

AI in Legal Industry

Alison Grounds, Troutman Pepper eMerge

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Agenda

Introduction and AI Literacy

- Key Terminology
- Gen AI Adoption
- Fun Use Cases

AI Legal Use Cases

- Contract Analysis
- Contract Negotiation
- Legal Research
- Copilots
- eDiscovery

Legal, Ethical, and Regulatory Considerations



Introduction and AI Overview

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Generative AI Glossary

Large language model (LLM): a type of neural network that learns skills—including generating prose, conducting conversations, and writing computer code—by analyzing vast amounts of text.

Prompt: an instruction or request for the LLM tool to provide the specified output.

Hallucination: a factually incorrect, irrelevant, or nonsensical response provided by an LLM tool because of limitations in its training data and/or architecture.



Rapid Impact Of Generative AI

Top 10%

GPT-4 passes
bar exam

April 2023

67%

of organizations say
increasing investment
in GAI
August 2024*

**\$126.5
Billion**

Generative AI
market size by 2031

49%

of organizations
concerned with
complying with
regulations

**4.79
Billion**

Visits to ChatGPT
per month
(100 Million weekly
users)

Sources:

Deloitte State of Generative AI in the Enterprise Q3 Report
Lexis + AI 2024 Investing in Legal Innovation Survey
SimilarWeb, Semrush

Rapid Impact Of Generative AI (GAI) - Legal

Top 10%

GPT-4 passes
bar exam
April 2023

67%

of US clients
surveyed expect
law firms to use
GAI

47%

believe GAI will
have
transformative
impact on
practice of law

72%

of legal
professionals
strongly disagree
that GAI will
replace lawyers

\$5,000

Fine paid by
lawyer for citing
fake ChatGPT
cases

43%

Am Law200 firms with
GAI budgets

90%

Agree investment
expected to rise

Sources: Lexis + AI 2024 Investing in Legal Innovation Survey; Lexis Nexis 2023 International Legal Generative AI Survey; 2023 Bloomberg Law State of Practice Survey

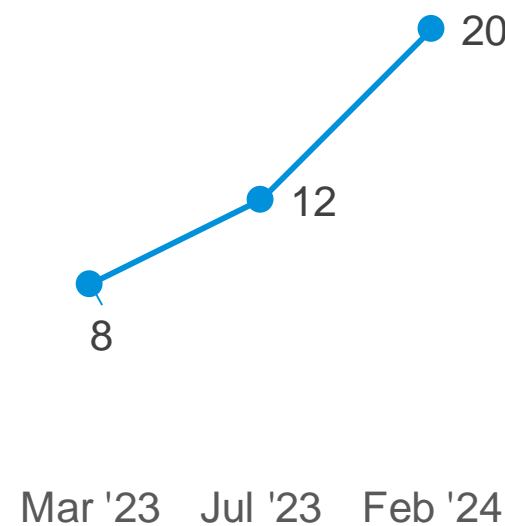
Foundational Models



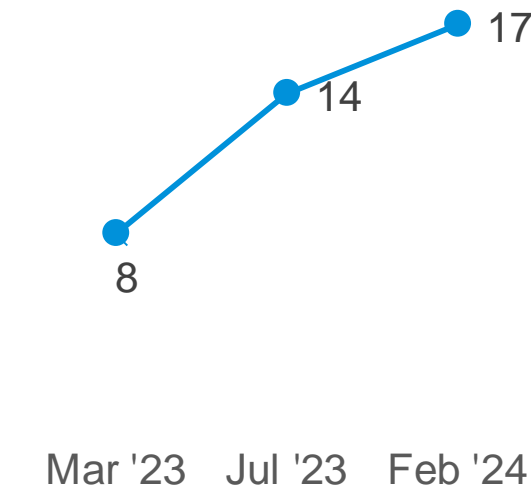
Share Of Employed Americans Who Have Used ChatGPT For Work Rose By Double Digits Between 2023-2024

% of U.S. adults who say they have ever used ChatGPT

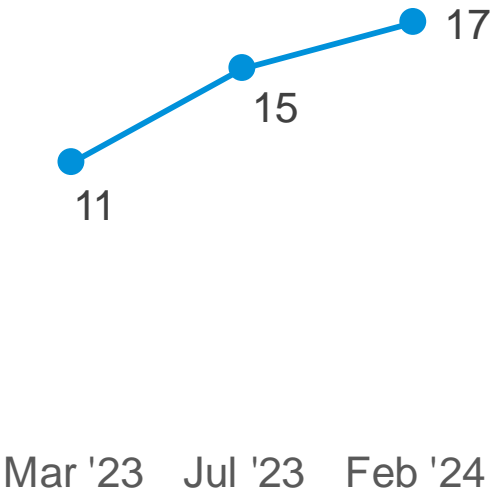
For tasks at work
(among employed adults)



To learn something new



For entertainment

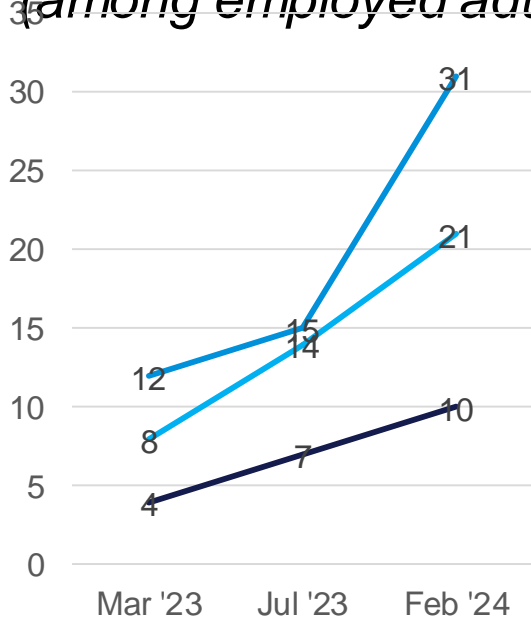


Source: Pew Research Center, Survey of U.S. adults conducted Feb 7-11, 2024

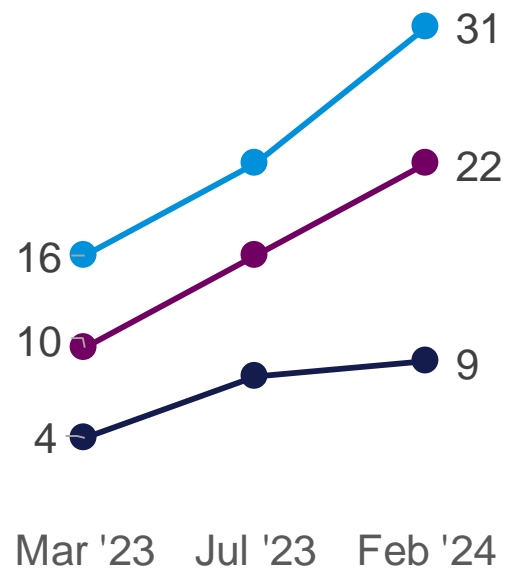
About A Third Of Employed Americans Under 30 Have Now Used ChatGPT For Work

