

# **A Conversation with Paul Hartzell, Senior Vice President of Merrill DataSite**

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## **A Little History**

**JC: What is a VDR? How has VDR evolved? What are the key attributes of the Merrill DataSite VDR – how do you separate yourself out from the crowd.**

**PH:** It is necessary to start with a little history. Data rooms, themselves, have been in existence since at least 1935. Data rooms, until the late 1990's were always paper based. They were almost exclusively hosted at law firms, with secondary hosts being occasionally the companies themselves. They were generally relegated to very unattractive surroundings. Often rooms had no windows, a lack of air conditioning, and a lack of creature comforts. This was because the purpose of them was the controlled display of business documentation that was being evaluated for the creation of the buying or the selling of a particular business, or business asset. My research took me to a gentleman who began his legal career on Wall Street in 1952, who referenced me to the person who trained him, who began his career in 1935. When I asked the younger of the two gentlemen, what can you tell me about data rooms, the one fellow laughed and said, "A data room is what you put a second year associate in charge to see if you are going to make them into a third year associate. I said to them at the time (2001), "I guess you're telling me it's a very unpleasant process and if it could be made into a better process that might be a business. They said, "Absolutely."

The actual technology of the Internet was not good enough to do what we do today until about 2003. We did not have the broadband width capacity to support it. In 2001, if you wanted to check your email from a hotel room, you plugged an analog phone line into the side of the phone. You dialed up a local access number, (to AOL, UUNET, etc.) and you had some methodology for connecting for connecting to your business or personal email. If anyone dared to send you an attachment in those days, you cursed them because that would delay your ability to download and read it.

In the late 1990's a company in Colorado was the first one where the technology of a virtual deal or data room was used. They raised \$46-48 million in an IPO and in less than 18 months they were out of business. They were out of business because they were too early. There was no market for this approach at that time. There was no pipe big enough to carry the vast amount of information need for a virtual data room. This company had the ideas, the terminology and the concept that this was a \$750 million paper-based opportunity if the platform was built right, and had improved bandwidth, both to and from, you might be able to see some use here.

## **What's Different**

The name DataSite comes from a conversation about how virtual data rooms were going to replace paper data rooms. We came into existence very early in the development of hosted software. The inflection point, 2001-2002, was the first time that people did not need to use physical diskettes for the updating of software on their PC's. Until 2001-2002, you were getting "Insert Disc 1, Remove Disc 1, Insert Disc 2, etc., and that is how you updated everything on your PC. What happens today is that Hewlett Packard knows what printer I have and they ping me every time there is an update. That did not exist just eight years ago.

We said that this was a website and not an installed application on an individual machine. "It's a website, isn't it? Then call it DataSite." DataSite has become a term like QTips, Xeroxing and Kleenex. Everybody, including our competitors calls them datasites now, even though we have trademarked the term Merrill DataSite.

What's different? The difference comes from a very fundamental platform difference. We are the only people in the world that do not require the downloading of documents in order to view them. Every other VDR that has been built and is built around the idea that you converge your documents to a common format. That common format is Adobe Acrobat. You then make those documents available to end users. In order for them to use they have to first download them individually. Then they open them up. We don't do anything like that. We use an encrypted Java viewer which allows the end user to look through the Java viewer at images of the pages of the documents as they reside on our server. Nothing downloads. The seller has complete file control. There is nothing to cut, copy or paste on the user end. The speed is astounding. 800 page documents load in a few seconds. You can open, theoretically, an infinite number of windows to view multiple documents simultaneously. You can put multiple documents side by side on the screen at the same time. You can do all kinds of things because you don't have to download the documents.

The second thing that you can do that is unique is the ability to not have human beings do anything. When we were developing this in 2001, there were not that many different file formats. There was WordPerfect, Microsoft and their suite of services, and a few other options. Our idea was that to make a scalable business we could not ask a client to take Excel, PowerPoint, Word, paper and any other type of document and then convert those documents in a linear fashion into a common platform. That is OK if you have five documents. It starts to get annoying if you have twenty documents. The average data room is 23,000 pages. If I could tell you, sitting there in your office, here are five hundred documents (averaging 40 pages long), in five different file types, that I would like you to convert them to pdf's and I would like to have that done in an hour. I don't know at what point you start laughing at me. You cannot do it. You can do it if I give you a couple of days.

