

---

---

## THE LEGAL PROFESSION: FROM HUMANS TO ROBOTS

Jordan Bigda\*

### I. Introduction

Recently, there has been increased research and writing on the topic of robots or artificially intelligent programs having the capability of practicing law and replacing human lawyers.<sup>1</sup> To some extent, this is true in that artificially intelligent programs are being used to perform tasks traditionally performed by humans in the legal field, especially since technology is advancing, and clients are looking for more lean and cost efficient legal services.<sup>2</sup> Major law firms across

---

\* J.D. Candidate, Suffolk University Law School, 2018; Journal of High Technology Law Content Editor 2017-2018, Staff Member 2016-2017; B.S.B.A. Accounting & B.A. Political Science & International Studies, Stonehill College, 2015.

<sup>1</sup> See Dana Remus & Frank Levy, *Can Robots Be Lawyers?: Computers, Lawyers, and the Practice of Law*, SSRN, 1, 1-2 (2015) (giving examples of books and articles which have been recently written on this subject area); RICHARD SUSSKIND & DANIEL SUSSKIND, THE FUTURE OF THE PROFESSIONS: HOW TECHNOLOGY WILL TRANSFORM THE WORK OF HUMAN EXPERTS, 110 (Oxford Univ. Press 2015) [hereinafter *The Future of the Professions*] (describing technology in the form of automation and innovation as sustaining and disruptive technologies); RICHARD SUSSKIND, TOMORROW'S LAWYERS: AN INTRODUCTION TO YOUR FUTURE, 40 (Oxford Univ. Press 2013) (explaining new trends of technology in the legal field).

<sup>2</sup> See Remus, *supra* note 1, at 3-4 (highlighting that the increased use of technology will lower the cost of legal services and increase access); Dan D'Ambrosio & Adam Silverman, *Bad Economy May be Mother of Invention*, USA TODAY (July 19, 2011), archived at <https://perma.cc/LA9Y-GDHQ> (suggesting that innovation and invention are necessary in times of a poor economy when jobs may be scarce).

the country are consistently replacing associates with artificially intelligent programs that can do associate-level work more efficiently and accurately in the areas of document review and legal writing.<sup>3</sup> Although nerve-racking for young associates and graduating law students, this seems like a good business strategy on the part of law firms because firms would no longer have to pay for paralegals and associates when firms could have artificially intelligent lawyers perform these tasks with a lesser risk of error for a lower cost.<sup>4</sup>

The legal profession is ripe for change, and technology is that change.<sup>5</sup> Legal innovators are looking for new ways to streamline and make practicing law more efficient and less expensive for clients.<sup>6</sup> One way of achieving this is through the use of artificial intelligence in the performance of legal tasks.<sup>7</sup> Artificial intelligence is an adaptation of how lawyers utilize technology to help them become

---

<sup>3</sup> See Remus, *supra* note 1, at 3 (reasoning that technology may be displacing associates); *Benefits*, KIRA, archived at <https://perma.cc/JM54-A24R> (highlighting the accuracy of artificially intelligent programs used in law firms); *Do More Than Humanly Possible: Supercharge Lawyers With Artificial Intelligence*, ROSS, archived at <https://perma.cc/G3HD-XRSK> (explaining that ROSS Intelligence is another artificially intelligent program used in law firms today); Melissa Pierre-Louis, *Recruiting Talent Without Liability: Avoiding Conflicts and Disqualification in Lateral Hiring*, 1, ABA (2017) (discussing how the economics of law firm practice have changed significantly, resulting in more lateral hiring versus new-hiring).

<sup>4</sup> See Jordan Furlong, *The Intangible Law Firm*, LAW TWENTY-ONE (July 11, 2016), archived at <https://perma.cc/LQQ3-SUH9> [hereinafter Furlong *The Intangible Law Firm*] (recognizing artificial intelligence as a valuable tool for law firms).

<sup>5</sup> See *The Future of the Professions*, *supra* note 1, at 66 (predicting change in the legal field). “We predict that the legal world will change ‘more radically over the next two decades’ than ‘over the last two centuries.’” *Id.* See also Jordan Furlong, *Getting Over Technology*, LAW TWENTY-ONE (Mar. 15, 2017), archived at <https://perma.cc/A89R-SBNP> [hereinafter Furlong *Getting Over Technology*] (warning that it will not take lawyers as long as they think to get used to using artificial intelligence in every day practice).

