The Intersection of
Artificial Intelligence and Law

Tim Shutler & Robert Taylor

2 July 2024

Introducing your speakers

Tim Shutler

Commercial Law Partner

▶ Work in house for 15 years, rising to Head of Legal / General Counsel

▶ Broad commercial workload, covering all aspect of Business life

▶ Previously ran a Legaltech Startup

▶ Learn to write Python in 2011, the main programming language used in artificial intelligence

▶ Early adopter and often granted early access to software

▶ Outside of his legal practice, Tim is the COO of an early stage Tech start up

▶ Has worked with 360 Law Group for 18 months

Introducing your speakers

Robert Taylor

Global CEO & General Counsel

▶ Qualified as a barrister and was called to the Bar of England and Wales in 1999

▶ General Counsel, International for a NASDAQ listed software and gaming company

▶ Started 360 Law Group in 2016. It is the only legal practice in the UK that provides both regulated and unregulated legal services within the same group; and the only law firm in the UK that provides subscription legal services, where the costs do not increase for the contracted 12-month period, irrespective to volume of work increases, on a global basis.

Agenda

▶ What is Artificial Intelligence?

▶ What regulations are on the horizon?

▶ Where are the legal issues?

▶ Ethical considerations

▶ AI in legal practice

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What is Artificial Intelligence (AI)?

"*One simple way to think of AI is this:*

Humans using data to train machine learning algorithms on computers, with lots of computing power, to solve a specific task"

Arnaud Miribel
Senior data scientist
Streamlit

What is Artificial Intelligence (AI)?

Narrow AI

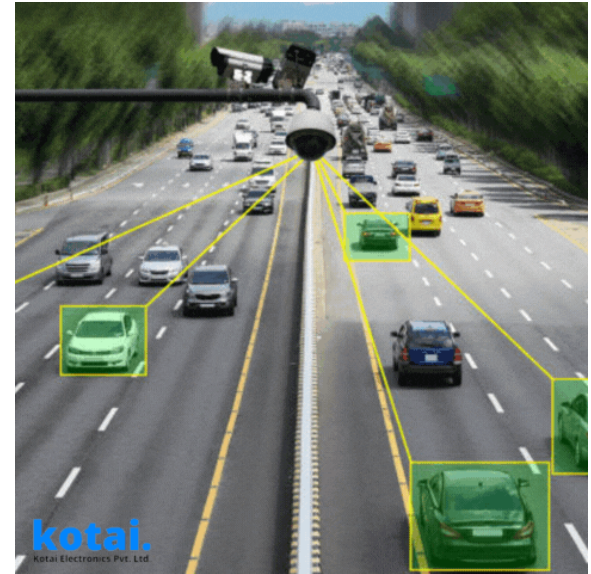▶ Designed for a specific task, this is all that exists today

What is Artificial Intelligence (AI)?

Narrow AI

▶ **Reactive Machine AI**
It has no memory and is designed to perform a very specific task.

What is Artificial Intelligence (AI)?

Narrow AI

▶ **Limited Memory AI**
Can use past data for a specific amount of time

Generative AI – like CHATGPT

Personal assistants like Siri

Self-driving cars

What is Artificial Intelligence (AI)?

Artificial General Intelligence (AGI)

▶ This is still theoretical

"AGI can use previous learnings and skills to accomplish new tasks in a different context without the need for human beings to train the underlying models. This ability allows AGI to learn and perform any intellectual task that a human being can."

IBM

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What regulations are on the horizon?

UK White Paper February 2024

"Five cross-sectoral principles for existing regulators to interpret and apply within their remits in order to drive safe, responsible AI innovation:

- *Safety, security and robustness;*
- *Appropriate transparency and explainability;*
- *Fairness;*
- *Accountability and governance;*
- *Contestability and redress"*

What regulations are on the horizon?

The Labour party manifesto

*"Regulators are currently ill-equipped to deal with the dramatic development of new technologies, which often cut across traditional industries and sectors. Labour will create a new **Regulatory Innovation Office**, bringing together existing functions across government. This office will help regulators update regulation, speed up approval timelines, and co-ordinate issues that span existing boundaries.*

Labour will ensure the safe development and use of AI models by introducing binding regulation on the handful of companies developing the most powerful AI models and by banning the creation of sexually explicit deepfakes."

