

## The Trail of Electrons

references and links (last update Feb 28, 2013):

### 1. ABA Journal

- a. [www.abajournal.com/news/article/judge oks plan to use predictive coding to curtail e-discovery/](http://www.abajournal.com/news/article/judge oks plan to use predictive coding to curtail e-discovery/)
- b. [www.abajournal.com/magazine/article/still searching computers change the role of lawyers in e-discovery/](http://www.abajournal.com/magazine/article/still_searching_computers_change_the_role_of_lawyers_in_e-discovery/)

### 2. Cloud Computing: Understanding the issues in using cloud computing

- a. [Bringing Cloud Computing Down to Earth](#) , Christina Kuntz
- b. [ISM Podcast \(online education for ISM members\)](#)

### 3. Cached Pages – Google archive available to the public

- a. [http://www.googleguide.com/cached\\_pages.html](http://www.googleguide.com/cached_pages.html)

### 4. Documenting Authenticity of Evidence for the E-Discovery Process, [Deb Shinder](#)

- a. <http://www.windowsecurity.com/articles/Documenting-Authenticity-Evidence-E-Discovery-Process.html>

### 5. E-Discovery Vendors

- a. FTI Consulting: <http://www.ftitechnology.com/Resource-Center/E-Discovery-Tools.aspx>
  - i. To help in the development of these processes, industry pioneers, such as Attenex, have joined forces to establish the Electronic Discovery Reference Model (EDRM), a set of practical guidelines, standards and best practices for e-discovery. The graphic below outlines the standard steps of e-discovery.
- b. Electronic Discovery Reference Model
  - i. <http://www.edrm.net/resources/edrm-stages-explained>
- c. Ernst & Young Forensic Technology Services
  - i. [Forensic technology and discovery services](#)
  - ii. Large, complex disputes and investigations involve volumes of electronic documents, email and other forms of data. Mitigating the risks and managing the costs inherent in locating, preserving, collecting, reviewing and producing electronic data are top-of-mind activities for many in-house and external counsels. Managing the process can be a daunting task...

### 6. Google data centers – just a few places where the internet lives

- a. “To ensure security, Google keeps every piece of data stored on at least two servers, with the most important data also held on digital tapes”
- b. In addition to the released images, Google has added a tour of its data center in Lenoir, North Carolina, to the Street View service.
- c. <http://www.google.com/about/datacenters/gallery/#/>

## 7. Internet Archive Project

- a. Even old web pages and posted documents could be archived
- b. The Internet Archive, a 501(c)(3) non-profit, is building a digital library of Internet sites and other cultural artifacts in digital form. Like a paper library, we provide free access to researchers, historians, scholars, and the general public.
- c. <http://archive.org/web/web.php>

## 8. Litigation Hold & Document Spoilation- Rambus Case

- a. Once a lawsuit is in the works it's too late to clean house
- b. "... Rambus Inc. has long been haunted by its decision to shred hundreds of boxes of documents not long before it launched a litigation campaign against a big swath of the semiconductor industry... ... ruled that the company willfully destroyed documents in anticipation of litigation
- c. U.S. District Judge Ronald Whyte in San Jose ruled that Rambus spoliated documents in bad faith when it hosted companywide "shred days" in 1998, 1999, and 2000"
- d. <http://www.businessweek.com/news/2012-09-21/sk-hynix-wins-sanction-against-rambus-in-patent-lawsuit>

## 9. National Archives and Records Administration (NARA)

- a. Defines record, archiving and retention requirements for government documents
- b. General Record Schedules GRS-3 Procurement & Supply
  - i. <http://www.archives.gov/records-mgmt/grs/grs03.html>
- c. GRS-20 Electronic Records (April 2010)
  - i. Among other things permits replacement of a paper record with an electronic one
  - ii. <http://www.archives.gov/records-mgmt/grs/>
- d. Records management language for contracts...
  - i. <http://www.archives.gov/records-mgmt/handbook/records-mgmt-language.html>
- e. The Future of Email Preservation, presentation to RACO Conference 2010
  - i. [www.archives.gov/records-mgmt/pdf/baron-raco2010.pdf](http://www.archives.gov/records-mgmt/pdf/baron-raco2010.pdf)