<sup>6</sup> See Furlong, *The Intangible Law Firm*, *supra* note 4 (describing how the legal profession can be more efficient while continuing to manage service to clients).

<sup>7</sup> See Remus, *supra* note 1, at 3 (introducing artificial intelligence and its incorporation into the practice of law); Avaneesh Marwaha, *Seven Benefits Of Artificial Intelligence For Law Firms*, LAW TECHNOLOGY TODAY (July 13, 2017), archived at <https://perma.cc/G2X2-WV7D> (noting that artificial intelligence is already being used in the legal field). More specifically, artificial intelligence is being used in law firms to review documents, compile discovery, legal research, contract and legal document analysis, proofreading, and document organization. *Id.*

more efficient by saving time and money.<sup>8</sup> New technologies may have some effect on the amount of lawyers being hired to do what lawyers have traditionally done in the past, but it will also likely lead to new and different employment opportunities for lawyers in the future.<sup>9</sup> Therefore, robots will not be the end of lawyers, but rather, will open up a new area within the legal profession.<sup>10</sup> While a professional era in the legal field has ended, we are now in the midst of forming a new era of advanced legal technology and the further demise of the traditional law firm.<sup>11</sup>

Additionally, there is an ethical line that must be drawn on how far the legal profession and other professions using artificial intelligence can utilize these programs in areas such as reasoning, interactions, and even court appearances.<sup>12</sup> Research on this subject does not look at the legal implications and issues of using artificially intelligent lawyers and how this may effect society. Robots or their computer programmers are not lawyers, so if robots are practicing law, is

---

<sup>8</sup> See Remus, *supra* note 1, at 1 (giving an example of *New York Times* articles which have been recently written on the discussion of computers displacing lawyers in discovery); Marwaha, *supra* note 7 (defining artificial intelligence as computer software and systems that are programmed to learn from the tasks they performed in the past). With artificial intelligence, computers can identify information, catch mistakes, and find inconsistencies by recognizing patterns and relationships between words and data points. *Id.* One of the biggest benefits of using artificial intelligence that law firms have noted is that it saves a tremendous amount of time. *Id.*

<sup>9</sup> See Remus, *supra* note 1, at 1 (noting how technology has changed employment options for lawyers in the past). Lawyers will not go away, instead, the tasks lawyers perform will change. *Id.* at 1-2.

<sup>10</sup> See Remus, *supra* note 1, at 1-2 (predicting that robots will not end the careers of lawyers); Nathan Rosenberg, *Innovation and Economic Growth*, OECD 5 (2004) (suggesting that technological advancement and their benefits depends not only on the innovators and inventors, but is also shaped by users of the new technology, which will determine its place in the workforce).

<sup>11</sup> See *The Future of the Professions*, *supra* note 1, at 105 (indicating an advancement into a “post-professional society” as a new era in the legal field). “The end of the professional era is characterized by four trends: the move from bespoke service; the bypassing of traditional gatekeepers; a shift from reactive to a proactive approach to professional work; and the more-for-less challenge.” *Id.*

<sup>12</sup> See Remus, *supra* note 1, at 33 (detailing the advances in artificially intelligent technologies); KARIN JENSON ET AL., *ETHICS, TECHNOLOGY, AND ATTORNEY COMPETENCE 8* (BakerHostetler, 2015) (unpublished) (noting the importance of attorneys using new types of technology while maintaining ethical standards).

this considered the unauthorized practice of law?<sup>13</sup> Moreover, is this ethically permissible if a licensed lawyer is inputting the legal information, arguments, and rules into the artificial intelligence program? This Note will look at the legal issue of non-lawyers performing legal tasks and the ethical and statutory contradictions in the legal profession. Additionally, this Note will foreshadow future law that will not allow robots or “artificially intelligent lawyers” to advocate for clients in court, negotiate on behalf of clients, or facilitate mediations.

