Digital-Enabled Discovery and Review

The Impact of Technology Accelerators on eDiscovery

The exponential growth and complexity of data continues to expand the scope of discovery, driving legal leaders to seek digital delivery models for sustainable scalability. Advancements in artificial intelligence (AI) automation and analytics processes are empowering legal teams to increase the speed of discovery while reducing the complexity of data management throughout the litigation lifecycle.

Law departments can reduce litigation costs by up to 55 percent by assessing current eDiscovery practices and adopting digital methodologies.

UnitedLex

The Promise of Digital in eDiscovery

The need to simultaneously increase speed while reducing complexity and the cost of managing electronically stored information (ESI) is compelling high-performing law departments to integrate advanced technologies into the discovery process. To capitalize on the value of digital, legal leaders must understand how best to apply technology in the litigation lifecycle and how to design smart processes to accelerate their effectiveness. When optimally deployed, these technologies enable teams to aggressively deduplicate data, defensibly cull review volumes, filter non-substantive text, integrate audio and video formats into document review, automate privilege logs, and more.

Digital is Transforming Discovery

Digital and AI-enabled tools like continuous active learning (CAL) allow legal departments to rapidly comb through millions of records—digital files, metadata, and a myriad of file types—sorting and prioritizing information for the legal team's review. Through this prioritization, AI machine learning algorithms uncover key documents earlier in the litigation lifecycle, allowing legal teams to better strategize and make educated decisions on how to best approach litigation matters, understand and manage the scope of discovery, and ensure a more advantageous outcome. CAL can classify 60 percent or more of documents as irrelevant, empowering legal teams to focus on the most relevant documents, permitting adherence to tight discovery deadlines.

As AI-enabled systems learn from the data and improve with each iteration, the automated review process is accelerated, supplementing human evaluation efforts with increasing insight. For example, machine learning (ML) capabilities identify the criteria for critical designations, such as *confidential, privileged*, or *significant*, and the application can suggest coding, categorize and prioritize documents, and further speed review.

> **CAL can classify 60 percent or more of documents as irrelevant, empowering legal teams to focus on the most relevant documents, permitting adherence to tight discovery deadlines.**

AI also provides legal teams with a deep understanding of the data itself. AI surfaces information on what a data set contains and where it resides, and connects concepts that would not necessarily occur within a traditional review. This insight accelerates and streamlines document review, empowering teams to generate insights, such as key individuals, new facts, important time periods, and even the "smoking gun" documents to be used at a key deposition. By identifying patterns between people, places, and events, AI enables litigators to quickly develop facts and draw conclusions earlier in the litigation lifecycle and with fewer dedicated team hours.

UnitedLex

New Advancements on Established Technologies

Litigators can realize the benefits of digital technologies by combining existing eDiscovery applications in progressive ways.

Here are some technology stacking applications to start litigation departments on their digital journey:

1. Utilizing **unsupervised machine learning**, such as **concept clustering**, ahead of **CAL** often speeds review and provides quick insights to litigation teams. These processes categorize documents based on shared concepts without direct input from litigation teams, identifying unknown common-alities among documents, supporting data targeting, improving speed to knowledge, and suggesting multiple simultaneous workstreams within CAL and non-CAL data sets.

2. Litigation teams improve data collections and inform the witness selection process by performing **advanced communication analysis** along with **active learning** well before the close of discovery, helping to identify data gaps and trends, and potentially eliminate unnecessary last-minute discovery efforts and avoidable surprises.

3. Delivery teams leverage **repeated content identification** and **textual near-duplicate analysis** to optimize the analytics engine to "clean up" nuanced textual differences occurring from collecting data from different systems. In doing so ahead of **email threading**, the engine can correctly thread all emails collected and properly identify emails with unique content across systems, routinely reducing manual efforts by 30 percent.

4. Litigation teams can significantly increase the effectiveness of CAL by first performing **foreign language identification** on the review universe. Documents that have a primary language other than English or contain at least 25-30 percent of another language should be isolated and routed through separate review workflows.

5. Litigation teams often layer different analytic processes ahead of and after performing **native redactions** to complete due diligence and benefit from the streamlined processes of redacting natively. For example, performing pattern recognition and concept searches ahead of redacting can target documents in need of redaction. Moreover, further analytic searches based on already redacted documents can help ensure additional documents in need of redactions are retrieved by the analytics engine, as well as confirm redactions were performed as needed to enhance quality assurance.

