

## TRIM Context 6 and e-Discovery

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E-discovery has become one of the hottest topics of discussion in legal and records management circles in recent years. This white paper will explain the most important issues for organizations considering the impact of e-discovery on their records management policy, and then discuss the ways in which TRIM Context 6 helps to reduce the costs and angst associated with e-discovery, and to manage effectively the risks associated with documents retention and litigation.

### Electronic discovery

Electronic discovery is used to refer to two distinct concepts. On the one hand, it refers to the production of electronic documents, such as e-mail, word processing documents, spreadsheets and database objects. On the other hand, it refers to the use of electronic tools to expedite the discovery policy by allowing for the efficient identification, review, and production of documents which respond to a discovery request, electronic and otherwise.

Production of electronic documents should be a relatively simple task. Unfortunately, in the absence of strong and well-managed control of records management policy, it can be anything but. The issue which causes the greatest difficulties is the radical decentralization of records ownership which the one worker-one computer paradigm has allowed. Each worker is naturally inclined to keep her documents on her own machine, and to keep all of her own e-mails in her own inbox. In this kind of situation, it is extraordinarily difficult for a company (let alone outside legal counsel) to have a clear idea of what documents it actually has, where they might be, and whether they still exist or have been destroyed in accordance with business rules for record retention. The result is that a discovery request implies an enormous amount of work determining what files exist, and a high degree of risk that respondent documents will have been destroyed. The natural solution to this problem is to centralize document management, a solution which TRIM Context 6 adopts.

The other aspect of e-discovery is the use of electronic tools to expedite the process of discovery of all of a company's information assets, electronic and physical. Again, in the absence of an electronic database covering all of a company's information assets, inefficient manual searches must be used to identify potentially respondent documents. Moreover, physical and electronic documents are often divorced from their context, as no record of production is maintained. Again, problems of inefficiency in discovering respondent electronic and physical documents can be obviated by clever use of an Enterprise Content Management (ECM) solution like TRIM Context 6. Ideally, however, electronic tools designed for discovery should maximize ROI by also being capable of managing documents throughout their entire lifecycle through the application of business rules, and should assist in determining other important information, such as whether a document is likely to be covered by legal professional privilege.

### TRIM Context and e-Discovery

TRIM Context is a scalable, robust, and standards-compliant tool for managing the totality of a corporation's information assets, electronic and otherwise. TRIM Context is certified compliant with important records keeping standards such as the US Department of Defense's directive DoD 5015.2 STD on records keeping, including the higher-security sections, and the international records-keeping standard ISO 15489. Customers can trust that TRIM Context provides all of the functionality necessary to provide efficient and secure enterprise class records management. Moreover, TRIM Context provides the critical tools necessary to facilitate cost-effective and legally defensible compliance with rules concerning electronic discovery. It provides tools for ensuring that metadata relevant to determining relevance and privilege of documents is captured at record registration, strong functionality for developing and consistently applying business rules for retention of documents, for exporting data found to be responsive, and powerful tools for searching through corporate datasets by metadata and by full content.



## Holistic document management

TRIM Context is capable of managing all of a corporation's information assets, both physical and electronic. TRIM Context's data store can handle any file which can be represented electronically, including popular formats such as Microsoft Office, Corel WordPerfect, and e-mail communications. Moreover, TRIM Context provides a generic document viewer capable of handling over 250 formats, and can provide full context indexing for any file it can view, provided it contains text. TRIM Context is also capable of managing paper records, maintaining all of the metadata necessary to give preliminary indications as to their relevance, and managing their location and storage. Finally, TRIM Context integrates with leading image capture solutions such as Kofax Ascent Capture to provide an efficient workflow for large-scale capture and OCR of paper documents. As a result, TRIM Context can be used as a central discovery solution for all of a company's corporate information.

## Document capture

Possibly the single greatest problem with any systematic attempt to manage corporate information is user resistance to using the system. Users are often unwilling to break out of their habits as to where they save their files, and are unhappy about expending the extra effort required to enter metadata. Therefore it is crucially important that enterprise content management software provides familiar interfaces for users, and a variety of capture methods to enable users to choose a method which suits their workflow best. TRIM Context 6 provides a wealth of different interfaces through which users can register their documents into the ECM system. Most intuitively, TRIM Context can integrate with the Windows Explorer and with the standard Windows Open/Save dialog boxes to enable users to maintain a file system metaphor in interacting with their files. TRIM Context also provides sophisticated systems such as Document Queues - special folders into which documents to be registered are dropped - to allow the easy clean up of files from servers and computers. And TRIM Context integrates closely with popular mail clients such as Microsoft Outlook and Lotus Notes, providing drag and drop support for registration of e-mail messages into the system. Thus, TRIM Context 6 provides the rich functionality required to get users over the most basic hurdle in using ECM for e-discovery purposes.