## II. History

Over the past 40 years, the way law firms have been structured and how they operate has changed dramatically, mostly due to advances in technology.<sup>14</sup> Legal scholars note that large firms were extremely inefficient in the 1980s, a time where large firms were also on the rise.<sup>15</sup> Consequently, in the 1980s, there was a significant increase in the amount of lawyers in the United States.<sup>16</sup> In 1980, there

---

<sup>13</sup> See Mark Theoharis, *Practicing Law Without a License*, CRIMINAL DEFENSE LAWYER, archived at <https://perma.cc/2QJU-YLRH> (recalling the penalties of the unauthorized practice of law can either be a misdemeanor or a felony offense, depending on the jurisdiction, and can result in incarceration, fines, probation, or restitution). In Massachusetts, the penalties for violation of Massachusetts statute against the unauthorized practice of law are as follows:

[he or she] shall be punished for a first offence by a fine of not more than one hundred dollars or by imprisonment for not more than six months, and for a subsequent offence by a fine of not more than five hundred dollars or by imprisonment for not more than one year.

MASS. GEN. LAWS ch. 221 § 41.

<sup>14</sup> See SUSSKIND, *supra* note 1, at 53 (opining that it is unwise for law firms to not take the cost advantages of employing new technologies).

<sup>15</sup> See Sarah Mui, *The 1980s Were Great Years If You Were Law Firm Associates--But If You Were Clients, Not So Much*, ABA J. (Dec. 13, 2013), archived at <https://perma.cc/B8NN-EGEZ> (outlining how big firms in the past were quickly growing in volume and in inefficiency). In the 1980s, there was a flood of law firms where lawyers performed basic tasks and clients overpaid for the services they were receiving. *Id.* This did not necessarily mean that the legal work provided was subpar, rather, competition from other big law firms was the driving force behind the quality of services. *Id.*

<sup>16</sup> See Barbara A. Curran, *American Lawyers in the 1980s: A Profession of Transition*, 20 LAW & SOC'Y REV. 19 (1986) (noting that this increase is due to several

were around 542,000 lawyers in the United States, and by 1984, that amount increased to roughly 649,000.<sup>17</sup> With this rapid increase in the number of lawyers, firms increased in size and more associates were hired.<sup>18</sup> Associates were paid very highly to perform basic tasks such as proofreading briefs, reviewing documents, and to continuously reinvent the wheel.<sup>19</sup> However, this began to change after the 1980s when law firms became savvier by hiring outside vendors, paralegals, and contract lawyers to cut costs on tasks associates were previously doing.<sup>20</sup>

Paralegals and legal assistants are non-lawyer support staff who have an understanding of the law and perform tasks such as researching cases, preparing discovery, interviewing clients, witnesses and other non-parties, preparing case summaries, and general case management.<sup>21</sup> Even though the lawyer does not perform these tasks, they still bill the tasks to the client, but at a lower rate.<sup>22</sup> The issue of what and how lawyers could delegate tasks came up in the Supreme Court of New Jersey's Committee on the Unauthorized Practice of

---

factors, including the number of students going to law school following the Second World War).

<sup>17</sup> See *id.* at 20 (showing a dramatic increase in the number of practicing attorneys in the U.S. in just four years).

<sup>18</sup> See Mui, *supra* note 15 (noting the increase in employment rates for lawyers during the 1980s).

<sup>19</sup> See Mui, *supra* note 15 (highlighting the inefficiency of associates in the 1980s due to high billing rates for relatively simple work, such as proofreading documents).

<sup>20</sup> See Harrison Barnes, *The Industrialization of American Law Firms*, LAW CROSSING (Mar. 4, 2017), archived at <https://perma.cc/B5EU-CE8B> (explaining how law firms began to become more efficient by outsourcing clerical tasks previously done by associates); SUSSKIND, *supra* note 1, at 63 (highlighting techniques used by in-house counsel lawyers to shift firm risk); Pierre-Louis, *supra* note 3, at 2-3 (discussing the possibility of increased conflict of interest as the amount of lateral and contract lawyers increase). The author notes that ABA Model Rule of Professional Conduct, Rule 1.10 imputes one attorney's conflict of interest to the entire firm, which may limit an attorney's ability to practice law with certain firms. *Id.* at 1. See also Dennis Garcia, *Preparing for Artificial Intelligence in the Legal Profession*, LEXIS PRACTICE ADVISOR J. (June 7, 2017), archived at <https://perma.cc/7HTX-YYEZ> (inquiring as to whether the ABA Model Rules will change, specifically Rule 1).

