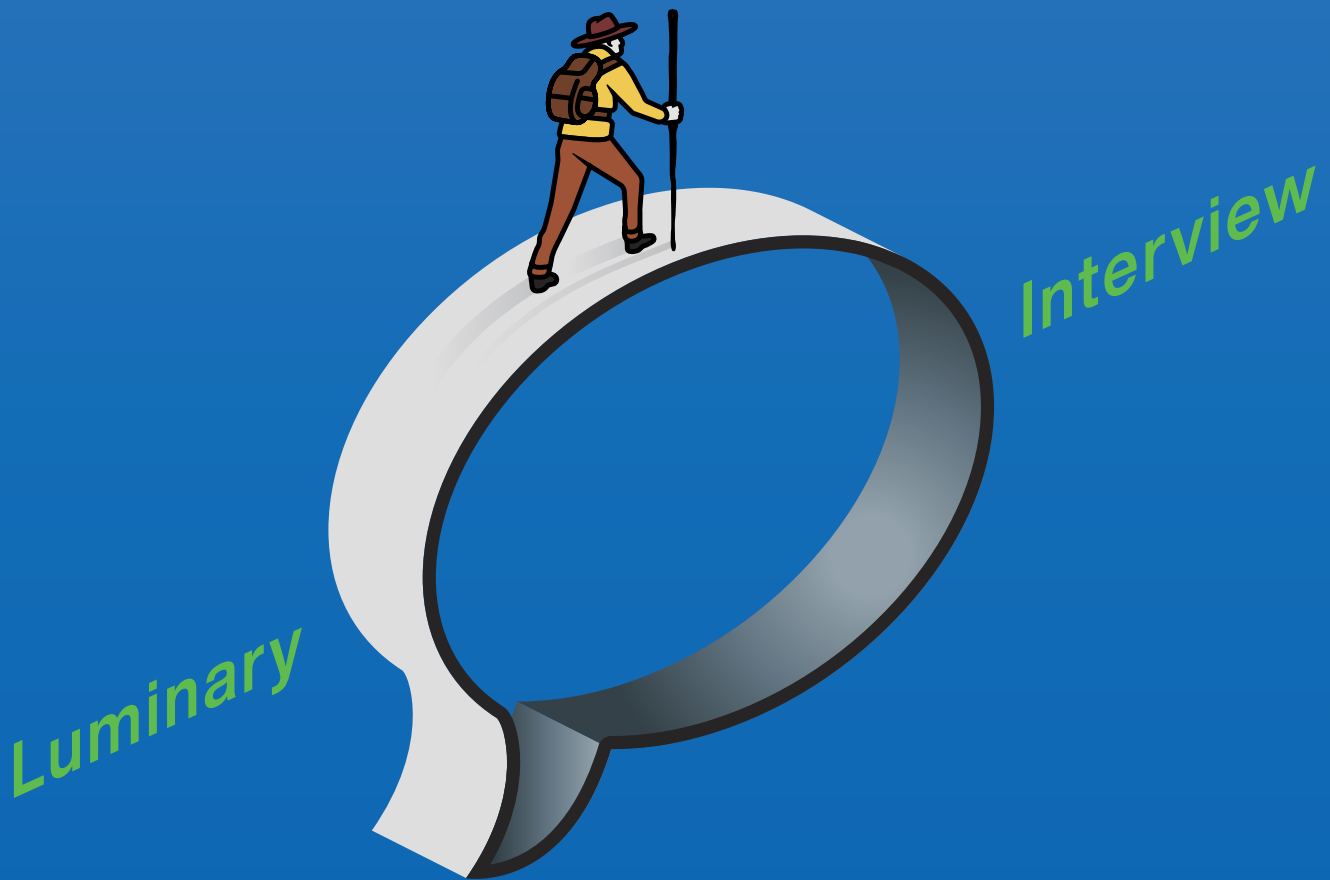


Making Ediscovery Accessible, Safe, and Profitable for Law Firms of All Sizes

By Neil J. Squillante | March 30, 2020



EXECUTIVE SUMMARY

THE EDISCOVERY SOFTWARE MARKET

The high prices of ediscovery software stem from venture capital investments and weaponization of the ediscovery process by large firms with ample budgets.

