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AI Legal Innovations: The Benefits and Drawbacks of Chat-GPT and Generative AI in the Legal Industry

LAURA A. LOREK*

“Law and technology produce, together, a kind of regulation of creativity we’ve not seen before,” – Lawrence Lessig.¹

That is certainly a true statement regarding the latest wave of technology sweeping over the legal industry. A tsunami has struck in the last few years: the disruptive storm is called Generative or Conversational Artificial Intelligence (“AI”), and the ChatGPT application launched on November 30, 2022. ChatGPT and other large language models are disrupting law firms and workplaces worldwide.²

The technology is leading to fundamental changes in how lawyers practice law, said Damien A. Riehl. Riehl is a lawyer and the vice president at vLex, which created Vincent, a large language model (“LLMs”) for the legal industry.³ “With Vincent, if a person asks a legal question, the application can draft a memo answering that legal question in minutes,” Riehl said.⁴ The organization vLex is based in Barcelona, Spain, so the technology works in several different jurisdictions.⁵

When discussing the LLM Vincent Riehl stated, “[s]omething that might take ten-plus hours for a human to do, we can do in two minutes.”⁶ It allows lawyers to be more efficient:

Many lawyers wonder how they are going to bill for those ten hours, but the difference is that now, instead of answering one question in 10 hours, I can go on to question two, question five, question 20, and question 50. So, in those ten hours, I can get way more legal work done.⁷

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1. Lawrence Lessig, Keynote Address at OSCON: Free Culture (Aug. 15, 2002).

2. *2023 Ediscovery Innovation Report*, EVERLAW,

<https://www.everlaw.com/resources/reports/2023-ediscovery-innovation-report/> (last visited Aug. 24, 2024) [hereinafter *EverLaw*].

3. Interview with Damien Riehl, Vice President, vLex, in Austin, Tex. (Mar. 13, 2024).

4. *Id.*

5. *Your ultimate legal AI platform*, VLEX, <https://vlex.com/> (last visited Aug. 24, 2024).

6. Interview with Damien Riehl, *supra* note 3.

7. *Id.*

Lawyers can still bill for ten hours, but they can give much better results to their clients in that time.⁸ “Lawyers worried about their billable hours being taken away should consider going on to question 50 to do a better job for their clients,” Riehl said.⁹ Lawyers have to think about the work that is being done today that is making them better lawyers versus the work that is being done just spinning wheels.¹⁰ “The billable hour has been our original sin for many years, and maybe we should get away from it, and maybe we should do a flat fee and shrink the amount of time we spend on it,” said Riehl.¹¹ The benefit is “[b]ecause once you shrink your time, that shrinks your cost and increases your profit margin. So now we can be aligned with our clients and spend less time, make more money, and be a better lawyer.”¹²

Shrinking costs also opens up new work for lawyers, Riehl said.¹³ He cites Darth Vaughan, counsel at Ford Motor Company, as a case in point.¹⁴ He noted Vaughan told him there is a ton of regulatory work he would hire outside lawyers for if they used a large language model to shrink their costs.¹⁵ Once they have shrunk their costs, he will give them more work.¹⁶ The work that is being undone today, Riehl said.¹⁷ That is just one example in one company and once legal costs shrink, those companies will create more work for lawyers.¹⁸

“There’s a paradox called Jevons Paradox that means that the cheaper an output is the more it is used,” said Riehl.¹⁹ “As legal work becomes cheaper per legal question, people will use more. The Fords of the world will do more legal work, not less.”²⁰ Riehl discussed that at the top end of the market, and at the bottom end, eighty percent of legal needs are unmet.²¹ “From the poorest of the poor because we’re too expensive,” he said.²² “As that price comes down, all of a sudden, we can exploit, in the best way, that 80 percent of the unmet legal needs for the poor and middle-class people, and we can go down market and make our pie bigger.”²³

8. *Id.*

9. *Id.*

10. *Id.*

11. Interview with Damien Riehl, *supra* note 3.

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. Interview with Damien Riehl, *supra* note 3.

17. *Id.*

18. *Id.*

19. *Id.*

20. *Id.*

21. Interview with Damien Riehl, *supra* note 3.

22. *Id.*

23. *Id.*

Generative Artificial Intelligence is driving all these changes. All of the buzz started with OpenAI, originally a nonprofit organization founded by Elon Musk, Sam Altman, and other technologists in 2015.²⁴ OpenAI created ChatGPT, a generative and conversational AI chatbot that uses machine learning, natural language processing, and neural networks to mimic a human brain's functioning.²⁵ Although ChatGPT was the first large language model to launch, it was not the last. Today, Google operates Gemini, formerly known as Bard; Meta launched Llama-3 in April, and Amazon has invested \$2.75 billion into Anthropic, which released Claude AI 3, a ChatGPT bot, in March. Other LLMs include Megatron by Nvidia, a large and powerful transformer-based model, and Jurassic-1 by AI21 Labs, designed for various natural language processing tasks.²⁶

And within the time generative AI exploded onto the public scene, the advancements have been rapid. The ChatGPT tsunami has created new opportunities and forever changed the legal field. Fear about the recent technology has subsided a bit, and lawyers are beginning to embrace what it has to offer. Generative Artificial Intelligence is a tool that will create new ways to make lawyers more efficient and improve client results, Riehl said.²⁷ However, GPT-4, the latest version of AI technology released in March 2023, is still not ready as a standalone approach in fields like law, finance, education, and journalism.²⁸ While ChatGPT and other large language models powered by AI can make lawyers more efficient, there is danger in trusting platforms like ChatGPT, more than human expertise.

Large language models like Claude AI are not going to replace lawyers, according to Anthropic's Deputy General Counsel Janel Thamkul.²⁹ She did a presentation at South by Southwest ("SXSW") in Austin, Texas last March titled, *Beyond Code: the Legal and Regulatory Matrix of A.I.*³⁰ She discussed that "[t]here are certain tasks that lawyers perform that AI will automate."³¹ At the presentation she said:

24. Jürgen Rudolph et al., *ChatGPT: Bullshit Spewer or The End of Traditional Assessments in Higher Education?*, 6 JOURNAL OF APPLIED LEARNING AND TEACHING 342 (2023), <https://journals.sfu.ca/jalt/index.php/jalt/article/view/689>.