<sup>21</sup> See Cynthia Thomas, *The Changing Role of Legal Support Staff*, 40 ABA J. 1 (2014) (highlighting the changes in the basic job functions of paralegals and legal secretaries or assistants over time).

<sup>22</sup> See *id.* (showing how lawyers can save their clients' money by using support staff—who bill at lower rates—to complete clerical tasks).

Law.<sup>23</sup> This committee decided that attorneys were able to delegate legal tasks to paralegals, as long as the attorney or firm maintains direct relationships with their clients, supervise the paralegal's work, and remain responsible for work product.<sup>24</sup> This decision gave lawyers even more leeway in outsourcing tasks to paralegals that were previously performed by associates.<sup>25</sup> However, even under this Committee decision, paralegals still cannot advise clients, mediate, or negotiate on behalf of clients.<sup>26</sup> Due to this decision, the lawyer must perform these tasks.<sup>27</sup>

Towards the end of the 1980s, in addition to the changes in the organizational structure based on cost-cutting, technology was also impacting the phenomenon of the depleting number of associates.<sup>28</sup> The major technological advancement in this decade was computerized legal research in 1983.<sup>29</sup> At this time, Westlaw and Lexis became accessible via personal computer (PC), which increased efficiency and decreased costs because firms no longer needed as many associates to do legal research and did not need the

---

<sup>23</sup> See *In re Opinion No. 24 of the Committee on the Unauthorized Practice of Law*, 128 N.J. 114, 117 (1992) (noting that many sources across the United States were interested in this topic and wanted a decision). The committee received information from the State Bar Association's Subcommittee on Legal Assistants, the National Association of Legal Assistants (NALA), and the National Federation of Paralegal Associates (NFPA). *Id.* at 117.

<sup>24</sup> See *id.* at 127 (reasoning that both the attorney and paralegal must adhere to these standards).

<sup>25</sup> See *id.* (reminding readers that work can be performed by non-lawyers under the direct supervision of an attorney). Susskind refers to work performed by non-lawyers under the supervision of a lawyer as "de-lawyering." See SUSSKIND, *supra* note 1, at 33.

<sup>26</sup> See Kris L. Canaday, *Paralegal Do's and Don'ts: What Can (And Can't) A Paralegal Do For You*, PARALEGAL SUPPORT 101, archived at <https://perma.cc/K3ZX-2AMD> (summarizing the role of paralegals and explaining how law firms can bill clients at a lower rate if the paralegal performs some tasks in a case, rather than the lawyer performing all of the tasks at a higher rate).

<sup>27</sup> See *id.* (describing the role of the paralegal compared to the role of the lawyer). However, there are certain states which allow paralegals to have a limited authority to appear in certain court proceedings, including most tribunals and administrative agencies. *Id.*

<sup>28</sup> See Barnes, *supra* note 20 (summarizing the shift in the 1980s from hiring a lot of associates to the fall of associates).

<sup>29</sup> See Nicole Black, *10 Technologies That Changed the Practice of Law*, MY CASE BLOG (July 29, 2014), archived at <https://perma.cc/TT9Z-XELR> (showcasing how computerized legal research increased efficiency).

physical space in the law office to house law libraries.<sup>30</sup> Additionally, in 1986, firms began to utilize laptops, which allowed lawyers and paralegals to work more efficiently and save more memory onto their hard drives.<sup>31</sup>

The 1990s began the acceleration of the mergers and acquisitions of law firms.<sup>32</sup> This was the inevitable result of too many inefficient law offices with too many inefficient lawyers.<sup>33</sup> A driving factor of merging law offices was the theory of globalization.<sup>34</sup> In the mid-1990s, the Internet reached 50 million users and thus revolutionized the way businesses ran, including law firms.<sup>35</sup> Rapidly, the need for many large firms disappeared as communication became easier.<sup>36</sup> Additionally, the 1990s was also a time of the mobile revolution, meaning a lawyer no longer needed to be at a desk or a landline to communicate with clients or colleagues, they could communicate with them from any location.<sup>37</sup>

---

<sup>30</sup> See *id.* (highlighting that Lexis and Westlaw could save firms time and money); *The Future of the Professions*, *supra* note 1, at 68 (noting that the advent of Westlaw and Lexis changed the way lawyers work).

