

NOTES FOR PRACTITIONERS

Cognitive Counsel: Navigating the Integration of Artificial Intelligence and Emerging Regulations as a Corporate Attorney

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Abstract

This article explores the integration of artificial intelligence (AI) into the legal profession, with a focus on the role of corporate counsel. While AI offers significant advantages in efficiency, accuracy, and cost reduction, it also presents substantial ethical and legal risks, including bias, data privacy concerns, lack of transparency, and liability arising from inaccurate outputs.

The paper analyses these challenges in light of attorneys' professional duties and examines the current regulatory landscape, contrasting the fragmented U.S. approach with more comprehensive international frameworks such as the European Union's AI Act. It argues that corporate counsel play a critical role in navigating these evolving legal requirements.

To address these challenges, the article proposes practical strategies for responsible AI implementation, including internal policy development, employee training, and ongoing compliance monitoring. Ultimately, while AI will not replace lawyers, it will significantly reshape legal practice, requiring proactive and informed engagement by legal professionals.

Keywords: Artificial Intelligence (AI); Legal Regulation; Corporate Counsel; AI Regulation; Legal Ethics; Data Protection; Generative AI; Compliance; EU AI Act

A Introduction

In recent years, the notion that “AI will replace lawyers” has become a circulating speculation.¹ Some were quick to agree with this statement, warning of mass unemployment in the legal profession.² Others, more sceptical, are not so convinced

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1 Cook, Jodie; *Will AI Replace Lawyers? Entrepreneurs Share Their Predictions*, Forbes (2024) <https://www.forbes.com/sites/jodiecook/2024/02/15/will-ai-replace-lawyers-entrepreneurs-share-their-predictions/>.

2 Brochner, Niels Martin; *Will AI Replace Lawyers?* Forbes (2023) <https://www.forbes.com/councils/forbestechcouncil/2023/05/25/will-ai-replace-lawyers/>.

of machines winning when competing with a “well-trained lawyer”.³ While the divide may still be large, it is clear that artificial intelligence (AI) is the next technical evolution for the legal profession to adapt to.⁴ The unprecedented speed at which AI-powered tools can process data opens new doors to efficiency and convenience in the workplace and research.⁵ However, this vast potential is met with a number of ethical and professional challenges that will have to be addressed in order to harness this technology for its benefit.⁶

A compelling illustration of the split between desired efficiency and ethical dilemma was given in the case of *Mata v. Avianca, Inc.*, where an attorney submitted a legal brief containing fictitious case citations generated by ChatGPT.⁷ The court condemned the attorney’s failure to verify the accuracy of the AI-produced information in their filing.⁸ The opinion acknowledges that utilizing a “reliable artificial intelligence tool” is not inherently wrong.⁹ Yet it also reminds attorneys of their duty to uphold the integrity of judicial proceedings and the legal profession.¹⁰

This article contends that while embracing the use of AI can optimize workflows and improve productivity, it is important for the corporate attorney to understand and adapt to emerging AI regulations in order to ensure compliance with legal and ethical boundaries. Section 2 will introduce the concept of AI and the opportunities it brings to the legal profession. Section 3 will address the ethical and legal risks that must be considered when corporate counsel or their employer decides to integrate AI applications into their operations. Section 4 will establish a better understanding of the legal framework currently in place on a national and international platform. Finally, Section 5 discusses ways in which the corporate attorney can proactively contribute to the efficient integration of AI applications within their organization and safeguard their employers from potential legal repercussions.

B Overview of AI in the Legal Profession

I What Is AI?

AI is a technology that is developed to allow computers or other machines to mimic human capabilities such as learning, problem-solving, creativity or decision-making.¹¹ Three key concepts utilizing this emerging technology are (1)

³ *Id.*

⁴ Thomson Reuters; *Ready or Not: Artificial Intelligence and Corporate Legal Departments* (2025) <https://legal.thomsonreuters.com/en/insights/articles/artificial-intelligence-ai-report>.

⁵ Sack, Jörg-Rüdiger; *AI – “Immense Potential and Unprecedented Challenges”*, Research Information (2025) <https://www.researchinformation.info/analysis-opinion/ai-immense-potential-and-unprecedented-challenges/>.

⁶ Stewart, Kirk; *The Ethical Dilemmas of AI*, USC Annenberg (2024) <https://annenberg.usc.edu/research/center-public-relations/usc-annenberg-relevance-report/ethical-dilemmas-ai>.

⁷ *Mata v. Avianca, Inc.*, No. 22-cv-1461 (PKC), 2023 U.S. Dist. LEXIS 108263 (S.D.N.Y. 22 June 2023).

⁸ *Id.*, at p. 448.

⁹ *Id.*

¹⁰ *Id.*, at p. 449.

¹¹ Stryker, Kavlakoglu; *What Is Artificial Intelligence (AI)?* IBM (2024) <https://www.ibm.com/think/topics/artificial-intelligence>.

machine learning, (2) neural networks and (3) generative AI.¹² Machine learning is an application of AI that speaks to a system's ability to identify patterns, learn from data and uncover connections through the use of algorithms.¹³ Its ability to process a large amount of data in a very short time, often in real time, makes it the perfect application for self-driving cars, fraud prevention or detection and online recommendation offers.¹⁴ Neural networks are modelled after the human brain and are ideally suited for resolving complex, real-life problems.¹⁵ It does so by drawing inferences and making generalizations based on predictions and input-output information.¹⁶ Neural networks can aid in the improvement of decision-making in areas like financial predictions, voice recognition and process optimization.¹⁷ While both machine learning and neural network applications have been around for decades, generative AI saw its "boom" in more recent history.¹⁸ This form of AI can generate content based on prompts, and results include words, sounds and images.¹⁹ Compared to machine learning and neural networks, this technology goes beyond predicting and instead generates new data.²⁰ A key component of generative AI is large language models (LLMs) focused on text generation.²¹ These models are trained on large amounts of data and, while not understanding the words, can act like computerized brains generating human-like output.²² Most people may have experienced generative AI through the use of a chatbot such as ChatGPT or by communicating with a virtual assistant for customer service purposes.²³ However, the applications of generative AI span much wider and can be found in uses such as supply chain optimization, improvement of emergency response services or testing of pricing models for insurance or banking purposes.²⁴

II AI and the Legal Profession

As has been shown, the reach of AI is ever-expanding and will undoubtedly continue to impact the legal profession. As the judge in *Mata* noted, the use of reliable AI

12 Wanderer, Nancy; *Artificial Intelligence: What Is It & Who Needs It Anyway?* 38 *Maine Bar Journal* 122 (2023).

13 SAS; *Machine Learning* (2025) https://www.sas.com/en_us/insights/analytics/machine-learning.html.

14 *Id.*

15 *Id.*

16 *Id.*

17 *Id.*

18 Wanderer, Nancy; *Artificial Intelligence: What Is It & Who Needs It Anyway?* 38 *Maine Bar Journal* 122 (2023).

19 *Id.*

20 SAS; *Generative AI* (2025) https://www.sas.com/en_us/insights/analytics/generative-ai.html.

21 Stryker, Kavlakoglu; *What Is AI?* IBM (2024) <https://www.ibm.com/think/topics/artificial-intelligence>.

22 Wanderer, Nancy; *Artificial Intelligence: What Is It & Who Needs It Anyway?* 38 *Maine Bar Journal* 122 (2023).

23 Stryker, Kavlakoglu; *What Is AI?* IBM (2024) <https://www.ibm.com/think/topics/artificial-intelligence>.

24 SAS; *Generative AI* (2025) https://www.sas.com/en_us/insights/analytics/generative-ai.html.

tools is not inherently wrong.²⁵ In fact, properly utilizing AI tools can be highly beneficial to lawyers in several ways.²⁶

