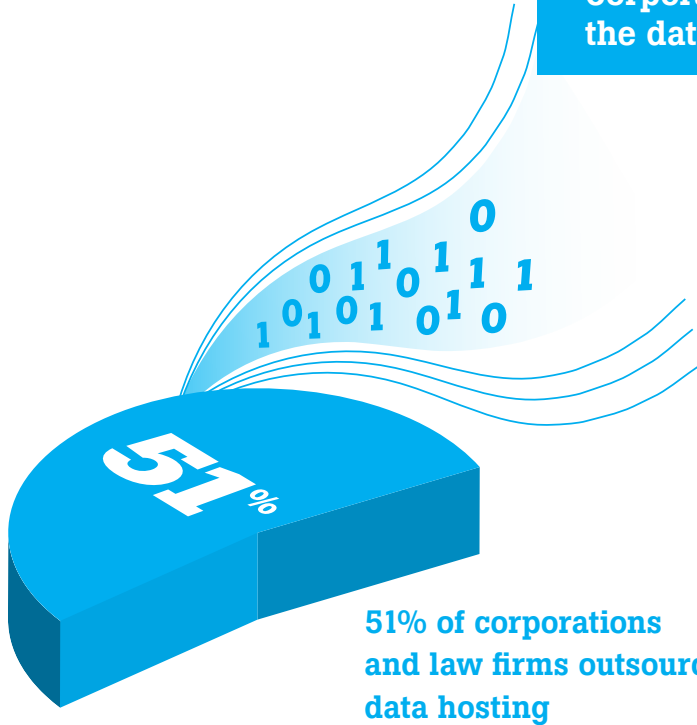


In order to gain more control, corporations and law firms are increasingly conducting EDRM activities in-house and utilizing outside experts only when case size or complexity reach a breaking point.

Despite this surge toward in-sourcing, corporations and law firms are confronted with disjointed DIY discovery technologies which decrease efficiency, quality and defensibility.

Corporations and law firms don't want to be in the data hosting business.

2

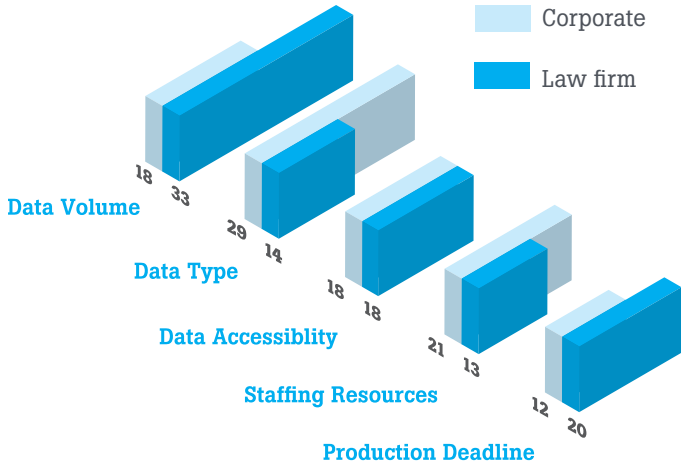


Data hosting is the **number one** e-discovery function outsourced. Given this trend, SaaS platforms are the wave of the future. SaaS-based platforms are also known as “cloud” solutions.

With ongoing installation, security and maintenance concerns associated with data hosting platforms, corporations and law firms are better served by keeping data for e-discovery outside their walls.

DIY tools vs. outside experts – corporations and law firms don't agree on the biggest drivers.

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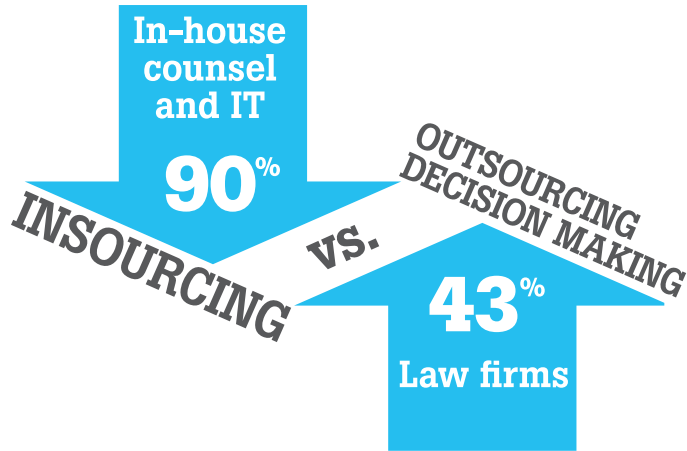


Data types and staffing constraints are the biggest drivers for corporations when determining whether to conduct discovery in-house or leverage an outside expert. Law firms, on the other hand, make in-sourcing versus outsourcing decisions based on data volumes and production deadlines.

Why the discrepancy? Corporations have access to more experienced IT resources to better address atypical data types when conducting e-discovery in-house; however, limited staffing resources quickly drive the need for external assistance. Law firms, conversely, are better structured for exploding data volumes and aggressive timelines, with more available staff resources.

In addition to cost and risk, the most important considerations for determining when to conduct discovery in-house vs. with a DIY solution

There is dissent in the ranks over in-sourcing vs. **4** outsourcing decision making.



90% of in-house counsel state that the primary decision regarding in-sourcing and outsourcing lies within the corporation. Conversely, 43% of law firms say it should be their decision over their client

Not surprising. Corporations and law firms are still using very different tools and processes for conducting e-discovery, driving the decision making discrepancy.