<sup>31</sup> See Black, *supra* note 29 (noting that the first laptop weighed 12 pounds and 256k in memory, making it portable).

<sup>32</sup> See Barnes, *supra* note 20 (describing how law firms became so large and expensive that many were no longer sustainable on their own).

<sup>33</sup> See Barnes, *supra* note 20 (detailing that the decline of many law firms was the result of the firm taking out loans to pay high salaries for partners).

<sup>34</sup> See Laurel S. Terry, *The Legal World is Flat: Globalization and Its Effect on Lawyers Practicing in Non-Global Law Firms*, 28 NW. J. OF INT'L L. & BUS. 527, 545 (2008) (describing how the lives of lawyers have been transformed by the “steroids” of technology, making globalization possible). These rapid advancements in technology have been described as “steroids” because of their speed into the market and the number of users who have embraced new technologies, including law firms. *Id.* In theory, globalization promotes global economic growth, creates more jobs, makes firms more competitive, and lowers the cost of services for consumers. See also Mike Collins, *The Pros and Cons of Globalization*, FORBES (May 6, 2015), archived at <https://perma.cc/832L-VS8C> (recognizing some proponent’s beliefs that globalization will represent free trade). This promotes economic growth, creation of jobs, competition amongst companies, and a lower price for consumers. *Id.*

<sup>35</sup> See Black, *supra* note 29 (describing how the Internet reached a large number of users much faster than other previous technologies, including radio and television).

<sup>36</sup> See Black, *supra* note 29 (focusing on the advent of the Internet and mobile revolutions).

<sup>37</sup> See Black, *supra* note 29 (highlighting that the mobile revolution has allowed lawyers to save more time and interact with clients differently than in the past).

In the 2000s, cloud computing and smartphones ruled the tech industry and seeped into the business practices of all professionals, including those in the legal field.<sup>38</sup> These two pieces of technology gave lawyers the ability to work from almost any location on nearly any matter, and it also has allowed solo and small firms to compete more aggressively with larger firms.<sup>39</sup> Another stride in technology was the increased use of case management systems in large and small law firms.<sup>40</sup> These systems such as Clio, MyCase, and Legal Files are a more efficient and convenient method of managing cases and clients, and includes client contact information, calendars, documents, and automation features that allow lawyers to keep essentially their entire practice in one place on a hard drive or on the Cloud.<sup>41</sup>

Additionally, in the early 2000s, law firms began the outsourcing of legal services to India.<sup>42</sup> Simple tasks such as legal research and document review, previously performed by associates and later paralegals, are now done overseas because it is more cost and

<sup>38</sup> See Black, *supra* note 29 (recognizing cloud computing and smartphone's assistance in making mobile offices possible with the increased use of smartphones and tablets). "The release of the iPhone has arguably had more impact on how we have integrated the use of technology into our daily work and personal lives than any other technology." See Blair Janis, *How Technology Is Changing the Practice of Law*, 31 ABA J. 3 (2014) (indicating that technology has such as the iPhone, has had one of the greatest technological impacts in both daily work and personal lives).

<sup>39</sup> See Janis, *supra* note 38 (expounding on the reduction in both fixed and variable costs for lawyers running their own firms).

<sup>40</sup> See Cathy Reisenwitz, *Law Practice Management Software: 5 Popular Choices Compared*, CAPTERRA LEGAL SOFTWARE BLOG (Nov. 29, 2016), archived at <https://perma.cc/2M2V-8SC8> (comparing seven of the most popular case management software used in law firms today); *Practice and Case Management Software*, ABA J. (Mar. 4, 2017) (highlighting that some case management software is more appropriate for smaller firms and vice versa).

<sup>41</sup> See *Practice and Case Management Software*, *supra* note 40 (focusing on the advantages of using case management software).