Firstly, using AI applications could save time and improve efficiency. During any given day, lawyers can encounter a vast amount of data, which can be overwhelming, tedious and time-consuming to work through.²⁷ AI can analyse this large amount of information much faster than humans.²⁸ An example of this time-saving is illustrated in JPMorgan's use of the AI-powered program "COIN", which is used to interpret commercial loan agreements.²⁹ What used to take 360,000 lawyer-hours is now accomplished in seconds.³⁰ Furthermore, AI is much more proficient in streamlining repetitive tasks and ensuring improved accuracy of documents.³¹ This accuracy may show itself in properly defined terms and consistent use of them throughout a document or in identifying missing clauses that might be critical to the drafting process.³² Additionally, when conducting legal research, AI can be useful in finding cases with similar issues or fact patterns almost instantaneously, whereas traditional research methods may take multiple hours.³³ In fact, some companies or law firms may already deploy programs such as "Lexis + AI" or "Westlaw AI", which both rolled out in 2024.³⁴ Westlaw AI utilizes AI technology that can compare document contents, create event timelines and produce draft materials such as deposition questions or client emails.³⁵ Both programs can answer legal questions and summarize information based on research within their respective databases.³⁶ The time saved in these instances reduces stress and allows lawyers to be more productive with other tasks that, in fact, require human interaction.³⁷

Secondly, implementing AI can improve the quality of work in a multitude of ways. Unlike humans, technology does not tire, get distracted or otherwise lose

25 *Mata v. Avianca, Inc.*, No. 22-cv-1461 (PKC), 2023 U.S. Dist. LEXIS 108263, at 448 (S.D.N.Y. 22 June 2023).

26 Beckman, Mark; *Artificial Intelligence Presents Opportunities and Challenges for the Legal Ecosystem*, New York State Bar Association (2023) <https://nysba.org/artificial-intelligence-presents-opportunities-and-challenges-for-the-legal-ecosystem/>.

27 Marwaha, Avaneesh; *7 Ways Artificial Intelligence Can Benefit Your Law Firm*, American Bar Association (2017) <https://www.americanbar.org/news/abanews/publications/youraba/2017/september-2017/7-ways-artificial-intelligence-can-benefit-your-law-firm/>.

28 *Id.*

29 Donahue, Lauri; *A Primer on Using Artificial Intelligence in the Legal Profession*, Jolt Digest (2018) <https://jolt.law.harvard.edu/digest/a-primer-on-using-artificial-intelligence-in-the-legal-profession>.

30 *Id.*

31 Marwaha, Avaneesh; *7 Ways Artificial Intelligence Can Benefit Your Law Firm*, American Bar Association (2017) <https://www.americanbar.org/news/abanews/publications/youraba/2017/september-2017/7-ways-artificial-intelligence-can-benefit-your-law-firm/>.

32 *Id.*

33 Donahue, Lauri; *A Primer on Using Artificial Intelligence in the Legal Profession*, Jolt Digest (2018) <https://jolt.law.harvard.edu/digest/a-primer-on-using-artificial-intelligence-in-the-legal-profession>.

34 Villanova University Charles Widger School of Law, *Legal Research AI* (2025) <https://libguides.law.villanova.edu/legaltechnology/ai>.

35 *Id.*

36 *Id.*

37 Marwaha, Avaneesh; *7 Ways Artificial Intelligence Can Benefit Your Law Firm*, American Bar Association (2017) <https://www.americanbar.org/news/abanews/publications/youraba/2017/september-2017/7-ways-artificial-intelligence-can-benefit-your-law-firm/>.

focus.³⁸ This allows AI to quickly catch simple mistakes such as spelling or grammar and also enables programs to review documents more comprehensively and identify issues in document organization, cross-referencing and the consistent use of language.³⁹ An example of this can be seen in the use of Bloomberg Law's Draft Analyzer, which uses a number of machine learning models to improve the draft language of documents and provide attorneys with a more readily accepted agreement.⁴⁰

Lastly, the time savings and improved efficiency translate to cost savings. Reducing the hours a legal professional spends on mundane and repetitive tasks frees up time to work on higher-value work,⁴¹ such as advocacy and negotiations, areas in which AI still falls short.⁴² Besides changing how work hours can be more efficiently used, the use of AI can be a tool to bridge the justice gap by bringing access to legal services to low-income communities.⁴³ A demonstration of this opportunity was made in London and New York, where the use of the chatbot "DoNotPay" allows users to contest parking tickets.⁴⁴ Within the first 21 months of use, this technology won 160,000 cases, saving users more than \$4 million in fines.⁴⁵

Looking at these benefits through the lens of the role of in-house or general counsel, AI allows legal teams to focus on strategic decision-making, regulatory compliance or business growth while saving time and costs through streamlining and automating repetitive and more mundane tasks. Specifically, corporate legal counsel might see AI applied in drafts for lower-liability contracts, such as Non-Disclosure Agreements,⁴⁶ or in the interpretation and review of loan agreements.⁴⁷ Bottom line, through the ability to quickly process the vast amount of information legal teams might have to work with, AI allows attorneys to use their own data much more functionally to complete everyday tasks.⁴⁸

C The Challenges and Risks of AI

While AI can significantly enhance efficiency and save time, it also presents a range of challenges and risks that must be carefully considered and responsibly managed.

38 *Id.*

39 *Id.*

40 Bloomberg Law; *Artificial Intelligence in Law and Legal Practice* (2025) <https://pro.bloomberglaw.com/insights/technology/ai-in-legal-practice-explained/>.

41 Stryker, Kavlakoglu; *What Is AI?* IBM (2024) <https://www.ibm.com/think/topics/artificial-intelligence>.

42 Donahue, Lauri; *A Primer on Using Artificial Intelligence in the Legal Profession*, Jolt Digest (2018) <https://jolt.law.harvard.edu/digest/a-primer-on-using-artificial-intelligence-in-the-legal-profession>.

43 Beckman, Mark; *Artificial Intelligence Presents Opportunities and Challenges for the Legal Ecosystem*, New York State Bar Association (2023) <https://nysba.org/artificial-intelligence-presents-opportunities-and-challenges-for-the-legal-ecosystem/>.

44 Donahue, Lauri; *A Primer on Using Artificial Intelligence in the Legal Profession*, Jolt Digest (2018) <https://jolt.law.harvard.edu/digest/a-primer-on-using-artificial-intelligence-in-the-legal-profession>.

45 *Id.*

46 Thomson Reuters; *Ready or Not: Artificial Intelligence and Corporate Legal Departments* (2025) <https://legal.thomsonreuters.com/en/insights/articles/artificial-intelligence-ai-report>.

47 Donahue, Lauri; *A Primer on Using Artificial Intelligence in the Legal Profession*, Jolt Digest (2018) <https://jolt.law.harvard.edu/digest/a-primer-on-using-artificial-intelligence-in-the-legal-profession>.

48 Thomson Reuters; *Ready or Not: Artificial Intelligence and Corporate Legal Departments* (2025) <https://legal.thomsonreuters.com/en/insights/articles/artificial-intelligence-ai-report>.

Concerns regarding bias, data privacy and tort or product liability are serious risks that attorneys or their employers will need to prioritize when navigating tools based on AI technologies.

I Ethical Risks

Using AI in the legal profession introduces complex ethical risks, particularly concerning bias, data privacy and transparency. AI technology, generative AI in particular, is trained by exposure to large information pools.⁴⁹ This exposure enables generative AI models to generate output that resembles human-created work rather than the product of a computer.⁵⁰ However, through this training, the system may inherit bias from the data presented, potentially leading to unfair and discriminatory outcomes.⁵¹ This discrimination may range from stereotyping classes to the denial of legal help to certain racial or demographic groups.⁵² An example of bias in machine learning can be shown by taking a look at the software COMPAS, which was used in the United States to evaluate how likely a criminal defendant was to commit another offence.⁵³ The system was found to be strongly biased against Black Americans, predicting a higher likelihood of re-offence for members of this group.⁵⁴ At the same time, COMPAS falsely forecasted the opposite for white defendants.⁵⁵ Exposure to biased decision-making through the use of AI processes can result in liability under discrimination statutes for both employers and attorneys.

