

Unfiltered Orange |

The eDiscovery Month in Review – May 2011

Compiled by Orange Legal Technologies (<http://www.orangelt.com>) from online public domain resources, “Unfiltered Orange – The eDiscovery Month in Review” is a monthly compilation of eDiscovery-specific news designed to inform and educate legal professionals. This monthly update is provided as an aggregation of daily and weekly updates from the news feed “Unfiltered Orange”. For up to the minute news updates, visit <http://www.twitter.com/OrangeLT>.



eDiscovery News

- 67 Seconds of Porn . . . You're Fired! <http://tinyurl.com/6e8vqra> (Ben Kerschberg)
- 9th Circuit Rules E-Mail Is Not an 'Electronically Printed' Receipt – <http://tinyurl.com/3ky74h2> (Nate Raymond)
- 9th Circuit Ruling Hinges on 'Exceeds Authorized Access' in CFAA - <http://tinyurl.com/3tu5qja> (Ginny LaRoe)
- A Modest Proposal to Resolve the eDiscovery Crisis – <http://tinyurl.com/3qg95xb> (Douglas Good)
- A Whole New World: Best Practices for Navigating E-Discovery – <http://tinyurl.com/3kswlge> (Lin Gensing-Pophal)
- Anti-Spam Law Governs Social Media Pages, Court Rules – <http://tinyurl.com/3oce3r7> (Eric Sinrod)
- Antitrust Plaintiffs Ordered to Pay eDiscovery Costs – <http://tinyurl.com/6affgog> (Shannon Duffy)
- Australian Law Reform Commission Recommends Facilitative Approach to eDiscovery in Federal Courts – <http://tinyurl.com/3ulflo4> (ALRC)
- Bad eDiscovery Costs \$60 Million Per Year – <http://tinyurl.com/3z9lja6> (Lawdable)
- Big Data and Tolkien's Seeing Stone - <http://tinyurl.com/42xr82v> (Jon Neiditz, John Martin)
- Biglaw Litigators, Rejoice! A Circuit Court Opinion on a Discovery Dispute - <http://tinyurl.com/3ehlf9> (David Lat)
- Bin Laden Email System Defied Discovery – <http://tinyurl.com/3u4ztoq> (Associated Press)
- California Subpoenas: Invitation to Comment on ESI – <http://tinyurl.com/3tqnh7h> (Josh Gilliland)
- Cameras and Social Media in the Courts – <http://tinyurl.com/3k9dyox> (Monica Bay)
- Can Technology 'De-Commoditize' Document Review? <http://tinyurl.com/6jorr5u> (Robert Trenchard, Steven Berrent)
- Canada: Using Litigation Support To Control eDiscovery Costs – <http://tinyurl.com/3mnfmej> (Dera Nevin)
- Careless Preservers Breathe Sigh of Relief when Court Finds no Relevant Info Destroyed - <http://tinyurl.com/3kcewp4> (Michael Tucker)
- Cease-and-Desist Letter Alone Ruled No Basis for Jurisdiction – <http://tinyurl.com/3jufwqt> (Sheri Qualters)
- Claims in E-Mail Sent Via Google Found to Be Opinion, Not Libel – <http://tinyurl.com/3bxf5mu> (Brendan Pierson)
- Copy of Instant Message Transcript Pass Spoliation, Authentication, Best Evidence, Completeness Rule Tests – <http://bit.ly/lxDonW> (Federal Evidence Review)
- Cost-Shifting eDiscovery and Third-Parties – <http://tinyurl.com/3uuvhcv> (Josh Gilliland)
- Court Declines to Compel Government to Contribute to Creation of Database to Ease Defendant's Discovery Burden, Recommends Application for Assistance Pursuant to Criminal Justice Act – <http://tinyurl.com/4xnvo7h> (K&L Gates)
- Court Declines to Hold that Lack of Written Litigation Hold Allows Presumption that Relevant Evidence was Lost or Destroyed - <http://tinyurl.com/3hazg7j> (K&L Gates)
- Court Finds Ineffective Assistance of Counsel for Failing to Object to Admission of Email - <http://tinyurl.com/3dm4cgk> (Michael Arkfeld)

