Considering Third Generation eDiscovery?

Two Approaches for Evaluating eDiscovery Offerings

Developed by Orange Legal Technologies, Providers of the OneO® Discovery Platform.

With the many products and services available in the marketplace today, the need to be able to uniformly contrast and compare electronic discovery offerings continues to grow. Though more and more vendors are providing tools and techniques tools that can help in considering and comparing their offerings, there continues to be a need for comparison frameworks to help electronic discovery professionals systematically evaluate offerings beyond pricing and through the lens of additional factors to include capability, delivery method, and integration.

Two Approaches for Evaluating eDiscovery Offerings

With this type of thorough and holistic comparison mind, this article provides a high level overview of two comparison approaches that legal professionals may find useful as they consider electronic discovery offerings.

The first approach, based on Geoffrey Moore's "whole product" concept[1], consists of taking into account all elements of an offering to help create a "**Complete Offering**" comparison.

The second approach, based on a **"Generational Model"** view of electronic discovery technology, helps individuals compare offerings' value based on their capability, delivery method, integration, and pricing.

Using these approaches to consider offerings across the three generations of electronic discovery offerings should help legal professionals not only determine the best electronic discovery offering available, but also determine the best electronic discovery offering for their specific needs.

The Elements of a Complete Offering

Before one can truly compare offerings, one needs to understand the specific elements of a complete electronic discovery offering. So what is a "complete offering"? In 1991 author Geoffrey Moore introduced the "whole product" concept to help technology leaders determine and develop offerings that were complete in the mind's eye of the user. This concept highlighted the fact that a whole product consists of not only a core offering, but also consists of those ancillary elements that help drive the value of the core offering (Figure 1).

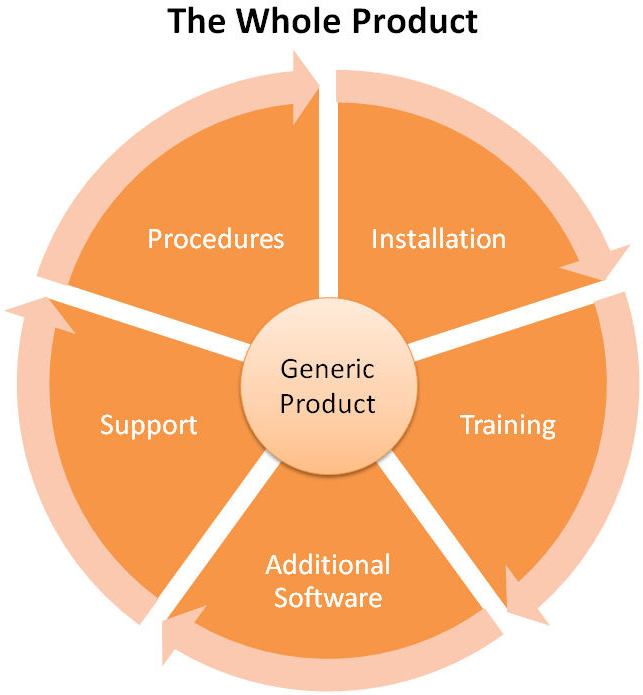

Figure 1 - The Whole Product Diagram

1 Geoffrey A. Moore. Crossing the Chasm: Marketing and Selling High-Tech Products to Mainstream Customer. New York: Harper Business, 1991, Revised 2006.

In adapting the whole product concept for electronic discovery offerings, it appears reasonable to suggest that a "complete eDiscovery offering" might consist of the following:

Core eDiscovery Offering (One or More of the Following Capabilities)

- *Analytics* – Identifying and eliminating irrelevant document sets as early as possible through the use of tasks to include indexing, filtering, near deduplication, sampling, and search term scoping.
- *Processing* - Preparing relevant files for subsequent use through the use of tasks to include filtering, de duplication, extraction, and conversion.
- *Review* - Defining and examining a data set for relevance, responsiveness, privilege, and/or confidentiality.

Enabling Elements (One or More of the Following Elements)

- *Hardware* – The mechanical and electronic parts that constitute a computer system.
- *Software* – The set of instructions (programs) that cause a computer to perform one or more tasks.
- *Connectivity* – The infrastructure that allows computer networks to link to people and resources.