% of U.S. adults who say they have ever used ChatGPT

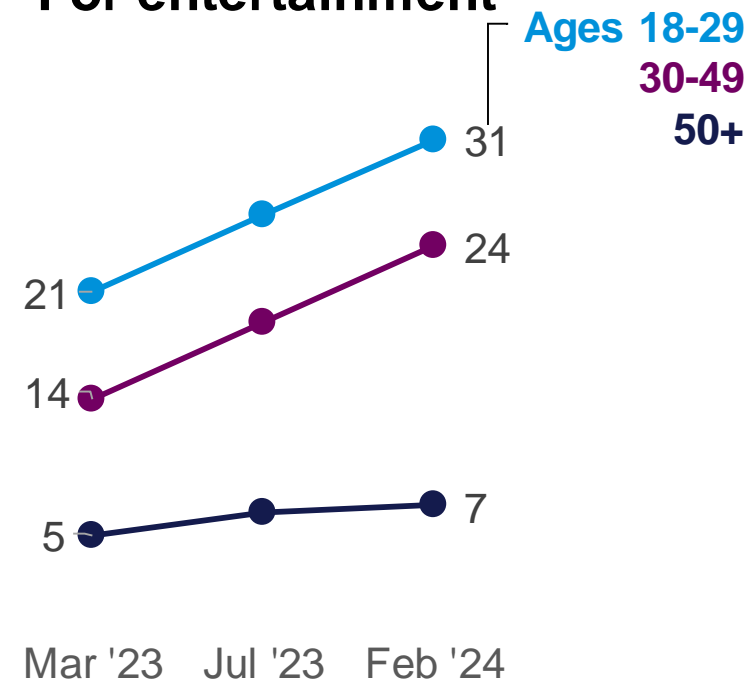
For tasks at work
(among employed adults)



To learn something new



For entertainment



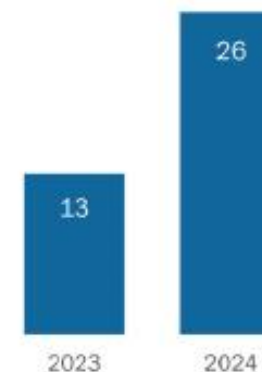
Source: Pew Research Center, Survey of U.S. adults conducted Feb 7-11, 2024

FUTURE USERS



Twice as many teens now say they use ChatGPT for schoolwork as in 2023

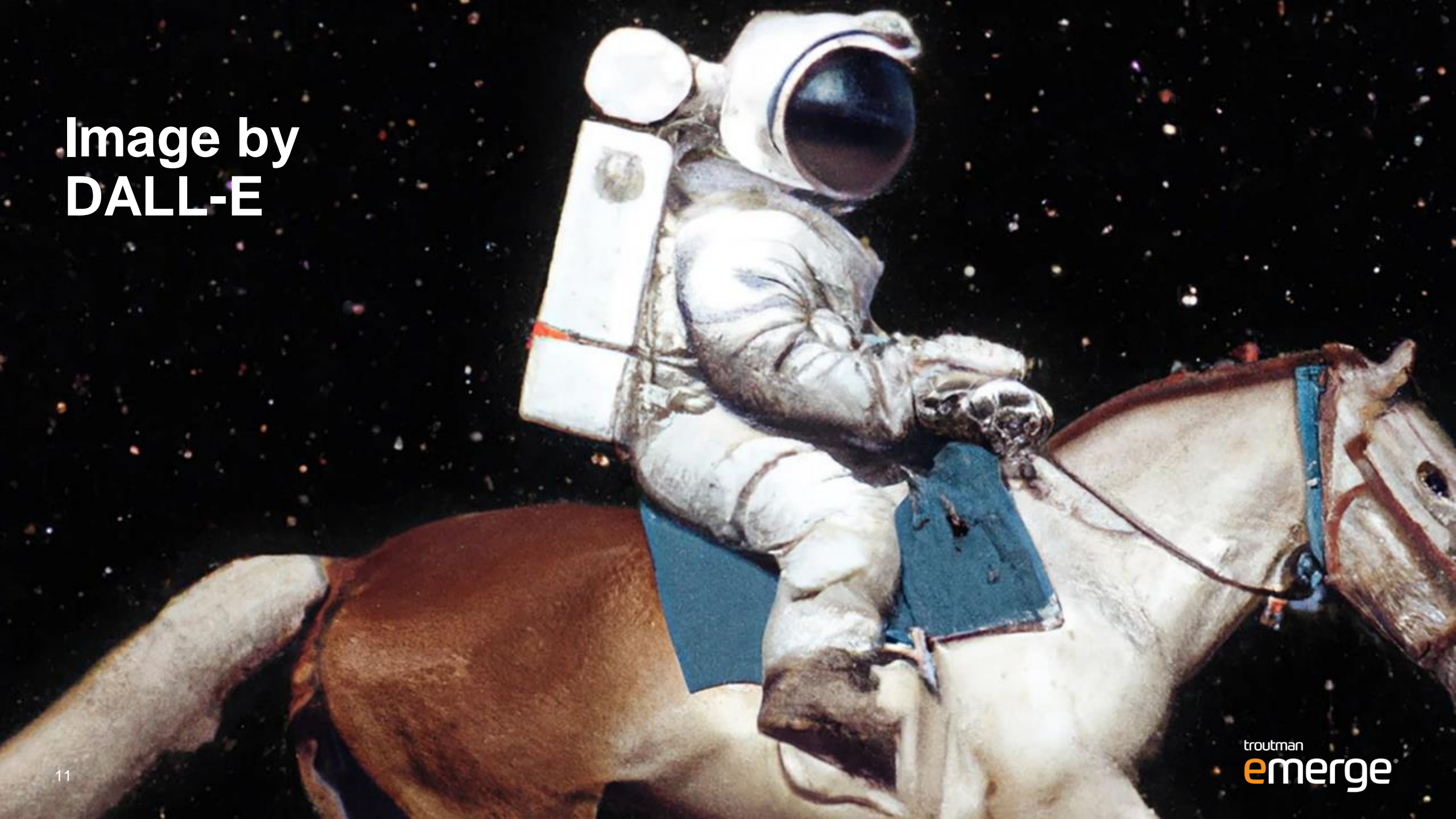
% of U.S. teens ages 13 to 17 who say they have ever used ChatGPT to help with their schoolwork



Source: Survey of U.S. teens conducted Sept. 18-Oct. 10, 2024.

PEW RESEARCH CENTER

Image by
DALL-E





AI Images by Start Digital using
Midjourney, Photoshop, and Firefly
<https://startdigital.com.au/airlab/coronation-after-party-ai/>

OpenAI: Sora Video Generation



Prompt: Beautiful, snowy Tokyo city is bustling. The camera moves through the bustling city street, following several people enjoying the beautiful snowy weather and shopping at nearby stalls. Gorgeous sakura petals are flying through the wind along with snowflakes.

