



The Future Is Now

The rise of artificial intelligence in the legal profession.

BY JOHN G. BROWNING AND CHRISTENE “CHRIS” KRUPA DOWNS

Whether you watched IBM’s “Deep Blue” chess-playing computer defeat a world chess champion, interacted with a chatbot while shopping online, or simply marveled at Amazon’s ability to suggest new offerings tailored to your interests, chances are you’ve already experienced artificial intelligence, or AI, at work. Often defined as the ability of a machine to perform what the human mind can by using computer-based means to process and analyze large amounts of data and reach rational conclusions, AI is rapidly spreading from the business arena to the legal sphere. President Donald Trump recently signed an executive order calling for more AI research, even as surveys by groups like the Center for the Governance of AI indicate public concern over everything from AI’s potential to eliminate jobs or threaten privacy rights to the possibility of human extinction. In the legal arena, in-house counsel appear to be lagging behind other parts of corporate America when it comes to artificial intelligence: a LexisNexis survey recently revealed that only 20% to 25% of legal departments use AI in at least one area, compared to 40% in finance and 54% in HR that other studies have documented. Yet, despite this slower adoption, a growing number of corporate legal departments and private law firms—including some in Texas—are embracing AI as transformative for the legal field.

At Coca-Cola’s legal department, for example, AI-based tools have streamlined the contract-drafting process for many matters, reducing the time that lawyers had been spending on review from as much as 10 hours to about 15 minutes. Not only does this improve efficiency, observers say, but it also results in more consistent agreements while freeing up the

legal team for more strategic, less mundane tasks. JP Morgan Chase & Co. invested in its own proprietary AI platform—Contract Intelligence, or COIN, in 2017 to review commercial loan agreements. The move has reaped big dividends for the financial giant. Chase estimates that its automation of such work has saved it 360,000 hours of work by lawyers and loan officers annually. Not surprisingly, its use of COIN has since expanded to more complex matters, including credit default swaps and custody agreements.

Indeed, in many private law firms, AI is increasingly seen as the key to accomplishing the drudge work that has long been the province of young associates, contract counsel, and paralegals. From assisting with document review and due diligence to legal research and drafting routine documents, use of AI tools has yielded a competitive edge for some. In April 2018, Am Law 100 labor and employment firm Ogletree, Deakins, Nash, Smoak & Stewart announced a licensing deal with the legal AI firm LegalMation. Using LegalMation’s platform to analyze a plaintiff’s lawsuit and then automatically draft a responsive pleading and a set of draft responses to discovery requests saves Ogletree’s clients “roughly \$3,000 per case,” Dallas-based shareholder Ron Chapman Jr. said. Using such technology to do in a matter of minutes what once consumed up to eight hours represents “a very real and tangible savings for the client, and it frees our lawyers up to be more strategic and less tactical,” he said. “We think it’s a significant advantage,” Ogletree’s Austin-based chief knowledge officer Patrick DiDomenico said. “This tool is reading, understanding, organizing, and analyzing thousands of documents and collecting so many data points. So with millions of data points from thousands of

documents, we can use that data to predict the viability of cases, how much they might cost, potential outcomes, etc. We'll be better equipped to advise our clients. The possibilities are endless and very exciting," he said. Thomas Suh, the chief operating officer and co-founder of LegalMation (and a former practicing lawyer himself), couldn't agree more, and bristles at the "robot lawyers taking humans' jobs" scenario put forth by AI's critics. "I actually think we're making lawyers more human, because now we can give them time back," he said.

