

ComplexDiscovery | Weekly eDiscovery Top Story Digest

June 5, 2013



Compiled by [@ComplexD](#) from online public domain resources, provided for your review/use is this week's update of key industry news, views, and events highlighting key electronic discovery related stories, developments, and announcements.

An information source for eDiscovery and information management professionals since 2010, the *eDiscovery Top Story Digest* is published weekly on the [ComplexDiscovery](#) blog and is also available via [email subscription](#).

Weekly eDiscovery Top Story Digest Update

eDiscovery Issues

- 6th Circuit Gives “Broad Discretion” to Determine Severity of Adverse Inference Instructions - <http://bit.ly/12Ticea> (Mike Hamilton)
- A Tutorial on Sampling in Predictive Coding (PDF) - <http://bit.ly/1aKlrqi> (Herbert Roitblat)
- Are Keywords Just Filters? <http://bit.ly/10MPcH1> (Craig Ball)
- Are Search Terms Work Product? <http://bit.ly/1b0XU5y> (Jessica Joseph)
- Breaking The Dam: Barristers Moving in to eDisclosure - <http://bit.ly/11cUvLv> (Chris Dale)
- Court Orders Adverse Inference for Failure to Prevent Automatic Deletion: Electronic Discovery Law - <http://bit.ly/136VLUD> (K&L Gates)
- Databases Lie! Successfully Managing Structured Data, The Oft-Overlooked ESI - <http://bit.ly/12OaTEz> (Conrad Jacoby, Jim Vint, Michael Simon)
- E-Discovery Data Subject to Export Control Laws (PDF) <http://bit.ly/14bgvf0> (Jayne Rothman)
- E-Discovery of Audio Data – What is Considered Reasonable? (PDF) <http://bit.ly/1aJED2> (Mayer Brown)
- Electronic Discovery Best Practices Update – <http://bit.ly/13mYnwj> (@RalphLosey)
- Employer Gets Adverse Inference Sanction for Failing to Preserve Data – <http://bit.ly/16HHMcL> (Brett Anders)
- Facebook Friend Not a Reason for Judicial Bias - <http://bit.ly/133Y5tR> (Peter Vogel)
- Hard Drive Turned Over to Criminal Defendant – Eight Years Later – eDiscovery Case Law - <http://bit.ly/114jZdQ> (Doug Austin)
- Highest Bidder Loses Spoliation Fight in Auction House Data Breach - <http://bit.ly/17ietwK> (Karin Scholz Jenson)
- ICAIL 2013 Workshop Papers on Standards for Predictive Coding, Machine Learning, and Other Advanced Search and Review Methods in eDiscovery - <http://bit.ly/18RA2EV> (ICAIL 2013)
- Inadequate Investigation/Discovery Now the #1 Cause of Claims - <http://bit.ly/17iQPA6> (Dan Pennington)
- Judge Tells Non-Party Google: Show Apple Your Search Terms - <http://bit.ly/1aDnDRI> (@BobAmbrogi)
- Judicial Candor - <http://bit.ly/171vh5U> (Monica Bay)
- Judicial Perspectives on E-Discovery at CEIC - <http://bit.ly/16nAuKV> (Sean Doherty)
- Local Rules, Standing Orders, and Model Protocols: Where the Rubber Meets the (e-Discovery) Road – <http://bit.ly/1aytXdt> (Thomas Allman)