UnitedLex

Accelerate through Emerging Technologies

Combining emerging technologies with workflows to maximize the effectiveness of digital automation allows litigation teams to accelerate efficiency throughout the discovery process. In order to maximize these efficiencies, litigants should understand when and where to employ these advanced technology workflows—often called *technology accelerators*—into the litigation lifecycle.

Here are several technologies that are advanced investments for the discovery process:

1. Two of the most successful review strategies include **Search-Hit-Only Review (SHO)** and **Single-Instance Review (SIR).** SHO is an automated data-culling workflow which only reviews documents that contain a search term or are in a document family with a relevant document, such as an email with attachments. SHO avoids using review resources on documents that are unlikely to be responsive or require production. SIR is a workflow that eliminates review of duplicate content and leads to consistent review decisions on records that survive global or custodial deduplication. In a SIR workflow, reviewers apply decisions on the single instance of a file or most complete email, and that decision is applied to all duplicate or lesser versions, thus removing the burden of looking at duplicative content.

2. **Audio and video discovery** are an ever-expanding area of litigation. The techniques for handling this data include machine transcription, video image analysis, object detection, voice biometrics, audio redaction, audio-in-video redaction, and video image redaction. These techniques integrate the discovery of these records into standard review processes, which streamlines the review and increases compatibility with other technology accelerators.

3. **Privilege log generators** identify the parties to a privileged communication and simplify privilege descriptions. The application links email addresses and other aliases to single individuals or entities with normalized names, allowing review attorneys and paralegals to efficiently export privileged actors for inclusion on privilege logs and related materials.

4. Quality assurance is central to a successful document review process. **Quality Control (QC) and validation automation** is an AI-enabled workflow that automatically identifies and batches documents for review to ensure maximum accuracy. The use of statistical sampling, conflict checks between human coding and machine classification, and validations across document families and email threads are just some of the ways to verify review results.

Digital-Enabled Legal Intelligence

Digital technology not only provides significant efficiency throughout the discovery process—it enables litigation teams to gain real-time intelligence to shape entire legal strategies. AI and digital-enabled tools measure the performance of discovery and review, track key performance indicators (KPIs), and gain increasing levels of operational efficiency.

Case-level dashboards provide real-time information that tracks deadlines and budgets, resource allocation, and other matter-level KPIs. Dashboard suites also help trial teams automate aspects of witness preparation, opposing party data analysis, and anomaly identification. Information can be seamlessly integrated into witness chronologies, deficiency letters, briefs and similar work product eliminating manual tasks and allowing legal teams to focus on case preparation.

Dashboards at a portfolio level provide insight across operations to highlight gaps in process, compare matters, and track to department-level KPIs. Armed with this real-time intelligence, legal teams can strategically adjust processes, incorporate knowledge sharing, and access an in-depth view of their discovery portfolio.

Knowledge management analytics allow legal teams to maintain central repositories of operational information. In litigation this includes coding decisions, portable AI models, and other prior matter work product for knowledge transfer. Over time, this reduces duplicative effort and helps find answers quickly. Similarly, privilege ontology automation creates, stores, and maintains portfolio-level privilege terms, parties, and workflows which ensures consistent application of privilege screens and implementation of workflows across the full portfolio of company matters.

Law departments can leverage digital-generated insights to drive more positive outcomes for cases and increase operational efficiency while reducing litigation risk and similarly expand abilities across areas of influence with dramatic gains. Beyond discovery, digital applications are transforming all areas of concern for legal departments, increasing abilities without growing team sizes. From risk and compliance to contracts and procurement, digital-empowered teams can deliver more, with more, for less.

Looking Toward the Future

Legal teams must adopt an innovative and highly agile approach to litigation to contend with the increasing scope of discovery. Leveraging digital through existing and new applications is essential not just because there is more data, but because more of that data is hidden, unusual, and valuable.

UnitedLex digitally transforms how litigation services are procured and delivered. We combine technology, legal expertise, and process innovation to achieve lower total cost and higher operational performance throughout each phase of the litigation, investigation, and regulatory lifecycles.

UnitedLex

With more than 3,000 legal, engineering, and technology professionals globally, UnitedLex enables legal organizations to thrive in the digital age.

Contact info@UnitedLex.com to learn more about transforming your Litigation and Regulatory function, and about our broader programs for Digital Legal Transformation.