The point is if you are really going to handle what really are data rooms with an average size of 23,000 pages, you have got to have some type of processing engine. We developed a huge differentiator in having the ability online for clients to load any type of files online and in seconds have those files be turned into these encrypted images, which carry one more amazing thing in them:

As we convert the files, we are also creating a 100% text, searchable data base that sits behind the encrypted image. Our throughput on this is about 2 million pages a day. What pops out is on the user's end is this perfect looking picture that has every character, regardless of language. This currently includes all romance languages and at this time excluding the character languages – although that will change at the end of this year, when Merrill goes to a different search engine that will run all of the Chinese, Russian and Japanese characters as well. Today, we have the capability to search any romance language with no client intervention. This process does not require the company loading the information to convert to any special format before the documents are uploaded to the DataSite.

Users can be sitting on their end and load entire file structures. Users can load their entire data room in the format that they have already constructed.

## **Speed and Service**

The key attributes come down to two very simple words, speed and service: Speed for all of these things we have built, allows clients cutting edge technology. This is the same encrypted technology that allows you to print out Fedex customer waybills. Fedex uses this because that waybill represents money – what you are going to be charged. The barcode represents the charge to your credit card to ship the Fedex package. It gives us a major advantage because anyone can load documents from anywhere.

Service is where Merrill's forty year history comes in. As we were building this platform, and as we keep pushing it forward on the technology side, we also have a very robust service platform that is part of the DNA of Merrill. What Merrill does is handle documents. Merrill files documents with the SEC; it delivers documents to mutual fund shareholders. It prints merger proxy statements.

**JC: Merrill as a corporation has a history as a data handling entity and it saw the VDR as an opportunity to take on?**

**PH:** I was given the task of building the business. That is how it all got started. I refer to this as an adjacency. What was sitting behind every M&A assignment that we ever printed the proxy material for? Months and months behind it was a data room. What sits behind an IPO? A data room. The same is true for an asset sale that we do for General Electric or asset purchase that we do for GE – what sits behind it is a data room. Those things are all adjacencies to our existing business. It also has us doing business with a lot of the same people we were doing with “listed” companies – the things companies do for shareholders. Many times we are working with one, or both, sides of a transaction for private companies. It has been a great door opener for Merrill in general. It used to be that you came to Merrill because you were a public company or you were about to become a public company. But, today, you can be a private company of practically any size as well.

How do you grow a company? You can either grow by acquisition or you can grow organically. Suppose you are a \$40 million company and you are in Ohio. If you decide that the best way to grow your business is to combine your business with a \$40 million company that is located in Phoenix – with the idea that between the two of you, you can cover twenty five states. That is an opportunity for DataSite. The back part of this is the integration is where what we do really provides value. When two companies come together it is more usual than not for those two companies to have different ways of keeping records. They use different file formats. They may even use file formats that are not even compatible to each other. They may use different methods of communication. All of those different things have to be ironed out. If we are hosting the documents for those two companies as they combine, we have taken a whole bunch of variable out of that part of the process by giving people instant access to critical information that in many cases, they did not create.

For instance, you have a different filing system than I do. I may put a date in front of everything. You may put the date on the end of everything, etc. We are not looking at file extensions, although that is going to be displayed. We are also enabling people to have 100% text search of their content. We are allowing that to happen without charging extra for it, and more importantly without taking any time to do it. Clients don't have to OCR a document, deal with the vagaries or some OCR search engine that do not find things very well, because of how the technology allows the text data base – that sits behind the picture.

I describe it like it is a sandwich. The front of the sandwich is a picture of the page. The back of the sandwich is the text data base that is 100% searchable.

What sits behind what we do, between our offices in London and the US, are about 100 people that are available twenty four hours a day, because a client can't be there during that 24 hour span. We have created a team of people that are led by project management folks that have done individually, 300 to 500 M&A transactions. We have done over 11,000 of them. We have hosted over 230 million pages of client data. Our people know what they are doing.

