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# How Artificial Intelligence Can Be Properly Used By In-House Counsel

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COMMENTARY

# How Artificial Intelligence Can Be Properly Used by In-House Counsel

With all of AI's potential benefits, and there will likely be more down the line unknown to us, it's imperative to understand the risks inherent in using these tools, a Law Journal guest columnist writes.

By Michael Pastor April 03, 2024

The use of artificial intelligence by law firms has garnered significant scrutiny over the past year. But the potential benefits and risks of the use of AI tools by in-house lawyers and legal department staff warrant similar reflection. And given the pace of development in the AI space, the time for that reflection is now.

No conversation on AI should proceed without first setting out the definitional groundwork. "AI" has become somewhat of an unwieldy catchall that at times appears to include traditional technology tools that have no "intelligence" component. Best understood, artificial intelligence is a technology tool that can perform a function for humans and, over time, "learn" the work and objectives of those humans such that the tool displays improvement on its output.

In the immediate term, five use cases arise for how general counsels and their staff may begin to evaluate whether and how to deploy AI. First, it is imperative for all in-house lawyers that their work product is accurate, up-to-date, and consistent with the mission, operations, and approaches of the particular company or organization. In that regard, we can envision those lawyers productively utilizing AI tools to weed out errors and to increase the customization of advice they provide given any particular business context. In this way, AI will serve as a supplement to rather than a substitute for in-house counsel functions.

Second, AI may prove greatly valuable in the work that in-house legal teams do in drafting, refining, and improving the policies, directives, and handbooks that organizations publish and deliver to their workforce. It ought to go without saying that the effectiveness of any policy or written guidance to staff depends on the quality of the language used. Lawyers historically play an important role in this drafting and revision process, but we can imagine how AI tools could eliminate ineffective or opaque language and help in-house lawyers improve an organization's policy and directive portfolio.

Third, inefficiencies in workflows and calendar management impede productivity in legal departments as much as they do in any other. In-house counsel might consider deploying AI to identify pain points in those areas such as unnecessary meetings or excessive sign-offs. Results of that work could free up time and even guard against hits to morale that calendar mismanagement can cause.

Fourth, there is immense promise for how AI tools can support the work of contract negotiation and contract lifecycle management. At the outset, AI can help with the vital task of determining the terms and conditions an organization's executed contracts contain. AI tools can then identify and suggest terms, contract frameworks, pricing structures, or exhibits that have been historically utilized by an organization. These would then be regularly reviewed for improvement and risk, which the AI tools support. And AI might prove useful in the often complex work of figuring out how an organization's contracts interact with one another and with subcontracts.

Finally, a core and critical function for in-house lawyers is to stay abreast of regulatory developments to help inform business decisions and to support compliance and risk management efforts. Given the magnitude of data and information that AI tools contain about regulation globally, and the ability of these tools to "learn" over time, in-house lawyers will be able to augment the accuracy of information they use to guide decisions and produce better business outcomes.

With all these potential benefits, and there will likely be more down the line unknown to us, it's imperative to understand the risks inherent in using these tools. The starting point of any good in-house relationship is trust. In-house lawyers must thus be transparent with clients about the use of AI and be willing to take their guidance on what does or does not make them comfortable. Clients also bring to in-house counsel information that requires the utmost level of confidence and discretion. General counsels and their staff need to implement safeguards, including in the contracts they have with AI vendors, to ensure they do not violate those confidences or the privilege by sharing information with AI tools.

Fortunately, good in-house counsel are well practiced at mitigating risk and implementing innovation with a prudent, methodical approach and with an eye towards the client's business objectives. Those practices will serve them well as they carry out their work during this AI revolution.

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