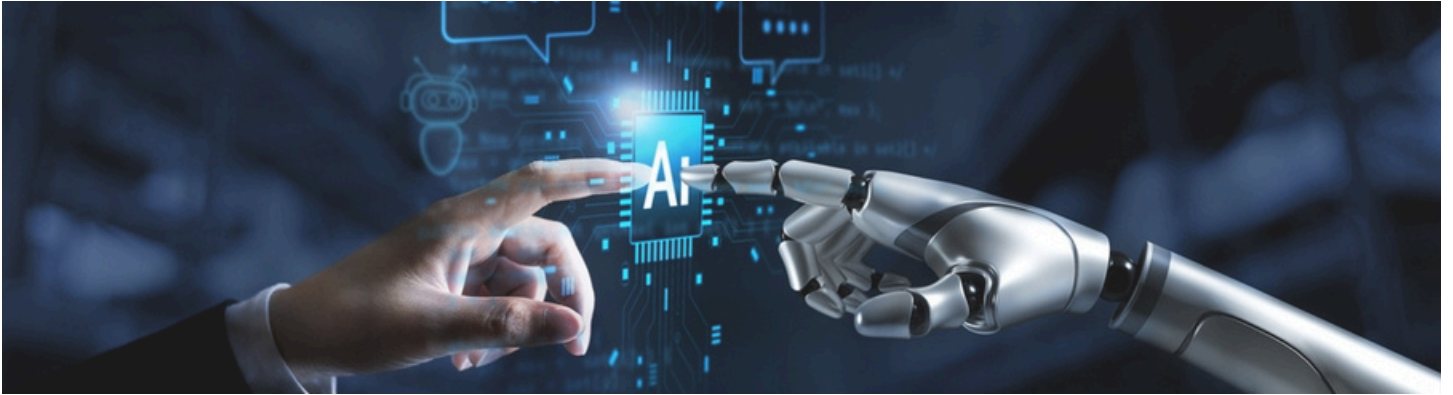


Corporate Insights



AI and Legal Practice

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The legal profession is often depicted either as an unapproachable, stiff and otherwise rigid collection of humanoids or as disheveled, rambling reciters of riddles, when in fact it is a dynamic, vibrant, and engaged kaleidoscope of tech savvy practitioners. As an industry forever anchored in selling time packaged with accumulated knowledge, establishing and securing enduring competitive advantages and leverage is critical for survival in an otherwise low capital service business. Legal practitioners are natural consumers of technology, as it can provide leverage and comparative advantages. Technology acquisition and use in the legal profession has followed the broader economic trend from machines to software; spend on fax machines, copiers, blackberry servers has given way to eDiscovery software, cloud practice management software and document automation.

Artificial Intelligence and the emergence of ever more sophisticated software, including generative artificial intelligence, might represent the next source of leverage and competitive advantage for the legal profession, a potentially empowering and disruptive force for practitioners. According to Wikipedia, Artificial Intelligence is generally defined as intelligence exhibited by machines and includes software that enables machines to

perceive their environment and use learning and intelligence to take actions that maximize their chances of achieving defined goals. Today we are most familiar with tools like ChatGPT, which is a generative AI – artificial intelligence capable of generating text, images, videos, or other data using generative models, often in response to prompts. In its most dystopian application in the legal profession, instead of hiring a combination of associates and support staff, a lawyer would have software that is trained on the lawyer's body of work ready to receive prompts to prepare initial drafts of a memo, an agreement, and a letter for the lawyer to review, preferably after a 1-hour lunch following their afternoon workout. What more if their AI bot took its prompts based on the listening to all the lawyer's calls and reading all their correspondence?

It hasn't taken long for issues to emerge with generative AI, whether in general use or in the legal profession. Alongside the usual controversy about new tools and practices and how they relate to the practice of law, specific technological shortcomings and risks have come to the fore, including hallucinations. Current generative AI tools have been found to produce authoritative outputs with fabricated facts and/or sources, which are referred to as hallucinations. These hallucinations can be as



simple as making connection between two fictional or real persons, making up a historical event, or in the case of one lawyer, citing nonexistent cases as authorities for a particular argument in a brief prepared in part with the use of AI generated content. The lawyer's own carelessness and breach of professional responsibility aside, the matter quickly brought forward the debate of what constitutes practicing law when considering AI, and how does that definition and/or understanding evolve as the capacity and capability of tools evolves and improves.

For now, given the general limitations and shortcomings of generative AI, including the risks like hallucinations and as well the need for the technology to be trained on data such as case law, treatises and other legal resources that are primarily private copyrighted materials, we likely remain far from the all-hours AI Bot that can double our productivity. However, it is likely there is significant opportunity to further accelerate automation of some more basic tasks that require less intelligence and avoid traditional lawyering activities such as making representations on authoritative matters. The potential to give natural language instructions that are then translated and transformed into sophisticated actions and software programs could still yet deliver large benefits and leverage to the practice of law.

The difference between a good and an excellent M&A lawyer is, in my view, whether you are also a great project manager. A great project manager can effectively and efficiently break down a large deliverable, in the M&A context it's a closed transaction, into individual tasks that are well sequenced and resourced. Engineers and construction teams have GNATT charts to support and coordinate their projects, transactional lawyers have checklists. A significant amount of time is spent preparing, updating and managing checklists, which tends to mainly be delegated to junior associate. The basic presentation of checklists belies their value as anyone who has



Hazvinei Mugwagwa sharing his thoughts on the practical uses, benefits, risks and challenges of using AI in the legal space during the Basswood Counsel official launch and 'AI Integration in Legal Practice' webinar.

experienced poor project management will attest, you observe and feel the lack of coordination and preparedness.

In a hands-on and tailored practice like mine, an AI tool that can take up the front-end work of checklists by absorbing vast amounts of the project data and then creating or updating checklists, managing cross references and dependencies, and tracking instruments and deliverables, would represent immense leverage. It transforms my transaction capacity and provides an opportunity to increase the time devoted to client counseling and technical work without necessarily increasing the cost to clients. In addition, clients potentially experience a more real time and collaborative legal services experience, with a more available legal partner. That is an exciting prospect for me as a practitioner, being able to better serve my client through engagement and availability while improving efficiency and reliability of my practice. I am also cautious as AI is still developing as a general tool let alone for use with a legal practice, and as well the areas it is presumed to be deployed are the very ones where junior lawyers learn and hone their skills. As it turns out, the practice of law and legal practitioners are right there with everyone else grappling with new technology, its adoption and implications for the future.

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