

Shaping Outcomes with eDiscovery: A Complex Defense of Intellectual Property

How HaystackID Helped a Technology-Enabled Manufacturing Firm Protect and Defend Its Cutting-Edge Technology

The Punch Line: Presenting a Smoking Gun

Very rarely does the combination of capability and expertise delivered by an eDiscovery service provider make a decisive difference in shaping potential outcomes for patent infringement and trade violation defenses.

In a recent matter of between two technology-enabled manufacturing firms, HaystackID ventured into this decisive contributor realm based on its aggressive yet controlled delivery of Forensics First, Early Case Insight, and ReviewRight services to help its client find, listen, and learn from evidence in this matter between two emerging technology leaders.

These efforts resulted in the identification of date-centric metadata changes that, when viewed within the context of all available electronically stored information (ESI), substantiated the validity of the complaint of HaystackID's client, providing the proverbial smoking gun of evidence. These efforts were also accomplished by HaystackID while meeting aggressive timeline and budgetary targets.

A Multi-Billion Dollar Market: A Big Opportunity and a Big Mistake

Seeking to give consumers an economical and efficient way to leverage technology advances in manufacturing, an emerging market company had raised millions of dollars from leading investors and investment firms with the goal of transforming a specific manufacturing process. The unique and niche manufacturing process represented a multi-billion dollar opportunity within the enormous manufacturing market. With such a tremendous opportunity for market participants, the planning for quick and aggressive protection and defense of intellectual property was an essential part of the go-to-market strategy for HaystackID's client as it was necessary to shield the opportunity from illegal encroachments from potential competitors.

Unfortunately, early in go-to-market efforts, HaystackID's client was forced to defend intellectual property elements of its technology and requested computer forensics and eDiscovery assistance for identifying, locating, reporting and reviewing electronic evidence to support its complaint against a prominent competitor. Simply stated, the complaint was entered with the goal of protecting valuable intellectual property, trade secrets, and other proprietary information.

This complaint set the stage for HaystackID to support its client in the discovery phase of the case.

About HaystackID

HaystackID is a specialized eDiscovery services firm that helps corporations and law firms find, listen, and learn from data when they face complex, data-intensive investigations and litigation. With an earned reputation for mobilizing industry-leading computer forensics, eDiscovery, and attorney document review experts, HaystackID's Forensics First, Early Case Insight, and ReviewRight services accelerate and deliver quality outcomes at a fair and predictable price.

Complex Discovery: Organizing for Success

From a discovery perspective, the project required HaystackID expertise not only in the investigative discovery and legal review processes but also with advanced eDiscovery technologies and emerging data formats. Some of the critical challenges presented in this complex discovery project included:

<ul style="list-style-type: none"> • <i>Identification</i> of All Points Where Data Entry and/Updates Occurred (From File Servers to Print Server Logs and from Corporate Laptops to Third Party Productivity Platforms)
<ul style="list-style-type: none"> • <i>Processing and Normalization</i> of Disparate Complex Data Formats (From Slack and Jira to G Suite and Traditional Document Formats)
<ul style="list-style-type: none"> • <i>Analytics and Assisted Review</i> with Advanced Technologies (Processing with Nuix, Early Case Assessment with DataThresher and Brainspace, Technology-Assisted Review with Relativity Assisted Review and ReviewRight)
<ul style="list-style-type: none"> • <i>Legal Document Staffing and Review</i> within a Compressed Timeframe (ReviewRight)
<ul style="list-style-type: none"> • <i>Hosting</i> Data within Multiple Repositories for Different Yet Complementary eDiscovery Functions (HaystackID Data Centers)

Upon request from the client through its outside counsel, HaystackID established its project discovery team consisting of experts from appropriate eDiscovery functional areas (Computer Forensics, eDiscovery, and Legal Review) and coordinated support of the client with a team of five project managers under the leadership of an eDiscovery expert consultant.

