

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MISTY SNOW, et al.,
Plaintiffs,
v.
ALIGN TECHNOLOGY, INC.,
Defendant.

Case No. 21-cv-03269-VC (TSH)

DISCOVERY ORDER; REPORT AND RECOMMENDATION

Re: Dkt. No. 237

The Court appreciates the parties’ briefing concerning their dispute about whether Align should run the *Snow* TAR protocol (or some revised version of it) against the July 15th Search Term Set. ECF No. 237. The Court agrees with Align that there is no problem to be solved. The Court’s July 1, 2022 discovery order changed the search terms against which a different TAR protocol was run. There is no logical reason to run the *Snow* TAR protocol or some revised version of it against those expanded search terms. That is mixing apples and oranges and would result in a duplicative search for documents that are specifically relevant to the *Snow* case. Plaintiffs try to frame the issue as a need to come up with a reliable TAR mechanism, and they propose that the Court appoint a special master to aid with that task. However, the Court agrees with Align that the debate over the reliability of applying the *Snow* TAR protocol to the July 15th Search Term Set obscures the more fundamental point that there is no logical reason to undertake that effort at all. Accordingly, Plaintiffs’ motion to compel is **DENIED**, and the undersigned **RECOMMENDS** that the District Judge not appoint a special master, as doing so would be a pointless waste of time and money.

IT IS SO ORDERED AND RECOMMENDED.

Dated: November 21, 2022


THOMAS S. HIXSON
United States Magistrate Judge