## Metadata management

TRIM Context ensures that all relevant file metadata is captured at registration. Some commentators have demonized metadata as 'secret' information, which lurks in documents waiting for an inopportune moment at which to ambush unsuspecting litigator. This reflects a fundamental misunderstanding of the role and usage of this type of information. In TRIM Context, metadata is the essential information about a file - its title, creator, date of creation, relation to other files, etc. - which enables the rapid and accurate identification of the correct file and information about the context within which it was created. As any lawyer will realise, this context is critical for establishing the correct interpretation of documents, so its preservation is a matter of primary importance. Out of the box, this functionality can be used, for example, to determine files which may be covered by legal professional privilege, as having been written by or addressed to one of the firm's legal aides. Furthermore, TRIM Context metadata is easily extensible. A firm could easily add a field indicating whether a file is subject to privilege and another to explain the reasons for this claim to the standard record registration form. Metadata is therefore the engine which allows for swift, accurate, controlled and cheap identification of files responsive to discovery claims. Moreover, TRIM Context goes one step further, and is able to provide full context indexing of corporate files, with hit-highlighting in the built-in document viewer. This allows rapid identification of all documents responsive to search terms stipulated in discovery requests, and expedited human reviews of relevance and privilege. TRIM Context thus provides very robust tools to aid the identification and discovery of relevant information.

Metadata is also the primary means for establishing the authenticity of documents. TRIM Context will log the person registering a record, and when they did so. It will also track any changes to its metadata and, subject to appropriate business rules, preserve all registered versions of the document from change. This greatly facilitates a defense of claims of tampering with the evidence, since every copy of the document ever entered may be produced along with all the metadata associated with its registration.

## Retention schedules and business rules

Electronic discovery presents information managers with the problem of developing a legally defensible records retention policy. TRIM Context helps companies to develop and apply a sensible and consistent set of business rules for records retention through its sophisticated records retention functionality. TRIM Context's support for retention scheduling is based upon the concepts of events and triggers. Retention schedules stipulate events from which to count (such as date created, date closed, date of last action), and apply triggers when the stipulated period from the event has fallen due. Triggers include options such as transfer to local archive, as well as destroy. All events are logged, and after the destruction of the record, the record metadata is retained in order to provide a

permanent record of the existence of the record and its destruction in accordance with the corporate retention policy. The operation of retention schedules with respect to identified records can be suspended by the application of a litigation hold. This will not stop the operation of the general retention scheme, but will temporarily prevent its operation with respect to those documents which are identified.

This scheme is well suited to the rules on discovery, because it allows companies to develop flexible, consistent, and well applied retention rules, which provide enough information to justify to a court that the destruction of a particular document had in fact happened, as was defensible in accordance with a reasonable records retention policy. The addition of litigation hold functionality allows compliance with discovery orders without bringing the entire corporate records management system to a crashing halt.

### Metadata and file export

TRIM Context greatly facilitates the export of data from the system in order to produce organized hierarchies of respondent files. File metadata can be exported as XML (or text, or CSV), with the files they describe either exported into the same directory, or embedded into the XML file format itself. This allows for easy and organized export of respondent files for delivery to the other party.

### User interfaces for electronic discovery

TRIM Context provides a variety of user interface environments to facilitate discovery. Perhaps the most exciting of these for legal experts coming into a company to service a discovery request is the new, zero-footprint TRIM Context *ice* web client, which provides full access to the search and documents management functionality of TRIM Context without the need for installation of client software on the lawyer's computer. This clean, intuitive, and low-training interface is ideal for lawyers who need to be brought into a corporate system and brought up to speed on company information systems as quickly as possible. It also opens up the possibility of direct use over a secure link from the lawyers' own office without installing TRIM Context at their offices, or using a VPN. It even provides an elegant collaboration interface to facilitate communication and document sharing amongst a discovery team, and should appeal to lawyer's innate respect for systems designed to get out of the way of their work. For simple, query-only interaction TRIM Context provides the WebDrawer interface, and both the TRIM Context and Desktop clients provide access to offline documents, when access to a network is not available. Finally, the full TRIM Context client provides a sophisticated interface to the full functionality of the TRIM Context system.

### TRIM Context: an ideal solution for e-Discovery

TRIM Context is a mature, sophisticated and standards-compliant solution for corporate information management. In the context of e-discovery, it can act as the central interface for a company's document management. It ensures that documents can be quickly and cheaply found by searches on metadata and content, disposed of in legally defensible ways, retained selectively in response to the demands of litigation, exported easily with all relevant metadata, and accessed through simple and intuitive interfaces suitable for lawyers not deeply familiar with a client's information management software. TRIM Context is thus ideally suited for use as a system to help manage the new risks inherent in the emerging law of electronic discovery.



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### About TOWER Software

TOWER Software, a leading enterprise content management (ECM) provider, delivers electronic document and records management (EDRM) solutions. TOWER Software's award-winning solutions empower organizations to manage and secure their vital information assets. The TRIM Context® solution is a single, integrated platform that manages business information throughout its complete lifecycle. By relying on its proven domain expertise, strong strategic partnerships, and powerful solutions, TOWER Software enables organizations to improve the accuracy of information on which business decisions are made; maximize efficiency by finding business critical information more quickly and easily; and achieve and maintain standards compliance across industries, resulting in sustained competitive advantage. TOWER Software is a privately held company with operations in North America, Europe and Asia Pacific. For more information, visit [www.towersoft.com](http://www.towersoft.com)