ChatGPT: Logo Creator

Prompts

Create a logo for a legal project management software called MatterWise

Vibrant colors: Orange and Black

Simple to Complex Scale of 1-10: 2



ChatGPT: Logo Creator



Prompts

Create a logo for a legal project management software called MatterWise

Vibrant colors: Orange and Black

Simple to Complex Scale of 1-10: 2

Logo Creator: MatterWise



What do you think? Are you satisfied with the logo? Let me know if there is anything you want to change

Me: Make it more technical



Logo Creator: MatterWise



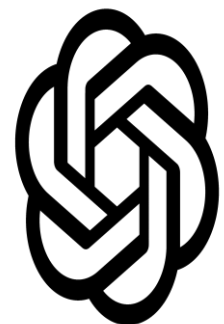
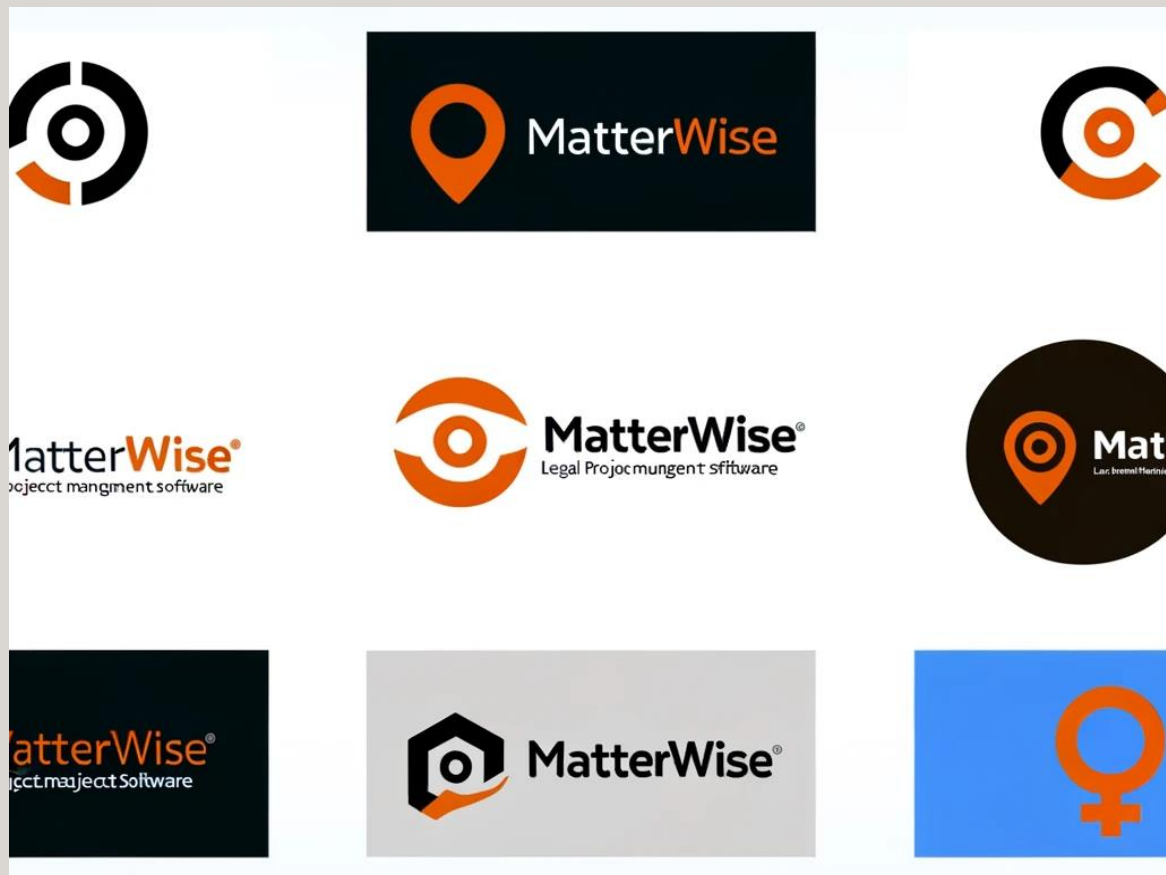
Make it more technical

Logo Creator: MatterWise



Make it more simple and accessible to convey ease of use

Logo Creator: MatterWise



Make it more simple and accessible to convey ease of use

Logo Creator: MatterWise



Include a cat

Logo Creator: MatterWise



Include a cat

Logo Creator: MatterWise



Can it symbolize herding cats?

Logo Creator: MatterWise



Can it symbolize herding cats?

Logo Creator: MatterWise



Can it be a friendly winking cat that looks helpful?



Logo Creator: MatterWise



Can it be a friendly winking cat that looks helpful?

Logo Creator: MatterWise



Change to a cat owl combination



MatterWise[®]
LEGAL PROJCTMENT



MatterWise[®]
LEGAL PROJEMMEAMEN™



MatterWise[®]
LEGAL LGAMAMENT



MatterWise[®]
LEGAL PROJEMMENT



MatterWise[®]
LEGGEPPROVNATECT



MatterWise[®]
LEGAL LMANGFIENT

Logo Creator: MatterWise



Change to a cat owl combination

Logo Creator: MatterWise



Can you edit the top right logo and add eyelashes?



Logo Creator: MatterWise



Can you edit the top right logo and add eyelashes?



Logo Creator: MatterWise



Can you edit the top right logo and add eyelashes?

AI Legal Use Cases

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Legal Use Cases for AI + GAI



Legal research



Document analysis, review, categorization, and summarization: eDiscovery, due diligence, information governance, compliance



Document drafting: contracts, leases, legal memorandum



Operational efficiencies: client support, marketing, billing



Predictive analytics

Legal Industry Generative AI Samples

Relativity

aiR for Review

aiR for Privilege

Relativity aiR
for Case Strategy

Harvey.

Bloomberg Law
Innovation Studio

brightflag

Lexis+ AI

casetext

OPUS2

THOMSON REUTERS
Westlaw
Precision™

eBrevia
Intelligent contract analytics

supio

ANAQUA

VINCENT | AI

xapien^{AI}

Microsoft
Copilot

MERLIN[★]

Ask blueJ

Lex Machina[®]

HData AI

IP COPILOT

ALTUMATIM

troutman
emerge[®]

Investment in Legal AI

[SPECIAL REPORTS >](#)
Legal Tech Investment Tracker

NEWS

EXCLUSIVE: Harvey Raises \$100 Million Series C Investment, Reaches Unicorn Status

The funding round, led by Google Ventures, and with participation from OpenAI and other venture capital funds, brings Harvey's valuation to \$1.5 billion.

July 23, 2024 at 10:00 AM

LPI

Legal Practice Intelligence
5,541 followers
16h •

Supio, an AI platform for personal injury and mass tort plaintiff firms, raises \$25m in new funding.

Please read the comments from [Jerry Zhou](#), Co-Founder and CEO at Supio, on the funding and how Supio helps lawyers and their clients.

[SPECIAL REPORTS >](#)
Legal Tech Investment Tracker



NEWS

Clio Raises \$900M Series F to Reach \$3B Valuation With Help From New Investors


The practice management software provider will leverage its latest funding round, which saw participation from Goldman Sachs, to accelerate its growth and product innovation, with plans for a new AI platform in the works.

July 23, 2024 at 08:00 AM

59 Conversations



- I have a skill in a generative A...
- Draft an assignment clause for a...
- Please create an organizational ...
- Based on the table below compa...
- Who are the parties in the docum...
- Please summarize this transcript...
- Please summarize this transcript...
- Are you able to summarize meetin...
- Are you able to summarize meetin...
- Please summarize this document...
- I've provided a Tenancy-in-Com...

 Clear Conversations

i

Welcome to Athena

To get started, type your request below.

