Navigating AI in Legal Practice:
A Road Map for In-House Counsel

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In today's fast-paced technological land-scape, generative artificial intelligence is transforming various sectors, including the legal field. Even for experienced in-house lawyers, the prospect of integrating this technology into the work of a legal department can be daunting. But the promise is real. This road map seeks to assist in-house counsel by setting out a baseline checklist to get this work started.

Gen AI's Use Cases in Legal Departments

To start, separate out two categories of use cases.

1. **Generic Use Cases**: These involve using large language models (i.e., AI tools that draw from vast datasets) to answer questions or generate content based on their training data. For example, asking ChatGPT for information on a legal development or using a Gen AI tool to fill out a research task.

2. **Grounded Use Cases**: These involve grounding the Gen AI in specific documents or datasets, enabling it to provide answers based on proprietary information.
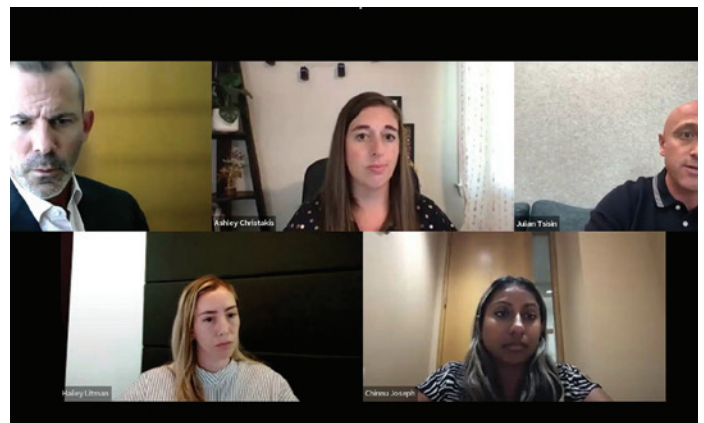
Still from the webinar "Navigating the AI Revolution," hosted in July by New York Law School and Cimplifi.

Then there are a number of specific use cases that ought to assist in-house lawyers in carrying out their work.

- **Brainstorming**: Gen AI can help overcome the "blank page syndrome" by generating initial drafts or ideas.

- **Authoring**: It can create content from its training data or specific documents provided by the user, which in-house lawyers can then build off of with their own written work.

- **Interrogating Documents**: Gen AI can extract answers from legal memos or documents, improving efficiency.

- **Summarization and Translation**: Gen AI can summarize large documents or translate text accurately.

- **Legal Research**: Gen AI can add research capabilities by grounding their models in extensive legal databases.

Efficiency Gains and the Human Element

Deploying Gen AI in these use cases need not raise the prospect of a threat to legal jobs. Instead, it's a means to improve efficiencies and to allow lawyers to focus their energies on priorities rather than routine matters. This improvement justifies investments in Gen AI technology. But the human element will always remain critical. And Gen AI may very well *create* new job opportunities for those lawyers versed in technologies in such areas as risk management, ethics and AI governance.

Regulatory Landscape: The EU AI Act

It's useful for U.S.-based in-house lawyers to familiarize themselves with the European Union's AI Act, a comprehensive regulatory framework that could inform work done in the U.S. Here are some important components of the act:

- **Defining AI Systems**: The act broadly defines AI systems as those that, for explicit or implicit objectives, infer, from the input they receive, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments. Defining any system or tool upfront will always be important for those in the legal department.

- **Risk Classification**: The act introduces risk ranking for AI systems, identifying high-risk systems. Legal teams should evaluate the data they handle and integrate risk management strategies from data privacy and cybersecurity work into Gen AI projects.

- **Defining Roles**: The act delineates roles and responsibilities within organizations using AI, requiring legal professionals to assess what category applies to their organization and how to ensure compliance.

Addressing AI Risks: Ethical and Practical Considerations

Mitigating Bias and Inaccuracies

Testing AI systems for bias is crucial and in-house lawyers play a central role in this work, drawing on advice they regularly provide on ethical matters. In-house lawyers should plan to "Red Team." This is when ethics and data scientists rigorously test AI systems before deployment and identify and mitigate harmful outputs. Implementing meta-prompts and flags within AI systems can further prevent biased or inappropriate content.

Ensuring Data Integrity and Privacy

AI systems must be evaluated for their potential to leak sensitive information or generate inaccurate content. Ensuring data hygiene, adhering to retention policies, and maintaining up-to-date data sources are essential. And transparency in AI operations, obtaining user consent, and involving humans in the review process are imperative to maintain trust and reduce risk.

Contractual Considerations for AI Implementation

Contractual work is core to the in-house lawyer function when engaging with Gen AI tools or projects. Key considerations include:

- **Training and Retention**: Most customers prefer AI models that are not trained on their data. Contract provisions should reflect this preference, focusing on zero-retention policies.

- **Representation and Warranties**: Including representations and warranties ensures AI providers comply with applicable laws and possess necessary licenses, protecting users from legal challenges.

- **Data Ownership and Confidentiality**: Organizations should retain ownership of their input data and AI-generated outputs, ensuring they receive the same protections as other confidential information.

Evaluating and Implementing AI Solutions

In-house lawyers can be important members of any team evaluating and implementing AI solutions. AI solutions require a multifaceted approach, combining scientific techniques with practical assessments by subject-matter experts. Legal professionals should remain vigilant against AI "hallucinations," where models generate convincing but false information. The implementation process should involve ideation, prioritization, testing and deployment, with constant iteration and adaptation. Lawyers can help their in-house clients along this road.

Conclusion

The evolving landscape of Gen AI presents both challenges and opportunities for legal professionals. Understanding and navigating the regulatory framework, addressing ethical and practical risks, and strategically implementing AI solutions is crucial to helping organizations use Gen AI tools to advance their missions. By prudently embracing Gen AI technology legal professionals should be able to provide more efficient, informed, and innovative guidance in an increasingly AI-driven world.

This piece draws from a webinar co-hosted by Cimplifi and New York Law School. A recording of the webinar can be found here.

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