

Law 2.0: Artificial Intelligence Advancements May Change the Way We Practice Law

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Court opinions, statutes, secondary sources and civil/criminal rules all create huge data sets of information that attorneys use in their practice.

Law is a living body of knowledge that is ever growing, changing and becoming increasingly nuanced with each new opinion, statute, and civil rule. There are millions of cases heard in courts and tribunals throughout the United States every year. According to statistics from the National Center for State Courts, more than 24 million criminal and civil cases were heard in state courts in 2021. And the statistical report published by the Administrative Office of the U.S. Courts shows that in 2022 a total of 265,615 cases were filed in the United States District Courts.

Looking solely at Kentucky, according to the 2022 Statistical Report of the Kentucky Court of Justice, 78,977 cases were filed in Kentucky's Circuit Courts while 603,499 cases were filed in Kentucky's District Courts during the 2022 fiscal year (July 1, 2021, to June 30, 2022). Ultimately, the volume of cases suggests the law is constantly evolving through application in court systems. But this is just scratching the surface of constant advances, because it does not account for legislative changes that are also happening in real time.

Artificial intelligence encompasses a broad range of technology aimed at processing complex data sets.

The National Institute of Standards and Technology defines Artificial Intelligence ("AI") as "software and/or hardware that can learn to solve complex problems, make predictions or undertake tasks that require human-like sensing (such as vision, speech and touch), perception, cognition, planning, learning, communication or physical action." National Institute of Standards and Technology, *U.S. Leadership in AI: A Plan for Federal Engagement in Developing Technical Standards and Related Tools*, (Aug. 9, 2019). Further, AI typically "involves computers reviewing large data sets and identifying patterns or other characteristics in the data." Paul Riermaier, *ChatGPT and Other AI Technologies in the Study and Practice of Law*, CHATGPT AND THE LAW (Feb. 6, 2023) (<https://www.law.upenn.edu/live/news/15538-chatgpt-and-the-law>).

The legal industry is an ideal space for the application of AI tools, such as ChatGPT.

Artificial intelligence continues to make huge strides towards creating efficient and cost-effective tools for attorneys. For instance, in November 2022, OpenAI released ChatGPT, which has sparked discussions across the legal industry about the future of AI in the law. ChatGPT is significant because

it can generate human-like responses to a wide variety of questions. While drafting this article, I asked ChatGPT, "How will ChatGPT impact the practice of law?" Below is its response:

As an AI language model, ChatGPT has the potential to impact the practice of law in a number of ways. Here are some potential ways that ChatGPT could impact the practice of law:

1. **Legal Research:** ChatGPT can be used as a legal research tool for lawyers, law students and legal researchers. With the ability to process and understand natural language queries, ChatGPT can help to quickly search and analyze vast amounts of legal information, including case law, statutes and legal commentary. This could save lawyers and researchers significant amounts of time and effort in conducting legal research.
2. **Document Analysis:** ChatGPT can also be used to analyze legal documents, including contracts, briefs and legal memos. By analyzing these documents, ChatGPT can identify key legal issues and relevant precedents, which can help lawyers make more informed legal decisions.
3. **Legal Assistance:** ChatGPT can also be used to provide legal assistance to individuals who cannot afford to hire a lawyer. For example, ChatGPT could be used to help individuals fill out legal forms, understand their legal rights and access legal resources.
4. **Predictive Analytics:** ChatGPT can be used to analyze legal data to make predictions about legal outcomes. This could help lawyers and judges make more informed decisions about the likelihood of success in a case, or the potential value of a settlement.

Overall, ChatGPT has the potential to significantly impact the practice of law by improving legal research, document analysis, legal assistance and predictive analytics. However, it is important to note that ChatGPT is not a substitute for human judgment and expertise, and should be used as a tool to support legal decision-making, rather than replace it.

ChatGPT Impacting Legal Practice, OpenAI, <https://chat.openai.com/auth/login?next=%2Fchat> (last visited on April 7, 2023). ChatGPT is limited in its application at this stage and is unlikely to replace large legal research databases in the short term. However, tools such as ChatGPT show great promise for advancing the ef-

iciency of large-scale legal research in the near future.

Ultimately, attorneys are responsible for a large body of information that is constantly in flux, applying that information to specific situations and pursuing results that may change how the law is applied to future cases. The appropriate incorporation of AI into the practice of law has the potential to lead to greater efficiency, but even more excitingly, greater access to information. Various sources have projected the incorporation of AI into legal research tools within the next five years. This will allow attorneys to access large bodies of cases, statutes, secondary sources and civil rules quickly. Comprehensive access to information via AI will allow attorneys to produce high quality work product for their clients across industries and practice areas in a shorter amount of time.

There are ethical considerations with the use of AI in the practice of law.

Attorneys should always be conscientious of the interplay between the Rules of Ethics and any new advancements. As noted by Danielle Lewis in the March/April 2023 edition of the Kentucky Bar Association's *Bench & Bar Magazine*, there are not any ethical opinions regarding the use of AI-like ChatGPT in Kentucky yet. Danielle Lewis, *Hey Siri: Draft My Contract, May (or Should) Lawyers Use Artificial Intelligence in Legal Writing?*, KENTUCKY BAR ASSOCIATION *BENCH & BAR* (March/April 2023). However, according to KBA E-437, SCR 3.130 (1.1) requires attorneys to "keep abreast of changes in the law and practice." Further, "[i]n 2012, the ABA amended its version of this comment to state specifically that the duty of competence includes a duty to keep abreast of technology.

KBA E-437 adds, "While the ABA comment is not controlling, it is helpful." Ultimately, a broad reading of this rule requires attorneys to be aware of and versed in advances in

technology as applied to the legal industry — including the ever-nearing incorporation of AI into legal research and potentially even legal drafting.

That said, attorneys should exercise caution and never rely on any technology as a substitute for their legal training, knowledge or reasoning abilities. As ChatGPT has acknowledged, AI is still limited and is not a substitute for counsel by a qualified attorney. See Disclaimer provided at <https://openai.com/blog/chatgpt> (last visited April 7, 2023). Additional ethical concerns, such as maintaining the security of client information, are discussed in the aforementioned article by Danielle Lewis.

Conclusion.

While AI is on the rise, there is no substitute for attorneys understanding the intricacies of their clients and businesses. AI may advance efficiency, but it cannot replace the human need for a trusted advisor and counselor. Advances in technology cannot replace the support and guidance we provide to our clients, but AI may become a powerful tool for attorneys.

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