

# Navigating Ethical and Legal Frontiers in Generative AI: Key Takeaways from Day Two of INTA's Conference on The Business of AI

Key Takeaways April 5, 2024 Foster Garvey Publication

At the recent conference on The Business of Al in New York City, attendees were cautioned about the risks associated with overreliance on generative Al ("GenAl") systems, including the potential for hallucinogenic responses, dissemination of false information, and compromised confidentiality. Despite their utility, careful consideration of each use case is essential to balance the benefits against potential long-term risks, with a focus on narrower applications such as marketing materials or form comparison and updates. Additionally, legal implications and ethical considerations surrounding GenAl adoption were underscored, prompting businesses and law firms to prioritize compliance with evolving regulations and establish robust policies to address data privacy concerns.

## Things You Need to Know

GenAl, both image generators and text generators, can have remarkable and useful output. Certain types of limited Al systems have already been helpful in document review and data synthesis use cases for many years. New users (and new use cases) of GenAl systems should exercise caution due to the many potential risks, including hallucinogenic responses, dissemination of false information and provision of erroneous advice. GenAl tools also pose heightened risks of data and confidentiality breaches.

When contemplating the adoption of GenAl tools, it is essential to conduct a thorough review of each use case to weigh the associated risks and benefits and to negotiate contractual protections and parameters with vendors and users. From the examples reviewed so far, providers of GenAl services often

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disclaim or limit liability for output, and users may be required to grant ownership of intellectual property rights resulting from Al model updates. These terms may be negotiated or will need to be carefully weighed in the cost/benefit analysis. While GenAl can offer efficiencies, its application should of course be carefully considered, particularly in areas already tightly governed, such as healthcare and employment.

#### Resources

Resources are available to help navigate the changing legal and ethical considerations surrounding GenAl around the world. Notably, the EU, Singapore, China, and the US are all actively passing Al-related legislation, and organizations such as the USPTO and the US Copyright Office are facilitating valuable insights and guidelines.

## **Who This Affects**

GenAl impacts a wide array of stakeholders, including customers seeking transparency regarding the use of their data in GenAl systems, and how the use of such tools will affect the cost of goods and services. Law firms already must take care to ensure their own use of GenAl is in compliance with client and outside counsel Al policies. And for all those using content that has been produced (even in part) by generative Al systems, serious consideration should be taken with respect to whether that use will be tracked, documented and/or disclosed (and if so, how). There remains a feeling of unwanted manipulation or "ick factor" with GenAl efforts for many people.

## What's Next?

Moving forward, it is crucial to address concerns surrounding the use of content produced by GenAl systems, including tracking, documentation and disclosure practices. Establishing due diligence questionnaires and regularly reviewing company Al policies can help mitigate risks associated with GenAl adoption. Moreover, clarifying the primary and secondary uses of data shared with GenAl systems and updating company policies accordingly are essential steps in navigating this evolving landscape.

For more insights from the conference, you can visit the event page here.

Disclaimer: An initial draft of this summary was generated in part by use of ChatGPT 3.5.