ABA Task Force on Law and Artificial Intelligence

Addressing the Legal Challenges of AI

Year 1 Report on the Impact of AI on the Practice of Law

August 2024

AMERICANBARASSOCIATION

Task Force on Law and Artificial Intelligence

LETTER FROM THE ABA PRESIDENT

The proliferation of artificial intelligence over the past few years has been nothing short of revolutionary. Yet, even a few years ago, in 2017, when 1,500 senior business leaders in the United States were asked about AI, only 17 percent said they were familiar with it. Even a couple years ago, most lawyers probably did not expect to harness this technology in their legal practice. Following the release of ChatGPT in November 2022, legal scholars published papers reflecting on its potential benefits and risks. In early 2023, a new, more capable large language model, GPT-4, became the first AI to pass all 3 sections of the Uniform Bar Exam. By June 2023, a lawyer had been sanctioned for misusing generative AI in the practice of law. Today, AI is one of the most transformational technological advances of our generation.

Earlier this year, the European Parliament adopted the Artificial Intelligence Act, the world's first comprehensive legal framework for AI. Currently, the United States has no comprehensive federal legislation that regulates the development of AI or restricts its use.

In August 2023, I created the ABA Presidential Task Force on Law and Artificial Intelligence which brings together lawyers and judges from across the ABA to address the impact of AI on the legal profession and the practice of law. The AI Task Force is concentrating its efforts on a broad array of critical AI issues, including AI's impact on the legal profession, the courts, legal education, access to justice, governance, risk management, and challenges with generative AI.

Despite its promise, AI also presents novel challenges with complex legal and ethical questions. The AI Task Force has been undertaking thoughtful research and analysis in a rapidly-shifting regulatory environment. Its dedicated working groups have been engaging the views of lawyers, judges, ethicists, access-to-justice advocates, and academics working across all sectors of the U.S. economy. These teams have undertaken research and developed essential materials to help guide responsible and trustworthy adoption of AI tools and technology by the legal profession.

For instance, earlier this year, the AI Task Force released the results of its AI and Legal Education Survey, a compilation of insights gathered from law school administrators and faculty regarding the integration of AI into legal education. The survey found that 55% are increasingly incorporating AI into their curricula. An overwhelming majority (83%) reported extra-curricular opportunities, including clinics, where students can learn how to use AI tools effectively. The survey suggests that AI is already having a significant impact on legal education and is likely to result in additional changes in the years ahead.

Through the work of the AI Task Force, the ABA is taking a leadership role in this emerging area of law and practice. Thanks so much to the members of the AI Task Force, the Special Advisors, the Advisory Council, and the dedicated ABA staff for the depth and breadth of their work.

Given the constantly evolving – and ever more sophisticated nature – of AI, the AI Task Force will continue its work during the next bar year. Recognizing the enormous potential of AI for the legal profession and beyond, the AI Task Force will continue to provide valuable information and research for lawyers in all practice areas and to address to some of the most pressing and challenging legal issues facing us today.

Mary Smith
ABA President (2023-2024)
August 2024

ABA President Mary Smith addressing the ABA House of Delegates
2023 Annual Meeting in Denver, Colorado.

ABA LEADERSHIP ON AI

AI and machine learning (ML) systems and capabilities will transform virtually every industry sector and reallocate the tasks performed by humans and machines. AI provides extraordinary opportunities for innovation, productivity, error reduction, improved workplace safety, enhanced efficiency, and lower costs. It enables computers and other automated systems to perform tasks that have historically required human cognition and, for certain tasks, at speeds that far outpace what humans can do. AI increasingly has been used over the past decade by physicians, biologists, astronomers, engineers, judges, lawyers, and individuals.

Generative artificial intelligence (AI) has captured headlines and captivated the attention of individuals in professions based on language and writing, including lawyers and law firms, with its unprecedented ability to create new content. With a few text prompts, generative AI can create new text, images, audio, video, 3D models, data, or other work product that previously could only be produced by humans. The release of ChatGPT in November 2022 prompted interest and concern about the ramifications of generative AI for the legal profession and its broader legal implications.

Recognizing the urgent need to address the transformative impact of AI, ABA President Mary Smith launched the ABA Task Force on Law and Artificial Intelligence at the August 2023 ABA Annual Meeting in Denver as one of her first actions in office. This AI Task Force was established to tackle proactively the pressing legal and practice issues arising from the rapid adoption of generative AI and other AI technologies, and to set the profession's benchmark for anticipating and expertly navigating these challenges. (ambar.org/aiLaw)

The AI Task Force has embarked on a comprehensive, year-long exploration of an AI transformation that has accelerated at a rapid pace, now affecting virtually every industry sector and having a profound impact on legal practice and legal education. AI has presented a multifaceted array of opportunities and challenges that the ABA is uniquely positioned to assess and to help ensure its integration is ethical and responsible and serves the public good.

The mission of the AI Task Force is to: (1) address the impact of AI on the legal profession and the practice of law, and related ethical implications, (2) provide insights on developing and using AI in a trustworthy and responsible manner, and (3) identify ways to address AI risks.

Initially, the AI Task Force evaluated the broad array of AI issues under discussion by experts, lawyers and other professionals and identified the major critical issues confronting lawyers and judges in their practices. Throughout the year the AI Task Force has considered a broad array of legal issues related to AI, including:

- the profound impact of AI on legal practice,
- ethical dilemmas,
- the challenges of generative AI,

- access to justice,
- the integration of AI in the courts,
- advancements in legal education, and
- strategies for risk management and governance.

Addressing ethical concerns has been a priority for the AI Task Force as practitioners and judges remain focused on the need to protect client confidentiality.

A year later, thanks to the efforts of the ABA AI Task Force and many others, there is greater understanding of the potential risks and rewards of generative AI for legal practitioners and their clients. This Report addresses the critical AI issues that impact lawyers and judges in the practice of law, and provides insights and resources that will equip the legal community to effectively address and leverage these developments.

Given the rapid pace of change in the AI landscape (the National Institute of Standards and Technology (NIST) released new guidance documents as this Report was being finalized), and the need to give the AI developments the attention they deserve, the AI Task Force will continue its work in the new bar year (2024-25).

Highlights of the AI Task Force's year include:

- "**Moving With Change: AI and the Law Webinar Series**" is a stellar collection of webinars on which leading experts delve into critical AI issues and provide valuable perspectives on AI opportunities and risks. Program descriptions, along with links to view the webinars, are included in this Report.
- A new AI book**, Artificial Intelligence: Legal Issues, Policy, and Practical Strategies**, was unveiled by the Science & Technology Law Section (SciTech), in collaboration with the AI Task Force, on August 1st at the ABA Annual Meeting. The book features contributions from over 40 preeminent authorities offering legal analysis and reflections on the influence that AI will have on both the legal profession and the law. It provides practical advice to attorneys, judges, and executives.
- **Legal Education Survey Report**. The ABA gathered insights from law school faculty and administrators regarding the integration of AI into legal education. Over half of the law schools that responded to the survey reported that they offer classes dedicated to teaching students about AI, while many law schools are contemplating changes to their curricula in response to the increasing prevalence of AI tools.

The AI Task Force has been assisted in its work by the ABA sections, divisions, forums, and other entities, including tech-savvy young lawyers, who have provided their unique expertise in diverse practice areas. These entities have for years presented programs, published materials, and provided opportunities for ABA members to participate in important discussions on AI.

The ABA remains committed to leading the profession in understanding and addressing the legal and ethical complexities of AI and other emerging technologies.

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The views expressed herein represent the opinions of the authors. They have not been reviewed or approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the position of the Association or any of its entities.

This Report is a product of the work of the 2024 Task Force on Law and Artificial Intelligence. AI Task Force members have contributed to the work on which this Report is based but not all Task Force members are authors.

ACKNOWLEDGEMENTS

The AI Task Force includes a diverse group of 50 leading AI and legal experts, including seven Special Advisors. Many of these individuals are computer scientists or engineers; they all have deep technology experience and have held leadership positions in law firms and corporations, government, academia, or public service.

The AI Task Force is grateful to Chair Lucy Thomson; Vice Chairs Laura Possessky, James Sandman, Cynthia Cwik, Ted Claypoole, and Roland Trope; and Entity Liaison Leader Ruth Hill Bro for their skillful leadership; and to ABA staff, Joseph Gartner, Director and Counsel, Ben Woodson, and Lanita Thomas.

Special thanks go to the Working Group chairs who led the many activities and initiatives of the AI Task Force on the broad range of AI issues addressed this year: Ted Claypoole, Practice of Law; James Sandman, Access to Justice; Cynthia Cwik, Governance, Generative AI Challenges, and Legal Education; Roland Trope, Risk Management and Mitigation; co-chairs Maura Grossman, Judge Scott Schlegel, and Hon. Herbert Dixon (ret.), AI and the Courts; and Laura Possessky and Ruth Hill Bro, Strategic Communications.

We convey our appreciation to the Special Advisors for their time and expertise in addressing the critical AI issues faced by lawyers and judges in their day-to-day practices, and for providing their insights about AI developments and challenges of the past year.

Thank you to all those on the AI Task Force who came together to present remarkable programs, part of the "Moving With Change: AI and the Law Webinar Series," and to publish informative articles and reports.

Task Force Members

Lucy L. Thomson
Ted Claypoole
Cynthia Cwik
Laura Possessky
James Sandman
Roland Trope
Ruth Hill Bro
John G. Buchanan, III
Mike Fricklas
William Garcia
Dazza Greenwood
Maura R. Grossman
Eric Hibbard
Farhana Y. Khera
Adriana Luedke
Ruth Okediji
Regina Sam Penti
Claudia Ray
Paul Rosenzweig

Special Advisors

Michael Chertoff
Ivan Fong
Daniel Ho
Michelle Lee
Trooper Sanders
Miriam Vogel
Seth P. Waxman

Advisory Council

Brian Beck
Deon Woods Bell
Hon. Margarita Solano Bernal (ret.)
Hon. Susan G. Braden (ret.)
George Chen
Shay Cleary
John S. Cooke
Hon. Herbert B. Dixon, Jr. (ret.)
Katherine B. Forrest
Hon. Paul Grimm (ret.)
Theresa Harris
R. Patrick Huston
Stacy Marz
Dr. Willie May
Bridget McCormack
Darrell Mottley
Andrew Perlman
Hon. Delissa Ridgway
Hon. Scott Schlegel
Reva Schwartz
Karen Silverman
Thomas Smedinghoff
Hon. Samuel Thumma
Stephen Wu

In addition, the AI Task Force worked with sections, divisions, forums and other ABA entities to collaborate with lawyers across the ABA and to extend our efforts to those lawyers with special expertise in subject-matter areas. We appreciate these liaisons and the ABA section, division, forum directors.

