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AI in ADR: Fundamentals
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Kateryna Honcharenko: Hello everyone and welcome. Thank you for joining us today. My name is Kateryna Honcharenko and I'm an arbitration professional practice manager at Ciarb. And I'm participating today in this webinar as a moderator. We are here today to kick start the series of events dedicated to the use of artificial intelligence in alternative dispute resolution, titled AI in ADR: theory and practice. We would like to thank TrialView and JusMundi for partnering with us on this series. The initiative comprises of six webinars, each followed by more interactive let's discuss sessions where you will be able to not listen in, but also to participate in the conversation by sharing your ideas, thoughts and experiences. So we encourage you to attend and explore this complex and interesting topic with us. I will now mention a couple of housekeeping points. This event is being recorded and of course the recording will be made available to everyone who registered. In terms of the format we will have a panel discussion first, which will take approximately 50 to 60 minutes, and then we will have around 20 to 25 minutes of Q&A. Also, please note there are two engagement tools available for you. The chat function is the first one there. You can, um, uh, use it for general discussions and raise any technical problems. And there is a Q&A function at the bottom of your screen.

Kateryna Honcharenko: So if you have any questions, please leave them in the Q&A box so they don't get lost. If you see a question posted by someone else which you support, you can bring this to our attention by upvoting their comment. And if your question is directed to the particular speaker, we ask you to please make this clear when leaving your comments. Our speakers today are Harry Borovick, General Counsel of Luminance. Monica Crespo, Head of Product at JusMundi, and Stephen Dowling, who is the founder and CEO of TrialView. Thank you for joining us. And Johnny Shearman, a dispute resolution lawyer at Greenberg Traurig who was also going to attend, is unfortunately unable to do so during urgent personal matters. Um, and now we can move to the substantive and my favorite part of the event. During today's webinar, we will focus on fundamentals of AI and law, the current legal technology and um, and legal technology markets and available AI tools. And we'll also take a look at benefits and risks of relying on AI in ADR and explore relevant practical cases. I suggest we start with defining artificial intelligence and try to understand why it has- it seems so suddenly it becomes

so important for the law practice and just for everyone in general. Monica, harry, if you could let us know your thoughts, please do so.

Monica Crespo: Sure Kataryna, thank you, everyone, for joining and…it's a very exciting topic. So let's jump ahead. Um, so before jumping into talking about AI risks and benefits, it's important to define what we're talking about. Something that I've noticed when we in the legal industry start discussing about AI is that sometimes we generalize it and black box, the technology or AI, and we refer to it, it's usually referring to everything and nothing at the same time. And I think the evolution of AI and how it has been used in law specifically will give us a better view and better understanding as a groundwork to continue the discussions of AI- how we can use it, and again, the risks and benefits. And for the sake of simplicity, I think I'm going to divide AI into different models that have been widely applicable in law. The first one is what happened before uh, 2017, uh, which is machine learning models applied to law. And the second part, it's large language models, what we seem to be hearing all the time with GPT and other technology tools. And to start- to start with machine learning, um, and for again, the sake of diving deeper into the technology and not being afraid of defining the terms and maybe scratching the surface of just talking about this as a black box concept, I would like to, um, define it more as a technical point, uh, the logical aspect that as lawyers is applicable or, uh, useful for us. So machine learning models, let's start there. So machine learning models are basically an algorithm that is trained with past data. It finds patterns in this data. And it uses this patterns to analyze new inputs, future inputs that it has never been used before. And how- what does this mean specifically? So if you give a model, labeled data for example, this is called supervised training.

Monica Crespo: You give a model labeled data. For example data that of images that are labeled as cats. And you also give it images that are labeled as dogs. But you don't explain what are cats and dogs, it's going to classify this two different types of labeled data into cats and dogs and find patterns in this data. So when you give it a new image of a cat, it's going to classify it as okay, it's similar to the patterns that I found on the images it defined as cats, even though it doesn't really know what cats and dogs are. For law what does that- what has this mean? Well, it has been used actually for, uh, what we call or what can be called extractive use cases, which as the name suggests, identifies, extracts and the text data, which can be either implicit or explicit in text. And this is what some people call natural language processing. At JusMundi, For example, uh, we have been using it to process documents and create our database. So- but another use case is for example on a case for discovery, uh, discovery platforms, e-discovery platforms that classify the data based on, for example, a pre-training or a pre labeling of the data. This uses machine learning models. And here we can start seeing that actually a AI in law is not that recent. AI in law started in 2000 and actually I started in 1950s. So what we can see here is that, okay, AI, maybe it's not all the same And AI is

not only ChatGPT. Now let's move to this new evolution of- and Harry, feel free to jump in at any time if you have something to comment.

Harry Borovick: No I think you're doing a stellar job, so I'm going to let you run!.

Monica Crespo: Um, so again, what drove us probably to create this, uh, webinar series is the emergence of large language models. Right. And now we're seeing a bigger application, more useful use cases for the day to day of a lawyer. And what made this huge breakthrough? Well, the huge breakthrough is that through this, uh, through a new architecture of a models, which is called transformer. Two things have happened. First, we have been able to train, uh, models with immense amounts of data. So basically the whole internet, as you know. And what this has enabled is to find these patterns of language in a more contextual way. This allows the models to 'learn' that fair and equitable treatment for investor state matters is not the same concept as fair and equitable treatment for environmental matters, or for family matters. This very nuanced meaning was...It escaped previous natural language models. But now, because we have trained, or because large language models are trained with so much data, they understand that context is important. And this unique, uh, um, evolution has allowed the, a new use case, which is generation of content. Before we were talking about extractive use cases, and now we're talking about generative use cases, which allow you to interact with data and generate new content to basically talk to a database in natural, uh, language, as you would be talking to, maybe a paralegal: "give me this information".

Monica Crespo: So it's a huge, uh, breakthrough. And one use case is, at JusMundi we're using it to build the first, uh, AI assistant for, um, arbitration and international law. So you can query our database, uh, by asking natural questions. For example, I want to know... My boss is asking me to write a report on how we can use the ABA cloud case to, uh, present a claim before exit tribunals. And it will give you a representation of why this case might be useful for that specific answer, and expressed in a natural language matter that can be humanly understandable. Instead of having to go to data scientist to get the data, interpret the data, and then try to define what all those numbers mean. So that's what I would say, that it's the big breakthrough and why large language models and the new use cases are quite interesting and they present new challenges. But finally the use cases are tailored to law. And it's because of this big breakthrough on how we can interpret words within context.

Harry Borovick: Yeah, I would totally agree with that. What I'd also add is that one of the you know, if we break down that excellent technical history of AI, which is, um, I'm in total agreement with, the reason why you are now seeing AI regulation, AI booming generally is because of the ability for us to interact with a piece of technology in a way which is organic. That is essentially the rationale. When you interact with something in organic matter, you tend to trust it more than you do when you have to interrogate it in an

inorganic way. When you do a search result that requires you to put in a lot of thought and effort into how you are searching, you tend to interrogate those search results with intensity. When you are asking a person an ordinary, straightforward question, and they give you an answer that seems presented in a confident manner and in a natural way, you are more inclined to trust it and place more reliance upon it. So the reason for this boom is you don't need to be particularly technically competent to actually get much more from technology, using a more complex piece of technology that actually allows you a more natural and less sophisticated optically interface. So that's why there is such an interest in it and such a surge because we're going from the age., if we can talk about, you know, in dispute resolution, very rudimentary, uh, e-discovery, which once upon a time started as a bunch of documents in a room that were all printed out and everyone had to, uh, review them into digital data rooms, into data rooms where you could search effectively, into data rooms, which have the ability to answer questions. And the ability to answer questions not only saves time and money for people because the answers are at your fingertips, but they can also provide answers in an interpreted way based on how you would like it to be interpreted. And that can be trained. And that's incredibly valuable because that's how a human being interacts with knowledge.

