

# MANAGED DISCOVERY

Managed by Lawyers for Lawyers<sup>SM</sup>

## Lessons Learned and Best Practices for Doing Document Review in China

*By Michael Vella, Managed Discovery*



Managed Discovery understands the needs of lawyers because we have walked in your shoes, including down the unusual paths of the People's Republic of China. Our team of legal specialists has more than a decade of experience handling litigation and investigations involving documents and witnesses residing in China. Through this experience, we have formed definite views about how PRC document review can be managed efficiently, qualitatively, and in compliance with local law.

In connection with the launch of our China Document Review Service, we are pleased to share the top four lessons we have learned about the China review environment in this series of articles. Here is our second lesson in the four part series.

### Lesson 2: Don't Let the Tail Wag the Dog

**Challenge:** As in most jurisdictions, PRC law requires some form of compliance review to ensure there is no violation of local law requirements. But compliance with local law, such as the China State Secrets Law, should not compromise the quality of your substantive review. When staffed adequately and supervised properly, the review by local lawyers should seamlessly encompass both relevance review and compliance

review in an efficient workflow that includes timely feedback. But too often, international law firms and their e-discovery providers lose control of the review process by deferring to a local law firm to conduct a first-pass compliance review before any relevance review is conducted. This is wasteful because it effectively involves two separate lawyer reviews of the same document. Even if the local firm reviews for both compliance

and relevance, they often remain a separate team and fail to provide the type of prompt feedback that e-discovery vendors need to identify and re-batch the most relevant documents. Without prompt feedback, the review suffers both in terms of quality and efficiency. The point of this lesson is that compliance with local law does not require loss of control of the review process. Of course, lawyers and clients need to comply with local law. But with the right planning, compliance with local law can be achieved as part of an integrated review process focused on the merits of the case.

**Solution:** Managed Discovery believes the best solution is to place locally licensed contract attorneys under the direct supervision of the legal-merits team, ideally in the same location. This can be in the conference room of an international law firm, in a secure document-review room that we arrange, or even in the client's own offices. The important thing is that there is a direct and prompt line of communication between the review team and the lawyers in charge of the merits of the case. This makes it easier for the merits team to exercise quality control over the review team's work, and facilitates prompt feedback to your e-discovery vendors. But none

of this is possible if you lose control of your data by adopting a workflow that prioritizes compliance concerns over substantive results. If you have questions about how Managed Discovery is able to strike this balance for our clients, please contact us for a detailed presentation.

## JUST ONE MORE THING

Managed Discovery takes document review to the next level of quality wherever we go. Our China Document Review Service is the result of more than a decade of experience that our China team leader gained while working at two international law firms in Shanghai. As a result, we believe our service offers a unique combination of quality, compliance, and cost.

### Watch for future papers to learn...

Lesson 3: Compliance Review Is Not Just About State Secrets  
Lesson 4: Not All Local Lawyers Are Created Equal

**We invite you to contact us for more information.**

## MICHAEL VELLA

*Vice President of Business Development*

Having lived and worked in China for more than 10 years, I understand the full range of risks and opportunities of doing business here. In addition to handling IP risks, I have helped companies handle some of their most sensitive operational issues in China, including resolving matters involving theft, fraud and corruption. I have handled compliance investigations involving the Foreign Corrupt Practices Act (FCPA), Chinese anticorruption laws, the UK Bribery Act, U.S. securities laws, and the Office of Foreign Assets Control (OFAC).

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