



Cross Border Matter Case Study

The Challenge

Litigation surrounding multi-national regulatory investigations is increasingly plaguing global entities. These investigations often require the legal review of corporate electronically stored information (ESI). This ESI may or may not include data that is protected by various jurisdictional privacy laws. Identifying and collecting from custodians in multiple geographical and regulatory jurisdictions is becoming increasingly difficult given the continuing trends of new and ever-changing geographical regulations. A few good examples include the recently ratified General Data Protection Regulation (GDPR) in the European Union (EU) or the German Bundesdatenschutzgesetz (BDSG). The complexity of these regulations make collecting, processing, reviewing, and producing relevant ESI to a non-native regulatory body seemingly impossible.

Recently, Epiq worked with a multinational company headquartered in Germany with a global network of subsidiaries and custodians. The key custodian's data was located in various jurisdictions and the substantive complaint was to be heard in the United States. It was therefore necessary for the client's United States review team to review documentation that had been generated by key employees based in all jurisdictions. Their challenge included:

- Voluminous cross-border litigation and investigations across the U.S., Germany, and the EU;
- Data components included in scope for the matter may be subject to increased protection requirements due to the sensitive nature and client internal classification structure;
- A strong preference to keep the data within the borders of the originating country;
- The need to limit external access to a geographical location so access and review could not occur anywhere an internet connection existed and be appropriately controlled;
- Complex access requirements due to the potential nature of the custodian's data;
- The demand to be compliant with multiple data protection and privacy regulations combined with a heightened domestic and regional regulatory awareness;
- The need to cull, review, protect, and produce only relevant and responsive data to reviewers.

As the regulatory pressure grew, so did the volumes of data and the need for a trusted partner with the services, technology and global presence to simplify these challenges.

The Solution

The case is ongoing and the client and client's counsel have acknowledged appreciation for Epiq's proactive and collaborative approach. Epiq worked with the client to create a highly secure and compliant hosted system located in an Epiq operated facility in the preferred geographical location. This was only possible due to Epiq's global presence and proactive investment to ensure service availability within any uniquely identified privacy jurisdiction.

Epiq's Data Protection Officer (DPO) and internal experts worked hand-in-hand with the client to draft an effective processor Data Protection Agreement (DPA) that met the requirements for the EU Data Protection Directive 95/46/EC as well as the German BDSG along with contractual model clauses to ensure compliance with any governing privacy and data protection regulations. Lastly, Epiq worked directly with the client to audit compliance against the DPA and the client's own internal data protection, compliance, and security requirements. These technical and contractual structures allowed for access and review from client-approved global locations to ensure an effective, comprehensive, and efficient review effort.

The Results

Backed by global experience, expansive knowledge of jurisdictional regulatory and security requirements, a robust infrastructure, local bilingual experts, and outstanding review teams, Epiq was able to fulfill the project's requirement quickly and on budget, while complying with all applicable privacy laws.



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