What regulations are on the horizon?

The EU Artificial Intelligence Act

▶ **Duncan Gillespie**, Data Protection Partner touched upon this in his webinar from last month, the key features:

o AI systems which meet the definition of "**unacceptable risk**" AI systems (such as social scoring systems or manipulative AI) will be prohibited.

o AI systems defined as "**high risk**" AI systems will be regulated

o systems described as "**limited risk**" will be subject to light touch regulation

o "minimal risk" AI systems will be unregulated

The EU Artificial Intelligence Act

Obligations for high-risk AI systems:

- Establish a risk management system;
- Conduct data governance, ensuring that training, validation and testing datasets are relevant, sufficiently representative and, to the best extent possible, free of errors and complete according to the intended purpose
- Draw up technical documentation to demonstrate compliance and provide authorities with the information to assess that compliance
- Design the system for record-keeping to enable it to automatically record events relevant for identifying national level risks and substantial modifications throughout the system's lifecycle
- Provide instructions for use to downstream deployers to enable the latter's compliance
- Design their system to allow deployers to implement human oversight

The EU Artificial Intelligence Act

AI systems used in certain specified applications will have to be registered in an EU database:

- management and operation of critical infrastructure
- education and vocational training
- employment, worker management and access to self-employment
- access to and enjoyment of essential private services and public services and benefits
- law enforcement
- migration, asylum and border control management
- assistance in legal interpretation and application of the law

The EU Artificial Intelligence Act

Generative AI, like ChatGPT, will not be classified as high-risk, but will have to comply with transparency requirements and EU copyright law:

- Disclosing that the content was generated by AI
- Designing the model to prevent it from generating illegal content
- Publishing summaries of copyrighted data used for training

Where are the legal issues?

Data Protection

"*One simple way to think of AI is this:*

Humans using **data** *to train machine learning algorithms on computers, with lots of computing power*, **to solve a specific task**"

Arnaud Miribel
Senior data scientist
Streamlit

Where are the legal issues?

Data Protection

▶ Duncan Gillespie, Data Protection Partner touched upon this in his webinar from last month about AI and GDPR:

o the vast amounts of data required to train systems potentially conflicts with the data minimisation principle

o the volume of data collected and processed, and the potentially unexpected ways in which it may be processed, makes compliance with the lawfulness, fairness and transparency principle challenging

o AI facilitates profiling and automated decision-making relating to individuals

Where are the legal issues?

Copyright in the data

"*One simple way to think of AI is this:*

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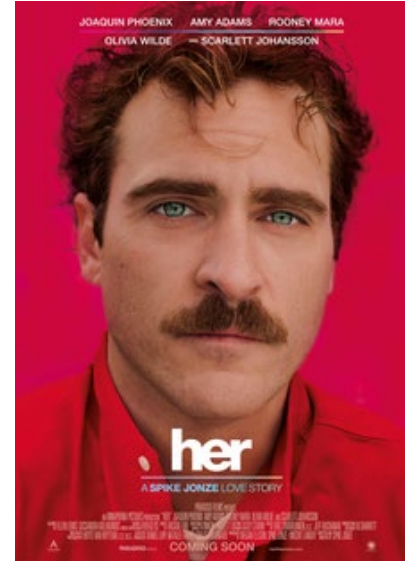# Where are the legal issues?

Copyright in the data

▶ Scarlett Johansson voice sounding eerily similar to ChatGPT4o

Sam Altman ✔
@sama

her

6:45 PM · May 13, 2024 · **21.4M** Views

Where are the legal issues?

Copyright in the data

▶ In the last 7 days two generative music creation apps are being sued by the largest players in the music industry, who accused them of

"mass infringement of copyrighted sound recordings copied and exploited without permission by two multi-million-dollar music generation services."

Where are the legal issues?

Who owns the IP in the output?

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Where are the legal issues?

Who owns the IP in the output?