Complementary Elements (One or More of the Following Elements)

- *Architecture* - The design of a computer system that sets the standard for all devices that connect to it and all the software that runs on it. It is based on the programs that will run and the number of programs that run concurrently.
- *Protocols* - The formats and procedures that govern the transmitting and receiving of data.
- *Interfaces* – The way users communicate with the computer by manipulating icons and windows with a mouse.

Complementary Services (One or More of the Following Services)

- *Consulting* – Providing expertise and/or specialized advice.
- *Training* – Providing users familiarization and proficiency through specialized instruction and practice.
- *Support* – Providing assistance through attempting to help the users solve specific problems with an offering.

By understanding the elements of the whole product and applying it to electronic discovery to form a basis for a complete electronic discovery offering (Figure 2), one can then begin to uniformly compare and contrast electronic discovery offerings in a systematic, complete manner.

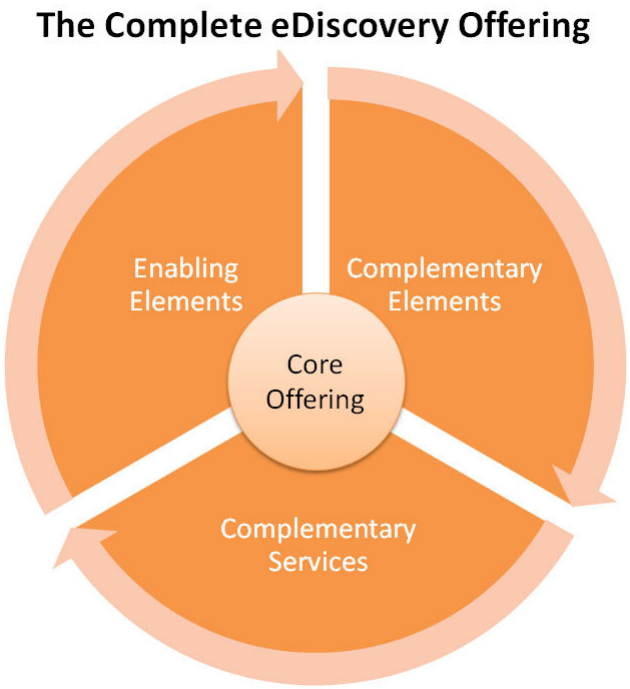

Figure 2 - The Complete eDiscovery Offering

Another methodology that may be useful in comparing offerings is the Generational Model of eDiscovery Classification.

Generational models of classification are not new to technology. These models have driven discussions of such important technologies such as wireless connectivity (i.e. 3G) and computer processing units (i.e. 7th Generation Processors). The classification of technology generations is generally based on a new design or approach that truly changes the way the technology performs. When considering eDiscovery technologies, this same classification approach appears to be a reasonable way in which consider comparisons between available products and services. With design focus and integration approach in mind, current electronic discovery products and services appear to fall into one of the three generational categories depicted in Table 2.

Generation	Design Focus	Integration Approach
1st Generation	Adapted for Electronic Discovery	Adapted for Task Integration
2nd Generation	Designed for Electronic Discovery	Adapted for Task Integration
3rd Generation	Designed for Electronic Discovery	Designed for Task Integration

Table 2 - Generational Look at Electronic Discovery Offerings

Generational Differences in Design Focus

In considering the differences in design focus, it appears that eDiscovery offerings in the marketplace today were either **adapted** for eDiscovery or **designed** for eDiscovery. Depending on specific needs, this generational difference may or may not be important in choosing an eDiscovery offering. However, it does appear reasonable to assert that eDiscovery offerings that were not designed specifically for eDiscovery run the risk over time of lacking both the capability and/or flexibility of offerings designed specifically for eDiscovery.