- New Record Management Requirements Impact Public and Private Sector - <http://bit.ly/17brZIU> (Matt Nelson, Allison Walton)
- NYC Teacher Nearly Loses Job Due to Facebook Comments About Her Students - <http://bit.ly/1b0jJSP> (Jennifer Thibodaux)
- Opinion Highlights Questions Surrounding Proper Predictive Coding Protocols - <http://bit.ly/11SHnBb> (K&L Gates)
- Porn In The Cloud, Trouble In The Courtroom – <http://bit.ly/11cW5NI> (Joey Chindamo)
- Predictive Coding’s Complex Jargon Can Limit Promised Cost Savings - <http://bit.ly/1aEhnZL> (ACEDS)
- Predictive Coding Order Modified – Delaware eDiscovery Report – <http://bit.ly/154xZJA> (Ian McCauley)
- Quick Peek at the Math Behind the Black Box of Predictive Coding - <http://bit.ly/15CE6oA> (Jason Baron)
- Scraping For Dollars? Cut, Paste, Infringe - <http://bit.ly/1aKAVeW> (Anthony Dreyer, Xiyin Tang)
- Shred Days Still Causing Legal Problems - <http://bit.ly/1aXrmeT> (Joey Chindamo)
- Social Media Evidence in Government Investigations and Criminal Proceedings - <http://bit.ly/12iffZi> (Justin Murphy, Adrian Fontecilla)
- Some Additional Perspective on the EDRM Enron Data Set “Controversy” – eDiscovery Trends - <http://bit.ly/11fRdey> (Doug Austin)
- Spoliation: A *Sine Qua Non* of Spoliation Is That the Alleged Spoliator Be on Notice That the Evidence Is Potentially Relevant to Litigation - <http://bit.ly/1aV3PZQ> (Gregory Joseph)
- Survey Says – People, Process and Technology - <http://bit.ly/1438ed3> (Joe Kanka)
- Technology-Assisted Review Case Law Summary - <http://bit.ly/11fOy4p> (Adam Cohen)
- Technology Assisted Review, Predictive Coding & eDiscovery Podcast - <http://bit.ly/1aL7zND> (Josh Gilliland, Christine Chalstrom)
- The Future of Search in E-Discovery - <http://bit.ly/16pnEMo> (Andrew Bartholomew)
- Two Email Privacy Cases Put Stored Communication Act Back Into Spotlight - <http://bit.ly/17maKhB> (Joey Chindamo)
- You Might Want A Glass Of Wine: No Costs for Native File Processing - <http://bit.ly/12OYS1H> (Josh Gilliland)
- What Does Counsel Really Think About Predictive Coding? <http://bit.ly/11bkgjn> (Sophie Ross)
- What Forms of Discovery Are Permissible in Non-Compete Litigation? <http://bit.ly/16EIJCG> (Jason Cornell)
- When Duty to Preserve Meets Personal Social-Media Accounts - <http://bit.ly/1aXHJG9> (Bryant Bell)
- Why Run From eDiscovery? <http://bit.ly/1aAzTCc> (Kelly Twigger)
- Will Patent Infringement Litigation Cost Less Under the ITC’s New eDiscovery Rule? <http://bit.ly/16E9Q0t> (Gabriela Baron)
- Will Your Legal Hold Hold Up To a Challenge? eDiscovery Journal - <http://bit.ly/10MgSfh> (Mikki Tomlinson)
- Yet Another Victory: Court Rejects Sanctions for eDiscovery “Shortcomings” [@PhilipFavro](http://bit.ly/15dpsEc)

Corporate Risk

- 5th Circuit Affirms \$44.4M Jury Award for Misappropriation of Software Developed for Oil/Gas Industry - <http://bit.ly/10CEX8a> (Jay Yurkiw)
- 7 Items A Company Needs To Do After Being Sued In A Wage And Hour Class Action - <http://bit.ly/177j9Fw> (Anthony Zaller)
- 2013 RAND Corporation Symposium: Culture, Compliance and the C-Suite - 3 Papers - <http://bit.ly/17bvsRm> (Michael Volkov)
- COSO Releases Internal Control – Integrated Framework (2013) (PDF) [@KPMG_US](http://bit.ly/1aW8x9X)
- Current Top 10 FCPA Cases of All Time - <http://bit.ly/11owHZc> (Richard Cassin)
- EDRM Adds Updated DLA Piper’s “Data Protection Laws for the World” Handbook - <http://bit.ly/10D2J3Y> (EDRM)
- Eleventh Circuit Rules Best Buy’s ID Swipe Policy Does Not Violate Federal Privacy Law - <http://bit.ly/15x879t> (Kristi Wolff)
- Facebook Demand Laws: Closing In On Double Digits – <http://bit.ly/10C3hac> (Michael Schmidt)
- Federal Bill Would Institute Social Media Password Protection - <http://bit.ly/1aDuk67> (Ilyse Schuman)
- Fight IP Theft With Fire? <http://bit.ly/11gHKDK> (Lisa Shuchman)

