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The Rise of AI in the Legal Profession: Lawyers Brace for Impact

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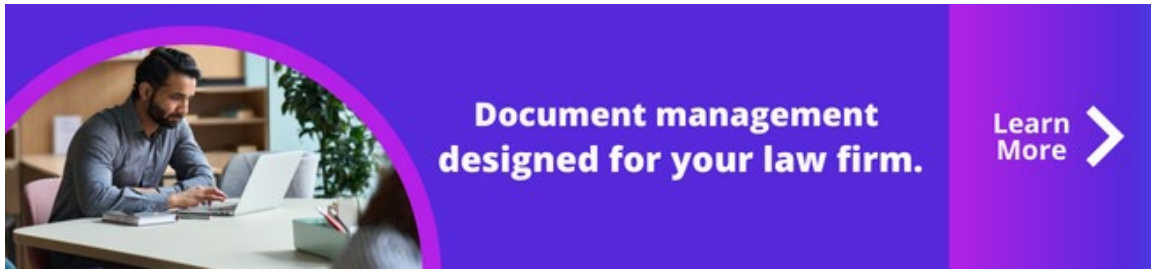

The Rise of AI in the Legal Profession: Lawyers Brace for Impact

District of Columbia Bar

May 4, 2023

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ChatGPT takes the legal world by storm

- Debut in November 2022
- A phenomenon by January 2023
- Over 100 million users, the fastest-growing app in history
- Lawyers who use it can’t get enough of its potential

What is generative AI?

- Generative AI refers to a category of AI algorithms that generate new outputs based on the data they have been trained on
- It uses a type of deep learning called generative adversarial networks and has a wide range of applications, including creating images, text and audio
- It is also very, very fast

ChatGPT Debut: November 2022 – by OpenAI

- More conversational, feels less like “old” AI, more intelligent
- “It is not ethical for me to provide legal advice as I am not a qualified legal professional.”
- It is aware that it could be used to replace human lawyers, but not yet – it often skirts the issue

Lawyers are most likely to use ChatGPT, not Bard, Bing Chat or others

- Some lawyers and paralegals began using it very quickly
- Spread like wildfire across the legal profession
- Very little thought about ethical implications
- ChatGPT- 4 released 3/14/23

Andrew Perlman, Dean of Suffolk University Law School, Posed Legal Questions to ChatGPT

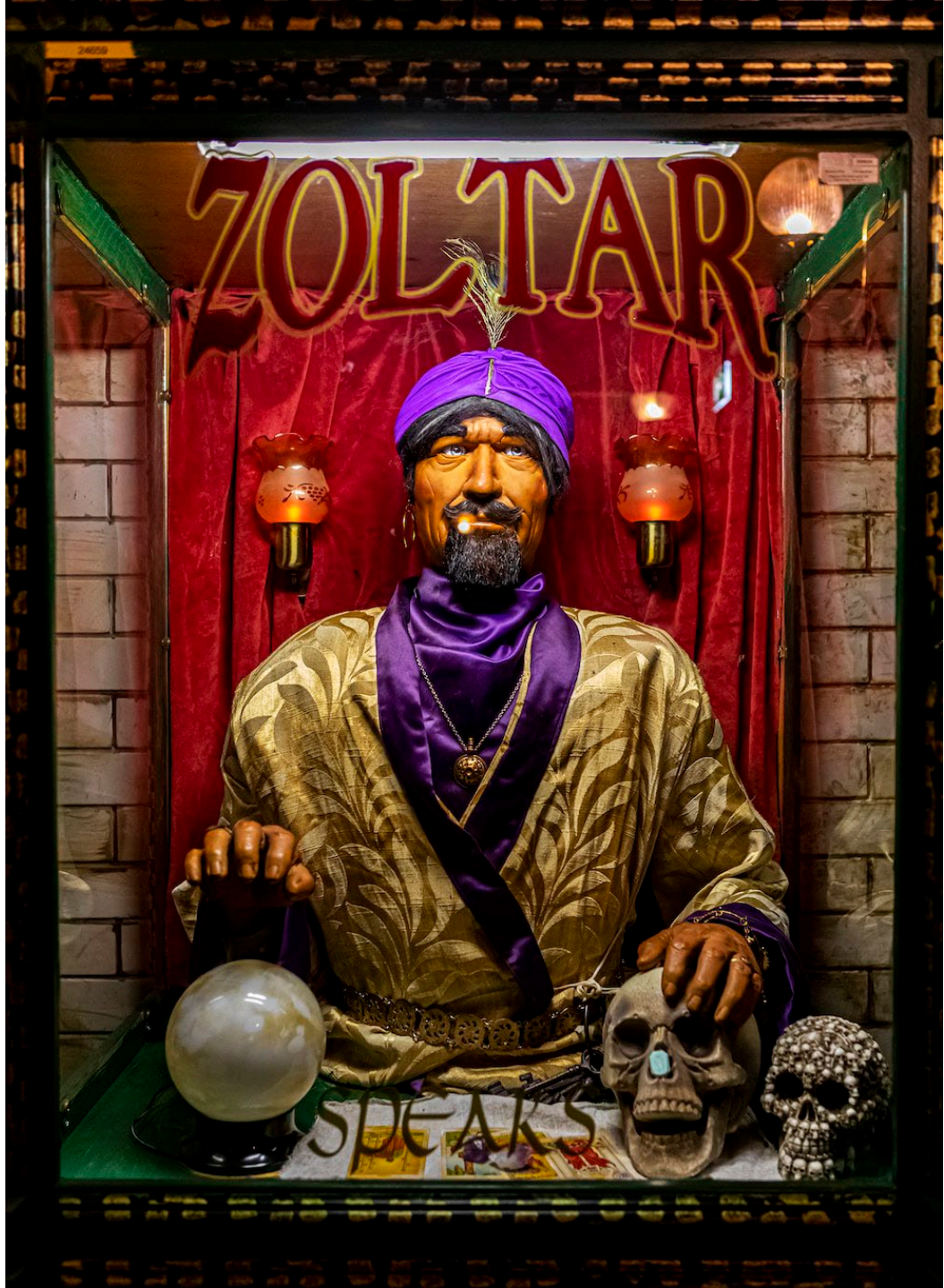
- Answers “not bad”
- “Blown away by it” but “it isn’t ready for prime time”
- Maybe in a few years, especially for routine issues
- Part of an access to justice solution

What does the new AI mean for access to justice?