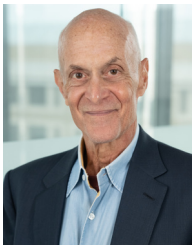
We also thank the additional individuals below who supported our work by speaking on webinars and contributing to our reports.

Leighton B. R. Allen
Merri Baldwin
Karen Buzard
Lindsay Edelstein
Dr. Lance Eliot
Prof. Hany Farid
Katherine Fick
Magistrate Judge Gabriel A. Fuentes
Peter Geovanes
Dr. Margaret Hagen
Elizabeth Kelly
Lisa Lifshitz
Prof. Daniel Linna
Katherine Lowry
Alexandria (Lexi) Lutz
Jennifer Mabey
Ian McDougall
Louise Nemschoff
Ekta Oza
Damien Riehl
Spencer Rubin
Madhu Srikumar
Josh Strickland
Prof. Gabriel Teninbaum
Hon. E. Kenneth Wright Jr.

MEET THE SPECIAL ADVISORS

INSIGHTS FROM THE SPECIAL ADVISORS ON AI DEVELOPMENTS AND CHALLENGES

To shape the focus of its inquiry, the AI Task Force relied on the insights of seven prominent thought leaders on law and technology. The ABA Presidential Speaker Series program, AI: *The New Frontier*, brought these insights to the ABA membership. Special Advisors Daniel Ho, Michelle Lee, Trooper Sanders, Miriam Vogel, and Seth Waxman discussed how AI has the potential to transform the practice of law; major initiatives of the White House Executive Order 14110 on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence; and international AI developments.



Michael Chertoff, Chairman, Chertoff Group; former Secretary, U.S. Department of Homeland Security (DHS); and former Judge, U.S. Court of Appeals for the Third Circuit.

Privacy, Property Rights and Deepfakes

Privacy and property rights in one's physical image and voice are areas of the law that will be materially affected by AI. This was demonstrated by actress Scarlett Johansson's complaint that after she declined to voice an AI assistant for ChatGPT, Open AI adopted an artificial voice that sounded identical. This unapproved simulation of an individual's voice and image will raise questions about the legality of access to the samples that generated that artificial voice or image under privacy laws, copyright and publicity rights. One key question is whether the artificial voice or image is truly identical or sufficiently distinguishable to avoid a claim of appropriation.

A related issue with the proliferation of deep fakes will be ensuring that the rules of evidence relating to authentication are adapted to verify the genuineness of recordings or photographs offered in court. Digital replication of persons will be a salient issue in upcoming election campaigns.

Ivan Fong, Executive Vice President, General Counsel and Secretary, Medtronic; former DHS General Counsel; and former Deputy Associate Attorney General, U.S. Department of Justice.

Digital Legal Assistants

The rise of digital legal assistants promises to bring about an inevitable, perhaps even seismic, shift in the legal profession and the practice of law. Their ability to analyze and condense large volumes of information and produce creative and reliable responses to prompts, especially the drafting of legal documents, will reduce those kinds of work currently done by legal professionals.

Courts and bar associations should accelerate efforts to develop guidance for the responsible and effective integration of AI into the practice of law, as well as standards and testing protocols to protect practitioners and the public from errors, hallucinations, and other ways in which immature digital legal assistants can cause harm.

Addressing bias, privacy, copyright, professional responsibility and liability issues will facilitate the responsible use of generative AI. As digital legal assistants improve in quality and reliability, they will be able to give competent legal advice, at least in certain domains.

Daniel Ho, Stanford University Professor of Law and Political Science; Senior Fellow, Stanford Institute for Economic Policy Research Director, Regulation, Evaluation, and Governance Lab (RegLab); and Associate Director, Stanford Institute for Human-Centered Artificial Intelligence (HAI).

Performance Benchmarks for Legal AI Technology

The central issue for responsible adoption of AI in the legal profession lies in rigorous assessments of AI-based systems for specific tasks. Unlike the general AI field, legal AI technology has been remarkably opaque, lacking the kind of performance benchmarks that have been the measure of and catalyst for AI innovation. In one study, we documented that hallucinations with legal AI providers range from 17% to 33% in a benchmark dataset of realistic and challenging queries (e.g., bar exam and appellate litigation questions).

Law firms, bar associations, academics, and technology providers must develop transparency and benchmarking requirements to assess the appropriateness, trustworthiness, benefits, and risks of specific AI tools. If we fail, the problem of legal "hallucinations" highlighted by Chief Justice John Roberts – the propensity of AI models to make up cases, facts, holdings, statutes, and regulations – may materialize: legal AI and hallucinated misinformation will erode trust and "dehumaniz[e] the law."

Michelle Lee, CEO, Obsidian Strategies, Inc.; former Under Secretary of Commerce for Intellectual Property and Director U.S. Patent and Trademark Office; Vice President (AI) Amazon Web Services, Google.

Intellectual Property Questions

For the first time, computers aided by generative AI are able to perform the quintessentially human task of creating – text, sound, images, a combination of the three, and even innovations. This technology presents fascinating and novel intellectual property questions related to protection, ownership and infringement of intellectual property rights. How our society and legal system answer these questions has a profound impact on the incentives to create, invent and invest. It is critically important that we get this right.

I commend the American Bar Association for its efforts to focus on these and other issues raised by artificial intelligence.

Trooper Sanders, CEO, Benefits Data Trust; and Member, National Artificial Intelligence Advisory Committee (NAIAC).

Safe and Responsible Use of AI

AI has not only caught the public's imagination (instilling both excitement and fear), it has put pressure on leaders in business, government, and society such as lawyers and judges. Bringing AI to heel and ensuring democratic accountability is challenging well-established areas of the law such as intellectual property and national security.

Organizations — from government agencies dispensing justice and human services to businesses driving commerce and community-serving institutions — must ensure they are ready to deploy AI in a safe and responsible manner. Lawyers have a critical role to play in an organization's AI readiness that calls for keeping folks on the right side of rules while also helping to foster a healthy organizational culture that advances good business practice and values. So much guiding AI's safe and responsible use is beyond the reach of law and policy and will be determined by the conventions and norms that guide everyday life

Miriam Vogel, CEO Equal AI and NAIAC Chair

Lawyers' Role in AI Governance

As AI continues to transform our lives and work, we have a role to play in understanding this new technology and its wide-ranging impacts, both positive and negative. Lawyers play a critical role in this AI-driven world by ensuring that the technology operates in compliance with our values, as codified in our laws. The release of large language models has expedited the need for legal oversight and guidance. Clients are using AI hiring tools, consumer facing chat bots, and perhaps even a mortgage lending algorithm or health care diagnostic tool. It is our duty to ensure these technologies comply with emerging laws and creatively interpret their use within existing legal frameworks, such as consumer protection, civil rights, and financial laws and regulations. As with previous technological advances, lawyers will be on the front lines, developing guardrails and setting limits to ensure AI is safe and accessible for all users across society.

Seth Waxman, Partner, WilmerHale; and former Solicitor General of the United States

Competence with AI

Artificial intelligence—and generative AI in particular—has injected new promise, new peril, and widespread uncertainty with the technologies that touch our lives in myriad ways. Legal rights and responsibilities, and indeed the legal system more broadly, are no exception. The work of the AI Task Force, and the thoughtful, well-written new book, *Artificial Intelligence: Legal Issues, Policy, and Practical Strategies*, couldn't be more timely, as we all learn to understand and adjust both our conduct and our expectations to this brave new world.

AI AND THE LEGAL PROFESSION

AI AS A TOOL OF LEGAL PRACTICE

The impact of AI on law practice will be far-reaching. AI has the potential to improve many aspects of legal practice. AI can make us better lawyers. It can open up new career trajectories and enable lawyers to perform sophisticated tasks while freeing them from the more routine or less interesting work.e lawyers to perform sophisticated tasks while freeing them from the more routine or less interesting work.

EXTRACTIVE AI

The most common AI tool used today in law firms and legal departments is based in extractive AI. The tool set known as extractive AI makes predictions, provides analysis, and creates AI products based only on the set of data fed into the AI model. It does not search the internet for information or speculate on topics outside of the chosen data set. Extractive AI is provided for a limited set of documents in a law firm's document database – such as the depositions, affidavits, and testimony for a complex trial, or the hearing transcripts from a regulator's meetings on a topic of interest – and the AI is prompted to find answers and information within that set of documents. This functionality maximizes the value of AI for lawyers because it capitalizes on what AI does best – ingest large volumes of information and find, organize, and categorize items of information within the set. Some law firms and corporate legal departments have designed their own extractive AI, but most have worked with AI vendors.

Document and Data Management

The use cases for extractive AI tools are strongest for legal practices trying to manage large data sets – those practices that decades ago filled war rooms with banker's boxes stuffed with paper – primarily litigation and merger and acquisitions practice. These lawyers can use AI to make much more sophisticated analytical queries about the documents fed into the AI tool. In the past, they could run word searches of the data, but little more.

Legal Research and Analysis

Another growing utility for legal extractive AI is analysis of pre-existing law, rules, regulations, or public statements by regulators. Once the AI has ingested a full complement of this material, lawyers can ask the extractive AI to find patterns relevant to current client needs. For example, lawyers could feed into their AI tool many years of decisions from a single judge's docket and ask the extractive AI to predict how the judge would rule on a current case, citing support from the earlier decisions. The same can be accomplished with labor arbitration decisions from a single arbitrator or with antitrust arguments made by an opponent in an upcoming case. Analysis and production of documents based on a large but specific data set are some of the most interesting work being generated by law firms and legal departments using extractive AI tools.

Contracts

Transactional attorneys can use extractive AI as well, asking for examples of vendor-favoring indemnity terms found in software contracts within the legal department's procurement database. A company's counsel can ask its extractive AI to show every contract in the procurement database that deviates from the company's standard form with regard to limitation on liability, and to list the contracts in order of highest company risk to the lowest. The company could use the AI to search the metadata of these contracts to highlight which procurement officers were potentially putting the company at highest risk.