## **The Connection to Integrations**

To tie this into integrations, one of the things that is stumbling block of many, many integration issues is the fact that the people doing it have never done it before, or at best, the do it once every two to three years. I draw many parallels to our company. Merrill has made six major acquisitions over the last nine years. In the last sixteen years we have grown Merrill Corporation from less than \$100 million to almost \$1 billion, 10 times what it was when I joined the company. Some of it has been sales growth, some of it has been by acquisitions into adjacencies, into other verticals. That is how a lot of companies are. There are only two ways to grow a company, either organically or by acquisition. Merrill has lived through the acquisition part of this process. We have grown DataSite from \$0 to \$85 million.

I have the workflow process from Microsoft, which is one of the most sophisticated process for acquiring and integrating you will ever see. Microsoft has this process down to a science. They can afford to. But, if I am a company in Ohio, buying a company in Phoenix, where do I start? One of the places you have to start is with your documents.

## **A Changing Customer Profile**

**JC: What kind of companies uses VDR's?**

**PH:** There are really two things to talk about there. One is that nothing is too small, either the size of the company or the size of the data room. What really matters is how critical the documentation is and how much security do you want to wrap around its display or in sharing with others. Theoretically, there is no reason why I couldn't email you the entire data room. But if I do that, you have every critical business document for my company – and I have no idea what you do with it after I email it to you.

If I put them on an FTP site I just let you take them faster. Then you still have

them all. Even so, they will not do you much good because they are in multiple file formats; very few of them are in any form of a searchable content, unless you open them up individually and start looking at them. Any you will not have the time to do that either. You need to find, for example the section on assignability of a lease, and you need to find that critical information - especially if you are attempting to value the company. Those are the kind of things that you are going to be able to get from the kind of capability a company like DataSite can offer.

We do about 40% of our business outside of the US, with the UK with the most transactions, Germany number two, France number three, and Ireland number four. It has been a great business. On the international level companies operate on the same way as in the US. In many cases they are very sophisticated when it comes to the security that we employ. Another differentiator is that we are that has an ISO 27001 security designation on our product. The reason we have that designation is that we are the only VDR that controls this process from beginning to end. Everyone else outsources things like hosting, help desk, tech support. This is all built internal to Merrill. We went through this certification two years ago, with an annual DataSite audit. That carries a lot of weight outside the US. Less than 4000 companies in the world that have ISO 27001 certification. ISO 27001 deals with risk and implementing appropriate controls to preserve confidentiality, integrity and availability of information assets.

We hand our ISO certification to larger companies of that ilk and the ISO designation satisfies them that we are effectively dealing with all of those types of security questions.

### **JC: Is the customer profile changing?**

**PH:** The answer to that is yes, because if you think of the adoption curve – we started big and went down. The first people that were willing to use this were the bulge bracket financial advisor, M&A folks who realized that this was going to do one dramatic thing. That is, it is going to shorten the time line. If you think of any M&A deal looking like a horizontal line, every group that has to review documents in a physical setting had to be scheduled into that physical setting over a fairly long period of time. You can't let them overlap. You can't have the folks from KKR bump into the people from TPG. It is not a good thing. You can't let even let both groups know that the other group is there.

Here is some math on this. A typical deal would have six to eight groups of people that would ultimately come to the data room. If you give each one of those groups five business days and weekends in between. Five times eight is forty, plus eight weekends is sixteen – and throw in a few more days because, not surprisingly, people don't put things back to where they were. You have to go in one day for every five days to put the room back in order. I just outlined sixty-four days. That's just to get a bidder group through the data room. It

doesn't take into account questions and answers, "Oh, I can't find this", "These documents just came in late", and all of these other things. How about this: Prospective buyers only had access to that data room somewhere between eight and ten hours a day.

