



AI - Are You Keeping Up? Won't You Be My Robot Neighbor?

BY GINA BONGIOVI, ESQ.

Artificial Intelligence, or AI, has become a buzzword of late, and it almost inevitably finds a place in every issue of major business publications: Forbes, BusinessWeek, and the Wall Street Journal. Commonly misconstrued to encompass more than it does, AI at its core describes the ability of a machine to simulate intelligent human behavior.¹ Such behavior can include decision-making, language translation, speech recognition, reasoning, pattern recognition and problem-solving.

I remember a fifth-grade classmate (in the late '80s) who blew away the science fair judges by testing whether he could teach his computer how to anticipate his moves in the Apple IIe version of chess. He played something like 5,000 games, making the same first move every single time, and tracked whether the computer reacted accordingly. It did. Though my exploration of the efficacy of pesticides and wax on produce received only lukewarm reviews (probably because the experimental apples displayed with my tri-fold foamboard sat rotting in the school gym for three days), I found myself equally impressed with his project. Not only was this my first exposure to the concept of AI, but he won the blue ribbon at our science fair without stinking up the place. Well done, Ryan.

Today, unless you have been living like Jodie Foster's "Nell" for the last decade, nearly all your movements and utterances have been tracked. Every few months it seems we're stunned and mildly outraged at the newest example of the degree to which our everyday behavior is being monitored, analyzed and monetized. Most recently, I had a "Poltergeist" moment when ads for an obscure product, mentioned only in passing at a loud dinner party, began showing up in my Instagram feed. I blame the Google Home, which seems to have replaced the judgmental relative who eavesdrops on conversations, collecting delicious morsels of family gossip.

It's interesting, though, how quickly the outrage dissipates. I recall being nonplussed when ads for the very shoes

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I'd shopped for several hours prior began popping up on unrelated websites. It was a little menacing, as if those peep-toe ankle-strap pumps were following me around the interwebs. Today, I fully expect to be stalked by items that remain in my shopping cart and, more often than not, find myself completing the transaction just to stop the nagging.

We all understand that we sacrifice privacy for convenience. **The more we allow our lives to be observed and recorded, the more data goes into the ether and the richer becomes the information a brainiac can use to enhance a system's AI capabilities.**

Oh, the days of yore when you would enunciate "call Elliott" into your flip phone 27 different ways and maybe once successfully get the desired result ("Scrubs" reference, anyone?) Aggregate potentially millions of voices saying the same thing in different accents, with different cadences and at different pitches, and today we have little trouble making that call, having easily forgotten this early example of a first-world problem.

A similar aggregation of legal data is the foundation of the AI that has already begun to impact our work. It's clear that those in the legal profession who embrace, understand and employ AI in their practices will find themselves working more quickly and more efficiently and, most importantly, being able to deliver a higher caliber of client service. What's murkier: how do we reconcile the methods and approaches of one of the world's oldest professions with one of the most profound and rapidly advancing technologies of our day?

The first example of AI in law that springs to mind concerns legal research. The two behemoths in the arena seem to be leapfrogging one another in developing more user-friendly research platforms, while good old Google has applied its intuitive search engine tactics to similar information in its free Google Scholar product. Largely gone are the days of

the Boolean search, wherein one had to become bilingual in English and symbols to execute an effective search. We previously had to learn the computer's language; today, the computers have learned ours.

Legal research, however, is certainly not the only facet of our industry AI has infiltrated. Legal writing has experienced profound change, thanks to the collection and mining of data. Remember when Word began flagging grammatical errors in addition to spelling mistakes? That was then. Now, programs will aggregate clauses from millions of legal documents and offer up the most concise phrases. There are even programs that track the outcomes of cases to determine which clauses most frequently hold up and to calculate probabilities of success, like the Daily Racing Form for litigation financing companies.²

This is where lawyers tend to get a little nervous. If we can be replaced by machines, what are we to do? Take up the other world's oldest profession?

Too often, lawyers and firms operate in a dichotomy. On one hand, we are acutely trained to look forward, anticipate worst-case scenarios and advise our clients on avoiding or mitigating risk. This future-orientation is in direct conflict with how so many firms operate: doing things the way they've always been done, and being so rooted in those processes that agility is elusive at best. We're also supposed to know everything. I'm sure not a week has passed since someone has said, "Hey, you're a lawyer!" and assumed you knew the answer to a question so far outside your practice area it may as well have been in a different galaxy. We tend to stick to what we know, sometimes defiantly. We are, by and large, not known as early adopters or agile change agents. However, to keep pace, we must endure the discomfort of not understanding something, learning it

and remaining open to the many ways in which it can help.