More Traditional Uses of AI Tools

The types of AI that operate physical objects in the natural world may be growing fast, but there are few, if any, direct applications for the legal profession. Still, there are many general workplace uses of AI that may be implemented by legal industry employers. An example of a workplace use for AI is biometric analysis, which may be used by law firms for security purposes, or by their clients for clocking hourly workers in and out.

Decision-making AI

May be used by many businesses and governments in lending, fraud analysis, the rental industry, and human resources. The legal industry likely participates in hiring decisions that utilize AI – many hiring managers use AI to winnow the job applicant pool into a manageable list of likely prospects – but still relies on human brain power to make most hiring decisions. Human training and judgment are what lawyers are selling to their clients, so ceding advisory decisions to machine learning tools has not caught on among most attorneys. Future AI technology may shift this dynamic.

Optimizing AI

Is everywhere in our modern world, making processes more efficient and products more effective. The optimization AI that checks spelling and grammar is likely used by all lawyers, or should be. AI that suggests word choices is easy and built into present consumer and business computing. Lawyers are using this AI to optimize their processes and will use more of it, as this AI continues to be built into the baseline tools that all information businesses use.

AI as an Object of Practice

Many lawyers are exposed to AI not only as an internal practice tool, but as the actual subject matter of client work where, for example, corporations, governments, non-profits, and school systems are using AI to conduct various aspects of business. Lawyers must learn the risks and capabilities of AI to protect their clients and assist them in mitigating their risks.

To this end, the AI Task Force is working with a group of tech-savvy business lawyers in the ABA Young Lawyers Division to publish model contract terms for entities incorporating AI into their business. Lawyers will need guidance and support to help clients sort out the applications and opportunities of AI while minimizing risks. The AI industry is both growing and consolidating, as many players invest in or acquire companies developing and using AI. Lawyers are a leading resource in managing these investments and acquisitions.

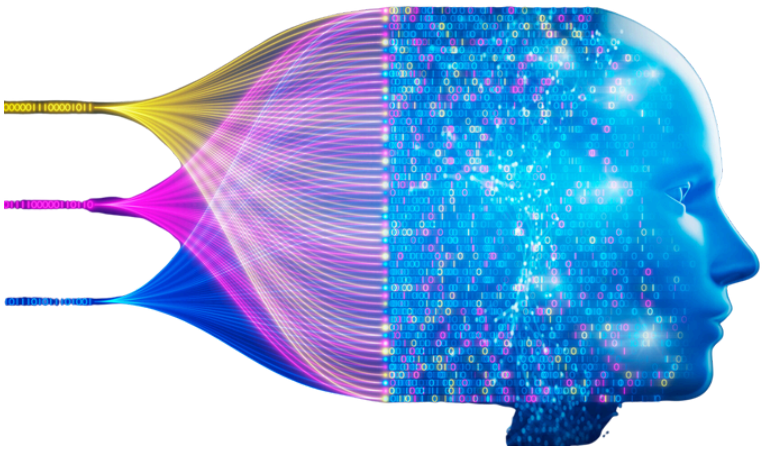
AI CHALLENGES: GENERATIVE AI

Generative AI, which produces new outputs based on prompts from users, has the potential to improve many aspects of the practice of law, including increasing the speed at which many tasks can be performed and reducing the amount of time spent on routine tasks. Law schools are increasingly integrating generative AI into their curricula. Generative AI also could reduce the access to justice gap by making legal resources more widely available.

It is important for the legal profession to have an understanding and awareness of the potential uses of this technology, as well as of risks associated with generative AI, including privacy and security risks, the generation of inaccurate content, and intellectual property issues (such as copyright infringement).

As more lawyers use generative AI tools, many law firms have conducted training on AI for their attorneys, contracted for client-safe versions, and promoted the active use of generative AI tools in their practice. Some are using generative AI tools to provide first drafts of documents and to produce correspondence.

Certain issues, however, have slowed the growth of generative AI for lawyers. Well-publicized cases demonstrating improper use of the technology, including imposition of discipline and sanctions against lawyers using generative AI, have led a number of law firms to limit preparation of work product using generative AI. Uncertainty about how the U.S. state rules of professional conduct will address whether and how state supreme courts and their disciplinary agencies discipline lawyers for use or misuse of generative AI has slowed adoption of the technology.



AI AND LEGAL ETHICS

More than a decade ago, the ABA amended the ABA Model Rules of Professional Conduct ("ABA Model Rules") to reflect the impact of technology on 21st Century law practice.

With every technological transformation comes complex and challenging legal and ethical questions about the practice of law. Being aware of the risks and limitations of generative AI is the first step for legal practitioners in ensuring that the technology can be used safely and responsibly, and in accordance with their professional obligations.

Using the ABA Model Rules as a guide, the following discussion highlights a few of the rules presented when a lawyer uses generative AI in the practice of law. Although the ABA Model Rules were not written to address specific technologies, they are comprehensive enough to permit the responsible and ethical use of generative AI tools in legal practice. By following the relevant professional conduct rules, an attorney can safely and effectively use generative AI tools to assist clients.

"Hallucinations"

It is important for lawyers to understand that language-driven generative AI is not a search engine with drafting features, but is instead a prediction engine that simply attempts to predict - word by word - an answer to a prompt.

The generated answer may contain errors. This does not mean that this technology will not be useful to lawyers. It simply means that lawyers are responsible for confirming the existence, accuracy, and appropriateness of the citations they submit to a court, whether or not a court has special rules about AI.

Competence

Under longstanding professional rules, lawyers are responsible for providing competent representation to clients. When using generative AI in client representation, lawyers should have a reasonable understanding of the capabilities and limitations of the specific generative AI technology that the lawyer might use.

A misunderstanding of the technology can lead to problematic reliance on generative AI results, not only due to fabrications of sources and citations, but also because, as stated by the State Bar of Michigan, JL-155 (October 27, 2023), "[a]n algorithm may weigh factors that the law or society deem inappropriate or do so with a weight that is inappropriate in the context presented…. AI does not understand the world as humans do and, unless instructed otherwise, its results may reflect an ignorance of norms or case law precedent."

Diligence, Consultation, and Communications

In addition to competence, lawyers must provide diligent, timely work. AI might improve the speed of delivery and quality of the work product when used correctly. Like the competence requirement, Rule 1.2 could be triggered by uninformed or imprecise use of generative AI. Practicing lawyers must "reasonably consult with the client about the means by which the client's objectives are to be accomplished." They have a responsibility to explain to clients what technology is being used for client matters. To do so, a lawyer needs to understand the risks and opportunities that come with generative AI if the lawyer is using that technology.

Confidentiality

Attorneys must be careful not to reveal information relating to the representation when using generative AI on the client's behalf without the client's informed consent. Many generative AI platforms do not provide confidentiality for the prompts input into the tool or the outputs produced by it. Unless they represent otherwise, generative AI companies are likely to use these prompts for additional training of their AI models. The prompts and the responses they produce could be revealed to the general public either by accident or by specially-designed inquiries to the generative AI tool.

Some U.S. lawyers using generative AI for client work are now contracting for generative AI tools that do not use the lawyer's prompts as further training for the model. The vendors for these tools claim that they eliminate prompts and AI tool inputs and outputs after use, so that the confidentiality of all of this information is protected.

Before undertaking client work using a generative AI tool, a lawyer must understand how information submitted in a prompt will be used and shared and also where it will be stored. The data security of AI model companies and law offices using these products can put information relating to a client's representation at risk.

Client Billing

AI technology could affect billing practices. A brief written by prompting a generative AI program might take substantially less time to complete than one written directly by a lawyer, even after the lawyer has checked all the citations. Profiting from the time savings may be a violation of the ABA Model Rules if the lawyer promised to bill clients by the hour but does not provide the billing discount that occurred due to generative AI-created efficiencies. Productive use of generative AI may lead to more flat-fee or retainer agreements and less pure hourly billing.

Deepfakes and Candor to the Court

Generative AI can be used to produce writings, audio, pictures, video, and other material that can lead to false impressions, such as creating a faked video of a person buying drugs or robbing a store, or (as in a recent Maryland case) a faked recording of a rival making socially unacceptable statements. Lawyers and clients could misuse generative AI to create misinformation, disinformation, deepfakes, and other made-up audio, video, and photography.

AI can create false evidence that could lead to ethical violations if it is used at trial or in settlement discussions. It also is improper for a lawyer to actively benefit from the "liar's dividend" by claiming that real evidence has been faked. As generative AI-produced deepfakes become easier to create and harder to disprove, lawyers will need to take additional care in using evidence provided by clients and others.

Where a client or a client's agent has used generative AI to create deepfakes or other misinformation, that client's lawyer has an obligation to question the authenticity of the evidence before it is offered to a court or in settlement negotiations with an opposing party.

Responsibility for Lawyers' Agents

The ABA Model Rules confer an affirmative duty on lawyers to supervise the professional conduct of employees and agents. Therefore, lawyers are responsible for supervising any person using generative AI to create work product to ensure the accuracy and reliability of all aspects of the content, just as a lawyer would for content drafted by an associate or a paralegal.

But what if the lawyer's agents – associates, paralegals, or assistants – were using the technology on the lawyer's behalf? The lead lawyer still holds the responsibility to understand what is being done for the client and what the risks are to the lawyer and the clients.

ABA Model Rules of Professional Conduct, Formal Ethics Opinion 512, Generative Artificial Intelligence Tools, ABA Standing Committee on Ethics and Professional Responsibility, July 29, 2024.

STATE BAR ETHICS RULES AND GUIDANCE

AI ethics opinions outline how lawyers can implement AI in their practices while continuing to meet their professional obligations.

CALIFORNIA – State Bar Of California Standing Committee On Professional Responsibility And Conduct – Practical Guidance For The Use Of Generative Artificial Intelligence In The Practice Of Law

DISTRICT OF COLUMBIA - Ethics Opinion 388 – Attorneys' Use of Generative Artificial Intelligence in Client Matters

"Most lawyers are not computer programmers or engineers and are not expected to have those specialized skills. As technology that can be used in legal practice evolves, however, lawyers who rely on the technology should have a reasonable and current understanding of how to use the technology with due regard for its potential dangers and limitations. So it is with generative AI technology."