Stephen Dowling: If I might also just jump in on that. Uh, I think- but I have to say, both those expositions were excellent in terms of, um, defining where we're at. Um, for for me personally and I suppose as, as a, with my lawyer hat, um, I would have been highly skeptical of AI, uh, right up until the end of 2022. Um, I was aware of a moves being made in various quarters, uh, as to what AI was attempting to achieve, but I never felt it was going to get there anytime soon. And obviously, with the advent of ChatGPT, that completely and radically transformed my view and probably lots of other people's view on the power of this technology. And I for I think from a lawyer's perspective, the, the, the critical thing, I think, um, is the fact that it is immensely powerful at dealing with language, as Harry has said there, . I mean, I mean, it's only one aspect of of the GPT model- the chat piece or the generative piece around language. But language is a big piece of that. It also deals with images, etc. but the fact that it can under that, it can, um, essentially manage context with language, and the fact that it can generate language is immensely powerful from the perspective of us as lawyers, because that is literally our stock and trade. Our currency is language. We deal with language all the time. We persuade through language, uh, we use language as a means to ultimately, particularly in litigation, to achieve an outcome for our clients. Um, and so it's an exceptionally powerful thing that if a machine now can deal in that same currency, uh, it has massive implications, uh, for, for the legal sector.

Stephen Dowling: But the one thing I think is important, again, in my knowledge, in this... Um, I'm not I'm not a technical person, but I am operating in the field of technology. Uh, I suppose it is important understand its limitation in one sense, and we probably speak more about its limitations later on, but it doesn't understand in the sense that we think

we understand as humans. It doesn't actually understand language in that sense. It is a it's a predictive machine. Uh, essentially it takes a string of words or a string of, of paragraphs or, uh, maybe a data set of pages, and it's predicting that from those pages, if you ask a question, it predicts what the most relevant answer to those questions are based on essentially very sophisticated algorithms where you're pattern matching, and that's really what it's doing, and it's doing it in an incredibly sophisticated way, but it's not actually the actual real understanding. Rather, it's a very clever way of taking a big chunk of data and being able to produce further data which matches what's in that. So therefore, you can get an answer to a question such as, in a big chunk of data, when did Monica meet Harry? Uh, in in in 2022. When did the meeting take place? Who was present at the site meeting in October 2024 or whatever it might be? Uh, it predicts the answer based on those questions. So it's a very clever way of approaching it. But that that in itself brings about its own limitations, which I think we can speak to later on. Um, I see, uh, while I'm on my feet, as they say, I think I think Kateryna has has unfortunately dropped out. Uh, I know Katarina is apparently going to be- she's going through some electricity issues where she is today, unfortunately.

Harry Borovick: Yeah, I think we can move on to the next point, which is, um, regarding artificial intelligence and the types of cognitive skills that AI can simulate. I think Monica had some points on that. But before we get into that, I just wanted to add that I think we can, uh, describe that and go into it. But I think from the practitioners perspective, bearing in mind the audience of this webinar, um. It's not overly helpful to always focus on what can be replicated and what cognitive skills AI can simulate, but more what it can provide to the practitioner, Full stop. And that holistic value is a more, um, useful understanding, but it is potentially useful to understand what it can simulate as a, as a ground truth.

Monica Crespo: And to add to that, maybe, um, what's important is to also understand what are, let's say we're talking about already, uh, what are the strengths of leveraging AI and what are the weaknesses? And to actually understand what cognitive skills I simulate effectively, um, and what limitations us has humans have, I think it's a proper way of evaluating, uh, where we can extract value from AI. So, uh, cognitive skill that AI has is obviously crunching vast amounts of data in seconds, something that we as humans obviously cannot do at the same level and scale. That has obviously its limitations uh, because if you process for an accurate process, processing of large quantities of data for AI, to do that effectively and accurately, the data needs to be of high quality as well. So you have probably heard, uh, garbage in, garbage out. So the cognitive skills that AI can replicate in terms of um, processing data and predicting, uh, potential new outcomes such as the next word will be taught through this, uh, data that was used as input. And I think it's important for lawyers to understand what, in which level of the workflow as a lawyer, you can leverage effectively AI. For example, when you have to process large amounts of data instead of you doing it by yourself as you have

been doing it, probably through e-discovery proceedings, you need to start using AI, and then you can go into more of the edge cases or the cases that AI might miss because they, again, are edge cases, so they are probably not well represented in the patterns that it normally finds because again, it's pattern prediction. So anything that goes away from the standard is going to be ignored. So knowing that pattern recognition, data processing, data crunching is the real value of AI. And also knowing this, um, drawbacks when it comes to edge cases is where lawyers can really add value in the, in the workflow.

Monica Crespo: And it also... This limitation should be considered, uh, what- because of what you were mentioning, Harry, which is which is that we treat AI because of their persuasive nature. And apparently it's 80%, it tends to be or it's estimated to be 80% more, it's more persuasive than 80% of the people- GPT four, apparently, according to some estimations, it can be, um... Rebutted, but those estimations seem to be what's, um, out there. And my point here is because of the persuasive level and we also need to treat this AI as experts in a cross examination where you maybe don't believe 100% of what they're saying and, and have that critical mindset. I think, Stephen, you also wanted to comment on the cognitive skills that AI can simulate.

Stephen Dowling: Yeah. No, I think that's right. And the you're very you're right about the persuasive piece. It is actually one of the things about AI- when it answers a question, when we use it in trial, we want to ask questions and it produces these answers. And we try to make sure that the answers are limited to the evidence that's in the case, so that it's not going outside of the four walls of the case. But it is slightly beguiling the way it answers questions, in that it does sound exceptionally authoritative. And obviously you can get different tones. You can actually ask it to to answer in different ways, but it's quite, it's quite lucid in its language and therefore it gives an answer. And uh, one would, one would kind of be, you know, forgiven for just simply accepting it at face value, the answer that it's giving. But, um, and that's because it's very good at language. But it's not, as I mentioned earlier, it's not necessarily very good- uh, at it's not truly understanding things. It's predicting essentially the answer. So in terms of the cognitive skill that's doing, what really it's doing is it's summarizing as best, as can best as can a chunk of data based on on your input. Your input is essentially a question. So, um, it is that leads on to one point, which is is really important to be able to check, certainly at this stage of AI, to be able to check and verify the outputs that you are getting- a quick and easy way to do that, which in itself can be can be challenging. That's that's a really important part of the process.

Stephen Dowling: But ultimately, uh, in my view, um, what AI is brilliant at is within a defined context. Uh, it's brilliant at essentially summarizing and comparing language. so, for example, if you ask AI to take a litigation context, to take a witness statement or deposition. And you isolate within that certain theme, so you say when the witness, uh,

gave evidence about a meeting or gave evidence about a series of events, please identify any inconsistencies in what the witness was saying, either internally within that, let's say, that witness statement, or against previous statements that witness may have said, if you can identify those statements and it can very quickly examine those and compare those and produce a result which is very powerful really, really quickly. And a human can definitely do that as well, but it could do it at a far greater pace than a human. So in that defined context, it's very powerful. But one thing I don't think it's brilliant at now, and you mentioned this, um, Monica, about crunching large amounts of data. It's not actually brilliant at taking a massive data set. Um, because the context window at the moment, and just for the benefit of the audience who may not understand that phrase, the context window is literally the kind of, it's literally the the amount of data in any particular quest you ask it that it can process. So if you ask it a question, for example, about a singular document that's maybe ten pages long, it's excellent at answering that question.

