



## Part II: THE FUTURE OF ARTIFICIAL INTELLIGENCE

by Sterling Miller

*Understand the role of corporate counsel in a technology-aided workplace with the second installment of this series, which discusses the impact AI will have on your business.*



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# PART II: FUTURE OF ARTIFICIAL INTELLIGENCE: ROBOT LAWYER ARMY (OR NOT)?

*"The standard view is that routine work in factories and offices, like booking or operating basic machinery, is most vulnerable to automation. But A.I. software that can read and analyze text or speech – so-called natural language processing – is encroaching on the work of professionals. For example, there is a lot of legal work that is routine.... But that routine work, sifting through documents for relevant information, is wrapped in language, which had protected lawyers from the effects of automation. But no longer."*<sup>1</sup>

Artificial intelligence is quickly coming into its own in terms of use by the legal industry. We are on the cusp of a revolution in the legal profession led by the adoption of artificial intelligence computers – throughout the legal industry, but in particular by in-house lawyers. Much like how email changed the way we do business every day, artificial intelligence will become ubiquitous – an indispensable assistant to practically every lawyer. But what is the future of artificial intelligence technology in the legal industry? A bigger question is whether artificial intelligence will actually replace lawyers, as seems to be implicated above (a scary thought if you are new to the profession vs. an old-timer like

me). And if so, are there ethical or moral dilemmas that should be considered regarding AI and the legal industry? When considering the future of artificial intelligence technology in the industry, a few things are for sure: Those that do not adopt and embrace the change will get left behind in some manner. Those that do embrace artificial intelligence will ultimately find themselves freed up to do the two things there always seems to be too little time for: thinking and advising. Welcome to the second of a four-part series on artificial intelligence; this article discusses whether lawyers should be concerned about artificial intelligence replacing them.

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## ROBOT LAWYER ARMY?

In the first installment of this series, I wrote about what artificial intelligence (AI) is, how it works, and its general impact on the legal industry and legal technology. In this article, I will tackle the question of whether AI will replace lawyers. I am sorry to disappoint anyone who had visions of unleashing a horde of mechanical robot lawyers to lay waste to their enemies via a mindless rampage of bone-chilling logic and robo-litigation. That isn't happening (but it does paint a pretty cool picture of the robot lawyer army I've always wanted). Instead, what is most likely to happen are three things:

- 1) Some lawyer jobs will be eliminated. Those which involve the sole task of searching documents or other databases for information and coding that information are most at risk.
- 2) Other jobs will be created, including managing and developing AI computers (legal engineers), writing algorithms for AI computers; and reviewing AI-assisted work-product (because lawyers can never concede the final say or the provision of legal advice to an AI computer).<sup>2</sup>
- 3) Most lawyers will be freed from the mundane task of data gathering for the value-added task of analyzing results, thinking, and advising their clients. These are roles that will *always* require the human touch. AI will just be a tool to help lawyers do all of this better, faster, and less expensively.

Some additional comfort can be found in a recent article Matthew Francke wrote about several reasons why people should/will never entrust a computer to provide legal advice. He concluded:

- Judgment is a skill. Good lawyers (like good doctors) will – and need to – take the time to understand their clients, what they are seeking, and why. "Judgment" is needed as part of providing any legal advice. Computers cannot do this in the same way humans can.
- The answers to legal questions are not always black and white. If you've practiced for any length of time, you already know that there is no *Big Book of Law* that contains all the answers to legal questions. It is rare that many legal issues can be solved by simply looking up a provision in the law. Instead, most of the law is built on precedent where every case had someone arguing the exact opposite of how the case was decided (and it may have been a close call, hinging on one key or obscure fact or other twist). Meaning, everything needs to be put into context, something computers are unlikely to handle.
- Successful people don't use lawyers less, they use them more. Successful business people want to talk to a person, a counselor. It's the personal relationship that cannot be replaced by a computer.
- The desire for engineered outcomes. It's human nature to try to engineer the answer you want to get, i.e., "Can I do [x]?" vs. "Should I do [x]?" How a question is framed usually puts things in the best possible light to get the desired answer. A human can look at the circumstances, the body language, and other intangibles, along with teasing out the relevant

details so that you get not only the “answer,” but help with understanding it, so that you can accept it and implement it.<sup>3</sup> It is highly unlikely that AI ever develops to the point of overcoming all four of these key points, at least in our lifetimes.