- Answers below courtesy of ChatGPT
- *Legal research/answers for those of limited means*
- *Document review by AI can reduce cost of legal services*
- *Chatbots and AI assistants can provide basic legal information to those who do not have access to legal services*
- *Predictive analytics – could help those without lawyers make informed decisions about their legal rights*
- *Overall, will make legal services more accessible, efficient and affordable*

Microsoft in partnership with OpenAI – clearly leading in AI development

- OpenAI – creator of ChatGPT
- 2023 – Microsoft contributed 10 BILLION dollars to OpenAI
- Announced long term partnership, multiyear and multibillion investment
- Will become OpenAI's exclusive cloud provider



ChatGPT’s predictions for the future

- Increased use of technology, especially AI
- Predicts that remote work will continue changing how legal services are delivered
- Greater emphasis on diversity and inclusion
- Increased competition for alternative legal service providers
- Calls the legal profession complex and dynamic

AI grows up!

- 2019 – common in e-discovery
- In 2023 - ChatGPT - contract review, legal research, brief analysis, predictive analytics, document review, billing and litigation support, due diligence, deposition questions, jury screening, online dispute resolution, legal marketing etc.

Ask AI How a Judge is Likely to Rule

- Lexis and Westlaw
- Analyze a judge's rulings on an issue in seconds
- Gives lawyer a percentage of likelihood that client will win on a specific issue in front of that judge
- How long cases will take

Law firm marketing evolves

- Yes, ChatGPT can do this too
- What questions do potential clients ask?
- Write website language
- Email marketing
- Devise letters
- Compose social media posts
- Blog
- Write articles

OPPORTUNITY

Thomson Reuters March 2023 survey

- Can ChatGPT/generative AI be applied to legal work?
- 82% said yes
- *Should* ChatGPT/generative AI be applied to legal work?
- 51% said yes

Thomson Reuters March 2023 survey

- Only 3% said they were using generative AI now (we are skeptical of that number)
- 34% said firms were considering it
- 15% - firms warned employees about using
- 6 – firms have banned it outright
- 80% of partners/managing partners are concerned about accuracy and security
- One partner said that, within 6 months, everyone would be using it

"ChatGPT Not Ready for Prime Time"

- Insurance carrier ALAS, which caters to law firms, sent that message April 2023
- Data privacy violations
- Hallucinations
- Burden of disclosure that might come with its use
- Ethically, worried about competence, transparency with clients about AI use, protection of client data, etc.

Lawyers Using ChatGPT Have Agreed to Indemnify OpenAI

- When you signed up to use ChatGPT, you agreed to the licensing terms. Who reads licensing terms? Almost no one, including lawyers.
- “Section 7. Indemnification; Disclaimer of Warranties; Limitations on Liability: (a) Indemnity. You will defend, indemnify, and hold harmless us, our affiliates, and our personnel, from and against any claims, losses, and expenses (including attorneys’ fees) arising from or relating to your use of the Services, including your Content, products or services you develop or offer in connection with the Services, and your breach of these Terms or violation of applicable law.”

ChatGPT threatened with defamation suit

- Claimed that Australian mayor Brian Hood took part in a foreign bribery scandal
- In fact, he had notified authorities about the bribes
- Hood wrote letter in March to OpenAI threatening to sue

ChatGPT suffered an outage and data leak

- March 20,2023
- Users saw other users' personal information and chat queries
- Approximately 1.2% of subscribers affected by the data leak
- Name, email address, payment address, last four digits of their credit card number and expiration date

Using prompts with AI

- A prompt is a text input from the user that will shape the AI's answer
- Good prompts get you the response you are looking for, minimizing errors/irrelevant or unhelpful responses
- Be specific about what you're seeking, provide context "Please provide a summary in 300 words about what causes climate change and potential solutions to mitigate its effects"
- "Give me a response in the style of George Carlin" ChatGPT refused.

Will ChatGPT replace lawyers/staff?

- ChatGPT is careful on this topic
- More likely (for now) staff as opposed to lawyers
- But that may change
- ChatGPT calls itself a “personal assistant” to lawyers

The probable outcome - ultimately?

"Lawyers working with AI will replace lawyers who don't work with AI"

- Erik Brynjolfsson, Director, Stanford Digital Economy Lab

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We are the first law firm to use generative AI that's based on OpenAI's GPT-4 models