25. See generally Craig Van Slyke et al., *Generative Artificial Intelligence in Information Systems Education: Challenges, Consequences, and Responses*, COMMUNICATIONS OF THE ASSOCIATION FOR INFORMATION SYSTEMS (2023), <https://aisel.aisnet.org/cais/vol53/iss1/14/>.

26. See *infra* Section IV.

27. Interview with Damien Riehl, *supra* note 3.

28. Sukhpal Singh Gill et al., *Transformative effects of ChatGPT on modern education: Emerging era of AI Chatbots*, ARXIV, 21 (2023), <https://arxiv.org/abs/2306.03823>.

29. Janel Thamkul, Deputy General Counsel at Anthropic, Presentation at SXSW in Austin, Tex.: *Beyond Code: The Legal and Regulatory Matrix of AI* (Mar. 13, 2024).

30. *Id.*

31. *Id.*

The current models, in terms of capabilities, are like a very junior intern: very eager, very fast, and they come up with a very convincing product, but you always have to double-check it to be sure. But there are some things that humans don't have to do anymore, even at that level of ability.³²

Baker McKenzie, a large international law firm, began tracking AI software in 2017, with Ben Allgrove serving as a partner and chief innovation officer at the firm.³³ Allgrove claimed that the advances in LLMs brought on by ChatGPT are significant, but the “technology seems like a very smart paralegal, and it will improve.”³⁴ In an interview with the New York Times, Allgrove stated when discussing the impact on the legal profession:

The impact, Mr. Allgrove said, will be to force everyone in the profession, from paralegals to \$1,000-an-hour partners, to move up the skills ladder to stay ahead of the technology. The work of humans, he said, will increasingly be to focus on developing industry expertise, exercising judgment in complex legal matters, and offering strategic guidance and building trusted relationships with clients.³⁵

“Everyone is hyped up about generative AI right now,” said Tabrez Syed, Co-Founder of Boxcars.AI in Austin, Texas.³⁶ According to Gartner’s Hype Graph, he said, right now is the peak of inflated expectations.³⁷ The peak lasts between two to five years and eventually plateaus, he said.³⁸ The technology will profoundly affect all kinds of jobs, and he said it is essential to have an AI strategy, but it is also important to remember we are agitated right now.³⁹ The peak will be followed by the trough of disillusionment, the slope of enlightenment, and the plateau of productivity, according to the Gartner Graph.⁴⁰

“The generative AI tools are good at things that you need to be creative about,” said Greg Lambert, Chief Knowledge Services Officer at Jackson

32. *Id.*

33. Steve Lohr, *A.I. Is Coming for Lawyers, Again*, N. Y. TIMES (Apr. 10, 2023), <https://www.nytimes.com/2023/04/10/technology/ai-is-coming-for-lawyers-again.html>.

34. *Id.*

35. *Id.*

36. Interview with Tabrez Syed, Co-Founder of Boxcars.AI, in Austin, Tex. (Apr. 24, 2024).

37. *Id.*

38. *Id.*

39. *Id.*

40. *Gartner 2024 Hype Cycle for Emerging Technologies Highlights Developer Productivity, Total Experience, AI and Security*, GARTNER (Aug. 21, 2024), <https://www.gartner.com/en/newsroom/press-releases/2024-08-21-gartner-2024-hype-cycle-for-emerging-technologies-highlights-developer-productivity-total-experience-ai-and-security>.

Walker Law Firm in Houston, Texas.⁴¹ “So, it might be looking at counterarguments or using it to outline a legal theory that you may have something that doesn’t need specific facts,” Lambert said.⁴²

If you think you can use AI to create a great contract, you’re going to be in for a world of surprise because when it comes to contracts, you want specificity, and you want to be very factual and detail-oriented. You don’t want to be creative with your contracts, and I think that’s one of the things that many attorneys haven’t quite wrapped their heads around, which is where the value of the generative AI tools is.⁴³

Lambert said that the generative AI tools are good at helping draft an email for a client, but they are not good at drafting a contract for a client.⁴⁴ “And so that’s one of the things that you need to be aware of as you’re thinking of the best place to use some of these new tools in your practice,” said Lambert.⁴⁵ “The one thing that you have to understand is what is the right tool for the right process,” Lambert said.⁴⁶

For all the benefits, large language models like ChatGPT have massive flaws like bias, incorrect information, copyright problems, and making up information.⁴⁷ Like a calculator, ChatGPT can be a helpful tool and lawyers should not ignore it. This report will discuss some benefits and disadvantages of using artificial intelligence in the legal industry.⁴⁸ ChatGPT supplements legal research and other tasks.⁴⁹ How can ChatGPT and other similar AI applications be used for good and to benefit lawyers and their clients?

I. A BRIEF HISTORY OF ARTIFICIAL INTELLIGENCE

AI refers to systems or machines that mimic human intelligence to perform tasks. Artificial generalized intelligence refers to machines and software that can perform tasks and manage cognitive abilities beyond human abilities.

41. Telephone Interview with Greg Lambert, Chief Knowledge Services Officer, Jackson Walker Law Firm (Apr. 2, 2024).

42. *Id.*

43. *Id.*

44. *Id.*

45. *Id.*

46. Telephone Interview with Greg Lambert, *supra* note 41.

47. Robin Emsley, *ChatGPT: These are not hallucinations – they’re fabrications and falsifications*, NATURE NEWS (2023), <https://www.nature.com/articles/s41537-023-00379-4>.

48. *See infra* Section IV.

49. *See infra* Section III.

