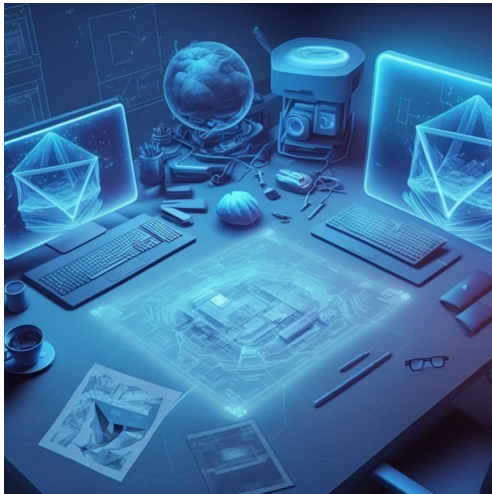


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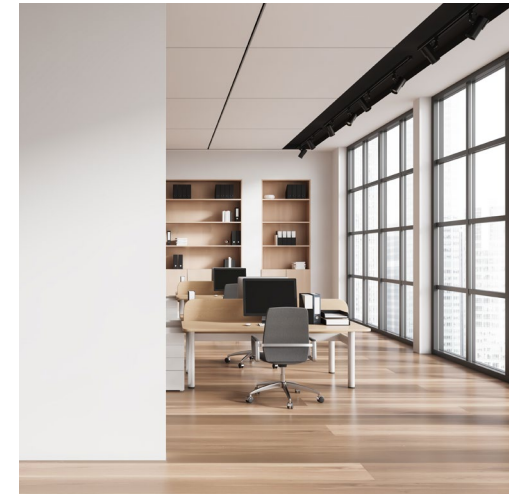
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The AI job revolution



Prof. Dr.  
Thomas Wegerich  
Editor  
GoingDigital

Dear Readers,

we start this issue of GoingDigital with a really big picture: Dr. Markus Pauli, Thomas Marquard and Timur Tretner share their thoughts about the legal department of the future with you. And, as you might have expected, digitization is turning the key and opens the way to new opportunities.

The legal professional privilege for in-house counsels is a fundamental element of the rule of law, writes Vita T. Richardson, CEO and President of the Association of Corporate Counsel. With regard to this, Germany is lacking behind. And this is a competitive disadvantage.

Did you ever made up your mind how artificial intelligence will reshape existing and help to create new job profiles in the legal profession? Zoë Andreae and Acelya Ovalioglu have put together an astonishing number of new chances to find a professional place in the legal community. – A must-read.

Sincerely yours,

Thomas Wegerich

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# Legal department of the future

Exploiting the opportunities of digitalization

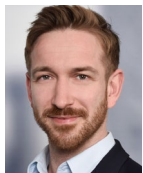
By Dr. Marcus Pauli, Thomas Marquardt, and Timur C.-H. Tretner



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A proactive approach is necessary to ensure that legal departments are ready for the digital age. This is the only way to ensure that the original business needs, and the most important requirements of the legal departments are mapped correctly.



Numerous business processes have been successively digitized in recent years. Legal and compliance departments and their processes had not been in focus for a long time. This was largely due to the main task of legal services, the analysis of facts and the application of laws, which was essentially seen as individual work. However, this has now changed.

### Digitalization has become essential to efficient legal departments

Legal services are coming under increasing pressure to use the new technical possibilities (“legal tech”) to reduce their costs and improve their service delivery.

“On the one hand, costs can be significantly reduced, and on the other hand, processing times for individual issues can be significantly shortened.”

At the same time, their tasks are also changing. Collaboration with external law firms on specific issues is becoming more intensive, while cyber risks are increasing. Furthermore, new areas of focus have been emerging, including ESG (Environmental, Social and Governance) considerations, data regulation, AI regulation, and an increased engagement in internal investigations and eDiscoveries.

### Typical mistakes

In various companies, the need for action has already been recognized and individual projects have been launched. However, we see some typical mistakes that should be avoided:

- **Realizing stand-alone solutions**

Digitalization projects often start where particular problems exist or have become apparent in the course of individual investigations, e.g., in the area of contract creation and management. These pain points are then implemented technically, and the individual case is solved. As a rule, however, there is no overall strategy or target picture, so this procedure results in isolated solutions and new interfaces. This approach results from a concern about long-running large-scale projects that tie up considerable resources and typically overtax the departments during implementation or go-live.

- **Long-term maintenance effort of individual solutions**

The digitalization of individual processes leads to the cementing of existing – often historically grown and suboptimal – processes. On the one hand, this wastes a certain reorganization potential, and on the other hand, dependencies at the data level are not usually considered. Although this can lead to supposed quick wins, the resulting long-term maintenance effort is significantly underestimated.

- **Difficulties in formulating legal requirements**

Furthermore, there is often a deficiency in the department’s own processes, especially those related to

handling services related to case. In addition, the business department and the IT department often do not speak the same language, which leads to difficulties in formulating the exact requirements. Even if this is successful, however, it is – as described above – usually limited to the individual task and does not consider the dependencies from the IT strategy and the existing IT landscape.

- **No participative approach**

The end customer and user perspective is not sufficiently taken into account in the projects. However, their involvement at an appropriate point in time is an important success factor for acceptance after implementation of the solution.

### Goals of the legal department of the future

Technology pressure is essentially aiming at increasing efficiency in the provision of legal services. On the one hand, costs can be significantly reduced, and on the other hand, processing times for individual issues can be significantly shortened. A Gartner survey among 300 legal leaders revealed an automation potential of between 50–60% of tasks in legal domains such as drafting, negotiation, and review. This survey also found that organizations have not yet reached the halfway point in realizing this automation potential (Gartner, Legal Planning and Budgeting for 2021).

In addition to increasing efficiency, the Legal Department of the Future approach also aims to provide better support

and make work easier for employees. This is particularly true in times of increasing shortages of skilled workers. The aim here is to improve their day-to-day work:

- No time wasted searching for documents
- Fewer errors due to automated processes and reduction of repetitive activities
- More time for processing complex legal core tasks
- Better overview of pending tasks and their prioritization
- Enabling cooperative working without system breaks
- Avoiding requests to the wrong contacts through better routing

Better work support also supports the third goal – improving quality.