Speaker4: If you ask it a question about 10,000 pages or 10,000 documents, it won't be able to answer it in one go. You have to come up with a way of slicing that information up and feeding it in. So one of the major limitations right now on AI is, is managing... Basically managing large amounts of data and getting them down to a manageable set or coming up with ways to deliver, enough to allow it to answer within that particular what's called context window. So, um. So in truth, the real power of AI is when you give it a relatively small context, it's brilliant at answering questions within that relatively small context, just like a human. But beyond that, we're not quite there yet unless you come up with alternative workarounds. And I'm sure Luminance is doing this and JusMundi are doing it as we're doing it as well. We come up with workarounds to ensure you can get the context back. Um, and in terms of use cases, I know JusMundi are doing this, summarizing case law. I mean brilliant, brilliant use case. Absolutely brilliant. Particularly a singular case, uh, brilliant at that. And if you can come up with ways, then, of, clever ways of chunking up the data to summarize more broader areas of case law, it's also no doubt, I know, JusMundi you're doing that to. It's brilliant to that approach as well.

Harry Borovick: Yeah, Stephen, I very strongly agree. And actually to that point, um, I want to give an example like Luminance is not, um, for example, a player in the same sort of realm and space as JusMundi and TrialView. But we were um, the first AI used in an Old Bailey trial in 2023. And that was actually, to your point, because it was used in a very framed and specific manner to analyze some evidence within supervised parameters. Right? So the desired outcome was very specifically known. And the framework of uh, desired understanding as an output was also very specifically known. And so therefore it was easy to apply and get a productive outcome. But I think this all goes to, uh, if I can summarize somewhat, um, to the point of using the right tool for the right job... So if you're using a publicly available Gemini, ChatGPT, Llama2... Whatever model you are using without any specific training to summarize case law, that is still, even if it's a single

case, it's still likely to do a worse job because it will miss some of the legal nuance in its understanding, even if it is doing a good job of summarizing the words on the page. Um, than a more specialized tool which has been, um, geared to sort of understand the key points within that from a specifically legal perspective and tailor that to the audience. I do think that's important. I think that actually sort of brings us on quite well into, um, a bit of discussion about what are the sorts of tools, um, available, because I believe when we, um, spoke in advance of this meeting, there were some discussion about, you know, AI not being limited to ChatGPT. And I think often that is the framework by which a lot of people perceive AI. Um, but it goes much broader than that. Is that something you'd agree with Monica?

Monica Crespo: 100%. Looking back into your comment on using the right tool for the right task, this is where we need to define again, what is the workflow of the lawyer? What are we trying to achieve? For example, in the legal research realm, the AI tools that we have seen, well, we have used a UCI for you from UC mundi. You have probably seen also, uh, co-counsel from a co-counsel as a, as a very helpful tool as well. And again, we have different, parts of the process. We have also different predictive tools and not predictive in the sense of a successful arguments, but maybe most successful models, or predictive templates. So it really depends on what part of the workflow we're talking about. From a lawyer's perspective, there are also tools for legal drafting, which we're also looking at from the use mundi perspective. And when we talk about, different models, different, AI tools, I think it's important to to mention also the data that comes behind them and the data that it's used to train them, because this is what's going to define whether it's useful, it's the right tool for the right part of the process. For example, I imagine trial view is for, okay, now that we have already a conflict and we are starting, the litigation process, what tools do we need to leverage, uh, and make the workflow more efficient. So really defining what is the workflow and which tools can be useful is key. And the data that these tools are trained on is going to be fundamental. Because at the end of the day, how when we when I started with the definition of AI, really data is the key. So if you train or a specific model, to a specific use case, that is a model that's going to be useful and that can add value to the lawyer and the service innovation, in my opinion. And the key here for practitioners is identifying those for the right case and the right time.

Harry Borovick: Yeah. And I am keeping an eye on some of the Q&A, which I'm sure we'll get to at the end, but it does actually slightly frame these points as a couple of points connected to this one being about, uh, talking about AI as it's an amorphous, singular thing. And I think that's exactly the point here, which is you've got the underlying foundational models or specialist models at the which provide sort of the ground truth generative capacity or the analytical capacity. And then you've got the user interface on top, which is built to answer specific or create specific outcomes for people. But I think there is still a misnomer in that, which is, I think one of the questions relates to, the

suggestions of, AI tools implying that that's more than essentially data processing, data crunching. And actually, I think that's actually shows the sophisticated. Of artificial intelligence and capacity at the moment, because even the ability to recommend something beyond the question that you have asked is still a level of advanced data crunching. Because what's happening is it's not crunching the data you are presenting in front of it. There will be millions of documents or millions of interactions behind the scenes that will have framed simply that when people are asking X question, they are typically also interested in why it is making a predictive analysis of what has been done retrospectively and producing a forward looking outcome that makes it seem more intelligent than just answering the question.

Harry Borovick: On the face of it, in the same way that a person does. And that sort of goes towards the OECD definition of what is artificial intelligence, which is now, I think, forming part of the UI act, that it's able to provide within human defined parameters, which they always will be, or at least in the foreseeable future, predictions, recommendations, etc.. And so even those recommendations saying you are have thought about X, but maybe you should think about Y is still being from a human defined engine. And I think what's great about having different types of tools like Javaview, Luminance, etc. And there are many AI tools on the market with different underlying models and different user experiences, is that they will all be geared and framed to provide different levels of contextual understanding to that user for different purposes. Otherwise there wouldn't be any need. It would just be an amorphous, unit. But that's just not how, technological development practically works on the ground.

Stephen Dowling: Yeah, I completely agree with that. I mean, in the litigation context, even breaking that down, I mean litigation itself is only a is only a subset of of legal AI and legal AI is only a subset of, you know, much more global, umbrella of AI technologies. But even just taking litigation, you have early case review that that's a thing. So which I can assist with. You've got obviously disclosure and discovery huge huge body of work there. You've got evidence preparation so for example preparing witness statements quicker, ensuring those witness statements are linked with the relevant documentation quicker. That's a whole area in and of itself. You've got submission creation, you've got the organization of documentation, you've got the presentation of material, the creation of chronologies. These are all actually just tasks, separate, separate tasks with their own requirements. And they require a professional expertise to pull off. But they're all things that I can do. But they but they require specific applications of AI very kind of focused applications. So, I mean I don't think there's ever going to be one tool that fits them all, but, right now, certainly there's no tool that fits more the tools that only are out there now, can they apply to particular cases and I should have said in the in the litigation context, a whole other area is knowledge, which is case law precedents mining the database of knowledge. That's a separate thing. Again, applying precedents and case law to the facts of your specific matter.

Monica Crespo: And to add to that, Stephen, I think it's also important knowing what technology we're using, not all the time. We need to use large language models, which tend to be costly and require a lot of time to train for specific use cases. Correct. So we're not all the time, depending on the task, need to use this highly sophisticated tools, sometimes other types of either machine learning models or something as simple as decision trees, which is basically if A happens to be. Sometimes that use case is the most cost efficient way and that's why we need to identify what are we trying to do? Do we need to actually have a contextual understanding to provide an output and to make a decision? That might not be the case all the time. For example, if you want to filter out documents from an e-discovery, which is just I just want to see emails, maybe you don't need to go through ChatGPT to say, to ask for emails and give you the list of emails. In this case, a simpler models, simpler and solutions might fit the purpose and it's important to identify what is the need? What technology can we use? Can we use the most simple one for this? What are the alternatives that I have? What is the data again that's used? So to give a sort of a more practical view, what's important is to understand okay, what is the use case that I need to apply. What is the model that is being used? And is is it the most simple model or is it the most simple technology? If you're asking as a as a user because you don't need to know exactly the technology, is it the cheap way, let's say, to do it, or the most cost effective way? And what data are they using to train? Is it data that's going to be useful for this use case. So if you want an overall okay how should I evaluate providers. How should I evaluate if this is going to help me. Again those three things data, technology and finally the use case that I want to solve.