“AI has been going on for years,” Janel Thamkul, Deputy General Counsel at Anthropic, said at SXSW.⁵⁰ “Generative AI might be a new thing in the public’s mindset, but the development of AI, classification models, and recommender systems have been in place in the products you use for years and years.”⁵¹

In 1950, British Mathematician Alan Turing created the Turing Test to gauge a machine’s ability to exhibit intelligent behavior, similar to a human being. Turing pioneered the field of artificial intelligence and began researching AI in the 1950s.⁵² One of the earliest examples of AI in the legal industry is the Taxman Project, developed by Professor Thome McCarty at Rutgers University in the early 1970s.⁵³ The project focused on problems in corporate tax law, particularly classifications of corporate reorganizations.⁵⁴ In 1987, Northeastern University held the first International Conference on AI and Law, and the field of legal informatics began to emerge.⁵⁵

In 2023, ChatGPT passed the Turing Test, shaking up the educational industry and other industries like computer science, journalism, economics, finance, information technology, and more.⁵⁶ ChatGPT passed the Turing test when OpenAI released ChatGPT-4 in March.⁵⁷ ChatGPT-4 has also passed the American Bar exam, scored in the ninetieth percentile on the SAT, and passed various business and medical exam tests.⁵⁸ ChatGPT has become the fastest-adopted technology in history – according to a report by UBS, ChatGPT reached one hundred million users within two months of release.⁵⁹

Another reason to integrate ChatGPT and similar applications into the legal industry is because the technology is already in tools like Microsoft Word – OpenAI exclusively licensed its ChatGPT-3 technology to Microsoft

50. Thamkul, *supra* note 29.

51. *Id.*

52. B.J. Copeland, *Alan Turing*, BRITANNICA, <https://www.britannica.com/biography/Alan-Turing> (last updated Aug. 24, 2024).

53. L. THORNE MCCARTY, *An experiment in artificial intelligence and legal reasoning*, Harv. L. Rev., 305 (1976).

54. *Id.*

55. *Proceedings of the 1st International Conference on Artificial Intelligence and Law*, ACM Digital Library (Dec. 1, 1987), <https://dl.acm.org/doi/proceedings/10.1145/41735>.

56. Celeste Biever, *CHATGPT broke the Turing test - the race is on for new ways to assess AI*, NATURE NEWS (July 25, 2023), <https://www.nature.com/articles/d41586-023-02361-7>.

57. *Id.*

58. Lakshmi Varanasi, *GPT-4 can ace the bar, but it only has a decent chance of passing the CFA exams. Here’s a list of difficult exams the ChatGPT and GPT-4 have passed*, BUSINESS INSIDER, <https://www.businessinsider.com/list-here-are-the-exams-chatgpt-has-passed-so-far-2023-1> (last updated Nov. 5, 2023).

59. Dan Milmo, *ChatGPT reaches 100 million users two months after launch*, THE GUARDIAN (Feb. 2, 2023), <https://www.theguardian.com/technology/2023/feb/02/chatgpt-100-million-users-open-ai-fastest-growing-app>.

in 2020 and 2021.⁶⁰ In March of 2023, Microsoft announced that it integrated ChatGPT technology into its Microsoft Office suite of products, including Microsoft Word and Microsoft Copilot, and the technology is already available in other applications like Grammarly.⁶¹

OpenAI's generative artificial intelligence models can create images, video and, audio in addition to written works.⁶² It created DALL-e, which can generate digital images from natural language commands.⁶³ OpenAI also created Sora, a generative artificial intelligence model that turns text into video clips.⁶⁴

These recent technologies bring substantial changes to the legal industry and will lead to more innovative ways of practicing law, which will help improve the way lawyers serve their clients. A 2023 Goldman Sachs report on AI stated that forty-four percent of legal tasks could be automated by AI.⁶⁵ These large language models can enhance productivity and increase efficiency by automating routine and repetitive tasks. By streamlining tedious work processes, lawyers have more time to focus on important work. AI tools can save time by sifting through large volumes of documents quickly. Riehl, vice president with vLex, said LLMs provide speed, accuracy, and comprehensive analysis that is better than today's methods.⁶⁶ "Lawyers work is entirely language," Riehl wrote in a white paper.⁶⁷

We read, we analyze, and we write. That aligns well with LLM's core competencies, which can understand text with post-graduate proficiency. And they can read text with superhuman speed. The same applies to writing – they do it faster than anyone can. Today's LLMs are good at all of those things. Tomorrow's LLMs will be even better. So LLMs' proficiency in language processing – ingesting,

60. Rudolph, *supra* note 24, at 344.

61. Jared Spataro, *Introducing Microsoft 365 Copilot – your copilot for work*, Microsoft (Mar. 16, 2023), <https://blogs.microsoft.com/blog/2023/03/16/introducing-microsoft-365-copilot-your-copilot-for-work/>.

62. Milmo, *supra* note 59.

63. *Id.*

64. *Creating Video From Text*, OPENAI, <https://openai.com/index/sora/> (last visited Sept. 5, 2024).

65. Rhys Dipshan, *Generative AI Could Automate Almost Half of All Legal Tasks*, *Goldman Sachs Estimates*, LAW (Mar. 29, 2023), <https://www.law.com/legaltechnews/2023/03/29/generative-ai-could-automate-almost-half-of-all-legal-tasks-goldman-sachs-estimates/>.

66. Damien Riehl, *LLMs for Legal Tasks: Best Practices*, vLEX (Feb. 7, 2024), <https://legalfuel.com/download/llms-for-legal-tasks-best-practices-guide-damien-riehl/?wpdmdl=10276&refresh=65c69abb0f5221707514555>.