Nature photographer David Slater, and the Indonesian selfie of Naruto, 2011

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▶ **Ethical considerations**

▶ AI in legal practice

Ethical considerations

▶ **SRA Code of Conduct**

2: Dispute resolution and proceedings before courts, tribunals and inquiries

…

2.4 You only make assertions or put forward statements, representations or submissions to the court or others which are properly arguable.

Ethical considerations

▶ **SRA Code of Conduct**

3: Service and competence

…

3.2   You ensure that the service you provide to clients is competent and delivered in a timely manner.

…

3.5   Where you supervise or manage others providing legal services:

   a) you remain accountable for the work carried out through them; and

   b) you effectively supervise work being done for clients.
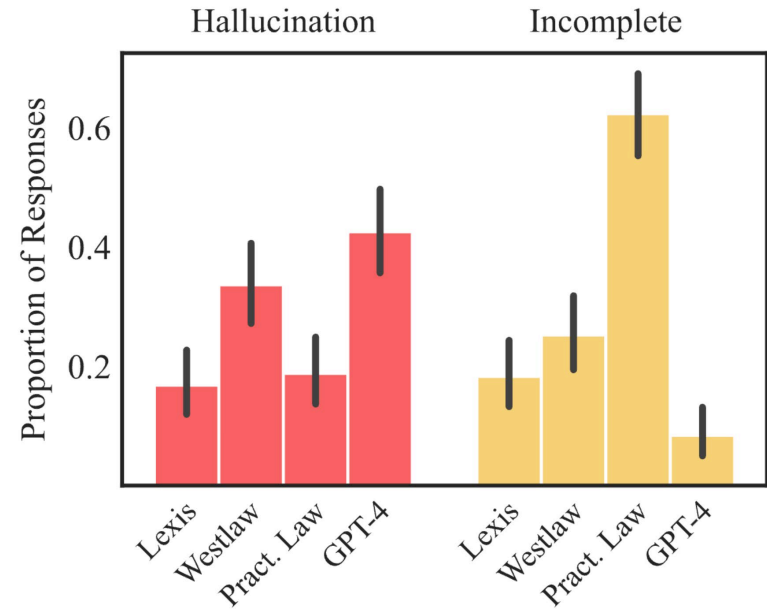
Ethical considerations

Hallucinations

Large language models

Delve into the ethical challenges associated with AI in law.
o Discuss the principles of responsible AI use and ethical decision-making.
o Learn how to develop and implement ethical guidelines for AI in your practice.

Ethical considerations - Hallucinations

▶ Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools, Stanford University study, May 2024

Ethical guidelines

Risk assessments – do you have automated decision processes which would fall foul of EU law and potential future English & Welsh law?

Do you have permission to use data for the purpose it is now being used?

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AI in legal practice

Bloomberg Law study 2023 into how US lawyers are using AI

"The top 5 ways that legal professionals are using generative AI in their practice are:

1. Drafting/templating communications (e.g., memos, emails, correspondence to opposing counsel, etc.): 58%

2. Conducting legal research: 53%

3. Summarizing legal narratives: 42%

4. Reviewing legal documents: 34%

5. Drafting/templating legal contracts: 23%"

AI in legal practice

Bloomberg Law study 2023 into how US lawyers are using AI

"AI for legal research

Using AI for legal research is one of the most common ways legal professionals use generative AI in their practice. The newest AI legal research tools employ technologies such as natural language processing and machine learning to help attorneys more quickly discover important information that would otherwise take hours of manual research to find. AI-powered legal research tools can reduce time spent on research, help discover issues the human eye might miss, and help produce better research findings."

AI in legal practice

Bloomberg Law study 2023 into how US lawyers are using AI

"AI for legal document review

There also are legal AI tools that can specifically help with transactional law. Many attorneys are using AI – especially machine learning – for faster and more consistent review of documents such as legal contracts. For example, Bloomberg Law … uses several machine learning models to identify how draft language may deviate from the market standard and to help attorneys answer the question of what language their counterparty usually agrees to."

AI in legal practice

Client Management

Automated drafting/editing of client communications

Software now exists which will draft a case progress report to send to a client, with the basic information completed for your review.

AI in legal practice

How 360 Law Group are leading with AI powered contract reviews

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