- Court Holds That Oral Preservation Notice Not Automatically Sanctionable - <http://tinyurl.com/3eza36w> (Gareth Evans, Charles Nierlich, Farrah Pepper, Jennifer Rearden)
- Court Orders Cooperation – ESI Protocol and Re-Production of ESI in Searchable Format - <http://tinyurl.com/3le3l8x> (K&L Gates)
- Court Orders Payment of eDiscovery Costs Pursuant to Title 28 U.S.C. § 1920(4) - <http://tinyurl.com/3ued5hk> (K&L Gates)
- Court to Detroit: Don't Disappear from Discovery Process and then Cry Foul on Default – <http://tinyurl.com/3hu2c42> (Ben Kerschberg)
- Courts Struggle With Police Searches of Smartphones – <http://tinyurl.com/44db5qb> (Joshua Engel)
- Craig Ball Entertains at CEIC 2011 on Computer Forensics for Lawyers – <http://tinyurl.com/3kcsz bq> (Chris Dale)
- Defense Attorneys Seek Alleged Victim's Facebook Postings – <http://tinyurl.com/42qerwd> (Robin McDonald)
- Defense Challenges Enhanced Audio in Foreign Bribery Case – <http://tinyurl.com/42gpvhb> (Mike Scarcella)
- Diamonds in the Rough: Finding Gems in a Well-Executed Document Review (PDF) <http://tinyurl.com/4y9rwe3> (Cathleen Peterson, Benita Sumey, Jennifer Fiorentino)
- DOJ Defends Secrecy of Cell Phone Tracking in D.C. Circuit – <http://tinyurl.com/3vf6xfg> (Mike Scarcella)
- E-Discovery For Defendants 2.0 - <http://tinyurl.com/3nskuhy> (Jim Beck)
- E-Discovery Sanctions Reach Towering Heights and Should Be Applauded – <http://onforb.es/j1h17d> (Ben Kerschberg)
- E-Discovery Traffic Control – Merging on the Litigation Superhighway - <http://tinyurl.com/3nvgvj> (Dennis Kiker)
- E-Discovery, My How You've Grown! <http://tinyurl.com/3mduqhr> (John Tredennick)
- E-Mails at the Heart of Suit Against MSNBC Personality Ed Schultz - <http://tinyurl.com/3pvxt68> (Zoe Tillman)
- eDiscovery Case Law: Sue Me and Lose? Pay My Costs – <http://tinyurl.com/3gzlgy3> (Doug Austin)
- eDiscovery Case Law: Written Litigation Hold Notice Not Required - <http://tinyurl.com/43hwavp> (Doug Austin)
- eDiscovery Market Predicted to Reach \$1.5B in 2013 – <http://tinyurl.com/3uok8lc> (Evan Koblentz)
- eDiscovery Special Masters, and Soaring Costs – <http://tinyurl.com/3c7x4p3> (Ben Kerschberg)
- eDiscovery Trends: Forecast for More Clouds – <http://tinyurl.com/3m99443> (Doug Austin)
- Employer Restrictions on Social Media Use May Be Subject to Lawsuits - <http://tinyurl.com/426dlft> (PR Web)
- Encrypted and Hidden Files Put eDiscovery at Risk – <http://tinyurl.com/3dh9ruj> (Bill Tolson)
- Facebook Must Produce – Not Merely “Provide Access” – to ESI in Native Formats - <http://tinyurl.com/3vmpn3f> (Ben Kerschberg)
- Facebook Postings Barred From Discovery in Accident Case – <http://tinyurl.com/5vuzb52> (Gina Passarella)
- Facebook Posts Can Haunt You: Discoverability in Litigation – <http://tinyurl.com/3tsfld9> (Eric Sinrod)
- Facebook's Impact on Compliance Codes – <http://tinyurl.com/43tr8tm> (Ryan McConnell, Katharine Southard)
- Federal Circuit Addresses Dueling Rambus Opinions, Remands Both for Further Consideration <http://tinyurl.com/3g8tpep> (K&L Gates)
- Federal Judge Cuts Fee Sanctions for Withheld Discovery – <http://tinyurl.com/3s9dyco> (Mary Pat Gallagher)
- Friends Of E-Discovery Encourage Discussion And Collegiality – <http://tinyurl.com/3e8rp5o> (Tami Kamin-Meyer)
- FTC Announces Update to Online Advertising Guidelines - <http://tinyurl.com/3e84638> (Jenna Greene)
- Gartner Predicts eDiscovery Market at \$1.5B by 2013 – <http://tinyurl.com/3p6lca9> (Charles Skamser)
- Get the Most out of Your Expert Witness - <http://tinyurl.com/44sulp> (Gay Grunfeld, Leslie Thornton)
- Global eDiscovery Rules and Challenges – <http://tinyurl.com/3c5qkg4> (Legal Talk Network)
- Here's What Happens When the Police Subpoena your Facebook – <http://tinyurl.com/3uxjtct> (Matthew Panzarino)
- How Employers Can Balance Social Media Rights and Obligations – <http://tinyurl.com/4xjxupc> (Amy Komoroski Wiwi, Lawren Biscoe)

