



CHANGING THE ACTIVITY OF A LAWYER IN CIVIL PROCEDURE IN THE DIGITAL AGE

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Abstract - This article uses a multifaceted approach to analyzing the impact of digital technologies and artificial intelligence on the activities of a lawyer in civil cases. First, the impact of digital technologies and artificial intelligence on the transformation of the traditional legal profession and practice will be considered. Secondly, two key results of the revolution will be analyzed: the abolition of the lawyer's paid hour and the change in professional requirements for a lawyer. In addition, a number of recommendations on adapting the legal profession to modern digital technologies will be presented.

Keywords: artificial intelligence, legal advice, lawyer, legal aid, digitalization

INTRODUCTION

The legal industry is undergoing a technological transformation due to the active influence of various digital tools on various aspects of a lawyer's work. These changes are not always accepted positively, however, for a positive symbiosis of the legal profession and digital technologies, it is necessary to analyze legal practice and transfer a number of functions to digital technologies or improve their professional skills with the help of digital technologies.

Although the true extent of AI's influence on the legal profession remains unclear, the technology has a significant impact on changing existing professional and ethical norms, as well as identifying new legal needs.

Concerns about the negative impact of AI on the legal profession have increased with the development of large language models such as ChatGPT [12]. Large language models (LLM) provide human-like responses based on the input of huge sets of text data. As BYAM gets smarter and more sophisticated with each data entry, observers fear that the machine will inevitably replace human intelligence. These concerns are unfounded. Despite the fact that AI is developing rapidly, this digital technology has brought more benefits than harm to various professions, including in the legal field. For example, the search and verification of electronic data and information is one of the functions of a lawyer, and new technologies allow the use of predictive analytics, the search for precedents, court decisions, and so on to assess the effectiveness of resolving cases.

In the 1970s, digital legal research replaced traditional methods of printed legal research, which were more time-consuming. In the 1990s, lawyers began using online dispute resolution systems and electronic filing systems to keep up with the rapid growth of Internet capabilities and the increasing volume of information. At the turn of the century, the legal profession responded to the technological boom by automating case management, time management, and billing to clients. As the 2000s developed, digital productivity tools, legal applications, video conferencing, and smart contracts based on blockchain technologies appeared and improved. As a positive result of the COVID-19 pandemic after 2019-2020, cases, testimony, mediation, hearings and even trials are conducted remotely, in a remote format, and once it was considered impossible. Many of the currently existing digital products were once viewed with sharp skepticism.



AI has recently had a strong impact on many aspects of human life, research, and workflow. Over the past few years, and have been used in almost all advanced sectors of the economy. However, the fact that AI exists as an abstract concept for most people does not make it useless for lawyers. Rather, with a basic human understanding, AI can become a competitive tool that automates everyday tasks, develops areas of legal practice, and meets demands in new industries and areas. Many scientists and lawyers believe that AI undermines the existing norms of the legal profession by reducing the labor intensity of human resources, however, lawyers must accept and adapt to AI in order to improve their legal experience, knowledge, effectiveness and client relationships [24].

1. The main part

The use of AI in legal practice can also be divided into several stages. If at the beginning AI was used mainly to search for a large amount of data, analyze it, make forecasts of the outcome of cases, etc., then at the next stage AI was used to automate data search, verify a number of documents for their signing.

Generative AI is a new rapidly developing generation of artificial intelligence and a new technological breakthrough in the legal profession. A distinctive feature of generative AI is its ability to create human-like data, text, sound or images based on minimal human prompts, for example, to write court decisions, draw up contracts, prescribe risks, etc. This generation of AI is constantly learning and improving based on the constant analysis of new data.

What makes generative AI so dangerous for a number of professions is its potential to accelerate human processes and, in some cases, its potential to replace the need for human intelligence [20].

The activity of a lawyer is largely based on exclusive professional, research, analytical and written skills and special legal knowledge. These professional knowledge and skills allow lawyers to compete in the labor market, create demand for legal services, and dictate the price of legal services. The emergence of generative AI poses a significant threat to the activities of a number of lawyers, bringing their effectiveness to the fore [11].