Put another way, “Lawyering requires human-human interaction, creativity, language processing at the highest level, deep understanding of how society works, and a sort of experience that can (currently) only be gained by humans. Therefore, human lawyers, at least for the next ten years or so, will be irreplaceable.”<sup>4</sup> Given that only 13% to 23% of lawyer time is automatable, this means most lawyer jobs should be safe for now.<sup>5</sup> If that percentage changes significantly or the pace of AI

adoption comes faster than anticipated, then the potential for technology disruption in the legal industry can be much larger.

All of this tells us that while AI is (potentially) a game-changer in many ways, it will most likely *transform* the work done by lawyers rather than *eliminate* that work (at least for the foreseeable future). In fact, as our population ages and there are more people headed into retirement than are joining the workforce, the likely shortage of lawyers can be addressed, in part, through the adoption of AI. Similarly, use of AI may drive down the cost of legal services, making certain key legal needs (e.g., wills) much more in reach of everyday workers.<sup>6</sup> Stepping back, we may well need all the AI-legal assistance we can get!

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## CONCLUSION

What’s the future of artificial intelligence technology in the legal profession? If you haven’t been paying attention, artificial intelligence has arrived in terms of helping lawyers do things faster, better, and cheaper. The existing technology may be limited for now, but the possibilities are intriguing and the availability, quality, and price will all soon come together in products that are just too useful to in-house legal departments to resist. The value of having artificial intelligence search and

predict problems before they occur, combined with the luxury of providing in-house lawyers with more time to think and advise, has every sign of changing the game for the procurement and delivery of legal services. The impact of artificial intelligence to the legal industry is yet to be seen. The next installment of this series discusses the practical application of artificial intelligence to the practice of law by legal departments.

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<sup>1</sup> “Robots Will Take Jobs, but Not as Fast as Some Fear, New Report Says,” *The New York Times*, posted January 12, 2017 (Steve Lohr).

<sup>2</sup> See “Rise of the Machine: Artificial Intelligence in the Practice of Law,” *ABA Litigation News*, Winter 2017, Vol 42 No. 2 (Daniel Wittenberg), page 27 (human involvement is still required to interpret data, render legal advice, and fulfill ethical obligations).

<sup>3</sup> “Why You Should Want a Lawyer (and Not a Robot),” Best Hooper website, visited February 19, 2017 (Matthew Francke).

<sup>4</sup> “Legal Practice on the Edge of Disruption,” *DigitalBusiness.Law* (curated by Bird & Bird), posted February 8, 2017 (Simon Assion).

<sup>5</sup> “How Will Artificial Intelligence Affect Legal Practice,” Thomson Reuters “AnswersOn” blog, posted April 26, 2016 (Kingsley Martin).

<sup>6</sup> See, e.g., Littler Mendelson’s “CaseSmart” product which uses artificial intelligence to help manage employer’s discrimination lawsuits and provides access to more affordable attorneys who keep costs low by utilizing technology, and “Simple Citizen” which allows users to apply to change their immigration status using artificial intelligence technology.

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## ABOUT THE AUTHOR

**Sterling Miller** spent over 20 years as in-house counsel, including being general counsel for Sabre Corporation and Travelocity. He currently serves as Senior Counsel for Hilgers Graben PLLC focusing on litigation, contracts, data privacy, compliance, and consulting with in-house legal departments. He is CIPP/US certified in data privacy. You can follow his blog “Ten Things You Need to Know as In-House Counsel” at [www.TenThings.net](http://www.TenThings.net) and follow him on Twitter® [@10ThingsLegal](https://twitter.com/10ThingsLegal). His first book, *The Evolution of Professional Football*, was published in December 2015 and is available on Amazon® and at [www.SterlingMillerBooks.com](http://www.SterlingMillerBooks.com).