That said, admittedly, I breathed a sigh of relief when reviewing a graph in a June 2017 issue of *BusinessWeek*.³ Lawyers have a "computerization probability" (CP) of 3.5 percent. What does that mean? Well, restaurant hostesses have a CP of 97 percent. We've already seen McDonald's replace their order-takers with computers, and of course your casino cashier with a CP of 83 percent pushing the cart full of cash has been replaced by a glorious, neon-adorned ATM/bill breaker/bill consolidator/ticket payout machine.



Then we lawyers are safe? Not so fast. IBM has branded a question-answering machine, "Watson," powered by AI, which defeated two *Jeopardy!* champions back in 2011.⁴ The company is working on a lawyer version of Watson, which could be loaded with data and deployed in the cloud for greater access. Don't panic just yet. This technology has been likened to Gregory House from the TV series. He's a walking encyclopedia, but his bedside manner is sorely lacking.⁵

That's really the point. **As reliance on automation increases, personalization and human interaction inevitably decrease.** Regardless of practice area, we still deal daily with human problems and the resulting

human emotions that cannot be ignored. Interestingly, marriage and family therapists have a CP of 1.4 percent, even lower than lawyers. That goes to show that you won't ever replace the human component, no matter how lifelike your robots look and how convincingly they feign interest in your mommy issues.

Speaking of which, one of my favorite humans, Mr. Rogers, has been described as a "technological visionary." "Stick with me here. Mr. Rogers graduated from school just as television was becoming ubiquitous. He could foresee that the medium had great power and could easily be used irresponsibly, once referencing the amount of violence masquerading as entertainment in children's cartoons. As we all know, Mr. Rogers spent his existence improving people's self-image and encouraging people to help one another. His testimony before Congress in support of funding public television underscored his commitment to creating a neighborhood where people could be hopeful, feel secure and be kind. As AI and other technologies promise to transform our profession, enabling us to work faster and more efficiently, it's imperative that

we keep a firm grasp on the importance of working toward the positive and prioritizing client service. After all, who are we without our clients? **NL**

1. Marr, B. (2018, February 14). The Key Definitions Of Artificial Intelligence (AI) That Explain Its Importance. Retrieved July 20, 2018, from <https://www.forbes.com/sites/bernardmarr/2018/02/14/the-key-definitions-of-artificial-intelligence-ai-that-explain-its-importance/#1ea37e4a4f5d>.
2. Koebler, J. (2017, April). *The Atlantic*. "Rise of the Robolawyers" <https://www.theatlantic.com/magazine/archive/2017/04/rise-of-the-robolawyers/517794/>.
3. <https://www.bloomberg.com/graphics/2017-jobs-automation-risk/>.
4. https://www.ibm.com/watson/products-services/?cm_mmc=Search_Google-_-Corporate+Advertising_Pillars-_-NA_US-_-+ibm++watson_Broad_AW&cm_mmca2=10006704&cm_mmca7=9030812&cm_mmca8=kwd-301060037181&cm_mmca9=a9d22902-1e4f-4c07-818b-dd2eab143857&cm_mmca10=270029123659&cm_mmca11=b&mkwid=a9d22902-1e4f-4c07-818b-dd2eab143857&cvosrc=ppc.google.&cvo_campaign=000027HR&cvo_crid=270029123659&Matchtype=b.

5. <https://law.queensu.ca/how-will-artificial-intelligence-affect-legal-profession-next-decade>.
6. Mr. Rogers parallel: <http://www.lawandai.com/2018/03/25/mr-rogers-and-the-navigating-the-crossroads-of-emerging-technologies/#more-1082>.

Additional Sources on AI: Yale Reading Group Syllabus – Law and Artificial Intelligence: https://law.yale.edu/system/files/area/center/isp/documents/law_and_artificial_intelligence_reading_group_syllabus-spring2018.pdf



Managing Partner of Bongiovi Law Firm **GINA BONGIOVI** is a Las Vegas native and holds a JD/MBA from UNLV. The firm, which just celebrated its 10th year in business, serves as outside counsel to small and medium-sized businesses. Bongiovi is a recurring speaker at ABA Techshow, where she addresses topics such as process automation and technology planning.

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