Harry Borovick: Yeah I think there's also a regulatory consideration here. We should remember that, you know as well in the sphere of legal and, you know, data privacy is a huge concern in cyber security. And with that in mind, you know, one of the key considerations when talking to a buyer of legal tech, whatever that might be, or I'm talking to other friends who are lawyers, and there you've got a particular use case and they're thinking about the right tools. One of the key questions is where is your data that you're going to be putting into it going to be hosted because you will owe some kind of regulatory obligation, most likely to whoever your client may be. If you're a lawyer, then you definitely will from the UK perspective or a European perspective, and then you have to consider, right, that's going to probably contain significant amounts of personal data, potentially sensitive personal data. Therefore you have to bring in GDPR considerations. Where is that data going? Do you have is there appropriate international transfer mechanisms? You know, you can really go down the rabbit hole of appropriate, data privacy considerations but there are overarching regulatory considerations, which is, you know, if you are using a tool which is potentially misusing the data you put into it, i.e.

Harry Borovick: you are using a free version of ChatGPT where they very openly say in their terms that they may use data for their models, unlike some of their more business facing premium versions, then you may have automatically committed some kind of significant error from a regulatory perspective by breaching confidentiality or privilege. So those things are really worth considering. That may not be the case when using a specialist tool, particularly if you have a segregated environment that's just yours. You know, there's all kinds of practical ways through. But, the real point here is that AI has tremendous value if applied to the right use case, but also significant risks, from a regulatory and, compliance perspective, if not given appropriate consideration before use. So even just which vendor you're going to use for your use case shouldn't just be does it solve my problem? It's going to create me, give me other problems because I'm using the wrong thing or the company's not set up properly. Stephen, do you have anything to add to that?

Stephen Dowling: Yeah. You know, I think that. So security, data privacy, uh, regulation obviously massively important. I mean, there are two very separate issues when it comes to AI what the data privacy point is, there's nothing really new about the data privacy point in the sense that we have that in place, data leakage, making sure it's siloed off, making sure that insofar as you're processing people's data, they have given their relevant consent. That's well bedded in. Now there's added implications with AI. If AI is being trained on that data and have the people whose data is being passed to them being provided a consent for that and obviously any AI tool now, especially in the legal space, which is saying, well, we're going to use AI for this particular piece of litigation. They need to ensure that they are not sending or using that data, for example, to be sent back to Azure, OpenAI to further train their models. You can't have data, people's data in litigation used to train models. Or if you're doing that, you have to have their fully fledged consent. And and the existing AI tools at the moment are designed to shield that, to keep your data separate and to apply pre-existing pre-trained models on a new data set.

Stephen Dowling: So that's one issue. And obviously there's a lot of technical things that have to be right. And a lot of legal things that have to be put in place. But there is a bigger, wider issue, which is the impact of AI and society and with the new AI act that's been I think it's it's now been passed by the European Parliament. It has been passed yet, which brings in a whole new level of regulation about the impact of AI generally and one area which would be considered high risk is where if AI is going to be involved in any decision making that affects the civil rights or essentially any kind of fundamental human or legal rights of people, then extra protections have to be in place, so when it comes to litigation, that's obviously going to be very relevant. And the real question which arises there is, well, to what extent is AI now playing a part in decision making that affects people, their rights? Their general kind of operation in society and that raises really interesting questions about if I'm a practitioner and I'm making submissions to a

judge or to an arbitrator or to somebody who's going to be making quite a serious decision about my client's interests or about the other side's interests, to what extent do I need to inform that decision maker that some of my submissions or preparation was I used? Personally, I think that can actually be that could be stretched too far because we use AI all the time to search and to find things to build up a submission, and I should be able to stand over the the output.

Stephen Dowling: But it does raise that question. And then it also raises the question for the decision makers and arbitrators and judges, are they using AI systems for searching, for finding answers to questions, to maybe generate a summary of certain parts of their, their decision? And how much is that part of the actual decision which actually causes the impact on the litigant that's before them? So it does raise really interesting questions. And no doubt the AI act would define, I think, any form of litigation as being a high risk area if if that outcome has been determined or influenced by, the use of AI and There's lots of potential ramifications at that level as well.

Monica Crespo: That is, something very interesting to highlight. Steven. And I think, AI in decision making has been an issue for or been a subject of research for legally significant use cases for almost a decade now, because it's not the first time that AI has been used for, again, legally significant, decisions. And when what I mean by that is decisions that even though they might not be, intrinsically legal, have a legal consequence on people, for example, in financial institutions, by making risks assessment or deciding whether to grant a loan or not to a person. This have already been studied and evaluated because these are legally significant or they produce, uh, significant consequence on the people that are being analysed or that are being subject to this AI decisions and here a looping back into the original point that we made at the beginning of this webinar, we really need to take into account. And that's something, at least from the US side, that we're very aware that AI decisions or specifically inputs from LMS or assistants may have, persuasive nature and because of the persuasive nature, even if these are made as recommendations and not decisions per se, to, let's say, arbitrators or judges, again, even if they're not used or particularly for a decision, but they need to be processed by the judge or arbitrator. This raises a question or of whether that use amount requires a disclosure and I think a case that, a famous case, you probably have heard of it before, the use of the compass algorithm in the US to evaluate the risk assessment of convicted criminals on whether, to evaluate the risk of recidivism of convicted criminals and this was an algorithm, again, used by judges at the end of the of the process to evaluate the risk as high, medium or low.

Monica Crespo: Because this algorithm didn't provide, you can argue multiple things, but because this algorithm didn't provide any contextual information as to why the risk was high, medium, or low, it didn't give the tools to the doesn't give the tool to the judge to evaluate. Actually, why was it a high, medium or low? In the end, this some studies,

have proven that this, algorithm presents racially biased answers. So first we find this issue of bias, which is can be, quite persistent in some AI models. Second, we are not giving the tools to the person using the algorithm to question the algorithm decisions. And third, we're faced in this situation where we treat this convincing expert as an expert and we don't have the tools to question. So we're facing a really difficult situation. So it is a very interesting topic that even if we reach the point, in my opinion, where AI presents the most perfect answers and an accurate depiction of the future, I'm not sure that it can or should replace either lawyers or decision makers specifically in the legal field because of the, social aspect and, the it's not socially desirable in my opinion, because we want to question patterns, we want to break. Maybe the way that we have been doing things in the past, in the sake of evolution, in the sake of society and the sake of, how we're interpreting the world. So, These are interesting paradigms that I think lawyers need to take an active role, especially right now that these terms are being defined in different jurisdictions and also with I act.

Kateryna Honcharenko: Thank you. Thank you all and apologies for being absent for a little bit. I'm glad we are now moved to contextualizing AI and the in in the law practice. I would like to now move to a bit of a more practical question. So if we look at a simple example of practice dynamics, for example, this triangle, if we talk about in arbitration, this triangle of an arbitrator or a panel and two parties, let's imagine one of the parties and the arbitrators are used to using AI and are planning to use it for some tasks related to the dispute, while the other parties see AI tools as something alien. So my question is, could you tell us how to have a conversation about the use of AI with someone who's not familiar with the tools? And does I have to be disclosed, and to what extent and when?

