



## BUYER CASE STUDY

### Complex Multidistrict Litigation: BP Oil Spill Plaintiffs Employ iCONNECT nXT

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#### IDC OPINION

Organizations that face complex litigation events are better prepared to face their ediscovery challenges when the stakeholders have taken steps to align their agendas, business processes, and IT infrastructure investments at the onset. Under this scenario, the ediscovery document review and collaboration platform should have the scale, performance, and infrastructure capabilities to support multiple data formats, complex workflows, and granular security, work product, and data segregation models while still meeting review and production turnaround objectives and cost constraints. Preparation and planning enable stakeholders to:

- Define areas for sharing ediscovery processes and relevant work products
- Identify opportunities for realizing cost and process efficiencies through the leverage of a robust ediscovery platform
- Mitigate risks from the inadvertent exposure of privilege and confidential documents
- Gain competitive advantage from the timely review and publishing of relevant documents to the case teams under very aggressive timelines

#### IN THIS BUYER CASE STUDY

This IDC Buyer Case Study profiles the strategies employed by the Plaintiffs' Steering Committee (PSC) in the lawsuit related to the Deepwater Horizon oil spill to address its ediscovery data management challenge, primarily focusing on its use of the iCONNECT nXT platform to address the scale, performance, granular security, and complex business workflow requirements. This oil spill is commonly referred to as the BP (British Petroleum) oil spill. IDC interviewed Avansic: E-Discovery & Digital Forensics, the PSC's ediscovery and litigation support consultants.

Washington, D.C.-based iCONNECT Development offers Web-based legal review and litigation support software applications. The iCONNECT portfolio of document review and collaboration software consists of the XERA and iCONNECT product lines. The iCONNECT platform is available in three models: iConect nXT (Oracle and MS SQL), iCONNECT eXT (Oracle), and iCONNECT qXT (MS SQL). The applications are available as on-premise solutions or as cloud-based services through one of the vendor's more than 60 LSP partners worldwide. The applications are designed to

handle small to very large matters. At the time this document was written, the largest matter currently under management is more than 500TB of native files. This Buyer Case Study focuses on the use of iCONNECT nXT by the BP oil spill plaintiffs.

## **SITUATION OVERVIEW**

On April 20, 2010, the Deepwater Horizon exploded off the coast of Louisiana, killing 11 men and injuring many others. Experts estimate that close to 5 million barrels of oil gushed from the seabed and into the Gulf, making it the worst oil spill in history. Deepwater Horizon was an ultra-deepwater, semi-submersible offshore oil rig owned by Transocean and leased to BP from 2001 to 2013.

The catastrophic event resulted in the filing of thousands of lawsuits from businesses and individuals whose livelihoods were adversely impacted. Families and individuals in the Gulf region of the United States also filed lawsuits over the health hazards posed by the chemicals used to disperse and clean up the oil spill. It is estimated that over 116,000 individuals and businesses sued the owners and operators of Deepwater Horizon. The U.S. Department of Justice is also seeking damages and penalties under the Oil Pollution Act and the Clean Water Act. The five states on the Gulf (Louisiana, Mississippi, Alabama, Florida, and Texas) are suing over the damage to their environment and economies.

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### **Organization Overview**

The U.S. federal court system consolidated all federal lawsuits in the U.S. District Court for the Eastern District of Louisiana before Judge Carl J. Barbier. This process is referred to as multidistrict litigation (MDL). An MDL is a special federal legal procedure designed to speed the process of handling complex cases when "civil actions involving one or more common questions of fact are pending in different districts." (For more on MDLs, see [www.jpml.uscourts.gov/rules-procedures](http://www.jpml.uscourts.gov/rules-procedures).)

Judge Barbier, as the MDL judge, selected 19 experienced attorneys, with 2 named as liaison counsel, to organize and coordinate the efforts of the plaintiffs in this litigation. This group is referred to as the Plaintiffs' Steering Committee. (For more on this, see [www.bpmdl2179.com/about](http://www.bpmdl2179.com/about).) This MDL is referred to as the BP Oil Spill Litigation.

Six months after the BP oil spill, PSC was formed and government regulators and state agencies decided to coordinate their complaints with the plaintiffs. The PSC was one of more than 16 parties in the litigation.

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### **Challenges and Solution**

#### **Challenges**

As the requesting party, the BP oil spill PSC did not have huge preservation obligations. Its challenges stemmed from the coordination and streamlining of ediscovery activities involving the multiple geographically dispersed case teams litigating multiple issues under the MDL. The PSC's primary responsibilities included

overseeing the collection of documents from the producing parties and streamlining the analysis and reviewing just under 1 billion relevant pages among the plaintiffs' attorneys. The following developments highlight the PSC's ediscovery challenges. These challenges defined the critical requirements on the ediscovery platform:

