Don't Settle for Defense-Oriented E-Discovery Tools

By John Martin

Case Driver e-discovery processing and hosting offers substantial advantages to mass tort and class action lawyers compared to commonly used defense-oriented solutions:

- *Rapid turnaround* – plaintiffs can be reviewing and analyzing defense productions *within 24 hours* of receiving them.
- *Unique case insight* – from analytical tools such as visual clustering, geotagging, emotional content analysis, and PII and privilege flagging.
- *Substantially reduced costs* – made possible by use of on-demand Amazon Web Services hosting and processing.

Background

Many prevalent e-discovery review platforms were designed for deep-pocket defendants faced with reviewing large volumes of data. Once productions occur, plaintiffs receiving them have needs that are different in scope and type, e.g., they don't need to further redact the produced documents or email and they don't need to use predictive coding to eliminate the items that weren't produced. Unlike some defendants who don't mind slow walking the whole discovery process, plaintiffs are typically eager to start working with the long-awaited productions to develop their theory of the case.

Rapid Turnaround

Defendants often take months to collect e-discovery and finally produce documents and email. To be fair, this can involve time-consuming processes like obtaining passcodes to user-encrypted files, converting unusual file types to more manageable types, training predictive coding software through sampling or seed sets, measuring precision and recall, etc. *However, once a production has occurred, plaintiffs don't need to replicate the functionality already used to perform those tasks –* you don't need to buy a meat grinder to have sausage in a restaurant.

By the time productions have occurred, defendants have done much of the heavy lifting required to make e-discovery useful. Case File can load the incoming productions and provide searching and analytical capabilities to plaintiffs located across the country typically within 24 hours of the receipt of those productions, not the weeks or sometimes months of some other hosting solutions.

Unique Case Insight

Case Driver provides a set of unique tools that help plaintiffs organize and gain insights from productions, beginning with content-enabling the collection, i.e., converting even image-only

documents to text searchable format, and loading metadata into appropriate metadata fields. Here are some other tools:

Visual Clustering. Case driver clusters visually similar attachments and loose files based on overall visual appearance, even if the words used in those documents vary or are missing or are contained in different file formats. Some could be PDF, some could be TIFF with text, some could be image only. For example, in pharmaceutical litigation, clustering will bring together instances of FDA Form 3500 used to report adverse events, even if some are handwritten and have no searchable text. Other clusters will typically form around other internal or government-mandated forms and reports. These documents and any emails to which they were attached can be assigned to specific lawyers or pharmaceutical experts.


Visual Cluster of FDA Form 3500's
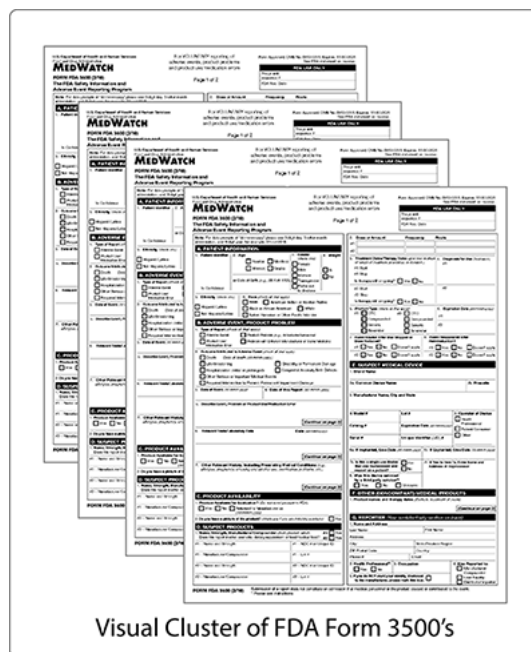
Geotagging – Putting the "Where" in Plaintiff's Who, What, When, Where, Why Analysis. Emails don't just magically go from a sender's laptop or cell phone and appear in the recipients' devices. Emails are routed from node to node on the Internet, and the route taken is reported within the email metadata in the form of numeric Internet Protocol addresses. These are basically a series of four numbers separated with three periods, e.g., 169.43.240.24. Case Driver has a database that maps just about all IP addresses to physical locations. This makes it possible to identify the general location from which email was sent and the locations at which it was received. This lets plaintiffs track where individuals were at various times, something that can be quite useful. For example, was an employee working on highly confidential projects from a Starbucks, or from the office building of a supposed competitor?

Note: Case Driver needs native email files with metadata intact to perform geotagging.

Emotional Analysis. People sending emails or other communications are apt to be more candid and less circumspect if they are reacting emotionally to events. Case Driver scores emails and other documents on six basic emotions, enabling plaintiffs to identify normal emotional patterns of behavior and spot aberrations or spikes in non-normal behavior. This helps identify communications where senders say things like, "What the hell were you thinking?" or "This is a serious issue, and we need to be deal with it immediately before it gets out of hand!"
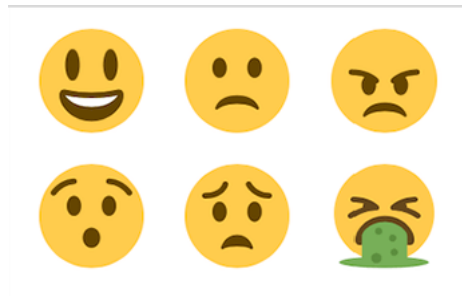
PII Detection. Case Driver identifies patterns of characters that commonly indicate the presence of PII, e.g., social security, bank account, or credit card numerical sequences. Plaintiffs can use this information to be sure to adequately protect such data and to gain insight into how carefully defendants have handled that data.

Privileged Communications. Case Driver uses a database of thousands of domain names associated with law firms, e.g., duanemorris.com, dechert.com, or dlapiper.com, and flags emails containing those domain names. These emails may be potentially significant, or could indicate potential inadvertent privilege waivers.

Substantial Cost Reductions

Many e-discovery vendors bill $10-$20 per gigabyte *per month* to host data on their computer systems. This may have been fair at one time given the high cost of hardware when e-discovery began decades ago, but it is much less justified today in light of much lower hardware costs and the availability of cloud computing.

To avoid high costs, Case Driver uses Amazon Web Services ("AWS") which has a pay-for-what-you-need-when-need-it approach with virtually unlimited processing and hosting capabilities for literally pennies per gigabyte per month. Red File bills its subscribers its actual AWS costs plus a fixed percentage, reducing monthly hosting charges for plaintiffs by 50% on average.

Annual Cost of Having One Gigabyte of Data Hosted Online

By Conventional E-Discovery Provider — With Case Driver Using AWS

Further Information. For more information about how Case Driver can help class action and mass tort plaintiffs prepare their cases, contact William Millis, Esq. at wmillis@davidcarrie.com, phone (646) 247-1059.

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