- How Many Bytes in a Gigabyte? My Answer Might Surprise You – <http://tinyurl.com/3fhдавd> (John Tredennick)
- How To Keep Your U.S. Subsidiary Out of Legal Trouble – <http://tinyurl.com/3lfo35f> (Stephen Siller)
- How to Prepare Your Expert Witness - <http://tinyurl.com/3qdsd34> (Mark Adams)
- How Useful is Facebook’s “Download Your Information” Feature in eDiscovery? <http://tinyurl.com/44wpqhe> (Patrick DiDomenico)
- In House eDiscovery Requires Cross-functional Cooperation – <http://tinyurl.com/4y62csh> (Lora Bentley)
- In-House eDiscovery Abuses Move Texas US Court to Impose Heavy Sanction – <http://tinyurl.com/3l8n3qz> (Robert Hilson)
- Internal Investigations And The Data Explosion – <http://tinyurl.com/3vut4nz> (Howard Sklar)
- IP Addresses Alone Cannot be Used to Identify Individuals, US Judge Says - <http://tinyurl.com/3d27u8r>(Pinsent Masons)
- Judge Accuses D.C. of Discovery Violation ‘So Extreme As To Be Literally Unheard Of’ - <http://tinyurl.com/3d74m72> (Zoe Tillman)
- Judge Calls out D.C. for “Corrupt Production Strategy” (PDF) <http://bit.ly/iJsb3e> (Seth Row)
- Judge Grimm on Ignorance of eDiscovery Rules and Lack of Consistency from Courts - <http://tinyurl.com/3ardzt6> (Chris Dale)
- Keeping Jurors Offline Not Just a Job for Judges – <http://tinyurl.com/3zcpwvt> (Paul Mark Sandler)
- Maryland’s Social Media Evidence Authentication Decision Provides Much Needed Guidance - <http://tinyurl.com/3utk6cm> (Bradley Shear)
- Massachusetts Extends Reach of Data Protection Regulations – <http://tinyurl.com/3lgr8tu> (Ellen Giblin)
- Mitigating FCPA Risk And Issues To Consider In Conducting Investigations - <http://tinyurl.com/44yjn6h> (Thomas Engelhart)
- More on Craig Ball’s EDna Challenge - <http://tinyurl.com/3ggxdmk> (Sharon Nelson)
- Newspapers Can Challenge Subpoenas Over Anonymous Online Posters – <http://tinyurl.com/3zfujhw> (T. Cafferty, N. Lowy, L. James-Weir)
- No Shirt, No Complaint, No Subpoena – <http://tinyurl.com/43mk7q4> (Josh Gilliland)
- NY Appellate Division Affirms Spoliation Sanctions – <http://tinyurl.com/3hncg4b> (Christopher Daze)
- OMG: Tweets, Facebook Welcome in Mass. Courtroom – <http://tinyurl.com/3rncbzs> (Denise Lavoie)
- Online Advertising Techniques Evolve as Federal Scrutiny Increases - <http://tinyurl.com/6chnndc> (Alan Friel)
- Phase Two of Seventh Circuit Electronic Discovery Pilot Program Extended to May 2012 - <http://tinyurl.com/42feyrr> (K&L Gates)
- Plaintiff Permitted to Serve Discovery on Google & Blogspot to Determine Identity of Anon Blogger - <http://tinyurl.com/3ej3zej> (Jonathan Frieden)
- Plaintiff’s Spoliation Gets Legal Malpractice Case Tossed – <http://tinyurl.com/3fqs9lw> (Gina Passarella)
- Prevailing Antitrust Defendants Recover \$367,000 in eDiscovery Costs - <http://tinyurl.com/43l37pn> (Eric O’Connor)
- Proliferous SharePoint Sites Undermine Governance – <http://tinyurl.com/3jrds8o> (Jake Frazier)
- Pros and Cons of Pennsylvania’s Proposed eDiscovery Rules Changes - <http://tinyurl.com/4x5zag5>(Leonard Deutchman)
- Prosecuting Internet Bad Acts Using Nuisance Law – <http://tinyurl.com/6h76ojb> (Jonathan Bick)
- Q&A: Howie and Martin: Experts Discuss Overlooked Aspects of Bringing eDiscovery In-House - <http://tinyurl.com/3cq2fo8> (Kayleigh Roberts)
- Recent Rulings Focus on Spoliation of ESI – <http://tinyurl.com/4xp3d67> (Mark Berman)
- Relief From Onerous Steps to Protect Expert Work Product – <http://tinyurl.com/3ue3eus> (David Kiefer)
- Return on Investment (ROI) of In-House Electronic Discovery – <http://tinyurl.com/3qaens2> (Alan Brooks)
- Reuniting Scattered Documents For More Efficient Review: An Evidence Exchange Case Study - <http://tinyurl.com/3lrlkex> (Michael Prounis)
- Riding the Wave of Early Case Assessment – <http://tinyurl.com/3j6wrob> (Charles Skamser)
- Search Warrant Protocol – What Every Company Should Do to Prepare – <http://tinyurl.com/3echfva> (Hayes Hunt)
- Service Versus Surveillance: Has Computer Technology Outpaced the Legal System? <http://tinyurl.com/42bdkfl> (Beverly Eakman)
- Social Media in eDiscovery and as Evidence in Litigation – <http://tinyurl.com/3lv298g> (Michael Lynch, Lystra Batchoo)