- ☒ As of the date of the interview with IDC (September 2012), just under 1 billion relevant pages involving multiple application and object formats were produced by the defendants, federal and state governments, and third-party witnesses (the producing parties). The relevant documents included a broad range of data formats such as emails, word processing documents, spreadsheets, proprietary data applications, and instrumentation reports. The relevant documents produced by the various parties were received in disparate formats on a rolling basis that continues to date. It is unknown how these productions had been processed, analyzed, reviewed, and coded by the producing parties.
- ☒ As a requesting party, the PSC had to ensure that all relevant documents were reviewed, coded, and funneled from the review teams to the attorneys prior to depositions and pretrial hearings associated with the various issues under the MDL. The ediscovery platform therefore had to present the relevant documents in front of the plaintiffs' review attorneys under very aggressive timelines. In many instances, documents were received a few days before a deposition and had to be loaded and reviewed in a very short time frame.
- ☒ The ediscovery platform had to support concurrent access to the database from hundreds of review teams, experts, and attorneys, which were geographically dispersed. The ediscovery platform had to ensure high service availability (loading, analysis, review, coding, business process automation, and production) under multiple review scenarios and requirements.
- ☒ Roughly 300 reviewers from over 90 law firms (representing various case teams) as well as state attorneys are accessing the ediscovery review platform concurrently at any given point in time. These case teams had their own review workflows. An easy-to-use and flexible interface was therefore very important. The case teams also conducted multiple styles of review (first pass, privilege and clawback, subject matter expert, etc.) and wanted the ability to use, export, and print these documents outside the review system.
- ☒ Documents needed to be accessed by more than 100 outside law firms and their experts representing more than 116,000 individual plaintiffs. The multiple case teams and other parties have different access rights and permissions to various sets of data. In addition to supporting the complex business process workflow requirements, the ediscovery platform had to ensure that attorney work products are properly segregated. The plaintiffs also had to ensure that privilege and confidentiality protocols are enforced consistently but at the same time allow for the development of better work products leveraging the experience of the lead litigators.

As an ongoing matter, the PSC anticipates that more relevant documents will be added to its review system.

### ***Solution: BP Oil Spill PSC Employs iCONNECT nXT***

Several members of the PSC are veterans of multi-jurisdiction litigation and aware of the various ediscovery pitfalls. At the onset, the PSC developed a plan to oversee document collection from the producing parties and to streamline analysis and review in a cost-effective manner. This plan included:

- ☒ A framework and business rules for coordinating activities among the plaintiffs' case teams
- ☒ A committee to develop the selection criteria and assign ediscovery project managers and litigation support service providers
- ☒ A committee to define the IT strategy, technology requirements, and technical protocols for collection, review, and production

The PSC selected the iCONNECT nXT platform as the ediscovery review system and selected Avansic as the ediscovery and litigation support consultant. Avansic worked closely with the PSC in defining the litigation support and business processes as well as enhancing and maintaining the iCONNECT nXT systems.

The business objectives of the Plaintiffs' Steering Committee and its technical and process challenges influenced the critical attributes they demanded from their litigation support platform. Because of multiple constraints — technology, organization, geographic location, and budget — the PSC required a fully Web-based ediscovery platform. The selection of iCONNECT nXT was based on its ability to meet the cost constraints and the following defined critical technical attributes:

- ☒ Scale, processing, and computing capacity and high service availability
- ☒ Support for multiple data formats
- ☒ Robust and flexible infrastructure to support the geographic and organizational fragmentation of the case teams
- ☒ Support for complex business process workflows involving multiple geographically distributed reviewers and attorneys
- ☒ Browser-based review interface that does not require the installation of software or connecting to remote computers/thin clients
- ☒ Flexible and customizable workflows
- ☒ Easy-to-use interface to minimize the learning curve among review teams and attorneys
- ☒ Granular security model to segregate and protect attorney work products

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## **Results**

The PSC selected and deployed iCONNECT nXT to manage the analysis, review, and production activities. Avansic was selected to help define the litigation support and

business processes and to enhance and maintain the iCONNECT nXT systems. The platform was used to host documents to over 300 reviewers, attorneys, and experts who were involved in the matter. These teams were able to quickly and securely access the documents. Case teams were able to customize their review and production processes, where applicable. The iCONNECT nXT platform enabled the users to share relevant documents and work products across case teams and law firms in a timely fashion while still protecting the defined privilege and confidentiality protocols.

By sharing resources across case teams, the PSC was also able to lower the costs of the ediscovery technology infrastructure and eliminate duplicative review.

## **ESSENTIAL GUIDANCE**

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### **Advice for Buyers of eDiscovery Solutions**

The lessons from the PSC can also be applied to single organizations that are involved in large and complex litigation, transactional activities (such as second requests), and regulatory investigations. IDC has the following advice for buyers:

- ☒ Identify and address organizational governance issues at the onset:
  - ☐ For a single organization, the internal stakeholders will include the business leaders, the functional constituencies (such as storage, security, HR, compliance, and information management), and in-house counsel, while the external stakeholders include the outside law firm and third-party litigation support partners. Legal hold, ediscovery response, and litigation support protocols will ensure process consistencies and identify areas for potential project failure and cost overruns.
  - ☐ For complex litigation involving multiple outside parties and outside law firms, a governance body will facilitate the sharing of processes and work products. It will also help define responsibilities and accountabilities and identify areas for sharing infrastructure investments.
- ☒ Once the organizational and process issues are addressed, develop the appropriate IT strategy and requirements that best fit the defined ediscovery framework, business processes, and technical protocols.
- ☒ Ensure that the technology solution is able to support the robust requirements on scale, performance, processing, and granular security as well as support complex ediscovery business process workflows.
- ☒ Ensure that the project managers, litigation consultants, and attorneys are experienced in managing complex litigation.

## LEARN MORE

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### Related Research

- ☒ *Avansic Leverages iCONNECT XERA for Advanced eDiscovery* (IDC #236274, September 2012)
- ☒ *Worldwide eDiscovery Infrastructure 2012–2016 Forecast* (IDC #234733, May 2012)
- ☒ *IDC MarketScape: Worldwide Standalone Early Case Assessment Applications 2011 Vendor Analysis* (IDC #229928, September 2011)

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