

Gaining Competitive Edge and ROI with Redact-It's Electronic Redaction Tool

By Sean O'Keefe

My firm, based in Newport Beach, CA, specializes in bankruptcy and creditors' rights. As part of its practice, the firm regularly pursues and defends insolvency-related litigation in the federal courts. This kind of financial litigation is inherently document-intensive — often involving thousands of documents that must be reviewed, identified and scanned during the discovery process.

Twenty years ago, I would spend days wading through hundreds of boxes in hot, dusty warehouses and storage rooms, trying to piece together the documentary evidence necessary to support or defeat the claims involved in the litigation contest. Once the documents were culled from this source, each document would then be logged and photocopied for trial.

Today, the discovery universe is very different. Large bodies of documents are already in digital form when litigation is initiated and the balance can be quickly digitized through high-speed scanners. This allows litigants to create a commonly accessible database (although the arguments still rage over who pays for what) and once all of the data is digitized, the lawyers can efficiently search, identify, log, and where appropriate, redact privileged matter, all without leaving their desks.

This electronic convenience is also very timely. The current economic downturn has dramatically increased the number of corporate Chapter 11 filings. Business bankruptcies are typically document intensive, and the litigation that arises within these cases can generate massive discovery burdens. For

Sean O'Keefe is principal and founder of O'Keefe & Associates Law Corporation P.C. in Newport Beach, CA. The firm specializes in bankruptcy and creditors' rights law.

example, in one bankruptcy-related litigation matter that I am working on, we have exchanged over 60,000 documents with opposing counsel during the last three months, and this is not a particularly large case. Document repositories with well over a million document pages are not uncommon in this environment.

RESISTANCE IS FUTILE

Although some lawyers have resisted the digital revolution, this is no longer an option. e-Filing is now mandatory in the federal courts, and state courts will soon follow this trend. Unless a firm wants to outsource this function (e-filing), high-speed scanning technology is a must, since substantially every e-filed document must be in PDF format. Fortunately, the cost of this technology is now reasonable, and PPM scan rates have dramatically improved.

The move to electronic filing has come with its own set of rules. For example, the Dec. 1, 2007 amendments to the 2002 e-Government act (Appellate Rule 25, new Bankruptcy Rule 9037, Civil Rule 5.2, and Criminal Rule 49.1) require filers to redact personal identification information from documents filed with the court. Personal information includes, but may not be limited to, Social Security and Taxpayer Identification numbers, the names of minor children, financial account numbers, dates of birth, and, in criminal cases, home addresses. Although this information should have been removed during the "paper filing" days as a matter of prudent practice, it was frequently overlooked. Now, failing to redact this information could have severe consequences for the filer.

REDACTION SOFTWARE

Redaction has always been one of the more time-consuming burdens inherent in the discovery process. For example, a single tax return in a complicated case can have more than one hundred pages of data, and half of these pages can include a Social Security or Tax Identification number. Every one of these entries must be redacted. That's 50 entries in a single document. In a case with 30 or 40 tax returns, thousands of redactions may be required just to eliminate these entries. When other

appropriate privilege based redactions are factored into the mix, the burden on lawyers and litigants can be overwhelming, particularly since each redaction must be identified and explained in a log for opposing counsel.

Years ago, my staff and I used the time-honored manual method of redaction. We printed copies of the documents to be redacted, used a black marker or redaction tape to cover the content to be protected, and then made enough photocopies of the page to ensure the text was completely blacked out. Then we would scan the document back into the system and along the way re-review the document to ensure all privileged and privacy data was blacked-out. In cases involving tens of thousands of documents, this was a time-consuming and mind-numbing burden that was prone to human error. Although in recent years, we have used various software programs to mitigate this burden, few of them provided the flexibility and convenience necessary to materially lessen the burden.

About a year ago, when I was again faced with a case that would require the redaction of thousands of entries, I decided to search the Internet for new redaction software that would ease this burden and reduce the associated costs. My search led me to a product called Redact-It Desktop, which was made by Informative Graphics out of Arizona. Redact-It is an electronic redaction software program that allows me to review documents electronically and search for privileged content. The program enables me to efficiently and automatically remove privacy information — including all information that requires redaction for filing into the federal system — add reason codes for each redaction, and then generate a log for opposing counsel.