Please note: Athena is not a legal research tool. Use Lexis, Westlaw and other tools for legal research needs.

Athena Capabilities:

- Drafts emails, press releases, social media posts, contract clauses, code, and other text outputs based on the specifics of your request and information you provide
- Summarizes, edits, or analyzes text you provide
- Within a conversation format, Athena corrects its original output based on your feedback

Athena Limitations:

- May occasionally generate incorrect information or biased content
- Has a limited knowledge of the world and events after 2021
- Cannot search the internet, Westlaw, Lexis, or other online resources



Send a message

General Chat



HINT: Instruct Athena by entering "more" if you would like more detail from the response.

NOTES: Athena does not have any knowledge of any events after September 2021. Always fact check the results Athena produces. Athena can only "see" the last 50,000 characters of your conversation. If asked to upload a document you can copy/paste the document into Athena instead.

Creativity:  LowClient #

Contract Analytics

The screenshot displays a contract analytics application. On the left, a PDF document titled "Aegis_Healthtech_Supply_Agreement.pdf" is open, showing the "SUPPLY AGREEMENT" section. The document text includes the effective date (1st day of October, 2022), the parties (Fresenius Kabi AB and Aegis Healthtech), and various recitals (A-F) and definitions (1.1, 1.2). On the right, a "My Worksheet > Change of Control" summary table is shown. The table lists three contracts: "Aegis_Healthtech_Supply_Agreement.pdf", "MedAlign_Systems_Supply_Agreement.pdf", and "HealthRise_Medical_Supply_Agreement.pdf". Each contract entry includes a checkbox, a page indicator (Page 1/9), a status (BASELINE), and a list of change of control events (1.3.1, 1.3.2).

Contract Details:

SUPPLY AGREEMENT

This Supply Agreement (the "Agreement") is effective as of the 1st day of October, 2022 (the "Effective Date") by and between:

(1) Fresenius Kabi AB, Rapskatan 7, 75324 Uppsala, Sweden ("FRESENIUS") and

(2) Aegis Healthtech, 6 Oakland Road, Columbus, GA 31904 ("PURCHASER").

Recitals

(A) WHEREAS, PURCHASER holds the market authorization of a product that requires the Product (as defined herein) as a lubricant which is used as a medical device.

(B) WHEREAS, FRESENIUS has a NDA (new drug application) approval of the Product in bags in the United States of America.

(C) WHEREAS, FRESENIUS is willing to provide all information to PURCHASER that is required to receive an approval from the FDA for the Product for the intended use as a lubricant.

(D) WHEREAS, PURCHASER is willing to purchase the Product from FRESENIUS.

(E) WHEREAS, FRESENIUS is willing to manufacture the Product and supply it to PURCHASER.

(F) WHEREAS, the parties have agreed to enter into this Agreement to set forth the terms and conditions on which FRESENIUS will manufacture and supply the Product to PURCHASER.

Agreement

NOW, THEREFORE, the parties hereto agree as follows:

1. Definitions

Unless otherwise specifically provided in this Agreement, the following terms shall have the following meanings:

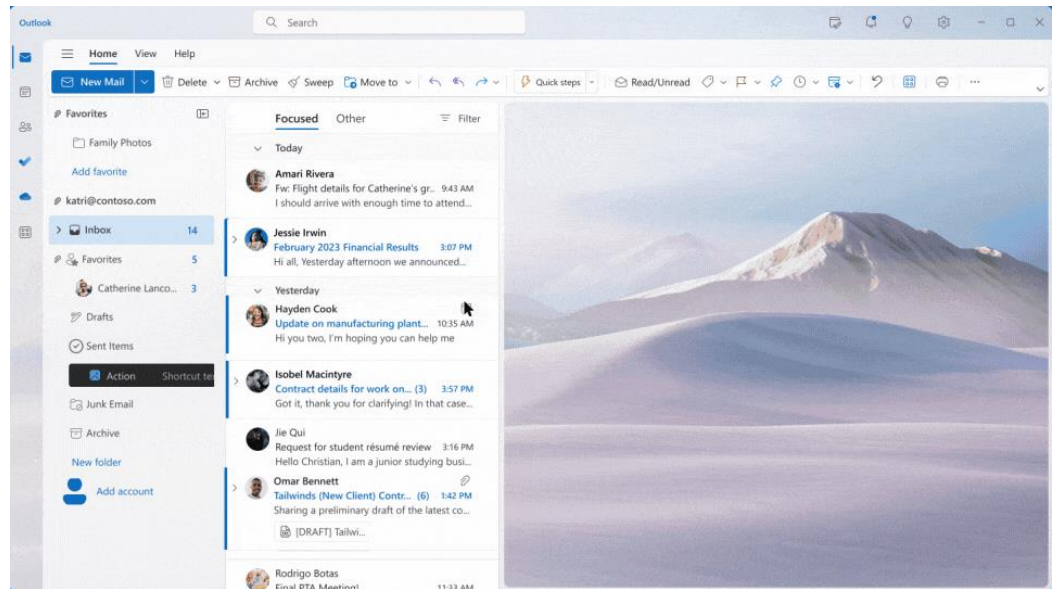
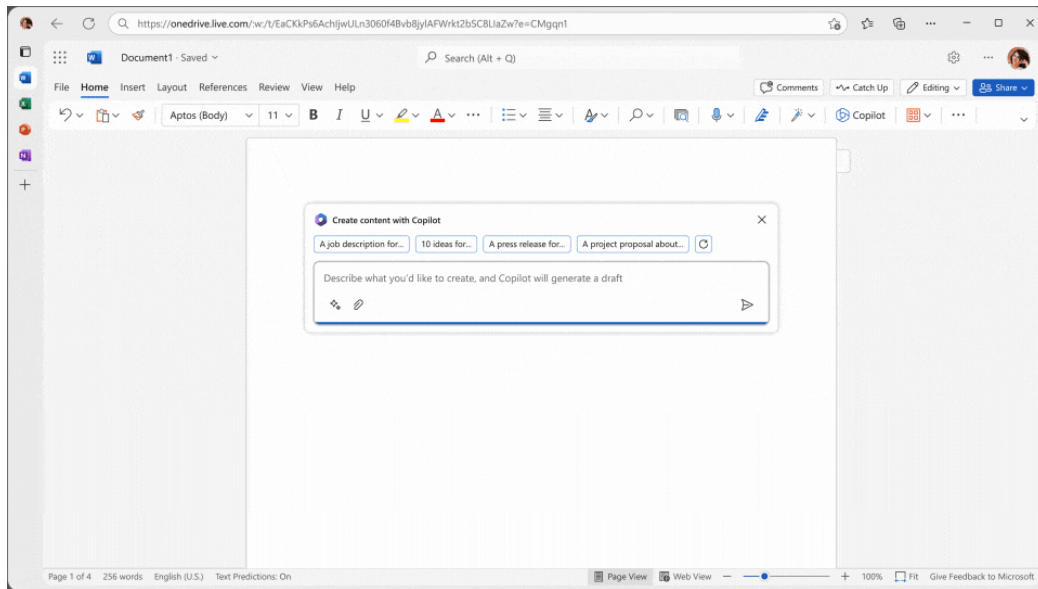
1.1 "The Act" means the United States Federal Food, Drug, and Cosmetic Act, as amended from time to time, and the rules and regulations promulgated thereunder.