67. *Id.*

analyzing, and outputting – offer significant potential for legal applications.⁶⁸

ChatGPT is still in the initial stages of the AI revolution. The world is in the “Artificial Narrow Intelligence” stage; however, by 2040, it will enter into “Artificial General Intelligence,” when AI systems are routinely equal to human intelligence.⁶⁹ And eventually the world might enter the “Artificial Super Intelligence” stage, where AI systems will have far greater intelligence than humans.⁷⁰

II. BENEFITS OF AI IN THE LEGAL INDUSTRY

ChatGPT and similar models should be embraced by lawyers because they will augment their abilities. Some benefits of using AI tools include “moving from solely information retrieval to an interactive, analytical process, these AI-powered tools considerably improve the tools’ scope and quality,” according to Riehl.⁷¹ Traditional tools permit finding potential arguments while LLM-based tools permit building arguments and strategy.⁷² Today, AI and LLMs are being used in legal research and e-discovery with AI as a search and discovery tool, according to a report by the British Institute of International and Comparative Law (“BIICL”), sponsored by Law Notion, a legal tech startup.⁷³

In addition, according to the report, AI is being used in document automation as a drafting and management tool.⁷⁴ AI is also being used in predictive legal analysis, as a legal review tool, and in case management as a scheduling and filing tool.⁷⁵ The report found it is also being used for legal advice and expertise automation with AI as a client communication and support tool and in information and marketing as a learning and marketing tool.⁷⁶ The BIICL report states, “Legal practitioners are increasingly utilizing various types of AI,” and data analytics tools and smart virtual assistants to enhance their work efficiency, streamline tasks, and improve client services.⁷⁷

68. *Id.*

69. Mieczyslaw L. Owoc et al., *Artificial Intelligence Technologies in Education: Benefits, Challenges and Strategies of Implementation*, RESEARCHGATE, 4 (2021).

70. *Id.*

71. Damien Riehl, *Whitepaper: LLMs for Legal Tasks*, VLEX (Feb. 7, 2024), <https://vlex.com/blog/whitepaper-generativeai>.

72. *Id.*

73. Irene Pietropaoli, *Use of Artificial Intelligence in Legal Practice*, BRITISH INSTITUTE OF INTERNATIONAL AND COMPARATIVE LAW (Oct. 16, 2023), <https://www.biicl.org/blog/69/use-of-artificial-intelligence-in-legal-practice>.

74. *Id.*

75. *Id.*

76. *Id.*

77. *Id.*

“These virtual assistants can vary in complexity and functionality, with some being standalone platforms and others integrated into existing legal software or practice management systems,” according to the BIICL report.⁷⁸

Clio’s 2023 Legal Trends report also found that AI could be used in law firms for billing, accounting, client-facing communications, document management, due diligence, legal research, e-discovery, litigation, and transaction analysis.⁷⁹ AI-driven legal analytics can enhance predictive technology by analyzing legal precedents and case details, these tools can predict case outcomes, which may help law firms refine litigation strategies, reduce the number of cases going to trial, and facilitate early settlements.⁸⁰

Legal AI systems can also enhance accuracy and consistency in legal work, said Noah Waisberg, an entrepreneur, former corporate lawyer, and co-author of *A.I. for Lawyers*. Tools like ChatGPT enable lawyers to do more meaningful work and escape tedious, time-consuming tasks, said Waisberg.⁸¹ Waisberg founded one of the early legal AI tech startups, Kira Systems, in 2011 in Toronto, Canada.⁸² Chicago-based Litera bought Kira Systems in 2021. Now, Waisberg is the CEO of Zuza, a contract analysis tool.⁸³ “What it is going to force and encourage is for knowledge workers to apply their knowledge more and more,” Waisberg said.⁸⁴ There is a lot of work at law firms that lawyers hate doing that is rote and not exciting. This tool can take on those tasks, he said. In addition, he said it could write a rough draft, and having that starting place is helpful.⁸⁵ “The inspiring opportunities around law are thinking about big problems that haven’t been solved and getting more people to access legal services,” Waisberg said.⁸⁶ “Law is a super exciting space right now because there are so many opportunities to do things better.”⁸⁷

According to Everlaw’s E-discovery Innovation Report, forty percent of legal professionals surveyed say they are already using generative AI tools or plan to do so in the future.⁸⁸ “Seventy-two” percent voiced concerns that the

78. Pietropaoli, *supra* note 73, at 2.

79. *Legal Trends for Solo and Small Law Firms*, CLIO (2024), <https://www.clio.com/resources/legal-trends/>.

80. Pinakin Ariwala, *The AI Frontier in Law: 12 Innovative AI Tools for Law Firms*, MARUTI TECHLABS, <https://marutitech.com/top-12-legal-ai-tools/> (last visited Sept. 5, 2024).

81. Laura Lorek, *How lawyers can take advantage of ChatGPT and other large language models disrupting the legal industry*, ABA JOURNAL (May 11, 2023), <https://www.abajournal.com/web/article/how-lawyers-can-take-advantage-of-ChatGPT-and-other-large-language-models-disrupting-the-legal-industry>.

82. *Id.*

83. *Id.*

84. Telephone Interview with Noah Waisberg, Entrepreneur (Jan. 27, 2023).

85. *Id.*

86. *Id.*

87. *Id.*

88. *EverLaw*, *supra* note 2, at 2.

legal industry is not ready for the impacts.⁸⁹ In the Everlaw report, more than half of respondents, 51 percent, either agreed or strongly agreed that generative AI's impacts on the profession would be positive, helping legal professionals deliver excellent client value and prioritizing higher-value work, 65 percent.⁹⁰ "Only 29 percent of respondents say that generative AI risks diminishing the value of legal work in the long term."⁹¹

III. DRAWBACKS OF AI AND CHATGPT IN THE LEGAL INDUSTRY

"If you open up the paper, you will no doubt come across some headlines that talk about a legal risk or a legal issue that this generative technology implicates," Thamkul with Anthropic said at SXSW.⁹² The drawbacks of using this technology in the legal field include ethical and regulatory concerns, accountability and liability issues, confidentiality and data privacy, and the potential for bias and discrimination. ChatGPT, other large language models, and artificial intelligence software are only as good as their data because if the data contains errors and bias, the results will too. ChatGPT has delivered results that are sexist, racist, and ableist, and it amplifies human bias.⁹³ Some have called for a pause on deploying ChatGPT and other large language models.⁹⁴ ChatGPT cannot correct itself and its built-in assumptions.⁹⁵ Therefore, it is up to technologists to clean up the datasets.⁹⁶ But that's easier said than done.

Another problem with using ChatGPT is the data can violate copyright law.⁹⁷ ChatGPT digests books, websites, social media, and other publicly available information that may contain copyrighted works.⁹⁸ Existing legal frameworks do not adequately address using copyrighted material within ChatGPT and similar systems.⁹⁹ In September 2023, over a dozen authors, including John Grisham and Elin Hilderbrand, sued OpenAI, claiming the company violated copyright law and used their books to create ChatGPT's database.¹⁰⁰

89. *Id.*

90. *Id.* at 21.