## 10. Preservation of Evidence; legal risk if people erase files

- a. Federal officials arrested a former BP engineer on charges of obstruction of justice on Tuesday, in the first criminal charges filed in connection with the 2010 Deepwater Horizon oil spill in the Gulf of Mexico. For erasing hundreds of text messages sent to his supervisor during the event.
- b. [http://www.huffingtonpost.com/2012/04/24/kurt-mix-bp-engineer-oil-spill\\_n\\_1449316.html](http://www.huffingtonpost.com/2012/04/24/kurt-mix-bp-engineer-oil-spill_n_1449316.html)
- c. John Rudolf [john.rudolf@huffingtonpost.com](mailto:john.rudolf@huffingtonpost.com)
- d. <http://www.econjustice.org/kurt-mix-trial-delayed-for-june-2013/>

## 11. Presidential Directive November 2011 and OMB memo August 2012

- a. [www.whitehouse.gov/sites/default/files/omb/memoranda/2012/m-12-18.pdf](http://www.whitehouse.gov/sites/default/files/omb/memoranda/2012/m-12-18.pdf)

## 12. Digital Government Institute –

- a. Conferences and Training Programs for Government professionals
- b. <http://www.digitalgovernment.com/Knowledge-Centers/E-Discovery-Records--Information-Management.shtml>

**13. Social Media** – increase risk exposure

- a. Inside Supply management, November/December 2012
- b. Social Media Use Lags
- c. **CAPS Research: Promoting Supply Management's Best Practices**  
Social media's exposure and use in organizations continues to grow; however, it's only beginning to have a presence in supply management.  
CAPS Research

**14. What Not to do:**

- a. Office of Federal Housing Enterprise Oversight (OFHEO) case – lesson learned
- b. Google search: Fannie Mae Securities litigation 552
- c. Articles (there are many more)
  - i. [http://www.williamsmullen.com/sites/default/files/wm-url-files/PLIT1001\\_McCarroll.pdf](http://www.williamsmullen.com/sites/default/files/wm-url-files/PLIT1001_McCarroll.pdf)
  - ii. <http://ediscovery.quarles.com/2009/02/articles/case-law/need-a-reason-to-hire-ediscovery-counsel-here-are-6-million/>

**15. Articles** about E-issues on [www.MLTweb.com](http://www.MLTweb.com)

- a. Discovery: [www.mltweb.com/tools/articles/ediscovery2.htm](http://www.mltweb.com/tools/articles/ediscovery2.htm)
- b. Hidden text: [www.mltweb.com/prof/testdoc.doc](http://www.mltweb.com/prof/testdoc.doc)
- c. Rogue employee: [www.mltweb.com/tools/articles/compliance.htm](http://www.mltweb.com/tools/articles/compliance.htm)

**16. Preservation of Evidence**, Litigation Hold

- a. Pension Comm. of Univ. of Montreal Pension Plan v. Bank of Am. Secs., LLC, 685 F. Supp. 2d 456 (S.D.N.Y. 2010) (Amended Order)
- b. Zubulake v. UBS Warburg [http://en.wikipedia.org/wiki/Zubulake\\_v.\\_UBS\\_Warburg](http://en.wikipedia.org/wiki/Zubulake_v._UBS_Warburg)

**17. Webinar, ML Taylor**

- a. Presentation: [www.mltweb.com/handouts/discovery.pdf](http://www.mltweb.com/handouts/discovery.pdf)
- b. References: [www.mltweb.com/handouts/references.pdf](http://www.mltweb.com/handouts/references.pdf)

**18. EPA Records Guidance** – Recommended Reading

- a. E-Mail Record Decision Tree
  - i. <http://www.epa.gov/records/faqs/email.htm>
- b. Frequent Questions about Working Files
  - i. <http://www.epa.gov/records/faqs/working.htm>

**19. DCAA**

- a. Information for Contractors [about DCAA audits]
  - i. [www.dcaa.mil/DCAAP\\_7641.90.pdf](http://www.dcaa.mil/DCAAP_7641.90.pdf)