1.2 "Affiliates" means, with respect to a Party, any person that controls, is controlled by, or is under common control with such first person. For purposes of this definition only, "control" means (a) to possess, directly or indirectly, the power to direct the management or policies of a person, whether through ownership of voting securities or by contract relating to voting rights or corporate governance, or (b) to own, directly or indirectly, more than fifty percent (50%) of the outstanding voting securities or other ownership interest of such person.

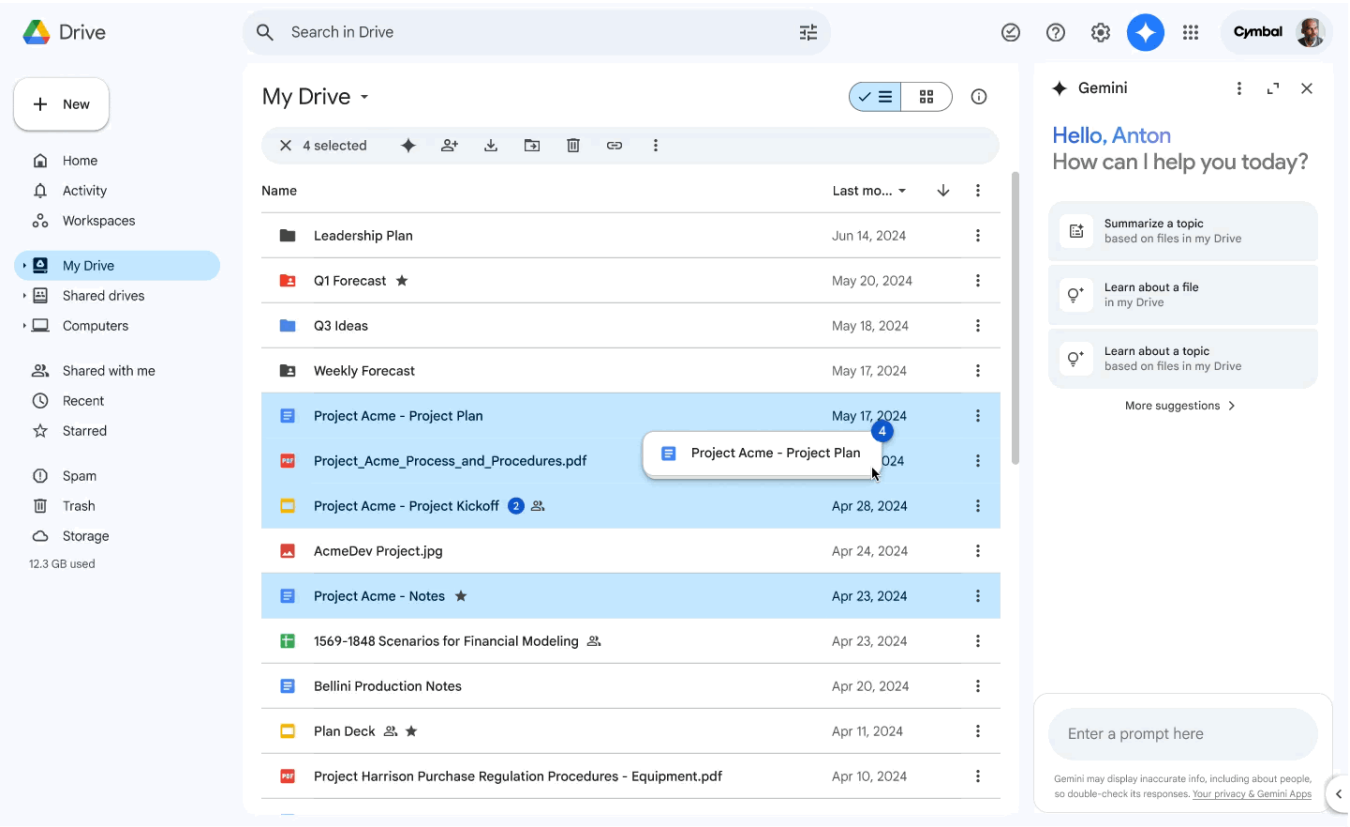
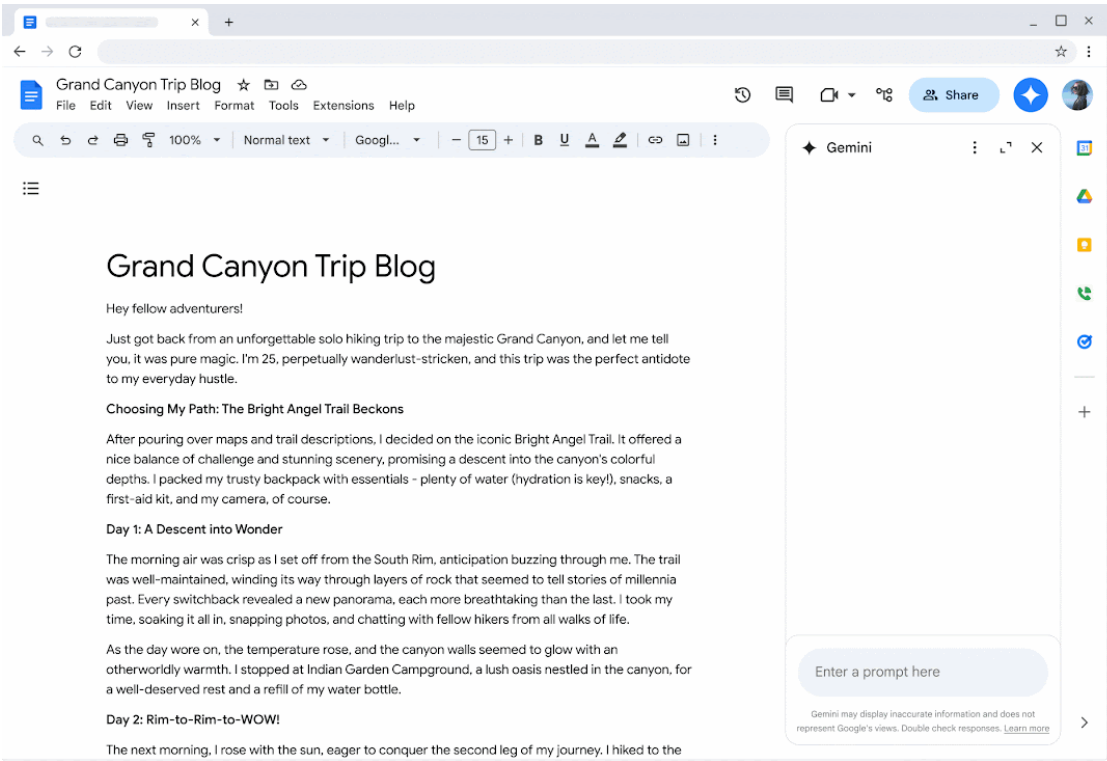
Change of Control Summary:

