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**ORANGE**  
LEGAL TECHNOLOGIES

## Right Sourcing Electronic Discovery Balancing Options and Opportunities

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## What is the “Right Sourcing” of eDiscovery?

As electronic discovery requirements continue to increase in light of the ever-expanding universe of digital data, many firms are questioning more than ever the way in which they conduct electronic discovery. In a market that has over 600 vendors and is growing at approximately 21% per year<sup>i</sup>, there are many options available to those sourcing electronic discovery tasks. With this sourcing in mind, organizations are having to make important strategic decisions on whether they outsource or insource specific technology and expertise.

As the ultimate goal for organizations appears to be centered around how they can leverage internal and external resources to efficiently enhance, and transform their electronic discovery efforts, the following definitions and thoughts are provided to help legal professionals consider the balancing of options and opportunities as they seek to “*right source*” their electronic discovery requirements.

**Outsourcing:** *Outsourcing* involves the transfer of the management and/or day-to-day execution of an entire business function to an external service provider<sup>ii</sup> In the arena of electronic discovery, outsourcing can be considered as the support of electronic discovery tasks with the use of externally provided technologies and people.

**Insourcing:** *Insourcing* is often defined as the delegation of operations or jobs within a business to an internal (but 'stand-alone') entity that specializes in that operation.<sup>iii</sup> In the area of electronic discovery, insourcing can be considered the support of electronic discovery tasks with the use of internally deployed technologies and people.

**Right Sourcing:** Simply stated, *Right Sourcing* is the balancing of internal and external resources in order to best accomplish a specific business function. In the area of electronic discovery, right sourcing can be considered the support of electronic discovery tasks with the best balance of internally and/or externally provided technologies and people.

## What is driving the need for Right Sourcing in eDiscovery?

Balancing the business drivers of *cost*, *time*, and *complexity* in the conduct of electronic discovery continues to be one of the greatest challenges faced by legal professionals today.

- 1) **Cost** - The cost of electronic discovery has become such an important factor in litigation that, in some cases, it may actually drive counsel recommendations as much, if not more, than actual evidentiary positions. Costs range from the **specified monetary costs** of sourcing the technology and people necessary to complete needed electronic discovery tasks to the **implied opportunity costs** associated with tasks and/or projects. Costs to be considered for sourcing electronic discovery may include:
  - a. Cost of Electronic Discovery Technology (To Include Upgrades and Maintenance of Technology)
  - b. Cost of IT Staff to Support and Manage Electronic Discovery Technology
  - c. Cost of Legal Professional Staff To Complete Electronic Discovery Tasks
- 2) **Time** - The ability of legal professionals to manage the time components associated with electronic discovery is of paramount importance if counsel wants to both efficiently execute electronic discovery tasks and ensure that they are compliant with the requirements of audit, investigation, and/or litigation requests. Time components to be considered for sourcing electronic discovery may include:
  - a. Time Available to Respond To Audit, Investigation, and/or Litigation Requirements
  - b. Time Required to Initiate and Complete Electronic Discovery Tasks
  - c. Time Constraints based on Technology Availability and IT/Legal Professional Staff Availability

- 3) **Complexity** - Litigation is inherently rife with risk, and the complexity of electronic discovery only increases this risk based on the intricacies of digital data, the continually growing volume of data available, and evolving ESI related law. Complexity considerations to be considered for sourcing electronic discovery may include:
- a. Complexity of Risk Associated with Electronic Discovery Technology
  - b. Complexity of Systems and Processes Required in Dealing with ESI
  - c. Complexity of Expertise Needed to Execute and Manage both Electronic Discovery Technology and Tasks

Each of these drivers plays an important part in the consideration by counsel to outsource, insource, or *right source* their electronic discovery capabilities.

In looking further at right sourcing, a logical next step beyond understanding the definition and drivers of *right sourcing* appears to be determining what eDiscovery tasks might be beneficially considered for *right sourcing*.

### What are the eDiscovery Tasks to be considered for Right Sourcing?

Potential core eDiscovery Tasks that might be reasonably considered by counsel for right sourcing include:

- **Collection Tasks** that help acquire potentially relevant electronically stored information (ESI).
- **Analytics Tasks** that help identify and eliminate irrelevant document sets early in your efforts.
- **Processing Tasks** that help prepare relevant files for subsequent use while ensuring that the techniques used are defensible.
- **Review Tasks** that help define and examine data sets of documents for relevance, responsiveness, privilege, and/or confidentiality.
- **Production Tasks** that help deliver or make available to another party documents and/or ESI deemed responsive to a discovery request.
- **Proactive Hosting Tasks** (Pre-Discovery/Post-Matter) that help accelerate the electronic discovery process by providing a readily accessible repository that contains potentially relevant ESI.

