Session 7: Early Case Assessment

LBSC 708X/INFM 718X
Seminar on E-Discovery

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Hradcany Castle and Charles Bridge, Prague

How much does counsel know?

- About the nature and scope of the relevant evidence existing in custody and control of the opposing party?
- Same question re the relevant evidence existing in one's own client's custody and control – how much is known?
- How much is know-able?
- Have the answers changed in past decade of practice?

Early Case Assessment

- **Early case assessment** refers to estimating risk (cost of time and money) to prosecute or defend a legal case.
- Human expertise
- Technology

Why ECA?

--Most cases settle prior to trial

-- Exposure (likelihood of negative outcome in litigation)

--Discovery and document review in particular are costly, burdensome

--Protecting against sanctions (spoliation should preservation obligations not be carried out with due diligence)

--Speed

--Insight into case (readings this week)

--Establishing a budget

ECA lifecycle

- Risk/benefit analysis
- Putting into place legal hold
- Collecting/culling info for attorney review
- Processing relevant info using filtering, search terms, predictive coding, etc.
- Producing info (in discovery)
- Re-using info, KM, BI

ECA Downsides

Up front costs

False negatives (example case)

Software approaches to ECA

- Keywords
- Relevance ranking
- Clustering
- Predictive Coding
- Sentiment detection
- Social network analysis
- Visual analytics

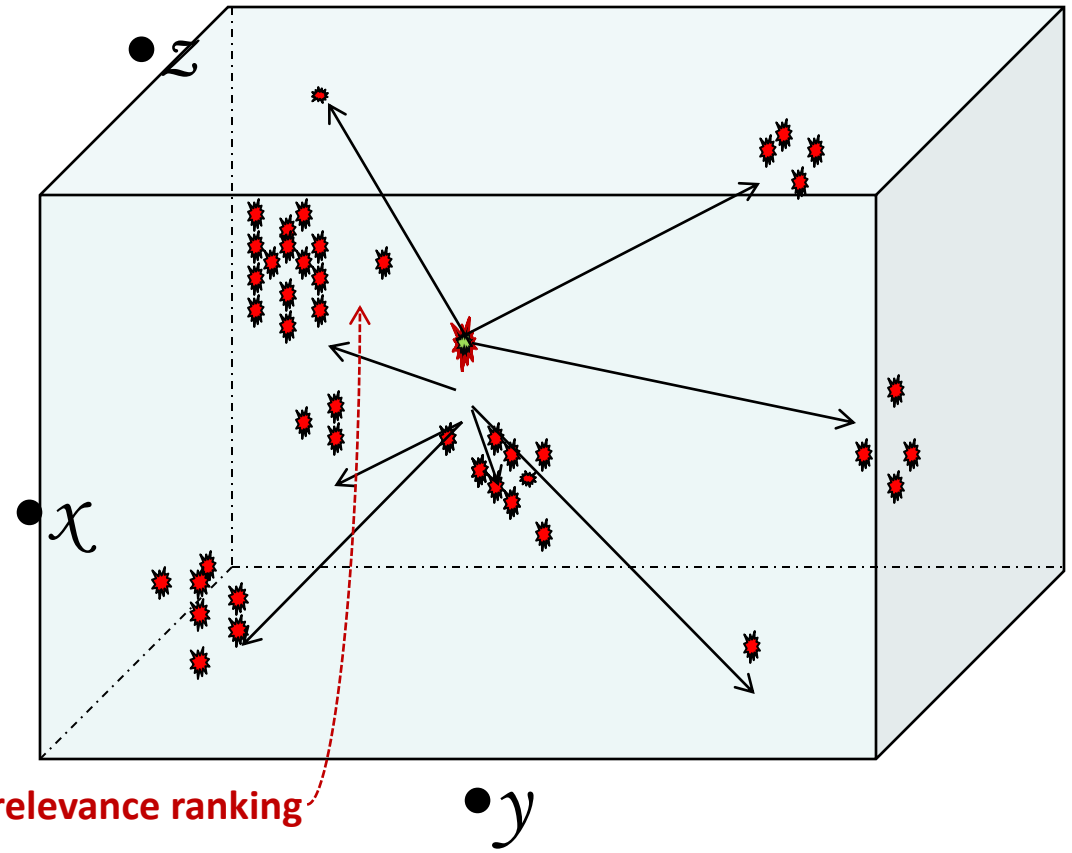
Bayesian Statistical Models

•Based on mathematical models of Statistical Probability to recognize documents of similar content.