<sup>42</sup> See Barnes, *supra* note 20 (describing how legal jobs will be outsourced similarly, but not as drastically as computer jobs are being outsourced to India). Outsourcing is possible because of globalization within the legal field and legal services are absolutely being outsourced to India. See Terry, *supra* note 34, at 526-27. "The best companies outsource to win, not shrink." *Id.* at 532 n. 31. Law firms are outsourcing as a response to cost pressures and can now break down legal work by finding alternative ways to source more routine work. See *The Future of the Professions*, *supra* note 1, at 68. This routine work can be outsourced, offshored, given to paralegals, contracted to other lawyers, and even sold to clients at a fixed price. *Id.* at 68.

time efficient.<sup>43</sup> Online non-lawyer legal services also became prevalent with the emergence of Rocket Lawyer, LegalShield, and LegalZoom.<sup>44</sup> These legal sources give anyone the ability to create their own legal documents and legal forms, such as contracts, wills, business formation documents, and bankruptcy filings.<sup>45</sup> Even though these non-lawyer sites are creating documents typically created by lawyers, LegalZoom, LegalShield, and Rocket Lawyer all proclaim that they are not a substitution for a lawyer and further, do not provide legal representation.<sup>46</sup> However, clients are using these sites for a legal purpose, i.e. writing a will, something that a lawyer can fully perform.<sup>47</sup>

As LegalZoom became more popular, there was pushback from the legal community against LegalZoom further encroaching into the legal market, resulting in lawsuits filed against LegalZoom

---

<sup>43</sup> See Barnes, *supra* note 20 (noting that there is a large market for outsourcing legal work). Other examples of some of the services that law firms may outsource include: financial and accounting services, presentation preparation services, and litigation support services. See Mary C. Daly & Carole Silver, *Flattening the World of Legal Services? The Ethical and Liability Minefields of Offshoring Legal and Law-Related Services*, 38 Georgetown J. of Int'l L. 401, 404 (2007).

<sup>44</sup> See Janis, *supra* note 38 (describing that these sites allow consumers to accomplish a specific legal purpose without retaining a lawyer); *How It Works*, ROCKET LAWYER, *archived at* <https://perma.cc/K757-PHC8> (explaining how consumers can utilize Rocket Lawyer's services); *LegalShield Member Bill of Rights*, LEGALSHIELD, *archived at* <https://perma.cc/J8UE-ESV9> (offering legal services to consumers); *Knowledge Center*, LEGALZOOM, *archived at* <https://perma.cc/Y7P6-SBUZ> (reminding consumers that they do not need a lawyer in every case, but do recommend seeking an attorney's advice); *The Future of the Professions*, *supra* note 1, at 69 (highlighting that LegalZoom and RocketLawyer can tackle multi-jurisdictional legal issues).

<sup>45</sup> See Janis, *supra* note 38 (describing how technology has made the production of legal documents a seamless function).

<sup>46</sup> See Janis, *supra* note 38 (describing how websites like LegalZoom are creating legal documents like lawyers).

<sup>47</sup> See Janis, *supra* note 38 (noting some of the functions of LegalZoom).

for the unauthorized practice of law.<sup>48</sup> For example, in *Janson v. LegalZoom.com, Inc.*,<sup>49</sup> LegalZoom was sued for the unauthorized practice of law, specifically the level of human involvement that LegalZoom employees had in the production of documents.<sup>50</sup> Under Missouri law, and in previous cases such as *In re Thompson*,<sup>51</sup> Missouri held that companies that offer document assembly software for

<sup>48</sup> See Robert Ambrogi, *Latest legal victory has LegalZoom poised for growth*, ABA J. (Aug. 1, 2014), archived at <https://perma.cc/4QKQ-LPVZ> (summarizing that LegalZoom has faced lawsuits in eight states across the country). LegalZoom has settled lawsuits relating to the unauthorized practice of law in California, Missouri and Washington. *Id.* Courts in Alabama and Ohio dismissed such lawsuits, and LegalZoom faces this matter in Arkansas, where it is being arbitrated. *Id.*

<sup>49</sup> 802 F. Supp. 2d 1054, 1054 (W.D. Mo. 2011) (denying LegalZoom summary judgment for the allegation of its unauthorized practice of law).