Based on the need to complete the project within 90 days of initiation, HaystackID also established multiple different and sequestered repositories to maintain integrity and separation of data. Those repositories included:

<ul style="list-style-type: none"> • Early Case Assessment Workspace Repository 	<ul style="list-style-type: none"> • Review Workspace Repository
<ul style="list-style-type: none"> • Mobile Data Workspace Repository 	<ul style="list-style-type: none"> • Early Case Assessment Repository for Subpoena Data
<ul style="list-style-type: none"> • Legal Review Repository for Subpoena Data 	<ul style="list-style-type: none"> • Opposing Counsel Repository (Data Added By Opposing Counsel)
<ul style="list-style-type: none"> • Trial Exhibit Workspace 	

These repositories provided the access, security, and separation necessary to support the entire electronic discovery project while allowing the streamlined workstreams essential to complete the project within the aggressive timeline.

Accelerated Execution: Translating Data to Evidence

As the crux of the complaint was theft of intellectual property, the HaystackID client sought evidence from all digital communication conduits potentially leveraged in the theft. To develop a collection plan to support this evidentiary requirement, the HaystackID lead discovery consultant conducted a detailed interview with critical organizational and information technology leaders of its client under the guidance of the lead discovery counsel.

During the interview, it was determined that a collection plan that comprehended the following locational and device elements would be required to ensure a comprehensive evaluation of ESI.

Storage Locations

• Application/Email Service Providers	• Archived Data	• Audit Trails, Logs, and Registries
• Backup Computer Files	• Cache Data	• Firewalls
• Internet Service Providers	• Legacy and Disaster Data	• Random Access Memory (RAM)
• Removable Media	• Residual Data	• Voice Mail

Storage and Communication Devices

• Servers (Network)	• Personal (Desktop and Laptop) Computers	• Mobile Computing Devices
• Mobile Telephone Devices	• Faxes	• Scanners
• Printers	• Copiers	• Security Systems

Additionally, the collection plan highlighted the need for expertise by and tools from HaystackID for the collection of ESI from application/email service provider platforms used by the individual accused of the IP theft. Those platforms requiring particular expertise and tools included Slack, Jira, and G Suite.

Understanding the collection plan requirements, HaystackID internally developed special tools designed to streamline the collection of data from Slack, an emerging workplace productivity platform with complex data formats. The development of these tools allowed HaystackID to simplify collections and provided the ability to replicate the presentation of Slack communications as if they were in the actual Slack platform.

These internally developed tools combined with industry-leading tools used for more universally available data formats allowed HaystackID to conduct a defensible collection of multiple TBs of ESI from various devices and many data formats from disparate locations to include computers operating as part of a public print farm enabling client printing capabilities.

Once collected, HaystackID eDiscovery technicians leveraged DataThresher technology, HaystackID’s proprietary interface for searching and culling text and metadata, to reduce the multiple TB data set by more than 80% for further processing.

After the culling reduction, HaystackID then further processed the remaining ESI with Nuix. Trained Nuix experts on the HaystackID team used the Nuix platform to further process data to client specification and:

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| • Provided Processing Status Report to Customer |
| • Provided Exception and Hold File (EHF) Identification |
| • Applied Customer Guidance of EHF Handling Protocol |
| • Further Processed EHF Per Protocol |
| • Completed ESI Processing for Customer |

The resulting processing effort decreased evidentiary data set size by an additional 80%. With ESI collected, culled, and processed for further analysis, the HaystackID team now moved to combine the power of Brainspace and Relativity-Assisted Review to analyze and initiate predictive coding on the available ESI.

Advancing on the Smoking Gun: Advanced Technologies and Assisted Review

Using Brainspace’s analytics capability, HaystackID experts conducted vital analysis tasks to include:

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| • Document Collections and Tagging | • Cluster Wheel Visualizations |
| • Data Visualization and Objective Culling | • Communication Mapping and Analysis |
| • Keyword and Concept Searching | |

Additionally, leveraging Relativity-Assisted Review with a team that had nineteen HaystackID Relativity Certified experts at the ready, HaystackID further reduced the data set to approximately 120 GB by allowing a high-level review expert to execute a first pass review by the system to quickly identify potentially responsive material and to concentrate reviewers on priority documents.

This analysis and assisted review approach allowed for the final review of targeted ESI.

