

PRESERVING, COLLECTING, PRODUCING, AND PRESENTING INFORMATION FROM NOVEL OR CHALLENGING DATA SOURCES



COMPANY NAME

eDPM Advisory Services

LOCATION

New York, NY

SERVICES

Expert advisory services, professional project management and process improvement services, training, technology and operational assessments centered around e-discovery, information governance, project management, matter management and legal technology support.

WEBSITE

www.edpmadvisory.com

Objective

To investigate the potential use of a trademarked expression on social media and respond to a discovery request, eDPM Advisory Services needed to identify responsive posts on a variety of social media platforms and preserve the relevant search results in a reviewable format that would be admissible in litigation.

Challenges

- Identification of relevant and responsive posts within an enormous volume of potential content across multiple social media accounts

- Preservation of relevant results in a dynamic, robust format that could be reviewed, produced, and defensibly presented in court proceedings
- Access to an intuitive online portal for continued refinement of search parameters as the matter developed

Approach

Leverage Hanzo's social media collections technology, through an online client portal, to search through social media and identify potentially helpful posts to preserve, review, produce, and present in a courtroom-ready native format.

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Situation

eDPM Advisory Services is a consulting firm that helps law firms, corporate legal departments, and other legal professionals address information governance, ediscovery, legal technology and project management needs. When legal professionals are stumped about how to preserve, collect, produce, or present information from novel or challenging data sources, eDPM Advisory Services can help.

That’s why a client turned to eDPM to manage social media collections for a trademark litigation matter—which led Mike Quartararo, eDPM’s founder and managing director, to turn to Hanzo.

This trademark case turned on a question of use: who was the first to use a specific phrase, and in what context did they use it? The client also wanted to know how often various people used the phrase and whether it was associated—especially in its hashtag form—with any business, media, or products. The client was especially interested in evidence from social media platforms like Instagram, Twitter, Reddit, Snapchat, and Facebook, both because those sources were expected to be rife with dispositive evidence that the client could use in litigation and because their opponent had requested that information in discovery. Unfortunately, eDPM quickly discovered that this kind of search was going to present a range of problems.

Challenges

As soon as eDPM started searching for social media posts with particular hashtags, it encountered the first challenge: volume. With several phrases and hashtags to search across a long list of websites and social media channels, eDPM needed to run an efficient search—but the first Instagram hashtag it queried returned 968,000 posts. eDPM knew that it needed a way to manage the volume of search results by flexibly applying different search criteria and experimenting with terms and parameters.

eDPM was also concerned about how it would produce and present the results of those searches after it winnowed them down to a manageable number. Production of evidentiary quality online information is challenging under the best of circumstances, which these weren’t. Because the client also wanted to use the results in its own case, it couldn’t make do with screenshots or “flat” evidence that lacked supporting metadata.

Finally, eDPM wasn’t interested in a DIY approach for this client. As Quartararo explained, “Managing a case like this all comes down to the efficient use of time. That gets complicated when you add in the time it takes to master a learning curve. If I do this work myself, I have to buy an application and then spend hours learning to use it correctly. Even after that, it’s going to take me longer both to do the job and to confirm that I’ve done it the right way. There are too many data types and too many information sources for anyone to be an expert in all of them; it’s easier to just outsource that expertise to a specialist like Hanzo.”



There was a secondary issue that weighed against using a DIY method: both eDPM and the client wanted to forestall any possibility of defensibility and soundness-of-process issues. If eDPM did the work itself, it would have to explain what it had done to find, preserve, collect, and produce the social media evidence, rather than being able to call a third-party witness with extensive experience in defensibly presenting their exact methods and technology.

Requirements

First, eDPM needed a partner to help with the initial identification of relevant and responsive information. As Quartararo says, “Investigations can be tricky; they sometimes feel a bit like pulling teeth. Clients may not remember everything that happened, especially if it was a long time ago. Also, whether it’s intentional or not, people can sometimes be less than candid or get their facts wrong. Figuring out what’s relevant to a case, and when and where we should be looking for it, can take a while.”

Next, eDPM and its client needed access to the identified information in a format that could be repeatedly searched and filtered and that could be exported into an ediscovery review tool for attorney review. They knew that the scope of the issues was likely to evolve over time, which would require periodically refreshing and revising the search results. They also would need to have that information in a traditional review platform so that posts could be tagged as responsive or important prior to production.

Finally, eDPM advised the client that it would be critical to preserve whatever information they found in a secure repository to comply with their obligation to maintain discoverable information in its original state without any modification, alteration, or deletion. And the information that eDPM’s client was looking for needed to satisfy two legal standards: it needed to meet the client’s ediscovery requirements for production of discoverable information, and—more importantly to the client—it had to be preserved and produced in such a way that it could be presented as admissible evidence in court, as the client had its own claims to prove.

Solution

Quartararo contacted Hanzo and explained what eDPM and its client were looking for. He provided the specific URLs and social media platforms that he needed Hanzo to search and crafted a few Boolean search parameters for phrases of interest and hashtags.

Soon, his results started to come in, as Hanzo completed searches and uploaded data to its client web portal. When he was ready to access the information, Quartararo logged into the portal with the help of Hanzo’s on-demand customer service and quickly learned how to access and refine his results. With keyword and metadata searches, he was able to adjust the scope until he hit on the right combination of search terms and parameters. He then exported those critical

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results and saved his searches for future access. He said, “It was so easy to access; I could log in anytime and run a different search or compile a different analysis, running through various tests to see how we could narrow the scope and the results. Everything on Hanzo’s portal was very intuitive and easy to use.”

As a result, eDPM’s client was able to both confidently respond to its discovery requests and preserve evidence for its own use in the case. That data was readily exported into their document review platform for attorney review and eventual production. Quartararo was especially pleased to see how seamlessly Hanzo’s results integrated with review. In his words, “They solved our review problem completely. The attorneys had no problem navigating data, making relevance and responsiveness determinations just as they always would without needing to master any new tool or manage any new application.”

Similarly, Hanzo’s native exports allowed eDPM and its client to access archived pages that looked exactly as they had while they were live. This, Quartararo explained, was critical to building the case, as it was “more illustrative of what was there originally. We didn’t need to argue certain points; we could demonstrate our claims directly using the dynamic capture of the website, which was cool.” This gave the client the ability to further demonstrate to the court that their collection was defensible and done in good faith—a big contrast from previous collections using screenshots. As he said, “A site like Instagram, with its rolling feed, has so much interactivity that it’s hard to capture with other methods. It really showcased the dynamic nature of Hanzo’s native captures to be able to navigate that archived page as if it were live.”

Additional Applications

Quartararo was so impressed with the Hanzo experience that he can’t wait to use it again. “I could see this tool being used in practically any type of litigation,” he explained. “Anywhere that people are making public statements or posting photographs, whether it’s in a product liability or injury claim, a workplace dispute, or an intellectual property case like this one, could have evidence hidden in plain sight on social media. There are just innumerable scenarios where Hanzo’s social media identification and collection tools could save the day.” And with Hanzo’s new self-service access, clients can request investigations and information captures through the secure web portal on demand.

How can we help you capture confidence?

ABOUT HANZO

Hanzo is solving the single biggest challenge in legally-defensible compliance and litigation today—contextual investigation, capture, and preservation of dynamic web content. Through the Hanzo Dynamic Archive platform, we investigate, hold, capture and preserve team messaging data, social media engagement, and interactive web content, then replicate it in legally-defensible native format for analysis, review, and production. Launched in 2009, Hanzo serves government agencies, enterprises, and top law firms across the globe.

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