

IS LEGAL READY FOR AI?

By Joe Davis

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It was only a matter of time before the generative artificial intelligence revolution came to the legal industry. The advent of Gen AI represents a significant leap forward in the potential for transformative change within legal, and legaltech companies continue to incorporate advanced language AI capabilities into tools for drafting, research, and data analysis. But for the law firms and corporate legal departments, it isn't just a matter of deciding which flavor of AI tools to purchase and make available to users – there are a variety of factors that will impact success. Before diving headfirst into the realm of Gen AI, it's crucial to consider a few key questions that can shape its impact and implementation within the legal vertical.

Is the legal industry ready?

The legal industry's readiness for AI integration is a complex issue. Historically, law firms have not been known for being at the forefront of adopting cutting-edge technology, often lagging behind in embracing innovations such as email, mobile devices, cloud computing, and a variety of other technologies that eventually became commonplace. Courts are often even further behind. Lawyers, known for their skepticism, are trained to scrutinize arguments and construct bulletproof cases for their clients, relying on their intelligence and deep subject matter expertise. Given their training and demanding workload, it's understandable that lawyers may be hesitant to embrace AI, especially when it seems to encroach on their core competencies of writing and analysis. Who can blame them for raising an eyebrow at generative AI tools that promise to produce a polished case brief or memo with just a simple prompt?

Beyond the cultural factors, the harsh economic incentives of law firm life don't necessarily encourage associates to experiment with new tech. The billable hour remains a primary measure of success in law firms, leaving little time or incentive for any non-billable activities. In fact, Gen AI can be viewed as a direct threat to traditional law firm economics. If producing work takes less time, that means fewer billable hours – even once the AI-produced work is reviewed by humans.

Of course, one of the reasons lawyers have a bad first impression of AI has to do with examples where AI work was not reviewed by humans. Instances of AI-generated court filings with fictional “hallucinated” citations highlight the risks associated with AI. While AI researchers have long known about this limitation - models can confidently articulate complete fabrications when pushed too far - the issue was not well understood in the legal industry until these blunders were featured in the

mainstream news. As AI continues to evolve rapidly, the legal industry faces the challenge of learning not only how to use it, but how to use it responsibly.

Is your firm ready?

It should come as no surprise that different firms and corporate legal departments vary wildly in their preparedness for responsibly adopting AI tools and workflows. On the leading edge are firms and forward-thinking legal teams that have already made strategic investments into dedicated knowledge management (KM) and innovation programs, legal operations teams, and sophisticated tech competencies like data science and machine learning engineering. These endeavors are not merely about adopting new technologies but about fostering a culture of innovation and continuous improvement. For firms that have been diligently investing in these projects over the years, essentially making deposits into their KM future, the time has come for a significant payoff with the integration of AI.

On the opposite end of the spectrum are firms and legal departments that have merely been "keeping the lights on" in terms of technology, viewing IT and KM as expenses rather than investments. These firms will lack mature frameworks for data storage and governance. While they may utilize AI for research services or document drafting, they won't be able to harness the full potential of their own data and will be ill-prepared to assess associated risks.

When it comes to risk, readiness to adopt AI isn't solely determined by technical and organizational preparedness. The firm's General Counsel and its malpractice insurance carrier also play pivotal roles. Some malpractice carriers are advising against using AI in client work due to its novelty in the legal sphere. Even if a General Counsel recognizes the value AI can bring, they may find their hands tied by the constraints of the firm's insurance policy.

Is your practice group ready?

While every firm must assess AI readiness as an organization, different practice areas will encounter unique applications and potential roadblocks when considering if and how it should be applied to their work. For example, litigation groups accustomed to leveraging advanced tools like predictive coding for accelerating document review and discovery processes may find generative AI capabilities a logical extension of those efforts. However, even among tech-forward litigation teams, tangible AI adoption is often handled more by dedicated support staff rather than practicing attorneys.