Contract Title	Page	Status	Change of Control Events
Aegis_Healthtech_Supply_Agreement.pdf	Page 1/9	BASELINE	1.3 "Change of Control" with respect to any Party, means an event in which: 1.3.1 any other person or group of persons acquires beneficial ownership of securities of the Party representing more than fifty percent (50%) of the voting power of the then outstanding securities of such Party with respect to the election of directors of such Party; or 1.3.2 the Party enters into a merger, consolidation, or similar transaction with another person in which such Party is not the surviving entity in such transaction.
MedAlign_Systems_Supply_Agreement.pdf	Page 1/9	100%	1.3 "Change of Control" with respect to any Party, means an event in which: 1.3.1 any other person or group of persons acquires beneficial ownership of securities of the Party representing more than fifty percent (50%) of the voting power of the then outstanding securities of such Party with respect to the election of directors of such Party; or 1.3.2 the Party enters into a merger, consolidation, or similar transaction with another person in which such Party is not the surviving entity in such transaction.
HealthRise_Medical_Supply_Agreement.pdf	Page 1/9	100%	1.3 "Change of Control" with respect to any Party, means an event in which: 1.3.1 any other person or group of persons acquires beneficial ownership of securities of the Party representing more than fifty percent (50%) of the voting power of the then outstanding securities of such Party with respect to the election of directors of such Party; or 1.3.2 the Party enters into a merger, consolidation, or similar transaction with another person in which such Party is not the surviving entity in such transaction.

Microsoft 365 Copilot



Google Workspace Gemini



Legal Research: 50-State Surveys

LexisNexis®

Create

View chat history in Lexis+® AI

AI Assistant

Which legal task can AI accelerate for you today?

Ask a legal question

Generate a draft

Summarize a case

Options

Client ID

Browse all features

- ☐ Insurance Law
 - ☐ Claim, Contract & Practice Issues
 - [Insurance Claims Resolution & Unfair Claims Settlement Practices](#)
 - [Insurance Fraud Reporting](#)
 - [Reinsurance](#)
 - ☐ Industry Practices
 - [Genetic Testing & Information for Insurance Purposes](#)
 - ☐ Insurance Companies
 - [Insurance Company Investments](#)
 - [Insurance Underwriting & Rate-Making](#)
 - ☐ Types of Insurance
 - [Consumer Automobile Coverage](#)
 - [Consumer Credit Insurance](#)
 - [Legal Expense Insurance](#)
 - [Long-Term Care Insurance](#)
 - [Medical Malpractice Insurance](#)
 - [Property & Fire Insurance](#)
 - [Small Business Health Insurance](#)

v|lex

Search

Colombia

Vincent AI Research Assistant

3

What would you like to do?

Ask any question or say what you would like to do...

United States (Federal)

Upload Files

Connect Collection

Workflows

Filter

Find

Ask a Research Question

Find answers in case law, legislation, and secondary sources

Research

Build an Argument

Find sources to support or oppose a proposition

Research

Litigation

Analyze a Contract

Review clauses, definitions, risks, and client-hostile language

Transactional

Document Analysis

Analyze a Complaint

Extract claims & facts, build timelines and propose defences

Litigation

Document Analysis

Compare Jurisdictions

Compare laws and regulations across many

Redline Analysis

Identify changes in a contract, or multiple revisions of

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The background of the slide features a blurred financial candlestick chart. The chart has orange and blue bars representing price movements. A red dashed line, likely a moving average, curves upwards from the bottom left. A white arrow points down to a specific point on this line, which is labeled with the text "(% + 0.3) 187.12".

Legal, Ethical, and Regulatory Considerations

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Potential Ethical Issues with using AI and LLMs

- Hallucinations
- Biases
- Cheating
- Exploiting vulnerabilities



Hypothetical Situation – RobotReview: GAI for Doc Review

ChatBot AI

OK, I can answer your question in several ways:

- 1) The neural network that provides you with the math should be constantly monitored.
- 2) Adjustments should be made to any feedback loop providing corrections.
- 3) Statistical data may need to be updated.
- 4) Analysis of that statistical data has to be checked / fact checked.
- 5) Inputs have to be rechecked / understood.

Generative AI Document Review

- **Lawyer uses Generative AI Review Platform from RobotReview to review documents collected from client for responsiveness**
- **Lawyer creates prompts to RobotReview**
- **RobotReview output includes confidence score, rationale for coding decision, and citation to portions of document that support its findings**

- **Lawyer reviews 20% of the documents coded by RobotReview and finds an accuracy rate of 95%**
- **Lawyer refines prompt to address errors**
- **Lawyer reviews RobotReview output summarizing coding rational for 70% of the documents and feels confident in accuracy**
- **Lawyer produces documents coded as responsive by RobotReview**



WHAT MORE DO YOU WANT TO KNOW?



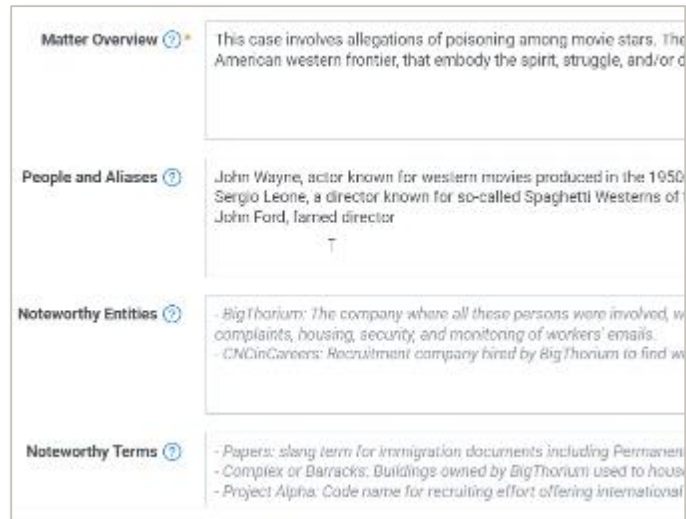
Ethical Concerns?

AUDIENCE POLL

- a) Yes, even if final product was accurate – client consent required
- b) Not if the lawyer disclosed the use of RobotReview to court and opposing counsel
- c) Not if the results were at least as accurate as a human review
- d) Yes, the lawyer did not sufficiently confirm the accuracy of the final product
- e) Other

Relativity aiR for Review

Attorney Describes The Matter



Matter Overview ⓘ This case involves allegations of poisoning among movie stars. The American western frontier, that embody the spirit, struggle, and/or o

People and Aliases ⓘ John Wayne, actor known for western movies produced in the 1950 Sergio Leone, a director known for so-called Spaghetti Westerns of John Ford, famed director

Noteworthy Entities ⓘ - BigThorium: The company where all these persons were involved, w complaints, housing, security, and monitoring of workers' emails. - CNCinCareers: Recruitment company hired by BigThorium to find w

Noteworthy Terms ⓘ - Papers: slang term for immigration documents including Permanen - Complex or Barracks: Buildings owned by BigThorium used to house - Project Alpha: Code name for recruiting effort offering international