Stephen Dowling: Yeah. I might speak a little bit about I think this is a really, um, important area because I think there is, a real risk at an early stage that people become overly fearful of what AI is, based on a misunderstanding of what's actually going on. So the first thing I would say about AI is, is current currently. Is it does no more in truth than, allow you to get information quicker than you would ordinarily get to that that's in truth what it does. So if you have a part a piece of litigation or an arbitration and the first thing to ask is, well, are I think my internet might be a little bit unstable. I just keep talking for a moment. The first thing to say is, I mean, they are no doubt going to be using systems where they're searching for material. They're going to be using systems where they're collating material, using technology, and even conducting a word search within a particular platform. That in itself has AI algorithms built into it. So if you are in any way using technology, then you're on the you are on the path to be using some form of AI and but the real question then is in the context of a particular piece of arbitration, what is it that you're going to be using precisely and for what purpose? So we actually have this with trial view at the moment, where we have arbitrators and litigants using our AI

system. What are they using it for? They're using it for for searching material and getting answers based on those searches.

Stephen Dowling: So an example is being who was present at a particular meeting. Uh, when did the claimant first contact the respondent and it gives answers to those questions, but it gives answers with a source to where this the source of the information is coming from. Nobody necessarily needs to take that as the truth and certainly should never take anything as the truth, but it gives people a potential advantage to find things quickly. So that's that's a first pass. It's a relatively anodyne pass at using AI. Another pass then would be, are you in your submissions going to be summarizing any of the evidence using AI? And I think if you're creating a summary of evidence, for example, a case summary where you're suggesting to the to the judge or to the arbitrators, this is a summary of the versions of events that we're putting forward. If that's been produced by AI and it hasn't been checked, literally checked all the pieces checked, I think that needs to be disclosed. I think you need to say that we've done a summary. It's of a relatively peripheral issue in the case. Therefore we're not going to think it's just background information but this is what the AI summary has produced. I think that will absolutely need to be disclosed if it hasn't been checked human checked essentially. Similarly, if an arbitrator is making a decision and has decided, for example, I've taken submissions from both sides, I'm going to summarize the background of a case, and I'm going to use AI to assist me with that. I think that arbitrator has to disclose that in the context of the decision they're producing.

Stephen Dowling: and at each step of the way, I think parties will have to make their own decision as to whether or not that's acceptable and whether it's proportionate based on the actual and the context in which it's being used. But if, for example, an arbitrator gets his or her assistant to summarize day one and day two of the evidence for his or her decision, and that's perfectly acceptable. Happens all the time we have assistants to help you. So if you are doing that, I don't see why you can't use AI to do that so long as you disclose that and so long as there's quality checks in place. But to say we're going to use AI in this case without defining what you mean, like what exactly are you going to be doing, I think is just going to scare people and again, if you can take a knowledge database like Use Monday, if you're going to say I'm using use Monday in this case, and that includes some of the case law being summarized by AI. That's fine. But if you're going to present that to the arbitrator as the law, you have to well, you should check it. You should absolutely check it. But secondly, you should disclose that this is a summary based on AI. so that that would be my view of how to approach that but I don't think we need to be scaring people about the use of AI, I think just need to be responsible in our approach.

Harry Borovick: Where I might slightly disagree with Stephen actually is um, I broadly agree with most of that but it's whether disclosure is appropriate, in my view. And this is

me with my legal hat on as a GC rather than, from a product perspective is, I don't think, to disclose now that I typed a summary of something faster using my laptop than I did by using a pen and a accelerated summary tool. Can do exactly that. It is doing what I am trying to do faster. So there are many use cases, like for example, legal research where you may want to disclose or disclaim your risk, as we're aware of, particularly in the US cases where, reliance on made up case law, became very prominent but if you are just simply summarizing your, you know, a document or you've analysed evidence and using a summary tool, I don't think, to disclose ordinary e-discovery tool usage necessarily, unless the court is interested in that or, the alternative dispute resolution mechanism is interested in that so I do think that there will be moments and particular use cases where disclosure of the use of AI is not only a requirement, but in many cases may even be advantageous from a risk mitigation perspective and transparency perspective but in, in a lot of circumstances will just be redundant and in ten years time we will look back and think, why were we even worried about telling people that we were doing X or Y? because people have become so adjusted to them.

Stephen Dowling: So if I can come back, uh, just.

Monica Crespo: Even.

Stephen Dowling: Reply, and I'll try to be sure I. There's a degree to which I accept that but I think the real challenge here is finding that line, because if you take you may gave disclosure as an example there. When people do use tar and disclosure that is disclosed to the other side, you have to set out your methodology to set out what you've done. You set out usually and depending what jurisdiction in the key words, for example, that you used. So the other side has a chance to say, well, we've got your disclosure and we've seen your method and we disagree with your method or we think your method is unreliable. So if you're producing for a judge a summary and and you haven't and you're presenting that summary as being essentially the law, I think you need to be very careful by doing that if it's not been quality checked by you and you're not standing over it, if you're using just purely AI, you'd be very careful about that. So there's actually two things. One is maybe you disclose that you used AI and let someone else object, or you stand over it and then and accept the consequences. But the the Avianca case that we all know about there, the lawyer literally produced a result based on AI and then attempted to justify his position by saying, well, that's what I told me. And that's obviously an unjustifiable position. So one sense it probably depends on who's taking a responsibility for it. But I think in the near term, until we and I do think we might get to that position where people will go, well, we worried about, I think in the near term, I think transparency is a is is probably a better policy.

Harry Borovick: Yeah, I do, I do agree and I am slightly playing devil's advocate there. And the Avianca case is quite, close to my heart because Avianca who won that case

they actually use our e-discovery tool, but they are a customer of Luminance's a quite prominent one as well. So I've had a lot of conversations with them about how fortuitous it was that their use of AI tools is very considered, very specific, and wasn't at all a part of that case and yet they went against a lawyer who wasn't familiar with AI at all, dove in without doing their research, placed excessive reliance on those tools, and sort of handed them an easy win. So it is really important to remember that there's a lot of use of AI tools behind the scenes that can be incredibly valuable but then there's also what you actually are, are using AI tools to present to an authority. And those are.

Harry Borovick: Sorry. Go ahead. Sorry.

Monica Crespo: No. And I think it's also irrelevant for arbitration to note who is using the AI tool. Because the parties it can be. Again, it can be debatable. What is the fine line of disclosure or not. But then when the arbitrator is using that information to get, let's say, a summary of the case and maybe skip the reviewing of a partial review of the evidence and the documents that will potentially need to be disclosed, even if it's just for summaries or even if it's just if it's just for evaluation of evidence and an additional use case where, I think it hasn't been questioned in the past, I'm not quite sure where the rules of arbitration are, but many times, AI models are used by experts to predict, like, for example, in a construction arbitration cases, delays and damages. So the delay and damages calculation use actually evidence that is presented in the case. And this methods and models that they use are questioned by the other by the other experts. So there you can argue that there's already a, practice of disclosing at least the methods and models that you're using, in the arbitration, and it depends on what you're using it for. In my opinion. I'm a little bit on the side of airy when it comes to the parties, there might not be, specific necessity on disclosing, but when it comes to the arbitrators and the experts, it does seem because the their whole opinion of the case is based on it, that the disclosure and the questioning of the opinions and methods, is relevant. It's worth disclosing. Yeah.

Harry Borovick: I much prefer a webinar where we don't all just agree with each other, so that was much more fun.