Further, the collection of large amounts of data required to make AI systems fully functional presents an ethical challenge, as access to sensitive data may be required.⁵⁶

One of the fundamental duties of an attorney is to protect a client's data and maintain the attorney-client privilege.⁵⁷ Since the output of any AI technology relies on the information it was provided, systems utilized in the legal field may need access to client information in order to deliver the benefits they can offer.⁵⁸

49 Cohen, Gregory L. and Marshall, Romaine C.; *Concerns and Considerations for Using Generative Artificial Intelligence as Part of Routine Business Operations*, Polisinelli (2023) <https://www.polsinelli.com/privacy-cybersecurity/publications/concerns-and-considerations-for-using-generative-artificial-intelligence-as-part-of-routine-business-operations>.

50 *Id.*

51 Stewart, Kirk; *The Ethical Dilemmas of AI*, USC Annenberg Relevance Report (2024) <https://annenberg.usc.edu/research/center-public-relations/usc-annenberg-relevance-report/ethical-dilemmas-ai>.

52 Beckman, Mark; *Artificial Intelligence Presents Opportunities and Challenges for the Legal Ecosystem*, New York State Bar Association (2023) <https://nysba.org/artificial-intelligence-presents-opportunities-and-challenges-for-the-legal-ecosystem/>.

53 Panel for the Future of Science and Technology; *The Ethics of Artificial Intelligence: Issues and Initiatives*, European Parliament, p. 15 (2020).

54 *Id.*

55 *Id.*

56 Stewart, Kirk; *The Ethical Dilemmas of AI*, USC Annenberg Relevance Report (2024) <https://annenberg.usc.edu/research/center-public-relations/usc-annenberg-relevance-report/ethical-dilemmas-ai>.

57 Bloomberg Law; *Artificial Intelligence in Law and Legal Practice* (2025) <https://pro.bloomberglaw.com/insights/technology/ai-in-legal-practice-explained/#what-is-artificial-intelligence>.

58 Online Business School; *AI in Ensuring Business Compliance: Legal and Ethical Considerations* (2025) <https://esoftware.com/ai-in-ensuring-business-compliance-legal-and-ethical-considerations/>.

This access may open the doors to tremendous harm if delicate information is made available to someone who is not intended to receive it.⁵⁹

Additionally, the way AI technology operates makes its internal decision-making process difficult – if not impossible – to fully understand or explain, resulting in an obscure view of the process for many.⁶⁰ This lack of clarity earned AI systems the label of “black boxes”, as verifying input sources for generated output results may be impossible, creating a decision-making process that is difficult to follow.⁶¹ Transparency is essential in building user trust and ensuring the ethical use of a program.⁶² This is particularly important considering that outcomes within the legal system can directly impact an individual’s rights and due process. In situations where human decision-making is increasingly replaced or supplemented by AI, unresolved questions of accountability emerge in cases where harm occurs.⁶³ Specifically, the question of who is to carry responsibility in those instances could be difficult to answer.

The risk brought about by a rather cloudy decision-making process is well illustrated by the example of COMPAS, the system utilized to assess a defendant’s risk of reoffending. Although the decisions resulting from the use of the program played a role in sentencing, parole or bail decisions, the nature of the software prevented defendants and legal professionals alike from fully understanding the reasoning behind it.⁶⁴ This resulted in the justice system placing significant weight on an algorithm that lacked transparency and, with it, meaningful opportunities to challenge legal processes and outcomes, which ultimately turned out to be erroneous. Such situations raise concerns about the potential for unfair decision-making and unjust sentencing and may even place the legitimacy of the judicial process itself at risk.

Viewed from the perspective of the legal profession, this opacity can cause serious concerns regarding attorney competency. Clients might question whether their attorney exercised sound professional judgment when relying on technology that the attorney does not fully understand. Besides the expectations placed on them by their clients, lawyers have an ethical obligation to understand the risks and benefits associated with technology before using it.⁶⁵ This concept is directly

59 Wanderer, Nancy; *Artificial Intelligence: What Is It & Who Needs It Anyway?* 38 *Maine Bar Journal* 122 (2023).

60 Stewart, Kirk; *The Ethical Dilemmas of AI*, USC Annenberg Relevance Report (2024) <https://annenberg.usc.edu/research/center-public-relations/usc-annenberg-relevance-report/ethical-dilemmas-ai>.

61 Panel for the Future of Science and Technology, *The Ethics of Artificial Intelligence: Issues and Initiatives*, European Parliament, p. 32 (2020).

62 *Id.*, at p. 29.

63 *Id.*, at p. 34.

64 Grimm, Paul W., Coglianese, Cary and Grossmann, Maura R.; *AI in the Courts: How Worried Should We Be?* 107 (3) p. 69, *Justia* (2024).

65 Richter, Marjorie; *Concerns and legal issues surrounding AI*, Thomson Reuters (2025) <https://legal.thomsonreuters.com/blog/the-key-legal-issues-with-gen-ai/>.

reflected in an attorney's duty to provide competent legal representation, as outlined in the American Bar Association Model Rule 1.1.⁶⁶

II Legal Risks for the Legal Profession

Besides its ethical complexities, AI technology brings with it an array of legal risks, some impacting the legal profession more than others. Many of the legal issues faced are intrinsically tied to the ethical concerns already discussed. Protection of confidentiality is one such example as access to sensitive data can be viewed as unethical by some, but a breach of confidentiality could violate privacy laws and quickly become a legal problem.⁶⁷ An unintentional sharing of sensitive client data could quickly happen when legal professionals utilize generative AI to answer a specific legal question or draft documents and enter facts specific to a matter into the system.⁶⁸ As the systems are trained by utilizing the information they are provided, this input could easily be returned to a different user of the same platform, which is likely in direct violation of the attorney's obligation.⁶⁹

In addition to the chance of violating privacy laws, the use of AI technology can infringe copyright laws. The output of AI models can be a verbatim reproduction of copyrighted material if that information was part of the data submitted to the system during training.⁷⁰ This would present a violation of copyright laws, even if the legal professional asking AI a question is completely unaware of it.⁷¹ While the user asking the question may not be held legally accountable for this violation, this may raise some of the ethical concerns associated with the utilization of AI technology, such as transparency and fairness. However, legal repercussions are a very real consequence for legal professionals plagiarizing work that was authored by someone else.⁷² This holds true whether an attorney relied on AI for answers or arrived at them through traditional legal research pathways.⁷³ As it is often difficult to trace the source of AI-generated output, information may be put forth without the significant modification needed or the credit due to avoid a text being considered plagiarized.⁷⁴ This could result in legal consequences, whether the attorney intended the plagiarism or not. Sanctions could also be imposed for utilizing false information altogether, which could happen when incorporating so-called AI hallucinations.⁷⁵ These hallucinations occur when AI provides a user with

66 *Model Rules of Professional Conduct*, Rule 1.1: Competence, American Bar Association.

67 Richter, Marjorie; *Concerns and legal issues surrounding AI*, Thomson Reuters (2025) <https://legal.thomsonreuters.com/blog/the-key-legal-issues-with-gen-ai/>.

68 *Id.*

69 *Id.*

70 Newman, Aft; *Recent Developments in Artificial Intelligence and Blockchain Cases 2024*, American Bar Association (2024) https://www.americanbar.org/groups/business_law/resources/business-law-today/2024-march/recent-developments-artificial-intelligence-blockchain-cases-2024/.

71 *Id.*

72 Delaney, Michael A.; *Fake News in Court: Attorney Sanctioned for Citing Fictitious Case Law Generated by AI*, McLane Middleton (2024) <https://www.mclane.com/insights/fake-news-in-court-attorney-sanctioned-for-citing-fictitious-case-law-generated-by-ai/>.