A LOW-PRICED ALTERNATIVE

Digital WarRoom is owned and managed by brothers Bill and Dan Gallivan who have shunned venture capital. The Digital WarRoom staff has more than 10 years of tenure on average per capita. The net result is ediscovery software priced low enough

for use in cases of all sizes. Customers include sole practitioners, litigation boutiques, municipalities, and law firms with fewer than 50 lawyers.

GUARDRAILS INCLUDED

Digital WarRoom builds “guardrails” into its software. For example, it’s virtually impossible to make a job-ending, client-losing redaction error. Because Digital WarRoom is a cloud-hosted application rather than a web app, it supports native files for document review, which enables litigators to examine metadata.

CONTACT



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Director of Operations
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Experts say that if you start a company, your co-founder should have complementary skills. Brothers Bill and Dan Gallivan didn't have to look far to heed this advice. They co-founded Seattle-based Service company GGO in 2002. The first version of Digital WarRoom launched in 2010.

Bill is the CFO and COO, Dan the CTO and Chief Software Architect.

A veteran, Bill qualified and operated submarines during his tour of duty in the U.S. Navy. During the 1990s, he managed the commercialization of many technologies that were developed in the Ohio Supercomputer center. He subsequently founded several technical services companies related to computing, software, and networking.

During this period of time, Dan developed an expertise in low level programming, particularly

operating system internals and graphics engines. A fan of small teams that have a big impact, he worked at several software startups, most notably graphic design software pioneer Aldus.

After Adobe acquired Aldus, Dan helped Am Law 100 firm K&L Gates launch ediscovery software and services company Attenex in the early 2000s. Dan recruited Bill to help Attenex grow. And grow it did (it was a major TechnoLawyer advertiser during this period of time). K&L Gates decided it didn't want to be in the software business and sold Attenex.

Realizing they made a good team in business as in life, Dan and Bill founded Digital WarRoom. Initially, the company was a full-service ediscovery provider but nowadays most of its customers use Digital WarRoom on their own, tapping the company's support team only for esoteric problems.

From left to right, Dan Gallivan and Bill Gallivan



I recently spoke with Bill and Dan about their unique take on ediscovery, especially making it accessible for law firms and lawsuits of all sizes.

Several years ago we published a symposium in our LitigationWorld newsletter in which we asked litigators how to make business disputes feasible when contemplated damages or claims were in the low six figures or even less. Most said it was impossible without reform. But Digital WarRoom customers would disagree. Explain.

BILL GALLIVAN



Here's the short answer. Our goal has always been make dispute resolution affordable. We focus on Rule Number 1 — Ensuring client matters are Just, Speedy, and Inexpensive.

Here's the longer answer. At the turn of the century, ediscovery vendors and big law focused on prevailing at any cost. They were so focused on managing risk, they all but abandoned managing client costs. These large corporate matters yielded 10s or even 100s of thousands of dollars in discovery related fees every month.

At the same time, Patent Trolls or Non-Practicing Entities (NPEs) took advantage of [pre-Alice software patents](#) to usher in an era of asymmetric,

weaponized litigation primarily through onerous ediscovery requests.

Software, services, and workflows responded by serving only this market for large matters. Smaller companies engaged in disputes were forced to settle when faced with broad discovery requests as they simply did not have the money to respond.



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— Bill Gallivan

Digital WarRoom launched to fight a common enemy of expensive competitors and their weaponization of ediscovery. Our mission is to de-escalate this weaponization. That is what drives us. We position ourselves as making ediscovery affordable for the very large and the very small cases. While we have always sold software and services to Fortune 500 and AMLAW 100 firms, we are now selling to sole practitioners and boutique firms of just 5 people. See, e.g., [How Intellectual Property Law Firm Carlson Caspers Reduced Its Ediscovery Costs by 99%, TechnoLawyer](#) (2018).

