TECHNOLOGY TO MAKE EDISCOVERY SMARTER, NOT HARDER.

Legal teams need accessible solutions to better manage the EDRM lifecycle

By Pamela Brownstein

INTRODUCTION

The most efficient and productive legal department IT teams often share a trait: a blend of technologists and generalists. And with good reason.

The scope, complexity and evolving nature of e-discovery priorities and demands require varied skills and adaptability.

But how do you ensure that staff from all technological backgrounds can handle escalating document review demands and tougher problems—from mounting data volumes to a growing number of projects?

The key is that the technology needs to work for you, rather than you having to labor to make it work. The work can't remain only in the hands of the experts. It needs to be easy for all to access and use.

"The problem that we're struggling with right now is, how do we scale and give access to generalists?" said Bill Potter, vice president of presales consulting at Nuix Limited, a provider of investigative analytics and intelligence software.

> "How do we make e-discovery tools accessible to paralegals and people with an IT background who aren't ex-law enforcement forensic investigators and who haven't been running e-discovery projects at a big advisory firm for the last 15 years?" he added.

The importance of ease and accessibility are becoming more pronounced amid crushing demands. Indeed, according to a study published by the **American Bar Association**, document review takes up more than 80 percent of litigation spend. Against that backdrop, the number of civil cases filed in the U.S. district courts fell eight percent last year, even though the number of e-discovery decisions jumped ten percent, according to **Law.com**.

DOCUMENT REVIEWS TAKES UP	**NUMBER OF CIVIL CASES FILED IN U.S. DISTRICT COURTS**	**NUMBER OF E-DISCOVERY DECISIONS**
80% ↑	**8% ↓**	**10% ↑**
OF LITIGATION SPEND	**LAST YEAR**	**ACCORDING TO LAW.COM**

At the same time, the enormity of the data volume and projects changes the operating economics of e-discovery. That, in turn, intensifies pressure on law departments to keenly watch expenses while being complete in their discovery responsibilities.

It's broader than a financial issue, as well: lawyers who have a deep understanding of what information is available can engage in a more nuanced conversation and be more aggressive in negotiating the exclusion of material from the scope of discovery. More informed strategic decisions can follow as a result. And minimizing how much data leaves an organization is important from an information risk-management perspective.

Looming above all is an urgency to reach a resolution—a settlement, termination, decision to coach someone on appropriate workplace behavior, or other steps. The faster the matter is resolved, the less expensive it is and the greater the options.

EMPOWER GENERALISTS: AUTOMATE EXPERTISE

In the face of changing demands, the e-discovery space has developed a track record of innovation.

Twenty years ago, the primary challenge was how to get to the data. Neither the current data volume, nor the immediacy expected by courts and regulators, was likely on the radar of users trying to store data in those early e-discovery days.

> "If you're not automating that process, then you're really leaning heavily on the individual expert users," Potter said, noting that employee work-life balance is also crucial to address.

The risk and cost of employee turnover in corporate law departments complicates the issue, he said. It's expensive to replace and train employees, and institutional knowledge and relationships are lost when employees leave.

TECHNOLOGY AS A RETENTION TOOL USED TO ELIMINATE STAFF BURNOUT

One way to reduce that strain is to reward the team with solid IT tools, a path forward and a vision of what the employees' careers could look like in five to ten years. The technology's level and ease of use can also be a key factor in retaining employees, according to a **Thomson Reuters Institute study**.

> "Automation is critical. Something that used to be 80 clicks of a button now takes me three minutes to set up. It's transformative in terms of how much work a team can do …," continued Potter.

And automating the workflow makes it easier to defend the process without having to put an employee on the stand to explain how information-culling decisions were made.

Another element of the e-discovery evolution, Potter said, is a shift away from the traditional, worker-based license to a volume-based license, which allows use of as much data as needed.

STREAMLINE EDISCOVERY ON A SINGLE UNIFIED PLATFORM

Legal departments need to look for holistic services to seamlessly manage the breadth of the EDRM lifecycle for all staff.

Minimizing the need to transfer huge volumes of data across services and systems is important so all users with a range of IT experience can have confidence that the case data is secure, accurate, comprehensive and defensible.

Potter said his company's product, **Nuix Neo Legal**, makes the discovery process easier through the use of a unified platform. "Standardization drives simplification and cost saving, especially when data volume is increasing," he added.

> "If the various collection and movement points don't talk to each other, your process becomes inefficient," Potter said.

A unified platform also allows for segmentation that can be audited and verified, he said. For example, a multinational organization may want to ensure data from a single country is processed on devices in that country and accessible only to users within that jurisdiction.

Potter added that Nuix's approach to data minimization makes e-discovery easier, especially as he knows of organizations that process up to 400 terabytes through e-discovery and end up reviewing only 20 terabytes.

"And so, one of the questions we ask ourselves at Nuix is, how do we help get rid of unnecessary information before review?" he said. "One way is to use an AI platform that categorizes information at a closer level than is traditionally available in e-discovery, and it does so during data processing in early case assessment."

Potter said that gives users of all backgrounds a more advanced understanding of what's in the data, which provides them with insight about the relevancy of certain types of information and allows for a more nuanced conversation when deciding on the e-discovery's scope.

Potter said he encourages clients to "partner with technology providers who you agree with, who are moving in the same direction and solving the problem in a way that you think is exciting." He adds: "It's not just about what can you do today. But what are you going to be doing in five or ten years from now, and who do you want to be doing that with?"

This whitepaper was developed by ALM in collaboration with Nuix.

Nuix Limited is a leading provider of investigative analytics and intelligence software. Nuix helps customers process, normalize, index, enrich and analyze data from a multitude of sources to solve complex data challenges. The Nuix platform supports a range of cases, including criminal investigations, financial crime, litigation support, employee and insider investigations, legal e-discovery, data protection and privacy, and data governance and regulatory compliance.

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