### Framework for a digitalization approach of legal departments

In order to achieve the aforementioned goals, a framework is necessary that ensures systematic consideration of all relevant sub-elements. It is not mandatory that all aspects are implemented at the same time; rather, experience has shown that a successive approach makes sense in order not to overtax the adaptability of users and

customers. The Deloitte “Legal department of the Future” framework comprises the following elements:

- **Contract Lifecycle Management and document automation**  
Contract Lifecycle Management (CLM) supports all contract phases from creation, negotiation and signing to archiving and, if necessary, updating contracts.
- **Legal research & knowledge management**  
Legal research and knowledge management is often a highly manual task. Monitoring and tracking international legal developments (e.g., with RegMonitoring by Deloitte), fully automated source research and database queries during reviews of pleadings support this task.
- **Content management**  
Content Management refers to the use of solutions for the collaborative creation, management, publication and archiving of content, e.g., the collaborative and system-supported creation of pleadings and the automatic file assignment of e-mails.
- **Legal controlling**  
Legal controlling allows systematic tracking of the costs of external law firms and service providers as well as the management of individual and large-scale proceedings. In addition to pure reporting, AI-supported analyses of invoices for anomalies can be performed.

- **Matter management**

Matter management is a systematic management of the lifecycle of legal proceedings and projects. This includes tracking all relevant data and information on a matter including deadline management, output, etc. This also includes setting up reporting on the respective matter status.

- **Workflow support**

Workflow support encompasses the definition of uniform core workflows and (partial) automation of legal business processes based on a standard IT platform. A typical example is the establishment of a legal front door for the reception and efficient routing of all inquiries made to the legal department.

### Lessons learned

The framework enables a forward-thinking approach to the legal office of the future. This begins by envisioning an overarching goal and can then move on to initiating the process with prioritized elements. Further implementation can then be stretched and controlled via a dedicated roadmap. In this way, the level of digital maturity can be increased piece by piece.

It is recommended to define a workflow core based on a standard platform in the sense of a workflow hub. This ensures that important master data will be kept in a uniform data model. Based on the platform, special solutions can then be connected for specific tasks (e.g., CLM or legal

controlling). It also makes it easier to integrate AI components, which are reaching an ever-higher level of maturity.

### Conclusion – companies need a pro-active approach to the legal department of the future

A proactive approach is necessary to ensure that legal departments are ready for the digital age. This is the only way to ensure that the original business needs, and the most important requirements of legal departments, are mapped correctly. It is advisable to set up a cross-functional task force involving the specialist departments, IT and end users. The faster the framework has to be implemented, the more likely it is that external consulting will be used.

Collectively, these points provide a digitalization boost for legal departments and will thus increase efficiency, quality, and satisfaction. ←

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# Legal professional privilege for in-house counsel

German businesses remain at a competitive disadvantage

By Veta T. Richardson



Many countries in Europe continue to not extend full LPP (legal professional privilege) protections to lawyers who work for companies and other organizations.

Legal professional privilege (LPP), the protection of confidential communications between lawyers and their clients, is a fundamental element of the rule of law. Nonetheless, many countries in Europe continue to not extend full LPP protections to lawyers who work for companies and other organizations. Recent developments in France and Switzerland may be a sign that change is coming for more in-house counsel, but the road ahead remains long.

## LPP is key to ensuring quality legal representation

Legal systems globally have long recognized the importance of preserving the confidentiality of communications between clients and their lawyers. The public policy rationale for privilege is to encourage clients to divulge all information to their lawyers, who require this information to provide them with the best possible representation. The



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ability of lawyers and clients to converse freely strengthens the justice system and promotes the rule of law.

However, when it comes to in-house counsel, there is currently no widespread agreement on whether LPP should apply to communications between an in-house lawyer and their internal client. Many countries with common law legal systems, such as the United Kingdom, Australia, Singapore, and the United States, recognize LPP protections for in-house counsel. Conversely, a number of countries with civil law legal systems do not extend LPP to in-house counsel. In fact, 18 countries in Europe currently recognize LPP for in-house counsel while 13 countries still do not. Of the remaining countries in the Organization for Economic Cooperation and Development (OECD), 9 recognize LPP and 3 do not.

While a number of civil law countries recognize LPP protections for in-house counsel, many limit the extent of the privilege. In Germany, LPP protections extend to in-house counsel for civil law matters only, leaving them vulnerable or needing to obtain costly outside counsel related to criminal and regulatory proceedings. Recently, France adopted legislation to extend some level of LPP protection to in-house lawyers, but that too is limited.

### French legislation extends LPP protections to in-house counsel

For more than 25 years, advocates in France sought to have LPP extended to in-house counsel. Opponents of the legislation argued that corruption and corporate misdeeds

would increase unchecked if in-house counsel communications with their internal clients were protected from disclosure. Proponents of the change pointed to a lack of rampant corruption and the ability of in-house counsel with privilege protections to proactively address concerns before they become more serious problems.

“As business dealings become increasingly international, those organizations in countries with limited LPP will continue to be at a competitive disadvantage.”

French companies have been at a competitive disadvantage when compared with companies headquartered in countries that fully recognize LPP for in-house lawyers. Businesses headquartered in countries where in-house counsel advice is protected by LPP have the benefit of lawyers who can engage in a wide range of legal functions while maintaining the confidentiality of those legal conversations. Businesses whose in-house counsel lack this protection must spend additional – and significant – time and resources on securing and corresponding with outside counsel. They also lose the benefits of having a trusted legal advisor who is most intimately familiar with the business.

Explicitly acknowledging this competitive disadvantage, French legislators voted to extend LPP to in-house counsel on commercial, civil, and administrative legal matters.

While there is no privilege attached to communications concerning criminal or tax matters, the legislation is an important first step. The legislation passed both houses of parliament in France and will face a final vote this fall.

### Swiss in-house counsel will have LPP protections in 2025

Another recent development to expand LPP in Europe took place in Switzerland. A legislative process to extend LPP to in-house counsel in Switzerland began in 2007 and culminated in a vote in March 2023 by the Swiss Parliament to grant LPP protections to in-house counsel. This legislation is expected to take effect in January 2025. Specifically, the legislation allows in-house counsel to refuse to turn over requested documents so long as the in-house counsel is registered to practice in Switzerland, is a member of a bar or recognized as a lawyer in their home jurisdiction, and the work is related to the practice of law.

### A welcome trend, but more is needed

As legislators and advocates in France noted, in-house counsel whose communications are protected by LPP are better able to serve their organizations. When communications between in-house counsel and their business clients are protected, an atmosphere of frank and open conversation is created. While the status quo regarding LPP in Germany and other countries throughout Europe offers some protections, the patchwork and limits in-house counsel must navigate can be confusing, time consuming,



and costly. As business dealings become increasingly international, those organizations in countries with limited LPP will continue to be at a competitive disadvantage. With full LPP, in-house lawyers can more easily identify compliance concerns and more quickly address them when confidential communications are allowed to take place.