Generative AI poses a number of other risks to the legal profession and to most of the subject areas it concerns. First, the system adopts a person's bias, based on the input data that is entered and trained. At the moment, generative AI is not able to recognize negative patterns of human thinking. This is partly due to the fact that it is difficult for people to understand their hidden biases themselves. However, training generative AI on inherently erroneous information can exacerbate bias.

For example, in 2016, Microsoft launched its artificial intelligence-based Tay chatbot on Twitter [16]. Microsoft planned for Tay to be a playful internet chatbot that would respond to user requests. But less than 24 hours after being posted online, Microsoft removed Tay as he had evolved into a hate-filled, anti-Semitic, racist robot, something many users constantly encounter on social media.

Despite developments in the field of generative artificial intelligence, which significantly increase efficiency, data on lawyers and their trends in legal research tell a different story about their current usefulness.

According to the 2022 ABA (American Bar Association) Profile of the Legal Profession study, lawyers spend more time searching for information and legal research than in previous years [18]. Almost half of lawyers report that their research starts with free search engines such as Google. However, only 10% currently use artificial intelligence tools in their firms. Interestingly, in larger law firms with more than 100 employees, this figure increases to 19%.

In April 2023, Thomson Reuters published a report on ChatGPT and its use in law firms. The report shows a twofold result: despite the fact that 82% of lawyers agreed that generative AI can be used in legal work, only 51% agreed that it should be used in legal work [17].

Nevertheless, despite this professional gap, law firms continue to introduce innovations that may become the new norm in the legal profession. According to Goldman Sachs, 44% of legal services can be automated using generative AI [9].

Many law firms already use generative AI in their practice. For example, In Russia, a law firm DestraLegal.ru began to develop LegalTech, an AI-based project to automate the provision of legal services to the public [2]. So, you can file a class action, create a set of documents for the court, as



well as automatically fill out document templates. In October 2023, the Russian company PravoTech announced the launch of PravoAI [4], a set of AI-based solutions for lawyers to work with highly specialized tasks in various branches of law.

In May 2023, LexisNexis announced its new generative artificial intelligence platform Lexis+AI, a generative artificial intelligence platform designed for research, reviews and document creation [13]. Shortly after, Thomson Reuters announced its partnership with Microsoft to introduce generative AI into its products such as Westlaw Precision in 2023 [19]. Allen International Law Firm & Overy launched Harvey in February 2023 [10]. Harvey is a generative artificial intelligence legal platform that helps its lawyers conduct research using instructions in plain language. In the USA, Troutman Pepper created a working group on generative artificial intelligence in May 2023 to study its use in the company and in practice [23].

The practice of a specific generative AI avoids some possible mistakes, since its training is conducted only on input data or accurate case law. However, even if a generative AI system reflects only the input information, its current model is unlikely to avoid accidental errors or misinformation.

The speed at which lawyers are introducing generative artificial intelligence into their practice can certainly change as technology improves its accuracy and privacy features, as well as the use of AI expands [21].

Lawyers should improve their analytical abilities and critical thinking skills in order to answer the questions raised by generative AI, reduce the risks of inaccurate information and results, adapt to the increasingly expanding functionality that AI assumes, identify those services that can be solved and provided only by a human lawyer. Although the introduction of digital technologies in practice takes quite a long time, there is no doubt that they, and especially AI, will lead to a rapid change in professional and ethical standards.

One of the risks is that generative AI forces lawyers to reconsider the standard model of paid lawyer hours. Against the background of the paid hour, the ability of generative artificial intelligence to automate the activities of a lawyer creates a significant economic risk for this area.

In foreign legal practice (less often in Russia), for the most part, the legal profession primarily relies on the paid hour model. It involves performing more time-consuming legal work by less experienced employees (for example, checking documents, searching for information), and any time-saving technology inherently poses some risk of reducing the total income earned in a law firm. But even in the era of artificial intelligence, this risk is not something new. For decades, emerging and improving computers and new technologies have also influenced the activities of lawyers. However, none of these technologies had the similar production capabilities of generative AI, where the human role is often minimized.