91. *Id.*

92. Thamkul, *supra* note 29.

93. Damien Patrick Williams, *Bias Optimizers: AI tools such as ChatGPT appear to magnify some of humanity's worst qualities, and fixing those tendencies will be no easy task*, AMERICAN SCIENTIST 111, 207 (2023).

94. *Id.* at 207.

95. *Id.* at 204.

96. *Id.* at 207.

97. Alexandra Alter & Elizabeth A. Harris, *Franzen, Grisham and Other Prominent Authors Sue OpenAI*, N.Y. TIMES (Sept. 20, 2023), <https://www.nytimes.com/2023/09/20/books/authors-openai-lawsuit-chatgpt-copyright.html>.

98. *Id.* at 2.

99. *Id.* at 3.

100. *Id.* at 1.

The New York Times sued OpenAI, creator of ChatGPT, and Microsoft in December of 2023 for copyright infringement, claiming the technology company used New York Times articles to train its large language model without authorization.¹⁰¹ The New York Times filed the lawsuit in the Federal District Court in Manhattan and “contends that millions of articles published by the Times were used to train automated chatbots that now compete with the news outlet as a source of reliable information,” according to a New York Times article.¹⁰²

According to a decision from the U.S. Copyright Office on February 21, 2023:

AI-generated works cannot be a subject of copyright. Furthermore, they rescinded the first original registration of a work generated with the use of Midjourney (Kristina Kashtanova’s comic book) and recognized as an object of copyrights law only its text and ‘selection, coordination, and arrangement of text created by the author’, but not the generated images.¹⁰³

In addition, it is also challenging to trust ChatGPT because of a phenomenon called hallucinations in which ChatGPT makes up information.¹⁰⁴ ChatGPT has fabricated authors, studies, and research papers and provided false and misleading information.¹⁰⁵ The fabricated information from ChatGPT can have real-world ramifications, as one New York lawyer learned this year.¹⁰⁶ The lawyer used ChatGPT to prepare a legal brief submitted on a case before the Federal District Court; he cited several cases that ChatGPT had given him.¹⁰⁷ However, those cases did not exist.¹⁰⁸ ChatGPT made them up.¹⁰⁹ The lawyer received sanctions from the court and a \$5,000 fine.¹¹⁰ “There are ways this technology should not be used or used with a human in the loop,” Thamkul with Anthropic said at SXSW.¹¹¹

101. Michael M. Grynbaum & Ryan Mac, *The Times Sues OpenAI and Microsoft Over A.I. Use of Copyrighted Work*, N. Y. TIMES (Dec. 27, 2023), <https://www.nytimes.com/2023/12/27/business/media/new-york-times-open-ai-microsoft-lawsuit.html>.

102. *Id.* at 1.

103. Natalia I. Shumakova et al., *Towards Legal Regulations of Generative AI in the Creative*, OUCI, <https://ouci.dntb.gov.ua/en/works/4LR1MxV9/> (last visited Aug. 24, 2024).

104. Emsley, *supra* note 47.

105. *Id.* at 1.

106. Benjamin Weiser & Nate Schweber, *The ChatGPT Lawyer Explains Himself*, N.Y. TIMES (June 8, 2023), <https://www.nytimes.com/2023/06/08/nyregion/lawyer-chatgpt-sanctions.html>.

107. *Id.*

108. *Id.*

109. *Id.*

110. Sara Merken, *New York Lawyers Sanctioned for Using Fake ChatGPT Cases in Legal Brief*, REUTERS (June 26, 2023), <https://www.reuters.com/legal/new-york-lawyers-sanctioned-using-fake-chatgpt-cases-legal-brief-2023-06-22/>.

111. Thamkul, *supra* note 29.

While ChatGPT and other large language models powered by AI can make lawyers more efficient, the danger is trusting platforms like ChatGPT more than human expertise, said Renee McDonald Hutchins, dean of the University of Maryland's Law School.¹¹² She said the technology is beneficial, but it is not a replacement.¹¹³ That is because the current system can fabricate information.¹¹⁴ For example, when Hutchins tested ChatGPT with a search, she said the system made up a case that did not exist.¹¹⁵ "If you are using it to supplement, fine; if you are using it to replace, problematic," Hutchins said.¹¹⁶ However, it can be a valuable tool for a first rough draft with verification by a lawyer and significant additional research, she said.¹¹⁷

In a 2024 study by Stanford RegLab and the Institute for Human-Centered AI, researchers found that "legal hallucinations are pervasive and disturbing: hallucination rates range from 69% to 88% in response to specific legal queries for state-of-the-art language models."¹¹⁸ According to the Stanford report, these models often lack self-awareness about their errors and tend to reinforce incorrect legal assumptions and beliefs. These findings raise significant concerns about the reliability of LLMs in legal contexts, underscoring the importance of careful, supervised integration of these AI technologies into legal practice.¹¹⁹ Another drawback is that ChatGPT needs to list where it gets its information. It does not cite sources and quotations.¹²⁰ Lastly, ChatGPT-4's information has only been updated to April 2024, so it does not include information on current events.¹²¹

IV. AI STARTUPS DISRUPTING THE LEGAL INDUSTRY

Several companies are using conversational generative AI in the legal industry.¹²² These are a few of the notable ones. First, LegalMation, based in Los Angeles, uses artificial intelligence to help lawyers automate routine

112. Telephone Interview with Renee McDonald Hutchins, Dean, University of Maryland Law School (Feb. 23, 2023).

113. *Id.*

114. *Id.*

115. *Id.*

116. *Id.*

117. Telephone Interview with Renee McDonald Hutchins, *supra* note 112.

118. Matthew Dahl et al., *Hallucinating Law: Legal Mistakes with Large Language Models Are Pervasive*, STANFORD LAW SCHOOL (Jan. 11, 2024), <https://law.stanford.edu/2024/01/11/hallucinating-law-legal-mistakes-with-large-language-models-are-pervasive/>.

