The Kroll Ontrack 2014 ediscovery trends survey unveils fascinating developments about predictive coding, cybersecurity, social media and more from hundreds of litigation technology professionals.
ABOUT THE SURVEY

THE RESULTS
1. Predictive Coding
2. Social Media
3. BYOD
4. Internet of Things
5. Security

WHAT IS THE NEXT BIG EDISCOVERY TREND?
In October 2014, Kroll Ontrack surveyed over 550 law firms and corporate ediscovery professionals. The survey consisted of 8 questions about the everyday practice of ediscovery to determine trends in the past 12 months.
1. Predictive Coding

Predictive coding has been a hot topic among the judiciary and ediscovery practitioners for the past few years, but 2014 marked a year of growing acceptance for its use in discovery matters. Respondents demonstrate the growing acceptance of predictive coding among practitioners, not only among the courts. Significant predictive coding opinions in 2014 included:

- Dynamo Holdings v. Comm’r
- Progressive Casualty Insurance Company v. Delaney

40% of law firms and corporations used predictive coding technology on at least one matter in 2014.

This indicates an increased willingness to rely on the technology, as an attempt to reduce costs or to increase efficiency in document review, or both.

There is higher overall acceptance of predictive coding among law firms.

47% of law firms used predictive coding on one or more matters in 2014.

35% of corporations used predictive coding on one or more matters in 2014.
1. Predictive Coding

WHY USE PREDICTIVE CODING?

Of the respondents who answered in the affirmative to whether they used predictive coding in 2014, they further specified as to what uses they had for the technology.

First and foremost, the survey response demonstrates the varied uses of predictive coding. Many think of predictive coding as simply a tool to use in discovery productions, and while the survey indicates this as its main use, it is not its only use. Ediscovery practitioners are finding new and creative ways to put predictive coding to work to their benefit.

### TOP 5 USES OF PREDICTIVE CODING

1. **Discovery Productions**
   - 72.6%
2. **Early Case Assessment**
   - 46.5%
3. **Pre-litigation Investigation**
   - 30.7%
4. **Defensible Deletion**
   - 12.6%
5. **Information Governance**
   - 10.2%

26% of respondents used Predictive Coding for both Discovery Production & Early Case Assessment.
In this digital age, we chronicle our lives on social media with posts and messages through apps like Facebook, Twitter, Instagram, Vine, and Snapchat. However, social media is not limited to personal use. Companies now leverage these platforms to build relationships with their targets and market their products.

For ediscovery practitioners, social media data presents numerous issues, including privacy, discoverability, preservation, collection and authentication of data. While those issues remain hotly contested, it cannot be contested that social media data is spilling over into ediscovery matters, with over 50% of the respondents involved in a matter that used social media data.

Over 50% of the survey respondents were involved in a matter that contained social media data.

# of Matters Involving Social Media

- 0: 49.4%
- 1 - 2: 31.5%
- 3 or more: 19.1%
As more and more devices become connected, companies have increasingly set “bring your own device” (BYOD) polices. This has created greater intermingling of business and personal data. In turn, we should expect to see personal BYOD devices playing a greater role in ediscovery matters.

While 42% of respondents experienced no ediscovery matters involving data from personal devices in 2014, the majority (58%) reported that they had experienced ediscovery matters where data from personal devices played a role. Of those surveyed, 26% were involved in three or more ediscovery matters where personal data from BYOD devices played a role.

58% of law firms and corporations reported that they experienced ediscovery matters involving data from personal devices.

# of Matters Involving BYOD Devices

- 0: 42.3%
- 1 - 2: 31.6%
- 3 or more: 26.1%
4. IoT

ARE YOU READY FOR THE INTERNET OF THINGS (IOT)?

If the Internet of Things (IoT) isn’t on your ediscovery radar, it should be. IoT is a network of physical devices communicating with each other without the need for human supervision. IoT will be a growing source of new litigation data within the next decade, and the time to prepare is sooner, rather than later.

Over two-thirds of respondents indicated that they have at least heard of IoT, but only 29% believe that IoT devices will impact ediscovery in 2015 and have taken actions to prepare. New technologies grow rapidly, and it’s important for firms and corporations to stay ahead of the curve. Otherwise, they risk being left behind.

- 29% Have heard of IoT and are preparing for its impact on ediscovery
- 38% Have heard of IoT, but have made no preparations
- 33% Have not heard of IoT

The good news: most legal professionals have at least heard of IoT, and there is still time to prepare for its ediscovery impacts.
5. Security

BIG DATA = BIG SECURITY RISKS IN LITIGATION

Security was a weighty topic in 2014, with 62% of respondents indicating that security concerns impacted their organizations’ ediscovery practices in some way. However, the remaining 38% of respondents indicated that their organizations did not conduct internal discussions, hire an outside consultant or make any changes to internal security infrastructure.

For the majority of respondents, security was at least a consideration in 2014. While only 8% hired a security consultant, 32% considered the issue of security internally, and a healthy 23% actually made changes to security infrastructure. Security will always be an issue, and it will likely become a bigger issue in the future. The majority recognized that fact, but some may still need to address it in 2015.
Ediscovery has always been at the cutting-edge of the law, and business and legal professionals need to stay up-to-date while trying to plan for the future. Respondents to Kroll Ontrack’s 2014 Ediscovery Trends survey indicated that 2015 will be an stimulating year for ediscovery, predicting that there will be:

- Greater focus on information governance practices (26%),
- Improved use of analytics to deal with Big Data (26%), and
- Increased adoption of predictive coding (19%).

Corporate and law firms appreciate the cost-cutting benefits of predictive coding and expect the technology to become more widely embraced in the next 12 months. Corporations and law firms understand that Big Data is only going to get bigger, and ediscovery analytics can help legal teams respond to the growth in ESI.

Information governance is increasingly linked with ediscovery, and both law firms and corporations anticipate this link to grow stronger as the amount of data to be preserved and processed escalates.
Kroll Ontrack provides technology-driven services and software to help legal, corporate and government entities as well as consumers manage, recover, search, analyze and produce data efficiently and cost-effectively. In addition to its award-winning suite of software, Kroll Ontrack provides data recovery, data destruction, electronic discovery and document review services.

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