

phrases in, a number of different languages and character sets within the same database.

Obtaining additional benefits from the exercise

Although undertaking electronic disclosure can often appear more expensive than hard copy disclosure, the increased expenditure is usually the result of the sheer number of documents produced electronically, which tends to be far greater than the number of hard copy documents generated in similar circumstances. It is, of course, possible to print out each and every electronic document and conduct a traditional hard copy disclosure exercise. This approach would alleviate the need to deal with the majority of issues outlined above. On closer inspection, however, the figures tend to suggest that adopting a hard-copy approach to electronic disclosure is by far the more expensive option.

A number of case studies demonstrate the savings achieved, both in cost and time, by undertaking disclosure electronically. For example, in June 2005 Legal Technology Insider reported that in one case (worked on by Lovells), two million electronic documents were filtered down to just 11,000 in a three-month time period at a cost of US\$1 million (about EUR789 000). This represented a saving of at least 75% in terms of both cost and time based on the original estimate to complete the same project using traditional methods, which envisaged a one-year timescale and a total cost of US\$4 to US\$5 million (about EUR3.16 million to EUR3.95 million).

It is, however, important to bear in mind the dangers of adopting a "one size fits all" approach to electronic disclosure. Each particular piece of litigation and its associated disclosure exercise has its own individual requirements, and the technology used should be tailored to these specific needs on a case-by-case basis.

When studied in-depth, the case studies mentioned above reveal that the use of technology to aid in the conduct of electronic disclosure provides a significant benefit to a party to litigation. Not only does it reduce the time and expense of electronic disclosure, but the material returned can be re-used internally as it amounts to a ready-made database of ma-

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terial relevant to the subject matter of the litigation, and can be useful for a party to search for and identify its own key documents as new issues emerge during the course of the litigation.

Documents that may be helpful in establishing a particular fact can be hyper-linked into the statements of case to allow ease of reference and location. In addition, the electronic disclosure exercise creates what is in effect a "portable library" of one party's documents, which can be loaded onto a laptop and be an easy reference source for counsel when out of the office at witness interviews, court hearings and so on. Such a library can also be made available to other parties, such as co-defendants, via the internet at little extra cost and could ultimately be used to create an electronic trial bundle in truly large-scale matters.

Even outside of the litigation for which the disclosure exercise is conducted, the

existence of a database of this type can provide ongoing benefits to a company. One example might be a company that faces repeated disputes that tend to be similar in nature, such as a clothing company attempting to ensure its trade marks are not infringed. Once the relevant documents have been scanned and coded for the purpose of disclosure in one such piece of litigation, the database can be re-used each time a similar dispute arises.

These types of benefits can also extend to areas outside the litigation arena in some circumstances. Extending the clothing company example, the materials collected for the purposes of the trade mark protection litigation could also be used to form a marketing database, which might be searched when a company wants information about previous marketing campaigns carried out for a particular brand or product.

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