

The Impact of Artificial Intelligence on Commercial Litigation

by [Andrew C. Hall](#) on Jan 8, 2018



Commercial litigation can be a long and expensive legal process for businesses, investors and professional firms. Many of our clients have asked how the evolution of artificial intelligence (AI) might affect the litigation process. Here are my responses to some of the typical questions we receive.

Q. How is AI being used for legal applications today?

Artificial intelligence technology is moving quickly into many aspects of our lives as consumers. Many homes and motor vehicles are equipped with voice recognition devices that “learn” our speech patterns and habits, and provide us with road directions, turn on the TV, adjust the thermostat and order a pizza.

In the business world, AI is being used to help manage legal contracts. For instance, AI can guide a salesperson in determining which provisions of a standard contract to include in a customized document when signing up a new customer. An AI system can also send alerts in advance of critical dates in the contract, such as renewals and options, to help the business manage the agreement more effectively.

Q. What is its potential for the future?

Artificial intelligence tools have great potential to improve the efficiency of the discovery process in commercial litigation matters. Today, it’s not unusual to have hundreds of thousands of computer files, and email, voice, texts and video messages relating to a complex case.

Currently, law firms like ours use computer algorithms to search for keywords or other relevant material buried in a vast pile of electronic documents. However, once the material has been gathered, it must still be reviewed by a legal team and analyzed for significance.

For major cases, we may hire additional people to do that work, which must then be reviewed by our attorneys for accuracy.

The evolution of AI tools will add a powerful analytic component, such as building a chronology of events and identifying the fact patterns in a case.

Q. Can you provide an example?

Let’s assume there was a series of back-and-forth negotiations involving multiple drafts of a real estate development contract prior to reaching an agreement. A robust AI system will be able to provide a timeline of each step in the negotiation and topics of discussion.

If there is a dispute over the contract, an AI system can then review the relevant clauses in the agreement with the actual implementation. In this real estate case, that might include who did the work, when was it done, was it inspected, what were the costs. So, if 90 percent of the work on the development matches up with the contract, the legal team can then spend its time focusing on the 10 percent of the work at issue in the case – a much better use of their time.

Q. Can AI also help in writing contracts?

Artificial intelligence tools can also be applied to the transactional side of the business world. In our multifaceted global economy, business contracts are becoming longer and more complex. AI can help both parties in the drafting of business contracts by pulling together the standard clauses for a particular situation. Then the attorneys can focus their time on the most critical points when constructing a mutually beneficial agreement.

From the perspective of a litigator, it's important to understand that different people can read contracts in different ways. Therefore, it's vital for the language on those critical points to be crystal clear to both parties.

Q. Will AI reduce litigation costs?

In a major case, the effective use of AI could deliver some potential savings by reducing the number of billable hours necessary to gather the facts and establish a timeline and fact pattern. The legal team can then use its resources in a more efficient manner, potentially reducing the cost of litigation.

Q. Are there other benefits?

AI has the potential to make the discovery phase of the litigation process proceed more quickly. Since this can be one of the most time-consuming aspects of a case, these systems could potentially help the parties resolve their disputes more quickly through arbitration or litigation.

Q. What steps can businesses take now related to AI?

My first suggestion would be to look at using algorithms and online tools for writing and managing your business contracts. Today, you can have access to the best contracts in your industry written by the nation's top lawyers. Take advantage of their knowledge in preparing your contracts, which can then be modified wherever appropriate.

Second, you should recognize that we live in a litigious society. Someone who files a commercial lawsuit will want to see your relevant documents on your computers, tablets, mobile devices and third-party data services. So, use a powerful IT management tool to code that data and manage your information. Then, you should be able to provide the relevant information more quickly and in a cost-efficient manner.

Q. Will AI be a differentiator for law firms?

Law firms that invest in artificial intelligence systems or partner with experienced IT companies will have an advantage over their competitors in the next decade. These powerful and versatile tools will allow law firms to serve their clients more effectively in both transactional and litigation matters. Just remember that a tool is only as good as the person using the implement. Engaging an experienced law firm is essential for unlocking the potential of artificial intelligence in commercial litigation.

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