

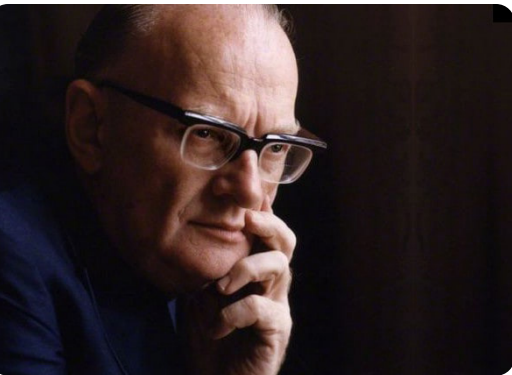
GENERATIVE

Generative Artificial Intelligence (“AI”) in ADR

BY ABE MELAMED

Fiction Becomes Fact

In a 1964 video interview with the BBC, science fiction author Sir Arthur C. Clarke said...



“If by some miracle a prophet could describe the future exactly as it was going to take place, his predictions would sound so absurd, so far-fetched, that everyone would laugh him to scorn.”

Clarke then went on to predict the Internet, 3D printers and Artificial Intelligence. Clarke predicted that “The most intelligent inhabitants of that future world won’t be monkeys or men, they will be machines.” At the time, Clarke’s predictions indeed sounded so absurd that many laughed him to scorn. But today we live in a world that he largely predicted; a world that is changing rapidly due to technological advancements such as the advent of Generative AI.

By now most of us have heard of Generative AI platforms such as ChatGPT and Google’s Bard. But how can we, as lawyers, adopt and implement these and other AI tools in our legal practices? If we fail to do so, we are missing out on an opportunity to create efficiencies with tangible cost-savings. But perhaps more important, will we be left behind, out of touch with this rapidly evolving technological revolution? So, in this article, I will 1) define Generative AI, 2) demonstrate real-life situations where lawyers can leverage AI in their practices, 3) identify some current limitations of AI, and 4) offer some predictions, as Sir Arthur Clarke did, of the future of AI in the legal industry.

What is Generative AI?

I asked ChatGPT, one of the leading Generative AI platforms, “can you write me a short description of Generative AI for an article I am writing for a legal publication?” It responded with, “Generative AI is a cutting-edge technology that harnesses the power of artificial neural networks to create, modify, or generate content autonomously. It operates by learning patterns and structures from vast datasets, enabling it to produce human-like text, images, and even audio. In the legal realm, Generative AI has found applications in document generation, contract analysis, and legal research, streamlining processes and increasing efficiency. However, its use also raises important legal and ethical considerations, such as intellectual property rights, data privacy, and accountability, as these systems can operate with limited human oversight. As Generative AI continues to evolve, it presents both opportunities and challenges for the legal profession, shaping the way legal services are delivered and regulated in the digital age.”

In short, Generative AI is a tool that can allow lawyers to search through, organize, edit, and even create content; be it legal content, marketing content, or anything in



between, using simple prompts. The “machine” uses predictive patterns from large data sets on the Internet to predict what the content should be, and as it is continuously trained, its predictions become more and more accurate. Although the content may not quite be perfect and requires a human touch to review and edit, ultimately it might cut out as much as 90% your workload. And that is just a preview of what is to come.

AI in ADR

I am a mediator. In preparing to hold a mediation, I will present the basic facts, sanitize them for confidentiality, and input them into ChatGPT. I will then ask Chat GPT to predict what questions will be most thought-provoking in each party’s room. ChatGPT will spit out 10 questions. Inevitably, I will have thought of 8 or 9 of Chat GPT’s recommendations. But I am continuously shocked by the 1 or 2 unique and creative questions this “machine” comes up with that I didn’t foresee. I often use those questions successfully in the mediation process.

In another use-case, I recently recorded an episode of my podcast about mediation (Mediator in the Middle). The quality of the audio for my guest came out poorly. I

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fed the audio into Adobe Podcast, which leverages AI to “clean it up.” AI used the few spots of good audio to reproduce the voice of my guest to create a crystal-clear version of the entire audio with his voice. It sounded exactly like my guest, as if he had spoken the words himself.

Similarly, I recently started feeding recordings of entire meetings, often hours long, into an AI assisted editing tool called Descript. It transcribes the audio in a matter of minutes. I then cut sections out of the transcript, which in turn, cuts it from the audio and even from the video. I can also feed those transcripts into ChatGPT, asking it to summarize the meeting—and does so with great precision. Similar tools can be invited as a “guest” to a Zoom conference call where it will operate in the background, transcribe the meeting in real time, and immediately produce a transcript at the end of the call.



ChatGPT

Beyond ADR

Many of us practice mediation and arbitration as a part of our regular litigation practice. Imagine the implications to precisely abstract deposition transcripts, or large swaths of documents produced by in discovery, finding and isolating key facts in seconds, not hours. Record a client intake session and immediately turn it into a draft Complaint, or record witness calls and immediately turn them into affidavits.

If you had a model trained on enough legal data, such as judicial decisions and legal briefs, you could ask an AI to draft an entire brief for you. If you fed an AI tool a sample of a contract you have previously drafted and give it new party information, you could ask it to draft the revised contract in a matter of seconds. And of course, you can use AI to draft blog posts and other marketing material for your firm. All you do is feed AI the general idea in your prompt, and it will do the rest. These are some of the various AI related tools that already exist in the legal field, and they are but the tip of the iceberg of what is to come.

It will still be critical to review briefs or contacts produced by AI for complete accuracy. We have already seen an over reliance on AI get a New York lawyer into judicial hot water when his AI generated brief cited to case law that did not exist. Other limitations include the risk of biased content, and AI current lack of an in-depth understanding of the law and its application to specific facts—an expensive feature to create and implement in Generative AI models. This is especially challenging in those many areas of law that rapidly change and evolve.

AI: Next Gen Legal Tool

What is clear is that AI is here to stay. As the legal profession adapts to AI, the role of lawyers may shift more to oversight and review of AI-created content. Those who refuse to adapt may be left behind.

I asked ChatGPT “Can you predict what the future of the legal industry will look like in 15 years with AI implemented?” ChatGPT responded that AI is likely to bring automated legal research, document automation in transactional work, AI-assisted due diligence in mergers and acquisitions, predictive analytics for the outcomes of cases, AI paralegal assistance, blockchain and smart contracts that cannot be manipulated, and even AI-assisted dispute resolution more evolved than how I am now leveraging AI. But, as ChatGPT also predicted, “while AI will automate many aspects of legal work, the role of human lawyers will remain vital for complex decision-making, ethical guidance, and strategic thinking.” 