<sup>50</sup> See *id.* at 1062-65 (citing that LegalZoom violated Missouri law by engaging in the unauthorized practice of law). Section 484.020 of the Missouri statute provides that “No person shall engage in the practice of law or do law business, as defined in section 484.010, unless he shall have been duly licensed therefor.” *Id.* at 1058. “All states have statutes that restrict the practice of law to licensed attorneys,” including Massachusetts. See also Derek A. Denckla, *Nonlawyers and the Unauthorized Practice of Law: An Overview of the Legal and Ethical Parameters*, 67 FORDHAM L. REV. 2581, 2587 (1999). The statute governing the unauthorized practice of law in Massachusetts is M.G.L. Ch. 221 § 41, which states:

Whoever has been so removed and continues thereafter to practice law or to receive any fee for his services as an attorney at law rendered after such removal, or who holds himself out, or who represents or advertises himself as an attorney or counsellor at law, or whoever, not having been lawfully admitted to practice as an attorney at law, represents himself to be an attorney or counsellor at law, or to be lawfully qualified to practice in the courts of the commonwealth, by means of a sign, business card, letter head or otherwise, or holds himself out or represents or advertises himself as having authority or power in behalf of persons who have claims for damages to procure settlements of such claims for damages either to person or property, or whoever, not being an attorney at law, solicits or procures from any such person or his representative, either for himself or another, the management or control of any such claim, or authority to adjust or bring suit to recover for the same, or solicits for himself or another from a person accused of crime or his representative the right to defend the accused person . . .

*See* M.G.L. Ch. 221 § 41.

<sup>51</sup> See *In re Thompson*, 574 S.W.2d 365, 369 (Mo. 1978) (holding that do-it-yourself divorce kits are not considered a violation of the Missouri statute governing the

“do-it-yourself” legal documents are not the unauthorized practice of law.<sup>52</sup> However, the *Janson* court denied summary judgment to LegalZoom<sup>53</sup> and the case ultimately settled for an undisclosed amount.<sup>54</sup>

The South Carolina Supreme Court was the first court to hold that LegalZoom was not engaged in the unauthorized practice of law in *Medlock v. LegalZoom.com, Inc.*<sup>55</sup> In *Medlock v. LegalZoom.com, Inc.*, the plaintiffs alleged that LegalZoom was violating the South Carolina statute against the unauthorized practice of law by some of LegalZoom’s interactive self-help form documents.<sup>56</sup> The Courtulti-

---

unauthorized practice of law). In *Janson v. Legalzoom.com, Inc.*, the Defendants relied on the *Thompson* decision for the argument that LegalZoom is providing a product like the do-it-yourself divorce kit. *See* 802 F. Supp. 2d at 1063. However, the *Janson* Court does not accept this argument and distinguishes LegalZoom’s service from solely a product. *Id.* at 1063.

<sup>52</sup> See *Janson*, 802 F. Supp. 2d at 1059 (providing examples of decisions in Missouri relating to the definition and boundaries of the unauthorized practice of law statute). The court also notes that the judicial intent behind decisions relating to the regulation of the unauthorized practice of law “is not to protect the Bar from competition but to protect the public from being advised or represented in legal matters by incompetent or unreliable persons.” *Id.*

<sup>53</sup> See *Janson v. Legalzoom.com, Inc.*, 802 F. Supp. 2d 1053, 1064 (W.D. Mo. 2011) (highlighting the process by which LegalZoom’s employees were involved in the production of documents). The Plaintiffs did not contest LegalZoom’s blank forms that customers are able to download, print, and fill out themselves. *Id.* at 1063. However, the Plaintiffs did oppose LegalZoom’s employee involvement in other forms, where the customer completes an online questionnaire and the LegalZoom employee reviews the data for completeness and accuracy. *Id.* at 1064. Additionally, the Plaintiffs found issue with customer service available to LegalZoom customers that is available by phone and email. *Id.*

<sup>54</sup> See *Janson v. LegalZoom.com, Inc.*, 2012 U.S. Dist. 4 (W.D. Mo. Apr. 30, 2012) (holding that the court accepts the settlement of this case and that LegalZoom must make all payments required by and in accordance with the settlement agreement).