Kateryna Honcharenko: I do too, thank you Harry, and thank you Stephen and Monica. And then being conscious of time and the number of questions in the Q&A box, I will probably move on to the final part with the delicate touch of philosophy there. Looking into the future, how how do you think AI is going to reshape the law industry and related to that? And before we move to the final point, I would like to address an overwhelming and honestly a fair concern, which is will AI take our jobs? We have already touched upon on some cognitive skills, that can be imitated by AI and according to, for example, according to Goldman Sachs, research on the potentially large effects of AI on economic growth from 2023, approximately 44% of current legal work tasks could be

automated by AI, and they focused on the US and in Europe, 44 is not 100%. However, what are your thoughts on whether there is a chance I can severely affect or even replace lawyers?

Harry Borovick: Who would you like to meet?

Kateryna Honcharenko: I think, Harry, I think you are really interested in the topic, so please do feel free to start.

Harry Borovick: I'll start. And then Monica can jump in and Stephen as well. But, the long story is a long story. Short is no, there's this trope that I, hear a lot which annoys me, which is, lawyers who use AI will replace lawyers who don't, etc. AI isn't going to replace lawyers per se. There is some truth in that but, the reality is, artificial intelligence can and will increasingly replicate many of the tasks that legal professionals are capable of. But whilst legal professionals, whether actually like, you know, practice certificate holding, barristers and solicitors or whatever the international equivalent may be, hold professional indemnity insurance and are responsible to a regulator, I think, I broadly believe that people rely on legal advice, which is being a key, legal service for one to know what to do like that is maybe an argument that, some aspects of that role can be fulfilled by AI. But the other point is it's the same to have someone to lean on, rely on, and in some cases blame. And, you know, there is a reason why regulated professions are insured and have, standards bodies and all of these factors which actually matter to an end customer, whether that's whether you're a patient of a doctor, or you are a client of a law firm and you expect to have redress and a human being who you can look in the eye if something goes wrong. Now, until we see AI providers, or legal technology providers using AI, being willing to take on legal risk and be regulated as legal service providers of some kind, it is unlikely that we will get to a position where the role of the lawyer will be entirely replaced.

Harry Borovick: What we will see is different roles, right? So there will be additional roles and some roles fall away that are replaced. You can very easily see why a document review paralegal as part of e-discovery, any discovery process will fall away as being, a very large sector of the legal industry, which it definitely once was and is less so now. I myself, once upon a time, was doing that in Linklaters offices and turning through documents, seeing whether they were relevant to a piece of litigation that role should not be there. But is that a role that adds value to the end user of legal services? I would argue not. Right. The where lawyers add value is by reviewing evidence, reviewing positions, giving advice with context and experience, developing that context and experience, doing more qualitative work. And I actually think even at the junior level, people will say, well, won't there be less a fewer junior roles potentially, but they will be able to do more qualitative, challenging work earlier in their careers because they won't have to go through the trudge of, you know, document review in order to be able to get

access to the more complex work and build their careers. Earlier. And again, a lot of those paralegals may end up taking new roles in legal operations and legal technology, as in managing the technology faster and more efficiently we're just talking about things that enable the processes to scale more efficiently and deliver more customer value. I don't think lawyers are going anywhere fast. I think what it means to be a lawyer or a dispute resolution professional of any kind, potentially, will shift in the next decade. Feel free to disagree with me, Steven and Monica.

Stephen Dowling: sorry. Monica. You go ahead.

Monica Crespo: no. Go ahead. Steven.

Stephen Dowling: I know I'm not disagreeing. Well, I'm half disagreeing with you. maybe just for the sake of the webinar and might be just emphasis. I think you did. That's an excellent summary of all the kind of usual objections that that are brought in there. But if you look at the the if you actually look at the legal industry and ask the question, well, what is the legal industry? there and I am speaking with a litigation hat on, so bear that in mind. But when you take essentially a huge chunk of what we do as lawyers, a huge amount of that work is what would you call the process driven material. So, and they have systems in place at the moment which you've described to to deal with those. So again, again with a piece of litigation, a huge piece, part of litigation is the investigative stage where you're trying to piece together the material, going to find out what actually happened. There's a lot of practical things that have to take place to get to that particular point and a huge amount of the legal bill is that stage as well. And there is a whole industry within law firms that you just mentioned there, your former law firm that is built up around that and that area is going to be massively disrupted, in my view and I don't think you actually you were saying something different, Harry, to be honest. But I do think that's quite a significant impact on the legal industry and will really transform what what it means to be a lawyer and it does potentially mean, and I totally agree with this, that the actual core skills of a lawyer will still remain important, which is the ability to analyse quickly, the ability to advise quickly, and the ability to strategize with respect to the particular legal problem that that's before them, before the lawyer and the client, that those core skills remain in place, including, for example, the ability to persuade a decision maker.

Stephen Dowling: but the, the, the kind of getting the, the, the relevant information to allow you to apply those core skills will become, in my view, largely not largely, but but but very much disrupted by, by, automation and AI and that in turn then will change the economic model, because suddenly you'll be able to control costs in a way that you couldn't before and things like, again, big, large cases, litigation based on volume that can be managed in a way which we couldn't do to date, which makes dramatic changes then in terms of how those services are delivered, for example, fixed fee pricing

for litigation, I think that's going to come in in a major way, because you can now put a cap and ceiling on what you potentially are going to incur in terms of costs, and you can offer fixed fee pricing and litigation, which is a very attractive to some, some, industries in some industries. And you couldn't do that previously. So, I don't think I do think our profession will be significantly disrupted, but I totally agree that the role of a lawyer, will certainly still remain exceptionally important. It won't be ultimately replaced.

Monica Crespo: I might disagree a little bit or further than that. And going back into what is the role, let's say, in the workflow of the lawyer in the day of tomorrow? I do see that the competitive advantage of introducing AI into your workflows is going to be no longer, let's say, the competitive advantage, but sort of like the hygiene factors or the baseline level of are you integrating the right technology again in the right work, in the right time, at the right space? And if you're not, you're going to be faced with potentially, less, capacity to analyse the same amount of data in a shorter amount of time, potentially strategic decisions that could have been made with a vast amount of information is now reduced. So I do see that the use of AI will change how lawyers, bring value in the sense of and compete, bring unique human value to the provision of legal services, and to narrow this down or bring this, I don't know, philosophical concept, to the ground. How I see it is and legal professionals have unique, strategic and unique knowledge that they need to introduce to make the use of AI, value add and not the same as what everybody is doing if you're using the same AI tools. So what I do see as the competitive advantage of how things are going to change is that those lawyers that know what are the weaknesses, know what are the, what are the risks? Know also this what you were mentioning, Harry, before on the risks of, using the data that they need to use to process, and analyse decisions on a case and all of this information. The lawyers that truly know how to leverage a AI in the correct way will have a competitive advantage over.

Monica Crespo: Other than that, don't. So I do see that we're going to see, sort of like a shift of are your is your law firm, is your legal practice using the right tools for the right, for the right things and using them correctly? And we're going to we're already starting to see that shift. And I do see that in the future. The role of the lawyer, it's going to change and what I do agree is that it's those core values or that core value of the lawyer is going to continue there. We don't know. And I think at this stage, we cannot make any assumption that AI will never be as good as making strategic decisions or not, as I mentioned before. But what I do think is that even if we reach that point, even if we reach the point where AI is perfect, which I have my serious doubts that that moment will occur, I don't think it makes sense as a society to replace lawyers, replace legal decision makers for a tool that doesn't understand the complexity of, social behaviour, and the social aspect of law. And I don't think it's, socially desirable to do it. But I do see I do see a gap that will be created if a AI tools are not used especially the early adopters will have that advantage, let's say, and ask. The lines blur between

technology providers and law and legal service providers, humans. So technology providers and the lawyers, as these lines blur, I see that the competitive advantage of using these tools appropriately is going to be the key competitive advantage or the key value generation for the future lawyer.