Hourly lawyer rates arose out of a desire to maintain the effectiveness and transparency of the relationship between lawyer and client in an increasingly complex legal system. Previously, legal services were traditionally offered for a fixed fee, and an invoice was issued upon completion of the case. Other types of payments, such as unforeseen expenses and fees, have emerged from the fixed-fee model.

However, in the United States, for example, between the 1930s and 1940s, bar associations struggled with falling lawyer incomes, more complex disclosure requirements, and expanded federal regulations. Clients have begun to equate the value of legal services with the length of time needed to resolve their legal issue. Large law firms have sprung up all over the country. All these elements have created ideal precedents for the billable hour and its detailed time tracking to become more common. The increase in the volume of legal work, the length of time required to complete it, as well as market competition have increased the income of law firms within the framework of the paid hour model [22].

In a typical lawyer's hourly wage system, the cost of legal services consists of covering all costs (salary, administrative and other expenses) and the profit margin of the law firm. The billable hour model allows firms to generate income based on the hourly rate multiplied by the time and effort spent on the case. Both hourly rates and time spent often reflect the level of experience of working lawyers. Both the costs saved and the income earned reflect a pyramid structure that assigns more



time-consuming tasks, such as searching for materials and drafting documents, to less experienced employees. Each of the elements together increases the revenue of the entire company. Each of the elements also requires detailed time tracking and performance tracking. As the complexity of legal work increased in the mid-20th century, the billable hour remained the dominant economic model for law firms and the preferred model for clients seeking to track the resolution of their legal problems.

Despite the widespread use of this model in foreign countries, it is the object of serious criticism both within the legal industry, where it is seen as an enemy of efficiency, innovation and growth, and by consumers, who see it as stimulating inefficiency and lack of access and transparency of law firm costs. In Russia, for example, hourly pay is not common, customers prefer a more understandable fixed rate [1]. The courts also do not favor the use of hourly pay, as it is difficult for judges to understand the pricing of 1 hour of lawyer's work [5].

The massive economic downturn and the increase in legal work as a result of the pandemic have forced many law firms to rethink their pricing system [14]. In fact, during the pandemic, the demand for using a different payment system for legal services increased, as many things began to be done remotely. The demand for remote access to information databases and court decisions has increased. At the same time, it cannot be concluded that the complexity of searching and processing information by lawyers has significantly decreased.

In turn, generative AI has made even more changes to the legal services payment model. For clients who are consumers of legal services, breakthrough technologies such as generative artificial intelligence expand opportunities. Clients have more access to the justice system than ever before. In the future, generative artificial intelligence can be easily used to formulate legal responses and draft documents that many people would not normally be able to afford. Generative AI can also automate and speed up the execution of time-consuming processes in an increasingly complex legal practice. Thus, these changes can significantly affect the expectations of customers, and therefore the fee that they will want to pay.

Automation and AI do not necessarily involve the complete replacement of lawyers, although they can undoubtedly reduce the value of legal work. Rather, it requires lawyers to develop specialized skills and competencies in order to maintain the competitiveness of their services, the development of new areas of legal practice, as well as the emergence of new forms of payment for legal services. Thus, legal practice should either use AI, offering technologically and qualitatively improved legal services, or provide something that digital technologies and AI cannot yet replace [23].

Despite the fact that the concept of automation and the use of AI causes a lot of controversy due to the risks of job cuts, it still opens up new opportunities for lawyers, narrow specialization and improving skills in using AI to improve the quality of services provided.

Thus, legal activity has already experienced the challenges of automation. A striking example of this is the whole field of eDiscovery (electronic data disclosure services, software for electronic data retrieval), which increased dramatically in the mid-2000s (the Russian analogy is Consultant+ or Garant databases).