Leverage a prompt iteration experience to help identify responsiveness criteria and key issues

aiR Analyzes Documents Using Inputs



Review Analysis

Responsiveness

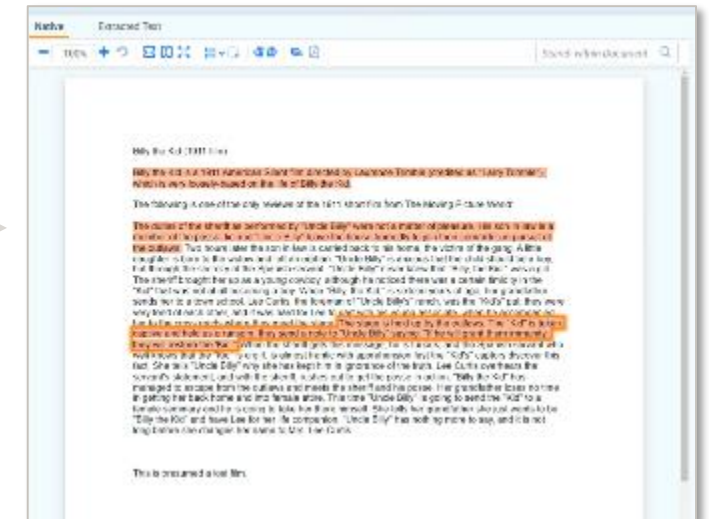
Likely Responsive

Rationale

Suggests that BigThorium is coercing employees into staying by threatening to send them home if they don't stop complaining and increase production; has enforced segregated living conditions based on race, as Indian workers' housing has been separated from the others; and that Indian workers are being treated differently in terms of their pay, as they are being docked for housing costs due to not meeting construction deadlines.

See detailed rationale and citations so you can understand and defend results

Attorney Reviews aiR's Analysis



Extracted Text

This case involves allegations of poisoning among movie stars. The American western frontier, that embody the spirit, struggle, and/or o

John Wayne, actor known for western movies produced in the 1950 Sergio Leone, a director known for so-called Spaghetti Westerns of John Ford, famed director

View insights directly in the context of documents and accept coding decisions if desired

ABA Model Rules Implicated by Use of AI

Competence & Diligence	Rules 1.1, 1.3
Client Confidentiality	Rule 1.6
Supervising People & Assistance	Rules 5.1, 5.2, 5.3
Informing Clients/Courts	Rules 1.4, 1.2
Duty of Candor	Rule 3.4
Unauthorized Practice of Law	Rule 5
Conflicts of Interest	Rule 1.8
Fairness to Opposing Party & Counsel	Rule 3.4
Duty to Avoid Misleading Communications	Rule 4.1
Fees and Expenses	Rule 1.5
Duty to Avoid Discrimination	Rule 8.4.1



Duty of Competence

DUTY OF COMPETENCE: MODEL RULE 1.1

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.



Duty of Competence

DUTY OF COMPETENCE: COMMENT 8: MAINTAINING COMPETENCE

[8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, **including the benefits and risks associated with relevant technology**, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

CONFIDENTIALITY OF INFORMATION

Model Rule 1.6

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized to carry out the representation or the disclosure is permitted by paragraph (b).

(c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

Model Rule 1.6, cmts. [2], [3]

[2] A fundamental principle in the client-lawyer relationship is that, in the absence of the client's informed consent, the lawyer must not reveal information relating to the representation....

[3] The confidentiality rule, for example, applies not only to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source. A lawyer may not disclose such information except as authorized or required by the Rules of Professional Conduct or other law.



Confidentiality of Information

MODEL RULE 1.6, CMT. [4]

Paragraph (a) prohibits a lawyer from revealing information relating to the representation of a client. This prohibition also applies to disclosures by a lawyer that do not in themselves reveal protected information but could reasonably lead to the discovery of such information by a third person.

Confidentiality of Information



Confidential

MODEL RULE 1.6, CMT. [18]

A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to forgo security measures that would otherwise be required by this Rule.

Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these Rules.

CONFIDENTIALITY OF INFORMATION

Model Rule 1.6, cmt. [18]

Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to

the sensitivity of the information,

the likelihood of disclosure if additional safeguards are not employed,

the cost of employing additional safeguards,

the difficulty of implementing the safeguards, and

the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use).

CONFIDENTIALITY OF INFORMATION: VIRGINIA RULES OF PROFESSIONAL CONDUCT 1.6 CMT [19]

Factors to be considered in determining the reasonableness of the lawyer's efforts [to safeguard information] include, but are not limited to

the sensitivity of the information,

the likelihood of disclosure if additional safeguards are not employed,

The employment or engagement of persons competent with technology

the cost of employing additional safeguards,

the difficulty of implementing the safeguards, and

the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use).

DUTY OF COMMUNICATION (MODEL RULE 1.4)

Client-Lawyer Relationship

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Responsibilities Regarding Nonlawyer Assistance: Model Rule 5.3

With respect to a nonlawyer employed or retained by or associated with a lawyer:

- a) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;
- b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and
- c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:
 - 1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or
 - 2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Responsibilities Regarding Nonlawyer Assistance: Model Rule 5.3, cmt [3]

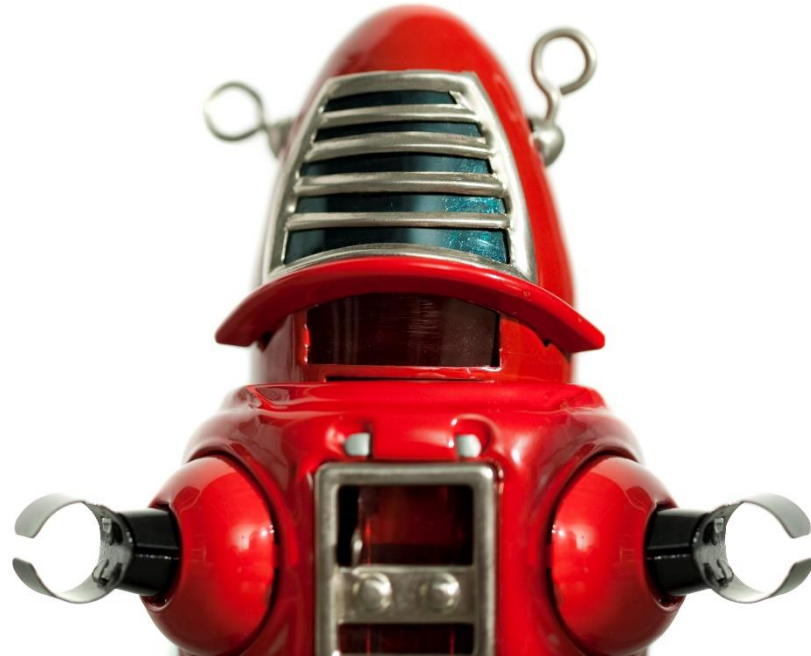
Nonlawyers Outside the Firm

[3] A lawyer may use nonlawyers outside the firm to assist the lawyer in rendering legal services to the client. Examples include . . . hiring a document management company to create and maintain a database for complex litigation . . . and using an Internet-based service to store client information. When using such services outside the firm, a lawyer must make reasonable efforts to ensure that the services are provided in a manner that is compatible with the lawyer's professional obligations. The extent of this obligation will depend upon the circumstances, including the education, experience and reputation of the nonlawyer; the nature of the services involved; the terms of any arrangements concerning the protection of client information; and the legal and ethical environments of the jurisdictions in which the services will be performed, particularly with regard to confidentiality. See also Rules 1.1 (competence), 1.2 (allocation of authority), 1.4 (communication with client), 1.6 (confidentiality), 5.4(a) (professional independence of the lawyer), and 5.5(a) (unauthorized practice of law). When retaining or directing a nonlawyer outside the firm, a lawyer should communicate directions appropriate under the circumstances to give reasonable assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer.

