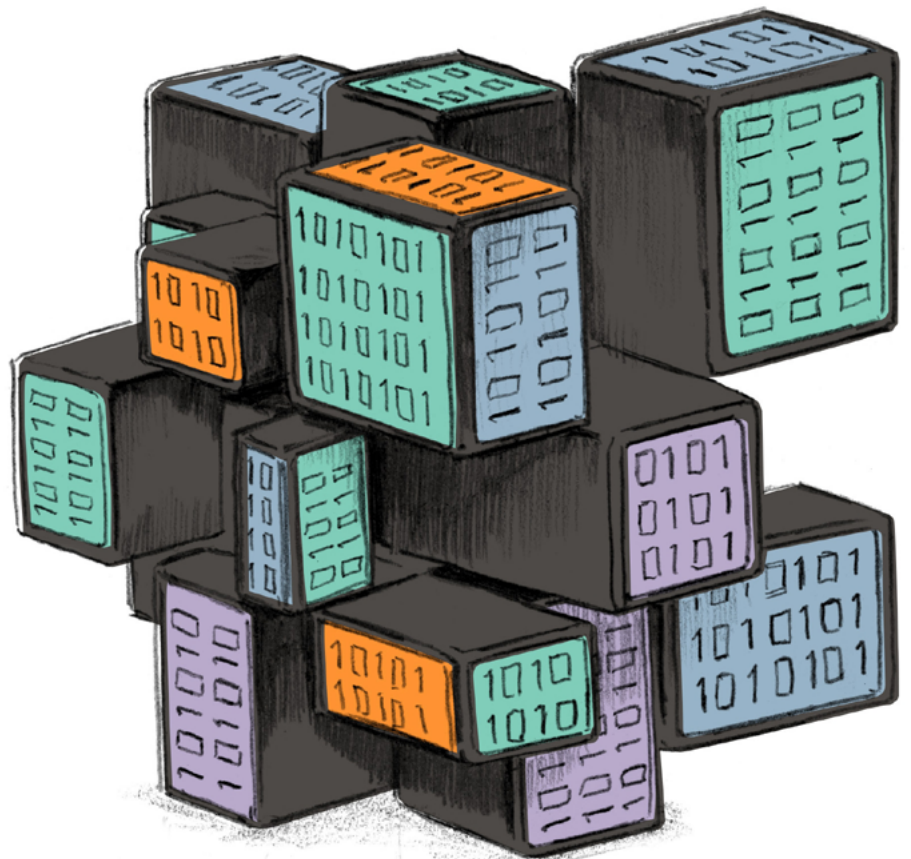


When the regulator came knocking

How the Counsel of Volvo Cars Corporation remained in control



Building the right team to manage the eDiscovery process

When Volvo Cars Corporation in Gothenburg (Volvo) were asked to respond to a regulatory enquiry (relating to airbags) from the US National Highway Traffic Safety Administration (NHTSA), they used the opportunity to collaborate with Grant Thornton UK to provide a solution for their eDiscovery requirements spanning offices in both the US and Sweden.

With tough eDisclosure demands from NHTSA, imposing a three week turnaround to disclose the relevant information, Sigrid Sjostedt, Counsel at Volvo talks to Lisa Burton, Head of eDiscovery at Grant Thornton, about her initial panic, the challenges she faced and how she overcame these to regain control.

What were your immediate thoughts once you knew the request from the regulator was coming?

The only sane thing to do is to have a minor, but controlled, brain freeze, and then start the process of gathering all the people that will be involved in responding to the request. Regulators knocking is nothing unusual in the automotive/consumer industry and we all know what to do, still that will not stop you from reacting to the massive amount of work that lies ahead. Luckily we are a very capable and close team that has a good network within the organisation – crucial in order to respond in a rapid and quality assured manner.

What is the impact of such a regulatory request on Volvo and how did your board receive it?

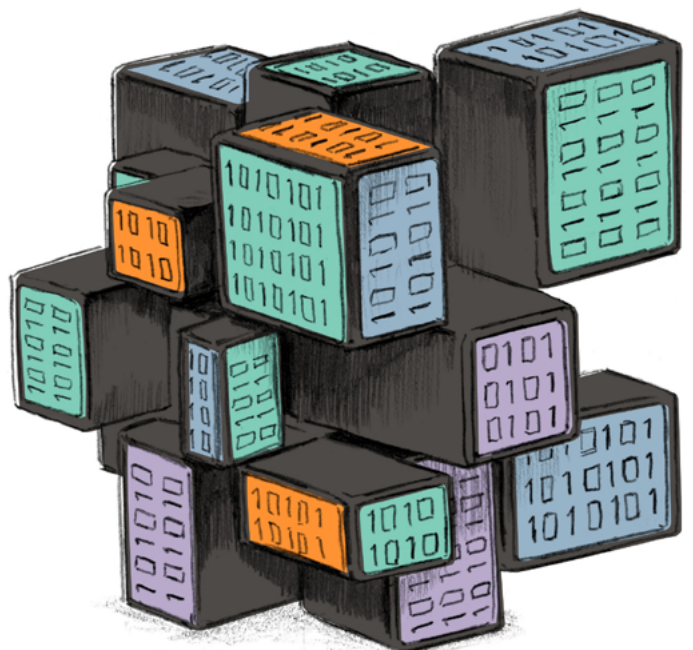
We receive enquiries from different automotive regulators around the world so we have managed to establish a work process that is working very well for us. As usual the board will obtain the information and will be kept informed during the process. We find it best to include senior management as soon as possible in order to attain support, if any

administrative or IT hurdles come up. Communicating throughout the process is key.