FLORIDA – Florida Bar Ethics Opinion 24-1 (January 19, 2024)

KENTUCKY – Ethics Opinion KBA E-457 (March 15, 2024)

MICHIGAN – State Bar Of Michigan Ethics Opinion Ji-155 (October 27, 2023)

"Judicial officers, like lawyers, have an ethical obligation to maintain competence with and further educate themselves on advancing technology, including but not limited to artificial intelligence (AI)."

NEW JERSEY – Legal Practice: Preliminary Guidelines On The Use Of Artificial Intelligence By New Jersey Lawyers

PENNSYLVANIA – Pennsylvania Bar Association Committee on Legal Ethics and Professional Responsibility and Philadelphia Bar Association Professional Guidance Committee Joint Formal Opinion 2024-200 – Ethical Issues Regarding The Use Of Artificial Intelligence

WEST VIRGINIA – West Virginia Office of Disciplinary Counsel (ODC) released a legal ethics opinion regarding the use of AI (June 26, 2024)

AI AND THE COURTS

Courts are at a critical crossroads for the use of AI technologies by the legal profession. Judges, for example, are increasingly using AI in court administration and in the criminal justice system. While ethical and evidentiary concerns are making headlines, AI also promises to provide new solutions to improve access to justice and the courts.

The AI Task Force has been active in addressing the significant impact of AI on the judicial system, providing a series of educational programs on AI technologies, generative AI tools, and deepfakes to equip judges, court staff, and legal professionals with the knowledge and tools necessary to address AI-related challenges effectively. Through discussions and educational offerings, a working group dedicated to issues specific to the courts has identified several critical insights and challenges.

Combatting Deepfakes

The issue of deepfakes (realistic but fake digital records) remains a significant concern. The ability of AI to conjure up realistic but completely fabricated text, sound, graphics, and video means it has become increasingly difficult to spot these fakes. There is a growing need for reliable tools and standards, such as C2PA, to discern fact from fiction in the digital realm and to authenticate the source and legitimacy of digital records. Lawyers, judges, and technology experts are working on several fronts to address this problem.

Judicial Responses to AI

Judges at all levels of the judicial system across the country have issued dozens of judicial AI standing orders, imposing widely varying requirements on lawyers' use of AI. These orders reflect judges' concerns about protecting confidential client information and ensuring that lawyers fulfill their ethical obligations. However, they are creating an array of inconsistent and often vague rules that may be confusing and difficult to comply with. This proliferation of judicial standing orders could have the unintended consequence of discouraging the use of generative AI tools by lawyers and self-represented litigants, and potentially hindering the development of innovative AI-based solutions to improve court administration and access to justice.

The use of generative AI in judicial chambers has sparked diverse opinions, highlighting the need for ongoing debate and discussion. Moreover, the potential of data analytics in the courtroom presents both exciting opportunities and complex ethical considerations.

Proposed Changes to the Rules of Evidence

Among several initiatives to address the use of AI in the courtroom, Judge Paul Grimm (ret.) and Professor Maura R. Grossman, both of whom are members of the AI Task Force, have proposed amendments to the Federal Rules of Evidence to address the issues created by AI technologies.

Judge Grimm and Dr. Grossman have expressed their view that the current rules for authenticating and admitting AI-generated or potentially AI-generated evidence are sufficiently adaptable to manage issues arising from deepfakes without needing a higher standard of proof for admissibility. However, they recommend the adoption of some procedural safeguards and a stronger judicial gatekeeping role for situations where AI-generated or potentially AI-generated evidence is at issue.

Upcoming AI and the Courts Webinars

To support ongoing discussions about AI challenges and opportunities, the AI Task Force plans to present educational programs to provide valuable insights to judicial officers, their staff, and other legal professionals. Anticipated topics include:

- **Judicial standing orders related to court filings prepared using generative AI**

This debate-style webinar will introduce lawyers and judges to online compilations of existing standing orders and related scholarship, fostering a deeper understanding of the varying approaches to this issue.

- **Admissibility and authenticity of AI-generated evidence, particularly deepfakes.**

Evidence scholars and members of the Advisory Committee on the Federal Rules of Evidence will be invited to discuss the strengths and weaknesses of different approaches and the Committee's current "wait-and-see" decision. This session will also cover tools that are currently available to judges for addressing AI evidence and deepfakes.

- **Courts experimenting with generative AI tools in a court-sponsored sandbox.**

This technical session will address the pros and cons of different model types, retrieval augmented generation (RAG), fine-tuning, and other relevant issues. It will feature technical experts and representatives from court systems that have been experimenting with these tools.

AI Resources for the Judiciary

Comprehensive education and resources on AI-related issues are necessary for the judiciary and court staff to understand the impact of AI on the judicial system. The AI Task Force, through its dedicated Working Group on AI and the Courts, has a strong commitment to equipping judges, court staff, and legal professionals with the tools they need to navigate the rapidly evolving landscape of AI in the legal field.

Summary of the Grimm-Grossman Rule Proposals to Amend FRE 901 to Address AI-generated Evidence and Deepfakes

Hon. Paul W. Grimm (ret.) and Professor Maura R. Grossman have proposed an amendment to Federal Rule of Evidence 901(b)(9) and a new Federal Rule of Evidence 901(c) with the following provisions:

Federal Rule of Evidence 901(b)(9) for AI Evidence

Purpose: Address AI as evidence when the parties are in agreement that the evidence is the product of an AI system.

Current Federal Rule 901(b)(9) specifies that evidence about a process or system must demonstrate accuracy to be authenticated.

Proposed Changes:

1. Terminology Update: Replace the term "accurate" with "valid and reliable" to address the nuance that evidence can sometimes be accurate but not consistently reliable (e.g., a broken watch is accurate twice a day).
2. AI-Specific Requirements: For known AI-generated evidence, the proponent must describe the software or program used and show that the software produced valid and reliable results in the specific instance.

New Federal Rule of Evidence 901(c) for Potentially Deepfake Evidence

Purpose: Address the challenge of authenticating electronic evidence suspected to be fabricated or altered, particularly with the rise of AI-generated deepfakes.

Proposed New Provisions:

1. Burden of Proof:
   The party challenging the evidence must demonstrate that it is more likely than not fabricated or altered.
2. Proponent's Responsibility:
   If the challenge is successful, the proponent must then prove that the probative value of the evidence outweighs its likely prejudicial effect.
3. Application:
   The rule applies to all computer-generated or electronic evidence, not just those typically authenticated under Rule 901(b)(9).

Emphasis on Validity and Reliability

The proposal stresses the need for a demonstration by the proponent of AI evidence of both validity and reliability, paralleling concerns in Federal Rule of Evidence 702 regarding expert testimony, as juries cannot easily discern deepfake inauthenticity. Procedural safeguards at the admissibility stage are crucial due to AI's potential to produce unreliable event representations. Judge Grimm and Dr. Grossman urge the application of the *Daubert* standard (or the requirements set forth in Federal Rule of Evidence 702) to evidence that is known to be the product of an AI system.

Suggestion for Additional Safeguards:

The proposal supplements these procedural requirements when the evidence is of disputed origin. It imposes a reverse preponderance of the evidence showing by the party challenging the evidence as deepfake and a balancing of probative value versus prejudice by the Court under Federal Rule of Evidence 403.

IMPACT OF AI ON THE LEGAL PROFESSION AND THE COURTS

U.S. SUPREME COURT CHIEF JUSTICE JOHN ROBERTS

Chief Justice John Roberts highlighted the expected impact of AI on the legal profession and the Courts in his 2023 Year-End Report on the Federal Judiciary. He opined that:

"…human judges will be around for a while. But with equal confidence I predict that judicial work—particularly at the trial level—will be significantly affected by AI. Those changes will involve not only how judges go about doing their job, but also how they understand the role that AI plays in the cases that come before them."

"Machines cannot fully replace key actors in court. Judges, for example, measure the sincerity of a defendant's allocution at sentencing. Nuance matters: Much can turn on a shaking hand, a quivering voice, a change of inflection, a bead of sweat, a moment's hesitation, a fleeting break in eye contact. And most people still trust humans more than machines to perceive and draw the right inferences from these clues."

"Appellate judges, too, perform quintessentially human functions. Many appellate decisions turn on whether a lower court has abused its discretion, a standard that by its nature involves fact-specific gray areas. Others focus on open questions about how the law should develop in new areas. AI is based largely on existing information, which can inform but not make such decisions."

"Rule 1 of the Federal Rules of Civil Procedure directs the parties and the courts to seek the "just, speedy, and inexpensive" resolution of cases. Many AI applications indisputably assist the judicial system in advancing those goals. As AI evolves, courts will need to consider its proper uses in litigation. In the federal courts, several Judicial Conference Committees—including those dealing with court administration and case management, cybersecurity, and the rules of practice and procedure, to name just a few—will be involved in that effort."

AI AND ACCESS TO JUSTICE

WHAT ROLE CAN ARTIFICIAL INTELLIGENCE PLAY IN ADDRESSING THE JUSTICE GAP IN AMERICA?

AI, and particularly generative AI, can improve access to justice. The technology can be developed to provide reliable and accessible information for pro se litigants and much-needed support for legal services attorneys. With trustworthy and responsible generative AI tools, individuals without legal representation can have the ability to get basic legal information to inform them about options when legal issues arise. AI tools could also alleviate the repetitive, labor-intensive, and sometimes tedious tasks that can often fill a legal advocate's day, particularly with high-volume caseloads in most non-profit legal services offices.

The access to justice crisis in America is huge. Addressing it requires solutions at a scale proportionate to the magnitude of the problem. Generative AI, with its capability to generate comprehensive responses to plain language prompts, has the potential to improve access to justice at a scale that prior interventions have been unable to achieve. It has the potential to democratize law – to make the law accessible to, and usable by, the people the justice system is intended to serve. The challenge for the legal profession is realizing that potential while managing the risks inherent in current AI systems.

The magnitude of the access-to-justice crisis in the United States has been well documented.