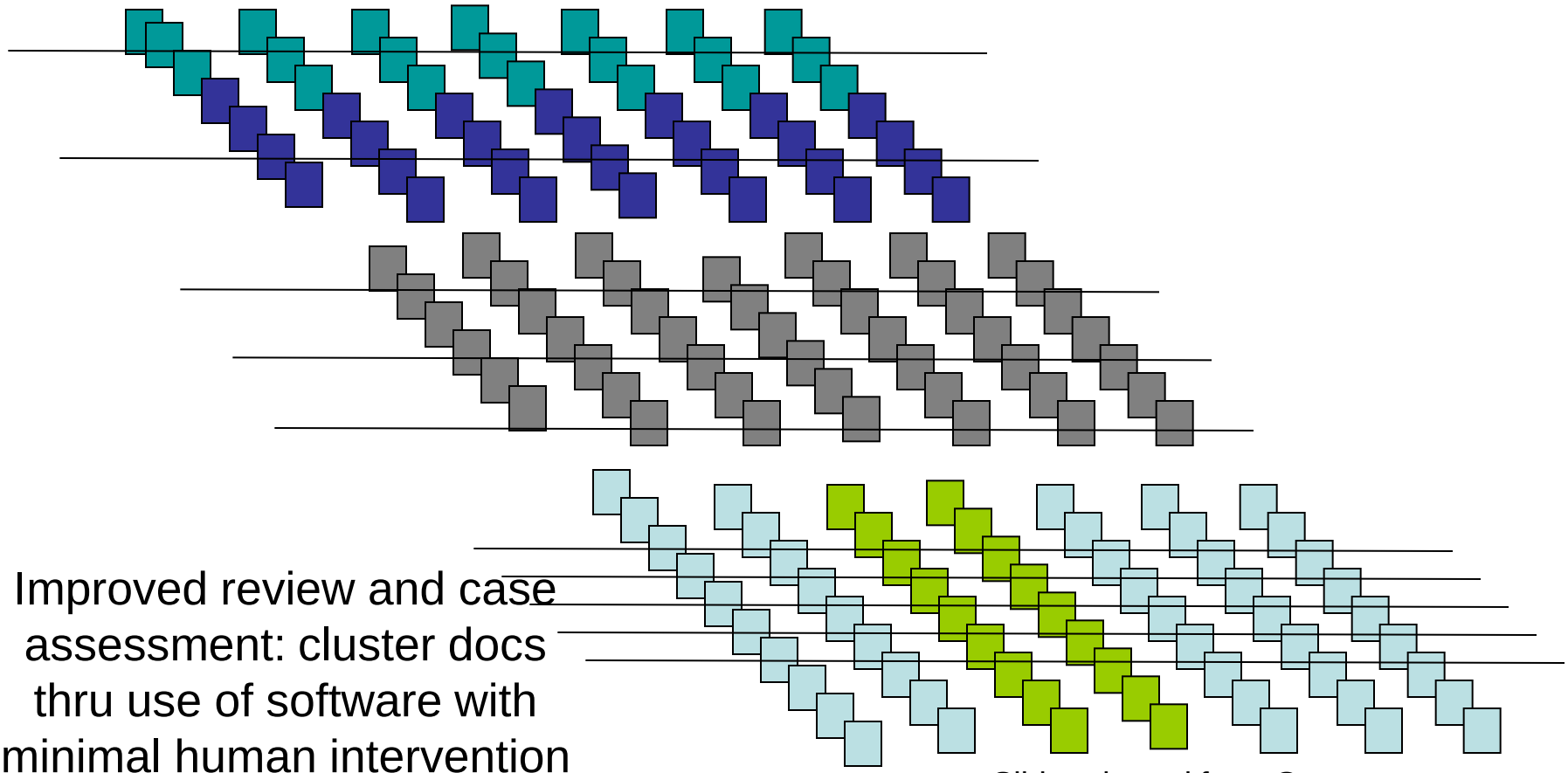
- Learns passively from the document content
- Position, frequency and proximity of terms (language independent) combine to create a mathematical “thumbprint” of concepts contained in documents.
- Useful to “cluster” documents by content
- Can “learn” to build clusters from exemplar sets
- Requires re-indexing and assessment can change