Kateryna Honcharenko: Thank you. Thank you for very interesting answers. I will now move to my final question. From from a more day to day and gradual self development perspective. How can lawyers improve their familiarity with AI and train themselves to be more comfortable about using it in the absence of technology, IT or computer science backgrounds? Although the answer to it, a straightforward yet not objective answer to it. Or just watch the rest of our AI series, or attend as many events on the matter as possible. But I would like to hear your opinions, about this.

Monica Crespo: maybe here honestly, sometimes just playing around, for example, with ChatGPT, just playing around and understanding, and seeing what good answers you get. Also, subscribing to newsletters is very effective. to newsletters on I, I can share some in the chat, that are related to legal tech to see what's going on out there and testing out different tools. being open to test, to understand how the tools work, just and not from a deep technical perspective, but from a logical perspective of, okay, what is it? Does it generally do? So losing that, fear and just trying things out is the best advice that I can give and newsletters there. There are so many on AI and on legal tech that can be super helpful for this.

Harry Borovick: Yeah, I totally agree. And in terms of using, free tools, just remember that playing around with ChatGPT etc. is if you're playing. Don't put sensitive data in there whilst you're playing around. It's a way of gearing a particular type of artificial intelligence, which is, a chatbot style, entry engine to deliver some outputs that you might want, whether that's, some aspects of research. So for example, you could ask it to provide you with, case summaries, etc., without giving away any sensitive data that's great but remember the power of it beyond just that, you can even to help you rewrite emails is really useful. one of the most common use cases, that I see being really, punchy is, to basically remove legalese from, client facing language there's all kinds of ways that it can be useful beyond even the, the frameworks we've discussed today and I would also suggest there are many free or low cost, AI systems, even just chatbot style LMS, you know, Llama to Gemini, etc. which operates slightly differently and will give you different outcomes and have different frameworks and those can be incredibly useful for all kinds of day to day tasks, not even within your legal profession, but it's more about learning. Before you write an essay, you learn how to write, right? And that's kind of it like any piece of technological training, you're mostly learning the way that AI can be used and then, can move on to more sophisticated tools, I would suggest.

Stephen Dowling: I think they're all excellent suggestions. I would have nothing to add to those.

Kateryna Honcharenko: Thank you. Shall we move to Q&A? We have a lot of questions there on a very active discussion, so I will I'm looking at the first question I would ask at the beginning. the question was posed by Michael Patrick Joyce, and I apologize if that's the wrong pronunciation. His question is, in a recent speech, Sir Jeffrey was master of the rolls, second most senior judge in England and Wales has said that first use of AI is not optional. Second, AI may affect the foundation principle, foundational principles of the common law and third, lawyers may be professionally negligent if they fail to use AI, which would be cheaper, quicker and better. Does the panel agree? If not, why not? If so, what are the practical implications for lawyers?

Harry Borovick: I was actually speaking to a journalist about exactly this speech this morning, so I feel like I'm prepped and then I'll let Stephen and Monica jump in but broadly, this is the equivalent of your what I was talking about earlier about overarching professional obligations and use of any tool that comes in front of you. So starting with the third point, which is actually, I think the thing that jumped out to most people is being practical and real about, professional negligence for failure to use AI the key point is he qualified it. He said if it is cheaper, quicker and better. Now, those things do not always align for the use of any technology or lots of methodologies for that matter even if they are non technological. So what? Where a lawyer will certainly, almost certainly I should say be professionally negligent is if they are quite simply acting in a way which is not in their client's best interests using, you know, a reasonable practitioner standard. Now, if we get to a point where the norm is that artificial intelligence tools, maybe there are particular tools that become norms within specific industries. You know, in litigation, it just me and you. I bet you both love to be the norm tools that all practitioners use in such circumstances and that's quite reasonable. If, you know, 90% of practitioners are using these tools on a day to day basis.

Harry Borovick: You probably need a fairly good justification by that point as to why you are not, and just being old fashioned or preferring a different approach isn't necessarily going to cut it. If your client has objectively had, or in the view of a court potentially, or the regulator had a worse outcome through you making that choice. So it's the same as right now, which is whatever the decision is, whatever tools you use, your obligation is to deliver a reasonable standard of care and service to your, end customer and the use of AI not being optional, I think, is slightly paraphrasing the point here because realistically it's optional. If it's going to harm your client, it would be bananas to think otherwise. So I think, there is some hyperbole in this discussion, and about the affecting the foundational principles of common law. I think that's quite an aside and is sort of been bundled together, but that's more about levels of reliance placed on artificial intelligence, whether legal, artificial intelligence will have, the sort of, human liability, etc..

So it's quite a separate point. And I think really the important one is about professional negligence in this case, Steve and Monica, do you have any additional views?

Stephen Dowling: I think it's what's what's that that that Sir Geoffrey Vos is, exceptionally, proactive when it comes to technology in the courts. He's passionate about it. He's a passionate about reforming the justice system based on technology and it's actually inspiring to hear him talk about these things but what's driving that passion? And I can't speak for him, but my my sense of what driving that passion is a frustration which the judiciary have with litigation and litigation costs in particular. They see, backlog in the court system, they see lawyers, they feel charging too much and litigants being shut out of a justice system because of the costs that lawyers charge and, one of the solutions to that, and there's no doubt about this, one of the solutions to litigation costs is the use of AI, because it does deliver the promise of litigants being able to access justice and get a good service at a lower cost, and therefore levels the potential levels, the playing field between big corporates versus small litigants if you can essentially empower that your own lawyers with with the same kind of tools that a team in a big five magic circle firm could do with a big staff of 20 or 30 people on a team. So it does hold out that promise. But also from the judges perspective, they are chronically overwhelmed with the volume of cases that they have to deal with and if you think again, from a judge's perspective, you're there. One judge sitting alone, hearing a matter, you could have four or 5 or 6 parties litigating before you, each well armed, piling information in front of you, piling evidence.

Stephen Dowling: And you then have to, after a 5 or 6 week hearing, have to go away and sift through all of that and produce a decision. And you're one person, maybe you have your clerk or a judicial assistant. It's a huge amount to be asking judges to do so. I think that I'm not saying this is the motivation behind it, but certainly that is a concern for the judiciary. And AI does hold that promise. So it is indicative of the pressure, I think, in litigation that practitioners and law firms will come under. And when you're doing cost budgets and when the judge is looking at your cost budget and sees your discovery bill as X and your trial preparation bill is Y, it's going to say, well, hang on a second. That material, that review could have been done using AI systems or the submissions and case review and case summaries and chronologies could have been built with the assistance of AI at a much cheaper rate. It's not going to happen just yet, but it will come down the tracks and I don't have it to hand. But there is. There's evidence of a case. I don't think it was the UK, I think it was the US where where specifically judge complained about the fact that the costs that the lawyer was charging were too much and that the same job could have been done, certainly with the assistance of AI at a cheaper level. So it's indicative of of where the some of the judges heads are at in all of this.

Harry Borovick: I agree Stephen. I also just want to address, because I used the word paraphrasing and someone in the the person who asked the question has said that they were direct quotes. I what I meant more to say was that, I think Geoffrey Vos, as you say, is extremely passionate about this subject. And it was sort of condensing and paraphrasing his much more eloquently expressed concerns where he's said them in long form elsewhere and these concerns are hard to sort of elegantly say in, sound bite format but they are nevertheless quite important. And I think he's an authority that people respect.