In April 2008, I purchased a single license for \$195. The installation was fast and easy — I basically ran an executable file to install Redact-It, opened the program and started using it that day. The intuitive tools

continued on page 4

Redact-It

continued from page 3

and visual presentation allowed me to integrate the program into my practice, without the time and cost of formal training. I found the software to be effective, flexible, and most importantly, user friendly. You don't have to be a rocket scientist to figure it out.

Although Redact-It certainly saved me time, I also needed the program to be accurate and comprehensive. Even with the benefit of this new electronic tool, I typically will do several passes over the material. First, I use Redact-It's built-in tool for finding privacy information, like Social Security numbers. Then I search for the actual Social Security number in question with the text search tool to be sure nothing was missed. Even using two search methods, it takes just seconds per document. Since I still am a firm believer that there is no substitute for the human eye, I still perform a visual review.

IMPROVEMENTS AND ROI

Redaction errors or omissions can have serious consequences for the client and for the lawyer. So I was very glad to see that Informative Graphics heard the pleas of

the legal community when they developed the latest version of their software, version 1.1, which implemented tools that make the final review easier. I have just started using this version, but there is an option to show just a few lines of the document at a time for a focused view. I just click a "down arrow" to progress the view window to the next document segment until the entire document has been read. When I complete this kind of review, the program creates a log entry, along with every other redaction function performed. The improvements also make it possible to record redaction steps on the first document, and to automatically apply these same steps to other documents as soon as they are opened. This feature makes sure nothing is missed within the documents and it saves even more time.

Redact-It has been huge from a ROI standpoint, providing cost and efficiency benefits for both my practice and my clients. On small cases, with a few hundred documents, I can save several hours, which at current hourly rates is a major plus for my clients. In the larger cases, the savings are even greater. This technological enabler also allows me to

focus on other more important tasks, or better still, to take some time off. For a one-time charge of \$195, I am saving my clients thousands of dollars and improving the quality of my practice.

Eventually, all lawyers will be doing redaction electronically; but for now, many attorneys insist on doing redaction the old-fashioned way, with markers or redaction tape, and it's costing them and their clients' time and money. So to those still resisting technology and change and clutching their markers and tape, I am here to tell you that to stay competitive, electronic tools are essential. The cost and time savings are just too important to ignore.

Discovery is tedious and expensive, and whatever technological tool will get me through the process the most quickly, without sacrificing my objectives, is at the top of my list. For me, Redact-It fits the bill in the redaction arena. I am able to save both my sanity and my time while saving my clients' money and increasing accuracy. This helps me to maintain competitive advantage. Few tools at that price can do that much for the bottom line.



Data Map Process

continued from page 1

IT'S ALL ABOUT THE (MAP) COORDINATES

At its core, a data map is an inventory of the sources of data within an organization, the names and types of applications or platforms that store this data, the processes that manipulate the data, how the data flows within various business processes and how this data is stored, retrieved and accessed.

Ganesh Vednere is a manager with a global financial service consulting company based out of New York. He has expertise in implementing information and compliance programs including e-discovery, compliance research, records management, legal research and program implementation. He can be reached at gvedn@comcast.net.

Start with existing data infrastructure, record and business process inventories. Typically, the IT infrastructure team will have the list(s) of system infrastructures, their locations, business/IT owners and platform names. The records management team will have an inventory of the various types of records generated through the course of business along with the requisite record metadata, such as record description, owner, location, formats and retention period. The operations team will have a list of the various business processes, process descriptions, process inputs and outputs, owners, process dependencies and the applications and systems that are used to execute the process.

Work with HR to obtain organizational charts that show the various hierarchies, roles and responsibilities within the organization. In addition, the information security team can

provide a list of security and access groups by the various applications. Obtaining accurate and complete inventories is always a challenge. While it behooves organizations to spend upfront time and resources in ensuring that these lists are as accurate as possible, the data map team must make adequate contingency plans to account for the errors and omissions in the lists provided to them.

Once existing lists and inventories are obtained, the next step is to start mapping the data types to corresponding applications, platforms, owners and business processes. The data map team also needs to conduct walkthrough sessions with the various stakeholders to discuss how the data moves from one application/business process to another. A data map needs to incorporate

continued on page 5