- The National Center for State Courts estimates that both parties are represented by lawyers in only 24 percent of state court civil cases.
- The Legal Services Corporation estimates that 92 percent of the substantial civil legal problems of low-income Americans receive no or inadequate help.
- The World Justice Project's 2023 Rule of Law Index ranks the United States 115th out of 142 countries for the accessibility and affordability of civil justice. Among the 46th wealthiest countries in the world, the United States ranks 46th.
- Federal funding for the Legal Services Corporation, the nonprofit established by Congress in 1974 to fund civil legal aid, and now the largest legal aid funder in the United States, amounts to less than what Americans spend every year on Halloween costumes for their pets.

The matters in which Americans lack access to legal representation often involve the most basic of human needs: shelter (protection against unlawful evictions and foreclosures); personal safety (protection orders against abusers); family stability (child custody, child support, guardianships, and adoptions); and financial subsistence (job security, wage theft, and access to benefits programs). These are high-volume, high-stakes matters. Each year, tens of millions of Americans have to navigate the legal system by themselves. They confront a system created by lawyers for lawyers, based on the assumption that everyone has a lawyer. The system was never designed for unrepresented individuals, who now appear in more than three-quarters of civil cases in state courts, as the intended users.

The access-to-justice problem is a problem of scale. Solutions to it must be commensurate with the magnitude of the problem: the solutions must be at scale. Generative AI has the potential to improve access to justice in two ways: (1) by increasing the efficiency and productivity of legal services and pro bono lawyers, so that they can assist many more people with higher levels of service; and (2) by making accurate, usable, and understandable legal information and assistance easily available to individuals with civil legal problems. These technology-based tools can improve access by reallocating legal staff time to focus on more complex legal needs and by offering information that may prevent some legal needs from arising in the first place.

To realize this potential, the legal profession will need to address four high-priority areas:

1. **Training and educating the access-to-justice community in the use of AI tools**. Currently, there is a wide range of familiarity and comfort levels with generative AI among legal services providers, pro bono lawyers, and other justice system stakeholders. Many seem to know only about the risks AI tools can pose, with little understanding of the benefits of AI and the ways to manage its risks. The community would benefit from widely accessible training and education in the different AI tools available, their capabilities, their limitations, and the responsible use of AI for different purposes.

2. **Publicizing actual use cases**. Perhaps the most effective way to educate the access-to-justice community about the responsible use of generative AI is to publicize cases of actual use by trusted, competent, and innovative community members, and by scholars working with the community. Use cases make training concrete and practical. Training program faculty should include community members who are themselves actual users and who can engage with training participants to explore use cases in detail. Two recent publications provide excellent examples of helpful use cases.[1]

3. **Developing quality standards**. As Dr. Margaret Hagan of Stanford Law School has noted, the legal domain currently lacks well-defined quality metrics for assessing the performance of AI tools. Quality evaluation is particularly important for assessing tools that individuals might use for help with their own legal problems. Dr. Hagan put the challenge this way: "What are concrete criteria by which we might evaluate the quality of a [technology] provider's response when someone asks . . . for help for an eviction notice they've received, a debt lawsuit they're facing, or a divorce they want to file? How can we determine if there are benefits, problems, harms, or other quality concerns with the response the provider gives to the person?" Dr. Hagan has proposed an initial set of specific criteria by which to judge quality.[2] Her work is important. The access-to-justice community needs standards of the kind Dr. Hagan is developing.

1 C. Chien & M, Kim, Generative AI and Legal Aid: Results from a Field Study and 100 Use Cases to Bridge the Justice Gap, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4733061 (posted Apr. 11, 2024); R. Brescia & J. Sandman, "Artificial Intelligence and Access to Justice: A Potential Game Changer in Closing the Justice Gap," Artificial Intelligence: Legal Issues, Policy, and Practical Strategies (ABA 2024).
2 M. Hagan, "Good AI Legal Help, Bad AI Legal Help: Establishing Quality Standards for Responses to People's Legal Problem Stories," https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4696936 (posted Jan. 20, 2024).

4. **Making reliable legal AI tools accessible to and affordable by legal services providers and public interest organizations.** Subscription costs for the best and most reliable legal AI tools pose a risk of making those tools unaffordable to and inaccessible to the access-to-justice community. Those costs may have the unintended consequence of widening the justice gap – by making powerful new legal tools available to clients of means and their lawyers that are not available to low- and moderate-income people and their lawyers. Mitigating disparities in the justice system means ensuring affordable access to AI legal tools. Affordable technology solutions should be raised with and addressed by legal AI developers and the legal community, particularly with law firms that have the financial means to provide assistance to legal services providers and public interest organizations.

Initiatives addressing the use of AI to improve access to justice must be closely coordinated with the courts. The implications of AI in the administration of justice are complex. As courts grapple with these issues, it is important to ensure that they consider the needs of self-represented litigants. While there are certainly risks associated with using AI in the context of legal services, these tools offer tremendous possibilities for reducing the access-to-justice crisis in the United States in significant ways.

INTERNATIONAL DEVELOPMENTS
G7 Statement on AI

At a meeting of representatives of the Bar Associations and Law Societies of the G7 countries (G7 Bars) on October 30, 2023 in Paris, the G7 Bar leaders concluded that Generative AI is a potentially disruptive technology that could profoundly change the legal profession and access to legal services.

The G7 Bars stated that they are aware of the need to assess its implications for the practice of the legal profession, the operation of judicial systems more generally, ethical and professional rules that might be affected, and training to help lawyers understand the benefits and limitations of AI. The G7 Bars are committed to participating in relevant national and international bodies and initiatives in order to draw attention to the core values of the legal profession, proper administration of justice, and the right to a fair trial.

As the United States is a statement signatory, the AI Task Force provided input on the draft of the G7 Bars Statement on AI. On behalf of the United States, ABA President Mary Smith signed the G7 Bars Statement on AI on March 21, 2024, along with representatives from all the G7 Bars. Read G7 statement here.

AI AND LEGAL EDUCATION

AI technology presents both practical and pedagogical challenges for legal education. Law schools must raise students' awareness of AI's capabilities and limitations and how those implicate ethical obligations. Considering the significant impact that AI could have on the legal profession, attorneys and legal professionals will need to understand how it works, how it is developed and used, what advantages it can bring, such as increasing efficiency and access to legal resources, the risks it can create, and the legal and ethical issues that may arise with its use.

Law schools play an important role in ensuring that lawyers are educated about technology. They must not only instill traditional lawyering skills such as problem-solving and judgment, but they also need to acknowledge and support the reality that lawyers of the future will need to incorporate AI tools into legal service delivery. Law schools will need to integrate training on the effective use of technology tools into their curricula.

The AI Task Force, through its working group on legal education, surveyed law school administrators and faculty to gain insights on their preparedness and plans for integrating AI into curricula. The results, reflected in the AI Task Force's AI and Legal Education Report, show that law schools are adapting to these developments with AI and are increasingly incorporating AI into their curricula.

AI and Legal Education Survey Results 2024

The survey was completed by 29 law school deans or faculty members and found that law schools are increasingly incorporating AI into their curricula.

Specifically, over half (55%) of the law schools that responded to the survey reported that they offer classes dedicated to teaching students about AI. Moreover, an overwhelming majority (83%) reported the availability of curricular opportunities, including clinics, where students can learn how to use AI tools effectively. In addition, 85% of responding law schools contemplate changes to their curricula in response to the increasing prevalence of AI tools.

As the legal landscape continues to evolve with technology, law schools should continue to prepare students for the future of law practice, ensuring they are equipped with not only legal knowledge, but the ability to leverage technology to meet the changing demands of the profession and the public.

AI RISK MANAGEMENT RISK MANAGEMENT AND MITIGATION

As with each technological development before it, AI is introducing new legal risks. These encompass risks to the development of AI, as well as risks resulting from, or caused by compromises in, the development, deployment, or use of AI. More specifically, two types of AI risks are important to assess:

AI design and development risks, which include cybersecurity, privacy, and bias, as well as the accuracy, reliability, and safety of AI applications, products, services and capabilities.

Risks caused by the use of AI, including:

- Intellectual property (IP), unfair trade practices, and fraud
- Trustworthy and responsible AI, human oversight, accountability and transparency
- Role in creating and spreading disinformation

During the year, the AI Task Force has addressed these risks from multiple vantage points, including an in-depth look at the NIST AI Risk Management Framework to advance responsible and trustworthy AI, Executive Order 14110 on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence, and the newly established U.S. AI Safety Institute.

Further, it has addressed responsible AI governance regimes, implications for intellectual property, cybersecurity and privacy, and deepfakes and their impact on the courts and on society more broadly. Entire programs were devoted to AI governance and risk management and the role of lawyers. AI Task Force members spoke about AI risks at numerous conferences, including the SciTech 5th Annual AI & Robotics National Institute and the RSA security conference.

In recommending guardrails for the development and use of AI, the ABA House of Delegates took a significant step at the 2023 mid-year meeting with the adoption of Resolution 604, which urged human oversight and control accountability, and transparency for AI.

AI has the potential to help anticipate and even prevent many types of losses. Insurance providers are developing solutions for some of the more salient generative AI risks: cybersecurity, privacy and fraud risks; intellectual property and copyright infringement; product liability and performance issues; regulatory and compliance risks; and vendor and supplier risks.

The AI Task Force's Risk Management working group is conducting a review and assessment of generative AI applications to identify risks and limitations disclosed in their terms of service (ToS), as well as related documentation such as, for example, "system cards," "score cards," "transparency reports," and privacy impact assessments. The results of the research and analysis will provide essential information prospective users of a new technology tool will need to understand the potential risks of using the tool. This project is ongoing and a white paper with the findings is anticipated in the upcoming bar year.

The AI Task Force has compiled and curated an extensive collection of authoritative and scholarly research, analyses, publications and programs from private sector organizations, academia, government, and the courts that identifyidentify emergent AI risks. These are all available on the AI Task Force website and the list is updated frequently.