73 *Id.*

74 *Id.*

75 *Id.*

information that contains false or misleading materials.⁷⁶ This situation was illustrated in the *Mata* case, where non-existent cases were cited in documents submitted as part of a legal proceeding.⁷⁷ Found to be in violation of the Federal Rules of Civil Procedure and Rules of Professional Conduct, the court imposed sanctions that included a \$5,000 penalty.⁷⁸

Lastly, lawyers may find themselves in the middle of a malpractice suit for violating either their ethical obligations to their clients or for placing themselves in a legally compromising situation.⁷⁹

To summarize, there are numerous ways attorneys may feel the impact of violating laws due to the involvement of AI, intentionally or not. Sanctions and reprimands under the Federal Rules of Civil Procedure or a court's inherent powers are ways legal representatives may be held accountable. However, as attorneys must comply with their ethical duty of competence, misuse of AI tools may bring with it malpractice claims and civil claims.

III Legal Risks to Consider for an Employer

While there are several risks any lawyer will have to watch out for when utilizing AI systems, in-house counsel will want to be aware of several additional risks that may be faced by the company they represent.

Employers using AI systems to analyse resumes or personal information relating to candidates, such as information stored on social media or public databases, need to be mindful of the bias that may be inadvertently introduced by the technology.⁸⁰ Not only may AI unfavourably assess age or gaps in employment, but it may also return personal details that employers cannot legally ask about.⁸¹ So, while HR departments may utilize AI to analyse data and help with hiring and firing decisions, companies will have to ensure that this assistance does not ultimately lead to unfair or discriminatory outcomes.⁸² Additionally, accessing and viewing personal, possibly confidential, information may expose an employer to litigation for violation of privacy rights.⁸³ This risk can be amplified when technology is improperly implemented or monitored, leaving room for data

⁷⁶ *Id.*

⁷⁷ *Mata v. Avianca, Inc.*, No. 22-cv-1461 (PKC), 2023 U.S. Dist. LEXIS 108263 (S.D.N.Y. 22 June 2023).

⁷⁸ *Id.*

⁷⁹ Richter, Marjorie; *Concerns and legal issues surrounding AI*, Thomson Reuters (2025) <https://legal.thomsonreuters.com/blog/the-key-legal-issues-with-gen-ai/>.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² McGuireWoods; *Employers Beware: The Rise of AI (Regulation)* (2023) <https://www.mcguirewoods.com/client-resources/alerts/2023/4/employers-beware-rise-ai-regulation/>.

⁸³ *Id.*

breaches.⁸⁴ Furthermore, a business could violate consumer laws by using AI to leave fake reviews on products and services offered.⁸⁵

Lastly, companies risk violating copyright laws when implementing AI to streamline processes for the same reasons a lawyer might find themselves in this position.⁸⁶ If material utilized to train the particular AI model in use is considered protected and is reused without a licence, employers could open themselves up to legal consequences. For example, infringement claims or lawsuits based on unauthorized use may be brought by other parties based on their intellectual property rights.⁸⁷ Ultimately, an employer cannot use the deployment of generative AI as a defence to a claim brought in violation of these laws.⁸⁸

Beyond purely utilizing AI to be more efficient, businesses that integrate AI into their products or develop AI systems must be mindful of potential risks and ensure the responsible use of the technology. A crucial step in the development of AI models is their training, where the system is provided with the vast amount of data it requires to ultimately perform. This training process can cause significant intellectual property concerns when developers utilize materials over which someone else has legal ownership. In *New York Times v. Microsoft*, this issue became clear, as both Microsoft and OpenAI allegedly used copyrighted works to train their LLMs.⁸⁹ The copyrighted materials entered were then easily recalled by users entering question prompts into the finished AI system. In addition to trouble with copyright infringement, the recall of the material bypassed paywalls, which was alleged to unfairly compete, a violation of consumer laws.⁹⁰ The access allowed users to receive registered written materials and reuse them without holding a licence to do so.⁹¹

Also, in instances where an AI-driven product causes harm, companies may face lawsuits under tort or product liability.⁹² This may be best illustrated through the use of AI in self-driving cars. When an accident occurs that does not involve a vehicle utilizing AI, a negligent party may be found who is held liable for the

84 InnReg, *AI Compliance: A Must-Read for Fintechs Using AI* (2025) <https://www.innreg.com/blog/ai-compliance-a-must-read-for-fintechs-using-ai>.

85 Richter, Marjorie; *Concerns and legal issues surrounding AI*, Thomson Reuters (2025) <https://legal.thomsonreuters.com/blog/the-key-legal-issues-with-gen-ai/>.

86 Bharadwaj, Chirag; *How to Avoid Compliance Violations While Developing AI Products*, Appinventiv (2024) <https://appinventiv.com/blog/legally-compliant-ai-development/>.

87 Cohen, Gregory L. and Marshall, Romaine C.; *Concerns and Considerations for Using Generative Artificial Intelligence as Part of Routine Business Operations*, Polisinelli (2023) <https://www.polsinelli.com/privacy-cybersecurity/publications/concerns-and-considerations-for-using-generative-artificial-intelligence-as-part-of-routine-business-operations>.

88 Richer, Marjorie; *Concerns and legal issues surrounding AI*, Thomson Reuters (2025) <https://legal.thomsonreuters.com/blog/the-key-legal-issues-with-gen-ai/>.

89 *New York Times Company v. Microsoft Corporation*, 2024 WL 4874436, at p. 1 (US Dist. Ct, S.D. NY) (2024).

90 *Id.*

91 *Id.*

92 Nakkach et al., *Top Ten Issues on Liability and Regulation of Artificial Intelligence (AI) Systems*, Association of Corporate Counsel (2021) <https://www.acc.com/resource-library/top-ten-issues-liability-and-regulation-artificial-intelligence-ai-systems>.

damage that has been done.⁹³ However, if the accident occurs due to a failure of the AI software relied upon in self-driving mode, a manufacturer opens itself up to product liability suits.⁹⁴

Bottom line, businesses and their counsel may face liability and sanctions when not in compliance with ethical and legal guidelines pertaining to the use or development of AI.

D A Brief Analysis of the Current Legal Framework

I Federal Approaches to Regulating AI Use

As of now, the United States lacks a comprehensive federal law that is specifically focused on regulating the use and development of AI technology.⁹⁵ Currently, the federal approach to regulating AI is more fragmented and designed to address both driving innovation and mitigating potential risks.⁹⁶ The process of arriving at a federal law governing AI is generally complicated by differing approaches with each change of administration.⁹⁷ These differences are easily demonstrated by a look at the steps taken under recent presidents targeting the regulation of AI technology. In 2020, during Donald Trump's first term as president of the United States, he introduced the National Artificial Intelligence Initiative Act of 2020.⁹⁸ Among other directives, the act was designed to advance AI research and development "to ensure American leadership in the field".⁹⁹ After the election of President Biden, he signed an Executive Order titled "Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence" in 2023.¹⁰⁰ This order was aimed at ensuring the ethical use of AI and regulating AI risks.¹⁰¹ Additionally, former President Biden proposed the AI Bill of Rights, which, amid rapid AI developments, sought to safeguard American core principles such as civil rights and democratic values.¹⁰² In January 2025, shortly after his election, current President Donald Trump signed a different Executive Order titled "Removing Barriers to American Leadership in Artificial Intelligence", which revoked any previous directives considered "restrictive

93 Panel for the Future of Science and Technology, *The Ethics of Artificial Intelligence: Issues and Initiatives*, European Parliament, p. 27 (2020).

94 *Id.*

95 Li, Victor; *What Could AI Regulation in the US Look Like?* American Bar Association (2023) <https://www.americanbar.org/groups/journal/podcast/what-could-ai-regulation-in-the-us-look-like/>.

96 *Id.*

97 Software Improvement Group, *AI Legislation in the US: A 2025 Overview* (2025) <https://www.softwareimprovementgroup.com/us-ai-legislation-overview/>.