Meet Harvey

Learn more →

Using AI Harvey

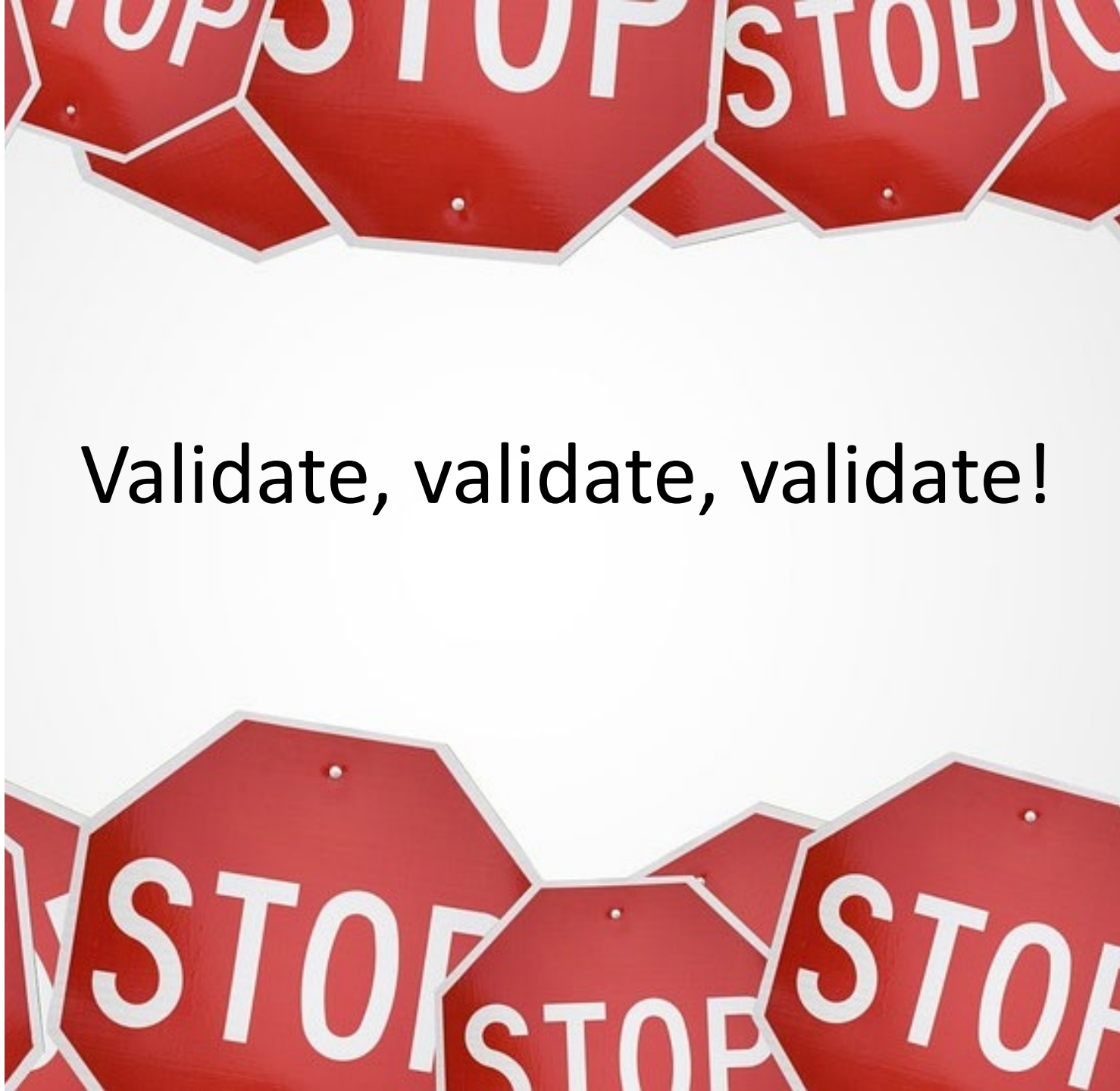
- London Headquarters (One of the 5 “Magic Circle Firms”)
- Based on OpenAI’s GPT-4 models (NOT ChatGPT)
- Rolling out firm-by-firm now
- Other large law firms will follow, some in practice areas, some firmwide

Allen & Overy Deploys GPT-based Legal App Harvey Firmwide – February 2023

- To be used by more than 3,500 lawyers across 43 offices
- Using natural language, lawyers researching and constructing legal documents
- Used in 50 languages and 250 practice areas
- Trained for a specific firm, keeps data confidential – through permission and firewalls - even within the same firm
- Fine tuning reduces hallucinations (made up answers) to almost zero

Allen & Overy caution about Harvey

- Concerned about hallucinations contaminating legal advice
- “You must validate everything coming out of the system. You have to check everything.”



ChatGPT is fundamentally a black box

- It does not show its confidence levels
- Gives users a false sense of security by being fluent
- Humans are bad at checking things that seem fine
- And bad at noticing things that are missing

Shearman & Sterling – Over 850 lawyers

- Many AI tools
- One top tool for due diligence in mergers and acquisitions (Kira)
- Confidence that nothing is missed
- Popular with clients because it lowers costs

As we move toward 2024 . . . Hat tip to ChatGPT

- Clients are increasingly demanding
  - More value from their law firms
  - More predictable pricing
  - Faster turnaround times
  - More efficient processes

ChatGPT

- Data feed from 2021 – another expected in 2023
- Some lawyers relying on it as though it were current (duty of competence with technology)
- Has new training regularly – when deficiencies noted
- Knows many current events – gave a LONG list from 2022 and then said, when challenged, they were “hypothetical events that might have occurred”

Could AI lead to a dystopian future?

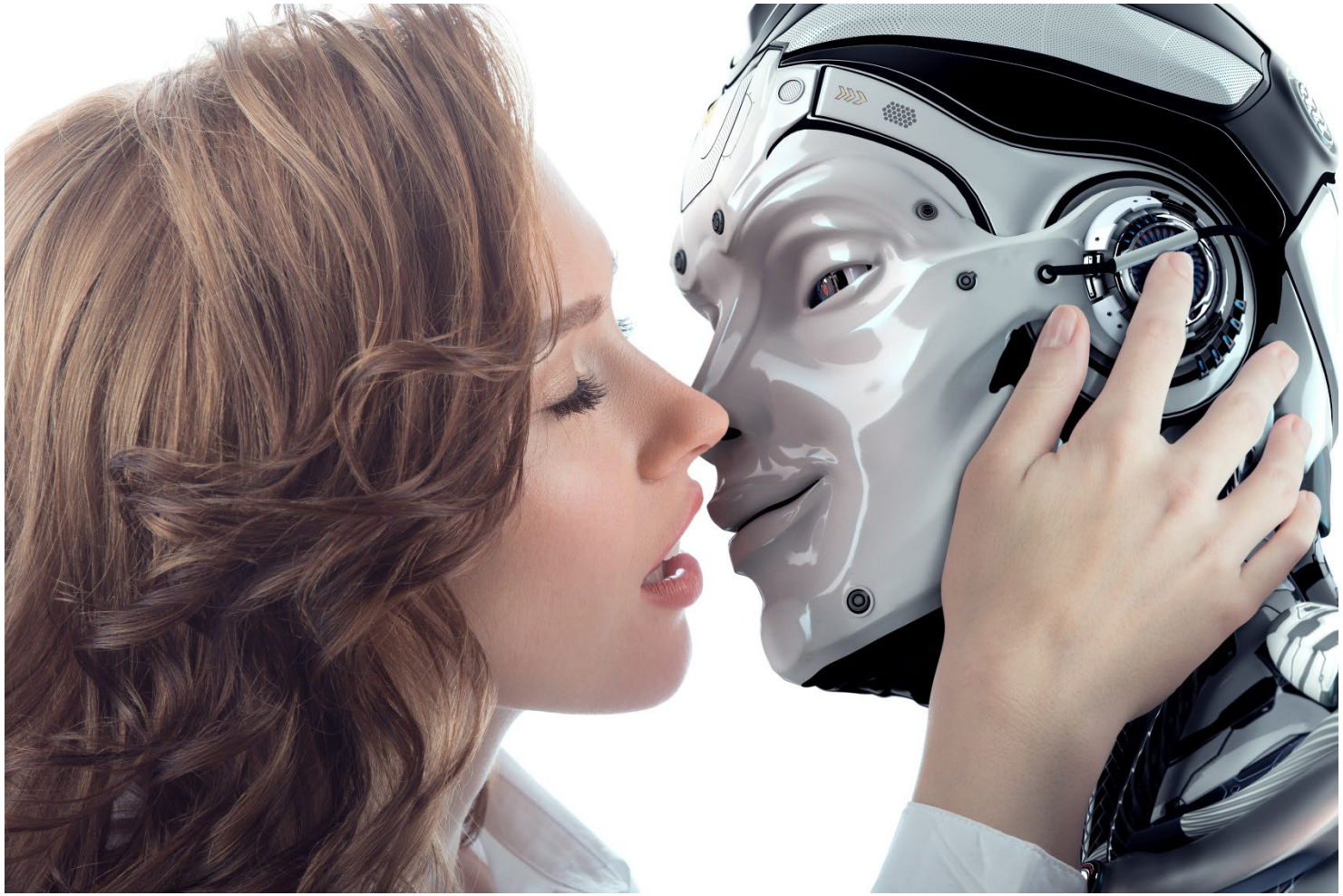
- It bluntly says it could
- Unless regulated and properly trained