PRIVACY

AI systems rely on staggering amounts of data, including personal data, to train algorithms and enhance performance. While data (including personal data) might well be a company's most important asset, driving business success, the resulting privacy issues also must be addressed. For example:

- Data-powered AI is being used to make predictions and decisions about individuals, both as consumers and as employees. Such use could have privacy implications but also raise bias and discrimination issues where the AI was trained on data that reflects harmful biases (though AI conversely also might be a way to counteract bias).
- Generative AI expands and accelerates AI capabilities, moving it beyond automation and pattern recognition, resulting in increased productivity, efficiency, and countless other benefits. Yet those same abilities also can be used to sort through hundreds of thousands of emails, texts, documents, and more to identify individuals such as whistleblowers, potential targets of law enforcement investigations, and other types of surveillance.
- Scraping personal data from publicly available websites can be done on a massive scale, raising potential privacy risks – e.g., data repurposing (using data beyond its original purpose); data spillovers (collecting data on individuals who are beyond the identified target group and do not know data has been collected or are unable to request deletion, correction, etc.); creating digital dossiers that could be used to generate content geared to an individual's inclinations (from customized marketing to influencing the way the person votes); and more.

In some cases, no law exists to restrict, or guide, what is being done by companies and government. Where there is law, it is sometimes silent on how personal data should be collected and used in a way that preserves privacy. In other cases, the law lacks teeth, with the financial incentives to act otherwise outweighing the risk of technical violations.

CYBERSECURITY

AI can be both a sword and shield when it comes to cybersecurity. Generative AI creates new cybersecurity risks of hacking and fraud as it changes the nature of cybersecurity attacks. Some of the most serious types of attacks of the past decade will be amplified and exacerbated by AI as it mimics the kinds of attacks humans do (but with increasing sophistication and speed) and may eventually engage in attacks that humans can't yet envision.

At the same time, AI techniques are expected to enhance cybersecurity by both assisting human system managers to monitor, analyze, and respond to adversarial threats to cyber systems, while automating certain routine tasks.

AI can detect new cyber threats, combat bots (automated threats), predict risk of breaches (create an IT asset inventory and assess vulnerabilities), and provide better endpoint protection by flagging events that deviate from an established baseline and taking action.

INTELLECTUAL PROPERTY (IP): FOCUS ON COPYRIGHT

A prevalent issue over the past year involves copyright disputes arising from generative AI. Generative AI pulls data from the internet and is being used to produce text, songs, pictures, videos and other content based on pre-existing materials. Many generative AI programs pull this data without regard for the copyright status of the source material. Consequently, in many instances, creating a new work using generative AI presents a significant risk of copyright infringement.

Several court cases involving copyright infringement by AI are currently winding their way through the court system. Getty Images has sued multiple generative AI companies for infringing its copyrights in images used to train generative AI models, which it has proved by demonstrating that the AI applications have simply spit out the same Getty Images pictures – watermark and all. The New York Times has sued ChatGPT, Microsoft and others both to stop using copyrighted material in generative AI model training and to stop allowing a generative AI model from summarizing those copyrighted materials, which it argues redirects users from visiting the New York Times website. Artists have sued generative AI companies for feeding their art into the AI model to create generated images "in the style" of those artists. These cases and many more are testing the competence and creativity of lawyers litigating how generative AI models work and what harm they might cause.

There is also the question of whether a new work created by generative AI is protected under copyright laws. Initially, there was some debate among copyright lawyers about whether content produced by generative AI was protectable. However, the U.S. Copyright Office has issued guidance stating that works generated by AI – and not by humans - are not considered copyrightable material. The Copyright Office continues to study the impact of AI on copyrights.

A related issue concerns the content license that users grant to the providers of AI tools through use of the tools. AI providers frequently include in their terms of use a license to use all user-input content for broad purposes. For example, the terms of use for OpenAI's ChatGPT service state that OpenAI "may use Content [including all user inputs and outputs] to provide, maintain, develop and improve our Services …." Consequently, by using the tool, users grant automatically a broad copyright license to OpenAI in their Content. Additionally, since there is no confidentiality obligation associated with this disclosure, any trade secret protection or confidentiality of the user's Content may be compromised. Notably, under the current terms of use, ChatGPT users may opt out of allowing OpenAI to use their Content for model training purposes, but there is no opt-out provision for the other aspects of the user-granted license. Users should therefore pay attention to the applicable terms of use before using any AI tool or service. Read the report here.

INSURANCE

In an entirely different field, lawyers and insurance carriers are reviewing how to protect people from AI that operates equipment in the physical world. Standard methods of considering traffic accidents are changed when a vehicle is being driven by an AI model without a human involved.

Mitigating The Risks of Generative AI Through Insurance

The potential benefits of generative AI are manifold. But how could this new tool possibly go wrong? And when it does, can insurance mitigate the damage?

Potential insurance solutions for some of the more salient risks of generative AI are outlined below. Generative AI risks, like other types of losses and liabilities, can trigger multiple lines of insurance, so when thinking about placing insurance or making a claim, it is important to consider the company's insurance portfolio as a whole. The risks are of two types: injury to third parties (liability risk) or loss suffered by the business itself (first party risk). Some policies, like cyber-risk policies, combine both first- and third-party coverage.

Cybersecurity, Privacy and Fraud Risks

Bad actors can deploy generative AI to create highly convincing fake content, including images, videos, and text, thereby enabling new forms of fraud and cybercrime. Generative AI also increases the risk of data leaks and privacy violations.

Recommended Coverage:

- Cyber insurance with affirmative coverage for AI systems' "wrongful collection" or unintentional data leaks affecting third parties. Employment practices liability ("EPL") policies also may respond when the data involves actual or prospective employees.
- Crime/fraud insurance to cover losses from AI-enabled fraud schemes.

Intellectual Property and Copyright Infringement

Some generative AI models were trained on copyrighted or otherwise IP-protected data without proper licensing, resulting in lawsuits alleging infringement.

Recommended Coverage:

- Technology errors and omissions (Tech E&O) insurance to cover claims of IP/copyright infringement from generative AI outputs.
- Potential specialty coverage to cover costs of defending against patent infringement claims.

Product Liability and Performance Issues

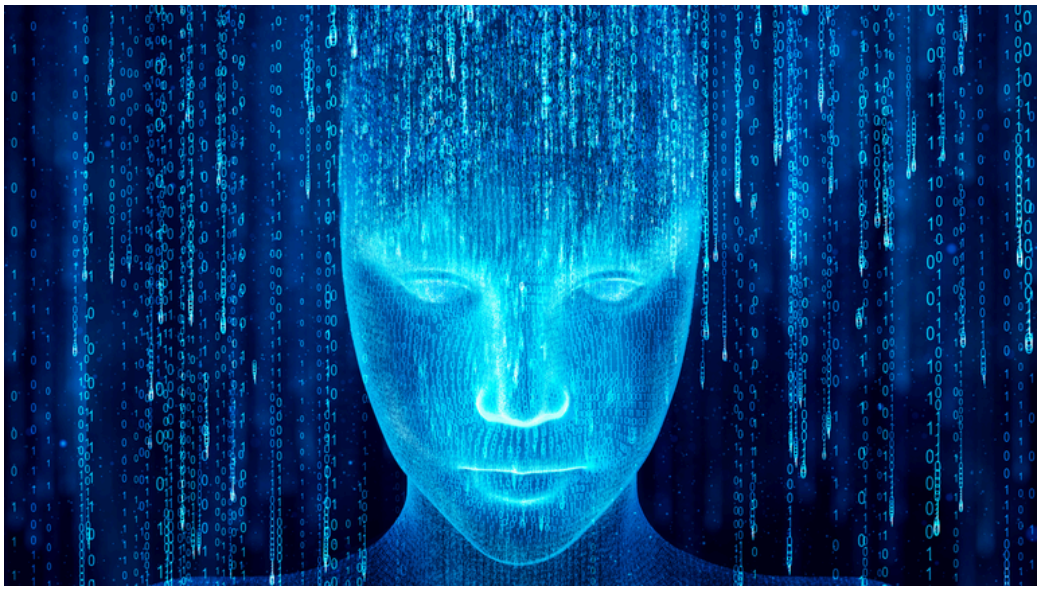
Generative AI systems can produce flawed or biased outputs, leading to product failures, financial losses, or discrimination claims if used in critical applications. The question of whether generative AI systems are a product or service is the subject of ongoing litigation.

Recommended Coverage:

- Product liability insurance for generative AI providers to cover losses from faulty AI systems.
- Performance guarantee insurance like Munich Re's "aiSure" to insure against AI model failures.

Vendor and Supplier Risks

Companies also should consider the risks presented by vendors and suppliers and the contractual mechanisms and insurance coverage available to transfer those risks. Companies should consider including indemnity and insurance procurement clauses in their vendor and customer contracts, to ensure that they transfer risks appropriately. Those clauses also can ensure that those risks are properly secured through counter-parties' insurance, sometimes referred to as "other people's insurance."



AI GOVERNANCE

Overview: AI Governance Recent Developments

There are a variety of legal AI governance tools, including existing and proposed laws and regulations (domestic and international) and best practices published by government and nongovernmental institutions. This summary provides a brief overview of some recent activity in this rapidly evolving area of AI governance.[1]

At the federal level, in 2023 the White House issued Executive Order 14110 on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence (EO),[2] which followed the White House Blueprint for an AI Bill of Rights.[3] The blueprint had as its priorities the development of safe and effective systems; protection from discrimination; data privacy protections; transparency (i.e., notice of the use of an automated system); and the opportunity to opt out and interact with a person instead of an automated system.[4] The EO set out as its policies and goals that AI should be safe and secure (which requires robust, reliable, repeatable, and standardized evaluations of AI systems); AI systems should be tested after they are deployed; developers and institutions should minimize security risks; the government should support responsible innovation and competition; and AI should support the creation of jobs, advance equity and civil rights, and operate transparently.

No federal agency is directly responsible for regulating AI. However, the Department of Commerce is playing a significant role, with the Secretary of Commerce having most of the responsibility for implementing the EO. AI presents issues and risks in areas already administered by several agencies. The Federal Trade Commission (FTC), Department of Justice (DOJ), Consumer Financial Protection Bureau (CFPB), and Equal Employment Opportunity Commission (EEOC) released a joint statement clarifying that their "agencies' enforcement authorities apply to automated systems" and pledging to use their enforcement powers to combat discrimination and bias in automated systems.[5]

Although it does not issue regulations, NIST has an important role in the government's research and promulgation of standards for AI. NIST published an *AI Risk Management Framework*. This voluntary framework describes what risk means, how to measure it, and how to evaluate where it will present as an issue.[6] It defines trustworthy AI as AI systems that are valid and reliable, safe, secure and resilient, accountable and transparent, explainable and interpretable, privacy enhanced, and fair with harmful bias managed.

