ARTIFICIAL INTELLIGENCE: Thinking About Law, Law Practice, and Legal Education

DUQUESNE UNIVERSITY
School of Law

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gravity stack
Delivering Collective Intelligence in Law

LexisNexis

COZEN O'CONNOR
Teaching Legal Research and Writing in an Era of Artificial Intelligence

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Roadmap

• Overview/recap of AI in law practice
• Mindset for approaching classroom
• Eight goals for any LRW class
• Challenges
Artificial Intelligence

“The ability of machines to execute tasks and solve problems in ways normally attributed to humans.”

(Yann LeCun)
Soft AI in Law Practice

• Advanced legal research

https://www.youtube.com/watch?v=BO-Ltxk7Hj4
https://www.youtube.com/watch?v=ZF0J_Q0AK0E
Soft AI in Law Practice

- Advanced legal research
- Automation of tasks
- Document review
- E-discovery
- Machine learning
Soft AI in Law Practice

- Advanced legal research
- Automation of tasks
- Legal analytics

Soft AI in Law Practice

- Advanced legal research
- Automation of tasks
- Legal analytics
- Self-help
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A free app helping ordinary people defend themselves against unfair penalties and persecution by using artificial intelligence to make filing your legal defense as easy as answering a few questions.

EXPLAIN YOUR PROBLEM
Search for your issue. Select the result most relevant to your legal situation.

ANSWER A FEW QUESTIONS
Chat with your robot lawyer. Walk it through the details of your case.

PRINT AND SEND
After your consult, your robot lawyer instantly gives free proper legal documentation.
Was your flight delayed by more than three hours?

I think so

Just a few more questions. Did your plane depart or arrive from an EU location?

yes

You are eligible to get compensation! What is the full name of the traveller that you would like to appear for the claim?

John Smith

Let me claim for John Smith. What was the flight number of the delayed flight?
Soft AI in Law Practice

• Advanced legal research
• Automation of tasks
• Legal analytics
• Self-help
• Firm “legal bots”
Types of tools

(1) Rule based – decision trees, designed from top down (if, then)
(2) Deep learning – learn without new programming
The Elephant in the Room...

• Employment impact


“[A]utomation has a measurable impact on the demand for lawyers’ time, but one that is less significant than popular accounts suggest.”
Mindset for approaching the LRW classroom

• Re-framing “thinking like a lawyer”
• Not just a “law school issue”
• The “lawyer lag” with tech
Goal #1: Shed “I went to law school to avoid math” mentality

• Selling selves short
• Lawyers are smart, analytical, logical
• Data-driven law not new
• Empowering
Goal #2: Avoid hype of given day/year

• Don’t anthropomorphize (the “AI effect”)
• Focus on process
• Example: legal analytics
  ○ Teaching understanding audience
• Example: AI-driven writing
  ○ Teaching responsible use of tool
Goal #3: Elevate creative thinking

• Can AI increase creativity?
• Ed Walters (Georgetown, Fastcase): Tech can help humanize law practice; give “robotic tasks” to robots and reclaim human aspects of lawyering
Goal #3: Elevate creative thinking

• Can AI increase creativity?
• Katrina Lee (Ohio State): Linking Mindfulness and Legal Tech
Goal #4: Fight stuntng of creativity

- Distinguish what is common from what is good
- Dangers of overreliance on precedent
- Question results
- Benefits of drafting from scratch
- Introduce as tools/supplements, not replacements
Goal #5: Embrace “legal ethics catalyst”

- Students already engaging with the law through technology
- Supervisors often turn to digital natives
- Useful lens through which to introduce core ethical obligations
Ethical Issues in Robo-Lawyering: The Need for Guidance on Developing and Using Artificial Intelligence in the Practice of Law

https://ssrn.com/abstract=3308168

70 Hastings L.J. 173 (2018)
Technological Competence
MRPC 1.1—“Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.”
ABA Model Rule 1.1 Comm. [8] (formerly [6])—“To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology . . . .”
Confidentiality
MRPC 1.6—(with limited exceptions) “A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent . . . .”
MRPC 1.6(c)—“A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.”
MRPC 1.6 Comm. [18]—“Factors to be considered in determining the reasonableness of the lawyer’s efforts” include:

- “the sensitivity of the information”
- “the likelihood of disclosure if additional safeguards are not employed”
- “the cost of employing additional safeguards”
- “the difficulty of implementing the safeguards”
- “the extent to which the safeguards adversely affect the lawyer’s ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use)”
Supervising Third Parties
MRPC 5.1 & 5.3—Partners or managers “shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that”:

5.1—“all lawyers in the firm conform to the Rules of Professional Conduct”
5.3— that the conduct of a non-lawyer employed by, retained by, or associated with the lawyer, “is compatible with the professional obligations of the lawyer”
ABA Model Rule 5.3—“Responsibilities Regarding Nonlawyer Assistants Assistance”
ABA Model Rule 1.4—requires appropriate communication with clients “about the means by which the client’s objectives are to be accomplished.”
ABA Model Rule 2.1—“In representing a client, a lawyer shall exercise independent professional judgment and render candid advice,” which might involve referring “not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client’s situation.”
Goal #6: Collaborate across country

- Hastings: Startup Legal Garage/Lex Lab Incubator
- Georgetown: Iron Tech Lawyer Competition
- Suffolk: Institute for Law Practice Technology & Innovation; Legal Innovation & Technology Concentration
- Vanderbilt: Program on Law & Innovation; human-centered design
Goal #7: Collaborate “across campus”

- Cat Moon (Vanderbilt) – “radical collaboration”
- Technologists
- Cognitive scientists
- Critical theorists
Goal #8: Link to Mindfulness & Wellness

• Katrina Lee (Ohio State) – linking mindfulness and legal tech
Challenges for the classroom

• Confront disappearing “faceless audience”
• Look beyond firm/business perspective
• Teach how to (respond to) being wrong
• Tolerate uncertainty
• Fight disparities and bias
• Look beyond textbooks
Goal 1: Shed the “I went to Law school to avoid math” mentality

Goal 2: Avoid the AI “hype” of any given day or year

Goal 3: Elevate creative thinking with technology

Goal 4: Fight technology use that stunts creativity

Goal 5: Embrace technology’s role as a “legal ethics catalyst”

Goal 6: Collaborate with innovative law schools across the country

Goal 7: Collaborate with innovative schools “across the campus”

Goal 8: Link technology to mindfulness and wellness
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