



THE NUTS AND BOLTS OF AN EDISCOVERY REVIEW

INTRODUCTION

The digital universe is growing at an exponential rate. Analyst firm IDC estimates that it is doubling every two years, and expects it to reach 44 trillion gigabytes by 2020. If you're doing ediscovery, that presents an obvious problem. The more electronically stored information (ESI) you have, the more time discovery takes. And the longer it takes, the more it costs.

Early ediscovery software tried to bend the cost curve, but in practice delivered few advantages over paper-based processes. Luckily, the world has moved on. In place of these first-generation systems have come sophisticated, easy-to-use solutions that can accelerate review as well as store and manage large volumes of data.



It's no surprise, then, that eight in ten firms expect to spend more on culling tools in 2017 (up 8.4 percent on average), and more than seven in ten plan to boost investment in collections and holds tools (up an average 7 percent).

But all tools are not equal. How to decide between them?

This paper outlines the challenges and complexities of ediscovery review, the different ways technology can help, and what firms should consider when choosing a new solution.

OVERVIEW

As digital technology transforms every aspect of our work—and lives—the amount of data in document reviews has grown dramatically. In turn, document review has become increasingly burdensome. The review process may now include millions of documents of various kinds—instant messages, social media posts, emails, voicemail, CAD files, presentations, databases, and many others.

Sifting through this data to find relevant documents takes time and money. All else being equal, the more documents—and the more types of documents—there are to review, the more expensive the litigation will be. Collaboration can be another expensive challenge. And that problem only increases with multiple participants in different locations. For example, in-house and outside counsel can struggle to work together effectively, especially when they're in different parts of the country.

Fortunately, review tools have evolved over the last few years to meet the challenge. The most effective feature intuitive user interfaces, time-saving capabilities like predictive coding and batch coding, and metrics that firms can use to track—and address—each reviewer's accuracy and efficiency.

Ediscovery review will always take time, but technology can go a long way toward streamlining the process and reducing costs.

WHAT DOES AN EFFICIENT REVIEW LOOK LIKE?

In ediscovery, time is money and speed is of the essence. Firms can reduce the time needed by simply speeding up individual steps in ediscovery. Shaving 850 milliseconds off a 1 second process might not seem like much, but it can save hours in a review that involves thousands of documents, or days in one that involves millions. Tightening feedback loops can increase your



efficiency even further, allowing stakeholders to make faster decisions and correct mistakes more quickly.

In addition to simply improving performance, technology can accelerate document review in many other ways as well.

User interface

Software look-and-feel is not just about attractive fonts or pleasing layouts. It's about delivering a simple, elegant experience like the ones you get from your iPhone, or from online services like Google and Amazon. In ediscovery, this might translate to a fast, accurate search function that delivers important information immediately. It might also mean an intuitive interface that speeds onboarding, reduces the need for training and provides ready access to all essential features.

A well-designed interface is a sign the vendor has a high level of technical expertise and that they consulted with customers to understand their needs rather than simply bolting a legal workflow onto an existing enterprise search product.

Balance case-lead workload with case-wide workload

The right ediscovery software should consider all users involved in a review, not just a few of them. Too often, case leads choose solutions that meets their own needs perfectly but don't provide the best experience for other members of the team—document reviewers or billing coordinators, for instance. A platform that streamlines processes for some while increasing the workload for others is no solution at all.

Reviewers, lead attorneys, and others have very different experiences and needs. For maximum efficiency, ediscovery software must work for all relevant users.

Ediscovery software can help address these different needs with case-wide features that boost the efficiency of the entire team. Once reviewers have identified relevant documents, for example, lead attorneys can develop case strategy documents with integrated post-review tools like Everlaw's StoryBuilder.

Data visualization

To effectively analyze data, legal professionals first need to understand it. Data visualization can speed up review and increase its effectiveness. Again, the benefit is not just attractive graphics. It's visual presentation of data that gives reviewers additional insights.

The most advanced ediscovery visualizations support the review at every stage, from tracking reviewers' progress to gauging their effectiveness. Simplicity is key for data visualization tools to offer actionable insights. They must strip away the noise.

Predictive coding

Despite its relatively recent development, technology assisted review (TAR), which includes tools like predictive coding (PC), has become a widely accepted addition to the review process that can also show reviewers where their time would best be spent.

PC uses machine learning to predict a rating or code for a group of documents. Artificial intelligence (AI), fed by the contents and metadata of already-classified documents, helps suggest other relevant documents. This can offer fast access to the most pertinent information, thereby saving time and improving accuracy. In some cases, firms may be able to eliminate manual review of some sets of documents altogether.

