

TechTalk:



One Size Fits All Technology?

By Kevin Carr, President, InterLegis

Editor's note: Each month, Kevin Carr will share his insights about discovery technologies in an easy-to-read straightforward manner. Check each edition of ALSP Update to stay abreast of his view on technology topics and trends. In this article, he discusses the limitations of "one size fits all" technologies.

On a recent trip to Boston, I had the pleasure of catching an afternoon baseball game at Fenway Park.

Disclaimer to all you die-hard baseball fans (especially Yankee fans): This is NOT a statement of my allegiance to the Red Sox. I simply love seeing games at historic venues.

Anyway, while I was there, I bought a souvenir Sox hat. You know, the classic blue one with the red "B" logo? It was one of those "one size fits all" hats. But when I put it on, I found that it didn't really fit me the way I wanted it to. No matter how much I adjusted, I couldn't get it to look right on my head. And as I surveyed the crowd of people wearing the same kind of hat, I realized that "one size fits all" isn't really a completely accurate statement.

Sure, most looked fine in the hat. But some hats in the crowd fit so tight that the wearers looked like their eyes were about to pop out of their head. There was one guy whose noggin was so big, his hat looked more like a bird's nest perched on top of his dome — a single strong wind would surely blow it right off. And one lady's head was so tiny that the hat, even at the smallest setting, engulfed her head, completely hiding her eyes. And she had a funny protruding shape at the back of the hat as a result of too much extra material with no place to go, which looked like she had a bill on the front and a beak on the back. Then there was this other guy with really big hair jutting out in every direction. For him, wearing a hat seemed pointless, as it didn't even touch his head. Instead, it looked like the hat was simply wedged into his big mane — I wonder if he even knew it was up there! So it was clear these hats don't always deliver as advertised.

As Seen in:



Yes, "one size fits all" will likely do the job for most people. But have you ever tried on a fitted baseball hat? I mean one made to fit the exact diameter of your head? I wear a size 7.25 – your average-sized melon, I guess. But if you've worn a hat that fits EXACTLY to your dimensions, it feels like it was made just for you ... because, well, it pretty much was.

And this is true of most things in life. "One size fits all" really only works for forks and spoons. Everything else requires a bit of customization. This is especially true with technology – particularly when dealing with the legal industry. There are too many moving parts to what we do. And specifically, when dealing with discovery technologies, your needs will differ from case to case. Since litigation support is what we do, I'll focus on the technology that facilitates the discovery process.

What are the factors that drive technological need in discovery?

Oftentimes, legal teams will try to force all (or most) cases into the same platform or solution, regardless of the variables of the case. Usually this happens when an investment has been made in a specific technology and installed on the firm's corporate network. And sometimes this happens simply as a result of "this is what we always use" justification. However, these are not always the most effective decisions. It is important to evaluate each case's unique needs and overlay the features that various technologies offer to help you streamline the process.

In discovery, these decision-making factors can essentially be boiled down to five things:

- The size of the data
- The complexities of the case
- The number of users
- The location of users
- The number of separate legal teams needing access

There are of course other factors that I'll touch on momentarily, but these are usually the most pertinent. So, let's take a more detailed look at each.

.....
"One size fits all" really only works for forks and spoons.

The Size of the Data

Today, the average size of discovery databases can easily reach into the millions of pages. Sometimes we're talking about multiple terabytes of information, which can equate to BILLIONS of pages. And with this trend, there's been an increased need for systems that can handle larger volumes. These technologies need to have robust database capabilities, fast search mechanisms, larger bandwidth to deliver the data, and the appropriate server horsepower and capacity to handle the load. Be sure you're not exceeding the capacity of your platform, particularly when dealing with older technologies. Failure to do so creates the equivalent of forcing a basketball through a garden hose, leading to massive frustrations and inefficiencies for your teams. Some matters are just too big to squeeze into existing technologies.

The Complexities of the Case

Whether the database is large or small, the complexities of the data might dictate more advanced technologies. If there are complex issues inherent to the case, such as highly technical subject matter, conceptual analysis tools may be needed. Or, if the data is comprised of wildly unstructured electronically stored information (ESI), then more advanced indexing or data mapping tools are likely required just to understand the what you're dealing with. Examples of "unstructured ESI" include a lack of consistent data organization (not grouped by custodians or file folders) or a wide variety of file types (e-mail, Word, Excel, images, databases, CAD drawings, etc.). Advanced attribute and metadata filtering, as well as database graphing tools, will help normalize such unstructured collections. And, if the collection contains a large percentage of e-mail communication, advanced e-mail threading and parent/child analytical technologies are quite useful.

The Number of Users

If your discovery review team consists of a small handful of individuals, your technology capacity and bandwidth requirements may be minimized. However, if you have larger legal teams that will be hitting the database with multiple searches, viewing a large number of documents and making multiple designations at the same time, higher capacities and more robust infrastructure is needed.

The Location of Users

If legal teams are accessing the discovery data from multiple locations, as in various office locations around the country or world, then it may make sense to employ a Web-based solution. Having a central repository accessible from multiple locations facilitates review, analysis, decision-making and collaboration. However if most of your users are located within the corporate network, then an internal solution works just fine – possibly even better, depending on network capabilities.

The Number of Separate Legal Teams Needing Access

And finally, in the case of multi-party litigation, unique solutions may be needed to draw the proverbial line in the sand between legal teams. For example, there may be three different law firms that are collaborating with inside counsel on the same matter, each handling a different issue. In such situations, it's common for these teams to want to share a centralized database but keep their own work product separate from the others. Certainly, Web-based solutions can facilitate this. However, technologies that can create unique firm profiles would be needed to enable such data sharing and work product protection.

Additional Factors

Other factors would include: costs (of course), ratio of imaged (paper) versus electronic documents, foreign language content, the need for native review, available reporting tools and more. Another to consider is whether to use in-house tools or to outsource technology or services. If outsourcing, you may have certain situations where you'll deal directly with the technology provider. However, in other situations it would be wise to employ a litigation support company with a solid reputation. Since these litigation support companies are usually technology-neutral, they can analyze your unique needs and recommend the best solutions for the matter at hand.

.....
*The general rule is: the larger
 the dataset and the more
 complex the litigation, the more
 advanced technology you need.*

Summary

Given all this, the general rule is: the larger the dataset and the more complex the litigation, the more advanced technology you need. And it could be argued that the more “flavors” of technology you have at your disposal, the better equipped you are to handle any type of case.

However, the reality is that you don't always need all the bells and whistles. If your matter is fairly straightforward and the size of the database is easily manageable, it might actually be more productive to use fairly basic technologies.

To illustrate (crudely), you wouldn't buy a Ferrari for the sole purpose of taking your kids to school a couple of blocks away. That would be overkill – very cool for them (they'd be rock stars among their peers!) – but overkill, nonetheless. You simply don't need all that performance for the task at hand.

So whether we're talking baseball caps or discovery technologies, “one size fits all” usually doesn't work. The varying nature of e-Discovery necessitates a specific evaluation of needs and decisions.

And to all you Ferrari owners, if I've somehow convinced you that your vehicle is now useless, I'm happy to take it off your hands. Always here to help!

'Til next time ...

KC

Kevin Carr, president of InterLegis Inc., has a wide range of Internet-based technology expertise. As the architect of the InterLegis system, he has developed cutting-edge discovery technologies and best practices relating to data mapping, conceptual analysis, electronic data culling/processing, similarity matching, streamlined document review, automatic categorizations, visual analysis, native review, document digitization, optical character recognition, compression, database indexing, advanced searching and document security.