- Spoliation of E-mail Leads to Monetary Sanction on SunTrust in Subprime Mortgage Suit - <http://tinyurl.com/3r5yljq> (David Quinones)
- Spoliation of Evidence and the Totality of the Circumstances – <http://tinyurl.com/3qwl8j> (Ben Kerschberg)
- Spouse’s Right to Informal eDiscovery Federal Wiretap Act – <http://tinyurl.com/3pijvzd> (Joe Howie)
- Spouse’s Right to Informal Pre-Divorce eDiscovery – <http://tinyurl.com/3l2a29b> (Joe Howie)
- States Take Practical Steps to Respond to Data Breaches – <http://tinyurl.com/3fafz4p> (Nick Akerman, Melissa Krasnow)
- Stop Putting Words in My Mouth! <http://tinyurl.com/3okf9fx> (Mallory Griffin)
- Strategies to Navigate Government Requests to Monitor Online Activity - <http://tinyurl.com/446ara9>(Joseph DeMarco, Amin Kassam)
- Studying the Frequency of Redaction Failures in PACER – <http://tinyurl.com/3upbc4p> (Timothy Lee)
- Super-Injunctions: Web ‘Making Mockery’ of Privacy Laws – <http://tinyurl.com/3tjyu7y> (Andrew Porter)
- Ten Ways General Counsel Can Avoid the Cover of the Wall Street Journal – <http://tinyurl.com/3wgro6q> (Rich Hall)
- The Culture of Sanctions – <http://tinyurl.com/3qbybh9> (Kate Paslin)
- The Duty to Preserve ESI is Not Always Cut and Dried – <http://tinyurl.com/3uh949u> (Bill Tolson)
- The Evolution of Social Media Discovery in Pennsylvania – <http://tinyurl.com/42owh7x> (Gina Passarella)
- The FCPA And UK Bribery Act: Compliance Programs Essential – <http://tinyurl.com/3okx2ur> (Anthony Pacheco)
- The Five Hottest Topics in eDiscovery Today – <http://lnkd.in/6925mh> (Ben Kerschberg)
- The Gartner Magic Quadrant for eDiscovery Software and other eDiscovery Market Matters - <http://tinyurl.com/3jryrje> (Chris Dale)
- The Increasing Complexity Of Privacy and Security Law -<http://tinyurl.com/3dtksysc> (Kirk Nahra)
- The Information Explosion and a Great Article by Grossman and Cormack on Legal Search - <http://tinyurl.com/3gf8avr> (Ralph Losey)
- The Latest from the NLRB on Social Media – <http://tinyurl.com/3lx26k6> (Philip Gordon)
- The Law Of Social Media: Employers Beware – <http://tinyurl.com/3jmxexa> (Dan Liutikas)
- The Meet & Confer Condition Precedent: <http://t.co/MQxRRXX> (Josh Gilliland)
- The Processing Mountain Was Blocking The View – New Mountains To Climb In E-Discovery - <http://tinyurl.com/3ka7z6a> (Warwick Sharp)
- The State of BigLaw: What the AmLaw 100 2011 and Two Other Reports Today Tell Us - <http://tinyurl.com/5w3blx2> (Ron Friedmann)
- The Struggle for Context - <http://tinyurl.com/3k8xzdo> (Albert Barsocchini)
- The Tenth Circuit Speaks! <http://tinyurl.com/3aprbfv> (Christopher Spizzirri)
- The Uncertain Landscape for National eDiscovery Standards – <http://tinyurl.com/3osxjq2> (P. Favro)
- Third Circuit Considers Privacy Interests in Electronically Collected Information - <http://tinyurl.com/3sltdqe> (Jennifer Hradil)
- Tweets Stir Hornets Nest of UK ‘Super-Injunctions’ – <http://tinyurl.com/4362zxl> (George Taylor)
- Twitter Brands, @OMGFacts, and an Allegedly “Predatory” Contract - <http://tinyurl.com/67mczv6> (Ben Kerschberg)
- Twitter GC Joins UK Free Tweets Debate – <http://tinyurl.com/43eul6w> (Sue Reisinger)
- Twitter Tests U.K. Courts on Injunctions as Key Privacy Ruling Looms - <http://tinyurl.com/3bd9v3k>(Sofia Lind)
- UK and US eDisclosure / eDiscovery and Compliance Commonality at IQPC London - <http://tinyurl.com/3uloeaw> (Chris Dale)
- UK Bribery Act To Come Into Force On July 1, 2011; Final Guidance Issued - <http://tinyurl.com/445vpdo> (Justin Williams, Wynn Segall)
- Understanding E-Discovery and FOI for Australian Information Professionals - <http://tinyurl.com/3psp6ap> (Seamus Byrne)
- Unified Cloud-Based Legal Repositories And Process Innovation Driving eDiscovery Efficiencies - <http://tinyurl.com/3uldmd4> (David Bayer, Sanjeev Srivastav)
- Unless Your Data Capacity is Unlimited, You Don’t Have Enough – <http://tinyurl.com/43arxqk> (Victor Limongelli)
- Until Rules Change, 2010 Cases Set Preservation Standard – <http://tinyurl.com/3lmtmqy> (Brad Harris, Ron Hedges)