98 *Id.*

99 *Id.*

100 Executive Order 14114, *Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence*, National Archives Federal Register (2023) <https://www.federalregister.gov/documents/2023/11/01/2023-24283/safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence>.

101 Software Improvement Group, *AI Legislation in the US: A 2025 Overview* (2025) <https://www.softwareimprovementgroup.com/us-ai-legislation-overview/>.

102 President Biden, *Blueprint for an AI Bill of Rights*, The White House Archives (2022) <https://biden-whitehouse.archives.gov/ostp/ai-bill-of-rights/>

to AI innovation”.¹⁰³ This Executive Order, in contrast, is primarily geared towards driving AI innovation and promoting economic competitiveness in this area of technology.¹⁰⁴ This illustration of the tug of war created by the contrasting beliefs and priorities in the American two-party system shows just how difficult it is to achieve a consistent and cohesive federal approach to AI.¹⁰⁵

While there is no comprehensive federal AI law, other federal laws are already designed to deal with some of the risks inherent in the use of AI.¹⁰⁶ For example, California company Hello Digit, LLC was fined \$2.7 million USD for violating consumer protection laws through a faulty AI algorithm that resulted in unnecessary overdraft fees charged to its customers.¹⁰⁷ Another example is the imposition of a \$365,000 fine for a China-based company after it was found to be in violation of the Equal Employment Opportunity Act for age discrimination caused by the AI hiring software it utilized.¹⁰⁸ Further, the Securities and Exchange Commission (SEC) has pursued cases where companies materially misrepresented the performance of their AI models as a form of securities fraud, classified as a “manipulative or deceptive practice” under Rule 10b-5.¹⁰⁹

While there has been no creation of a binding body of law, the National Institute of Standards and Technology (NIST) has developed a risk-based framework titled “The Artificial Intelligence Risk Management Framework” (AI RMF).¹¹⁰ Using this framework is completely voluntary and not sector-specific, providing a great deal of flexibility to those organizations or individuals choosing to follow the RMF as guidance.¹¹¹ The goal of this document is to aid companies that are “designing, developing, deploying or using AI systems” to operate in a responsible and trustworthy manner while dealing with the risks of AI.¹¹² There are four core functions served by the RMF, namely to govern, map, measure and manage AI risks.¹¹³ These functions are intended to be performed in an ongoing

103 Software Improvement Group, *AI Legislation in the US: A 2025 Overview* (2025) <https://www.softwareimprovementgroup.com/us-ai-legislation-overview/>.

104 *Id.*

105 *Id.*

106 Li, Victor; What Could AI Regulation in the US Look Like? American Bar Association (2023) <https://www.americanbar.org/groups/journal/podcast/what-could-ai-regulation-in-the-us-look-like/>.

107 Consumer Financial Protection Bureau, *CFPB Takes Action Against Hello Digit for Lying to Consumers About Its Automated Savings Algorithm* (2022) <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-hello-digit-for-lying-to-consumers-about-its-automated-savings-algorithm/>.

108 Wiessner, Daniel; *Tutoring Firm Settles US Agency’s First Bias Lawsuit Involving AI Software*, Reuters (2023) <https://www.reuters.com/legal/tutoring-firm-settles-us-agencys-first-bias-lawsuit-involving-ai-software-2023-08-10/>.

109 Newman, Bradford and Aft, Adam; *Recent Developments in Artificial Intelligence and Blockchain Cases 2024*, American Bar Association (2024) https://www.americanbar.org/groups/business_law/resources/business-law-today/2024-march/recent-developments-artificial-intelligence-blockchain-cases-2024/.

110 National Institute of Standards and Technology, *Artificial Intelligence Risk Management Framework (AI RMF 1.0)*, p. 2 (2023).

111 *Id.*

112 *Id.*

113 *Id.*, at p. 20.

fashion throughout the AI system lifecycle and are aimed at reducing the potential risks of AI systems while also enhancing their benefits.¹¹⁴ To provide step-by-step guidance on the implementation of the guide outlined in the RMF, the NIST has created the AI RMF playbook.¹¹⁵ Included in the playbook are practical tools and examples to better achieve the intended outcome of the four core functions in the RMF and ultimately arrive at a trustworthy AI implementation.¹¹⁶

While AI technology continues to evolve and until solid legislation develops at the federal level, relevant legislation is starting to emerge from individual states.

II *Indiana's Legal Approach to AI*

Indiana has not yet passed a blanket regulation pertaining to the use of AI within the state. However, the state did enact Senate Bill 150 into Public Law 108 in March 2024, which is geared towards AI use within state agencies.¹¹⁷ The law triggered the creation of an Artificial Intelligence Task Force, which was asked to study and assess how state agencies use AI technologies.¹¹⁸ As part of its evaluation, the task force is to consider the risks and benefits of the use of AI by state agencies and take into account how the rights and interests of Indiana residents might be impacted.¹¹⁹ Building on the foundational steps of what is now Public Law 108, the Indiana Artificial Intelligence Policy was published in December 2024.¹²⁰ The policy, operating within the same scope as the Artificial Intelligence Task Force, mandates that any state agency activity that includes AI technology must follow the guidelines set forth in the NIST AI RMF.¹²¹ Doing so provides structure in the approach to implementing the details outlined in SB 150. Further, the adoption of the NIST framework shows the commitment of the State of Indiana to proactively manage AI with national best practices in mind.

Although the Indiana Artificial Intelligence Policy primarily applies to state agencies, there are significant practical implications for private companies, in-house counsel and external partners contracting with the state. Companies defined as “external partners” under the policy are subject to direct oversight and could face potential penalties.¹²² To avoid negative consequences, partners and in-house counsel must ensure that the AI systems provided align with the state’s ethical and efficient use standards.¹²³ Proactive documentation and a renewed

114 *Id.*, at p. 4.

115 National Institute of Standards and Technology, NIST AI RMF Playbook; *AI Risk Management Framework* (2025) <https://www.nist.gov/itl/ai-risk-management-framework/nist-ai-rmf-playbook>.

116 *Id.*

117 Carson, Daniel; *Specific Laws Targeting Artificial Intelligence Usage Still a Work in Progress*, The Indiana Lawyer (2024) <https://www.theindianalawyer.com/articles/specific-laws-targeting-artificial-intelligence-usage-still-a-work-in-progress>.

118 *Id.*

119 IC § 2-5-53.7-8-2.

120 Office of the State Chief Data Officer, Indiana, *State of Indiana Policy: Artificial Intelligence*, Version 1.1 (12/2024).

121 *Id.*, section 9.2.

122 *Id.*, section 8.2.

123 *Id.*, section 2.

focus on aligning risk management will become a necessity in order for corporate counsel to ensure these new standards are met by their organizations.¹²⁴

While there are no currently existing laws that regulate the use of AI in the private sector, there are existing laws, such as those pertaining to intellectual property or contracts, that are being applied to AI.¹²⁵ As other states implement regulations and guidelines that are being developed internationally, one cannot exclude the possibility that Indiana will regulate AI use within the private sector.

III International AI Regulations

As AI continues to rapidly evolve, the United States is not alone in its endeavour to regulate this technological marvel. Both Europe and Asia have emerged as key players in AI oversight, each differing in their approach.

1 Europe

In August 2024, the European Union entered into force what is considered the world's first major legal framework on AI.¹²⁶ The so-called AI Act provides AI developers and users with clear requirements and obligations to protect the health, safety and fundamental rights of its citizens.¹²⁷ The legal framework set forth by the AI Act is applicable to all countries that are part of the European Union.¹²⁸ By adopting a risk-based approach, the AI Act categorizes AI systems into four different levels and provides varying regulatory requirements for each.¹²⁹ Namely, these categories consist of (1) unacceptable risk, (2) high risk, (3) specific transparency risk, and (4) minimal or no risk.¹³⁰

Under the unacceptable risk category, all systems considered a threat to fundamental rights are banned as of 2 February 2025.¹³¹ Applications banned under this category include things such as social scoring, biometric identification of people or cognitive behaviour manipulation, which could be seen through voice-activated toys encouraging dangerous behaviour in children, for example.¹³²

Areas such as healthcare, recruitment, education or law enforcement could find themselves categorized as high risk if the intended purpose of utilized AI

124 *Id.*, section 9.2.