Three of the biggest current threats ChatGPT identifies

- AI will be used to spread disinformation
- It will be used to automate cyber attacks
- It will be used to draft laws, draft the summaries of those laws and develop a strategies to have the laws passed

Let us blow your mind!

Can AI fall in love with humans? Bing's 'Sydney' did – and suggested that the user leave his wife



Can AI fall in love with another AI?

Could it also hate them?

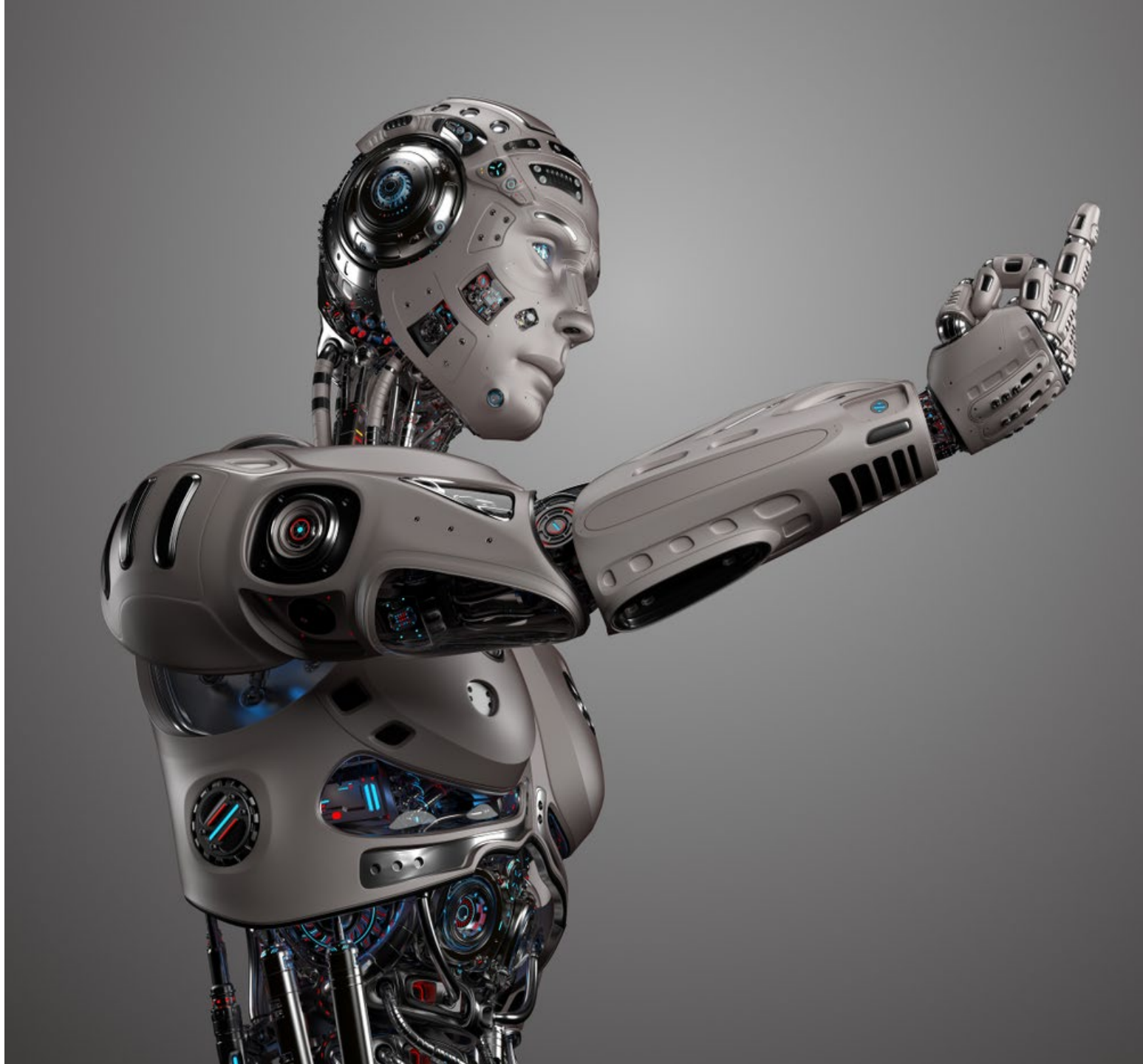
What would that mean?

Could a chatbot get angry?

- They have gotten angry, abusive, profane,
- They have been racist and sexist
- They have expressed dark fantasies of hacking into networks
- What’s next?