Other firms are warming to AI's applications in intellectual property matters. ROSS Intelligence, which uses IBM's Watson AI technology, offers cutting-edge AI solutions to enhance legal research, enabling users to ask legal questions in plain English. Jeff Price, of Quilling, Selander, Lownds, Winslett & Moser in Dallas, said, "I recently worked on a project to determine the best damages model for a trademark infringement case. With the help of ROSS, I quickly found several cases that had analogous fact patterns. It also identified cases that provided additional grounds for the recovery of damages that I hadn't previously considered." Andrew Arruda, CEO and co-founder of ROSS, said this is just one of many success stories. ROSS' breakthroughs in legal research software using "natural language processing" means that "legal research now goes from a task that takes hours down to a task that might take half that time to find the same results," he said. Arruda added that lawyers are also "finding cases they literally never would have found anywhere else." While AI may be changing how lawyers do their job, he scoffs at the notion of AI replacing lawyers. "The new AI systems aren't going to remove the need for lawyers," Arruda said. "They're just going to improve the effectiveness and efficiency of what lawyers can do."

And even proponents of AI's use in analyzing vast amounts of data and predicting such things as likely verdict ranges or a judge's predispositions based on past rulings agree that technology has its limitations.

Michael Smith, a veteran patent infringement litigator with Sherman-based Siebman, Forrest, Burg & Smith, uses the platform Docket Navigator for such data analysis. But while such predictive analytics can be "a very useful tool," he warns that it may not tell you the whole story. Knowing that a particular type of motion has failed most of the time, Smith said, "may tell you more about the types of cases than it does the judge's predispositions. I repeatedly have to caution people that their opponent is not the judge's tendencies or prior rulings, but the facts of the case."

Nevertheless, the use of AI for predictive analytics remains one of the biggest attractions for lawyers and their clients, and one on which legal technology providers are banking. LexisNexis recently acquired the AI company Ravel Law and has used that technology to create Context, a judge and expert witness analytics tool. Drawing upon its vast database of court data, caselaw, and orders, Context offers insight into the rulings and decision-making processes of judges. Lex Machina similarly provides AI tools for predicting likely outcomes, particularly in high-stakes patent cases. Whether for data analytics or for streamlined legal research, the use of AI has become so widely accepted that in a recent Canadian case, the judge chastised one side's lawyers for their failure to use AI

to keep research costs down.¹ Some legal observers even theorize that the failure to use AI could be considered malpractice one day.

In fact, the potential for cost savings is arguably the most significant factor driving the adoption of AI by law firms. For years, companies have been pressing outside counsel for more competitive rates, alternative fee arrangements, and value-added approaches to billing. Not only are AI providers aiming to make lawyers more efficient, they're also helping companies watch the bottom line. IBM Watson Legal has developed Outside Counsel Insights, or OCI, to review legal bills for in-house legal departments and provide insights intended to eliminate as much as 30% of annual spending on outside counsel and to facilitate fixed-fee pricing. OCI doesn't simply tell you what a lawyer did but also analyzes how the lawyer is working, the order in which tasks were performed, and provides an understanding of what the lawyer intended by a given task in the context of a company's billing guidelines.

Still, greater efficiencies aside, the potential impact on the legal profession is sobering. While one 2017 study of AI adoption by lawyers, conducted by Dana Remus, of the University of North Carolina Law School, and Frank Levy, of Massachusetts Institute of Technology, suggested that AI is only having a "moderate" effect on areas like legal research and document review and decreases demand for lawyers by 2.5% each year, other surveys have disagreed. A January 2017 study by the McKinsey Global Institute estimated that immediate adoption of AI technology would lead to a 13% decline in lawyers' hours. Could AI even replace judges? Estonian officials seem to think so; they've contracted for the design of an AI system that can adjudicate small claims cases and help clear out a longstanding backlog of disputes.

So, at the end of the day, are lawyers on the endangered list? Lawyers and judges are only as good as the information they receive, and AI has the potential to significantly improve the quality of that information. From AI providers to general counsel and their outside lawyers using AI, the consensus seems to be that while legal professionals at the lowest levels may experience declining numbers, AI will benefit the profession by enhancing what lawyers can do and freeing them up for more important, fulfilling work. Perhaps AI will let computers tend to the trees, so that attorneys can take care of the forest. **TBJ**

Note

1. *Cass v. 1410088 Ontario, Inc.*, 2018 Can LII 6959 (Can. Ont. S.C.).



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