Monica Crespo: Just, to add one final comment here. I think the cheaper part, it depends on what we're talking. And I think Harry, you might be referring more from the from, let's say, the lawyers perspective. And, Steven, you might be referring more to the justice system. Perspective on AI becomes useful in those both cases and, originally from Panama and I was, working with a justice system in Panama to sort of, like, modernize the justice system. And, Steven, to your point, the only way that you can achieve that in a country where modernization or digitalization has not arrived yet is through the use of AI. So even let's say that is the only way to let's say, leapfrog or make that big jump into the digital era is through AI. And I think, law firms that, maybe were behind before or that weren't adopted, digitalization processes and countries like Panama that weren't adopting digitalization processes the way right now is the way to do it and to get up to speed is through AI. So I do see, how this statement. Yes, it might require some matices, but in the end, I think, for those specific use cases of leapfrogging and making that big jump, I will be the only option and finally a viable option for this specific cases.

Kateryna Honcharenko: Thank you. I'm looking through the questions and the next one is how can discrimination of I against non-native speakers be avoided? The person says, I do not speak French like a French person, but I can make myself understood to a French human listener. Predictive AI applies linguistic logic. I do not speak with linguistic logic and French. I may have reduced capacity to understand my French. Witnesses in international commercial arbitration are often not given evidence in their first language. Are they disadvantaged in say no and I search of transcripts?

Monica Crespo: Here, I can maybe jump in and again, as I is trained in data, one of the challenges is using AI for understanding and by AI, I'm referring specifically to large language models and also natural language processing to applying that to non-European languages. And this has been a challenge. But there are significant efforts at least, for example, in Eumundi. we have, data from, all around the world because we're an international, law platform and arbitration is an international arbitration. So this is one of the big challenges of understanding the the differences in language, and different models are approaching these challenges in different ways. For example, we know of and we have been studying, Arabic the use of different Arabic models to try to

tackle these challenges of understanding, getting the legal matches and the legal nuances not only in English but in other languages but, European languages were almost there at least I've been testing our our assistant on Spanish, English and French, and it's really, really impressive. other languages outside, you know, European languages are still on the way but it is a it is a challenge and there are different efforts being made within the different, like science, studies, scientific studies from data science and natural language processing to tackle those and add that additional layer of training for those languages. Now, adopting that to legal nuances is an additional layer of of challenges that, at least for us, is leveraging the different translations of legal documents that we have. So same version of a document in different languages to make that additional training, for legal situations, to understand legal concepts rather. I don't know if you, Steven or Harry have additional comments here.

Stephen Dowling: I don't have the technical knowledge at this point in time to answer that question fairly for from my perspective, unfortunately. So, I would be giving an answer that's only speculative.

Harry Borovick: I just think Monica did a good job.

Stephen Dowling: Yeah I agree.

Kateryna Honcharenko: Thank you everyone. I have a question of my own, and I'm not sure if you would wish to to address it or not, with regards to IP risks. So let me know if this is something you would like to talk about. If not, I will just avoid asking the question.

Harry Borovick: Let's dive in.

Kateryna Honcharenko: so, recently I read about a lawsuit related to intellectual property concerns of using I. It was filed recently by the New York Times against OpenAI, the developer of ChatGPT and Microsoft. The allegation is that ChatGPT relies on millions of articles of the times and others to create its knowledge base. So we've touched upon briefly, regarding the risks and regarding the risks of using, AI by lawyers. And in case you would like to jump in and add on others, please do so. But I would like to hear exactly about the intellectual property risks and intellectual property related risks.

Harry Borovick: I'm happy to go first if,

Kateryna Honcharenko: Thanks.

Harry Borovick: well, first of all, there's two points here, which is one, loads of AI tools are not, sort of scraped internet tools in the first place. So, I can speak for luminance, but there are many others where we use a fully proprietary model that we built since 2017.

So like that is one of the ways that IP risks can be most easily avoided is by using specialist tools with closed data sets. So that kind of is end of story there But the reality is that lots of AI tools do use sort of foundational style models where there are large data sets that may come from a large number of sources that are hard to trace, or may pose some questions as to the validity of the underlying IP rights and licensing conditions. However, I don't think that should really be the hugest concern for practitioners bearing in mind the scope of this discussion, which is, you know, CIArb, there is unlikely to be blowback or effect in any way, kind of irrespective of how such a case goes on practitioners, because it's a commercial dispute on IP between two commercial parties, and where the fact that customers of one of those parties is using the product.

Speaker5: You know, the.

Harry Borovick: New York Times isn't going to sue every single user of ChatGPT ever in the world. Good luck bringing that claim especially having those people having done so in good faith you know, we it would be obscene to expect, users of a system to, especially a free system available to the public to have any liability for not having interrogated the data source by which a technology company is providing their outputs having said that, I think there are lots of interesting IP points around the case. how it will go is anyone's guess. I do actually think that that particular case may well fall apart simply because of some of the approaches of the New York Times and what OpenAI has suggested, you know, things about hacking and all kinds of different points. There are other cases. stability and Getty are, interesting ones. There's a bunch of other cases. What we are seeing, though, is that a increasing recognition, I think, and we will see much more recognition by courts and regulators that basically the technological need for progress by those models did happen as a result of probably loose approaches to IP, potentially illegal ones, but they're kind of done. So you'll probably see different approaches going forward, which probably involve the purchasing and licensing of far larger data sets in a more transparent and legitimate way. You might see financial settlements one way or the other, but I don't think it will particularly affect practitioners within the dispute space or legal professionals generally. Monica. Steven, do you agree? Disagree. Have additional thoughts?

Stephen Dowling: I mean, as to the the actual merits of the intellectual property dispute that's going on in New York Times and open I'm not sufficiently versed in intellectual property law to express my opinion on that and it looks like it's a very interesting case. So I don't know where that's going to land, but I totally agree. It's not going to make any difference from the perspective of talking about AI tools and litigation. It's very different thing whether, you're using AI tools in litigation is completely separate to the question of AI being the subject of intellectual property litigation and again, important when we talked earlier about not scaring people too much again, with trial, I suspect it's the case

for all of us when we use AI, we're not sending anyone's data back to AI to train models. We're not training models. We're taking existing AI tools from. In this case, we're using Azure Open AI, and we're applying that to a data set. So there's no there can be no question of of any fresh copyright breach where you're taking something and re copying that. That's not what that's not what's happening. So from that perspective it's safe from an intellectual property perspective but it's a really interesting area and it raises lots of other interesting legal, legal questions, which no doubt the intellectual property lawyers will be, delighted to delve into.

Monica Crespo: Nothing to add here. I think you guys have done a great job on capturing it. And yes, I agree with Stephen. We also need to bring that, Matisse into the into the play that usually what we offer, for users both in litigation and arbitration is based on a specific data set. So those risks are not there. And that is one of the value of using these specialized, systems. So yeah.

Kateryna Honcharenko: Thank you for your comments. I think it's it's time for us to wrap up, but I would like to thank Monica, Harry and Stephen once again for your time and your enlightening comments and answers to all of our questions. It was. I hope you enjoyed the session as much as I did, and I think it's just a wonderful start to the rest of of the series. So thank you. Thank you for your time and for your brilliant, knowledge.

Monica Crespo: Thank you.

Stephen Dowling: And thank you, Katrina. Thank you very much.

Harry Borovick: Thank you.

Kateryna Honcharenko: just a couple of closing remarks from me for everyone who is still here, for all updates and information on future webinars, please visit our website. If you would like to view this recording, it will be made available to you by next week and you will receive email instructions on how to access it and just as a brief reminder, this is a session in the six part series. Our next session will take place on 9th of May and we hope to see you there. Thank you for joining and have a great rest of your day. Goodbye.