Before the advent of eDiscovery, lawyers spent most of their early careers manually searching for relevant documents and information. But as technology has evolved in the 21st century, the entire field of law has faced a huge surge in emerging data, including digitized data, and, of course, the associated difficulties. Electronic data detection services have solved this problem and facilitated the work of lawyers. A new field of electronic data discovery has emerged, and with it many new specialties such as eDiscovery specialists, data analysts and program managers. Not only the requirements for document verification have changed, but also the requirements for those who work with this data. In the near future, the market for electronic data detection services will only grow. For example, in 2022, the global eDiscovery market was estimated at \$11.2 billion. The market is projected to reach a value of \$17.1 billion by 2027 [8].

A number of law firms have tried to solve the problem of the need to use human resources in their practice. For example, DoNotPay is an artificial intelligence chatbot that provides legal services to consumers through a mobile application. In February 2023, DoNotPay tried to send an artificial



intelligence-based chatbot to the courtroom to challenge a consumer's fine for violating traffic rules. The founder of DoNotPay, Joshua Browder, abandoned this plan after he was threatened with 6 months in prison by the "prosecutors of the state bar association"[7].

In other words, this situation shows the negative perception of the legal community towards an AI-based robot lawyer in court, as it may have perceived this situation as a threat.

In order for generative AI to expand the capabilities of lawyers, rather than replace them, it is necessary to understand generative artificial intelligence and use it to your advantage. Generative AI is an optimization tool that will replace a significant part of the time spent interacting with customers, searching for information, drafting and verifying documents. When used correctly, the effect of optimizing or automating generative AI can increase productivity, accuracy and general legal knowledge, enable experienced lawyers to improve the quality of their services and increase the overall effectiveness of young professionals. AI can replace time-consuming and tedious processes, freeing up time for more important analytical work, and what AI cannot replace.

Even in the digital age, it is highly unlikely that generative AI will be able to replace a lawyer's skills in consulting and strategic decision-making. In fact, they may be more important than ever before.

Thus, there are more and more new areas of legal activity where it is necessary to accumulate legal knowledge and experience. According to the Citi 2024 study, by 2025, growth is expected in the field of litigation, bankruptcy, compliance, antitrust law, legal support for business, and investments [6]. In addition, legal support in other areas of activity is also expected to increase, such as data protection and cybersecurity, telecommunications, healthcare, private lending and energy, infrastructure and projects [15].

Although generative AI can automate many areas of the legal profession, it cannot yet replace the necessary human component of mediation and counseling, and only a human can verify the information received from AI.

So, if the AI was trained on the basis of old regulations or court cases, then the decisions and arguments that it will issue will not be relevant and, rather, will not be advantageous. In addition, a self-learning digital mechanism can produce non-existent laws and precedents in the results, "hallucination" of a neural network when a fake is issued under the guise of real research [3]. AI is not yet able to eliminate the inherent human bias based on the data it receives. To mitigate these risks, firms are developing policies regarding the use of AI by both their lawyers and other staff.

The role of a lawyer as a consultant is invaluable. Although AI can replace some levels of thinking, it cannot completely replace human nature, empathy, instincts or, for example, rationality, and also cannot see a number of nuances in certain situations.

For these reasons, it is important that traditional legal skills are not forgotten as lawyers adapt to the era of generative artificial intelligence.

CONCLUSION

In the last few years, the legal industry has undergone significant changes due to the rapid development of digital technologies and the introduction of AI. One of the significant changes is the gradual introduction of generative artificial intelligence into the work of a lawyer. Generative AI is used both in litigation and in due diligence software.

Nevertheless, despite the growing interest among law firms, for many this technology has not yet had a significant impact. As companies experiment with the introduction of AI into their operations, they also pay great attention to identifying the risks associated with them. Among them: protecting the privacy of customers and the company, data accuracy and quality control. Generative AI can create plausible-sounding text that is inaccurate or created with built-in bias. The rapid development of AI will lead to law firms doing a lot of work advising clients.

By reducing the time spent on previously time-consuming tasks, we are likely to begin to notice the impact of generative AI on the work of lawyers. This may lead to a reduction in the number of lawyers. Especially for junior managers who are assigned routine work, as well as significantly reduce the cost of legal services provided.

Thus, lawyers need to adapt to the new digital age, improve their technological and legal knowledge in order to use AI to increase the quality of services provided and optimize their activities.

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