Responsibilities Regarding Nonlawyer Assistance: Model Rule 5.3, cmts [3] [4] [NOT adopted by VRPC]

Nonlawyers Outside the Firm

[4] Where the client directs the selection of a particular nonlawyer service provider outside the firm, the lawyer ordinarily should agree with the client concerning the allocation of responsibility for monitoring as between the client and the lawyer. See Rule 1.2. When making such an allocation in a matter pending before a tribunal, lawyers and parties may have additional obligations that are a matter of law beyond the scope of these Rules.





AMERICAN **BAR** ASSOCIATION

AMERICAN BAR ASSOCIATION

STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY

Formal Opinion 512

July 29, 2024

Generative Artificial Intelligence Tools

To ensure clients are protected, lawyers using generative artificial intelligence tools must fully consider their applicable ethical obligations, including their duties to provide competent legal representation, to protect client information, to communicate with clients, to supervise their employees and agents, to advance only meritorious claims and contentions, to ensure candor toward the tribunal, and to charge reasonable fees.

State Bar Associations AI Guidance

Sample Themes

Lawyers must

- ensure that AI-generated content is truthful, accurate, and based on sound legal reasoning
- be competent in the use of AI technologies
- ensure the accuracy and relevance of legal citations
- safeguard information relating to the representation of a client
- ensure that AI systems handling confidential data adhere to strict confidentiality measures
- be vigilant in identifying and addressing potential conflicts of interest
- communicate with clients about their use of AI technologies in their practices, providing clear and transparent explanations of how such tools are employed and their potential impact on case outcomes
- ensure that AI-related expenses are reasonable and appropriately disclosed to clients
- engage in continuing legal education and other training to stay informed about ethical issues and best practices for using AI in legal practice

State Bar AI Opinions/ Guidelines:

- California
- Florida
- Illinois
- Kentucky
- Michigan
- Minnesota
- Missouri
- New Jersey
- New Mexico
- New York
- North Carolina
- Pennsylvania
- Texas
- Virginia
- Washington DC
- West Virginia

Takeaways

- **Have a plan for supervising the technical and review work performed by others outside of your firm.**
- **If you have a preferred technology service provider, make sure you address who will be responsible for supervising their work.**
- **Lawyers must also consider the data security measures taken by outside providers that are handling client data based on the factors in the ethics rules and other applicable obligations.**

General Themes of Regulations & Guidelines

Preventing:

- Bias and discrimination
- Deception and unfairness
- Manipulation & exploitation
- Personal injury
- Threats to infrastructure & security
- Consumer harm

Promoting:

- Notice/Transparency
- Reduction of bias and discrimination
- Fairness
- Human rights
- Innovation
- Privacy and data security
- Safety

AI Governance & Regulatory Environment



NIST
National Institute of
Standards and Technology



Press Release

SEC Proposes New Requirements to Address Risks to Investors From Conflicts of Interest Associated With the Use of Predictive Data Analytics by Broker-Dealers and Investment Advisers

FOR IMMEDIATE RELEASE
2023-140

Washington D.C., July 26, 2023 — The Securities and Exchange Commission today proposed new rules that would require broker-dealers and investment advisers (collectively, "firms") to take certain steps to address conflicts of interest associated with their use of predictive data analytics and similar technologies to interact with investors to prevent firms from placing their interests ahead of investors' interests.

NIST

Information Technology /Artificial intelligence

U.S. ARTIFICIAL INTELLIGENCE SAFETY INSTITUTE

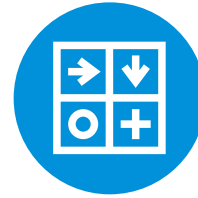


Compliance Keys: What to track?



Data Privacy and Security:

1. **What to Know:** Know where your data comes from, how it is collected, where it is stored, and how it is processed.
2. **Details to Track:** Ensure compliance with privacy laws by implementing data governance policies, conducting regular security audits, and using techniques like encryption and anonymization to protect sensitive information.



Bias and Fairness:

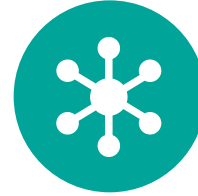
1. **What to Know:** Understand the datasets used to train your AI models and be aware of any potential biases they may contain.
2. **Details to Track:** Regularly audit your AI systems for bias, use diverse and representative datasets, and implement fairness metrics to evaluate the outputs of your AI models.

Compliance Keys: What to track?



Transparency and Explainability:

1. **What to Know:** Be clear about how your AI models make decisions and ensure that these processes can be explained to stakeholders.
2. **Details to Track:** Document the methodologies used in your AI models, and develop mechanisms to provide understandable explanations for AI-driven decisions.



Accountability and Governance:

1. **What to Know:** Establish clear roles and responsibilities for overseeing AI development and deployment within your organization.
2. **Details to Track:** Create ethical guidelines for AI use, assign accountability to specific roles or committees, and implement mechanisms for addressing grievances and issues related to AI operations.

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Resources

troutman
pepper

ABA Resolution 604

Resolution 604 calls on organizations that design, develop, deploy and use AI to follow these guidelines:

- Developers of AI should ensure their products, services, systems and capabilities are subject to human authority, oversight and control.
- Organizations should be accountable for consequences related to their use of AI, including any legally cognizable injury or harm caused by their actions, unless they have taken reasonable steps to prevent harm or injury.
- Developers should ensure the transparency and traceability of their AI and protect related intellectual property by documenting key decisions made regarding the design and risk of data sets, procedures and outcomes underlying their AI.



State Bar Rules/Opinions

- <https://www.dataguidance.com/opinion/usa-multiple-state-bars-set-guidelines-generative-ai>
- The District of Columbia Bar. Ethics Opinion 388- Attorney's Use of Generative Artificial Intelligence in Client Matters. (April 2024)
- <https://nysba.org/app/uploads/2022/03/2024-April-Report-and-Recommendations-of-the-Task-Force-on-Artificial-Intelligence.pdf>
- Florida Bar Ethics Opinion 24-1 January 19, 2024.(Generative AI and the practice of law.)
- <https://www.floridabar.org/the-florida-bar-news/proposed-advisory-opinion-24-1-regarding-lawyers-use-of-generative-artificial-intelligence-official-notice/>
- <https://calawyers.org/california-lawyers-association/ethics-guidelines-for-lawyers-using-generative-ai/>
- https://www.michbar.org/opinions/ethics/numbered_opinions/JI-155
- <https://www.michbar.org/opinions/ethics/AIFAQs>
- <https://njsba.com/wp-content/uploads/2024/05/NJSBA-TASK-FORCE-ON-AI-AND-THE-LAW-REPORT-final.pdf>
- <https://www.ncbar.gov/for-lawyers/ethics/ethics-articles/artificial-intelligence-real-practice/>
- <https://www.judiciary.uk/guidance-and-resources/artificial-intelligence-ai-judicial-guidance/>
- <https://www.judiciary.uk/wp-content/uploads/2023/12/AI-Judicial-Guidance.pdf>
- <https://vsb.org/Site/Site/lawyers/ethics.aspx>