This proactive role not only serves organizations to help prevent costly fines, reduced revenue, job losses, and serious brand and reputational damage, it also benefits local communities and societies at large who rely on these companies for employment, taxes, and production of goods and services. Recent changes in France and Switzerland are welcome progress with regard to bolstering LPP. However, additional efforts are required to bring full LPP to all in-house counsel and end the confusion and excess costs currently undermining businesses throughout Europe. ←

Editor's note:

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# AI Pact and AI code of conduct

Transitional solutions for the regulation of Artificial Intelligence

By Dr. Benedikt Kohn and Lennart van Neerven, LL.M.



The AI Pact's content and the question of whether and which companies will continue to participate in the further course are currently completely open.



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## Background

There has been a great deal of discussion about the planned AI Act of the European Union (EU). Since the publication of [the initial Commission draft](#) on 21 April 2021, the Council of the EU (Council, see [here](#)) and the European Parliament (Parliament, see [here](#)) have now also published their drafts with proposed amendments. Since 14 June 2023, negotiations have been ongoing in the trilogue between the European Commission (Commission), Council and Parlia-

ment. So, the AI Act is on the home stretch and artificial intelligence will soon be regulated in Europe – or so one would think.

However, it will not happen that soon. Even if the trilogue negotiations lead to a final version of the AI Act by the end of the year, most of the regulations will only apply two years after it enters into force. The Council even suggested that the AI Act should only apply three years after its entry into force. In any case, this leaves a considerable period of

time without AI regulation. Since this scenario is likely to cause unease among many in view of the extremely fast and dynamic developments in the AI industry, the Commission is pushing for transitional measures.

## AI Pact

One of the Commission's transitional measures, in cooperation with AI companies, is the so-called "Artificial Intelligence Pact" (AI Pact). Google's parent company Alphabet was the first company to declare its willingness to cooperate with the Commission in this regard, and the Meta Group, which owns the social media platforms Facebook, Instagram and the messenger app WhatsApp, among others, has already signaled its potential willingness to cooperate.

Within the framework of the AI Pact, which in the eyes of the Commission will function as a kind of transitional solution, players will voluntarily commit themselves to compliance with uniform rules of conduct. In this way, certain standards and rules will be established even before the AI Act enters into force, in order to avoid potential damage from AI systems, and at the same time prepare for future obligations arising from the AI Act. However, the details of the AI Pact's content and the question of whether and which companies will still continue to participate in it are currently completely open.

The AI Pact and the AI Act are thus supposed to go hand in hand, but they should not be confused because, although similarly worded, they are two completely different regulatory measures. The AI Act – a proposed EU regulation – is

a legislative project of the EU, which is directly and bindingly applicable in EU member states and must be followed by companies. The AI Pact was also initiated by the Commission and is intended to be based on the content of the regulations of the AI Act, for example on risk management or data quality, and thus create a smooth transition to future regulation. However, the implementation of the AI Pact regulations is based entirely on a voluntary commitment by the participating companies and is therefore ultimately voluntary and not legally enforceable.

The timetable for the AI Pact envisaged by the Commission could be described as quite ambitious. After the AI Pact was announced in May 2023 by the French EU Commissioner Thierry Breton and initial commitments were already made, the schedule for the subsequent summer months included contacts with the Transport, Telecommunications and Energy Council (TTE) – which is responsible among other things for the development of trans-European communication networks – as well as visits to San Francisco, Seoul and Tokyo.

In the third quarter of 2023, the Commission is aiming to intensify the development of the AI Pact. In this phase, industry will be informed about the possibility of an AI Pact, and possible areas where companies might enter into voluntary agreements will be identified. In the fourth quarter of 2023, in which the trilogue on the AI Act will also be concluded, the AI Pact will then be aligned with the AI Act in order to avoid any contradictions and regulatory gaps. Close monitoring is planned for the subsequent period in order to evaluate the effectiveness of the implementation of the AI Pact.

## AI code of conduct

In addition to the AI Pact, the EU is also pursuing the development of a non-binding transatlantic code of conduct in cooperation with the USA (AI Code of Conduct). It will contain international standards on risk audits, transparency and other requirements to which companies can then subscribe. However, further details are not yet available. A draft of this project will be published in the third quarter of 2023 and – after an evaluation of feedback from companies – presented to the G7. A final version of the AI Code of Conduct is expected by the end of the year.

## Looking across the ocean

The USA has already implemented a project comparable to the AI Pact. On 21 July 2023, seven leading AI companies gathered at the White House to announce their voluntary commitment regarding the use of AI technologies (see [here](#)). Amazon, Anthropic, Google, Inflection, Meta, Microsoft and OpenAI made a series of commitments based on the three core principles of "safety, security, and trust" to create responsible and safe AI for American citizens. For example, for safe AI products, they will conduct pre-market safety reviews of their AI systems and share information on AI risks with industry, governments, civil society and academics. They are also committed to robust cybersecurity and other safeguards to protect proprietary and unpublished parameters of AI models, and to simplify their mechanisms for reporting AI risks and weaknesses discovered by third parties. To

increase public trust in AI, companies will label AI-generated content, highlight appropriate uses of AI as well as its limitations, and conduct more research on the societal risks of AI. They also want to specifically develop AI systems to make a positive contribution to important societal challenges – for example, for more equality or to combat climate change.

### Promising approaches?

The Commission's plan to rely on the voluntary commitment of companies is not new. In the past, the EU has already proven that it is capable of getting large technology companies to engage in a certain degree of self-regulation through voluntary codes. For example, to combat the spread of so-called hate speech on the internet, in May 2016, the Commission agreed on a ["Code of Conduct on Countering Illegal Hate Speech Online"](#) with Facebook, Microsoft, X (formerly Twitter) and YouTube, which was joined by other major tech companies such as Instagram, Snapchat, Dailymotion and TikTok in the following years. As part of the ["Strengthened Code of Practice on Disinformation"](#) from 2022, 44 companies – including some big names in the technology industry – are currently committing to more transparency in political advertising, improved cooperation with so-called fact checkers and easier access to data for researchers (see [here](#)). However, X (formerly Twitter) recently dropped out again – which highlights the limitations of the approach.

