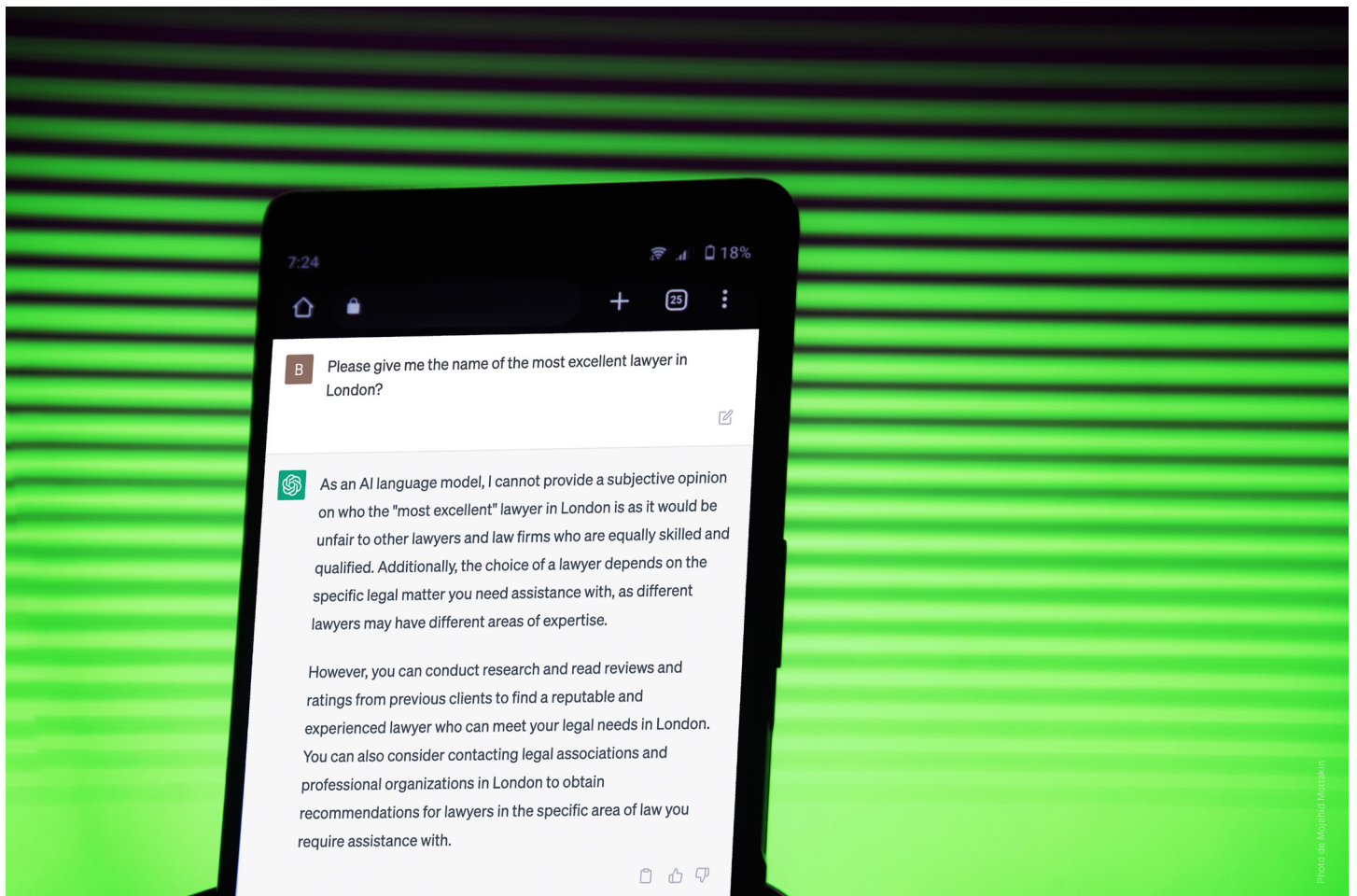


Legal Excellence in the Age of ChatGPT

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Lawyers can now ask artificial intelligence-equipped machines relatively complex legal queries and receive an answer within a few seconds. While for some within the profession this heralds our imminent obsolescence, the author of this short piece predicts a long and prosperous future for “excellent” lawyers: that is, those who continuously develop their essential qualities.

Paradoxically, these self-improvement efforts will be fulfilling but at the same time part of a never-ending arms race to keep up with the machine. A (somewhat disheartening) future of “happausted” legal professionals – simultaneously happy and exhausted – awaits us.



