

Conducting Cost-Effective eDiscovery & the Use of Technology Assisted Review (TAR)

Hon. Andrew Peck, DLA Piper LLP US – New York, NY
Christine Payne, Gunster, Austin, TX

April 20, 2021

E-DISCOVERY ESSENTIALS



What is TAR?

Technology Assisted Review is a process of having computer software electronically classify documents based on input from expert reviewers, in an effort to expedite the organization and prioritization of the document collection.

TAR Vocab

“Richness” or **“Prevalence”** = The fraction of documents in a set that are, in fact, relevant.

“Recall” = The fraction of relevant documents within a set that are identified as such by TAR.

“Precision” = The fraction of documents retrieved by TAR that are, in fact, relevant.

(all measured by statistical sampling)

Maura R. Grossman & Gordon V. Cormack, *The Grossman-Cormack Glossary of Technology Assisted Review*, 2013 Fed. Cts. L. Rev. 7 (January 2013)

What is TAR used for?

Responsiveness

Determining whether individual documents within a large set are responsive or non-responsive

Prioritization

Ordering by priority a large set of documents so that you first review those most likely to be responsive

Investigations

Finding patterns and specific facts during internal investigations

Heavy Artillery

Wounding your opponent in battle (just joking, sort of)

Where is TAR useful?

| Responsiveness | Prioritization | Investigations | Heavy Artillery |
|--|---|--|---|
| Determining whether individual documents within a large set are responsive or non-responsive | Ordering by priority a large set of documents so that you first review those most likely to be responsive | Finding patterns and specific facts during internal investigations | Wounding your opponent in battle (just joking, sort of) |



"Proceed when conditions are favorable"



May you use TAR for a responsiveness review?

| 2012 <i>Da Silva Moore</i> | 2015 <i>Rio Tinto</i> | 2020 <i>Valsartan</i> |
|--|--|---|
| “This judicial opinion now recognizes that computer assisted review [i.e., TAR] is an acceptable way to search for relevant ESI in appropriate cases.” | “[I]t is now black letter law that where the producing party wants to utilize TAR for document review, courts will permit it.” | “The Court does not have to decide if TAR is an appropriate discovery tool. We are past the time when parties and courts view TAR as an outlier.” |

Da Silva Moore v. Publicis Groupe & MSL Grp., 287 F.R.D. 182 (S.D.N.Y. 2012) (ALC)(AJP), *aff'd*, 2012 WL 1446534 (S.D.N.Y. Apr. 26, 2012)

Rio Tinto PLC v. Vale S.A., et al., No. 14 Civ. 3042 (RMB)(AJP) (S.D.N.Y. March 3, 2015)

In re Valsartan, Losartan, and Ibexartan Products Liab. Litigation, Civil No. 19-md-2875 (RBK)(JS) (D.N.J. December 2, 2020)

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First appeared as part of the conference materials for the
2021 E-Discovery Essentials session

"Conducting Cost-Effective E-Discovery and the Use of Technology Assisted Review (TAR)"