119. *Id.*

120. Rudolph, *supra* note 24, at 355.

121. *GPT-4 API General Availability and Deprecation of Older Models in the Completions API*, OPENAI, <https://openai.com/index/gpt-4-api-general-availability/> (last updated Apr. 24, 2024).

122. See e.g., LEGALMATION, <https://www.legalmation.com/> (last visited Aug. 25, 2024); KIRA SYSTEMS, <https://kirasystems.com/solutions/law-firms/> (last visited Aug. 25, 2024); LAWGEEX, <https://www.lawgeex.com/> (last visited Aug. 25, 2024).

legal tasks such as drafting legal documents, analyzing contracts, and identifying key provisions.¹²³ In October of 2023, the company raised a \$15 million Series A round of funding led by Aquiline Capital Partners L.P. and Aquiline Technology Growth with continued participation from Motley Fool Ventures, REV Venture Partners, Key Venture Partners, Quick Set LLC, and Brentwood Investments.¹²⁴ The company's proprietary solutions enable legal professionals to respond to lawsuits, discovery requests, and related workflows using the client's historical response data.¹²⁵ In 2023, LegalMotion customers have used the platform to answer more than 1.1 million discovery requests in more than thirty states and federal jurisdictions.¹²⁶

Second, Kira Systems, based in Toronto, Canada, provides machine learning software that helps lawyers review and analyze contracts quickly and accurately.¹²⁷ In 2021, Litera, based in Chicago, bought Kira Systems.¹²⁸ As part of the transaction, it spun off a new company named Zuva, which commercializes its AI technology in new products for the corporate market.¹²⁹

Third, LawGeex, based in Tel Aviv, Israel, with offices in New York, uses AI to review contracts and flag any potential legal issues or anomalies.¹³⁰ It also provides users with a report outlining its findings and suggestions.¹³¹ It also has a new product, Superlegal, that lets people create contracts at scale and get contract reviews.¹³² LawGeex has raised \$45 million to date.¹³³

Fourth, Luminance, based in Cambridge, U.K., with offices in New York, uses AI to help lawyers review and analyze contracts, flagging any potential issues or inconsistencies.¹³⁴ It is built on a proprietary large language model.¹³⁵

123. LEGAL MATION, *supra* note 122.

124. *LegalMation Announces \$15M In New Funding to Drive its Commitment to Becoming the Leading AI-Powered Litigation Support Platform Across the LegalTech and InsurTech Ecosystems*, AQUILINE (Oct. 25, 2023), <https://www.aquiline.com/news/legalmation-announces-usd15m-in-new-funding-to-drive-its-commitment-to> [hereinafter *\$15M in New Funding*].

125. LEGAL MATION, *supra* note 122.

126. *\$15M in New Funding*, *supra* note 124.

127. KIRA SYSTEMS, *supra* note 122.

128. *Litera Agrees to Acquire Leading Machine Learning Contract Analysis Company*, KIRA SYSTEMS (Aug. 10, 2021), <https://kirasystems.com/company-announcements/litera-acquires-kira-systems/>.

129. *Contracts AI that's dead simple to use*, ZUVA, <https://zuva.ai/> (last visited Aug. 25, 2024).

130. LAWGEEX, *supra* note 122.

131. *Id.*

132. SUPERLEGAL, <https://www.superlegal.ai/> (last visited Aug. 25, 2024).

133. Adi Pick, *Automated Legal Contract Startup LawGeex Raises \$20 Million*, CTECH (Dec. 5, 2020), <https://www.calcalistech.com/ctech/articles/0,7340,L-3821531,00.html>.

134. LUMINANCE, <https://www.luminance.com/> (last visited Aug. 25, 2024).

135. *Id.*

Fifth, Harvey AI, based in San Francisco, provides AI-powered solutions to assist lawyers with document analysis and contract review.¹³⁶ Harvey AI uses natural language processing and machine learning to identify potential legal risks, inconsistencies, and opportunities for improvement in legal documents.¹³⁷ The company aims to help legal professionals save time and reduce the risks of errors by automating routine tasks.¹³⁸

Sixth, Logikcull, based in San Francisco, is a cloud-based eDiscovery platform that uses AI and machine learning to help legal professionals manage the discovery process more efficiently.¹³⁹ It provides an all-in-one solution for document management, search, review, and production, allowing users to process and analyze large volumes of data quickly and accurately.¹⁴⁰

Seventh, DoNotPay, based in Midvale, Utah, provides an AI-powered chatbot that helps users with various legal issues.¹⁴¹ The chatbot, available through a mobile app and website, uses natural language processing and machine learning to provide users with personalized legal advice and assistance.¹⁴²

Eighth, Casetext, based in San Francisco, has created an AI-assisted robot, Co-Counsel, to do document review, deposition preparation, contract analysis, timeline creation, and more.¹⁴³ Casetext is powered by GPT-4.¹⁴⁴ GPT-4 has passed both the multiple-choice and written portions of the Uniform Bar Exam. In January 2023, Thomson Reuters acquired Casetext for \$650 million. It announced it had integrated the company's AI technology into Westlaw late last year.

Ninth, Legal Robot, based in Vallejo, California, is an automated legal agent that uses several types of machine learning to construct abstract representations of the language in a legal document.¹⁴⁵ It allows the agent to examine large sets of legal documents and use statistical techniques to identify potential issues in them.

Tenth, ContractPodAI, based in London with offices in New York, has created the Leah Copilot to create first drafts of documents, provide legal guidance through an AI-powered help desk, and provide deep analysis and insights on all kinds of legal documents, including contracts, policies, and

136. HARVEY AI, <https://www.harvey.ai/products> (last visited Aug. 25, 2024).

137. *Id.*

138. *Id.*

139. LOGIKCULL, <https://www.logikcull.com/> (last visited Aug. 25, 2024).

140. *Id.*

141. DONOTPAY, <https://donotpay.com/> (last visited Aug. 25, 2024).

142. *Id.*

143. CASETEXT, <https://casetext.com/> (last visited Aug. 25, 2024).

144. *Id.*

145. LEGAL ROBOT, <https://legalrobot.com/> (last visited Aug. 25, 2024).

mergers and acquisitions.¹⁴⁶ The platform is built in partnership with technologies such as IBM Watson, Microsoft, DocuSign, and Salesforce.¹⁴⁷

Eleventh, Paxton AI, based in Portland, Oregon, is a legal assistant powered by generative AI that helps lawyers prepare documents and expedites and simplifies legal and compliance research.¹⁴⁸ The company raised a \$6 million seed round in September led by WVV Capital with participation from Kyber Knight and 25Madison. Additional investors include Andrew Ng's AI Fund, Voyager Capital, Gaingels, Plug and Play Technology Center, Identity Ventures, and Dick Parson, the former chairman of Citi.