Latent Semantic Indexing (LSI)

1. SVD (Singular Value Decomposition) assigns each record to a place creating "clusters"
2. "Query" documents are SVD analyzed and placed in the matrix
3. "Hits" and rankings are determined by the distance from clusters

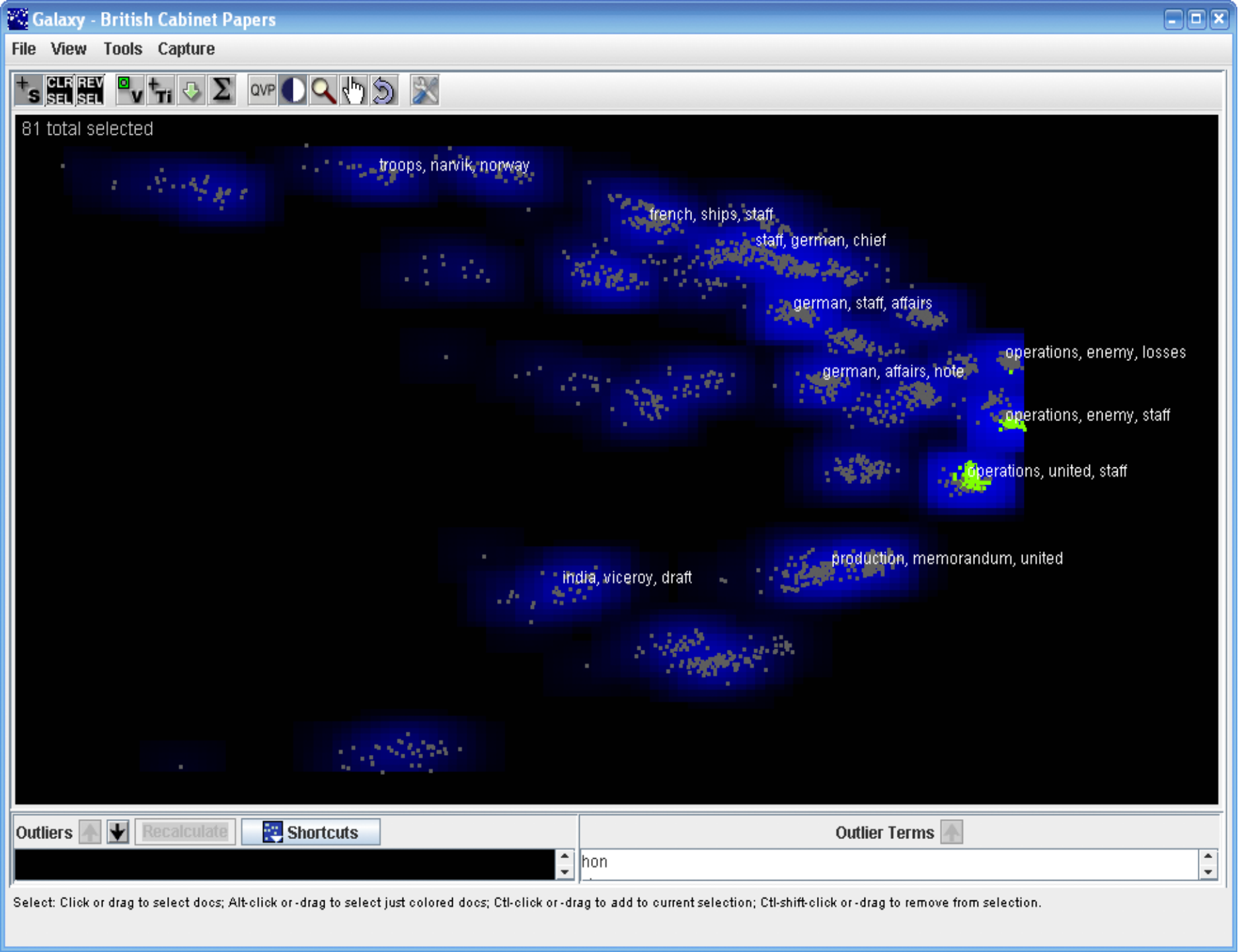


Emerging New Strategies: "Predictive Analytics"



Improved review and case assessment: cluster docs thru use of software with minimal human intervention at front end to code "seeded" data set

