

## Lawyers who don't embrace AI 'will be left behind', experts say



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Generative artificial intelligence will completely transform the legal industry, potentially decimating the billable hour in the process, and experts say practitioners who don't embrace the technology will be swiftly replaced by those who do.

While lawyers have used AI for years for tasks like electronic discovery and legal research, the advent of OpenAI's chatbot ChatGPT has changed the game by introducing the world to generative AI, which can create new content.

Research shows that lawyers are experimenting with generative AI, despite still holding [well-founded reservations](#) about privacy, accuracy and currency.

More generative AI tools will become available in the upcoming months and lawyers who are reluctant to take up the new technology will find themselves falling behind, according to the CEO of LEAP Australia and New Zealand Donna Broadley.

"There will always be people who don't move quickly to new technology. They'll be left behind as their marketing and productivity and their ability to do [tasks] probably won't be as good," Broadley said.

Broadley said the legal profession was now in a second stage of technological transformation, with the first major change being the uptake of cloud computing.

Artificial intelligence will yield productivity gains for lawyers, according to Bradley, who said the most significant barrier to embracing the new technology will be dedicating time and resources to change management.

“There are so many little mundane tasks we all do in our lives and if AI can do them quicker, and better and provide us with options, then I think that’s the productivity gain our clients will appreciate,” she said.

AI will also be a way to drive new business, for example, by providing a list of clients who do not have a will or had a will drafted 30 years ago, Broadley said.

LEAP plans to roll out its new LawY product, which will allow practitioners to ask it a question, similarly to ChatGPT, and receive an answer that is verified by lawyers in the background to ensure accuracy. LawY will be a product for family law practitioners, but LEAP is also looking into other areas such as property law and commercial law.

‘Clients will insist on it’

Ashurst partner and co-head of its NewLaw division, Hilary Goodier, said it was becoming impossible not to use AI, especially since courts have started handing down practice guidance encouraging parties to use technology for discovery and case management.

The Supreme Court of Victoria became the first court in Australia to order the use of technology-assisted review (TAR) techniques, or predictive coding, for discovery in 2016. The Federal Court also has a general practice note on electronic discovery. Other courts have issued guidance on technology more generally.

“When you start to see the courts mandate the use of AI, particularly to speed up access to justice, you know it’s here to stay,” said Goodier.

Goodier said she has noticed an “exponential increase” in the number of enquiries from clients about AI in just the last six months.

“Clients will insist on it...and absolutely expect their law firms to [invest in AI] for their benefit.”

It is not only clients who are looking for cost savings in a challenging economic environment who will insist on AI but also junior lawyers who are “digital natives”, said Goodier.

“They are going to have zero appetite for going into law firms [that are] not moving into the digital age and still doing things in an analog way,” she said.

Ashurst Advance -- the only full service NewLaw division in Australia -- provides a range of services, such as advice delivery and legal managed services and is a fully integrated part of the firm.

Law firms forced to move away from billable hour

While alternative pricing models have been long considered by the legal industry, they have never truly taken hold, Goodier said. But she thinks AI will force law firms to move away from the billable hour.

“Efficiency and productivity are arguably the enemy of the billable hour [but] I don’t think any of us should ever be afraid of embracing productivity,” she said.

“It’s going to force law firms to think about a different way of valuing their services and a different way of pricing because otherwise it is eating into our revenues and our profit margins with very expensive technology,” she said.

Some firms are questioning why they should embrace AI when that means they would also have to charge clients less, said Goodier.

“My response is, you’ll only do that once. You only get one opportunity to overcharge your client,” she said.

Goodier also raised concerns that training for junior lawyers will need to change, since the traditional tasks they cut their teeth on will be the first tasks that generative AI will automate.

“How do we train our juniors? The things I was trained on, if they can now be done by technology, how can we think about training the next generation of lawyers?” Goodier said.

A ‘market decides’ process

Head of Core Product at LexisNexis Pacific, Lindsay O’Connor, told Lawyerly there will be a divide between lawyers who embrace AI and those who do not, with those using the technology being “much more effective”.

Generative AI will also impact billing as it can automate tasks that traditionally take a long time, possibly speeding the shift to fixed fee arrangements.

“What we might see here is there will be an almost ‘market decides’ process to this,” she said.

“I certainly agree the risks of AI for the legal profession are not that they will become redundant or unnecessary but lawyers who are not using AI are very quickly left behind and those using AI tools will emerge as forward thinking innovative firms that clients will prefer to use.”