The AI Pact will now join this collection of variously successful voluntary regulatory measures. Although in the

long term there will be no way around legally enforceable rules, this attempt by the Commission to implement a transitional solution together with the business community until the AI Act enters into force is certainly sensible in order to guarantee a certain minimum level of regulation in advance. On the other hand, such a voluntary commitment, even if this is not obvious at first glance, will also be beneficial for the companies involved. This is because by implementing defined, voluntary standards, they may be able to avoid special national regulations and assert their interests to a greater degree than in a classic legislative procedure with significantly more actors. However, it seems difficult to imagine that their voluntary commitments to the AI Pact will go significantly beyond what the AI Act will prescribe.

**"To increase public trust in AI, companies will label AI-generated content, highlight appropriate uses of AI as well as its limitations, and conduct more research on the societal risks of AI."**

So, while the basic idea of the AI Pact is to be supported, the timing of this project seems problematic. The Commission, the Council and the Parliament are currently in the midst of their trilogue negotiations and thus on the verge of an agreement on a final version of the AI Act. Parallel negotiations on the AI Pact with (so far only US) companies – which, despite good ambitions, will not com-

pletely ignore their own economic interests – could jeopardize the impartiality of the Commission in its negotiations with the Council and Parliament and thus possibly have a negative impact on the AI Act. Furthermore, it is not yet clear how the AI Act will be designed in detail. It is therefore advisable to refrain from prematurely formulating the AI Pact in order to avoid possible contradictions with the final version of the AI Act.

What does the AI Pact mean for the vast majority of companies? For them, the AI Pact should not change much at first. Either way, they should prepare for the requirements of the AI Act and adapt their processes as necessary, because there is no question that it is on the way. ←



# The AI job revolution

How artificial intelligence is reshaping existing and creating new job profiles in the legal profession

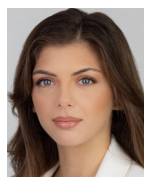
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In the legal engineering field in particular, AI is opening up exciting opportunities to revolutionize legal processes. The emergence of new job profiles shows that AI is not only changing ways of working, but also the labor market itself.

**T**he rapid development of artificial intelligence (AI) has fundamentally changed the way we work and live. From automating repetitive tasks to creating innovative job descriptions, AI is playing an ever-increasing role in our everyday professional lives and beyond.

Not only has AI transformed existing job profiles, it has also opened up a whole range of exciting new career paths. In particular, the field of legal engineering, which repre-

sents the fusion of law and technology, has seen the emergence of innovative careers that will shape the future of the legal industry.

## Legal Engineer

One of the key responsibilities of a Legal Engineer is to automate various legal tasks using AI tools. This includes document management, contract analysis, and legal

research. By doing so, they free up valuable time for legal professionals, allowing them to focus on higher-level strategic work.

Legal Engineers also customize AI solutions for law firms, ensuring they align with the specific needs of legal professionals. They integrate AI seamlessly into existing systems, creating a synergy between human expertise and machine intelligence.

“Training AI models for legal applications requires professionals who combine expert knowledge of legal issues with an understanding of machine learning.”

Moreover, Legal Engineers leverage predictive analytics powered by AI algorithms. By analyzing historical legal data, they can make informed predictions about case outcomes. This invaluable insight aids lawyers and clients in making well-informed decisions, ultimately saving time and resources.

Ensuring compliance with ever-evolving laws and regulations is another critical aspect of their role. Legal Engineers develop AI systems that continuously monitor changes in legal landscapes, helping organizations stay on the right side of the law.

While legal engineering is an exciting career profile created by the integration of AI in the legal field, AI has opened up numerous other career opportunities across various industries.

### Legal Prompt Engineer

A “Legal Prompt Engineer” refers to an individual or field of expertise that specializes in formulating legal instructions or “prompts” to achieve optimal outcomes. This could be relevant in various legal contexts, including contract drafting, the development of legal templates, or the programming of legal chatbots or automations.

### Legal Tech Developer/Developer

There is a growing demand for experts who are able to develop customized software solutions for the legal industry. Legal tech developers combine in-depth understanding of the practice of law with technical expertise to create applications such as contract management systems, online legal advice tools, and legal AI models.

### Legal Data Analyst

The ability to analyze large volumes of legal data and produce actionable insights is an essential skill. Legal Data Analysts use AI technologies to identify patterns in legal documents, judgments, and case law and formulate legal recommendations.

### AI Ethics Advisor

In a world increasingly shaped by AI-driven decision-making processes, ethics advisors are in demand. These experts ensure that decisions made by AI systems are ethical and legal. In the legal engineering field, they monitor compliance with ethical standards in the application of AI in the legal system.

### AI-powered mediators

The use of AI to resolve legal disputes is gaining momentum. AI-powered mediators facilitate arbitration and negotiation between parties by providing relevant legal information and precedents, contributing to faster and fairer resolutions.

### Legal AI trainers

Training AI models for legal applications requires professionals who combine expert knowledge of legal issues with an understanding of machine learning. Legal AI trainers prepare AI systems to understand legal texts, answer legal questions, and perform legal analysis.

### Digital Legal Marketing Specialist

In the age of legal engineering, the digital presence and marketing of legal services is critical. Digital Legal Marketing Specialists specialize in developing online

strategies to effectively promote legal services and distribute legal content on online platforms.

The integration of AI in legal engineering is leading to a plethora of new career opportunities that are expanding the traditional practice of law. These emerging professions require a combination of expertise in law and technology, creating professionals who will help shape the future of the legal industry. With AI as a driving force, innovative doors are opening that will fundamentally change both the practice of law and the way we perceive legal services.

### Importance of AI to the next generation

For the next generation of professionals, AI is becoming an indispensable skill. Early familiarity with AI technologies will enable young talent to better prepare for the changing world of work. At the same time, ethics and responsibility are critical when dealing with AI. The next generation needs to understand not only the technology, but also the implications for society, business, and the legal system.

### AI as an omnipresent force

Artificial intelligence is already an integral part of our everyday lives. From intelligent personal assistants to recommendation systems and process automation, AI permeates nearly every aspect of our lives. The next generation must not only be technologically savvy, but

also able to understand the opportunities and challenges that AI brings.

### Technological skills for the world of work

Tomorrow's world of work will be influenced by AI. New occupations and fields of activity are emerging, while existing ones are transforming. The next generation will need a wide range of technology skills to succeed in this AI-driven world of work. From programming skills to data analytics to understanding machine learning, AI skills are invaluable.

### Innovation and creative application

AI offers a wealth of opportunities to solve complex challenges and create innovative solutions. The next generation will be tasked with using AI in creative ways, whether in the arts, sciences, business, or social innovation. Understanding the potential of AI can lead to breakthrough innovations.