[1]This section is based on the chapter "Governing AI in a Changing World," by Cynthia H. Cwik, Karen E. Silverman, and Joseph Blass, in Cwik, C.H., Suarez, C.A., & Thomson, L L. (Eds.). Artificial Intelligence: Legal issues, Policy and Practical Strategies. American Bar Association (Aug. 2024).

[2] Exec. Order No. 14,110, 88 Fed. Reg. 75,191 (Oct. 30, 2023).

[3] White House Off. of Sci. & Tech. Pol'y, Blueprint for an AI Bill of Rights (Oct. 2022), https://www.whitehouse.gov/wp-content/uploads/2022/10/Blueprint-for-an-AI-Bill-of-Rights.pdf.

[4] The blueprint also described design principles that would support these goals: careful design from the outset of system development; public oversight; independent testing and reporting; and personalization to the individual (in terms of data collected, control of that data, and explanations given).

[5] FTC, Joint Statement on Enforcement Efforts against Discrimination and Bias in Automated Systems (Apr. 25, 2023).

[6 NIST, AI Risk Management Framework (Jan. 26, 2023), https://www.nist.gov/itl/ai-risk-management-framework.

Safety, security, resiliency, explainability and interpretability, privacy enhancement, and fairness are all considered subgoals of validity and reliability. NIST also houses the AI Safety Institute, which focuses on studying and addressing the risks of AI, initially focusing on the priorities identified in the EO.[7]

In 2021 Congress passed the National AI Initiative Act of 2020[8]. This act directed agencies and government funders to allocate resources to AI research and focus on the impacts and potential uses of AI. It also established the National AI Advisory Committee (NAIAC), comprised of experts with a broad and interdisciplinary range of AI experience, to advise the President on AI issues. NAIAC issued its Year One report in May 2023 and reports and recommendations on related topics, including foundation models and generative AI.

Dozens of federal laws related to the use of AI have been introduced in the 118th Congress. The following issues have been addressed in these bills: having government catch up with technology by increasing data literacy education; protecting national security; increasing military readiness; modernizing the government's AI resources (including establishing commissions to study the problem); increasing transparency and accountability in the use of AI systems); regulating the use of data to protect consumer privacy; regulating how children use social media and AI systems (and vice versa); and regulating the use of AI and deepfakes.[10]

States have passed laws governing the use of AI. In May 2024 Colorado passed the Colorado AI Act, the first state law to establish broad requirements for developers and deployers of "high-risk artificial intelligence systems," (defined to include "any [AI] system that, when deployed, makes or is a substantial factor in making, a consequential decision.)"[11]The law goes into effect in February 2026 and will require developers and deployers of "high risk AI systems" to take reasonable care to protect consumers from algorithmic discrimination, and it establishes disclosure requirements for AI systems that are intended to interact with consumers.[12]

A dozen states—Alabama, California, Colorado, Connecticut, Illinois, Louisiana, New Jersey, New York, North Dakota, Texas, Vermont, and Washington—have enacted laws requiring their governments to study the impacts of AI and improve their institutional knowledge of AI.

[7] NIST, U.S. Artificial Intelligence Safety Institute, https://www.nist.gov/aisi (last visited May 23, 2024).
[8]15 U.S.C. ch. 119 §§ 9401 et seq.
[9]Brennan Ctr. for Just., Artificial Intelligence Legislation Tracker, https://www.brennancenter.org/our-work/research-reports/artificial-intelligence-legislation-tracker (last updated Jan. 5, 2024).
[10]Some bills that have advanced include the AI Leadership Training Act, S. 1564, which would require the U.S. Office of Personnel Management (OPM) to establish an AI training program for federal employees; the AI Training Expansion Act, H.R. 4503, which would expand AI training in the executive branch; the TAG Act, S. 1865, which would require agencies to be transparent when using automated systems to make decisions or interact with the public; the AI Accountability Act, H.R. 3369, which would direct the Department of Commerce to study AI accountability; and the AI Lead Act, S. 2293, which would require agencies to establish chief AI officers. All these bills were introduced in the 118th Congress (2023).
[11]See SB 24-205 (Col. 2024).
[12]See SB 24-205 (Col. 2024).

Utah also passed the Artificial Intelligence Policy Act, which imposes transparency obligations on certain entities' use of generative AI and limits the ability of entities to claim as a legal defense that generative AI was to blame for violations of consumer protection laws. SB 149 (Utah 2024).[13]

Other AI laws have been enacted outside the United States, including the European Union's passage of the European AI Act.[14] The AI Act sets rules governing the development and deployment of high-risk systems: developers must take steps to mitigate risks, ensure high-quality datasets, document their systems, and have meaningful human oversight. Developers must notify people when they are interacting with a chatbot or biometric or emotion recognition systems. AI-generated content and deepfakes must be labeled as such, and the ability to detect AI-generated media should be baked into the system that generates such media.

[13]Several other states have proposed AI bills pending, including California's proposed SB-1047, the Safe and Secure Innovation for Frontier Artificial Intelligence Models Act. In addition, some states have also taken action through executive orders, although these mostly direct state agencies to study the problem, often with the goal of determining how best to integrate AI into government practices. Wisc. Exec. Ord. 211; Okla. Exec. Ord. 2023-24; Cal. Exec. Ord. N-12-23; N.J. Exec. Ord. 346; Va. Exec. Ord. 5; Pa. Exec. Ord. 2023-19.

[14]Press Release, Eur. Parl., Artificial Intelligence Act: Deal on Comprehensive Rules for Trustworthy AI (Dec. 9, 2023), https://www.europarl.europa.eu/news/en/press-room/20231206IPR15699/artificial-intelligence-act-deal-on-comprehensive-rules-for-trustworthy-ai.

RESPONSIBLE AI (RAI): PROOFING AI SYSTEMS FOR FUTURE AI GOVERNANCE REGIMES

Common Responsible AI Principles

The themes emerging from AI governance efforts reflect common "responsible AI" principles. These principles will constitute best practices for developing and deploying AI systems, regardless of whether the law requires it. While there are many sets of RAI principles available, and they may vary in their articulation and how they prioritize attributes of responsible technology, they generally share certain fundamental tenets.

These include:

- **Human-centeredness**: AI aligns with essential human rights and needs, such as autonomy. Responsible AI protects the rights of individuals impacted by the technology, including fairness and privacy, human agency and dignity, and more generally, a commitment that the technology works for the benefit of humans, not the other way around.
- **Accountability**: Humans are explicitly responsible for the impact of AI. Accountability is crucial in a legal context to uphold due process rights and address any harm that results.
- **Safety and Security**: AI does not harm users or allow for security breaches or data leaks. Related concepts include robustness, resiliency, accuracy, and quality.
- **Transparency and Explainability**: The supervisors and subjects of AI decision-making can understand how AI works. Some AI systems operate as a "black box," making it hard to trace outputs back to inputs or logic. Transparency can relate to technology or to the human processes surrounding it. Explainability involves effectively communicating how an AI model functions to humans.
- **Ethics and Fairness**: AI models adhere to prevailing standards, beyond whatever the law requires in a given place and at a given time. Related concepts include privacy and freedom from bias, manipulation, and security risks.

RAI principles are aspirational and their implementation requires a blend of human processes and technical efforts to select, design, and monitor AI in order to align them with human, social, political, cultural, and legal values.

ABA ENTITIES: COLLABORATION ACROSS THE ABA

Long before the launch of ChatGPT in November 2022, AI was transforming what the ABA does, with sections, divisions, forums, and other ABA entities already exploring these issues through **programs**, **publications**, and **participation** (committees, working groups, etc.), in addition to contributing to policy (ABA House of Delegates Resolutions/Reports). These four P's constitute the pillars of the ABA's approach to AI, the transformational technology that has extraordinary potential for both promise and peril.

Programs. ABA entities have offered a wide range of innovative, timely, and high-quality AI programming for years but this year saw an abundance of great programs offered across the ABA- both live and recorded, and many with CLE credit.

Conferences:

AI & Robotics National Institute

The first ABA conference on AI began in 2020 when SciTech presented the Artificial Intelligence & Robotics National Institute. SciTech's 6th AI National Institute will be held on October 14-15 in collaboration with the Intellectual Property Law Section, offering new breakout tracks on AI's early legal flashpoints: (1) IP and (2) data protection Click here to learn more.

AI and the Practice of Law Summit

The inaugural AI and the Practice of Law Summit was presented by the ABA Center for Innovation in 2024. The program provided practical tools that lawyers could apply to the practices, along with workshops that explored the intersection of law and AI from multiple perspectives.

Podcasts and Webinar Series:

The many ABA podcasts and webinars on AI include the following series:

"National Security Law Today" podcast
Standing Committee on Law and National Security

"Mind the Gap: Dialogs on Artificial Intelligence" podcast
Business Law Section/Business Law Today

"AI and the Legal Profession: Navigating Opportunities and Challenges" webinar
Civil Rights and Social Justice Section

"Introduction to Artificial Intelligence and Environmental and Energy Law" webinar
Section of Environment, Energy, and Resources)

Forthcoming:
"Intersections of GenAI and Cybersecurity: Reckoning and Responding to the Risks" webinar
Cybersecurity Legal Task Force (Free to current state/federal law clerks)

Publications. Insights on AI can be found in a wide range of ABA writings, whether it's blog posts, magazines (from articles to entire issues), law journals, newsletters; white papers; and books.

Five years ago, the ABA released **The Law of Artificial Intelligence and Smart Machines: Understanding A.I. and the Legal Impact** (2019) from the Business Law Section (AI Task Force Vice Chair Ted Claypoole was the editor of that book).

Fast forward to the latest ABA book on **AI: Artificial Intelligence: Legal Issues, Policy, and Practical Strategies** (2024), created by the SciTech Section, in collaboration with the AI Task Force).

More are scheduled for release in 2025.

Participation. The first ABA AI committee was established 17 years ago (2007-08 bar year) by SciTech. Since then, many ABA entities have established groups or outreach initiatives that focus on, or address, AI issues, including the IP Section's Artificial Intelligence/Machine Learning Task Force; the Antitrust Section's Privacy and Information Security Committee and its Antitrust AI Task Force Discussion Series; the Civil Rights and Social Justice Section's AI and Economic Justice Project (conducted survey re impact of AI on low-income/marginalized individuals/communities). Many state bars that work with the ABA have also established AI Task Forces or other AI groups.