While lawyers will need to be conscious of issues like privacy, accuracy and currency in using generative AI tools, the legal technology industry was itself “catching up” on how to mitigate those risks, said O’Connor.

Emerging technology known as retrieval augmented generation can restrict the content an algorithm draws from, ensuring it is accurate, up-to-date and has no privacy or copyright issues, she said.

“The legal industry is catching up very quickly with those risks.”

LexisNexis recently conducted a survey of 600 customers, finding that 49 per cent had already used generative AI tools in their work. But confidence levels in the tools varied and were generally low in relation to the tool’s output, said O’Connor.

She said generative AI will address tasks at the “lower end of the value scale”, such as drafting and research. O’Connor pointed to LexisNexis’ Leading Cases, which produces the most important case law, giving lawyers a starting point and showing where they need to go next. With another tool, Arguments Analyser, lawyers can upload their content and the algorithm can analyse adjacent legal issues that practitioners might have missed.

'Turning point' for the legal profession

The release of ChatGPT-4, which has passed the US bar exam, was a “turning point” for the legal profession, according to chief product officer at Thomson Reuters, David Wong,

GPT-4 was the first generative AI tool that showed language comprehension at the post-graduate level and logical reasoning that is common in legal work, he said.

“We see generative AI as the next evolution of legal AI tools to help legal practitioners more efficiently manage many of the mundane, repetitive tasks involved with legal work. For example, summarizing legal research, drafting documents, and reviewing contracts are tasks where generative AI could greatly improve efficiency,” Wong said.

Wong said that generative AI and other advanced technologies will make legal work more efficient and address the “constant pressure to improve value-to-cost ratio for clients”

While generative AI is still in the experimental phase, we can expect to see it integrated in day-to-day legal work as early as next year, Wong said. Leading law firms will likely roll out dedicated AI assistants, similar to having a smart phone or a laptop.

Next year, Thomson Reuters will roll out its AI-Assisted Research on Westlaw Precision, which works on complex research questions.

Law firm that uses Chat-GPT and GPT-4 on a daily basis

Some firms, such as Lander & Rogers, already use ChatGPT and GPT-4 on a daily basis, having created a firm-wide policy on how to responsibly and ethically explore generative AI tools, said Chief Innovation officer and AI Strategic Lead, Michelle Bey.

But Bey said AI cannot replace creative and critical thinking, negotiating and interpersonal skills, empathy, a staunch code of ethics, complex problem solving or deep relationship building.

“We firmly believe the role of legal practitioners will be more rewarding with AI, as they'll be able to focus on more strategic tasks. Lawyers will become more empowered, which will only serve our clients,” Bey said.

“As with any new technology, there should be an ample amount of training and communication to ensure lawyers and clients are aware of and comfortable with changes; policies and guardrails should be put in place to ensure responsible use; and ethical considerations should be front and centre to mitigate bias.”

Bey said AI was a “make-or-break” technology, where practitioners who choose to embrace it will have an advantage over competitors due to increased efficiency and productivity.

“One can only assume that clients will embrace AI and they will want their lawyers keeping pace,” Bey said.

Lander & Rogers ran Australia's first AI clinic placement program with Monash University this year and uncovered 40 scenarios in which the technology can be used across the firm.

It has also signed on for Microsoft's Copilot, a new generative AI assistant, which will help with contract drafting and review, data extraction and analysis, legal research and simple tasks like writing emails.

Industry bodies, experts advise 'extreme care'

While sophisticated AI tools can support the profession in administrative tasks, Law Council of Australia President Luke Murphy cautioned against embracing AI without "extreme care" and said AI cannot replace professional judgment.

"Where these tools are utilised by lawyers, this must be done with extreme care. Lawyers must always keep front of mind their professional and ethical obligations to the court and to their clients," Murphy said.

"Consideration at a profession, firm and individual level, of how to balance optimising the benefits of AI against ensuring its use is safe and responsible, is vitally important."

UNSW professor Lyria Moses said that practitioners who understand the benefits of different types of AI, such as tools that are code-driven, data-driven or generative, will have an advantage over others. This is not just because of efficiency and cost-effectiveness but also because they will understand when to exercise caution or even avoid certain tools.

"We already have the case of the US lawyer citing non-existent cases through over-reliance on ChatGPT, but there are a range of things that can go wrong when failing to understand the limitations of an AI tool," she said.

Moses said a helpful resource for layers is the Typology of Legal Technologies prepared by the COHUBICOL project in Europe.

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