The Expanding Domain of AI and the Law

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The ongoing and expanding convergence of AI and the law is a fast-moving landscape with crucial ramifications for lawyers, judges, lawmakers, regulators, law students, and interested non-lawyers alike. In this brief grand tour, I identify how AI intersects with the legal world in two main ways: (a) the application of the law to AI, and (b) the application of AI to the law. The synergy of those two considerations is also emphasized.

1. Understanding AI and the Law

The two fundamental categories of "AI and the law" are:

(a) The law applied to AI: This involves using legal principles to govern AI technologies, establishing regulatory boundaries, and ensuring the soft law or AI ethical provisions too.

(b) AI applied to the law: This entails applying AI to legal practices, such as using AI-based tools to support or enhance legal work.

Legal professionals tend to focus on one of these two areas, though there's potential for synergy across both realms.

Law firms that emphasize applying the law to AI may benefit from firsthand experience using AI in their legal practice and therefore deepening their understanding of relevant issues. Equally, law firms adopting AI for their processes are likely to develop insights into the regulatory needs of this technology. In short, each approach readily complements the other.

Ultimately, given AI's immense and deepening trajectory throughout business and society, legal practices that lag in AI knowledge and usage greatly risk giving up vital competitive ground.

2. Squaring Up The Definition Of AI

While many people associate AI exclusively with generative AI and large language models such as ChatGPT, GPT-4o, Claude, Gemini, Llama, and others, the reality is that AI encompasses far more,

from machine learning and robotics to natural language processing and autonomous systems.

Understanding these distinctions is critical when crafting sensible and suitable laws and regulations. If legal definitions of AI are too narrow, new regulations could miss their intended targets. Alternatively, casting too wide a net could unintentionally restrict non-AI technologies. Effective regulation requires a nuanced understanding of AI's varied applications and evolving capabilities.

3. **Rapid Growth of the Law Applied to AI**

Media headlines make clear that the regulatory landscape encompassing AI is noticeably intensifying. Federal, state, and local governments and international bodies are actively exploring and at times adopting legal frameworks to manage AI's risks. There are substantial safety concerns regarding privacy and cybersecurity issues. Undue biases embedded into AI and the realm of intellectual property concerns have already led to litigation.

For law practices and lawyers, the expanding body of new AI-related laws is an evergreen opportunity to specialize and grow. Delivery of AI-related legal services won't be limited to a few big tech firms. Businesses across the board are integrating AI into their operations and will inevitably face protracted legal challenges. AI is being adopted at a hectic pace and often without any semblance of legal advice or legal precautions. Though the primary aim of AI implementation consists of reducing costs, speeding up services, and boosting productivity, left legally unchecked, these rapid AI endeavors can spur tremendous legal liabilities.

Furthermore, consumers affected by AI-driven products or services will undoubtedly pursue legal recourse, targeting both AI developers and firms that are AI adopters. The legal system will become engulfed in cases examining responsibilities and accountability across the AI supply chain, from AI makers and sellers to those fielding AI in various industries. Over time, slowly and often belatedly, companies will increasingly consult with legal experts on AI to avoid harmful pitfalls at the outset.

For legal professionals, this presents dual opportunities. First, legal professionals can aid clients upfront by navigating AI legal risks and pitfalls at the get-go. Second, legal professionals can work with clients in their AI post-adoption stage and engage in dealing with subsequent and complicated legal disputes.

4. **AI Applied to Legal Tasks Is Also Increasing**

The other side of this coin involves using AI that assists or possibly directly undertakes legal work. Many of today's LegalTech tools are already embedding AI. The goal is to enhance performance on various legal tasks. While AI is often narrowly viewed as automation for pinpoint tasks such as contract analysis or e-discovery, the potential use of AI spans the entire legal practice.

AI could be used in many legal areas, including but not limited to:

? **Case Management**: AI is used to streamline case tracking and management, making legal workflows more efficient and effective.

? **Legal Research**: AI-powered research tools assist in rapidly identifying relevant case law or statutes, plus at times providing legally useful interpretations (but cautions apply).

? **Legal Writing and Drafting**: AI-based document drafting tools are increasingly able to create first drafts of many legal documents, along with reviewing and improving any manually devised legal materials.

? **Professional Conduct**: AI can be leveraged for monitoring legal compliance with codes of conduct, including the recently promulgated ABA Formal Opinion 512 that stipulates how lawyers and law practices are to properly make use of generative AI.

In these applications, AI's role will tend to vary, from serving as a supplemental tool to performing a large share of the legal work at hand. This is best arranged under the guidance of human oversight to ensure that the AI does not go awry or underperform. Legal professionals who embrace AI with a positive perspective along with a trust-but-verify mantra find that doing so enhances their legal capabilities.

5. Infusing AI into Legal Practices

Law practices that make use of AI in their legal practices need to do so systematically and prudently. I say this because uninformed law firms regrettably forge rashly ahead without a plan of action. They unknowingly undercut their efforts and seem surprised when their AI adoption has woes.

For legal practices that proceed astutely, a delicate balancing act of AI with human control is necessary, especially in tasks requiring in-depth legal judgment. Lawyers must remain vigilant, as the overreliance on AI -- whether through bias or error -- undermines client trust, can land lawyers and law firms in trouble with judges and the courts, and leads to adverse reputational or legal consequences. Frequently, there are news reports of lawyers that have fallen into the now classic trap of believing whatever AI tells them, such as falsely quoting legal cases to the fabrication of cases that don't exist at all (generated via so-called AI hallucinations).

6. The Future of AI and the Law

The landscape of AI and the law is shifting at a rapid pace, with significant implications for legal professionals across all areas. As AI becomes more integrated into legal processes, understanding and effectively using this advanced tech will be essential for staying competitive. Meanwhile, the growing need for regulation and oversight of AI will keep the legal profession engaged in defining AI's legal boundaries.

In sum, the legal field is at a pivotal moment concerning AI. From developing regulations to adopting AI in legal work, law firms and lawyers who invest in understanding and navigating AI's complexities will be positioned for success. Those who remain passive or out-of-the-loop risk being left behind in a field that increasingly values both legal expertise and technological savvy.

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