If a matter has a million documents but time and budget constraints only allow review of 50,000, how do you choose which 50,000 to review? Search terms or random sampling can give you a rudimentary idea. Predictive coding provides a much more sophisticated answer. Once you review 1,000 documents by hand, predictive coding can extrapolate from those decisions and analyze the remaining 999,000 documents automatically, prioritizing the most important documents to review first.

Some solutions even allow users to choose the reviewers the predictive coding system will learn from. By

identifying and naming these trusted reviewers, firms should see improved results that bolster team-wide confidence in the review process and its technology, making users more likely to trust the system and use it in subsequent matters.

This leads to the issue of trust, an essential element to effective TAR. Without users, even the most sophisticated tools on the market can lack worth. To encourage firm-wide adoption of TAR technology, firms should educate users about the value of this particular approach. Firms may also choose a tool that provides visualizations, such as coverage heatmaps. These visualizations help users understand how the system works, leading to an increase in trust.

Note that the most useful PC systems will allow users to build their own prediction models. This is extremely helpful when reviewers need to find documents relevant to particular areas.

Collaboration

Ediscovery does not happen in a vacuum. Users need to communicate with one another throughout the review, particularly when working from different locations. Technology can help with features like user-tagged activity audits, automated versioning of outlines, and in-platform messaging, which allow far-flung users to work together more effectively.

System support

Support varies by vendor, but whether through video tutorials or instant messaging, firms must understand what types of support are available and how they can help users make the most of the system.



Budgeting time and costs

Firms can use several techniques to run a more efficient review and minimize costs. These include:

Self-serve uploads and productions. Being able to upload and produce documents can save firms, corporations, and government entities massive amounts of time. It also gives them more control over the process, and allows them to easily QA a random set of documents and redo any protocols that aren't correct.

Keyboard shortcuts. Using the keyboard exclusively rather than switching between keyboard and mouse can save a tremendous amount of time over the course of the review. Again, even milliseconds add up.

Monitored accuracy. By using case analytics to track the speed and accuracy of individual reviewers, case administrators can spot discrepancies, fine-tune workloads, and offer additional training where necessary. This also minimizes the amount of time spent correcting mistakes along with the risks of missing relevant information entirely.

Simultaneous multi-document coding. As the amount of data in a review increases, it becomes more difficult to act on any particular document in a reasonable amount of time. Here again, bulk modification tools can help by applying actions to batches of documents while removing unnecessary duplicates from the system.

Real-time organization of key documents. All too often, firms wait to organize relevant documents until after the review concludes. Starting this process during review is much more efficient. With the right tools, firms can organize critical information as it's received.

CHOOSING THE SOLUTION

With so many different ediscovery platforms available, there are several factors to consider when choosing a solution. First and foremost, firms should clarify their value to clients. While some firms have tried to distinguish themselves with their technological capabilities, this approach has fallen out of favor as cloud adoption rates increase. Firms' technology needs have also evolved. The emphasis is now shifting toward better collaboration between geographically dispersed participants.

Every firm is different, but there are some factors that all should consider. When working on a request for proposal (RFP), ask about:

Usability. How intuitive is the user interface? How

quickly can new users learn and begin operating the system?

Capabilities. What tools and services are available? To what extent does the provider leverage innovative technology?

Search. Is search fast and accurate?

Security and Data storage. Where and how does the solution store data? What security measures are in place for physical data centers and cloud servers? Does the vendor meet or surpass industry security standards, and what security certificates do they hold, independent of their own suppliers?

Data access. What types of user access controls does the system provide? Are features like two-factor authentication available?

Pricing. How transparent is the pricing structure?

Contract. How easy is it to terminate or cancel? Are there any restrictions?

Onboarding. How long will it take to get the new system up and running? How much training is available?

System support. What types of support are available, and when? How fast is the response time on issues both pressing and not?

Agility. How fast is the vendor able to support changing needs and evolving requirements? Is staying on top of the latest technology and improving user experience a priority?

Universality. Is the solution a good fit for all types of users?

Compatibility. Is the solution compatible with the firm's existing systems?

Vendors' responses will give you a clearer view of the respective strengths of their solutions. Firms should also seek references from shortlisted providers and take advantage of test periods in order to gauge a solution's suitability.

CONCLUSION

Not all ediscovery solutions are created equal, and the industry has undergone considerable transformation over the last few years as ediscovery review challenges evolve. By tapping into features that provide real efficiency benefits, firms can overcome many of these challenges while significantly reducing the cost and time burden involved in review.