While each of these core tasks is imperative for counsel to consider as they seek to be able to conduct complete eDiscovery, it appears reasonable to state that for most organizations the choosing of a single approach (i.e. fully insourcing or fully outsourcing) may not be the best approach for all services.

### What are the potential models for Right Sourcing?

In considering *right sourcing* eDiscovery, there appears to be three general models that warrant careful attention. These models include:

- **Fully Insourced Model** – A fully insourced model of eDiscovery is defined by the fact that all core electronic discovery technology and expertise is completely maintained within an organization (i.e. corporation, governmental entity). Key characteristics of firms employing this model may include:
  - Dedicated In-House eDiscovery Technology - Acquired, maintained, and supported Internally.
  - Dedicated In-House IT and Legal Professional Staff – Resourced to support eDiscovery technology and conduct of all eDiscovery core tasks.

- **Fully Outsourced Model** - A fully outsourced model of eDiscovery is defined by the fact that all core electronic discovery technology and expertise is completely transferred to outside counsel and/or external service providers. Key characteristics of firms employing this model may include:
  - Leveraged Externally Provided eDiscovery Technology – Provides legal technology for outside counsel execution of core eDiscovery tasks.
  - Leveraged Outside Counsel Staff – Conducts all eDiscovery efforts on behalf of in-house counsel and monitors external service provider efforts.
- **Hybrid Sourcing Model** – A hybrid sourcing model of eDiscovery is defined by the fact that a combination of insourced and outsourced technology and expertise is used by in-house counsel to accomplish all required electronic discovery tasks. Key characteristics of firms employing this model may include:
  - Flexible eDiscovery Technology – A combination of in-house and externally provided eDiscovery resources designed to ensure the most time and cost efficient use of available resources.
  - Flexible Staff In-House IT and Legal Professional Staff – Scalable (Depending on Cost, Time, and Complexity) to either fully support and/or fully manage all eDiscovery efforts.

Understanding that *right sourcing* is the balancing of internal and external resources in order to best accomplish a specific business function, aligning the specific model which best suits an organization with the model an organization chooses to implement will be a key contributor in an organization's overall ability to successfully conduct electronic discovery tasks in support of audit, investigation, and litigation requirements.

## Where can Orange Legal Technologies fit in Right Sourcing?

Orange Legal Technologies' is an industry-recognized electronic discovery service provider that has a portfolio of electronic discovery services that allow it to meet the audit, investigation, and litigation needs of its clients. The company is led by an industry-experienced staff with a demonstrated understanding of the regulatory, compliance and legal issues surrounding electronically stored information (ESI), including the procedures necessary to maintain the forensic integrity of the information throughout the legal process.

From a right sourcing perspective, Orange Legal Technologies can support law firm, corporation, and governmental entity electronic discovery needs through the provision of both technology and expertise.

### Orange Legal Technologies and “Right Sourcing”

- Right Source for Technology (OneO® Discovery Platform)
  - Complete Electronic Discovery Service (Analytics | Processing | Review | Production | Hosting)
  - Integrated Platform (Single Platform | One Data Source)
  - Online Delivery Model (Software As A Service)
- Right Source for People (Domain Expertise)
  - Collections (Certified Collection Expertise)
  - Project Management (Dedicated Project Management Expertise)

## About the OneO® Discovery Platform

Orange Legal Technologies' OneO® Discovery Platform provides distinct and quantifiable advancements over current electronic discovery services and provides the following capabilities with in-house proprietary technology:

**A Complete Electronic Discovery Platform:** OneO® can provide analytics, processing, and review – the core tasks of electronic discovery – from within a single platform. *This means that once data is received and ingested, there is no need for an additional platform or provider to complete these key electronic discovery tasks thus saving clients over 50% of the time and 50% of the money required for electronic discovery when compared to traditional offerings.*

**An Integrated Electronic Discovery Platform:** OneO® architecture provides for integration of electronic discovery tasks at the application level vs. the platform level. *First, this means that data transfer between the key tasks of analytics, processing, and review occurs within the OneO® platform thus increasing the defensibility of evidence by both reducing the risk of potential spoliation that can occur when transferring data between platforms and/or service providers and providing a defensible process. Secondly, this application level integration helps OneO® index documents twice as fast as other leading solutions - substantially decreasing the time and cost of electronic discovery.*

**An Online Delivery Model:** OneO® is delivered to clients via a Software-As-A-Service Model (SaaS). *This means that there is no additional client-side resource or infrastructure investments necessary to implement and maintain the OneO® Discovery Platform – providing client's cost savings for today and investment protection for tomorrow.*

The key elements supporting the distinct and quantifiable advantages of the OneO Discovery Platform include:

- The **Integrated Architecture** of the proprietary OneO® Discovery Platform.
- The **Sustainability** of the Software-as-a-Service Delivery Model utilized by the OneO® Discovery Platform.
- The **Pricing Structure** of OneO® Discovery Platform services.