### Ethics and responsibility

As AI advances, so will ethical and societal issues. The next generation must be able to ask critical questions and assess the impact of AI on society, privacy, jobs, and security. A deep understanding of the ethical implications of AI will become increasingly important in order to use the technology responsibly.

### Adaptability and lifelong learning

The technology landscape is rapidly evolving, and AI is no exception. The next generation must develop the ability to adapt and engage in lifelong learning to meet the rapid changes and innovations in AI. The willingness to continuously evolve will become a critical success factor.

### Societal shaping power

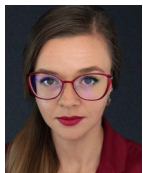
The importance of AI to the next generation goes beyond technological knowledge. It is about developing the ability to use AI as a tool to solve global challenges, to take ethical and social responsibility, and to shape the future in an increasingly complex world. The next generation has the chance to harness the opportunities of AI to shape a positive and sustainable future.

Overall, the integration of AI in our everyday professional lives is unstoppable. From increasing efficiency to creating new career fields, AI is driving progress. In the legal engineering field in particular, AI is opening up exciting opportunities to revolutionize legal processes. The emergence of new job profiles shows that AI is not only changing ways of working, but also the labor market itself. It is up to us to prepare the next generation to exploit the potential of AI while handling it responsibly. ←

# Software robots working for lawyers are getting smarter with AI

Practical insights: Robotic Process Automation (RPA) and AI work hand in hand

By **Raluca Gheorghiu and Joachim Grouven, LL.M.**



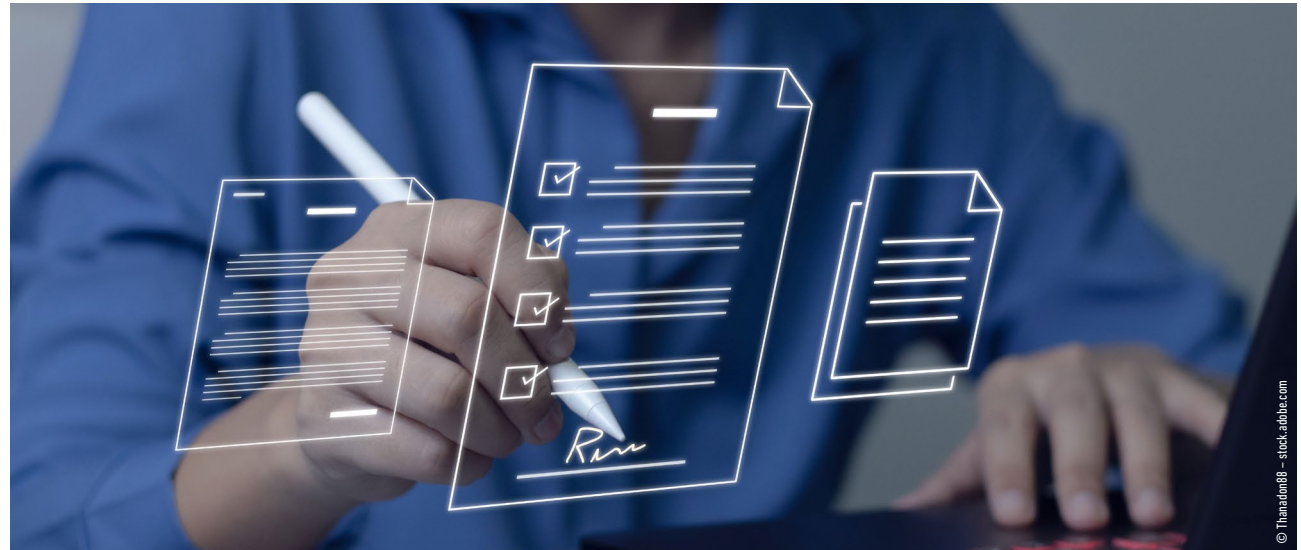
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When the business user inputs a contract, the AI model autonomously screens the document. As a next step, the business user will ask to be provided with the negotiated discount and expiration date through a chatbot functionality.

Artificial intelligence (AI) remains a subject of enduring fascination and excitement for businesses, however with a touch of intimidation mixed with curiosity, especially within the legal community. Remarkable advances in Generative AI tools like ChatGPT, DALL-E, and Synthesia have showcased their ability to produce text, images, and videos that closely resemble human creations. As a result, numerous executives are actively pursuing opportunities to harness Generative AI systems such as GPT-4 within their organizations.

The UiPath Global Legal Department, consisting of forty-four legal professionals, has consistently regarded AI as an asset and enabler of more sophisticated legal automation. In simpler terms, it serves to enhance the intelligence

of software robots within the realm of Robotic Process Automation (RPA). AI-driven automation liberates individuals from mundane, repetitive tasks, allowing them to channel their efforts toward realizing their creative and strategic potential. Lawyers, in particular, can shift their focus to legal matters rather than being bogged down by routine work.

AI offers a cognitive boost to RPA robots, creating a symbiotic relationship between the two. RPA can assist in overcoming the final hurdles of AI deployment, expediting the integration of AI in production processes. According to Forrester's projections, nearly all enterprises are expected to incorporate AI in their operations by 2025, making it one of the fastest-growing workloads on the planet. To elevate



enterprise intelligence and enhance the collective IQ of the organization, scaling AI is imperative, and this is where RPA plays a pivotal role.

“By training the AI model on contracts, legal documents, and precedents, the system learns to recognize patterns, clauses, and relevant terms with remarkable precision.”

AI, when divorced from automation, resembles a brain without a body – incomplete. The key lies in effectively merging potent Generative AI with specialized AI models tailored for specific purposes, and then harnessing the power of automation. Integration between Generative AI and expert models, grounded in real-world business data, empowers automation robots to comprehend, reason, and generate content.

### Unveiling generative AI: the legal asset you never knew you needed

It is not news that lawyers all over the world have been integrating technology in their day-to-day business, but the use of Generative AI in the legal world is still in its initial stages.

Numerous potential use cases have been contemplated but in the UiPath Legal Department we have started integrating Generative AI in two specific scenarios: AI driven chatbots and contract screening. We will delve into these use cases and explore how they provide valuable support to our legal department.

### AI-driven chatbots

Legal teams often find themselves inundated with a multitude of internal queries, ranging from compliance concerns to contract interpretation. Manually addressing these questions can be time-consuming and hinder legal professionals from focusing on more important and intricate tasks. This is where Generative AI-powered chatbots step in, revolutionizing how legal teams operate.