What were your first steps? How did you determine what help you needed in order to gain control over the situation?

In situations like this, we always release a litigation hold/suspension order and communicate this through our channels within the organisation. We have start-up meetings with involved data custodians and IT where we review the request together, making sure that everybody understands what is needed. Working across several countries, we have a natural language barrier which needs to be considered and these face to face meetings always help. Once we have had these initial meetings the process of identifying and collecting materials begins.

Having these meetings is important since it increases the success rate. By interviewing and communicating with



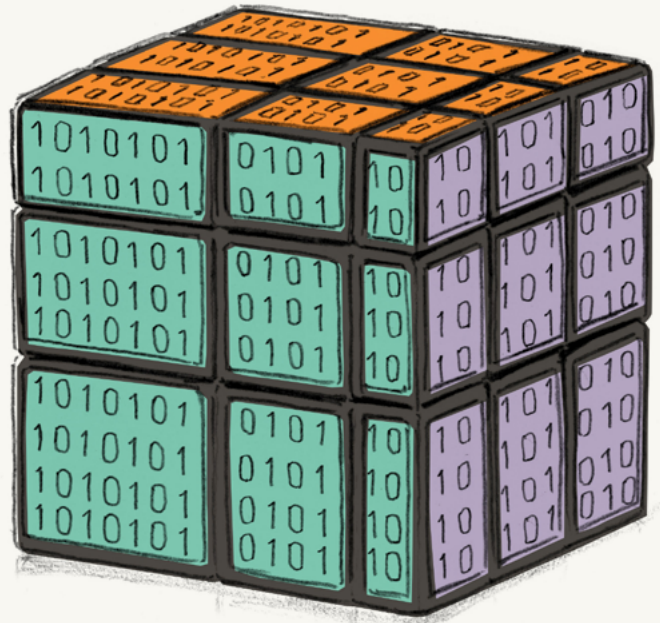
the data custodians, we usually gain a very good picture of what happened, where the documents are and how to collect them. You must not underestimate the feeling induced when legal come knocking. As charming as we can be, we are not known to come with good news. So again, personal contacts and availability for any questions, big or small, is important. It was also imperative that Grant Thornton were involved in this process as early as possible. We were able to work together as a team to ensure that we had buy in from the IT department and we could overcome some logistical issues around security and different data types.

What did you consider to be the key initial hurdles and problems?

Well, it was a challenge with custodians in two countries, i.e. Sweden and the US. Since the custodians in this case also travel frequently there was an additional challenge with connecting to the Volvo network via a VPN client from hotel rooms. In addition, there was a snow storm in New York that led to custodians being unable to attend scheduled meetings in the office and they did not have access to their laptops. So there were the usual unexpected challenges. You cannot stop forces of nature but other obstacles were more related to geography and IT and those we can manage, with a little creativity. We had a tremendous amount of support from Grant Thornton and they managed to collect the data required from the US base; a task that Volvo could not have completed independently during these circumstances.

This investigation required you to locate data spanning multiple jurisdictions. At what point did this become apparent and how did you address this challenge?

At Volvo, we have information in multiple jurisdictions, so this is nothing new. The actual collecting was completed by Grant Thornton together with my IT group and the Volvo office in New York - with guidance from the team in Sweden. Firstly, the Grant Thornton team joined the Gothenburg team to set up the technology. From there, data from Sweden and the US was collected and brought to London through a series of technically secure methods whilst complying with firewall changes within the Volvo IT architecture.



How did you choose a service provider?

Volvo has an established working relationship with Grant Thornton and we know that they always see to our needs in every specific situation that may be at hand. In this case we looked at two different software tools suggested by Grant Thornton who offer a range of 'best of breed' software products for the actual collection. Carrying out discussions based on our requirements, we finally settled on a collection and review software tool, that could deal with the collection and the production of data in one central place.

I know there were problems with foreign language documents, how did the software solution deal with them?

The software tool used for collection and review, separated all documents that contained different languages; by doing this we could easily send texts away for translation. Volvo has its own translation agency and that facilitated the process and saved significant time.

To what extent did you need technical knowledge?

As far as I can recall, we did not require any additional knowledge as we had the resources that were necessary through the combined parties, i.e. the collaboration of Grant Thornton, Clearwell (software tool) and the Volvo IT team.