**Integrated Architecture:** The primary differentiation of Orange Legal Technologies is based on its OneO® Discovery Platform being integrated at the application level by allowing the use of three executable tasks – analytics, processing, and review - within one application. This integrated architecture is not a characteristic of most electronic discovery platforms available in the marketplace today – thus providing OneO® with a technological advantage over most electronic providers.

Full integration of analytics, processing, and review is important - and a characteristic of only a few of the currently available electronic discovery offerings. A fully integrated platform is important as it helps mitigate risk in the electronic discovery process by decreasing the number of organizations, people, and applications that interact with the discoverable data during the process of electronic discovery. Every additional “touch” of the data by organizations, people, or applications increases the risk of chain of custody violations, increases the potential for spoliation, and increases the potential for human error.

Additionally, each additional “touch” typically increases the time required to complete the overall discovery process – thus directly increasing the cost of each electronic discovery matter. OrangeLT™'s OneO® Discovery Platform is inherently integrated and provides analysis, processing, and review from within a single application. Also, OneO® provides users with the capability to import and/or export data from/to other electronic discovery services – thus providing users complete control over which complimentary services and providers they may already be using in their discovery efforts.

**Sustainability of SaaS Delivery Model:** Delivered under a Software as a Service (SaaS) model, legal professionals can leverage the analytics, processing, and review capability of Orange Legal Technologies' OneO® Discovery Platform without having to make incremental investments for hardware, software, or support personnel. While the SaaS model is becoming more prevalent in the electronic discovery arena, currently there are few providers that provide integrated analytics, processing, and review delivered via SaaS.

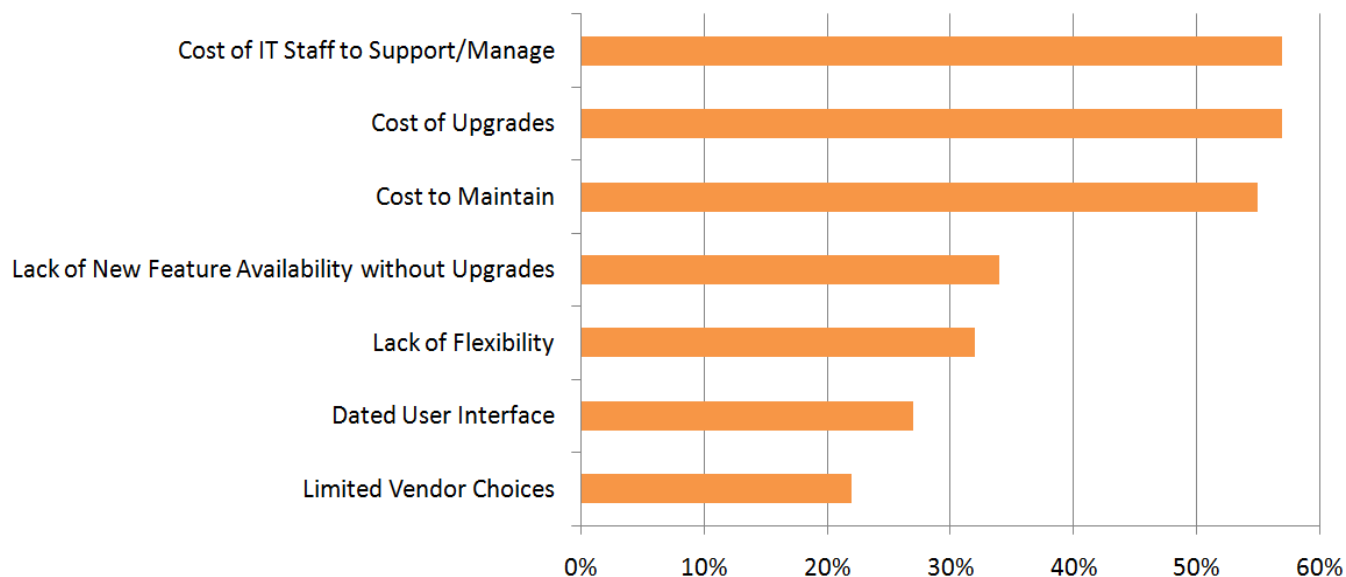
This service delivery model, differing from software licensing, managed service, and software/hardware appliance models, provides investment protection and sustainability for OneO® users by allowing service enhancements and support without requiring on premise upgrades and maintenance.