Generational Differences in Integration Approach

In considering the differences in integration focus, it appears that eDiscovery offerings in the marketplace today were either **adapted** for eDiscovery task integration or **designed** for eDiscovery task integration. Depending on specific needs, this generational difference may or may not be important in choosing an eDiscovery offering. However, it does appear reasonable to assert that eDiscovery offerings that were not designed specifically for eDiscovery task integration *run the risk over time of lacking both the capability and/or flexibility of offerings designed specifically for eDiscovery task integration.*

Beyond General Design and Integration Approach Focus

In looking beyond an offering's general design focus and integration approach, it appears important to understand the distinct differences that stem from whether a product or service is adapted for or designed for eDiscovery and eDiscovery task integration (interoperability). This understanding can be developed by answering the following questions pertaining to an offering's *capability, delivery method, integration,* and *pricing.*

Capability: What is an offering's capabilities?

- Does the tool provide Analytics?
- Does the tool provide Processing?
- Does the tool provide Review?

Flexibility: How well does it integrate with other electronic discovery tasks?

- Can the offering work with other eDiscovery offerings with additional data transfer development?
  (Can the offering be adapted for integration?)
- Can the offering work with other eDiscovery offerings by using standard data transfer protocols (XML/Load Files)?
  (Can the offering use intrinsic design for integration?)
- Can the offering work with other eDiscovery tasks within its design platform without requiring additional data transfer development or data transfer protocols?
  (Does the offering have application level integration?)
- Is the offering flexible enough to accomodate changes necessary to meet task needs driven by future court decisions?
  (Is the offering adaptable enough for task refinement and/or change?)

Delivery: What is the offering's delivery model?

- Does the offering require purchasing of hardware and/or software?
- Does the offering require purchasing of a hardware/software/firmware integrated appliance?
- Is the offering delivered as a managed service?
- Is the offering delivered as Software as a Service (SaaS)?

Affordability: What is the offering's pricing model?

- Does the offering require purchasing of hardware, software, and/or an appliance?
- Does the offering require payment for licensing and/or maintenance?
- Does the offering require payment for usage via a subscription?
- Does the offering require payment for usage (i.e. data volume, document volume, time utilized)?

Taking the understanding of an offering developed through consideration of the aforementioned questions, one can then begin to truly compare and contrast eDiscovery offerings through the use of a simple Generation Model of eDiscovery Classification.

Tying It All Together – The Generational Model of eDiscovery Classification

In looking at both an offering's *design focus and integration approach as well as being able to determine an offering's capability, flexibility, delivery model*, and *affordability, one can* visually compare and contract different offerings using the Generational Model of Electronic Discovery Classification (Figure 3).