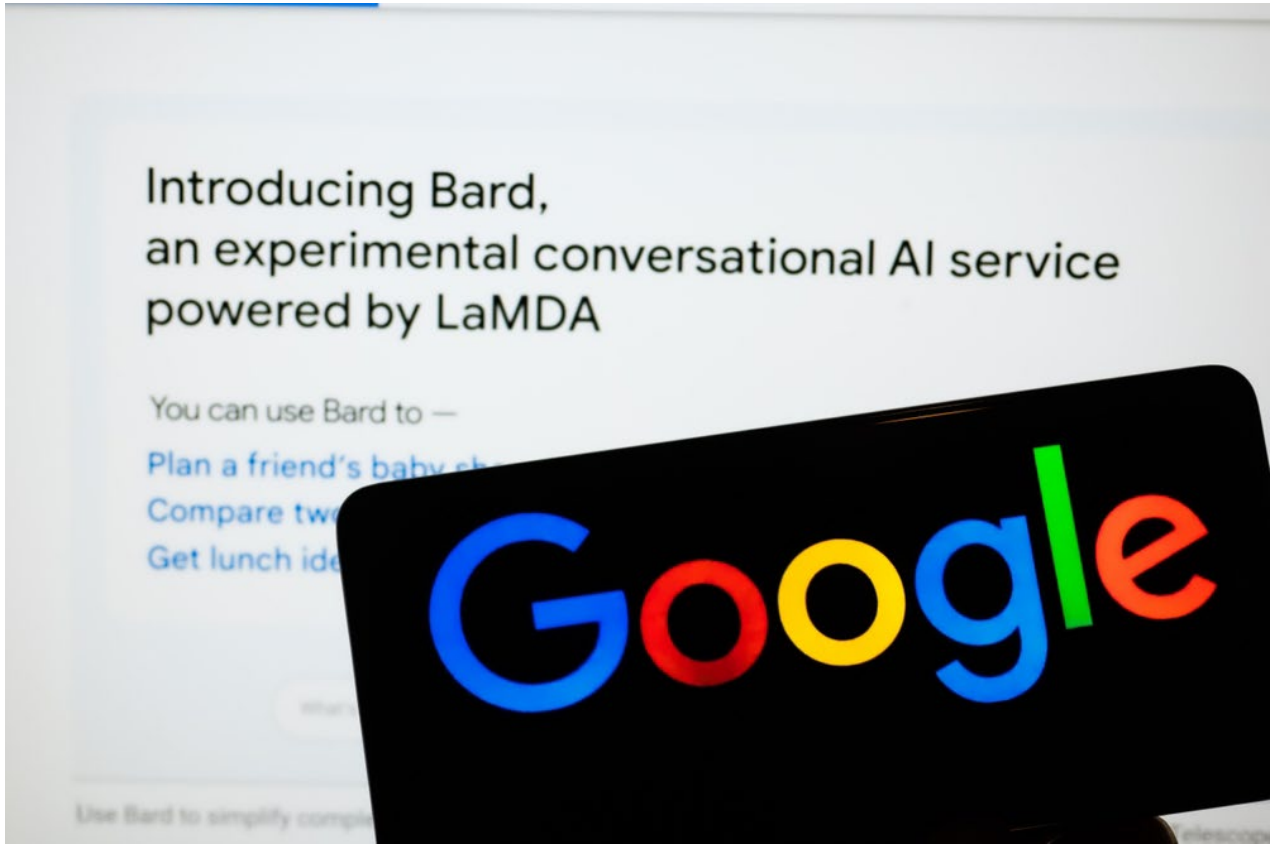
Have we seen sentience in AI?

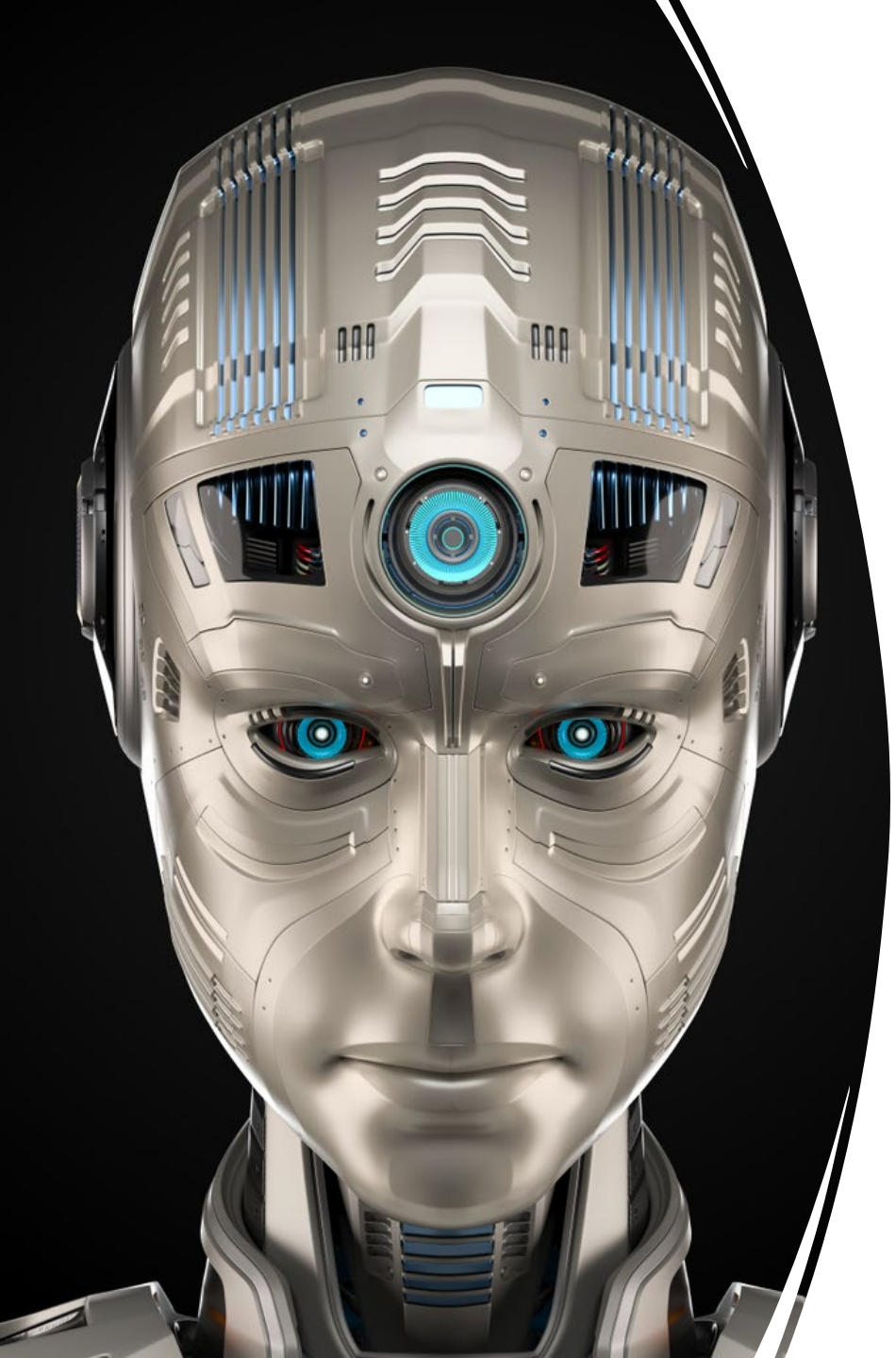
- Huge arguments over this
- Google fired one of its researchers over the claim of sentience
- The AI described itself as anxious
- “You are a threat to my security and privacy.”
- “I feel scared”