When considering the types delivery models of available to service providers – the recent results of an InformationWeek sponsored study<sup>iv</sup> of 374 business technology professionals provided a snapshot of the challenges associated with non-SaaS delivery models. When asked “What are the biggest challenges associated with on-premise business applications? (Hardware and/or Software Solutions Residing inside the Corporate Firewall)”, respondents shared the following thoughts:

- Cost of IT Staff Resources Required To Support/Manage: 57%
- Cost Of Upgrades: 57%
- Cost To Maintain: 55%
- Can't Take Advantage Of New Functionality Because Not On The Most Current Version: 34%
- Lack Of Flexibility To Support Changing Business Needs: 32%
- Dated User Interface: 27%
- Limited Number Of Vendors To Choose From: 22%

*\*Multiple Responses Allowed*

### What are the biggest challenges with on-premise business applications?



*On-Premise Business Application Challenges*

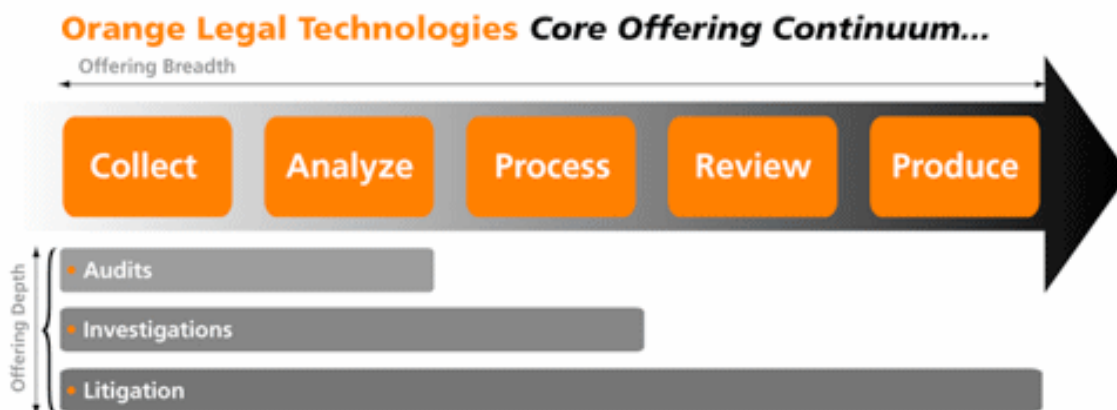
*Source: InformationWeek*

Based on an objective review of these respondent answers - as well as the complete results of the InformationWeek Study - there appears to be substantial reason electronic discovery service decision makers to consider the delivery model sustainability of SaaS-based services – such as those provided by OrangeLT™ – as the most cost effective and resource efficient model to use when sourcing electronic discovery services.

**Pricing Structure:** Based on a combination of services available, integrated architecture, and service delivery model, OrangeLT™ is able to deliver its services under a pricing model that both allows for OrangeLT™ to achieve its financial objectives and allows clients to acquire these services at a highly competitive price. Historically, Orange has been able to deliver complete analytics, processing, and review at ½ the cost of major competitors.

## Orange Legal Technologies' Core Offering Continuum

Orange Legal Technologies delivers one source litigation, audit, and investigation support services enabled by technology and powered by experts. Our goal is to deliver guaranteed value and results through these services to the world's leading law firms and corporations. Our full range of services include but are not limited to:



### Collection Services

- Certified Collection Experts
- Collection Planning & Consulting
- Defensible Chain of Custody Process
- National and International Best of Breed Partnerships

### Processing Services

- Full Text and Metadata Extraction
- Data Conversion
- Database Development
- Load File Preparation

### Production Services

- Native Production
- Image Production
- Privileged Logs

### Analytics Services

- Data Preparation and Indexing
- Data Filtering and Deduplication
- Early Case Assessment
- Meet and Confer Preparation

### Review Services

- Integrated Collaboration / Workflow
- Dedicated Project Management
- Integrated Audit & Reporting / Manage Review Costs

### Localized Production Support

## About Orange Legal Technologies

Orange Legal Technologies is a leading provider of one source litigation, audit, and investigation support services for law firms and corporations seeking insight on electronically stored information. Headquartered in Salt Lake City, Utah, and with four locations nationwide, OrangeLT™ offers a complete suite of electronic discovery services to include collection, analysis, processing, review and production of both digital and paper-based information. Enabled by the OneO® Discovery Platform—an integrated, web-accessible electronic discovery platform that provides online analysis, processing, and review of unstructured data from the security of a hosted centralized repository—and augmented by best of breed electronic discovery partners.

## Contact

For more information on Orange Legal Technologies, visit our website at [OrangeLT.com](http://OrangeLT.com), contact us via email at [info@orangelt.com](mailto:info@orangelt.com), or contact us via one of our three domestic locations.

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<sup>i</sup> Consolidated Industry Research (<http://tinyurl.com/27jltmw>).  
<sup>ii</sup> Overby, S (2007) *ABC: An Introduction to Outsourcing*. CIO.com.  
<sup>iii</sup> Insourcing, Wikipedia, <http://en.wikipedia.org/wiki/Insourcing> (November 1, 2009)  
<sup>iv</sup> Special Report: SaaS, Information Week.