VETTING AI FOR ATTORNEYS

By: Morgan Germann, Affinity Consulting Group LLC

INTEGRATING AI INTO YOUR LAW FIRM? CONSIDER THESE FIRST

Whether you realize it or not, artificial intelligence (AI) is already an integral part of our daily lives. Video games, voice assistants, and online recommendation algorithms have all used AI for years. So, why is everyone talking about it now? Why, ChatGPT, of course.

OpenAI released its innovative chatbot, ChatGPT, in December 2022. Its arrival generated significant enthusiasm about the potential of generative AI. Generative AI is an artificial intelligence that can autonomously generate new content, such as text passages, images, or even music. It finds patterns and examples in existing data and uses that to create something new based on a prompt from the user. When you ask a program like ChatGPT a question, it won't just scrape a response from the internet, but will look at every existing response in its database and synthesize them to create its own unique response.

While no one knows for certain what the future holds for this groundbreaking technology, lawyers are already asking themselves how they can start harnessing the power of generative AI to enhance their legal practice. But, with so many new tools and services popping up daily, it can be challenging to figure out which is right for you. To that end, you should consider several factors when analyzing which tools to integrate into your law firm.

YOUR GOAL

To embark on the most efficient journey, you must have a clear destination in mind. Therefore, define your goals before you begin exploring AI tools. With its ability to analyze, summarize, and compare information, generative AI has the potential to do in seconds what would take you all night to do manually. While many AI tools are still undergoing beta testing, understanding AI's current strengths and capabilities will provide valuable insights into how it can help your firm today and in the future. Here are some of the tasks that AI is currently being designed to help you accomplish:

LEGAL RESEARCH

Research can be difficult and tedious, costing your practice both time and money. AI-powered research tools can automate the process of searching through legal databases and quickly retrieving relevant cases, statutes, regulations, and legal opinions.

DATA ANALYSIS

Instead of spending time pouring over historical legal data to create predictive analytics, forecast case outcomes, estimate settlement values, or identify potential litigation risks, let an AI-powered tool summarize the data for you.

DATA VISUALIZATION

Communicating large and complex data sets can be difficult, especially if your audience isn't well-versed in the topic you're attempting to convey. Generative AI can help make visuals that will not only explain vast datasets to other people, but to you as well.

CONTRACT ANALYSIS AND REVIEW

While it's essential to review every contract carefully, having a tool that can quickly create summaries and highlight key terms, obligations, and provisions helps you understand a contract even before you begin reading. AI can also compare clauses across multiple contracts, ensure compliance with industry standards, search for potential

inconsistencies and risks, and highlight possible issues to direct your attention to noteworthy points in an individual contract.

DUE DILIGENCE AND EDISCOVERY

While crucial to your job, these tasks can drain your limited resources, and outsourced human-based eDiscovery may prove too slow or costly. Generative AI models can help analyze and review large volumes of documents and other relevant materials and flag critical information, potential risks, and anomalies. It can also classify and categorize documents based on specific criteria and go through the material to redact sensitive or privileged information.

WRITING

Generative AI can help you draft and edit papers, ensuring you produce the best possible documents. It can analyze what you've written and provide suggestions, proofread, check your grammar, and even suggest a structure for your legal arguments.

CLIENT COMMUNICATIONS

AI models can help categorize and prioritize client emails, ensuring that urgent matters receive prompt responses. You can also integrate an AI-powered chatbot into your website to provide your clients with 24/7 support to answer their questions and guide them through basic processes.

TRANSLATING LEGALESE

Instead of reviewing a document point-by-point and explaining everything to your client, generative AI can help rephrase complicated wording and summarize passages in a simple and accessible fashion. The law may require complex phrasing, such as in the tax code, but AI may save you explanatory time with clients.

FINDING "YOUR AI"

With so many new products based on generative AI appearing in the market, each vying to find their niche, focus on what exactly you want to accomplish. This provides a strong starting point so you know what to type into your search engine to find the perfect product for your practice.

THE AI'S AUDIENCE

AI tools are becoming increasingly diverse, catering to various tasks and audiences. Some tools, like Google's Bard, offer general assistance, including translating languages and answering everyday queries. Others, like Casetext, are explicitly designed to support lawyers with specialized tasks, such as legal research. When searching for the best AI tool for your firm, consider its intended function and its target audience.