Now, with a VDR you are getting twenty four hour access, 100% text based searching, as well as a whole bunch of other nifty tools that are going to make your life better, as well as fifteen days of twenty four hour access. We just lowered the deal cycle from sixty four days to fifteen, taking almost a month and a half out of the deal cycle. This is what got the big banks excited early on. Time is one the great enemies of all deal transactions.

As time went on, we are dealing with an adoption curve. The adoption curve started with a couple of hearty souls in 2001 or so that were willing to brave emerging technology on the Internet as well as on the interface level – since we were just starting hosted software. What happened in very short order is a trickle down or sideways to the middle market, which can be defined as between \$50 and \$150 million. That is where VDR use really began to catch fire before 2005. There were lots of big deals getting done but there was also an accelerated rate of adoption in the middle market adoption space.

We started to turn our considerable marketing sales attention to the middle and sub-middle market (some call it the microcap market) with revenues from \$50 million to less than \$10 million. That is an area that still has been virtually unaffected by a lot of the economic problems we have had. That grouping continues to be very robust, with 13,000-18,000 deals a year.

In this range we are dealing with companies that have never made deals before and may never make any deals again. That is a market that requires more education, more hand holding and more outside expertise. They are probably not going to get it from a financial advisor, because those deals are under the radar screen for financial advisors. That is how the market is changing.

Are we going to get back to the market for bigger deals? Perhaps someday... For megadeals – there's a couple around now. Will there be more? Yes, when somebody figures out how to finance them.

## **“Asset Readiness” - Preparing for a VDR**

**JC: What are the requirements for using a VDR from a preparation standpoint?**

**PH:** This is where a lot of those people are flying blind. It is extremely important because there has to be an evaluation process that goes on here.

Another thing that a lot of people got caught up with was the belief that everything is an auction. But there aren't that many auctions today. The auctions were born of the feeding frenzy of private equity. We are not doing that many auctions. We are doing much of what you just discussed, a company making an acquisition that is going to make a real material impact on the bottom line. The whole idea of getting prepared for that is key. Our thrust has been, over the last two years, is asset readiness. On our websites we have documents on asset readiness. People have to think about that from the standpoint perhaps, we have a family business and we want to be in a position to sell it, or we bought this \$100 million company two years ago, but there are a couple of parts of the acquisition that do not really fit into our long term strategy. We should sell those. They are a drag on our company. Asset readiness means that a company has a data room already set up, or at least 75%-85% set up becomes a smart way to run a business. That is how people have to start. A lot of times deals start prematurely and then people start to realize that the reviewer does not have quick access to those documents needed.

We have a bunch of deals that start out like a house on fire. Then they slow down after people realize that this is not as easy as selling the next door lot to my neighbor.

## **Benefits of VDR's**

### **JC: What are key benefits of using a VDR?**

**PB:** One of the key benefits is cost. A VDR is roughly one half to one third the cost of doing a paper data room. This is often lost on the smaller deal size participants. A typical paper data room will make eight to ten paper copies of the content of the data room before it is all over and done with. I am not talking about just making copies. These documents have to be put into binders, folders, have tabs. They are real reproductions of the data room. Those things get executed for about 15-20 cents a page by every law firm in America and around the world. Let's just be charitable and say it is 15 cents and say that we are going to make eight copies of each. That is \$1.20 per page. We are going to be able to deliver that same thing at 30% less than that. That is just preparing the paper for the data room. That is not factoring in hosting that data room, which is another 100% the cost of the physical component. You are paying for the 8-10 hours of hosting and billing at the paralegal legal for the law firm that is hosting it. A third component of a cost comparison is that we can take fifty days out of the cycle.

I spoke to a company the other day and asked what their marginal cost of borrowing, which was 13%, or 1% a month. If we can shorten the deal cycle by two months, we just saved you 2% of the borrowing/opportunity cost. That

number is huge. 2% of a big deal is a terrific number. It is many multiples of what a VDR costs. Most people don't think of those things.

**JC: Does a smaller transaction have 23,000 documents?**

**PH:** We don't have an effective minimum. We tell people that we don't have a user fee or a time fee in our base. We get some idea of the amount of information the client has. Some companies today do have the majority of their data in an electronic format. They can say, "We have so many gigabytes or megabytes." They can also say, "We have five bankers boxes." Or as one fellow in London said, "18 feet."

