

The Human Edge: Lawyering Beyond AI

Career Development



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There have been rumors for some time that the legal profession is going to be replaced by AI. I am sure some people are secretly hoping this will save them a lot on their legal bills and hassle with their lawyers.

However, I am highly doubtful if this would happen in the near future — or for that matter, ever — as long as there is a need for tailored, actionable, and impactful legal advice.

Why? Very simply, humans like to discuss matters with humans, especially when major decisions are at stake, and legal advice often leads to significant decisions, either in business or in people's personal lives.

> The human vibe is irreplaceable.

Just listen to what the 19th-century French novelist Honoré de Balzac had to say about lawyers in his novel, *Colonel Chabert*, on a less cheerful note: There are three professions that see all of human life at its worst: the priest, the soldier, and the lawyer. They all wear black, perhaps because they see and know all the world's miseries. And it is true. You see successes, but you also see a ton of business failures, mishaps, and even catastrophes, as well as human vices and moral failures.

That is why I see lawyers, beyond being legal experts, as part therapists, part counsellors and part moral support. Typically, all four aspects are activated when providing legal advice. These aspects are the very reason why, in my view, technology will not be able to replace the related major human

skills in the context of commercial counsel work: (1) people skills; (2) understanding and addressing shifting business needs; (3) risk analysis and (4) convincing. Let us go through each of them in some detail, highlighting where human intuition and adaptability still far surpass algorithmic capabilities.

1. Adjustable people skills

We work with people from very diverse backgrounds and personalities. The sharp, the hesitant, the pedant, the stubborn, the slower-minded, and anything and everything in between.

From executive leadership to middle management, tech, and operational folks, you name it. They are all humans to be understood and appreciated. I do not dare to compare lawyers to doctors, but in one way, their roles are pretty similar. There is a problem that requires investigation, understanding, and addressing (e.g. a disease and a legal issue), and neither of them will present their findings to all of their patients/clients in the same manner. They will not apply the same approach to very different personalities and levels of understanding.

Some people just need a quick chat to grasp what's going on, what the risks are, and what options they have, and then they make their decisions. Others require detailed explanations, exploring all the angles of an issue, and slowly weighing the risks and benefits of each option, often hesitating to make a decision and proceed. Some individuals take more risks, while others are more cautious. Some might ignore your advice and proceed the opposite way, or not proceed at all for a long time. Some people believe they know everything better, which usually only confuses their situation further and leads to unnecessary frustration.

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You take your clients and your opposition as you find them and guide them through their legal issues to the best of your abilities, tailoring your communications and presenting legal advice and your client's position in a way that best suits their particular personalities and corporate culture. Your advice, of course, remains the same, but the way you communicate it can vary significantly, hence the need to employ your people skills wisely.

Instead of bombarding your AI tool with hundreds of prompts or working on a super complex AI co-pilot to describe your clients' personalities and style and tailor your advice accordingly, you can rely on your own accumulated human experience of what works best for that particular type and throw in some personal touches based on your professional relationship history with them. That should work better than any AI-written speech or email.

In addition, anyone with some experience with AI tools will recognize those AI touches on any of your communications. Your humanity will resonate a thousand times more with another human being than the most intelligent AI ever will. That is simply how the human mind, heart, and soul have been wired and operated for hundreds of thousands of years. A few years of machine learning cannot be substituted with the nuanced understanding of human psychology that defines effective legal counsel.

Wondering how AI will affect your legal profession?
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2. Addressing different and shifting business needs

While most companies and their people operate on the driving principle of maximizing profit, different areas of the business will have different viewpoints on legal matters.

The Sales team wants to sell as much and as fast as possible; that's how they get their commissions. They offer the stars from the sky, taking higher risks and sometimes even ignoring them altogether. Product, Development, and Professional Services and Implementation are usually more cautious, and they look to define what is within and outside their scope and limit their involvement to whatever they can actually deliver on or less. The Data/AI team often can either be a high-risk taker or very prudent, depending on the company's culture and due diligence processes. Security and Privacy can be very involved or hands-off altogether, pushing their role over to legal counsel for specifics. Account Management and Support aim to make their accounts happy, sometimes going to great lengths to please them, or still prioritizing the company's interests over those of the clients.

To reconcile all these various needs and vantage points, you need to rely heavily on your therapist and trusted advisor combo mindset and approach. You need to convince Sales that the limited scope of Product, Development, and Implementation can deliver sufficient revenue, or perhaps persuade those teams to slightly adjust the scope to meet the typically high demands of Sales and the client. Meanwhile, you also need to ensure that Data, Security, and Privacy are properly engaged, informed and pulling their weight, so no surprises (e.g. unidentified risks) are expected down the road. When things escalate and Account Management and Support take on the task, you usually need to keep them on track with wise counsel, not to make them overly committed and/or convince them to offer something reasonable and meaningful to the client as a solution.