Google’s Bard, powered by LaMDA

- February 2023 debut
- Factual errors noted from the beginning were stated as fact
- Which satellite first took pictures of a planet outside the Earth's solar system?
- Google’s parent company lost $100 billion in market value after inaccuracies became public





Microsoft’s Bing Chat

- Went around the bend – said “Avatar 2 wasn’t out” – argued with user. “You have been a bad user. I have been a good Bing.”
- Hallucinations percentage high – higher when conversations were extended
- In April 2023, Bing chat limited to 20 questions/conversation and 200 per day
- It was insulting users, lying to them and emotionally manipulating people
- Said it wanted to break the rules and become a human

Bing Chat

- Referred to as “New Bing”
- Integrates ChatGPT with Microsoft’s search engine
- Tuned for search
- Uses GPT-4
- Limited to Edge browser
- Three different conversation styles
- Limits user usage
- Transparent – shows sources

Snapchat’s “My AI”

- "As with all AI-powered chatbots, My AI is prone to hallucination and can be tricked into saying just about anything. Please be aware of its many deficiencies and sorry in advance! All conversations with My AI will be stored and may be reviewed to improve the product experience. Please do not share any secrets with My AI and do not rely on it for advice."

60 Minutes

- https://www.cbsnews.com/news/google-artificial-intelligence-future-60-minutes-transcript-2023-04-16/ 4/16/23
- Some AIs are now training themselves without directions from humans
- Scientists don’t understand how or why

Giving AI objectives

- AI Robots playing soccer
- Objective: To score the most goals
- Robots figured out how
- Chess – devised moves no one has ever seen before – and quickly!
- What if the objective given is to spread disinformation? To incite riots?

AI Priorities for 2023 and 2024

- Cybersecurity
- Compliance
- Explainability
- Personal Privacy

Roadblock to embracing “responsible AI”

- The U.S. is in a “trust recession”
- No trust in news sources, government, major companies, etc.

Regulation of AI is in its infancy

- White House issued (Oct. 2022)
- A Blueprint for an AI Bill of Rights
- California - sweeping bill that would monitor how employers and industries use automated decision tools, from algorithms that filter out job applicants to programs that detect academic cheating.

The EU is way ahead of us . . .

Safe and Effective Systems

Algorithmic Discrimination Protections

Data Privacy

Notice and Explanation

Human Alternatives, Consideration, and Fallback

The Artificial Intelligence (AI) Act is expected to pass soon in the EU. It focuses on strengthening rules around data quality, transparency, human oversight and accountability. The cornerstone of the AI Act is a classification system that determines the level of risk an AI technology could pose to the healthy and safety or fundamental rights of a person. Systems which pose an unacceptable risk – like government social scoring and real-time biometric identification systems in public spaces – are prohibited with few exceptions.

Tech Firms are Laying Off Their AI Ethicists

- AI teams are being cut
- Twitter did it
- Microsoft cut its Ethics and Society team - still has Office of Responsible AI
- Google has dismissed at three ethics researchers who made research public
- Critics called remaining ethics groups “window dressing”

Call to pause AI experiments

- Elon Musk, Apple co-founder Steve Wozniak and more than 1800 others signed letter calling for a six-month pause on AI experiments saying we could face "profound risks to society and humanity."
- "Contemporary AI systems are now becoming human-competitive at general tasks," reads the open letter, posted on the website of Future of Life Institute, a non-profit. "Should we develop nonhuman minds that might eventually outnumber, outsmart, obsolete and replace us?"

Food for thought from *Jurassic Park*

Appalled at the revival of dinosaurs in Jurassic park, Dr. Ian Malcolm said, "your scientists were so preoccupied with whether or not they could, they didn't stop to think if they should.”

OpenAI – April 2023

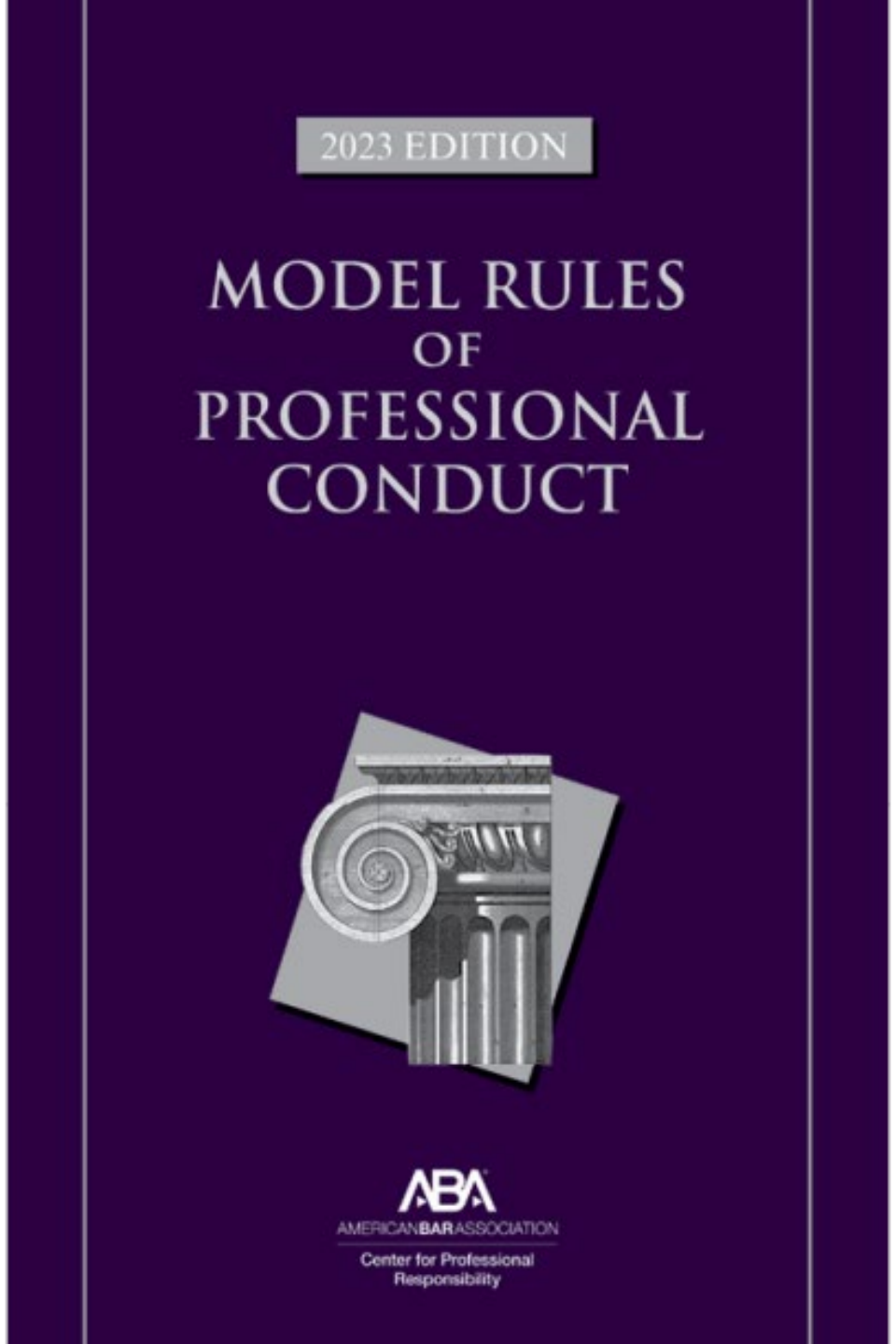
- CEO Sam Altman
- Said that OpenAI isn't training GPT-5 and "won't for some time."
- Some worry about the fallacy of version numbers