While talk until recently was of a machine-aided evolution in our professions, the release of ChatGPT¹ on 30 November 2022 marked, according to many commentators, the start of a revolution². ChatGPT is a prototype conversational agent, otherwise known as a chatbot, which harnesses the power of generative AI. Very briefly put, the machine uses algorithms to create new content based on existing material. By way of demonstration of its power, ChatGPT recently passed the American multiple-choice bar exam with a score of 76%³.

For example: see image on the cover page⁴

Technological tools are making significant and rapid advances⁵. Machines can already answer complex questions and produce complex content. When asked about its ability to help the legal industry, ChatGPT identified four key areas: legal research, document generation, legal information and legal analysis⁶.

In recent weeks, several law firms have announced that they are adopting generative-AI tools, extolling their benefits for their clients⁷. For example, Allen & Overy has announced the rollout of *Harvey*⁸ to "empower more than 3,500 of A&O's lawyers across 43 offices operating in multiple languages with the ability to generate and access legal content with unmatched efficiency, quality and intelligence"⁹. Fair to say, then, that AI-driven tools and advancements have already begun to reshape our practices.

Every technological breakthrough is accompanied by a chorus of opinions, some more considered than others. Some prophesy the imminent disappearance of the lawyer, while the less pessimistic foresee a change in the skills expected of lawyers in an environment where good-quality results can now be obtained through AI.

We can nonetheless expect a bright future for lawyers in spite of these changes, provided they are willing and able to continuously evaluate themselves and

methodically improve their essential skills. Regardless of their ambitions, lawyers must now not just aim for excellence, but insist on it.

To try to understand the extent and form of the effort required, we will review some of the qualities typically highlighted when describing excellence in lawyers. This will enable us to not only confirm their importance in the ChatGPT age, but also to identify areas for personal development.

The aim is to be completely ready to interact with the machine when it becomes indispensable – likely within the next two to three years – and to then stay ahead of it for as long as possible once it starts being capable of handling emotions and fostering trust.

1 Excellent legal knowledge

Most "tech oracles" in the legal world see AI in direct opposition to established practices. When it comes to knowledge, they argue, machines are superior, so we should leave fact-based tasks to them: no need to memorise laws or learn principles from legal scholarship. In other words, fundamental legal knowledge has no place in this brave new world¹⁰.

We think the opposite is true. It takes a skilled lawyer to ask the machine the right questions, to feed it the right documents, and to make the most of the machine's capabilities. To catch the machine's errors, inherent biases, and bare-faced bluffs, it takes a skilled lawyer. And it takes a skilled lawyer to spot the connections, the parallels, and the analogies that the machine is blind to.

As machines get ever more "intelligent", lawyers need to keep pace, and excellence lies in the most intelligent interactions between lawyer and machine. Tomorrow's excellent lawyers will still draw on a solid academic foundation and maintain an unwavering commitment to continuously furthering and enhancing their legal knowledge.

2 Excellent listening and observation skills, and an excellent ability to communicate

A lawyer plays many roles. They may accompany their client in some of the most difficult moments of their life. They must therefore be attentive to their client to be able to help and guide them, and it is in these moments that an essential bond of trust is forged.

In its current state, AI is incapable of empathy and does not understand human emotions, however, it seems a safe bet that machines will make increasingly convincing claims to the contrary. As such, excellent lawyers would be well advised to distinguish themselves from machines by refining their listening and observation skills. By listening better, we understand better; we sense emotional nuances, read people's needs, and understand their aims in a situation. By being more observant, we pick up on body language, expressions, and how things are said; we can better "read the room" and act accordingly. Finally, we must strive to express ourselves better, to help our voices rise above the chatter of machine-generated discourse. The sharper these skills, the more we will be able to engender trust, ensuring that machines remain in their proper place and role.

Thus legal excellence lies in listening, observation, and communication. Lawyers must first relearn to control their attention and eliminate distractions. Then they must use eye contact, body language, active listening, and their overall emotional intelligence to enhance their capacity to receive the words of others as well as deliver their own.

3 Excellent judgement and critical thinking skills

A lawyer is a strategist. They are a master of presenting facts and interpreting the law to suit their brief and their client. They anticipate the other side's moves and deploy the right tactics at the right

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1 GPT stands for "Generative Pre-trained Transformer".

2 Andrew Perlman, *The Implications of ChatGPT for Legal Services and Society*, p. 1.

3 Karen Sloan, *Bar exam score shows AI can keep up with 'human lawyers,' researchers say*, Reuters, 15 March 2023; see also Mary Lu Bilek & Deborah Jones Merritt, *ChatGPT Almost Passed the Bar, But Competent Lawyers Do Much More*, Bloomberg Law, 13 February 2023.

