DIGITAL MOUNTAIN®

FALL 2022 E-NEWSLETTER

At Digital Mountain, we assist our clients with their electronic discovery, digital forensics, cybersecurity, and data analytics needs. For this E-Newsletter, we discuss emoji search, spooky case law and unveiling masked social media users based on emoji patterns. Trick or tweet just in time for Halloween!

Emoji Evolution Complicates eDiscovery Tactics

The nature of discovery constraints imposed by law and the courts make it rare that eDiscovery practitioners are handed devices with the directive "we want everything on here." By and large, there are specific targets or goals with which eDiscovery practitioners are tasked. When seeking communications between or among specific individuals, the use of emojis can complicate that process for eDiscovery practitioners. Fortunately, we're improving our eDiscovery tools and tactics almost as rapidly as emojis are proliferating in texts, chats, emails, and social media posts. Whether you're conducting eDiscovery yourself or have a professional working for you, knowing what's changing in emoji discovery will likely keep a smile on your face.

The first hurdle to emoji discovery is the very presence of emojis. If the tool used to extract data from a device can't render emojis as pictographs, what will be returned is a placeholder. The placeholder is frequently [OBJ], indicating that in that space there is an object that is not text. Those objects can alter the meaning of the text and turn a message on its head, so it's vital to see the actual object. While the right tools capable of rendering results in native format solve this problem, not all eDiscovery practitioners have the right tools at their fingertips, leading to lost time and resources that must be dedicated to filling in the blanks. Checking to make sure you or your providers have the right tools before the start of discovery is a crucial prerequisite.

Secondly, one must keep in mind the Unicode Standard, which is the official encoding method by which emojis and other characters are rendered as pictographs. The Unicode Standard provides a basic description for a dedicated image, and only covers a small portion of emoji and emoji-like images in use. Unicode Standard assignments can be altered, subtly or not so subtly, to create unique representations that render differently across platforms. For example, Apple's iOS jack-o-

lantern and Microsoft's Windows jack-o-lantern are clearly both jack-o-lanterns, but do not show up as the same jack-o-lantern. However, an internet search for 1F383 or a jack-o-lantern emoji will retrieve jack-o-lantern emojis.

iOS jack-o-lantern   Windows jack-o-lantern

Conversely, custom emojis like those trademarked by basketball star Steph Curry or model Kim Kardashian, are not based on Unicode Standard encoding. Unicode Standard emojis are font sets. They are rendered the same way as letters, numbers, and symbols. Non-Unicode Standard emojis are GIF, JPEG, or PNG (Portable Network Graphic) files which are defined as images. In common terms, we still call them emojis or by their "brand names", but they have to be searched for as images. That can further complicate a discovery approach because the image creator can name the file anything they want, and the user doesn't need to know the file name to use the image. While there has yet to be a comprehensive emoji translator compiled, a knowledgeable expert not only knows the difference between the emoji types, but also knows how to perform the various searches that will lead to the discovery of the emojis used irrespective of type or file name.

What even the most skilled eDiscovery practitioner cannot do is accurately interpret the intended meaning of the emoji at the time of use, leading to a third complication. If the sender employed a particular emoji as a stand-in for the name of a specific person, a host of messages regarding the subject may not appear in search results beyond one or two initial texts that establish the connection between the name and emoji. This is where experienced experts prove their worth. By reviewing messages returned in an initial search, they can establish subsequent search needs to return all potentially relevant communications. Unfortunately, if the subject is named Mike Baird or John Doe, and the senders are also Chicago football fans or deer hunters, there's some potential for erroneous search results. Again, a skilled expert can help separate the noise from the relevant messaging.

Finally, emojis acquire additional meanings with increased use. We all have some idea what the eggplant and peach emoji mean, beyond their literal inclusion in the "foods" category. If not, ask your nearest Millennial. The gas or fuel pump emoji, the iOS version of which is shown below, has also taken on the additional meaning of marijuana because of the slang term "gas" used for marijuana, street gangs that deal marijuana, or, as a replacement for the letter "g." Leveling up the difficulty of emojis in discovery, the placement of an emoji in combination with another emoji is often determinative. A face emoji before a gun or pistol emoji often indicates a shooter, whereas the reversed combination often indicates a victim. Hyperbolically, a gun and a broken heart emoji in combination, with or without a skull emoji, often means "dying of a broken heart" irrespective of the order in which they are placed.

iOS Fuel Pump Emoji

There are currently just over 3,600 Unicode Standard emojis, which is a small fraction of all emojis available, and there's little doubt we'll see more in the foreseeable future. For the same reason that we are attracted to texting, instant messaging, chats, email, and social media posting, we're employing emojis as communication at an increasing rate: we like the speed, the ease, and the entertainment value emojis add. Hence, as we're seeing the courts do increasingly, it's incumbent

upon eDiscovery practitioners to recognize this trend and adapt accordingly. At Digital Mountain, we're committed to advancing the leading edge of eDiscovery by constantly updating our tools, methods, and tactics to ensure we're delivering the best results.

Please direct questions and inquiries about electronic discovery, digital forensics, cybersecurity, and data analytics to info@digitalmountain.com.

UPCOMING INDUSTRY EVENTS

RELATIVITY FEST
Chicago, IL: October 26-28, 2022

SEDONA CONFERENCE WG1 ANNUAL MEETING 2022
Philadelphia, PA: October 27-28, 2022

IOT WORLD 2022
Austin, TX: November 2-3, 2022

SEDONA CONFERENCE WORKING GROUP 11 MIDYEAR MEETING 2022
Cleveland, OH: November 2-3, 2022

THE MASTER'S CONFERENCE
Atlanta, GA: November 3, 2022

Click here to see more upcoming events and links.

Digital Mountain, Inc. Founder and CEO, Julie Lewis, will be presenting at various upcoming industry events. Please send requests for speaker or panel participation for her to marketing@digitalmountain.com.

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