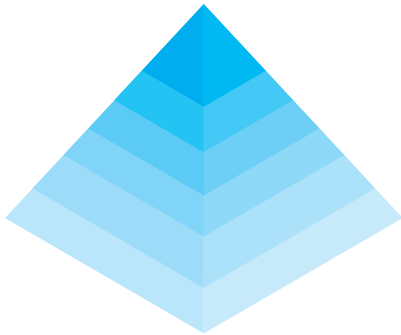
Despite who is the ultimate decider, it is more important than ever to work with a partner that understands your organization's needs and offers solutions that drive collaboration between a corporation and its counsel. Whether it is through software, services or both, corporations and law firms that utilize common protocols and technology will achieve:

- Streamlined discovery management
- Diminished errors resulting from fewer hand-offs
- Lowered costs from reduced data jockeying between tools

Three factors make it or break it when purchasing DIY discovery tools.

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Most important factors when purchasing an in-house or in-firm e-discovery tool



1. Ease of use
2. Data security
3. Compatibility with existing platforms
4. Reputation of provider
5. Installation time
6. Training time

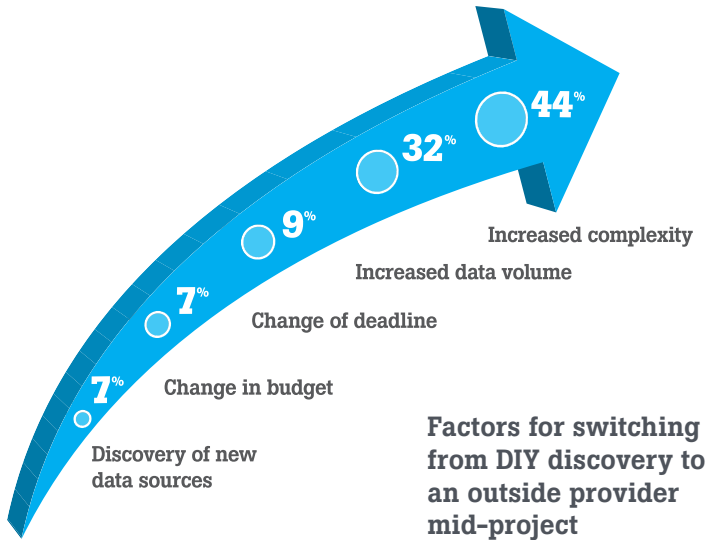
When considering the **most critical factors** for purchasing in-house or in-firm e-discovery tools, **ease of use, security, and compatibility** with existing platforms ranked the highest over software reputation, installation time, and training.

Corporations and law firms **do not want to waste time** on the following:

- Learning how to optimize a new tool
- Configuring its security parameters
- Connecting it to existing discovery infrastructure

Complexity and volume drive DIY discovery projects to outside providers.

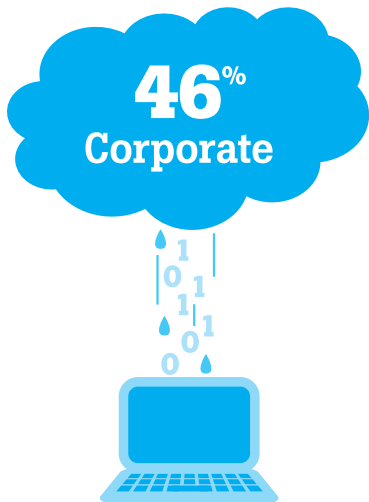
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E-discovery projects change throughout the lifecycle of the case. A project that starts seemingly small and easy to handle in-house or in-firm can quickly change, requiring a shift to an outside expert. With no one-size-fits-all case, corporations and law firms alike need to **work with outside providers offering both service and DIY technology options** to ensure a seamless transition between a DIY tool and e-discovery services.

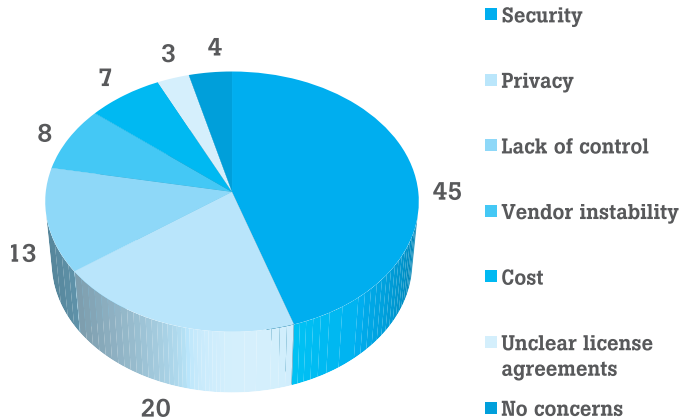
Despite hesitancies, corporations and law firms are comfortable with the cloud.

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46% of attorneys at corporations and 37% at law firms are comfortable with storing data or conducting e-discovery in the cloud. Cloud-based technologies are revolutionizing the way organizations conduct business, so **it is no wonder that the cloud is now transforming e-discovery**. Cloud solutions are extremely flexible and available on-demand from anywhere in the world with an internet connection.

Concerns for leveraging the cloud



Despite corporations and law firms' willingness to leverage SaaS or cloud solutions for e-discovery and data storage, **predictably data security and privacy remain top of mind.**

When evaluating SaaS or cloud offerings, corporations and law firms should **discuss security and privacy requirements early on**, just as if the service was being developed internally. Ensure you validate the following:

- Storage capacity
- Monitoring and staffing
- Physical security
- User profiles and authentication
- Security threats and penetration testing

For e-discovery, corporations and law firms plan to leave the firewall behind.

9

Corporations and law firms increasingly plan to turn to SaaS and cloud-based platforms in the next 2 years. **Savvy corporations and law firms** will **evaluate the options, assess the security risks,** and **evolve their organizations' e-discovery approach** accordingly.

