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The University of Texas at Austin
School of Law

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

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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.

EDRM, 2021, edrm.net

## 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 | 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) |

# 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 *Da Silva Moore* | 2015 *Rio Tinto* | 2020 *Valsartan* |
|---|---|---|
| "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 Sliva 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 Ibestaran Products Liab. Litigation*, Civil No. 19-md-2875 (RBK)(JS) (D.N.J. December 2, 2020)

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