iWitness

# ROBOTS WILL NOT REPLACE US, OR HOW I LEARNED TO STOP WORRYING AND LOVE AI

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It is natural to be disconcerted by generative artificial intelligence (AI) tools such as ChatGPT. It can do things that make it seem almost human: tell jokes, produce art, and (as relevant to the practice of law) answer complex questions involving massive amounts of data in the blink of an eye. In the legal field, generative AI can read contracts for key clauses, review documents for e-discovery relevancy, draft letters and pleadings, analyze arguments, and much more. Indeed, generative AI tools have already been integrated into many aspects of legal practice. The speed of this transformation—and the almost alien intelligence driving it—understandably inspires both fascination and unease.

Humans have long been intrigued by (and frightened of) the idea of creatures that can do the things that generative AI can do. The ancient myth of the golems—clay figures brought to life through magic—arose during biblical times. In the 18th century, audiences marveled at the Mechanical Turk, a chess-playing "automaton" that appeared intelligent but was secretly controlled by a hidden chess master. More recently, popular fiction imagines humanoid robot Terminators managed by an AI called Skynet trying to hunt down and destroy the human population.

While it does not (yet) make sense to worry about being hunted by robot overlords, it is realistic to worry about how these new "AI lawyers" might affect the legal job market. But instead of focusing on the fear of replacement, lawyers should focus on mastery. The challenge is not to resist AI but to understand it. Lawyers should (1) learn how AI models function, (2) recognize what these tools can and cannot do, and (3) discover how best to integrate AI to enhance their practice. Lawyers who understand and judiciously adopt AI into their legal practice will be the best positioned to thrive in this new era.

## How Does Generative AI Work?

Generative AI is an umbrella term for AI models that use inputs to create new content—such as text, images, or music—that resembles human work. Unlike traditional AI, which merely analyzes or summarizes existing data, generative AI produces original outputs. It does this through structures known as neural networks, which enable the model to identify patterns and relationships within data and use them to generate novel responses.

Neural networks are computer programs modeled on the human brain. They are made up of nodes called "neurons," with each neuron representing a small portion of data. These neurons work together in layers, called hidden layers, which allow the network to recognize complex patterns across large datasets. For a simple example, a neural network can "learn" to distinguish between cats and dogs by being fed inputs of thousands of images labeled as either cat or dog. These images are analyzed for features—such as ears, fur patterns, or snouts—that tend to correlate with each category. Once trained, the model can accurately identify whether a new, previously unseen image is a cat or a dog.

Thus, generative AI models do not need to be trained on all pictures of a cat to identify a cat; it can use underlying information to make predictions about a wholly new image. This is unremarkable for a human—even a small child can distinguish between a cat and a dog—but it is a revolution in a computer program.

In the legal field, the most common type of generative AI is the large language model (LLM). In simple terms, LLMs predict the most probable next word in a sequence, generating human-like responses

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one word at a time. LLMs, as the name suggests, are models based on enormous amounts of written text. Massive amounts of text data (mostly public internet data but also books, articles, even entire libraries) are fed into an LLM. LLMs created for the legal field are specifically trained on legal texts and can summarize research, create draft documents, help with e-discovery, and much more.

## What AI Cannot Do, or I, for One, Do Not Welcome Our Robot Overlords

Lawyers who use AI to support their practice should understand not just what AI is but also what it is *not*.

First, generative AI models do not "think" or "learn" in any human sense—it only appears that way. For example, LLMs merely predict what word should come next in a sentence. Because AI models are trained on vast datasets of human writing, they can convincingly mimic human reasoning. But this so-called "thinking" process is purely mechanical.

AI models give the illusion of human thought because they make predictions based on human language patterns. Generative AI models are based on human communications—and humans have been thinking and communicating their thoughts for millennia. In short, because human words represent human thought and AI is trained on human words, AI models appear to mimic human thought. But AI is not thinking; rather, it is making a prediction based on thoughts that people communicated in the past and that then were fed into the AI model.

Second, these models are not legal encyclopedias or law professors. While some AI models may be trained on vast amounts of legal data, they do not know what the law is. An AI model is not reasoning through arguments the way a lawyer does; it is statistically predicting what words should answer a given prompt. In fact, AI models do not *know* anything. An AI model can identify a picture of a cat, but it has never seen a cat and does not know what one is. The limitations of AI tools are illustrated by one of their most significant pitfalls: hallucinations, or responses not based on any source text. This is because an AI model may predict that a legal proposition should be followed by a citation and will fabricate a citation to fulfill that pattern. In several high-profile examples, attorneys have been sanctioned for citing nonexistent authorities after relying on AI-generated content. Lawyers working with AI models should understand that these systems do not possess knowledge—they only recognize patterns.

Illustration by Jon Krause

Third, AI models cannot escape the limitations of their inputs. An AI model's outputs are derived entirely from past human data, and as anyone knows, people in the past were often wrong. Any AI model will always be limited by the past—with all its errors and biases.

