



E-Discovery and the Role of Outside Counsel

The role of outside counsel should begin long before the threat of litigation and the burden of document production. Clients are too often poorly prepared for this massive data exchange. Absent planning and preparation, the cost of document discovery is overwhelming, the process is disruptive, and the risks are unnecessarily high to both client and counsel.

It is imperative that law firms work closely with their clients well in advance of any litigation and provide the advice and guidance needed to ensure that the client is truly prepared to respond efficiently and effectively to discovery. To add lasting value, this support must go beyond traditional high-level policy, and address the challenges created by the unprecedented growth of enterprise data. Specifically, this means:

- Formulating practical records retention and information management policies;
- Cleaning the massive volume of legacy data no longer required for current business, regulation, or on-going litigations and investigations;
- Effectuating policies on legacy, existing, and newly created data, whether that data exists on desktops, laptops, email servers, file shares, or document management or structured data systems;
- Implementing procedures and processes for assessing a case as early as possible;
- Planning for forensically sound methods of identifying relevant documents *in place*, prior to expensive collection efforts;
- Iteratively and dynamically collecting and migrating data to a review platform with state-of-the-art search and production capabilities at a competitive price;
- Utilizing machine learning tools that allow client data, as well as data produced by other parties, to be reviewed effectively and efficiently; and
- Identifying experts in machine learning to attest to the soundness of the client's document production and identify any flaws in productions from other parties.

Presently, at many enterprises, these critical steps are either not being implemented, or are being performed poorly by non-legal consulting firms without guidance from outside counsel – to the detriment of clients and adding unnecessary risk to the law firm. If counsel guides these steps, a client's strategic litigation position is enhanced, costs are reduced, and the attorney-client relationships will be significantly strengthened.

Rational Retention ("RR") is ideally positioned to assist the law firm in this effort by providing the most advanced technology for information management and litigation readiness available today.

Unique Features

Rational Retention's end-to-end platform uniquely enables law firms and clients to prepare better for litigation. Lightweight software installed in desktops, in file shares, email, and content management systems allows visibility, auditability, and explicit control over all data. Advanced machine learning technology facilitates retention policy classification and automated document review.

RR's proprietary software extracts text and metadata from all documents (unstructured data) and indexes that data, enabling search and strict management with respect to their lifecycle and location in accordance with an enterprise's retention policies. During litigation, administrative users can hold any managed document in place, analyze for relevancy, and then collect a refined set from a central terminal. Moreover, throughout a document's lifecycle, RR maintains an audit trail of all document access, allowing rich metadata to be gathered about enterprise data. The ability to have complete visibility and auditability into each document at inception and control it throughout its lifecycle is unique to Rational Retention.

RR's machine learning technology was created with Dr. Constantin Aliferis and his team of leading academics in the field. Using this technology, documents controlled by RR's enterprise software are automatically classified into their appropriate retention policies. Similar machine learning technology can be used during document review to provide automated coding of documents to be produced, or analyze documents produced by other parties. The machine learning technology applied to document review is not only less expensive and faster, but also far more accurate than manual review. Machine learning can also be applied to structured databases.

Rational Retention Products

Rational Enterprise (RE) enables information governance and compliance by capturing existing and tracking new user content on desktops, in file shares, email, and content management systems, resulting in fully visible and controllable documents. Organizations can determine where sensitive information resides and retain, move, or destroy information per policy, without disrupting the normal course of business. Integrated discovery response capabilities include rich search, preservation in place, collection, review, redaction, and production. RE's classification and audit functions provide additional metadata to understand information better. The result is simple and efficient responses to discovery demands that ensure real compliance and provide immediate insight into relevant information. By controlling documents and the discovery process from the start, the time, costs, and risks associated with compliance and litigation are dramatically reduced.

Rational Intelligence (RI) is a machine learning platform for legal and compliance. RI is the most accurate, efficient, and defensible text classification and predictive coding platform. With RI, documents are reviewed by sophisticated technology as an alternative to large-scale contract attorney review. Knowledgeable attorneys review a small representative sample. Their intellectual power and insights are leveraged across the universe of documents to be reviewed; RI learns from the sample and creates a statistical model to be applied automatically to the balance of documents. RI allows unique transparency by showing the specific document characteristics learned by the technology and represented in the statistical model. RI provides companies, their lawyers, and courts unparalleled assurance of the accuracy and defensibility of the results. The result is improved review accuracy with massive reductions in time and cost. Most importantly, overall quality is enhanced: lawyers most familiar with the case are involved earlier in the review process and documents for depositions and trial are readied at unprecedented speed. Confidence and responsibility are brought back to the most senior lawyers.

Rational e-Discovery (ReD) is a full-featured hosted litigation review platform. Hosted in secure data centers, ReD is offered at a fraction of the cost of most alternatives. Pricing is simple and predictable with a fixed-fee schedule for unlimited users and matters, tiered on the amount of data. Capabilities include massive scalability, rich analytics, and flexible security – all backed by a client services team experienced in some of the most complex litigations of the last decade. Organizations using ReD in concert with our other products will realize further savings. Enterprise content from RE and predictive coding data from RI can be seamlessly integrated into the ReD repository at no cost. Not only are processing fees eliminated, but loading time is reduced from days to hours. ReD can also be installed behind the client’s firewall or customized for the law firm to enhance the attorney-client relationship.

Contact Information:

Michael McCutcheon

Director Business Development & Technology Strategy

Rational Retention

2 Tower Place, Albany, NY 12203

Office: (518) 489-3000

Cell: (973) 464-7153

Email: mmccutcheon@rationalretention.com