- Financial Markets and Big Data: “Reckless Behavior” Replaces “Market Manipulation” As Standard For Prosecuting Financial Misbehavior - <http://bit.ly/1ayRZ7B> (@GregBufithis)
- Impact of America Invents Act on Litigation Stays Pending USPTO Proceedings - <http://bit.ly/17iefpy> (Ha Kung Wong, Robert Pierson)
- International Litigation Costs: A Comparative Study - <http://bit.ly/14eOFi7> (Santiago Cuerto)
- IP Protection in China: Strategies for a New Era | Dashboard Insights - <http://bit.ly/130K4NC> (Chao Meng)
- Numerical Valuations: Copyrightable Expression Versus Discovered Fact - <http://bit.ly/1aV717M> (Kristen McCallion)
- Outsourcing In A Complex Regulatory Environment Without Insourcing Additional Risks - <http://bit.ly/1aZOes7> (Douglas Trip)
- PC Lockdowns Eyed As IP Theft Tool - <http://ubm.io/174dCzG> (Mathew Schwartz)
- Pharmaceutical and Medical Device Compliance: Domestic and Foreign Bribery - <http://bit.ly/130JPSE> (Michael Volkov)
- Preparing for the Pressures and Opportunities Facing General Counsel (Podcast) <http://bit.ly/1aX5cHF> (Julia Chain)
- SCOTUS’ ‘Clapper’ Strengthens Data Breach Defenses - <http://bit.ly/1aDtglY> (Rebecca Shwayri)
- SEC Guidance on Reg FD for Social Media Communication - <http://bit.ly/12iqO2V> (Karina Bjelland)
- Social Hacks Will Equal Real Compliance Costs: How A \$136 Billion Market Shift Will Catch Regulator’s Attention - <http://bit.ly/116CWN2> (Devin Redmond)
- Survey Reveals the Role Social Media Plays in Mergers & Acquisitions—Karen Zimmer | LXBN - <http://bit.ly/1b1qtjm> (Colin O’Keefe)
- The Whistleblower Paradigm: How Companies Can Get In Front Of Potential Crisis - <http://bit.ly/10OwLC1> (David Martin)
- “Total”ly Milking The FCPA Cash Cow? <http://bit.ly/14aPoRb> (Mike Koehler)
- Tours of Duty: The New Employer-Employee Compact – Harvard Business Review - <http://bit.ly/14aORIC> (Reid Hoffman, Ben Casnocha, Chris Yeh)
- UK Court Rules 7-Word Tweet Libeled Lord - <http://bit.ly/17maQpw> (Eric Johnson)
- UK ICO to Assess Website Privacy Policies as Part of a Global Sweep - <http://bit.ly/18rauOL> (Cynthia O’Donoghue)
- UK Information Governance Toolkit – HSCIC - <http://bit.ly/11p9EO3> (Department of Health)
- Using Twitter to Promote Practice, Win Clients - <http://on.wsj.com/13XzgCt> (Veronica Dagher)
- Video: European Union Privacy Law – <http://bit.ly/142o5bH> (Teach Privacy)

Technology Considerations

- 6 Practical Tips for eDiscovery on Macs and other Apple Products - <http://bit.ly/18raFta> (Randall Burrows)
- Are In-House Lawyers Influenced by Social Media? <http://bit.ly/1aZPJGG> (Allison Shields)
- Are We There Yet? The Tipping Point in Social Media Application Acceptance and Success - <http://bit.ly/10LQDPf> (Martin Garland)
- Copying Grows Along with Data, Driving Attempts to Rein it in - <http://bit.ly/1aZmXWA> (Stephen Lawson)
- Database Trends and Applications (DBTA) 100: The Companies That Matter Most in Data - <http://bit.ly/10LWjj6> (Joyce Wells)
- Export Files and Custom Content Images in FTK Imager – eDiscovery Best Practices - <http://bit.ly/17maUWh> (Doug Austin)
- Finding the Cure for the Healthcare Unstructured Data Problem - <http://bit.ly/1aJCb1Z> (Bill Tolson)
- Few Federal Courts Use Social Media, Survey Says - <http://bit.ly/16DyvCx> (@BobAmbrogi)
- Finding Copyright Infringement With a Right-Click - <http://bit.ly/18M0krX> (Brian Glaser)
- Gmail Inbox Update: Hopes And Fears - <http://ubm.io/18zk3el> (Debra Donston-Miller)
- Google, Facebook Told U.K.: We Won’t Be Snoops - <http://ubm.io/1aV2lyY> (Gary Flood)
- Google’s Autocomplete Function Takes Another Overseas Beating - <http://bit.ly/12ioEk2> (@ITLexOrg)
- Is Technology Disruption Making Your Pricing Strategy Obsolete? | Sandhill - <http://bit.ly/16poCIq> (Eric Pelander, Jonathan Zorio, Apurba Pradhan)
- Is the Tech Revolution Here Already? <http://bit.ly/11g3prv> (Doug Caddell)
- Malware That Drains Your Bank Account Thriving On Facebook - <http://nyti.ms/11flmnc> (Nicole Perlroth)