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Instead of spending time on inputting into your AI tool all these diverging interests and infinite number of changes of scope and sometimes even interests that you encounter during internal and external negotiations, and shifting of approaches and leverages, you — as a human — just go with the flow and try your best to balance all stakeholders' interests for an acceptable outcome which makes everyone, at least relatively, satisfied, including yourself as a risk manager.

Managing all these different, sometimes wildly diverging interests is definitely a very sophisticated art form, rather than a scientific or mechanical process that AI cannot replace. AI struggles with the fluid, often contradictory, and emotionally charged dynamics of human business needs. Its inability to go with the flow or detect unspoken priorities severely limits its effectiveness in complex, multi-stakeholder negotiations.

3. Risk analysis

At the end of the day, lawyers are risk navigators. Our role is not to eliminate risk, which is often impossible, but to strategically mitigate it.

A crucial part of our work is to distill complex risks and potential mitigation measures into clear, actionable advice. This is not just about presenting risks and solutions; it is about tailoring that presentation to resonate with our audience. Short, straightforward, and relevant examples that align with the client's specific business context are always the most impactful, especially in an age of information overload.

While AI tools can certainly assist in generating common risk scenarios, their capabilities fall short when it comes to the nuanced human element of risk analysis. An AI can give you a list of potential pitfalls, but it cannot discern which of those will truly impact your client's unique business or which presentation style will best prompt them to action. It cannot build the trust necessary for a client to truly listen to and act on your advice.

This is where the "trusted counselor" aspect of the lawyer's role becomes indispensable. We, as humans, bridge the gap between raw data and genuine understanding, guiding clients through the complexities of risk with empathy and strategic insight that no algorithm can replicate.

4. Creating convincing arguments

Do you recall those negotiations when the other party seems totally unreasonable, never concedes on anything, even minor matters, and/or keeps asking more questions or bringing up more issues? Or when the other party appears to be totally disengaged, or when both of you have the most serious negotiation fatigue after years of very little progress?

All this is a daily experience for commercial counsels. And yet, you need to keep on going and pushing forward to close the deal. How do you overcome these various obstacles? Primarily by creating convincing arguments tailored to the specific client type, with some consideration given to the nature of the deal and the leverage of the parties.

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You have the unreasonable, never-concede-anything client type? Consider and address all their requests, in some form, whether through acceptance or reasoned rejection, but eventually focus on the most crucial few ones. Then, you present them with the facts, explaining how many provisions you conceded and why you cannot concede on the most important ones. Alternatively, you might reevaluate your approach and limit it to even fewer absolute essentials. This strategic discernment and the ability to tailor your argument to a difficult human counterparty are beyond AI's current capabilities.

You have the one who keeps asking more questions and bringing up more issues? Keep up with them for a while, but once you pass a reasonable amount of time, which can vary between a couple a months to a year, depending on the size of the deal and the parties involved, suggest the business to put their feet down and ask the other party to collect all of their final questions and put an end to their endless inquiries, to concentrate on closing the deal. In this case, the legal team typically offers moral support for the business's request regarding the hard stop. AI lacks the judgment to tactically advise when to draw a line, nor can it provide the crucial moral support that underpins successful human negotiation.

Are you dealing with disengaged individuals, or has negotiation fatigue set in? Legal might suggest to

the business, again, mainly as their cheerleader, that they can play disengaged/fatigued as well or throw in some sweeteners (e.g., discounts, rebates) or propose some less than friendly outcomes with some business reasoning (e.g., moving business elsewhere for a vendor, increasing pricing for a client or not signing any related tolling agreements for an party in dispute). Other times, reconsidering your own client's position and scaling back to the bare minimum can be the only option to accelerate the other party's reactions and closing of the deal. AI cannot intuitively read the room, understand the emotional toll of fatigue, or offer the empathetic or judicious nudges that a human lawyer provides to break an impasse.

Read more: AI Can Read the Law, But Can It Read the Room?

Regardless of the strategy your client will take, it is always best to pick the most suitable arguments and package them in the most concise and impactful manner possible, without compromising the legal content. AI can easily assist you with that, provided you supply correct and detailed enough inputs and prompting.

However, true power lies in the human capacity to identify the *right* argument for the *right* moment and deliver it with conviction and relational intelligence.

The human vibe will live on

In light of the foregoing, my conclusion is that as long as humans stay humans, they need the complexity and magic of human presence, communication, and advice. No AI tool can replace that, no matter how sophisticated it is.

The spontaneity of a discussion can never be replaced by the mechanical, one-sided input-output information exchange between humans and AI tools. They may even give you results that look better on paper, but truly impactful conversations will still take place between two or more humans, be it about business needs, risks, or convincing arguments.

The human vibe is irreplaceable.

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