At UiPath we introduced a legal chatbot almost five years ago. However, this technology required a group of lawyers to compile a list of essential keywords and responses. Furthermore, these responses had to be manually revised whenever a policy underwent an update. While this endeavor demanded less effort compared to individually addressing all internal queries, it still placed a significant burden on the legal department.

And this is where AI-driven chatbots jump in to help our legal teams. Generative AI chatbots can be trained using a company’s internal policies, playbooks, historical legal data, and even responses previously supplied by legal professionals within internal communication platforms or ticket systems. The process for the legal team is stream-

lined: they simply furnish the pre-drafted policies, established methodologies, and other informational assets at their disposal to the machine learning model responsible for educating the AI-driven conversational agent.

This streamlined training process can be performed by just one person in a matter of minutes. Consider the scenario where an internal policy is updated and instead of revising a list of fifty answers tied to potential questions and key words from the database from which your chatbot is extracting the answers, one simple action suffices. You just drag and drop the updated policy into the designated folder utilized for the machine learning model responsible for the education of the AI-driven conversational agent.

Similarly to the old chatbots, the deployment of AI chatbots does not replace the role of legal professionals, but rather empowers them. Routine tasks like answering common legal queries can be offloaded to the chatbot, thus allowing legal experts to concentrate on complex legal matters that require their specialized training and expertise while having the benefit of being easier to update.

### Contract screening

Generative AI employs deep learning algorithms, neural networks, and natural language processing to decipher complex contract clauses with great accuracy. By training the AI model on contracts, legal documents, and precedents, the system learns to recognize patterns, clauses, and

relevant terms with remarkable precision. So, it would be a pity not to use its capabilities for contract screening and business user self-service.

The essence of utilizing Generative AI in contract analysis lies in its exceptional ability to extract specific data from contracts. Under a normal process, if a business user wanted to know, for example, what the negotiated discounts and the expiration date in a contract are, they would address the legal team. A lawyer would read the contract to locate and record the information and provide an answer to the business owner. The entire process would normally take several hours, if not days, based on the current workload of the legal team.

Rather than solely relying on legal professionals for contract analysis, the great advantage of employing Generative AI in contract analysis lies in its ability to allow the business user to self-serve for straightforward answers which do not require human and legal interpretation on cross corroboration of multiple clauses – as per the above example, the negotiated discount or the expiration date.

At the UiPath Legal Department we are entering a pilot stage to implement a feature called Ask GPT, which is currently available in public preview, and is designed to begin when a business user submits a contract to the Generative AI tool for analysis. When the business user inputs a contract, the AI model autonomously screens the document. As a next step, the business user asks to be provided with the negotiated discount and expiration date through a chatbot functionality. The AI-driven document

screening tool comes back to the business owner with the answers to these two questions in a matter of minutes, also providing the text of the entire clause as evidence to back up its response.

While business users are self-serving on simple, straightforward questions, legal experts can focus on the nuanced interpretation of data within the broader legal context, applying their expertise to areas that necessitate human and legal interpretation.

## Outlook

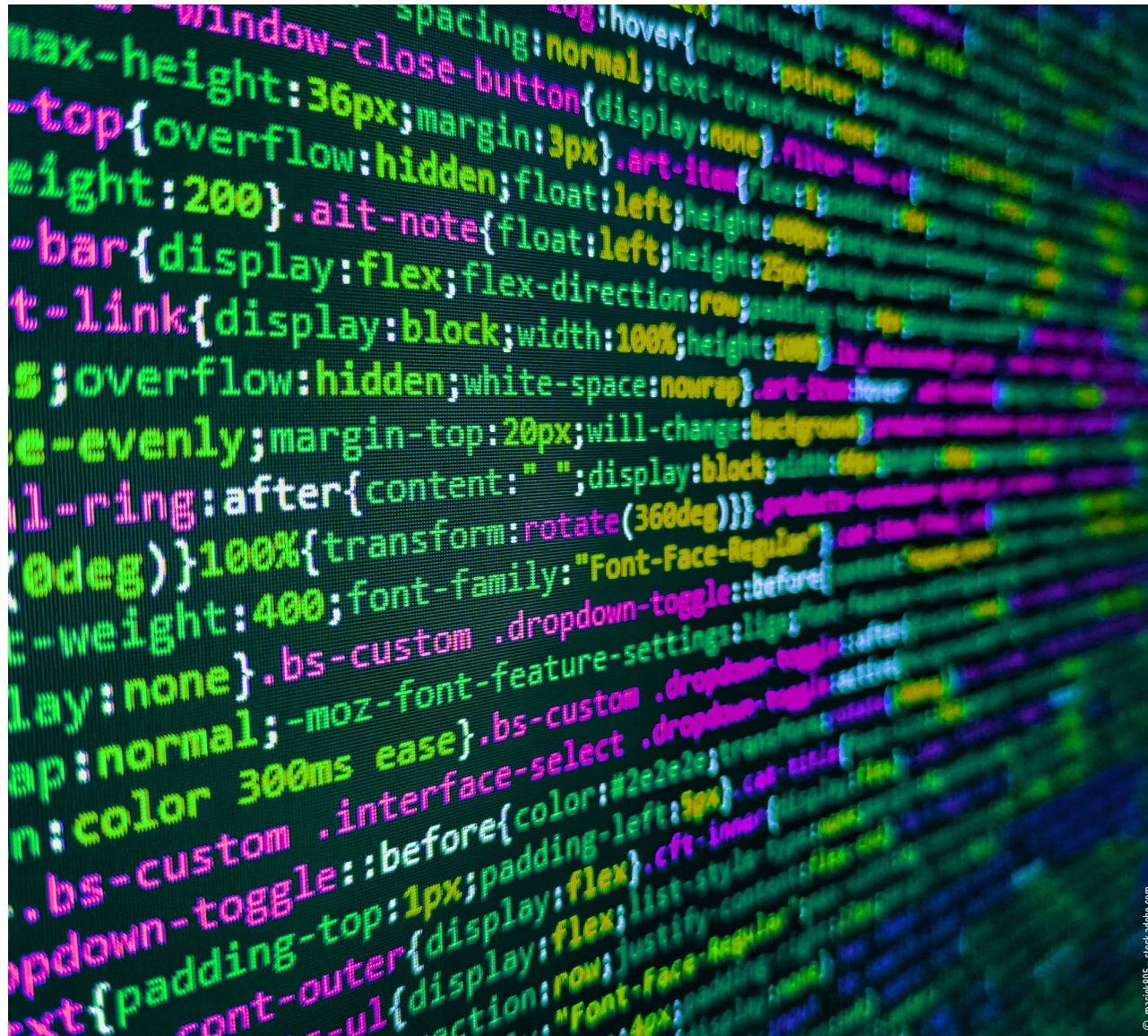
These two examples of how a Legal Department can leverage RPA combined with AI is just the very beginning of how legal practitioners will be supported by modern technology in the future. There is no excuse anymore for lawyers to delay the integration of AI in their work. We will continue to explore all technology options to make life easier, not only for the lawyers themselves, but also for all others who rely on good legal advice from a professionally organized legal team every day. ←

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# Documents, data and the “single source of truth”

New tasks for the administration of justice

By Dr. Jürgen Erbedinger

Administrations and legal departments have good reason to concern themselves with IT concepts to ensure data quality and authenticity and to regulate the interaction between system data and documents or document data.



