The eDiscovery of Things

By Kon Leong 5 days ago

The explosion of internet-connected devices, known to most as the Internet of Things, has led to an exponential growth in volume of data. Everyday devices are now capable of transmitting magnitudes of information from one device to another, the entirety of which shares one common characteristic: it reflects human behaviour.

Moving forward, enterprises that are able to harness this new information will find themselves at a competitive advantage. This doesn't just apply to analytics and business utility; emerging data sources will also have a dramatic impact on litigation.

Companies that are able to access this wealth of data to produce relevant evidence will be able to overpower their opponents during pretrial and trial. Companies that don't will get crushed.There is just one problem: Someone has to store and manage it all.

IT Challenges

Ever since the 2006 additions to the Federal Rules of Civil Procedure (FRCP), which made electronically stored information (ESI) explicitly admissible in civil litigation, IT has been tasked with supporting legal teams in their efforts to access and retrieve data for eDiscovery.

Assisting in the often unwelcomed burden of file preservation has become a fact of life for IT teams at litigious enterprises. Effective data management, along with an increasingly technology-savvy legal community, has reduced this burden. However, as the amount of data continues to grow, overwhelmed legal teams will continue to rely on IT during eDiscovery.

To this point, eDiscovery has been largely limited to email and documents, but the expansion of network connectivity for everyday devices threatens to change this. For instance, data from personal devices such as Fitbits have now been used as evidence to demonstrate employees' physical state during a given period of time, a precedent that could have wide-reaching implications in eDiscovery. In corporate cases, once the line between personal and work data become blurred, there is no going back. For example, think of all the ways that a company car's GPS data could realistically be relevant in a corporate case to establish a custodian's location.

Yet, both information managers and litigators are ill-equipped for this development. The challenge then becomes how IT can help in-house legal teams catch up with modern technology use, without committing themselves to a lifetime of legal-aid service.

The New Data Landscape

The solution will in large part lie in IT's ability to integrate new data sources into their existing data infrastructure, and educate legal on how to access and utilise it.

If legal teams aren't able to access all potential electronic evidence through a single platform, IT will be charged with frequent requests to manually crawl devices for data. Moreover, legal teams already struggle to sort through enormous amounts of non-prioritised and uncleansed data, and don't always know what they're looking for—or even if they do, how to interpret it. For example, in the Fitbit case, the data had to be processed through an analytics platform to prove its statistical significance.

To make reviewing data from a multitude of devices practical, this data needs to be ingested and standardised in a single governance platform. Otherwise, already-high review expenses

will skyrocket as attorneys wade through the weeds of irrelevant data, and IT professionals will find themselves trying to lead them out.

Such widespread data ingestion and management requires that automated policies be instated for crawling and archiving these new types of data, yet with most current information governance platforms - which struggle just to ingest all the different types of files from file shares, ECMs, and SharePoint - this is unrealistic.

The Future of Data Analytics

A paradigm shift is on the horizon. Once the legal system fully realises the value that can be gained from the Internet of Things and embraces new sources of ESI, data management will take centre stage. IT professionals must keep a forward-thinking perspective towards managing new forms of data to stay in front of the curve as they become commonplace in the courtroom.

Since the 2006 amendments to the FRCP, which made ESI explicitly admissible, organisations with inadequate information governance policies in place have had two choices: play catch-up, or risk exposure to adverse inference in trial. Both options proved extremely costly and dangerous. With the expansion of interconnected devices, it is only matter of time before legislation catches on.

IT departments are once again at a crossroads: Will they learn from the past and begin building an infrastructure for the future, or succumb to the pitfalls of tunnel vision. The consequences of the latter could be disastrous.

Kon Leong, CEO and Founder, ZL Technologies

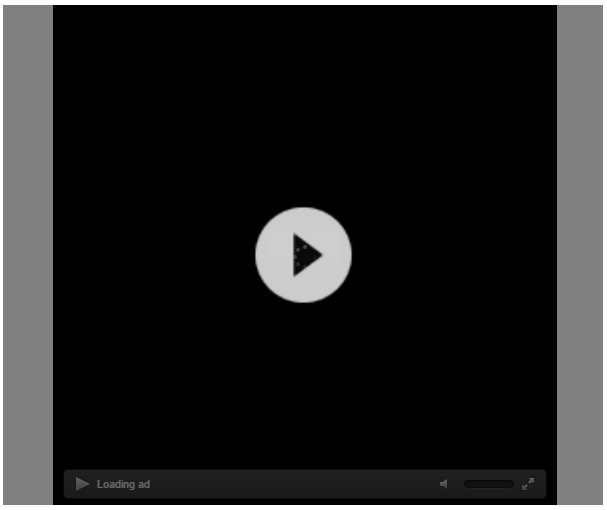
Image source: Shutterstock/everything possible

TOPICS

INTERNET OF THINGS EDISCOVERY IOT DATA DATA ANALYTICS DATA SOURCE

IT DEPARTMENTS

LOAD COMMENTS



MOST POPULAR MOST SHARED

1 **Big data is eating the world – But it's not eating the data scientist**

2 **How to insert a tick or a cross symbol in Microsoft Word and Excel**

3 **Containerisation what businesses need to know**

4 **A to Z of the cloud: Part one**

5 **How to start page numbering from a specific page in Word**

ITProPortal is part of Future plc, an international media group and leading digital publisher. **Visit our corporate site**.