- Slide adapted from Gartner Conference
- June 23, 2010 Washington, D.C.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81 total selected
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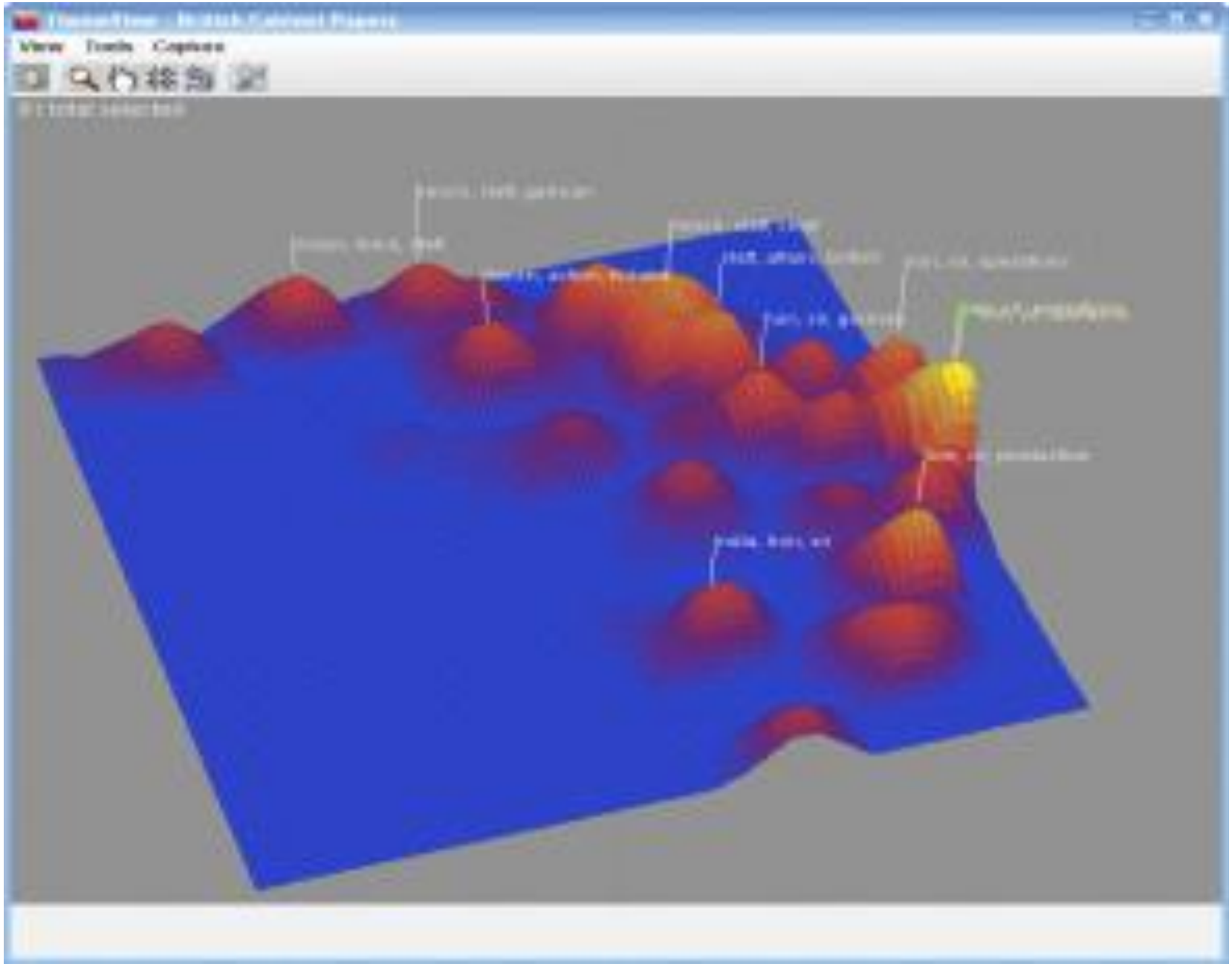
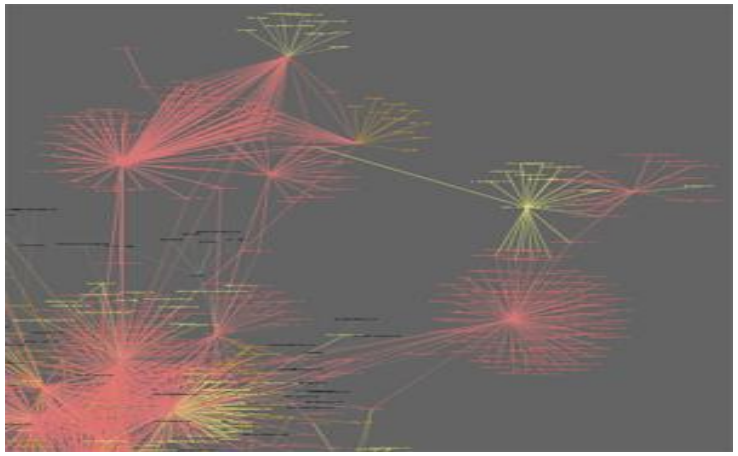
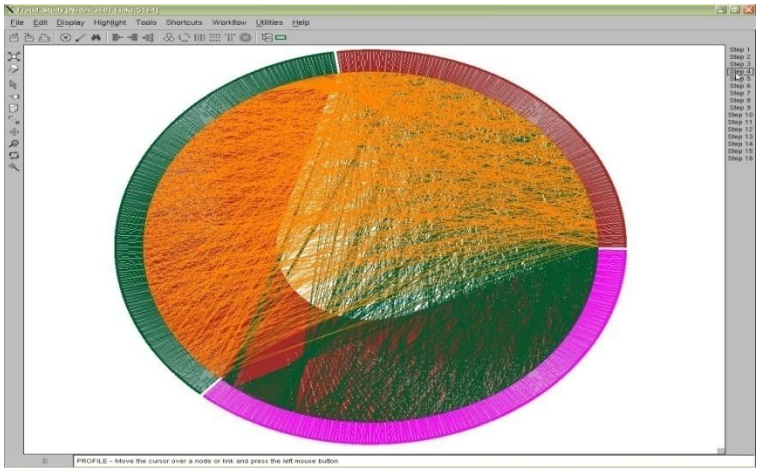
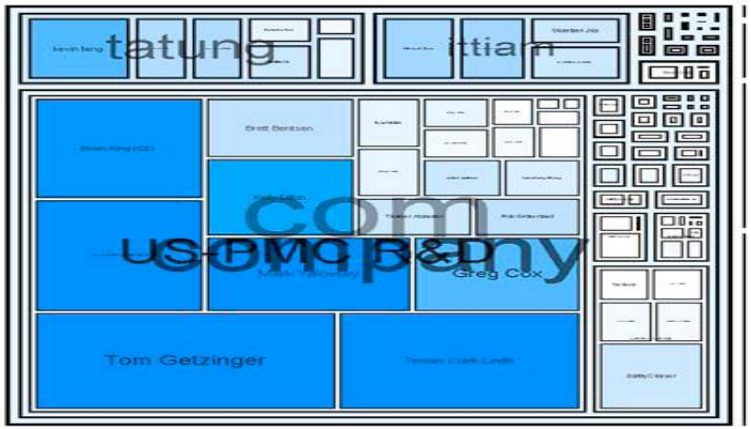