4 This example was created using ChatGPT version 3.5. The response shown here was produced in a few seconds.

5 The most commonly cited examples of chatbots today are Microsoft Bing Chat, said to have the ability of a B/B+-level law student, GPT-4 from OpenAI, already available but only to ChatGPT Plus paying subscribers, as well as Bard, the chatbot developed by Google, currently in testing.

6 Andrew Perlman, *The Implications of ChatGPT for Legal Services and Society*, p. 2.

7 Chris Morris, *A Major International Law Firm Is Using an A.I. Chatbot to Help Lawyers Draft Contracts: 'It's Saving Time at All Levels'*, Fortune, 15 February 2023.

8 Harvey AI is a legal startup funded by fund of OpenAI, among others.

9 Allen & Overy press release from 15 February, available on the law firm's website.

10 In their article cited above, Mary Lu Bilek and Deborah Merritt argue for a completely revamped examination system: "ChatGPT provides yet more evidence that time-pressured, closed-book written exams reflect outdated lawyering practices. Those exams perpetuate exclusionary practices without adequately protecting clients."

moment. A lawyer's creativity, their capacity to think outside the box and to advance hitherto unseen arguments, is a key distinguishing factor from AI, which (as yet) only reproduces existing discourse. It amasses information but struggles to assess it critically or situate its factual and legal knowledge within a broader social context. Moreover, AI exhibits a "moral indifference"¹¹, whereas lawyers mould and shift the legal landscape through their thoughts and opinions.

Lawyers will from now on pursue excellence by constantly honing their judgement and developing their critical-thinking skills. They will question themselves much more often, always be conscious of their own cognitive biases, embrace greater methodological rigour to avoid hasty conclusions, and defer to the opinions of partners and colleagues within a flatter corporate hierarchy. Excellent lawyers will see their clients' cases as projects, bringing together teams of two, three or more in equal collaboration within the law firm, focusing much more on problem-solving than simply delegating and executing tasks.

4 Complementary skills: excellence in foreign languages

Developing complementary skills brings a wide range of advantages, for example enriching our critical thinking and judgement, which in turn enables us to interact more intelligently with the machine. But acquiring these complementary skills benefits us in more ways than just this.

By way of an example, learning a new language – despite English sufficing in most situations – unlocks a much greater understanding of other cultures, which might well include the client's. This enhances our tolerance in general¹², certainly a significant cognitive and emotional benefit. Language learning is also linked to being more at ease in unfamiliar situations, termed a "tolerance for ambiguity": given the ambiguity inherent to language learning, it is unsurprising that experienced linguists are more comfortable with uncertainty¹³.

Legal excellence in the future will therefore emphasise the acquisition of complementary skills in ongoing professional growth, not only to get the most out of the machine, but also to develop tolerance for ambiguity. Excellent lawyers will be all the more willing to broaden their skill base because people with a high tolerance for ambiguity tend to be more entrepreneurial, more optimistic, and more inclined to undertake innovative and risky endeavours¹⁴.

Conclusion

AI and ChatGPT are yet to replace lawyers, however, as AI tools become more powerful, lawyers need to raise their skill levels to keep up. While technology will streamline tasks traditionally handled by more junior members of a law firm (such as legal research and document generation), it will also demand more of the lawyers leading cases, as described above. They must keep pace with the machine and be able to direct it in the most intelligent manner possible, while also distinguishing themselves as clearly as possible from machine-driven processes through their emotional interactions and trustworthiness.

Despite initial appearances and marketing hype, these technological advances will not make our lives easier. Indeed they may well force us into an exhausting and unrelenting pursuit of ever higher levels of excellence. They will lay bare the differences between law firms and between individual lawyers; if "AI-powered" becomes a synonym for guaranteed quality, late adopters and tech sceptics will swiftly be left trailing.

Some consolation in this upheaval is that the pursuit of improvement in our legal skills will also bring personal fulfillment to those who make the effort. In other words, the acceleration of AI use in our profession might lead to a field of "happausted" legal professionals – simultaneously happy and exhausted – admittedly not the most enticing promise for those who already exhibit such passion and perseverance in this field. ■



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11 See Noam Chomsky, *The false promise of ChatGPT*, New York Times, 8 March 2023; see also Martin Legros, *ChatGPT, Chomsky et la banalité du mal* [ChatGPT, Chomsky and the banality of evil], in *Philosophie Magazine*, 13 March 2023, which calls AI "a thoughtless and servile intelligence" and "a good definition of the banality of evil".

12 Amy Thompson, *Pourquoi il est très important d'apprendre des langues étrangères* [Why it's very important to learn foreign languages], *Le Point*, 22 January 2017.

13 Ibid.

14 Ibid.