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| • Collection > 10 TB | • Culling – 10 TB > 2 TB |
| • Processing – 2 TB > 430 GB | • Analytics and Assisted Review – 430 GB > 120 GB |

The reduction of ESI from complex collection to assisted review resulted in approximately 120 GB of ESI, or about 550,000 documents, available for the critical eDiscovery phase of document review.

Reviewing Right: Legal Document Review

The requirement to have the second pass review of documents completed within 90 days of initial ESI collection presented a timing and resource challenge that very few eDiscovery providers can efficiently yet cost-effectively address. Given HaystackID’s integrated document review expertise, technologies, and resources, HaystackID was able to immediately accomplish three primary objectives that were critical to review success to support the review requirements of internal ESI (for opposing counsel) and external ESI (delivered from opposing counsel).

<ul style="list-style-type: none"> • Establishment of Review Center (On-Premise)
<ul style="list-style-type: none"> • Use of ReviewRight Technology to Identify and Source Review Attorneys Best Qualified to Support This Particular Review Effort
<ul style="list-style-type: none"> • Use of ReviewRight Sourced Reviewers to Conduct Legal Reviews

Previously having established a complete and fully functional review center available to address the physical review presence preferences of clients, HaystackID immediately was prepared to support the client on this project from a state-of-the-art, secure review facility. This immediate ability to help the client was integral to getting the review project underway as early as possible. With the on-premise facility ready for immediate use, HaystackID then needed to source qualified reviewers to qualify, process, train, and deploy the reviewers to initiate the review phase of the project.

Needing to source approximately 200 appropriately qualified and proximity relevant reviewers within three days is a demand that requires the world’s leading review sourcing and performance measurement technology. HaystackID’s ReviewRight Match process supported by proprietary technology developed by ReviewRight helped meet this unwavering requirement by identifying geographically available attorneys who were qualified to excel in this type of document review. Essential elements of the review team selection that occurred before the initiation of the project as part of ReviewRight’s on-going sourcing process included:

<ul style="list-style-type: none"> • Background Checking 	<ul style="list-style-type: none"> • Document Review Skills Testing
<ul style="list-style-type: none"> • Conflict Checking 	<ul style="list-style-type: none"> • Second Level, QC, Team Leads, and Review Manager Assessments
<ul style="list-style-type: none"> • Work History and Reference Checking 	<ul style="list-style-type: none"> • First Pass Review Assessment

With a pre-qualified review pool ordered by a proprietary review attorney ranking system, HaystackID was able to put together a qualified, efficient, and cost-effective review team in a matter of hours. This capability allowed project leaders to quickly focus on the review of ESI rather than concentrating on the usually required, time-consuming and challenging analysis of reviewers.

Using the ReviewRight Match sourced reviewers operating from the HaystackID Review Center, HaystackID was able to support the customer and complete the assisted and manual review of approximately 550,000 documents (almost one million pages) within two weeks. This unprecedented capability and performance allowed the client to proceed with an aggressive and conducive litigation timeline and best position the client for a positive outcome in defense of intellectual property theft and trade violations.

Decisive Difference: The Benefits of a Complete Solution from a Single Provider

HaystackID provided its client with a combination of expertise and capabilities that allowed them to move quickly in their defense of intellectual property theft and trade violations.

HaystackID's fully integrated Forensics First, Early Case Insight, and ReviewRight processes supported by HaystackID employed expert witnesses, forensics experts, eDiscovery experts, project managers, and expert reviewers allowed the client to detect, identify, locate, review, and produce a high volume of complex data within an incredibly short amount of time.

Based on integrated processes, proprietary technology, and proven past performance in supporting these types of matters, HaystackID was able to reduce the time to trial, reduce the cost of trial preparation, and reduce the risk typically associated working with multiple eDiscovery providers and the communication and coordination challenge a multi-vendor approach presents.

In this project, HaystackID did provide a decisive difference to the customer and, from computer forensics, eDiscovery, and legal review perspectives, optimized the client's opportunity to achieve its defense objectives with unparalleled time and cost efficiency.

Learn More. Today.

Serving more than 500 of the world's leading corporations and law firms from North American and European locations, HaystackID's combination of expertise and executional excellence coupled with a culture of white glove customer service make it the alternative legal services provider that is big enough to matter but small enough to care. Learn more at HaystackID.com.