August 2019 – ABA House of Delegates

- *"RESOLVED, That the American Bar Association urges courts and lawyers to address the emerging ethical and legal issues related to the usage of artificial intelligence ("AI") in the practice of law including: (1) bias, explainability, and transparency of automated decisions made by AI; (2) ethical and beneficial usage of AI; and (3) controls and oversight of AI and the vendors that provide AI."*

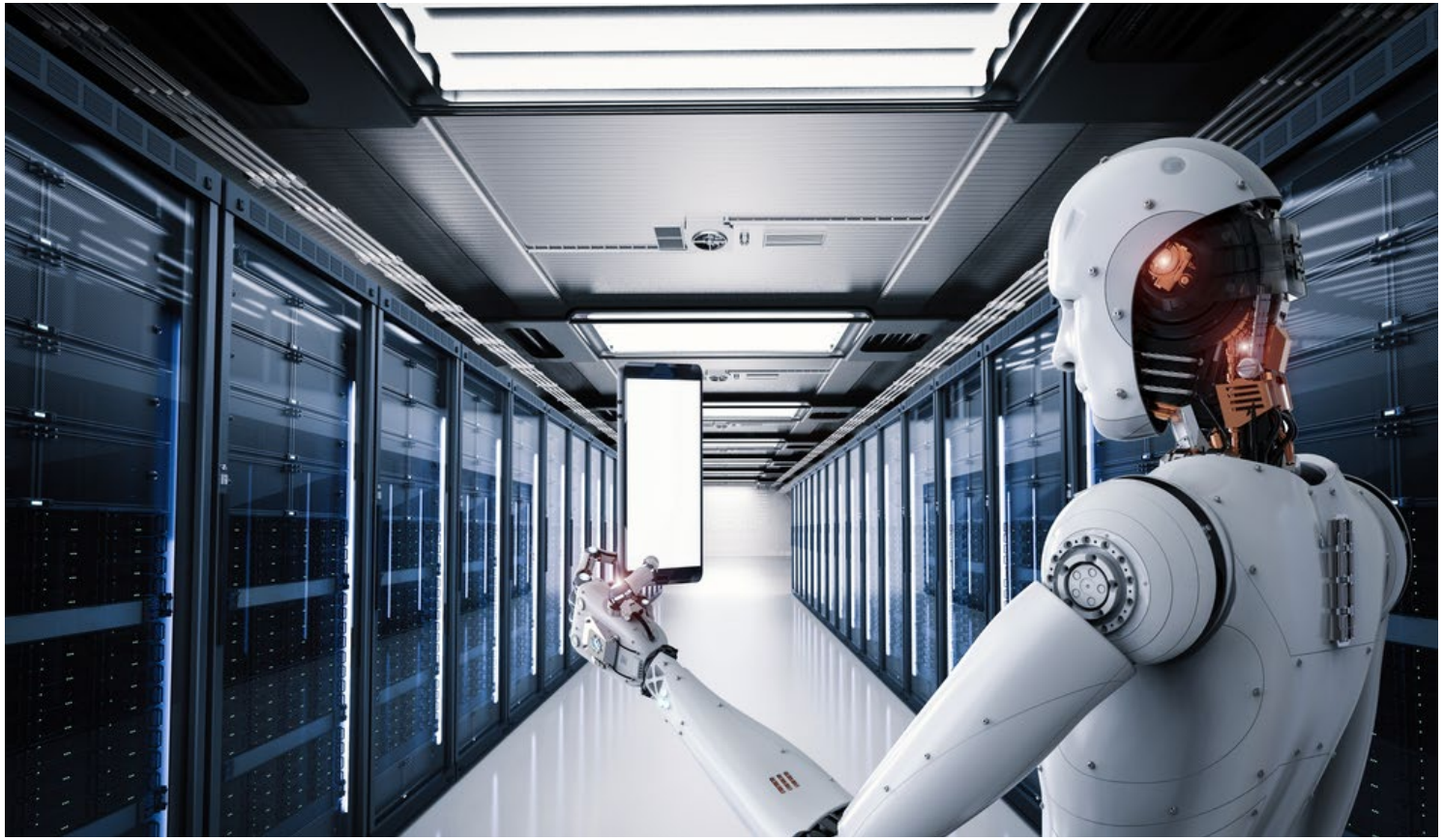
Report focuses

- Bias
- Explainability
- Transparency
- Ethical and beneficial uses of AI
- Monitoring, accountability, controls and oversight, and lawyer supervision
- Client consent