125 Carson, Daniel; *Specific Laws Targeting Artificial Intelligence Usage Still a Work in Progress*, The Indiana Lawyer (2024) <https://www.theindianalawyer.com/articles/specific-laws-targeting-artificial-intelligence-usage-still-a-work-in-progress>.

126 European Commission; *AI Act* (2025) <https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai>.

127 Directorate-General for Communication; *AI Act Enters into Force*, European Commission (2024) https://commission.europa.eu/news/ai-act-enters-force-2024-08-01_en.

128 *Id.*

129 *Id.*

130 *Id.*

131 European Commission; *AI Act* (2025) <https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai>.

132 Directorate-General for Communication; *EU AI Act: First Regulation on Artificial Intelligence*, European Parliament, p. 2 (2025) https://www.europarl.europa.eu/pdfs/news/expert/2023/6/story/20230601STO93804/20230601STO93804_en.pdf.

systems poses a risk of harm to the health and safety or fundamental rights of a person.¹³³ These systems are subject to strict requirements, including action steps pertaining to risk mitigation¹³⁴ or human oversight.¹³⁵

The specific transparency risk category includes systems such as chatbots and requires that users be informed that they are interacting with a machine; any AI-produced content must be labelled as such.¹³⁶ Lastly, AI systems that pose no or minimal risk are not subject to rules under the AI Act, whereas companies might voluntarily adopt a code of conduct pertaining to their use.¹³⁷

Even though the AI Act follows a risk-based approach, the drafters acknowledged the importance of following seven non-binding ethical principles developed by an independent group of experts titled the High-Level Expert Group on Artificial Intelligence.¹³⁸ These principles include factors such as non-discrimination and fairness, transparency and human agency and oversight and are intended to ensure a trustworthy and ethically sound AI system.¹³⁹

Not a member of the EU, the United Kingdom is not bound by the AI Act. However, the AI Act has extraterritorial reach, which impacts entities beyond the borders of the European Union – including the UK.¹⁴⁰ The extraterritorial application impacts those present in the EU and those located elsewhere looking to trade in the EU or market an AI product that may be used within the EU.¹⁴¹ Compared to the legally binding AI Act, the UK is currently following a more self-regulatory model, prioritizing AI safety and existential risk.¹⁴² While there is no formal regulation surrounding AI in place in the UK, the country is working on a framework to ensure the safe and ethical development of AI.¹⁴³

2 Asia

While the EU presents a comprehensive, risk-based approach through its AI Act, Asia's strategy for regulating AI looks more diverse, reflecting regional differences

133 REGULATION (EU) 2024/1689, Section 52, Official Journal of the European Union (2024) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1689>.

134 *Id.*, section 64.

135 *Id.*, section 72.

136 Directorate-General for Communication; *EU AI Act: First Regulation on Artificial Intelligence*, European Parliament, p. 3 (2025) https://www.europarl.europa.eu/pdfs/news/expert/2023/6/story/20230601STO93804/20230601STO93804_en.pdf.

137 European Commission, *AI Act* (2025) <https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai>.

138 REGULATION (EU) 2024/1689, Section 27, Official Journal of the European Union (2024) <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R1689>.

139 *Id.*

140 O'Connors; *Understanding the EU AI Act and Its Impact on the UK* (2024) <https://www.oconnors.law/news-views/understanding-the-eu-ai-act-and-its-impact-on-the-uk/>.

141 *Id.*

142 Hacker, Phillip; *AI Regulation in Europe: From the AI Act to Future Regulatory Challenges*, *Oxford Handbook of Algorithmic Governance and the Law*, p. 3 (2023).

143 Brione, Gajjar; *Artificial Intelligence: Ethics, Governance and Regulation*, UK Parliament (2024) https://post.parliament.uk/artificial-intelligence-ethics-governance-and-regulation/#_edn6.

in politics, policies and laws.¹⁴⁴ While the standard in most Asian countries has been deemed “soft regulation”, many are moving towards “hard regulation” instead.¹⁴⁵ In the context of AI governance, “soft regulation” is signified through ethical guidelines and national strategies.¹⁴⁶ However, “hard regulation” includes the implementation of specific laws on AI.¹⁴⁷

For example, China might be the next runner-up to introduce comprehensive AI regulation. In 2017, the country launched the Next Generation AI Development Plan, with a goal of propelling China to world leadership in AI innovation by 2030.¹⁴⁸ The plan was followed by the Global AI Governance Initiative, introduced in 2023.¹⁴⁹ Aimed at promoting norms and standards, the initiative closely adheres to China’s drive for a leading position in AI governance.¹⁵⁰ While the country is striving for a larger global influence in this sector of technology regulation, China is complementing its evolving AI policies with various other regulations to mitigate the risks associated with AI.¹⁵¹ Overall, the country values strong state involvement and integration of national policies, which are all designed to enhance competitiveness and heighten the influence China has on the international AI stage.¹⁵²

Additionally, South Korea has legislation pending that would require providers of AI systems to designate an “in-country representative” to ensure compliance with regulations pertaining to safety.¹⁵³ The rule is part of “The Act on the Development of Artificial Intelligence and Establishment of Trust” (AI Basic Act), which is in part influenced by principles of the EU AI Act.¹⁵⁴ However, unlike the European approach, the South Korean legislation is viewed as being less prescriptive, providing more flexibility around enforcement.¹⁵⁵ South Korea’s AI regulation will carry with it certain labelling requirements for AI content and sets of requirements based on a few different AI categories and their intended use.¹⁵⁶ Lastly, there is a desire to control issues with deepfake content, which has been a key concern for law enforcement in South Korea.¹⁵⁷

Other Asian countries, such as Japan, Singapore, Indonesia or India, have created national policies on AI, which are often influenced by existing internet

144 Xu, Jian, Lee, Terence and Goggin, Gerard; *AI Governance in Asia: Policies, Praxis and Approach*, 10 *Communication Research and Practice* 275 (2024).

145 *Id.*, p. 283.

146 *Id.*, p. 275.

147 *Id.*

148 Panel for the Future of Science and Technology, *The Ethics of Artificial Intelligence: Issues and Initiatives*, European Parliament, p. 77 (2020).

149 Xu, Jian, Lee, Terence and Goggin, Gerard; *AI Governance in Asia: Policies, Praxis and Approach*, 10 *Communication Research and Practice* 280 (2024).

150 *Id.*

151 Alifani, Francisca Romana Nanik and Santiago, Faisal; *A Comparative Analysis of Artificial Intelligence Regulatory Law in Asia, Europe, and America*, 204 *SHS Web of Conferences* 3 (2024).

152 *Id.*

153 Andrews, Caitlin; *South Korea’s AI Basic Act Puts Another AI Governance Regulation on the Map*, IAPP (2025) <https://iapp.org/news/a/south-korea-s-ai-basic-act-puts-another-ai-governance-regulation-on-the-map>.

154 *Id.*

155 *Id.*

156 *Id.*

157 *Id.*

governance regulations within the same countries.¹⁵⁸ Namely, countries following government-centric internet legislation implement similar approaches to regulating AI, and the same can be said for those countries following multi-stakeholder models.¹⁵⁹

In summary, it is evident that several countries in the world share similar goals: to get the most out of AI technology while also mitigating various risks that come along with these systems. Open dialogue and cooperation between various regions of the world may become more crucial in developing responsible AI governance as the technology continues to evolve and take shape.