I measured it. I have four shelves and each shelf is four and a half feet." We went to a part of our office and measured how much paper you could stack on a shelf.

## **Every Deal is Customized**

**JC: Every deal is customized to the client?**

**PH:** Every deal has a customized index. I always like to point out mistakes that I have made with DataSite. Here is one of them. I came from the world of our listed company services, such as filing documents with the SEC. For example, that would mean filing Form S1, Form S4, Form S11, or Form 8.

Eight years ago I thought that everybody used the same index. 11,000 deals later, we have not seen the same index twice. Our product has to be customizable because no two indexes are the same. We have created a very valuable library of indexes. We have over 3,000 indexes that are cross referenced in a lot of different directions: by company type, size of transaction, geographical location, etc. A good way to start with a client is to say, "Tell us something about your business. Are you like this? Are you like that? Let me get you a couple of sample indexes." These new clients think we came down from the heavens because it gives them blueprint, a place to start.

They start thinking that, "I need to get my real estate documents. I need to organize them by physical location. I can do that." That is how a lot of companies are. They live from one week to the next. Then all of a sudden we tell them, "We need you to gather up all of your business information for your company."

In the tools we built, we created a whole structure around the Microsoft Office look and feel. You can build folder, subfolders, and sub subfolders if you need

them to create the needed hierarchy to give you the look and feel of an actual paper data room

**JC: Do your clients submit downloadable files, or do they submit raw documents to you to transfer?**

**PH:** They give us both. We are running about 90/10 electronic over paper in the US. Outside of the US it is about 60/40 electronic over paper. Also clients themselves are loading about 60% of their information themselves and we are loading the other 40%. Our pricing is completely level regardless of whether we load the documents or someone else does it. The way we are able to keep it level is that we have created tools that we can work even faster than the clients. The client may have the ability to load 5,000 pages in an hour. We can load 50,000 in an hour.

Once again, there is no human intervention. The bar code tells the scanning software, this is where this document goes after you finish scanning it. There is a lot of automation that we have created around this. This has allowed us to move to the forefront in this business, because other people are still working dealing with that linear concept of, "I've got it in some format. I have to get into Acrobat format. Then I have to load that document.

Our clients can load them in themselves. But, some clients ask us when they can take advantage of our abilities to load these documents. I say, "About after 6 PM. You can go home."

Here is a point of emphasis. With about 4-5% of the pages we capture, we do that on site in a client's office. There are a lot of people that don't have time to make copies of things, to box them up or transfer them to some place. These are the only copies they have. We built and now use all over the world, is the ability to go on site, off hours, and acquire documentation. A two person team can feed around eight thousand pages over a ten hour shift. We can put a couple of teams on a site and transfer sixteen thousand pages a day.

We have a micro cap package for transactions valued at between \$1 million and \$15 million. The cost of that package is \$1400 in month one, and \$325 a month for eleven months. A deal should last about six or seven months. That total is under \$5000.

## **Security Issues**

**JC: Here's a question about security. A positive on VDR security is that the materials can be encrypted. On the negative side, hackers have been**

**successful in getting into many places people did not think they could get access. What kind of concern could someone have on security?**

**PH:** We have to survive penetration testing by the likes of Microsoft, Intel, Intuit, Hewlett Packard, and GE. These are all entities that have hired outside organizations to do exactly what you have described. None of them has been successful. The origins of this platform, the original technology comes from a company which was hosting for the US Government, the manufacturing plans for the Stealth bomber. Our DNA for security is very interesting for this product.

If you ask that same question of anyone else in this industry that turns them into Acrobat files and lets people download them, there is not one Acrobat file in the world that cannot be opened in ten seconds or less. All you have to do is put "PDF cracker" into Google and you get thousands of hits. Because we control all of the data at all points in house and monitoring all of this, we have developed very sophisticated monitoring tools, we can control that situation continuously.

Security is an integral part of Merrill because this is not the only application of web-based Merrill products. We get tested regularly by outside sources.