Ten years ago, the technology and pricing structures just didn't exist to serve smaller litigation shops but now it's becoming the norm. While investors and large players in this market continue chasing what they view as a \$14 Billion market opportunity, Digital WarRoom prefers to reduce the ediscovery spend, shrink the market size, and keep the management of ediscovery inside law firms and corporate legal departments. Our goal is to

help law firms create profitable practices and manage ediscovery in-house.

You and your team often talk internally about developing software with “guardrails.” What does this mean and how does it manifest in Digital WarRoom?

DAN GALLIVAN



With over 20 years of working at Attenex and Digital WarRoom, we have seen many problems and errors when attempting to comply with discovery requests — such as the accidental release of privileged documents or the sending of unaltered, extracted text with images of redacted

documents. Problems like this get practice support professionals in trouble with their partners. These are job ending and client losing mistakes.

Whenever we learn about these critical ediscovery errors, our product managers ask, “How can we code a guardrail that prevents that from happening?” Guardrails are a product development priority for Digital WarRoom.

Let me discuss an example that pertains to every case — redactions. In Digital WarRoom, lawyers must review and approve each redaction before sending it out the door. Furthermore, Digital WarRoom stores redactions separately from the individual file. This guardrail ensures that the text behind the redactions are not produced. These features led to the development of an automatic redaction audit log. We built the tool not just to draw boxes and cover up sensitive text, but also to make sure that those redactions do not have unforeseen negative consequences down the road.



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— Dan Gallivan

You grew up in a large family and now have families of your own. You say this has shaped how you run the business. How so?

BILL GALLIVAN

Dan and I definitely came from a big family and we have created a culture at Digital WarRoom based on family values. Our retention is high. In fact, even with new hires, our average tenure is still over a decade. When we onboard new employees we basically introduce them to our corporate family values. We fix problems and don't engage in blame. Everyone is expected to support for each other in all roles.

Digital WarRoom is 100% self-funded. In an industry defined by multiple mega funding rounds, we think of our tight-knit and quickly growing family as a competitive advantage in that we are able to maintain our values, create meaningful relationships, and make dispute resolution affordable. Rather than take investments from outsiders so that the company can grow, we invest our money in employee development, so our family can grow.

A few years ago the media hype around predictive coding — using AI to identify potentially responsive ESI with minimal human input — was deafening. You built a predictive coding technology

called GIST. What did you learn from real-world usage?

DAN GALLIVAN

Five to ten year ago this was a hot topic. From my point of view, there was a lot more sizzle than steak. The hype around predictive coding didn't match up with what people were doing. We have always spent a lot of time listening to our clients. Looking back, our clients never asked for a predictive coding tool, but we pushed our Gist TAR 2.0 engine through our product roadmap because our team bought into all the media hype. We considered this feature as a checkbox that we had to have in order to remain reputable. Today, GIST is primarily used to prioritize documents to be reviewed.



Digital WarRoom remains one of the few vendors to make our pricing publicly available on our website. We are still the leader in terms of overall transparency.

— Bill Gallivan

After spending all that time building, rolling out, and promoting GIST, we realized that we had to shift our product development practices to be more customer centric. Today, our new features stem from specific customer pain points. We have also learned to trust the roadmap that our own team lays out and not worry as much about what our competitors are doing or what the media is saying.

What impact has Digital WarRoom had on the industry and how do you stay ahead? What's next?

BILL GALLIVAN

Those who have read our previous Learnpapers and blog, especially *Ediscovery Commoditization and the Coming Law Firm Boom*, know that we predicted the ediscovery industry would commoditize to offer better products at lower and lower prices. We have seen recently that other ediscovery software vendors are lowering prices and picking up on our message regarding affordable pricing. I see this is entirely as a win for us and all consumers of ediscovery technologies!

I will mention however, that Digital WarRoom remains one of the few vendors to make our pricing publicly available on our website. We are still the leader in terms of overall transparency. At the end of the day, we would like to compete where it really counts — on the features Dan and his team creates!