On the transactional side, corporate, commercial finance, and regulatory groups routinely comb through high volumes of contracts, SEC filings, and due diligence materials. While contract AI systems are useful in quickly extracting clauses or visualizing key datapoints, generative models could potentially streamline or even automate entire drafting workflows from ingesting precedent examples. Commercially available AI-based tools are already delivering impressive results with automatically generating substantive contract language, annotations, and support memos when trained on the right examples.

The biggest obstacle here is not the technology – it is overcoming lawyer unfamiliarity and skepticism. There is no shortage of AI tools available today, and there are plenty more on the way, but whether or not to use them is a top-down decision, with practice group leaders setting the tone and agenda for their teams.

Are clients ready?

Just as firms and practice groups differ in their readiness to embrace AI, clients are also at varying levels of preparedness. The level of AI knowledge and involvement varies across industries and companies, influencing the expectations placed on legal service providers. For example, in the financial industry, which has invested heavily in AI, clients may expect their law firms to proportionately invest in AI research and implementation. Conversely, some clients may prohibit their firms from using AI on their matters, either due to its perceived novelty or concerns about data privacy and security.

Addressing these varying client expectations presents a significant challenge for law firms. They must navigate a delicate balance between embracing AI to remain competitive and respecting client preferences and concerns. This may involve obtaining additional client consent for AI usage, revising engagement letters, and ensuring adequate controls are in place to safeguard client data.

Is Information Governance ready?

The evolution of Information Governance (IG) from managing paper records to overseeing the entire lifecycle of information within a firm or legal department reflects the increasing complexity of data management in the digital age. With the advent of AI services like Microsoft's Copilot, the boundaries between inside and outside the firm's firewall have become blurred. Copilot's access to data within the user's Microsoft 365 environment, including OneDrive, SharePoint, and Teams, marks a significant advancement for GenAI. By leveraging firm-specific data, Copilot can tailor its responses and recommendations to better meet the needs of users. However, this expanded access also raises concerns for IG, particularly regarding data security, access control, and compliance with retention and discovery rules.

IG professionals must now be vigilant in monitoring who has access to sensitive information and how it is being used within AI models. They must also ensure that prompts and data provided by users are handled in a manner compliant with retention and discovery requirements.

Is IT ready?

The integration of AI into organizational workflows presents unique challenges that extend beyond the traditional scope of IT departments. While IT departments may be responsible for making AI technically available within the firm or legal department, their expertise and training often center around managing legacy technologies such as file shares and network hardware. This leaves them ill-equipped to fully support the implementation and utilization of AI, which represents a radical departure from traditional IT systems.

AI bears little resemblance to conventional technology applications, and its potential extends beyond simple technical implementation. It requires an understanding of data analytics, machine learning algorithms, and the integration of AI into business and legal processes—skill sets that may be lacking in traditional IT departments.

Given these challenges, there is a compelling argument for establishing a new department or function dedicated to AI implementation and management. For some firms, this can be addressed by augmenting (or perhaps combining) existing knowledge management and data science groups, but for others it may be an entirely new entity. This department would be IT-adjacent, drawing on IT expertise when needed but free from the constraints of maintaining legacy platforms. It would have the flexibility to explore and experiment with new AI technologies, develop innovative use cases, and drive organizational transformation.

Are you ready?

Assuming AI development progresses at its current rate, it's conceivable that nearly every computer-based tool will eventually integrate some form of AI, making it nearly unavoidable. However, until we reach that saturation point, we retain the choice of whether to adopt AI and in what circumstances. This decision is nuanced and challenging, requiring lawyers to assess their readiness based on a wide variety of factors. Debate and discussion within and between firms and their clients, as well as within the legal industry as a whole, play a crucial role in fostering understanding the AI landscape. These conversations provide an opportunity for stakeholders to share insights, exchange perspectives, and weigh the potential benefits and risks associated with AI adoption in the legal domain. You may even want to include your favorite AI chatbot in the discussion, but don't expect it to have an unbiased opinion.