**JC: The technology and capabilities for both hacking and detection/prevention ramps up at a quantum leap rate so I am sure you can't rest on any particular laurels.**

**PH:** That's right. One of the things we think about constantly is making intrusion detection making extremely difficult, time consuming and costly. People hack into systems to get everything they can. However, if you had any success in getting any information at all from DataSite, you are going to get hit by our technology that will stop you at one individual encrypted page. Now the hacker is going to have to make another effort to get a second individual encrypted page. Between the attempt on page one and page two, the hacker will be detected. The technology is that good.

When you download a document, once that document is on a desktop a hacker can get it, regardless of protections.

**JC: When potential buyers get these documents, are there gradations in the security level, confidentiality levels of what they are able to access?**

**PH:** We have four different permissions: One is that "you cannot see the document", the second is that "you only" have permission, the third is "you and print only" and the fourth is "view, print and download". For all of those actions, we give instantaneous reports that go down to 100<sup>th</sup> of a minute for access to the individual page. When we talk proof of due diligence, this is unmatched in the

ability to give granular information to people who need it. If I am an attorney and I am working on a transaction, I can prove exactly what was looked at. Lawyers find this critical since M&A law hinges on two legal points. One is that you make can prove that you made the document available to the other party. The second point of law is did you review the documents. This tracks when the document was made available to the minute and the second. It tracks when a page was looked at to 100<sup>th</sup> of a minute.

## Positioning for After Due Diligence

**JC: How does the VDR better enable a company to position itself for what acquisition and integration phases that come after due diligence – the completion of the deal and the integration and ultimately transformation that take place in the new company.**

**PH:** One of the best illustrations is to say that, “I have come to a financial conclusion and I am going to identify synergies and other advantages that are going to be a part of this new business combination.” If I am the CFO of the company and I look out of my window, I see a van pulling up and in the van are twenty boxes of stuff. Some guy comes walking into the lobby and says, “Where do you want these boxes.” And someone says, “What is in those boxes?” The delivery person replies, “I don’t know. It’s from that company you guys bought last week.”

What is interesting about that process is that somebody else’s problems are now your problems. You did not construct that information. It is not yours. For example, there may be critical information or other contracts that you don’t know about that may have expired and nobody knew to renew them. That kind of thing happens all day long. I chaired a meeting with a very large petroleum company and two of the participants began to argue about the assignability of a lease in a deal. When the meeting was over, I asked how much that contract issue cost and found it was a \$7 million dollar mistake. And this was one lease. This was serious stuff. A fraction of that can be just as crippling to a small company and a small deal, or maybe more so.

In many cases, although people think that they closed the deal and the deal is done. The reality is that the real work, the integration, is just beginning. I hear a lot of people talk about deal fatigue. They are not talking about before the deal got closed. They are talking about what happened in the integration process after the deal closes and as you are trying to realize the synergies that either been poorly identified, or even if people have done a very good job at identifying what the synergies are, but it becomes very difficult to manage getting to them and how are you going to accomplish capturing them. Some of them you can accomplish very quickly. Others take a much longer period of time.

Every now and then you have to get your hands on a document you need and your need it because it has some fairly esoteric content and it is not yours. You have to find it and make a business decision based on it. That is our world.

**JC: If you are the acquiring company, you go in with a certain strategic viewpoint and you need to validate what is there to go forward. The data room is a key building block to determine in a strategic due diligence perspective what direction a buyer can move in and what the buyer can attain through this transaction. How does employing a VDR support that?**

**PH:** One of the great things about the security setting process we developed is that there are many times during the due diligence process as well post merger, an acquirer needs to involve professionals who only need to see a very small slice of that information. That is something we make very simple and very auditable. If someone has to bring in an outside consultant to look at ten particular documents, and make sure that the consultant is spending the necessary amount of time and at the level of scrutiny necessary to exercise judgment. This oversight allows the buyer to get better value and to be able to deliver a more efficient platform. These items scale from the small to the medium to the large deal. Everyone benefits and by design.

