



CASE STUDY

Managed Review and Predictive Coding in High-Stakes Disclosures

SITUATION

A U.K.-based law firm representing a pharmaceutical client in the damages phase of a patent infringement litigation faced extensive disclosure requirements and tight deadlines for a dataset of more than 500,000 documents.

The claimant was unsuccessful in its initial patent infringement claim and subsequent cross-undertaking in damages for an interim injunction against the defendant. The defendant then responded with an application for damages of more than £100 million caused by the interim injunction. While the figure was higher than the annual value of the relevant market, the defendant claimed it was fair on the basis that the earlier litigation had kept the company out of the market for six months and caused irreparable damage to its business.

Working with FTI Technology's managed review team in EMEA, the law firm sought to determine validity for the £100 million in alleged profit losses. Document review and disclosure revolved around determining the justification of the defendant's estimated losses and demonstrating the profitability of both parties.

SOLUTION

Leveraging FTI Technology's combined expertise in advanced analytics, predictive coding and managed review for complex cases, the law firm set out to conduct collection, analysis and review of a set of more than 500,000 documents.

To adhere to court-issued disclosure deadlines and ensure a thorough, cost-effective review, FTI Technology's team worked closely with counsel through the start of the trial to perform:

- Digital forensic collection of data and establishment of two document populations. Keywords and date ranges were used to create a sample of 1,000 responsive documents, which a senior associate reviewed to assess the prevalence of relevant data within the population.
- Application of continuous active learning (CAL) predictive coding technology — using the sample as the foundation — to reduce the dataset and enable accurate review workflows.

- First-level review of thousands of documents per day, identifying relevancy, privilege, confidentiality and issue codes.
- Internal daily quality control checks of first-level review using random sampling, built-in analytics and advanced targeted searches based on review protocol and counsel feedback.
- Circulation of daily reports and decision logs amongst the team and the law firm to track progress and allow counsel to identify any unexpected coding patterns early on in the review.
- A redaction exercise involving the removal of sensitive personal data, confidential business information and privileged material from the population of disclosable documents. Documents were grouped to facilitate consistent redactions.
- Review of the opposing party's production via the use of analytics and targeted searches to identify key issues and prepare summary reports identifying documents in support of the client's position.
- Creation of reports related to key case themes, providing detailed summaries of important issues and related supporting documents from both the client's dataset and the opposing side's.
- Preparation of trial exhibits, including additional confidentiality redactions and preparation of documents for use in court.

IMPACT

Successful, defensible review and disclosure within court-appointed deadlines.

Results delivered through FTI Technology's managed document review offerings included:

Reduced Review Population

The use of CAL enabled the team to reduce the review set from approximately 500,000 documents to roughly 225,000.

Cost Savings

With a significantly reduced document set, the cost of first-level review was reduced by approximately 50%.

Robust Quality Control

Proven quality control workflows, daily reporting and decision logging ensured a highly transparent and defensible review process.

Adherence to Disclosure Deadlines

Despite the opposing party's need to request multiple deadline extensions, the client defensibly fulfilled all original disclosure requirements on time.

Trial Preparation

Counsel was fully prepared for trial, equipped with redacted trial exhibits and documents.

Defensible, Timely Management of Case Challenges

As unexpected challenges and complexities were introduced by opposing counsel, the team worked extra hours to support the client through every phase of disclosure.

CRAIG G EARNSHAW

Senior Managing Director
+44 (0) 789 409 3762
craig.earnshaw@fticonsulting.com

EVIE MACKAY

Managing Director
+44 (0) 792 966 7793
evie.mackay@fticonsulting.com