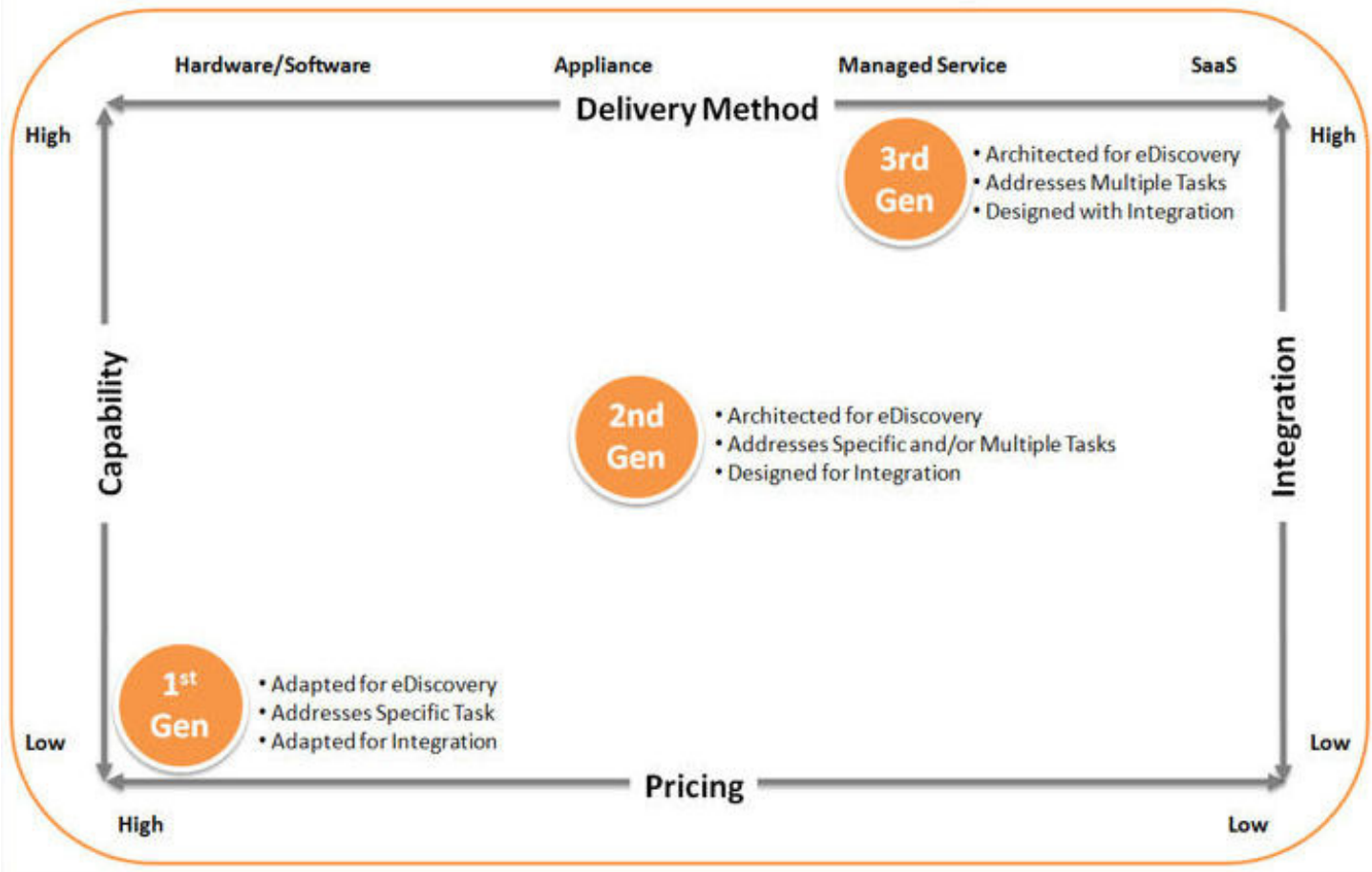

Figure 3 - Generational Model of Electronic Discovery Classification

This model portrays in a general fashion where most generational offerings fall in relation to capability, delivery method, integration, and pricing.

Combining "Complete Offering" and "Generational Model" Comparisons

By combining the **"Complete Offering"** comparison elements and the **"Generational Model"** comparison elements , legal professionals should be able to consistently consider, compare, and contrast eDiscovery offerings in relation to both organizational needs and available market offerings.

Considering A Complete Third Generation eDiscovery Offering?

Orange Legal Technologies' OneO® Discovery Platform is a **complete eDiscovery** offering that consists of a web-accessible platform **designed specifically for eDiscovery** and that enables **online analysis, processing,** and **review** of unstructured data from the security of a hosted centralized repository. **Designed with application level integration,** OneO® offerings are delivered under a **Software as a Service (SaaS)** model that requires no incremental investment by the client for hardware, software, or support personnel. Complete **training, support and consulting services** complement the core **analytics, processing, and review** capability to ensure that OneO® allows users to gain and maintain full control of the electronic discovery process.

Consisting of an integrated platform organized into three service modules, the key capabilities of OneO® are as follows:

OneO® Analytics

- *Data Preparation* allows for the ingestion and normalization of unstructured data as well as ensures that data is managed in a forensically sound manner.
- *Data Indexing* provides a comprehensive index that includes full text and metadata attributes and can quickly be queried online to organize, understand, and assess available data.
- *Data Reduction and Organization* is accomplished through the combined use of culling and filtering technologies that provide system file, date range, extension, custodian, and key word filtering as well as the application of near duplicate identification.
- *Data Understanding* is facilitated with unique features to include interesting phrase finder and conversation thread linking technologies allowing for analysis of data within context of its use.
- *Early Case Assessment* is the combined leveraging of the preparation, indexing, organization, and understanding capabilities of O1 Analytics to provide users with the ability to balance opportunities, risks, and costs in preparation for litigation, audits, and investigations.