- Mary Meeker Peers Into the Future of Mobile, Wearables and Facebook - <http://nyti.ms/1aDmdWY> (Jenna Wortham)
- Skype Does NOT Provide Secure Communications - <http://bit.ly/10Mh4ey> (@SharonNelsonEsq)
- Superb Source for Global and International Law - <http://bit.ly/1aKHU7C> (@BobAmbrogi)
- What Do You Plan To Use For RSS Reader with Google Reader Shut Down? <http://bit.ly/18PIbd4> (@KevinOKeefe)
- Why PCs Aren't Dead... Yet | <http://ti.me/135HjL5> (Tim Bajarin)

Vendor News

- 100+ Electronic Discovery Providers - <http://bit.ly/12ZWEwW> (@ComplexD)
- Vendor Clips Weekly Update for Week Ending June 4, 2013 – <http://bit.ly/17luAJS> (@ComplexD)

2013 Events

JUNE

The Fifteenth Annual International Techno Security Conference

June 2-5, 2013

Myrtle Beach, SC

[Click here for more information.](#)

The eDiscovery Training Academy

June 2-7, 2013

Washington, DC

[Click here for more information.](#)

25th Annual General Counsel Conference

June 5 – 6, 2013

New York, NY

[Click here for more information.](#)

International Conference on Artificial Intelligence and Law

June 10 – 14, 2013

Rome, Italy

[Click here for more information.](#)

E-Discovery for Corporate Market Conference

June 11-12, 2013

Chicago, IL

[Click here for more information.](#)

7th Annual Governance and eDiscovery Summit

June 12-13, 2013

Sydney, Australia

[Click here for more information.](#)

The 5th Annual Sedona Conference International Program On Cross Border Discovery and Data Protection

June 19 – 20, 2013

Zurich, Switzerland

[Click here for more information.](#)

The 3rd International Litigation Support Leaders Conference

June 20 – 21, 2013

Miami, FL

[Click here for more information.](#)

San Diego eDiscovery Retreat

June 30 – July 1, 2013

San Diego, CA

[Click here for more information.](#)

JULY

6th Annual Forensics and Incident Response Summit

July 9 – 10, 2013

Austin, TX

[Click here for more information.](#)

E-Discovery for Corporate Market Conference

July 17 – 18, 2013

New York, NY

[Click here for more information.](#)

Laguna Beach eDiscovery Retreat

July 28 – 29, 2013

Laguna Beach, CA

[Click here for more information.](#)

AUGUST

American Bar Association Annual Meeting

August 8-13, 2013

San Francisco, CA

[Click here for more information.](#)

ILTA 2013 Annual Conference

August 18-22, 2013

Las Vegas, NV

[Click here for more information.](#)

SEPTEMBER

E-Discovery for Corporate Market Conference

September 17 – 18, 2013

Houston, TX

[Click here for more information.](#)

2013 Conference on Preservation Excellence

September 18-19, 2013

Portland, OR

[Click here for more information.](#)

Hosting and Cloud Transformation Summit North America

September 23 – 25, 2013

Las Vegas, NV

[Click here for more information.](#)

Fifth Annual Intermountain eDiscovery Conference – 2013

September 26, 2013

Salt Lake City, UT

[Click here for more information.](#)

OCTOBER

Relativity Fest

October 6-8, 2013

Chicago, IL

[Click here for more information.](#)

Gartner Symposium/ITxpo

October 6-10, 2013

Orlando, FL

[Click here for more information.](#)

EDRM 2013-2014 Midyear Meeting

October 9-11, 2013

Saint Paul, MN

[Click here for more information.](#)

ACEDS 2013 Corporate E-Discovery Summit

October 10-11, 2013

San Francisco, CA

[Click here for more information.](#)

2013 EDI Leadership Summit

October 15 – 17, 2013

Santa Monica, CA

[Click here for more information.](#)

Innovate

October 17-18, 2013

Orlando, FL

[Click here for more information.](#)

LawTech Europe Congress 2013

October 21 – 22, 2013

Prague, Czech Republic

[Click here for more information.](#)

ACC 2013 Annual Meeting

October 27-30, 2013

Los Angeles, CA

[Click here for more information.](#)

NOVEMBER**KMWorld 2013**

November 6-8, 2013

Washington, DC

[Click here for more information.](#)

The Advanced eDiscovery Institute

November 21-22, 2013

Washington, DC

[Click here for more information.](#)

DECEMBER**E-Discovery for Corporate Market Conference**

December 11 – 12, 2013

Los Angeles, CA

[Click here for more information.](#)

Complex Discovery

For the latest eDiscovery news, visit [ComplexDiscovery](#).

To receive the *Weekly eDiscovery News Update* by email for eDiscovery news, corporate risk information and vendor clips, [click here](#).