## **A Changing Perspective on Due Diligence**

**JC: Originally most data rooms were constructed and run by lawyers. They were not necessarily run for the benefit of the gaining buyer's insights but for the protection to make sure that the "i"s are dotted and the "t"s crossed. How does a company look at items like culture, leadership, quality of perspective employees to get beyond that protective viewpoint?**

**PH:** All data rooms used to be done with the involvement of a law firm. A lot less of the construction is being done today because there is a greater involvement by almost every company. Companies are getting better at their ability to go to their human resources, tax departments, etc. and gather pertinent information. There is a transformation going on that is less reliant on the outside law firm and perhaps on inside legal resources, if a company is big enough to have a general counsel. There is also greater direction around those component pieces within companies. Companies are doing more, on both sides.

**JC: Do you bring in due diligence on cultural surveys, technology surveys, leadership, human resource capabilities, research and development capabilities, customer relationships?**

**PH:** The business answer is that Merrill would have no involvement in those things other than being a host of that information. We are agnostic by design. We have done a lot of work around patents and related items. We have worked in the human resources area. We see a lot of these things. But we are agnostic to the content.

**JC: Do you have the capacity to encompass that? Have you noticed that people are incorporating that kind of data in the data that is made available for review? The prospective buyer can make request to the target company for that kind of information.**

**PH:** We also have a capability for special media, which is audio and video. Analyst meetings have been recorded. We have provision that you can hang those files off to the side so people can listen and watch them.

## **Q & A and the Ever Changing VDR**

**JC: Do you encourage clients to also look at other tools (project management, cultural survey, technology assessment, leadership appraisal etc.)? Do you see that there are other things that are becoming part of an essential toolkit, in addition to the VDR?**

**PH:** The Question and Answer process and how those questions are managed, allocated, drafted, collected and disseminated to the right people is incorporated, which is a movement towards workflow management. Some people can do things quickly and efficiently and you have to monitor them. Other people, our monitoring process is like holding a cattle prod. We are including more and more features that make up a review process that enable someone who is the manager of the question and answer process to be a traffic cop around the assignment of questions to various members of their group. Project management type of tools deal with monitoring tasks, not around documents. At some place there will be an intersection of those things since someone has to be in charge and tell others what to do and then monitor their ability to execute delivery. We are the informational basis for them to act.

**JC: Is Q&A defined here as the buyer asking questions and the seller is charged with responding by providing additional data?**

**PH:** Yes. Historically, typically 30-60% of a company's information is made available to a potential buyer. A data room is really a starting point for examining key due diligence materials. In the past the Q&A process that was employed tended to be geared to concerns such as "I don't see these documents. I am going to have to ask for them."

The smarter client was rewarded for asking for things while the less sophisticated client gathered lesser amounts of relevant materials.

Also, Q&A requirements vary from area to area. There are areas in Europe where all questions and answers are made public to the entire group, in certain types of transactions.

The dominant need for potential buyers is efficiency. Q&A in the paper world was horribly inefficient. There was no one in front of you who could answer your questions. Your questions would perhaps be tabulated on paper, on a white board and as technology advanced, on Excel spreadsheets. At that point individual Excel spreadsheet had to be created for each individual bidder group, a very complex undertaking.

A core problem is that if a data room is reliant on documents that download, it is impossible to create links within your website that are formed instantly. Because our documents do not download, we are able to provide every document its own discrete address within the data room. Developments in technology allows us to tag those documents and have the tag attach to a question, and have that appear as a “hot link”, which link to individual locations of specified documents. When someone is reading a document and has a question, there is now a button on every page of the document that lets the reader ask a question. When it comes to the person who is receiving those questions, the reviewer, the document is automatically tagged. The reviewer does not have to search for the document. This is first level of problem for us to attack since searching was such a time drain on the due diligence process – that is, the question could not be answered unless the document is in front of the reviewer.