It's hard to believe that ediscovery experts once argued about using native files in ediscovery software. You were on the winning side of that issue. Many litigators still don't fully understand this shift and its importance. Can you explain what using

Digital WarRoom enjoys high employee retention and customer loyalty.



native files means and the benefits?

DAN GALLIVAN

A native file is essentially a document that remains in its original file type and can display all content and metadata (hidden content such as the document author). This is particularly advantageous for multimedia files and Excel workbooks that may not be adequately captured by converting to a static TIFF or PDF image. Today, many reviewers produce in some mix of native and imaged format.

I'm glad you asked this question because we do occasionally get push back on Digital WarRoom being a cloud-hosted application as opposed to a web app. One of our main differentiators is that in Digital WarRoom you can conduct document review by viewing documents natively using presentation technology derived from the original file applications. This means you get access to all available content and metadata so that you can make the best possible decision on each document.

We were the pioneers of keeping everything native as long as possible and pushing for native file production. Native documents hold the richest metadata. When you image everything, you will

almost certainly have problems and disclosure deficiencies downstream. Just another example of how we strive for our technology to reflect the needs of the people.



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— Dan Gallivan



Meet Bill Gallivan

Bill Gallivan is the Managing Director and CFO of **Digital WarRoom**. He received his BSEE from Northwestern and MBA from The Ohio State. Bill was a qualified Submarine officer for the US Navy in the 80s. In the 90s, he specialized in technology commercialization, internet infrastructure, and security. With the insight he gained at KL Gates in the early 2000s, he negotiated a friendly spin out and co-founded Digital WarRoom in 2002.



Meet Dan Gallivan

Dan Gallivan is the CTO of Digital WarRoom. He is what we like to call a “serial entrepreneur”, co-founding 5 companies. Dan is a seasoned developer, passionate about solving problems for legal professionals. Dan has been retained as an expert witness/subject matter expert and has provided testimony in both federal and state courts in the last 20 years. He has been called upon many times to write declarations to support the defensibility of client claims.



Meet Neil J. Squillante

Neil J. Squillante is the founder and publisher of **TechnoLawyer**, an award-winning network of free email newsletters for lawyers and law office administrators. Many consider TechnoLawyer newsletters the only ones they need. A Fastcase 50 award winner, Neil has a long track record of inventing successful advertising and publishing technologies and related best practices. Previously, Neil practiced commercial litigation at Am Law 100 firm Willkie Farr & Gallagher. He received his J.D. from UCLA School of Law and his B.A. from Duke University. At UCLA, Neil served as a Managing Editor of UCLA Law Review.



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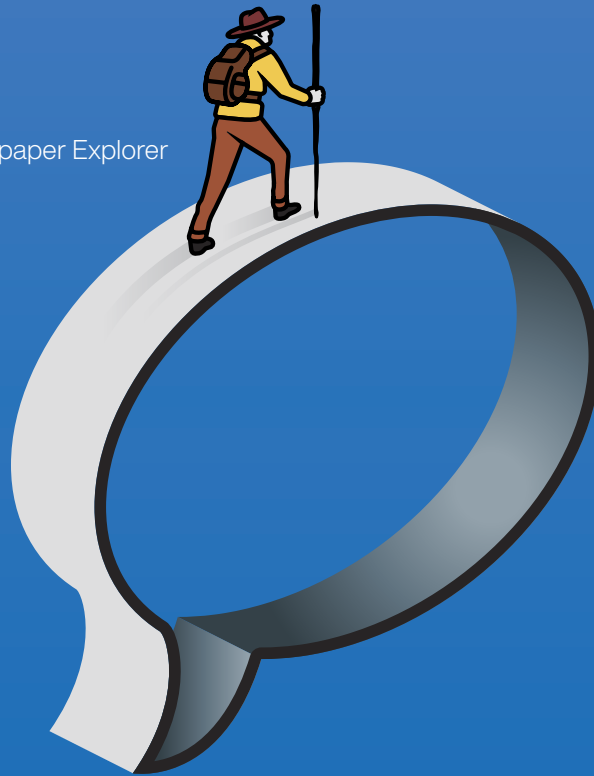
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