Policy. The ABA has adopted a number of AI-related resolutions:

- ***ABA Resolution 112***: Urges courts and lawyers to address the emerging AI ethical and legal issues related to the usage of AI in the practice of law. 19A11 (adopted August 2019).
- ***ABA Resolution 700***: Urges governments to refrain from using pretrial risk assessment tools unless data supporting risk assessment is transparent, publicly disclosed, and validated to demonstrate the absence of bias - 22V700 (adopted in February 2022).
- ***ABA Resolution 604***: Urges organizations that design, develop, deploy, and use AI systems and capabilities to follow several guidelines to help ensure human oversight and control, accountability and transparency in AI 23M604 (adopted February 2023).

Even as ABA entities undertake these initiatives, they are finding ways to collaborate with each other and external organizations. The AI Task Force is facilitating this collaboration and entity-wide communication, with the Task Force offering opportunities for ABA entity liaisons and state bar AI groups to meet at regular intervals and inform the work of the AI Task Force. The wide range of participating ABA entities reflect the way AI is affecting every practitioner (solo/small firm/general practice, law students, young lawyers, etc.) and changing every substantive practice area.

The AI Task Force has provided an online forum for AI (ambar.org/aiLaw) designed to highlight the vast array of what ABA entities are doing and help individuals find relevant policy, programs, publications, and means of participating.

As the national voice of the legal profession, with entities that cover an extensive range of substantive practice areas, no one matches the ABA in terms of the breadth and depth in which it can approach the continually emerging legal issues of AI technology.

Human Rights Challenges with Artificial Intelligence by Lucy Thomson and Trooper Sanders highlights the ABA's efforts to address the legal and ethical challenges of AI, focusing on privacy, discrimination, and human rights, and emphasizes initiatives like the AI Bill of Rights and Executive Order 14110 to ensure responsible AI use. Civil Rights and Social Justice, human rights, TECHNOLOGY and THE LAW (Vol. 49, No. 4, May 2024)
You can read the full article here.

2023-24 AI TASK FORCE PROGRAMS AND EVENTS

ABA Presidential Speaker Series

A.I. – The New Frontier: Panel of Special Advisors for the ABA Task Force on Law and Artificial Intelligence - November 2023 Professor Daniel Ho, Michelle Lee, Trooper Sanders, Miriam Vogel, and Seth Waxman, interviewed by Lucy Thomson, AI Task Force Chair.

The Special Advisors discussed how AI has the potential to transform the practice of law, and discussed initiatives of the new White House AI Executive Order, the new U.S. Safety Institute, and international developments.

Law Practice

Primer on AI Technologies and Definitions - March 2024
Professor Maura Grossman, Theresa Harris, Stacy Marz, and Judge Scott Schlegel.

This webinar provides a foundational understanding of essential AI concepts and terms, highlighting their presence in everyday tools and their emerging application in legal technologies. The program is tailored for less tech-savvy individuals, helping them to grasp common AI-related vocabulary, and gain a basic understanding of how AI algorithms work and the everyday applications of AI.

How Large Law Firms Are Incorporating AI into Practice - January 10, 2024
Katherine Lowry, BakerHostetler; William Garcia, Thompson Hine; and Peter Geovanes, McGuireWoods, interviewed by Ted Claypoole.

This program discussed the innovative integration of AI within large law firms. The speakers shared their experiences, strategies, and insights into how AI is transforming the legal landscape, improving efficiency, and enhancing client service. They also discussed the unique challenges and ethical dynamics that lawyers should consider when implementing AI.

A Roundtable on Generative AI: Practical Advice for Attorneys - March 14, 2024
Karen Silverman, Brian Beck, Daniel "Dazza" Greenwood, Maura Grossman, and Lisa Lifshitz

Experts addressed these topics: 1) understanding Generative AI, including what it is and how it works; 2) exploring use cases for law firms and in-house legal departments; 3) procurement considerations and examining and negotiating key contract terms when acquiring generative AI products; 4) establishing policies for law firms regarding the use of AI; and 5) understanding cautionary issues, including bias, confidentiality and IP.

AI Crash Course for Bar Leaders and Lawyers: Uses, Misuses, and Ethics - February 3, 2024
ABA Mid-Year Meeting, Louisville KY. AI Task Force collaboration with the National Conference of Bar Presidents (NCBP). Ted Claypoole, Ian McDougall, General Counsel LexisNexis Global; Damien Riehl (Chair, Minnesota State Bar Workgroup on AI); Lisa LIfshitz, Director of Canadian Technology Law Association); Lucy Thomson; Marri Baldwin, former chair of the State Bar of California Committee on Professional Responsibility; and Trish Rich
AI experts who understand the multi-faceted complexity of AI – from use cases that increase productivity or produce misinformation to ethical dilemmas – discussed how lawyers can shape how AI is understood and used in the bar and the legal world.

The AI Trap: The Missing Guardrails for Lawyers - ABA Annual Meeting 2023, Denver, CO; presented by the Cyber Legal Task Force; co-sponsored by the AI Task Force. Moderated by PBS journalist Deena Temple-Raston, the program included a wide-ranging discussion with speakers Dr. Lance Eliot, Dazza Greenwood, and AI Task Force Chair Lucy Thomson.

CLE in the City - AI Hot Topics Every Lawyer Needs to Know - August 1, 2024
ABA Annual Meeting 2024, Chicago
Professor Daniel W. Linna, Jr., Director of Law and Technology Initiatives, Northwestern U, Josh Strickland, Motorola Solutions; Honorable E. Kenneth Wright Jr., Presiding Judge, First Municipal District, Circuit Court of Cook County; Magistrate Judge Gabriel A. Fuentes, U.S. District Court, Northern District of Illinois; Leighton B. R. Allen, Foley & Lardner LLP; Jayne R. Reardon, Ethics & Professional Responsibility Counsel; Lucy L. Thomson.

The latest developments with AI were addressed by speakers with broad perspectives – law firm and corporate counsel, academia, the judiciary, and ethics and professional responsibility counsel.

Governance
AI Governance: A Conversation with Reva Schwartz of the National Institute of Standards and Technology (NIST) about NIST's new AI Risk Management Framework - September 28, 2023
Reva Schwartz, NIST, Cynthia Cwik
This program provided an overview of the NIST AI Framework, its real-world applications, and how organizations can leverage it to advance trustworthy and responsible AI practices.

AI Governance: A Conversation with Miriam Vogel, President and CEO of EqualAI and NAIAC Chair - Miriam Vogel and Cynthia Cwik
Miriam Vogel discussed key issues regarding AI governance, including NAIAC's important work, the future of AI governance, and best practices for the private and public sectors.

AI Governance: A Conversation with Elizabeth Kelly - June 13, 2024 - Elizabeth Kelly, Director of the newly created U.S. AI Safety Institute, interviewed by Cynthia Cwik.

Governance and Risk Management
AI Governance and Risk Management – The Role of Lawyers - April 18, 2024
Trooper Sanders, Katherine Fick, IBM; Karen Buzard, Allen & Overy LLP; Madhu Srikumar
Experts discussed the role of lawyers in a variety of settings in managing the governance and risk of AI, as well as how leading lawyers have integrated AI in their work and careers.

Risk Management
The Impact of Deepfakes on the Justice System - January 2024
Professor Hany Farid, Hon. Paul Grimm (ret.), Professor Maura Grossman.
The experts explained what deepfakes are and how they are made, the intricacies of identifying deepfakes, exploring evidentiary and Daubert issues, and discussing the C2PA standard to identify the provenance of digital material.

Unraveling AI's Impact on Intellectual Property: Expert Perspectives - April 25, 2024
Lindsay R. Edelstein, Mitchell Silberberg; Claudia Ray, Kirkland & Ellis; Ekta Oza, Linklaters; Louise Nemschoff, Los Angeles attorney.

As the role and impact of generative AI in copyright continues to evolve, the expert panel examined hot topics in AI and IP Law.

Access to Justice
Artificial Intelligence, Law Schools and Access to Justice - Jim Sandman, Margret Hagen, Gabrial Tenenbaum and Daniel Linna
The experts discussed how law schools have developed new programs to teach students how to use technology and innovation, including AI, to improve access to legal services.

AI and the Courts

Data Analytics and the Courts: Essential Information for an Emerging Generative AI Function - June 17, 2024 -Judge Sam Thumma, Judge Scott Schlegel, Jennifer Mabey, and Hon. Ronald J. Hedges (ret.)

The speakers discussed the use of generative AI for transcription and language interpretation, Utah's pre-trial risk assessment tool, the use of AI for predicting case outcomes, and issues related to court data analytics.

Legal Education

The Implications for Generative AI on Legal Education: A Conversation with Dean Andrew Perlman - December 14, 2023 Suffolk Law Dean Andrew Perlman; interviewed by Cynthia Cwik.

This program explored the impact of AI on legal education and legal training.

ABA 5th Annual Artificial Intelligence (AI) & Robotics National Institute (presented by the ABA Science & Technology Law Section; co-sponsored by the AI Task Force) - October 9-10, 2023 Santa Clara University School of Law

AI Task Force members were speakers: Steve Wu (Institute Chair), Ruth Hill Bro, Ted Claypoole, Cynthia Cwik, Eric Hibbard, Patrick Huston, and Lucy Thomson.

Partner Programs

RSA Conference (RSAC), San Francisco, CA (May 2024)

At the largest security conference in the world, ten AI Task Force members delivered a keynote fireside chat, panel presentations, and participated with government and private sector experts on discussions of the impact of AI.

Artificial Intelligence and the Courts Scientific Evidence and the Courts, American Association for the Advancement of Science (AAAS) - September 22, 2023.
Dr. David Doermann, Prof. Rashida Richardson, and the Hon. Paul W. Grimm (Ret.). moderator Lucy Thomson, AI Task Force Chair.

AI & Emerging Technology Partnership program #4: Tools and Data, U.S. Patent and Trademark Office - September 27, 2023.

AI Task Force Advisory Council Member Darrell Motley spoke about the AI Task Force on the "Legal Issues" panel.