The second problem we needed to deal with was tied to the realization that 50-60% of the time the answer to the question is in location and in a document that needs to be put into the data room. New documents continuously need to be added to a data room. These rooms are not static. A due diligence process is a living thing, changing from start to finish. The data room may begin with 20,000 pages but may end up with 24,000 pages. Many of the documents that get added are in direct response to questions. We may want to refer people in our answer to this new document. After we load the document it has its own location within the data site. In this process we create the ability to select any number of documents as “see also”. That designation allows the seller to answer the potential buyer’s question and say, “Please look at this document. It has its own hot link.”

With this in place, the seller can provide potential buyers answers with hot links so that buyers do not have to spend time carrying out additional searches. This customizes the information so that it is accessible uniquely to each particular buyer group.

Some groups get very deep into the Q&A process. To accommodate this we developed the third piece of solution which is called “threading”. A lot of times the questions a buyer may have can center on larger particular topics. As time goes on, buyers are drilling down on specific topics. A buyer would like to be able to look at threads of questions and answers because they are all related. The buyer would like to see that progression. We built the thread software so that if buyers wanted to continue to go back and forth on a particular topic, these things will easily be seen as threading together.

## **How to Make a Deal Successful**

### **JC: How is that you are so excited about the integration process period and integration management tools?**

**PH:** Since about 2003 I have been in discussions on the subject that a lot of people do deals and then the deals are not successful. The question was whether there was some way of using intelligence, i.e., the repetitive information from a larger group of people using successful deals, to create a software solution that could be considered, more or less, of best practices? e•know.com is one of the companies that use DataSite as a document hosting platform for integrations. DataSite functions as the repository of data that can populate an integration management tool.

In a related matter, DataSite has 28 million pages of documents that have been in the repository for well over a year. The reason these pages are on DataSite in the first place is that documents that were involved in a merger and now the new owners have to run that company. The best way to run that company is to continued access on a very granular level to the content of those documents. A company should not continue its post merger exercise without complete access to all of the documents of the company that the acquirer is attempting to integrate. Even companies that should know better wind up in a completely paper-based data. They bought a company and the law firm that managed the seller’s data room sent them a copy of the seller’s documents. Even if those documents are mostly in electronic format, they will get a paper copy of the data room. The conditions are that the acquirer has to run a company. Things are moving fast.

There are HR, IT, real estate and any number of other issues. The acquirer can spend hours to days getting its hands on important documentation. If the acquirer lets the data site run and ownership is transferred to the new buyer there is much more rapid access.

In deals in the \$150 million and bigger the reality is that the acquirer is not just buying one company, but the overall company and its division. After the acquisition, the acquirer may find out that the acquisitions may not fit into the

acquirer's strategy. The best thing to do is to continue to run them as best as can be, but ultimately to sell them and be in the best position to sell them to an acquirer that has a good fit. The point is to be ready for another transaction. Readiness is the key. If the acquirer uses a good integration tool, which has a dashboard capability, the new owner can see what might be the basis for a number of different synergies. The place it can fall down if the acquirer has developed "deal fatigue". There is a level of frustration in bringing two companies together, a good deal of which involved difficulty locating documents, knowing who has them and where they are, so that the acquirer can use them effectively and efficiently.

**JC: Paul, thank you for participating in this very informative session.**

### **About Paul Hartzell, Senior Vice President, Merrill DataSite:**

Paul F. Hartzell, senior vice president of Merrill DataSite Services, began his career in the financial services industry in 1981 with Kidder Peabody & Co. Inc., where he held Series 7, Series 63 and State of California Insurance licenses. While there, he developed some of the first online programs to allow the simultaneous purchase of convertible securities and options on multiple exchanges. From 1985 to 2001, Paul worked for Sorg Printing, RR Donnelley and Merrill Corporation, where he built one of the largest individual account bases in the financial printing industry and generated more than \$75 million in sales revenue for Merrill. In May of 2001, Paul became vice president of sales for PostX Corporation, a privately held, venture-backed software provider bought by Cisco in 2007. After helping PostX to secure an \$11 million Series E financing, he returned to Merrill to launch Merrill's DataSite. Since then, Merrill DataSite has hosted thousands of online due diligence projects with millions of pages of information, earning \$85 million revenues in 2008. Paul holds a B.S. in mechanical engineering from Lehigh University.