Imagine a generative AI model trained solely on English texts from 1790. If asked whether the transatlantic slave trade should be abolished, it would almost certainly defend the practice—because that was the dominant perspective reflected in its inputs. Yet, even then, abolitionists such as English Parliamentarian William Wilberforce saw beyond prevailing views and argued tirelessly for an end to the trade. Wilberforce's first abolition bill was defeated in 1790 by nearly a 2-to-1 margin. Seventeen years later, in 1807, Parliament voted overwhelmingly—283 to 16—to outlaw the transatlantic slave trade.

What changed? The moral vision and persistent advocacy of people like Wilberforce. AI could not have done that. It cannot independently challenge entrenched beliefs or rethink its position the way human lawmakers eventually did. AI tools hold enormous promise, but they are bounded by their source data.

Fourth, AI cannot replace human judgment. While it can assist with certain legal tasks, LLMs cannot decide what is best for a client or what outcome is just. An AI model cannot be moved by compassion, cannot determine the weight of an argument, and—perhaps most critically—cannot engage in abstract thought about something new.

Good lawyers often change their analyses based on new or unforeseen circumstances. Merely feeding the past into a model cannot alone answer the questions our clients have today. George

Orwell famously said, "To see what is in front of one's nose needs a constant struggle." Lawyering *is* that struggle: sorting through the evidence to find which facts are the best for our client, discerning the most advantageous legal strategy, persuading others through reason and evidence. These are slow, methodical tasks. At its core, the law is a human system designed to resolve disputes through deliberation, persuasion, and judgment. Those processes—often slow, difficult, and nuanced—require empathy, creativity, and factual and moral reasoning—qualities AI does not possess.

Thus, rather than replacing lawyers, generative AI highlights the value of incisive, creative, intelligent legal analysis. In a world of AI, where lucid words that sound reasonable will soon be incredibly cheap, legal advocates and counselors who can provide their clients not just words that sound good, but thoughtful advice and legal analysis that delivers real-world results, will be more valued than ever.

## How Should Lawyers Use AI?

What does this mean for lawyers using AI? Lawyers and legal professionals should not fear AI—they should embrace it—but they should use these tools with a clear understanding of both potential benefits and limitations. Below are some considerations:

**AI does not change the fundamentals of lawyering.** The key takeaway from an understanding of AI—what it is and what it is not—is that AI tools can be powerful and helpful, but they do not change the fundamentals of what it means to be a lawyer. Legal advocacy is still about making sound arguments and convincing others. AI tools can enhance your skills, your ideas, your creativity—but they are not a replacement for them.

Lawyers still need to review evidence, understand case law, and make arguments. As AI tools improve, it may be tempting to outsource writing, researching, or even legal strategy to these tools. But as explained above, AI is an empty vessel. AI-generated content may sound plausible (and it may even be completely accurate), but AIs are just recognizing patterns. Treat AI output as you would a form pleading drafted by an advertising executive: It might look great, but it cannot be relied on without thinking.

**AI content must always be reviewed for quality control.** Lawyers must apply the same diligence to AI content they would apply to any work product. In fact, in many ways, AI content demands *more* diligence. Its outputs often sound coherent and authoritative, which can make mistakes harder to detect. AI may not only hallucinate; it may also describe real cases or facts in ways that are plausible but materially incorrect. For example, an AI model might cite a real case, yet provide an inaccurate or misleading parenthetical. Catching this type of error requires review by a lawyer who understands the cited case.

> Lawyers who wish to remain competitive should try to use AI tools, try to understand them, and think about how these tools can help their practice.

As AI tools improve and hallucinations become less frequent, quality control may paradoxically become harder. Human reviewers may get fatigued with fewer errors to identify. While future AI models may have built-in tools that check the accuracy of outputs, no automated system can replace the informed judgment of a competent attorney. Any attorney working with AI tools should have a robust system of quality control.

**Lawyers should experiment to discover how AI can work in their practice.** AI is a new technology, and its best uses may not yet be discovered. Lawyers should experiment to get the most out of AI. What works for one lawyer may not be effective for another. For some, AI may be useful to help create first drafts or edit writing. For others, AI may be most useful in exploring new ideas. In a way, AI models are a sort of alien intelligence, and while that seems disconcerting, it also presents new opportunities for human creativity. Not only can it potentially improve work product—AI can also eliminate rote tasks and free up time for other tasks like doing higher-level analysis or providing better service to clients. Lawyers who wish to remain competitive should try to use AI tools, try to understand them, and think about how these tools can help their practice.

**The AI future is not scary if you seek to understand it.** Generative AI is new. It is reasonable to be worried about these models because they will almost certainly change the litigator's practice. Despite this, AI tools are not yet ushering in the science fiction dystopia that some fear. Properly understood, AI can help lawyers be more efficient and more effective advocates for their clients. At the same time, the newness of AI tools advises caution: AI-created content may present new legal or ethical risks. Lawyers should remain vigilant about their ethical obligations when integrating AI into their practice. However, by understanding AI, lawyers can confidently adopt AI tools. ■

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