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Judicature has the task of bindingly regulating facts and is used to reliably document results in writing. However, the system of legally-binding proof of facts is increasingly facing competition: IT systems and system architectures have long had their own technologies and procedures for ensuring data quality and authenticity. These follow the principle of the “single source of truth” for IT systems. Advancing digitalization and other developments make it necessary to reconcile legal and technical requirements and possibilities and open up new opportunities for use.

### “Single source of truth” - concept and reality

In information technology, the principle of the “Single Source of Truth” (SSOT) is increasingly becoming the central concept to ensure, inter alia, the quality and authenticity of data in systems or system architectures. SSOT architectures are almost always based on master data management and the possibility to control and document events. The concept thus provides rules for the reliable storage of facts and the flow of processes. Firstly, each piece of information used must, if possible, only come from a single source that is as universally valid as possible, whose truthfulness is assured, to which it can be traced, and which is the only place where it can be changed. Secondly, the change history must also be traceable, i.e., it must be documented, in a forgery-proof manner, who changed the information when and how, and what the previous status was.

As nice as the concept is, the operational reality is difficult. Individual business units usually each have highly special-

ized IT systems (e.g., HR, ERP or CRM systems) that contain their own master database applications by default. By default, systems often do not provide for access (read or write) to or from other systems. If they do, they make access dependent on high additional licensing costs – one prominent example is the principle enforced by SAP of making upstream or downstream third-party use subject to licensing. The result is that data pertaining to the same characteristics of the same person (legal or natural), or the same process, is stored in several separate databases (“data silos”). Sometimes there are additional copies in spreadsheets or even text tables. In fact, these data sets are not completely identical and thus the discussion begins as to which system or which document is actually the source of truth. It is precisely the contextualization or unambiguous assignment of a date to a fact or a person that a document provides, and that the SSOT concept demands, that is missing.

### Data and documents both have evidential value in their own right

Interfaces that are intended to be used for the administration of justice (which is understood here to mean parts of the administration, legal departments and law firms) are obvious. Judicature has a long established system of such evidence, which is by and large based on documents. Documents are understood here to be pieces of writing that are created, agreed, quality-assured, signed, certified as required, handed over and systematically filed in a defined process. In this sense, they repre-

sent a “single source of truth” that records facts in an unalterable manner, regulates them in a binding manner, presents the necessary interrelationships and makes all of this available to a specific group of interrelationships, – and exclusively to this group.

“Each piece of information used must only come from a single source that is as universally valid as possible, whose truthfulness is assured, to which it can be traced, and which is the only place where it can be changed.”

However, digitalization, in particular the increasing use of IT systems, is changing the significance of documents, and the interaction of data in systems, and data in the context of the relevant facts is becoming more complex: data and facts continue to be placed in documents in a definitive and, with sufficient evidential value, binding context. However, these data and facts often originate from data sources that themselves have the characteristics of “sources of truth”, e.g., because the data in these originate directly from the processes or from the originators themselves, are recorded in log protocols and are stored unchangeably. This data is available in a machine-readable form, whereas text documents today are usually not machine-readable or only indirectly so. In addition, document data, compared to data records in systems, only have insufficient attributes – or better,



mark-up characteristics – and therefore cannot be interpreted well or evaluated in a structured way. In digital contexts, they are not available or can only be used insufficiently. However, complete integration is desirable.

At the same time, errors or legal risks arise precisely when data are transferred to documents or when they are distributed and further processed. On a very practical day-to-day basis, in the face of a veritable flood of data and documents in a wide variety of storage locations and formats, it can be difficult to keep track of them all. A legal department can then only understand with difficulty what rights and obligations arise for its company from its existing contracts with contractual partners. Machine-readability would open up new possibilities to evaluate one's own contract or general document data in a structured way and thus make more comprehensive risk assessments.

### The way forward: rules for the integration of data and documents

In an ideal (IT) world, documents and the document data they contain should be contextualized – provided with sufficient mark-up features – and completely available as an integrated data source. Technically, it is easily possible to make documents available in a repository and use them as data carriers. This gives them the same technical utility, but the additional advantage of complete contextualization. There can still be redundancies if data has to be transferred to specialized databases for IT-technical reasons such as performance, indexing, etc. These redundancies are necessary on the one hand and uncritical on

the other, since the data sets are actually identical. Such a document-integrated system architecture should be standard in the future.

Administrations and legal departments therefore have good reason to concern themselves with IT concepts to ensure data quality and authenticity and to regulate the interaction between system data and documents or document data. With consistent application of the SSOT concept to data, its use in documents and the use of documents, it can be ensured that the creation and management of documents is legally and factually secure and that the data is efficiently managed and securely protected. An object-oriented view of documents also opens the way towards machine readability and the associated quantitative evaluation possibilities. If standard contract text passages and modifications made to them are stored in separate object databases, they can easily be systematized and examined with meta-analyses with regard to their effectiveness (e.g., in connection with successful oppositions). ←

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# Intellectual property and AI

The challenges facing copyright law

By Dr. Sebastian Eckhardt and Sophia Lüttel, LL.M.



How do traditional copyright law, designed for analogue works, and digital output generated by an AI fit together?



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Voice assistants, smart homes, autonomous driving, AI is omnipresent and, at the latest since ChatGPT, more present than ever before. Exciting and fascinating as AI may be, it also brings legal challenges. Questions arise, in particular, in the area of intellectual property, or more precisely, in the area of copyright law. How do traditional copyright law, designed for analogue works, and digital output generated by an AI fit together? The following article will provide an overview of the challenges for copyright law in connection with AI-generated output.

