

The rise and rise of electronic discovery and review

and how you can get on top of it

By Martin Flavell, eDiscovery Manager, Law In Order

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The acceleration of technology and explosion of data has rewritten the rules for traditional discovery. eDiscovery (electronic discovery) is increasingly recognised as an important aspect of the litigation process, by the justice system as well as prosecution and defence, but its complexity brings with it many challenges across resources, time and accuracy.

Sifting through huge volumes of data to locate the relevant documents or records is one of the biggest challenges facing the industry today. Mobile devices such as iPads and smartphones have also disrupted the eDiscovery industry by creating multiple touchpoints through which information is accessed, collected and stored.

When it comes to litigation and disputes, urgency is paramount. As deadlines tighten and data proliferates, this will only get worse.

So what can you and your internal and external clients do to get on top of eDiscovery and deliver better outcomes, faster and with less resources?

1. Structure your data

Collate your data and copy into a central data store. Then categorise by type and eliminate all duplicates.

Data is created in many different forms, using a wide variety of software applications – PDF, Microsoft Word, Excel, email. Often this data is duplicated, backed up and shared with others, resulting in multiple copies. There are very few limits to the organisation of data and therefore the structure it is stored in is inconsistent. When the business need arises for your data to be categorised, it is very difficult to do so without applying structure to it. This is the basic premise in the first stage of eDiscovery processing.

2. Utilise Data Analytics

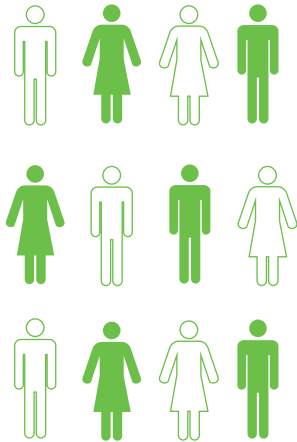
Data analytics has made it possible for small teams to gain understanding of large document sets without the need for time consuming and costly linear review. This technology has advanced greatly in the past few years to the point that even the most ‘technologically challenged’ can effectively run a matter electronically using analytics.

More and more small firms are taking on document heavy matters effectively due to the ease of access to this technology.



4300% increase in data
generation by 2020

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182.9 billion emails sent daily



300 billion pieces of content shared each month on Facebook



500m tweets daily

3. Let the computer help

Computer Assisted Review is the most recent development in the eDiscovery process and is geared towards large amounts of data – 100,000 documents or more. Using Computer Assisted Review, you can teach the software what a relevant document is for your purposes. This is done by reviewing a very small proportion of your data, then applying that same logic to the entire data set. Each document is then assigned a relevancy ranking and can then be reviewed in order of priority based on that relevancy. It will help you find the hidden gems in all that data.

4. Group your documents

With near-duplicate detection you can group together documents with similar text content so they can be classified together. This not only helps with consistency, but can also save you time as it is often possible to review just one document and apply the determination to the rest of the similar documents.

5. Analyse email threads

Did you know there are about 182.9 billion emails sent and received per day worldwide?

To reduce the load of emails to be searched, Email Threading is used to identify emails which exist within chains of other emails so they can be discarded or grouped with the rest of the email chain. Due to the nature of email communication, this can reduce the number of documents which need to be reviewed by a considerable amount, which will save you time and money.

6. Expand your thinking

You can go one step beyond standard keyword searching with Keyword Expansion.

Most people are familiar with keyword searching, and with search engines at our fingertips this is now second nature. Keyword expansion uses search technology to suggest additional keywords related to those you have already chosen. The suggested keywords will often come up with terms which directly relate to your data set but which you may not have thought of otherwise.

The cost of eDiscovery

A costs survey conducted by RAND in 2012 suggests that 70 per cent of total eDiscovery costs relate to the review process. Most of that time is spent identifying the relevant material by sifting through mostly non-relevant material.

Despite applying standard culling methods such as keyword searching and date filtering, the amount of relevant material is often still only a fraction of the total document population.

Using the appropriate software tools, high precision and low recall rates will reduce the amount of manual legal review required and ultimately reduce the overall cost of litigation. The effectiveness of advanced searching technology is an important development and one which will drive change in the approach to discovery in the future.

What the future holds

eDiscovery will continue to evolve and change at a fast pace as data volumes continue to grow. A recent report from Computer Sciences Corp, suggests that there will be a 4300 per cent annual increase in data generation by 2020.

However, before embracing predictive technologies, it's important to establish a clear strategy and project-specific parameters within your practice.

In the future, eDiscovery won't simply be about whether you're using the technology. It will be about how effectively you're using it.



Electronic discovery estimated to have a potential global value of \$3.96 billion by 2018



About Martin Flavell

Martin heads up the eDiscovery division at Law In Order, overseeing the data processing services and assisting legal departments by offering technical solutions and workflows. Martin has over 17 years' experience in the areas of dispute resolution, eDiscovery, project management, and software development. He understands the complexities of unstructured data and offers solutions to make electronically stored information available for search, retrieval and review in a legally defensible manner.

For further information on [discovery and review](#) contact Law In Order on 1300 004 667 or sales@lawinorder.com.au