Aligning your goals with the right AI tool requires careful consideration beyond just shared objectives. It's important to recognize that an AI tool might be suited for a different audience, even if it aligns with your specific goal. For instance, if you open your search engine and look for an AI that analyzes data, you might find Tableau. While this tool may help business executives create reports, it may not be so good with predictive legal analytics. When considering AI tools to reach your objectives, begin with products designed for the legal market.

The legal field is full of unique requirements and challenges when finding a helpful AI tool. Since law is a location-based practice, permissions and restrictions vary by state, province, and country. Confirm that the AI tool was trained for your jurisdiction. Amto is an AI tool that aims to help lawyers draft letters, contracts, briefs, blogs, and emails. However, since it was trained on Indian laws and regulations, it may be unable to perform all these tasks for lawyers outside India effectively. Find an AI tool trained on the relevant information for your jurisdiction.

ACCURACY

If you've ever taken a math class, your teacher has asked you to show your work and provide evidence for your answer. This is something that AI struggles to do. For example, if you ask ChatGPT for the reasoning behind its answer, it says that it synthesizes information from multiple sources in its database to formulate responses. Because

it uses its entire training dataset to grasp grammar, syntax, and context rather than exclusively relying on sources directly related to the question at hand, it cannot attribute its answer to a specific list of sources.

This problem is closely linked to another challenge commonly observed in generative AI, particularly when you use it to conduct research. When AI generates human-like text, it uses its accumulated knowledge to guess the next word based on the preceding context. This may produce responses that sound plausible but are entirely fictitious. Developers commonly refer to these responses as "hallucinations."

This problem is especially prevalent when ChatGPT is asked to perform literature reviews for researchers. It's not uncommon for ChatGPT to reference nonexistent papers, falsely attributing them to field experts and claiming that they were published in reputable journals. This is just one example of a context where generative AI creates its own facts by analyzing historical patterns. While this system works very well to generate natural-sounding speech, this is a terrible way to conduct research.

It's not only issues with the program itself that can lead to inaccurate answers, but also flaws within its dataset. These issues manifest in various ways. For example, outdated information can lead AI to generate inaccurate responses. Because ChatGPT relies on a database compiled in 2021, it has limited-to-no knowledge of anything that happened after that point. In an evolving field like law, this presents a problem. For example, if you were to ask ChatGPT about abortion access in the United States of America, it would be unaware of the obvious relevance of the *Dobbs v. Jackson Women's Health Organization* decision. This is why it's important to double-check any information that generative AI gives you.

CONFIDENTIALITY

Preserving clients' confidentiality is one of the most essential obligations attorneys have. Therefore, you must carefully review and comprehend the terms of service associated with any generative AI platform you plan to use. A clear understanding of how it handles the information you provide is essential to ensure that confidential information remains solely between you and your client. Check if the AI platform will use the information you supply to train its system. If so, you must be careful not to violate your client's confidentiality.

Because confidentiality is so critical, many AI programs designed for lawyers take extra precautions to protect your client's information. Harvey, for example, is an AI platform made to help lawyers with data analysis, due diligence, litigation, and regulatory compliance that has recently partnered with the London-based law firm Allen & Overy and aims to create AI systems for law firms that are "not only powerful, but also scalable, transparent, and secure." Even with promises of increased privacy, remember that you are interacting with a third-party entity. Therefore, exercise caution and refrain from sharing any information that a third party should not be able to access.

COST AND AVAILABILITY

Some AI tools, such as ChatGPT, are free and widely available. Other tools like Westlaw are expensive and only available to a limited audience of beta testers. This is especially true of programs designed specifically for lawyers that contain updated information and increased security measures.

Determining whether it's worth it to pay a premium and sit around on a waiting list at this stage in AI's evolution circles back to your goal for the AI system. If you are looking to use it to help draft and edit documents or hoping for help translating and summarizing confusing language for clients, then there may be no reason to pay when ChatGPT is free. However, if you need an AI platform that can handle sensitive information, contains up-to-date legal information, or can handle a specialized task such as reviewing a contract, then it may be worthwhile to pay for a more expensive program not generally available to the public.

From legal research to data analysis, AI can help remove some of the tedium from your job, allowing you to work faster and complete tasks more efficiently. However, you must exercise caution when deciding what AI platform to use by carefully considering your goal as well as the platform's audience, accuracy, confidentiality, cost, and availability. Because of law's sensitive and ever-changing nature, don't rely entirely on this burgeoning technology.

Instead, exercise prudence by verifying and cross-checking AI's output, especially when it can't clearly explain how it generated its answer.