What about disclosure? How did that work and how easy was it for you to publish the relevant document batches to the regulator by the agreed time?

It was a very smooth and rapid process; Grant Thornton were instrumental in managing all aspects of the data collection from disparate sources and finally our Volvo office in New York manually submitted the information to NHTSA on a hard drive, meeting the regulator's requirements.

How did you feel on the day of the deadline?

Proud of my team, happy and relieved.

What would your advice be to a General Counsel who finds themselves in a similar situation?

For In-house Counsel, I can only recommend to keep a good close working relationship with the usual suspects. Often you know what departments are likely to be involved in enquiries of this nature. As an example, for us and within the automotive industry, airbags are typically of interest for regulators or in law suits.

We also organise seminars for our employees and managers informing them about current regulations in regards to situations like these, helping them to understand what needs to be implemented and why we are present when we come knocking the next time.

From outside Counsel, I would recommend building relationships with a knowledgeable contact person in the business, not necessarily someone from legal, rather someone who knows where to go and who to talk to.

You can have an advanced discovery process flow, information standards or document retention policies, but if the employees do not understand them, then they have no effect. Additionally, having a service provider who understands the issues and who can become part of the team is paramount in ensuring the whole process goes smoothly. The Grant Thornton team were frequently on-site and became familiar and friendly faces to the Volvo staff involved.

In hindsight, what could Volvo have done to ensure it was better prepared for a regulatory investigation, or indeed future disputes and litigations involving electronically stored information?

By accessing a good software tool, there is an increased potential to be proactive. Analysing data collected by these tools (on any subject) may be able to indicate where future disputes may come from. The future is hard to predict because anything can and will happen. The only thing you can do is to make sure you have the right people in your team, in-house, at your service provider and at the supplier of the software tool.

What would you do differently?

More personal contact with our office in New York City would have been beneficial in some instances. The lesson learnt here is that even though everything worked out, we could have moved more quickly had we had more contact in person. On the other hand the severe weather conditions made it impossible to access the offices anyway. You can never plan in too much detail without several back up plans.

The next step is to look into moving our service and software tool providers even closer to us. There is always room for improvement and even though you cannot plan for the unexpected all the time, you can evaluate the current and future team members and see if any adjustments need to be made. In the end it is the team involved that make it happen and not the tool; at least not yet.



Having a service provider who understands the issues and who can become part of the team is paramount in ensuring that the whole process goes smoothly.



eDiscovery at Grant Thornton

What starts out as a legal problem, very quickly becomes a hunt for information – who said what to whom, where that information is located, and how to keep control of it when it can be moved around internationally, indiscriminately and at lightning speed.

So how can lawyers make business decisions when the one piece of potentially critical information that they may need, is buried in a myriad of growing and disparate electronic data sources?

Add to that, in the case of an investigation, the time pressures and possible fines imposed by regulators for not complying with their disclosure requirements and lawyers can find themselves under a great deal of pressure.

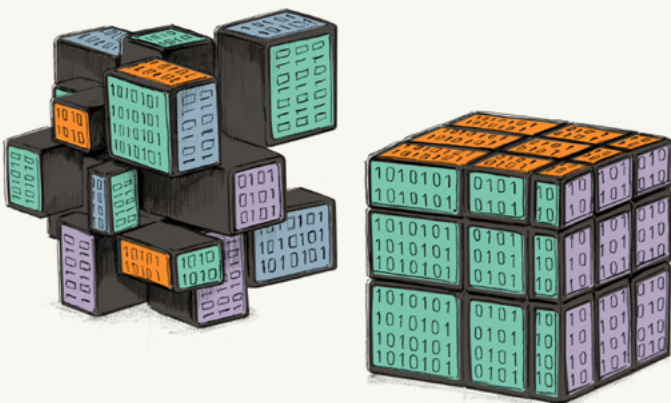
How we can help

Grant Thornton's eDiscovery team regularly work with corporates to help them quickly identify where the most critical information resides. Our tools can sift, de-duplicate, categorise and search by date, named person(s), keywords and concepts – quickly reducing data sets down into a highly relevant document, ready for final review and disclosure.

With legal review being the single largest cost to corporates in this process, our eDiscovery team ensure time is spent focusing on the most critical information – reducing review time and cost, with the ultimate aim of assisting in getting the right result for the business.

Why Grant Thornton?

- Managing the whole eDiscovery process – allowing you to focus on the legal issues. We go beyond just providing an IT solution. With legal backgrounds, technical ability and project management expertise we can manage the whole eDiscovery process.
- Strengthening your case by ensuring all critical information is identified, wherever it may reside. We are able to broaden the scope by locating critical evidence that could sit outside the boundaries of the business; outside firewalls or on any one of the 35,000 billion Internet pages.
- Experts in eDiscovery software – ensuring the most effective and efficient use of IT. We are technology agnostic – being experts in a range of eDiscovery IT solutions, means that we can recommend the best possible software depending on your requirements.



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