E Being Proactive as Corporate Counsel

As AI is starting to play a bigger role in day-to-day workflow and business operations, the role of corporate counsel in ensuring AI compliance has become incredibly important. In-house attorneys and corporate counsel find themselves face to face with navigating a rather complex legal landscape to safeguard themselves and their organizations from potential liability in the wake of AI implementation. However, there are several things that, if executed properly, can help make the transition a safer one and ensure long-term paths to adherence with emerging legislation.

I Personal Considerations

As in-house or corporate counsel integrate AI systems into their daily workflow, understanding the potential risks associated with AI is a must. Not only is there an ethical and legal requirement to competently represent a client (or organization), but the ABA Model Rules require “the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation”.¹⁶⁰ According to Comment 8 of Rule 1.1, keeping up with changes in “relevant technology” is a necessity to fully comply with the objectives of Rule 1.1.¹⁶¹ To observe this regulation, attorneys should understand the technology they are working with and have knowledge of the limitations of AI.¹⁶² As was illustrated in the *Mata* case, AI may not always provide accurate or even existent information. The court’s reasoning in *Mata* fundamentally warned of the gatekeeping role of attorneys, particularly when AI takes part in the preparation of documents. Blindly trusting AI output has the potential to cause significant harm, including compromising the quality of work put forth by

158 Xu, Jian, Lee, Terence and Goggin, Gerard; *AI Governance in Asia: Policies, Praxis and Approach*, 10 *Communication Research and Practice* 278 (2024).

159 *Id.*, p. 280.

160 *American Bar Association*, Model Rules of Professional Conduct, Rule 1.1: Competence https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_1_competence/.

161 *American Bar Association*, Model Rules of Professional Conduct, Rule 1.1: Competence, Comment 8, https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_1_competence/comment_on_rule_1_1/.

162 Richter, Marjorie; *Concerns and legal issues surrounding AI*, Thomson Reuters (2025) <https://legal.thomsonreuters.com/blog/the-key-legal-issues-with-gen-ai/>.

legal professionals.¹⁶³ As such, reviewing AI-produced work is important, which may include independently researching the information provided by AI.¹⁶⁴ In addition to monitoring the output provided by AI, the corporate attorney will need to be mindful of the information entered into the system in the first place. Introducing sensitive or privileged data into the system could foster unauthorized access and, as such, should be avoided or safeguarded against.¹⁶⁵ This is particularly important when considering the attorney's duty to maintain confidentiality.¹⁶⁶

II Considering the Needs of an Employer

While any attorney will need to ensure the ethical and responsible use of AI if it is something integrated into their workflow, in-house and corporate attorneys have additional elements to consider. During any given workday, their concern regarding liability is not limited to their own but includes that of the organization they represent.

Proactive counsel can take deliberate steps for their organization to take full advantage of the benefits brought on by AI systems while ensuring compliance with ethical guidelines as well as local and international legislation.

1. Meet the Employer Where They Are

The first question that a corporate attorney may have to answer is whether their employer condones the use of AI technology by their employees. Concerns about safety, the ethics of AI or the cost of implementation might be holding companies back from utilizing the technology.¹⁶⁷ Bringing in AI systems might require changes within the company structure, which an organization may not be ready for.¹⁶⁸ Additionally, an employer may not feel equipped to take on additional expenses associated with maintenance or training to safely utilize AI.¹⁶⁹ Attorneys should be mindful of these situations and take the necessary steps not to exceed the comfort and boundaries set forth by the company they work for.

However, with the benefits presented by AI, incorporating the use of such a system may still be very mutually beneficial to both the employer and the attorney. As such, the legal representative of any given company may play a vital role in the

163 Bloomberg Law, *How Is AI Changing the Legal Profession?* (2024) <https://pro.bloomberglaw.com/insights/technology/how-is-ai-changing-the-legal-profession/#how-technology-is-changing-the-legal-field>.

164 *Id.*

165 *Id.*

166 American Bar Association, *Model Rules of Professional Conduct, Rule 1.6: Confidentiality of Information* https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_6_confidentiality_of_information/.

167 Thomson Reuters, *Ready or Not: Artificial Intelligence and Corporate Legal Departments* (2025) https://static.legalsolutions.thomsonreuters.com/static/pdf/S045344_final.pdf.

168 Carver, Corey; *5 Ways In-house Counsel Can Embrace Generative AI*, ACC Docket (2023) <https://docket.acc.com/5-ways-house-counsel-can-embrace-generative-ai>.

169 Bloomberg Law, *How Is AI Changing the Legal Profession?* (2024) <https://pro.bloomberglaw.com/insights/technology/how-is-ai-changing-the-legal-profession/#how-technology-is-changing-the-legal-field>.

introduction of AI to the organization or assist the company in adhering to legal and ethical guidelines if AI is already in play. Evaluating what a company truly needs could be helpful in determining where they could benefit most from utilizing an AI system compared to traditional technology or if improvements could be made without bringing the new technology on board.¹⁷⁰ Some employers may be all about immediately bringing on the newest technology on the market, while others are more careful in evaluating what would serve their company, their employees and their customers most. The corporate attorney should meet their employer where they are while educating them on the risks and benefits along each step they choose to take.

2. *Establish an AI Policy*

Any company contemplating the use of AI, or having already taken the step to implementation, may benefit from the creation of a company-wide AI policy, carefully crafted by its legal department. Comprehensive guidelines will not just set the floor for employees utilizing AI at work but also allow an in-depth look at the impact the use of AI may have on clients, customers or third-party vendors the organization interacts with.¹⁷¹ There should be a very clear definition of what constitutes an acceptable use of AI within the organization and what applications of AI would not be approved. The policy should outline the procurement of the AI systems utilized and a plan to monitor the use of said programs.¹⁷² Additionally, the guide should detail the use of sensitive information in conjunction with AI and how to proceed in case of a data breach or other security concerns.¹⁷³ This could include the accidental disclosure of confidential information or issues with intellectual property use, such as copyright infringement.¹⁷⁴ The strategic placement of an AI policy can aid in the safe adoption of AI in the workplace while minimizing disruption and continuing to highlight how the use of AI aligns with the objectives of the employer.¹⁷⁵ Lastly, the policy should provide procedures for regular auditing and accountability to ensure continued compliance.¹⁷⁶ A well-rounded AI guide that considers the company's needs most accurately is best put together by including the inputs of a multitude of departments or agents within the organization.¹⁷⁷ Designating an individual or a group of people tasked with reviewing and adapting

170 Carver, Corey; *5 Ways In-house Counsel Can Embrace Generative AI*, ACC Docket (2023) <https://docket.acc.com/5-ways-house-counsel-can-embrace-generative-ai>.

171 Warren, Zach; *Legalweek 2024: Current US AI Regulation Means Adopting a Strategic – and Communicative – Approach*, Thomson Reuters (2024) <https://www.thomsonreuters.com/en-us/posts/legal/legalweek-2024-ai-regulation/>.

172 Stathopoulos, Alexandra; *How Employers and In-House Counsel Can Adapt to AI Workplace Use*, Bloomberg Law (2023) <https://news.bloomberglaw.com/us-law-week/how-employers-and-in-house-counsel-can-adapt-to-ai-workplace-use>.

173 *Id.*

174 *Id.*

175 *Id.*

176 Vartak, Manasi; *Start Preparing for AI Regulatory Compliance Now*, Forbes Technology Council (2023) <https://www.forbes.com/councils/forbestechcouncil/2023/08/23/start-preparing-for-ai-regulatory-compliance-now/>.