View
Tools
Capture

Visual Analysis Examples
(Presentation by Dr. Victoria Lemieux, Univ. British Columbia, at Society of American Archivist Annual Mtg. 2010, Washington, D.C.)





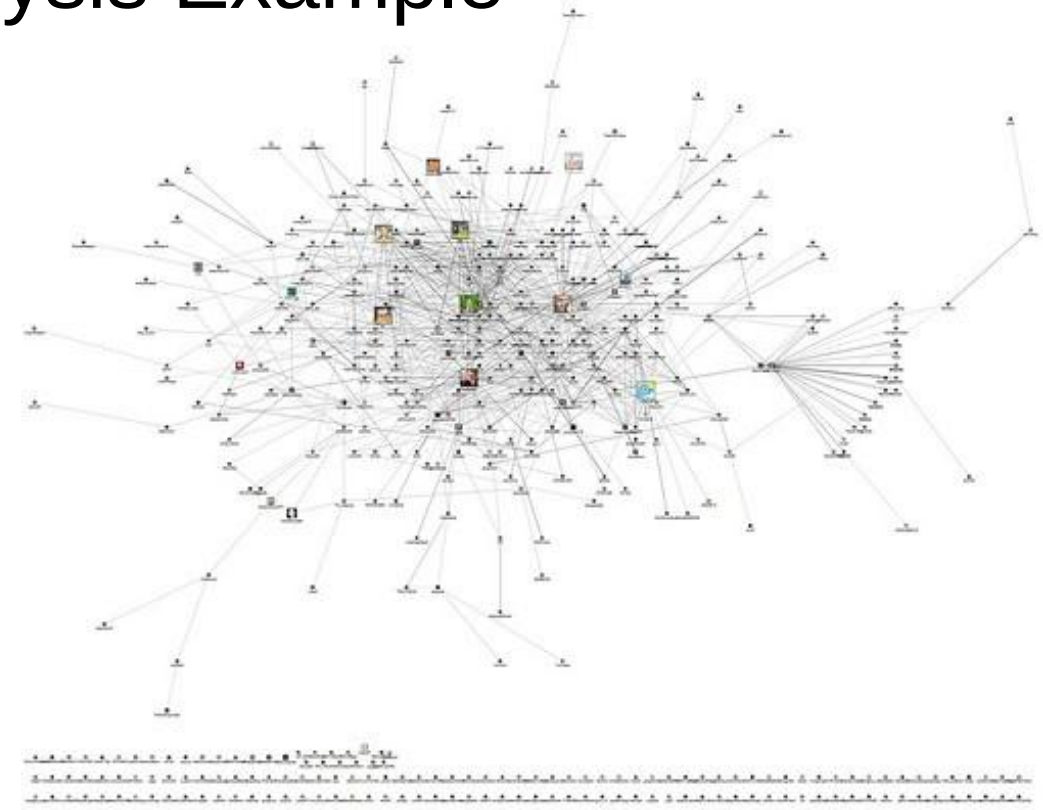


•With acknowledgments to Jeffrey Heer, *Exploring Enron*, http://hci.stanford.edu/jheer/projects/enron/,

•Adam Perer, *Contrasting Portraits*, http://hcil.cs.umd.edu/trs/2006-08/2006-08.pdf,

•and Fernanda Viegas, *Email Conversations*, http://fernandaviegas.com/email.html

•Social Networking/Links Analysis Example



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