Twelfth, Legalyze.AI, based in Dallas, has created an AI-powered legal assistant that provides legal case research and document analysis.¹⁴⁹ It can create summaries, timelines, and procedural documents quickly and efficiently.¹⁵⁰

Thirteenth, Deep Judge, based in Zurich, Switzerland, launched Knowledge Search, which enables legal professionals to search their entire document management systems using natural language.¹⁵¹ Its Knowledge Search platform ensures no information is shared with external parties, respecting existing security protocols whether deployed on-premises or in a secure cloud environment.¹⁵²

Fourteenth, vLex, based in Barcelona, Spain, created Vincent AI, which is designed to perform advanced vector-embedding searches across many jurisdictions.¹⁵³ According to the company, "It can answer questions across various legal systems, giving users precise legal information, irrespective of geographics and language."¹⁵⁴

Fifteenth, Servient.com, based in Houston, Texas, combines artificial intelligence and cloud computing to drive eDiscovery, compliance, and records management solutions.¹⁵⁵

Sixteenth, VisaLaw.AI, based in Memphis, Tennessee, is an AI software platform that empowers immigration lawyers in everyday work.¹⁵⁶ The platform offers tools for legal research, summarization, drafting, and client engagement.¹⁵⁷

146. CONTRACTPODAI, <https://contractpodai.com/> (last visited Aug. 25, 2024).

147. *Id.*

148. PAXTON LEGAL AI, <https://www.paxton.ai/> (last visited Aug. 25, 2024).

149. LEGALYZE.AI, <https://www.legalyze.ai/> (last visited Aug. 25, 2024).

150. *Id.*

151. DEEP JUDGE, <https://www.deepjudge.ai/> (last visited Aug. 25, 2024).

152. *Id.*

153. *Your ultimate legal AI platform, supra* note 5.

154. *Id.*

155. SERVIENT.COM, <http://www.servient.com/> (last visited Aug. 25, 2024).

156. VISALAW.AI, <https://www.visalaw.ai/> (last visited Aug. 25, 2024).

157. *Id.*

Seventeenth, Law Notion, based in London, is a legal tech company that uses AI to automatically analyze case law, regulation, and contracts to provide actionable insights.¹⁵⁸

Eighteenth, AI.Law, based in Dublin, Ohio, is a startup that allows lawyers to draft legal documents that are accurate, comprehensive, and safe to use.¹⁵⁹ It saves hours of time, improves drafting efficiency, and allows lawyers to do more work in less time.¹⁶⁰

V. AI REGULATORY AND COMPLIANCE ISSUES

With a lack of governmental regulations in the U.S., some companies have begun to establish regulatory guidelines for their operations.¹⁶¹ The fear is that bad actors could use the LLMs to harm. So Anthropic, a public benefit corporation that developed Claude.AI, wants to guard against that, Thamkul, a lawyer with Anthropic, said during a presentation at SXSW.¹⁶² Anthropic developed a method for training a harmless AI assistant through self-improvement without any human labels identifying harmful outputs. The only human oversight is provided through a list of rules and principles, and so we refer to the method as “Constitutional A.I.”¹⁶³

One of the top regulatory issues concerning generative AI is privacy and security, Thamkul with Anthropic said at SXSW.¹⁶⁴ On the development side of LLMs is the collection and use of personal information that is publicly available on the web to develop these models.¹⁶⁵ This is a big question regarding how the European Union’s General Data Protection Regulation, known as GDPR applies to this use case. Thamkul said that regulators and policymakers in Europe and the United States are trying to grapple with the right balance in using publicly available data in this new technology context.¹⁶⁶ On the deployment side of LLMs, law firms and lawyers should be careful when using public LLMs like ChatGPT. Some models use customer or end-user data to train the LLMs, which could be problematic, especially for lawyers.¹⁶⁷

158. LAW NOTION, <https://lawnotion.co.uk/> (last visited Aug. 25, 2024).

159. AI.LAW, <https://www.ai.law/> (last visited Aug. 25, 2024).

160. *Id.*

161. Shumakova et al., *supra* note 103, at 898.

162. Thamkul, *supra* note 29.

163. *Collective constitutional AI: Aligning a Language Model with Public Input*, ANTHROPIC (Oct. 17, 2023), <https://www.anthropic.com/news/collective-constitutional-ai-aligning-a-language-model-with-public-input>.

164. Thamkul, *supra* note 29.

165. *Id.*

166. *Id.*

167. *Id.*

With conversational AI, lawyers must also consider the ethical obligations of attorney-client privilege.¹⁶⁸ ChatGPT holds onto all the queries it receives, said Hutchins, Dean of the University of Maryland Law School.¹⁶⁹ Ultimately, she said that law firms would probably build their in-house systems with proprietary data centers.¹⁷⁰

The European Union (“E.U.”) and the United Kingdom (“U.K.”) have led the regulation of generative AI companies.¹⁷¹ In May of 2023, the E.U. issued the Artificial Intelligence Act.¹⁷² Under the Act, the E.U. will set up an AI office to oversee generative AI models and help establish standards.¹⁷³ Noncompliance penalties can be as much as four percent of the global annual turnover or twenty million Euros (whichever is highest) per use case.¹⁷⁴ The U.K. issued an AI regulation white paper in March of 2023, “setting out initial proposals to develop a pro-innovation regulatory framework for AI.”¹⁷⁵

According to the U.K. White Paper, “Regulation can increase innovation by giving businesses the incentive to solve important problems while addressing the risk of harm to citizens.”¹⁷⁶ Product safety legislation has increased innovation towards safer products and services.¹⁷⁷ In the case of AI, a context-based, proportionate approach to regulation will help strengthen public trust and increase AI adoption.

