

2013 Ediscovery Case Law: Year in Review

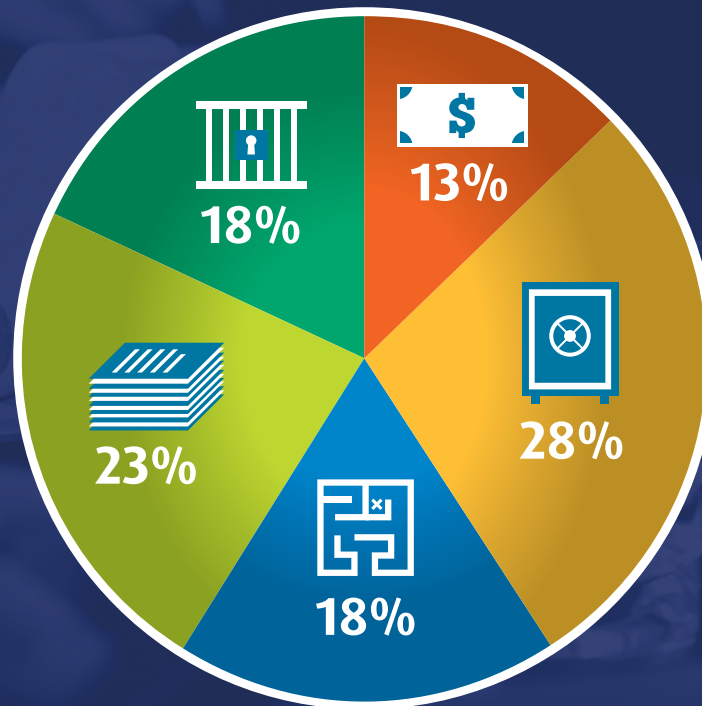
From January through November of this year, Kroll Ontrack analyzed prominent ediscovery opinions ranging in topic from ediscovery sanctions to ESI production. Through this analysis, these are the striking ediscovery opinions and themes of 2013. This year, case law focused heavily on reasonable search methods and procedural proportionality.

Sanctions

- *Sekisui v. Hart* – “willful deletion” enough for sanctions
- Opinions diverge on the requisite culpability and prejudice

Production

- *Apple, Inc. v. Samsung* – proportionality is crucial
- “Ultra-broad” requests are burdensome, thus disallowed



Costs

- *Gabriel Techs. Corp. v. Qualcomm* – predictive coding fees may be awarded to prevailing party

Spoilation & Preservation

- *Gatto v. United Airlines* – if relevant, social media must be preserved
- Preservation trigger varies by circuit

Procedural Issues

- *In Re Biomet* – reasonable processes more important than technologies used
- Search methodologies now analyzed with greater scrutiny

Costs Preservation/Spoilation Procedural Issues Production Sanctions