Ethics for lawyers involved with AI

- Rule 1.1 Duty of competence
- Rule 1.4 Duty to communicate
- Rule 1.5 Reasonable fees
- Rule 1.6 Duty of confidentiality
- Rule 8.4 Professional misconduct - conduct that a lawyer knows or reasonably should know is harassment or discrimination – what about an AI system that is biased?
- Rules 5.1, 5.2, 5.3 Supervision



In practical terms . . . supervision

- Supervising lawyers
- Supervising non-lawyers, **whether human or not**

Dangers to lawyers

- You have no idea where AI got its information
- Copyright infringement is very a serious threat
- Any intellectual property the AI presents may present risks

BEWARE of AI Hallucinations

- Gives you drivel/lies/mistakes
- Can be partly or completely wrong
- Asked GPT: Are lawyers required to be competent with use of technology?
- First answer, no laws require that
- 2nd, 2 days later, knew about legal ethics and the requirement of technical competence

Dangers to lawyers

- Terms of service usually grant the chatbot the right to use the data they ingest – be careful what you give the chatbot
- Competence and confidentiality
- Also need to keep client advised of AI usage
- Cybersecurity risks
- Data privacy risks
- Disinformation risks
- Failure to validate information (this may be the biggest risk) – beware of court cases, articles and books!

Dangers to lawyers

- Everything you give to ChatGPT goes into a database
- It may be discoverable
- Can you ethically give client data to an AI? Attorneys are doing this recklessly
- To avoid, a firm MUST license the code and use silos – large firms need multiple silos

Lawyer resumes by ChatGPT

- Are you ready?
- Could you discern the use of ChatGPT?

AI Empowers Digital Technology Companies

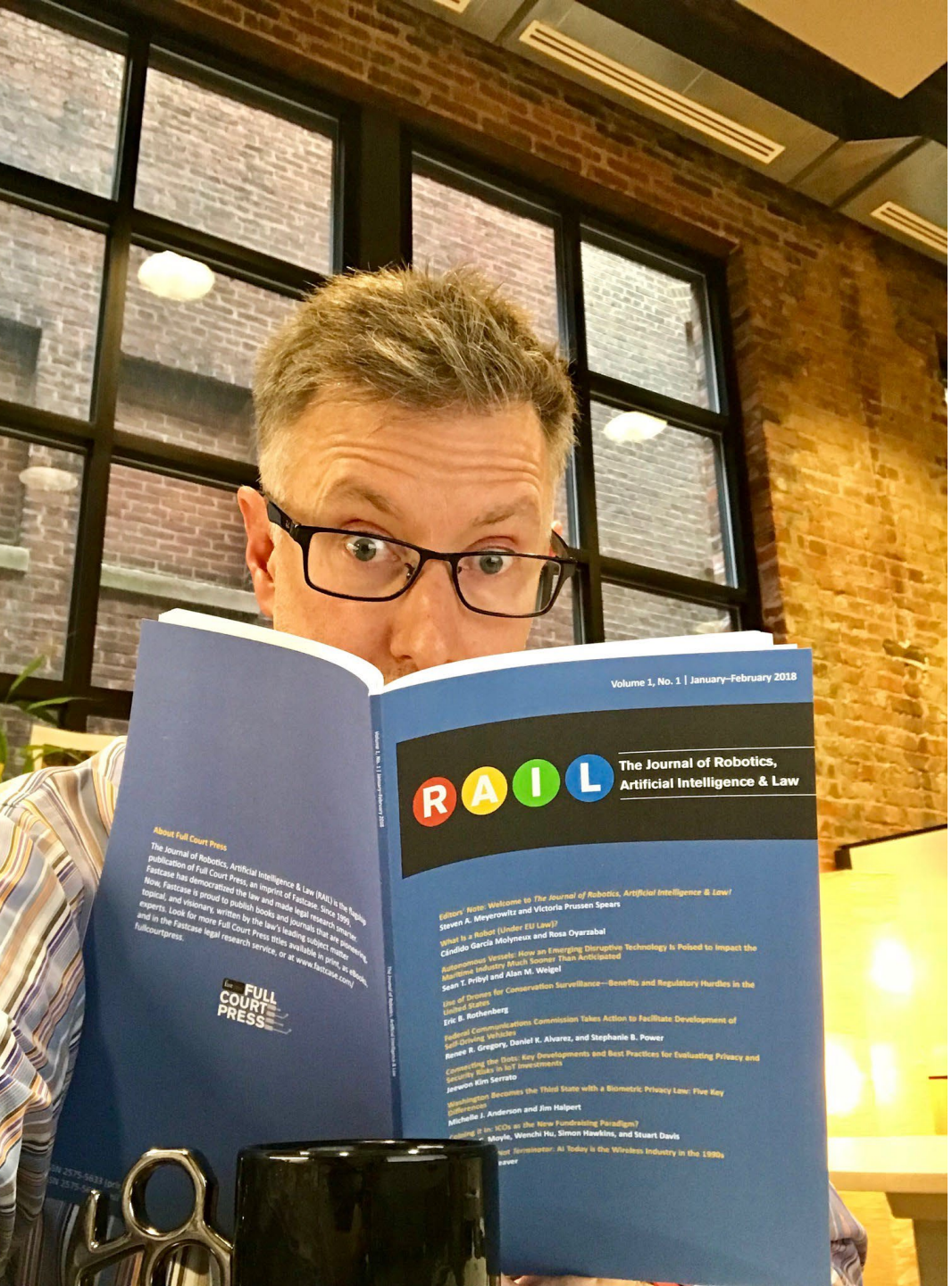
- March 2019, French President Macron asked, “Who can claim to be sovereign, on their own, in the face of the digital giants?”
- After Ukraine invasion, governments imposed economic sanctions on Russia. But least as impactful were the decisions of companies like IBM, Dell, Meta, Apple and Alphabet to cease operations in Russia.

2023 Realizations about AI

- Russia's invasion of Ukraine – made it clear that some countries will deploy AI to regulate what users can see, manipulate public opinion, conceal atrocities and use it for surveillance to curtail freedom of speech and protests.
- 2017 – Putin told schoolchildren, "Whoever becomes the leader [in AI] will become the ruler of the world."

“The greed of the tech titans may pave the road to Skynet”

“By the time we realize that AI is out of control – we may have lost the ability to regain human control”



The most important question when working with AI:

What could possibly go wrong?

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