In the U.S., President Joe Biden issued the largest executive order in the history of the office, according to Anthropic.¹⁷⁸ Issued on October 31, 2023, the executive order contains more than 100 directives to federal agencies.¹⁷⁹ Many agencies seek inputs from AI industry stakeholders on issues ranging from AI governance to benchmarks and evaluation, immigration, and open-source technologies.¹⁸⁰ It also contains guidelines for testing and evaluating AI systems.¹⁸¹ Under the executive order, the National Institute of Standards

168. Telephone Interview with Renee McDonald Hutchins, *supra* note 112.

169. *Id.*

170. *Id.*

171. See generally *A Pro-Innovation Approach to AI Regulation*, GOV.UK, <https://www.gov.uk/government/publications/ai-regulation-a-pro-innovation-approach/white-paper> (last updated Aug. 3, 2023).

172. *Id.*

173. *Id.*

174. *GDPR Fines/Penalties*, INTERSOFT CONSULTING, <https://gdpr-info.eu/issues/fines-penalties/> (last visited Sept. 5, 2024).

175. *A Pro-Innovation Approach to AI Regulation*, *supra* note 171.

176. *Id.* at Section 3.1.

177. *Id.*

178. See generally Joe Biden, *Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence*, THE WHITE HOUSE (Oct. 30, 2023), <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/10/30/executive-order-on-the-safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence/>.

179. *Id.*

180. *Id.* at 20, 39, 46.

181. *Id.* at 2.

and Technology, known as NIST, will publish safety standards to promote the development of trustworthy AI systems.¹⁸²

Already, some states have begun to pass AI laws.¹⁸³ Chief among them is Tennessee, which in March signed into law the Ensuring Likeness Voice and Image Security, known as the ELVIS Act, which builds upon existing state law to protect artists from authorized use of someone’s likeness to add “voice” to the realm.¹⁸⁴

Lambert with Jackson Walker Law Firm said AI laws will most likely be tackled on a state-by-state basis for now.¹⁸⁵ Since it’s an election year and Congress has a difficult time getting legislation passed, the federal AI laws will most likely lag the state ones, he said.¹⁸⁶ States are already doing this, with a big focus on deep fakes and election security, Lambert said.¹⁸⁷

In February, the Federal Communications Commission issued a cease-and-desist letter against Texas-based Lingo Telecom, which allegedly originated robocall traffic using AI-generated voice cloning to spread misinformation to voters before New Hampshire’s primary election.¹⁸⁸ Lingo allegedly spoofed President Joe Biden’s voice and told voters to stay home.¹⁸⁹ It is one of the first attempts to use AI to interfere in an election.¹⁹⁰ “While Tennessee’s preexisting law protected name, image, and likeness, it did not specifically address new, personalized generative AI cloning models and services that enable human impersonation and allow users to make unauthorized fake works in the image and voice of others,” according to a press release from Tennessee Governor Bill Lee.¹⁹¹

AI could also be considered the new Silicon snake oil. So many companies are now touting their AI capabilities even if they don’t exist.¹⁹² In the U.S., other regulatory bodies like the Securities and Exchange Commission are acting against companies falsely promoting AI

182. *Id.* at 48.

183. See generally *Photos: Gov. Lee Signs Elvis Act into Law*, TN OFFICE OF THE GOVERNOR (Mar. 21, 2024), <https://www.tn.gov/governor/news/2024/3/21/photos—gov—lee-signs-elvis-act-into-law.html> [hereinafter *Elvis Act*].

184. *Id.*

185. Telephone Interview with Greg Lambert, *supra* note 41.

186. *Id.*

187. *Id.*

188. Holly Ramer & Ali Swenson, *Authorities Target Two Texas Firms in Probe of AI-generated Robocalls Before New Hampshire’s Primary*, AP NEWS (Feb. 7, 2024), <https://apnews.com/article/biden-robocalls-artificial-intelligence-new-hampshire-texas-a8665277d43d05380d2c7594edf27617>.

189. *Id.*

190. *Id.* at 1.

191. *Elvis Act*, *supra* note 183.

192. David Blass et al., *SEC Fines Two Investment Advisers for “AI Washing”*, THE HARVARD LAW SCHOOL FORUM ON CORPORATE GOVERNANCE (Apr. 9, 2024), <https://corpgov.law.harvard.edu/2024/04/09/sec-fines-two-investment-advisers-for-ai-washing/>.

abilities.¹⁹³ According to the Harvard Law School Forum this year, the Securities and Exchange Commission fined Delphia and Global Predictions, two investment firms that exaggerated their AI abilities.¹⁹⁴ The firms paid a fine of \$400,000 in penalties.¹⁹⁵

VI. CONCLUSION

The aftermath of the ChatGPT tsunami continues. And even as lawyers and law firms work to deal with this disruption, new disruptions are brewing and could strike soon. Generative artificial intelligence is not a passing technology fad; it is a sea-change technology, much like how the Internet changed how people communicate and work. Generative AI has many benefits in the legal industry, including increased efficiency, greater accuracy, innovations, and more.¹⁹⁶ Generative AI has drawbacks, including hallucinations, biased data, privacy concerns, ethics, copyright issues, and regulatory issues.¹⁹⁷

Going forward, careful consideration is needed when deploying the technology, and regulation is required to govern its use. Lastly, there must be continuous dialog and collaboration among tech developers, legal professionals, and policymakers. Ultimately, automation and innovation have enhanced life throughout history, said Waisberg, co-author of the book *AI for Lawyers*.¹⁹⁸ The Industrial Revolution led people to live longer and better, he said, and this technology should ideally do the same.¹⁹⁹

193. *Id.*

194. *Id.*

195. *Id.*

196. *EverLaw*, *supra* note 2, at 4.

197. *See Williams*, *supra* note 93, at 204; *Alter & Harris*, *supra* note 97; *Emsley*, *supra* note 47.

198. Telephone Interview with Noah Waisberg, *supra* note 84.

199. *Id.*