## Copyright protection and AI output

According to German copyright law only a “work” within the meaning of Section 2 (2) of the German Act on Copyright and Related Rights (Urheberrechtsgesetz, UrhG) is eligible for copyright protection. Consequently, AI output must be categorized as a “work” to enjoy copyright protection. Section 2 (2) UrhG defines a “work” as an author’s own intellectual creation, whereby such an author’s own intellectual creation requires human creative activity.

Within this legal framework, two main scenarios arise concerning AI-generated output:

First, the output generated purely by AI must be considered. That is the output in which all essential design decisions are made by AI. Generally, this output cannot be protected by copyright. The reason for this is that the output was not created by a human being, but by an AI. The requirement of an “author’s own intellectual creation” is not met as a result.

In contrast, the case gets more complicated if both – a human being and an AI – are involved in the creation of the output. The decisive factor here is if the human contribution to the final design of the output is sufficient to regard the human being as the creator. What is decisive in this context is whether the AI is used merely as a tool to implement design decisions developed by the human creator – like a paintbrush or a chisel – or whether the control over the design process and outcome remains with the AI. If the latter is the case, an “author’s own intellectual creation” does not exist, with the consequence that the resulting output is not protected by German copyright law.

This legal situation leads to several challenges for copyright law:

Number one is the question of when an output can be attributed to a human being and when to an AI. Consequently, it must be decided what criteria and standards will be used to assess the amount of the human participation in the output generated by AI. The second challenge

is a mere practical one. How can the amount of the human contribution to the output be determined without any knowledge of the process of its creation? As only human creations enjoy copyright protection, there might be a strong incentive not to disclose the AI-generated share.

“For an AI to ‘come to life’, it is necessary for its underlying algorithm to be able to train its performance with the help of large data sets.”

Finally, it must be clarified how to deal with output that is not a “work” and thus does not establish any copyright. Ancillary copyrights such as the database producer’s right (Section 87a UrhG) could come into play here. However, to develop a separate protection system for such output de lege ferenda might be the preferable way.

### Text and data mining

For an AI to “come to life”, it is necessary for its underlying algorithm to be able to train its performance with the help of large data sets.

For this reason, it has to be assessed whether the use of data sets for training AI applications is legally permissible. In many cases, training requires the use of information

contained in photos, texts, videos and other data sets, which may themselves be subject to copyright protection. This means training AI applications may interfere with other people’s copyrights. For example, corresponding data must be uploaded into the computer’s main memory for each automated analysis. This results in duplications and possibly also adaptations, which may infringe the author’s right of reproduction (Section 16 UrhG) or adaptation and transformation (Section 23 UrhG).

Until June 2021, permission from the author was required in Germany for the use of such data, unless the reproductions were made for the purposes of scientific research (Section 60d UrhG, former version). Consequently, permission from the author had to be obtained for commercial text and data mining. Given the amount of data required, this was effectively impossible.

To remedy this problem, promote technical innovations and at the same time create a secure legal framework for AI applications for companies, the European legislator introduced a provision for machine learning in 2019 with the DSM Directive ([RL \(EU\) 2019/790](#) of 17 April 2019). The German legislator implemented this in Section 44b UrhG, which came into force on 7 June 2021.

According to Section 44b UrhG, “it is permitted to reproduce lawfully accessible works in order to carry out text and data mining. Uses [...] are permitted only if they have not been reserved by the rightholder”. Thus, there is (general) legal permission to collect copyrighted works and use them to create training data. Therefore, regulations are no longer limited to text and data mining for

scientific purposes, but now also allow text and data mining for commercial purposes ([BT-Drs. 19/27426, 87](#)).

**However, three essential requirements must be observed for permissible commercial text and data mining:**

1. Only lawfully accessible works may be used for text and data mining. This is the case if the work can be accessed without the user committing a copyright infringement.
2. The training data must be deleted when it is no longer needed for text and data mining. As a result, storage of data beyond a specific AI project is excluded, for example.
3. The restriction of Section 44b UrhG does not apply if the rightholder has reserved the right of use. Consequently, the exploiter does not have to ask for permission, but the rightholder must act if they want to prevent any potential use for text and data mining.

## Infringement through AI-generated output

Users of AI applications should ask themselves whether the output generated by AI could constitute a copyright infringement.

A copyright infringement can in principle also be committed by an output that is not considered as a “work” according to German copyright law and thus does not qualify for copyright protection itself. Whether the AI-generated output infringes any third party’s copyrights

essentially depends on whether the output constitutes a reproduction (Section 16 UrhG) or an adaptation (Section 23 UrhG), or whether the use is not copyright-relevant at all.

The demarcation between a prohibited adaptation and a permitted copyright-irrelevant use had already arisen in many ways in the “analogue world”. Nevertheless, this demarcation is still difficult. The decisive factor, which also applies to AI-generated output, is the content-related distance between the output and the original work. This must be assessed on a case-by-case basis. If the output generated by AI shows a sufficient content-related distance to the original work, the consent of its author is not required. Otherwise, it is a case of an unauthorized adaptation, which constitutes a copyright infringement unless the author has explicitly given their consent.

If it has been established that an unauthorized reproduction or adaptation is involved, the following applies to the relationship between the user and the author of the original work. The author is entitled to injunctive relief against the user under Section 97 (1) UrhG. In this context, the user has committed a copyright infringement if they make the output generated by the AI publicly accessible. Furthermore, a claim for damages under Section 97 (2) UrhG could be asserted against the user – if the user’s behavior has been negligent or intentional.

Conversely, the user cannot be held responsible for errors of the AI that are unrecognizable to them. Nevertheless, users can rarely claim that they were unable to assess or be aware of the functions of the AI but use the output anyway.

Therefore, it is the responsibility of the user to review the content generated by AI. If they do not do so, they will usually have committed a breach of due diligence, and the author may hold them responsible for any infringements caused by using an AI.

## Summary

AI-generated output imposes a number of challenges on copyright law. However, not all these challenges are new. The questions of demarcation between a prohibited adaptation of a copyright protected “work” and a permitted copyright-irrelevant use, or the use of computer programs as technical support, are nothing new to copyright law. Still, AI-generated output will also have to be evaluated here on a case-by-case basis. This requires appropriate standards to be developed by case law. Other challenges seem to have been solved, at least for the time being – for example, the permissibility of text and data mining for commercial purposes (even without the permission of the authors concerned). But there are also some new challenges to be addressed. In particular, these concern the question of how to deal with AI-generated output that is not copyrightable, as well as the question of how to determine how large the respective human or technical contribution to an AI-generated output is. ←





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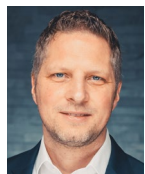
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