- Using ISP Discovery to Track Anonymous Users – <http://tinyurl.com/3bfe88r> (Stephen Kramarsky)
- What ‘Effective’ Compliance Really Looks Like – <http://tinyurl.com/3whthwo> (Matt Kelly)
- What Changing Definitions of ‘Computer’ Mean for Criminal Law – <http://tinyurl.com/3u9su5t> (Ken Strutin)
- What Every Corporate Attorney Must Know About European Union E-Discovery Rules. An Update - <http://tinyurl.com/3tyng44> (Santiago Cueto)
- Who’s Responsible for Personal Data in Cloud Computing? <http://tinyurl.com/4558ckx> (Kuan Hon)
- Will There Be a ‘CSI Effect’ for Wiretapping? <http://tinyurl.com/3qycm2k> (Stephen A. Miller)
- Yammer, Chatter, Hot Water – Corporate Social Networks Have Advantages – and Perils - <http://tinyurl.com/3lbz4vz> (Ashlee Vance)

For Complete Events Calendar Visit: <http://www.orangelt.us/info/events/>.



About Orange Legal Technologies

OrangeLT™ is a leading provider of electronic discovery litigation, audit, and investigation services for law firms and corporations. OrangeLT™ offers a complete suite of electronic discovery services to include collection, analysis, processing, review and production of digital and paper-based information. OrangeLT™ is enabled by the OneO® Discovery Platform – an integrated, web-accessible electronic discovery platform that provides online analysis, processing, and review of unstructured data from the security of a hosted centralized repository.

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