

Managing Discovery

by Joseph Howie, Syngence, LLC

Some of the many discovery management challenges facing paralegals and their firms today include voluminous paper discovery, burgeoning e-discovery caused by ever-expanding e-mail volume, shrinking budgets, and tightened deadlines. Legal assistants who can meet these rising challenges provide substantial value to their firms and their firms' clients.

Here are some tools that paralegals can use to manage discovery more effectively.

Make Digital Documents

As a start, paper-based discovery should be processed with digital scanning to create digital images that can be stored, copied and printed far easier than paper copies. Then the scanned images should be processed through Optical Character Recognition (OCR) systems to provide text files that can be quickly searched to locate specific images.

In the past, only the largest firms had space and staff dedicated to document scanning. But now, the maker of a leading production scanning software (IPRO) is providing software that enables office copiers be used to create digital images. With this software, virtually any law firm can do document scanning.

Legal assistants who investigate scan-

ning and OCR alternatives will find that, even if they use vendors for such work, they can scan and OCR documents for the same cost as the old method of copying originals, Bates-labeling them, and re-copying them to make work sets. When used in conjunction with litigation support programs such as Concordance, the resulting document review process enables paralegals and other team members to search and simultaneously view documents and search results on screen.

Linguistic Pattern Matching

Database searching normally involves the use of Boolean, keyword, and full-text searching. Those are useful, but they require learning and using the correct search syntax; and to be sure of finding documents of interest, searches often have to be overly broad. The complexities of formulating searches and evaluating results essentially prevent the use of such technology for repetitive tasks like searching for other versions of documents being redacted or identified as privileged. There simply isn't enough time to create all the queries and evaluate all the results.

Linguistic Pattern Matching (LPM) search technology enables legal teams to do much more and get far better results with much less effort. This kind of searching only requires that the user point to text that the search software will use as

comparison or source text. It will then search for documents having similar linguistic patterns.

Where other search techniques return many documents requiring extensive review, LPM search results are ranked in order of how closely each page matches the page upon which the search was based, permitting a focus on the documents that are most likely to be significant.

Linguistic Pattern Matching lets paralegals add substantial value by ensuring consistent redactions and privilege claims on their client's productions, and by probing for inconsistent redactions in documents produced by opposing counsel. This technology is also useful in preparing witness kits, performing issue coding, auditing e-productions to help ensure completeness, and locating the best versions of exhibits to use among many other uses.

Auto-coding

Auto coding is the process of prepar-

ing document abstracts with fields like "Beginning Bates Number," "Document Type," "Date, Author, Subject," and so forth. Because auto-coding is done programmatically, the results can be ready within days of the documents being scanned or the e-discovery being processed.

This can save weeks or months of effort in creating document profiles. While it will not completely eliminate the need for a "manual" review of the documents, it can permit rapid identification of documents where the OCR process failed to produce much searchable text. This enables paralegals to focus on those documents first.

Implementation

If all this technology sounds great, what should your next step be? One way to be sure that what sounds good in theory actually works is to contact a provider of these solutions and do a test case using

the technology. This technology helps the law firm control costs and provide better service and your firm undoubtedly has a case with a client who would love to see how this approach could benefit the case.

Joseph Howie is Director of Client Services for Syngence, a provider of *Synthetic* linguistic pattern-matching databases and *Syndex* auto-coding. He has developed and provided computer-based tools for lawyers for more than 15 years.



jhowie@syngence.com.



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