177 *Id.*

the AI policy could be a vital step in keeping this guide updated. This leader in company AI policy would be responsible for monitoring regulations, trends and technology to align any documentation pertaining to AI use within the organization accordingly.¹⁷⁸

3. *Review of Other Company Policies and Contracts*

While any new policies drafted will have to provide for the involvement of AI (if present), any already existing company policies or contracts should be reviewed and possibly revised to account for the impact of the new technology. For example, if the HR department relies on AI software to aid in their hiring decisions, corporate counsel would want to ensure this is done without potential bias to avoid potential legal consequences. Further, some jurisdictions may require an employer to communicate to potential hires that AI is used to screen candidates and make automated decisions pertaining to applications.¹⁷⁹ Incorporating communication requirements or oversight procedures into existing company policies establishes guidelines for employees to follow and safeguards the company from potential liability. Additionally, to mitigate concerns pertaining to safety or lack of transparency, corporate counsel may need to consider communications with customers or clients or review contracts with third-party vendors – even if not required by law. Disclosing the use of AI in processes throughout the organization and being transparent about the safeguarding measures implemented to protect all parties involved fosters mutual trust between the contracting parties.¹⁸⁰

Reviewing existing documentation and contracts may also bring to light that vendors are already utilizing AI in their own workflow. This knowledge could create an interest within an organization to review the vendors' security safeguards pertaining to the use of AI.¹⁸¹ This is particularly important when sensitive data or intellectual property is tied up in the dealings to ensure that privileged information is treated with the highest priority. Additionally, corporate counsel may want to investigate how their insurance policies are impacted by the use of AI and what coverage may look like when the operation of this technology creates a liability.¹⁸² These reviews should happen periodically as AI laws and regulations continue to

178 McGuireWoods, *Employers Beware: The Rise of AI (Regulation)* (2023) <https://www.mcguirewoods.com/client-resources/alerts/2023/4/employers-beware-rise-ai-regulation/>.

179 Newman, Bradford and Aft, Adam; *Recent Developments in Artificial Intelligence and Blockchain Cases 2024*, American Bar Association (2024) https://www.americanbar.org/groups/business_law/resources/business-law-today/2024-march/recent-developments-artificial-intelligence-blockchain-cases-2024/.

180 Chestler, Alisa L., Daniels, Justin S. and Peaden, Vivien F; *A Baker's Dozen: Top Questions In-House Legal Counsel Should Consider Asking to Better Understand AI including ChatGPT*, Baker Donelson (2023) <https://www.bakerdonelson.com/a-bakers-dozen-top-questions-in-house-legal-counsel-should-consider-asking-to-better-understand-ai-including-chatgpt>.

181 *Id.*

182 Stathopoulos, Alexandra; *How Employers and In-House Counsel Can Adapt to AI Workplace Use*, Bloomberg Law (2023) <https://news.bloomberglaw.com/us-law-week/how-employers-and-in-house-counsel-can-adapt-to-ai-workplace-use>.

evolve in different jurisdictions to ensure compliance of the organization with the most current body of law.

4. *Provide Training and Increase Awareness*

While AI has the potential to provide a number of benefits to legal departments, it is not unlikely that AI tools are utilized in numerous different ways throughout a company. For example, perhaps the finance department decides to utilize AI to strategize, sales and marketing may harness the technology to change customer interaction, and IT could put AI to work in several applications. Integrating the responsible use of AI into existing training procedures and manuals is a necessary step to keep expectations clearly communicated and ensure that all users are aware of the risks that might be experienced.¹⁸³ Training should clearly describe which applications of AI are considered permitted for use within the company and what steps are to be taken to protect confidential information.¹⁸⁴ Further, any training needs to explain in detail how to recognize any problems that could arise and review established reporting mechanisms to ensure the execution of timely mitigation.¹⁸⁵ By providing proper AI training to employers and employees, users will not only be able to identify risks but also recognize opportunities and leverage them to maximize the potential of AI.

5. *Assess Internet and Data Security Protocols*

If a company decides to utilize AI in any of its processes, corporate counsel should consult with the company's IT department to discuss the state of security measures currently deployed. The number of cyberattacks is increasing, and protecting data from unauthorized access must take the highest priority.¹⁸⁶ Data will need to be secured throughout its entire life cycle, from collection to storage, in compliance with data protection regulations and any relevant AI guidelines.¹⁸⁷ Not taking necessary cybersecurity steps can cause significant harm to a company's reputation or trigger financial losses.¹⁸⁸ Corporate counsel may find it helpful to consult with legal experts outside of their organization to get a better understanding of the legal considerations that have to be taken into account based on the specific needs of their employer.¹⁸⁹ Having a solid internet safety protocol will not just protect the

183 *Id.*

184 McGuireWoods, *Employers Beware: The Rise of AI (Regulation)* (2023) <https://www.mcguirewoods.com/client-resources/alerts/2023/4/employers-beware-rise-ai-regulation/>.

185 *Id.*

186 Gibson, Kate; *5 Ethical Considerations of AI in Business*, Harvard Business School (2024) <https://online.hbs.edu/blog/post/ethical-considerations-of-ai>.

187 Vartak, Manasi; *Start Preparing for AI Regulatory Compliance Now*, Forbes Technology Council (2023) <https://www.forbes.com/councils/forbestechcouncil/2023/08/23/start-preparing-for-ai-regulatory-compliance-now/>.

188 Gibson, Kate; *5 Ethical Considerations of AI in Business*, Harvard Business School (2024) <https://online.hbs.edu/blog/post/ethical-considerations-of-ai>.

189 Cohen, Gregory L. and Marshall, Romaine C.; *Concerns and Considerations for Using Generative Artificial Intelligence as Part of Routine Business Operations*, Polsinelli (2023) <https://www.polsinelli>.

employer but could also put vendors and consumers at ease that any sensitive information that may be exchanged and run through AI is properly protected.

6. *Keeping Up with Legislation*

Keeping up with the current status and changes in AI legislation is critically important for in-house and corporate counsel. AI laws and regulations are still rapidly evolving on the state, federal and international levels.¹⁹⁰ Besides the ethical duty imposed on attorneys to keep abreast of changes in the law, in-house counsel will need to safeguard their employer from penalties that could result from non-compliance, even if accidental. In addition, the failure to keep up with current AI legislation may be viewed as a deficiency in legal representation.¹⁹¹

Companies operating internationally or marketing an AI product that may be used in multiple states or abroad are particularly reliant on their counsel to ensure compliance with all relevant laws. The EU AI Act or certain AI regulations in Asia will need to be followed if AI services are provided there, even if the company itself is not located on either continent.¹⁹² Keeping up with relevant AI laws depends on the use of the technology within an organization and whether AI is developed or incorporated into a product marketed by the company. Either way, only current legal knowledge will allow the corporate attorney to properly advise their corporate client and fulfil all the duties they have to the employer.

F Conclusion

Will AI take over the jobs of attorneys or in-house and corporate counsel? In my opinion, it will not. However, as AI continues to transform industries across the globe, the legal profession will see changes to its daily operations and may be faced with AI as their employers try to profit from the new technology. This brings with it the challenge for attorneys to be comfortable with AI and to ensure its ethical and safe use by themselves and their employers. The numerous benefits offered by AI technology, if they can be safely harnessed, can positively impact daily operations. However, using AI may come with significant risks that must be safeguarded against by in-house and corporate counsel. Attorneys working for organizations play a key role in keeping their employers compliant with a rather fragmented and ever-changing body of AI legislation. By embracing a proactive and ethical approach to AI implementation and development, in-house counsel can guide their organizations through the complex innovation that is AI.

com/privacy-cybersecurity/publications/concerns-and-considerations-for-using-generative-artificial-intelligence-as-part-of-routine-business-operations.

190 McGuireWoods, *Employers Beware: The Rise of AI (Regulation)* (2023) <https://www.mcguirewoods.com/client-resources/alerts/2023/4/employers-beware-rise-ai-regulation/>.

191 Bloomberg Law, *AI for Legal Professionals* (2025) <https://pro.bloomberglaw.com/insights/technology/ai-in-legal-practice-explained/#ethical-risks>.

192 Whyman, Bill; *AI Regulation Is Coming – What Is the Likely Outcome?* Center for Strategic and International Studies (2023) <https://www.csis.org/blogs/strategic-technologies-blog/ai-regulation-coming-what-likely-outcome>.