OneO® Processing

- *Data Filtering* provides the capability to filter data by date ranges, extensions, custodians, and key words as well as allows for system file filtering against the NIST database using the MD5 hashing algorithm.
- *Data Deduplication* is provided using the MD5 hashing standard and can be accomplished throughout processing at both the global and/or the document family group level.
- Metadata Extraction allows for the efficient capture of system, file, and field metadata for most unstructured data formats.
- *Full Text Extraction* is conducted automatically in O2 Processing and is augmented as required by streamlined exception handling procedures to support secondary extractions via OCR and print driver text recognition.
- Data Conversion allows for the full conversion of native file formats into high quality TIFF images and PDF documents while also supporting native file linking.
- *Load File Preparation* allows for the seamless production of standard output files based on XML, Pass Through, Image, Native, and Proprietary Database Load Formats to ensure ease of use with industry standard review tools to include O3 Review.
- *Custom Database Development* allows for the proactive development of custom databases that enables the usage of non-standard review tools and technologies with O2 Processing.

- *Foreign Language Support* is enabled through integrated Unicode Consortium standards and covers 52 worldwide writing systems allowing for the scoping, searching, and review of data sets without the requirement for additional translation modules or services.
- *Web Based User Access* allows for secure access of data sets and the full conduct of review from any geographical location with Internet access without the requirement for additional client-side applications or programs. This capability allows for the use of geographically dispersed review teams that can be quickly pulled together virtually to manage and complete time-sensitive, coordination-intensive review requirements.
- *Integrated Collaboration* between reviewers increases the collective experience and knowledge of legal review teams while decreasing the time it takes to communicate and coordinate review issues.
- *Integrated Workflow* allows for the proper coordination of documents, reviewers, and technology by allowing for the automation of review processes to include reviewer roles, responsibilities, tasks and timelines.
- *Audit and Reporting* features allow users to customize and automate review reports to support both scheduled and real-time status updates.
- *Inclusive Review Proficiency* Training is provided as part of the O3 Review to ensure review teams are fully prepared, proficient, and supported in their review efforts.

In addition to the individual attributes of O1 Analytics, O2 Processing, and O3 Review, the OneO® Discovery Platform provides users with increased efficiency and decreased risk based on the following benefits:

- *Implementation*: Quickly deploy, customize, and securely access a hosted data repository that may immediately be used by multiple individuals from multiple locations to analyze and review data.
- *Centralization:* Allows for time-efficient, complex searches against large volumes of documents from a centralized electronic discovery platform architecture.
- *Defensibility:* Chain of Custody tracking down to the file level, to include extracted compound files and embedded files, throughout the discovery process ensures that both the discovery process and the data are defensible.
- *Scalability:* Provides capability to take full advantage of all available processing power regardless of the size of the data set being reviewed or the complexity of the review queries. The investment protection provided by scalable and centralized server architecture ensures that growing capacity requirements do not adversely affect electronic discovery capability.
- *Security:* Provides for secure online access to a centralized hosted and secure data repository with forensically sound processes and protocols to ensure both physical and digital security.
- *Usability:* Developed using industry accepted and user understood graphical user interface metaphors to ensure easy and intuitive use by end users.

While having the attributes of a Complete Third Generation eDiscovery Offering as well as having a high degree of capability and flexibility, the SaaS delivered OneO® Discovery Platform is also highly economical when considered against current electronic discovery alternatives in the marketplace today.

Conclusion

With the many electronic discovery products and services available in the marketplace today, it is becoming increasingly challenging to compare and contrast these offerings in a holistic and consistent manner. While there are many tools that may help in these comparisons, it is important for those comparing offerings to have a complete and consistent approach for comparison conduct. The use of the two approaches to comparing electronic discovery offerings shared in this article - the **"Complete Offering" Approach** and the **"Generational Model" Approach** - appear to provide the framework for both a complete and consistent approach to comparing offerings and can be useful in helping legal and IT professionals determine not only the best electronic discovery offering, but also the best electronic discovery offering for their specific needs.

To learn more Orange Legal Technologies and our OneO® Discovery Platform, contact us at OrangeLT.com, via email at info@orangelt.com, or via one of our four domestic locations.

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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, Orange Legal Technologies has participated as member of the Electronic Discovery Reference Model (EDRM) and the International Legal Technology Association (ILTA).
For more information on Orange Legal Technologies, visit http://www.orangelt.com.