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Discovery insights
5 questions about global eDiscovery management

An interview with Jessica Anderson, Managing Director, Discovery and Data Management, Deloitte Transactions and Business Analytics LLP

Managing and analyzing large data volumes in response to litigation or regulatory inquiry requires the capabilities to efficiently protect information, obtain key information rapidly, and keep up with the constantly changing discovery environment. These factors may become exponentially more difficult when the discovery involves data sources across international borders, creating important questions about how to organize and conduct eDiscovery activities.

Questions	Jessica Anderson's take
What are some major considerations in managing e-discovery on a global basis?	Cost is an ongoing concern as the amount of information associated with discovery in litigation and regulatory matters continues to grow. What will it take to understand the data, keep the data secure, and get the answers you need without breaking the bank? Innovation is essential to answering these questions.
	In cross-border matters, considerations arise before, during, and after litigation or regulatory investigation. At the outset, it's important to understand the global data landscape. What legal and privacy restrictions might prevent data leaving one jurisdiction for another?
	As matters progress, not all data will come from one place. Data will also come in different formats and of varying quality. Communications between parties are essential, and tools and processes are needed to maintain consistency between work done in different jurisdictions to help prevent conflicting results and cost inefficiencies. Ultimately, outputs need to align with consistent, well-understood and documented specifications. "Document deduplication" may mean something different to someone in the United States and someone in the United Kingdom. An Outlook file may not open in another country, not because it's corrupted but because of differences in operating systems. US organizations often work in Tiff images, while PDFs are commonly used in Australia.
	Finally, meeting litigation and regulatory demands involving multiple entities, locations, and data sources around the world will require evaluating talent pools to determine an effective approach to scaling resources.
What are some important factors in maintaining e-discovery quality and efficiency today?	Quality is a product of culture and process. Discovery data can be complex, and having a team committed to delivering the highest quality results and information is crucial. Effective work execution and secure maintenance of information are also important, as is differentiating and maintaining some separation of duties between quality control and quality assurance. Quality control is having people execute designated steps consistently in their job. Quality assurance involves a separate group examining an organization's standard and custom processes, identifying potential risks, and determining how to mitigate them.
	Simply having people perform tasks and then go back and check their own work is often not enough and can lead to mistakes. That's where quality assurance comes in. Rather than minimizing the need for this separate governance, leading organizations often assign their most experienced people to the assurance role. Along with helping maintain quality and efficiency today, this approach can provide insight and support for ongoing process development.
How important are continual investments in e-discovery technology in today's litigation environment?	Crafting effective solutions helps prevent spending money unwisely and then having to redo the work. There is upfront investment to be sure, but building a solid foundation on which to apply concepts of expansion, continuous improvement, and strong data privacy and security can lead to significant cost savings.
	The job of formulating process improvements is often put on the shoulders of people already working long hours. A better approach is to form a team dedicated to explore potential technology investments. What are the capabilities, strengths, and weaknesses of solutions available in the marketplace? Are there solutions we want to integrate into our portfolio? Or, if there are limitations in what's available, do we want to build something? Do we want to seek outside support while implementing new solutions to augment our in-house resources?

Questions	Jessica Anderson's take
What are some areas of opportunity for e-discovery innovation today?	With markets and technology both evolving quickly, innovation is essential to solving problems while controlling costs. This is especially true when dealing with the varying expectations of legal systems and regulators in different countries.
	Innovation can be the creative use of basic procedural automation to help attorneys and staff complete tasks more efficiently, such as building applications to better facilitate collaboration and deposition preparation. Or, innovation can be advances such as Deloitte's Dynamic Review methodology, which combines human review with advanced analytics to help reduce costs and increase evidence collection efficiency.
	One area ripe for innovation is management of mobile device data. Also, the growing use of audio data in litigation and regulatory matters is compelling some organizations to know what potentially relevant recordings exist, explore the use of technologies such as voice-to-text, and be prepared should an investigation arise.
	Redactions have long been difficult to manage and require inordinate attorney time to handle manually. Solutions are emerging that automate the process of searching for and finding strings of characters and automatically applying the redaction.
In a constantly changing and highly demanding e-discovery environment, how can an organization find time and energy for continuous improvement?	This question is especially pertinent to organizations that may want to keep things in house, but it could apply to virtually any situation. Five years ago, little legal discovery work was done in house. A few companies had some information collection and investigation capabilities.
	Today more organizations have the capability themselves to identify, locate, and bring together data needed for litigation or an investigation. Organizations thinking about this approach should consider all phases of the discovery process – preservation, collection, processing, hosting, review and production of data subject to discovery. They can then determine the areas in which it makes sense to manage tasks internally and which can be turned over to outside resources. This approach can allow internal resources to focus on activities they prefer to do or are most capable of doing, including continuous improvement activities, and leave other tasks to a service provider.
	For example, resources such as Deloitte's Electronic Discovery Solutions Center provide an array of capabilities to support eDiscovery, including dedicated, flexible processing and hosting facilities; secure, fault tolerant environments; and experienced personnel including Relativity Certified Administrators.

Our take: Organizations should consider taking a global view of eDiscovery requirements.

Regardless of whether eDiscovery tasks are carried out internally, by outside counsel, or by a service provider, committing to global data quality and consistency, making needed investments, and always looking for opportunities to innovate can help organizations meet continually growing discovery demands.

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