

# **RICHMOND JOURNAL OF LAW & TECHNOLOGY**

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April 15, 2009

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University of Richmond School of Law  
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Dear Readers,

The *Richmond Journal of Law and Technology* is proud to present the third issue of the 2008–2009 academic school year, which also is our Annual Survey on E-Discovery.

Ken Strutin’s article, “Databases, E-Discovery and Criminal Law” examines the use of computer databases and electronic evidence from the standpoints of both the prosecution and defense in the area of criminal law. Mr. Strutin focuses on government databases and the ability of a defendant to prepare his or her case and receive a fair trial, positing that a tension exists between government and defense interests in relation to database access. He then examines potential constitutional and procedural remedies to this issue.

Jason Fliegel and Robert Entwisle co-authored “Electronic Discovery in Large Organizations,” discussing the burdens that electronic discovery regulations have placed on large companies. While the burdens are significant, Mr. Fliegel and Mr. Entwisle discuss the “reasonableness” standard of modern discovery rules, and how litigants can and should work with this standard to ensure a positive discovery outcome. For large organizations, this may include a more proactive approach to record-keeping.

Gregory Fordham’s article, “Using Keyword Search Terms in E-Discovery and how they Relate to Issues of Responsiveness, Privilege, Evidence Standards, and Rube Goldberg” focuses on how to best utilize keyword search terms in litigation. While digital searching capabilities have become very important to finding responsive documents in litigation actions, recent decisions have exemplified the complexity of keyword search techniques. After discussing these cases, Mr. Fordham gives

recommendations for designing keyword search plans in an effective way.

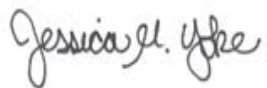
Thomas Allman's article, "Achieving an Appropriate Balance: The Use of Counsel Sanctions in Connection with the Resolution of E-Discovery Misconduct" discusses the recent influx of counsel sanctions related to e-discovery associated misconduct and how these sanctions are affecting client relationships. While attorneys and clients alike are struggling to comply with e-discovery requests, the "blame game" can emerge when this struggle does not end successfully. Mr. Allman suggests that the courts should look not just at attorney misconduct, but particularly at client responsibility for necessary information.

Finally, Kristen McNeal's casenote, "Qualcomm Inc. v. Broadcom Corp.: 9,259,985 Reasons to Comply with Discovery Requests" discusses the highly scrutinized case mentioned. Ms. McNeal's note gives a background of electronic discovery issues, an analysis of the case, and the ramifications that could stem from this decision. These implications include issues relating to attorney-client privilege and the relationship between in-house and outside counsel for companies.

The *Journal* is especially grateful for the continuing support and assistance of the faculty and staff at the University of Richmond, most especially the guidance we receive on a regular basis from our advisors, Professors Melanie Holloway and Jim Gibson.

We hope you enjoy the Annual Survey issue. On behalf of the entire 2008-2009 *Richmond Journal of Law and Technology* staff, I extend our deepest gratitude and sincerest thanks for your readership and support. Thank you for visiting the *Journal's* website, and as always, comments and suggestions are welcome from our readers at [jolt@richmond.edu](mailto:jolt@richmond.edu).

Sincerely,



Jessica M. Yoke  
Annual Survey Editor

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