<sup>55</sup> See *Medlock v. LegalZoom.Com, Inc.*, 2013 S.C. LEXIS 362, 26-27 (S.C. Oct. 18, 2013) (holding that LegalZoom’s actions did not constitute the practice of law, therefore LegalZoom was not engaging in the unauthorized practice of law).

<sup>56</sup> See *id.* at 5 (finding that only some of LegalZoom’s documents are in violation of the statute). Specifically, these documents included Corporate Amendment, Annual Reports, Bylaws & Resolutions, Corporate Conversion, Corporate Dissolution, Uncontested Divorce, Foreign Qualification, Incorporation (signed by a South Carolina attorney), Initial Corporate Reports, Last Will and Testament, Limited Liability Partnership Agreement, Limited Partnership Agreement, Living Trust, Living Will, Limited Liability Company, Non-Profit, Operating Agreement, Pet Protection Agreement, Power of Attorney, and Real Estate Lease. *Id.*

mately accepted LegalZoom's settlement agreement with the plaintiff, but stated that LegalZoom was not engaged in the unauthorized practice of law because nineteen out of twenty of the LegalZoom forms in question were already available to South Carolina residents through the state of South Carolina's government self-help website.<sup>57</sup> Interestingly, South Carolina courts have held that they will determine what is the unauthorized practice of law on a case-by-case basis, instead of employing a clear cut definition.<sup>58</sup> Despite the differences in law from South Carolina to other states, which have not ruled similarly to South Carolina, legal ethicist, Deborah Rhode states in regard to LegalZoom that “[t]hey've got a couple million satisfied customers and it's going to be really hard for anyone to shut them down.”<sup>59</sup>

In order to keep up with today's fast-changing legal market and pushback from the legal community in the aforementioned lawsuits, LegalZoom as well as LegalShield, and Rocket Lawyer have begun to alter its business models.<sup>60</sup> For example, LegalZoom is beginning to offer legal advice for clients by contracting lawyers from

---

<sup>57</sup> See *id.* at 6 (reiterating the conclusion of LegalZoom's expert witness, Carl Solomon, who stated that LegalZoom's documents are the same as the documents on South Carolina's self-help website). The court also considered LegalZoom's terms of service, which states (emphasis added):

1. *I understand and agree that LegalZoom is not a law firm or an attorney, may not perform services performed by an attorney, and is not the substitute for the advice of an attorney. Rather, I am representing myself in this legal matter. No attorney-client relationship or privilege is created with LegalZoom.*
2. If, prior to my purchase, I believe that LegalZoom gave me any legal advice, opinion or recommendation about my legal rights, remedies, defenses, options, selection of forms or strategies, I will not proceed with this purchase, and any purchase that I do make will be null and void.

*Id.* at 9-10.

<sup>58</sup> See *id.* at 13 (citing South Carolina precedent, which reasoned that it is not wise to make a concrete definition for what constitutes the practice of law).

<sup>59</sup> See Ambrogi, *supra* note 48 (noting that LegalZoom's victory in South Carolina has pushed LegalZoom further, and it is not likely to be going away).

<sup>60</sup> See *Knowledge Center*, *supra* note 44 (listing various programs offered by LegalZoom by category).

different states.<sup>61</sup> This is further bringing legal services to the Internet by allowing customers to build a relationship with a lawyer online.<sup>62</sup> Similarly, Rocket Lawyer provides an “On Call” service for its monthly subscribers, which allows customers to consult with attorneys from around the country.<sup>63</sup> In addition, LegalShield is implementing new technology into their platform by allowing clients to work with an attorney through the client’s smartphone.<sup>64</sup>

Additionally, the year 2007 marked an economic recession and a saturation of lawyers in the legal market.<sup>65</sup> Even before the recession the legal field was changing, and between 2004 and 2008, 20,000 legal positions at firms were gone.<sup>66</sup> Furthermore, the number of students enrolling in law school and graduating increased each year and was at an all-time high in 2010.<sup>67</sup> Thus, there were too many lawyers for the amount of legal work that needed to be done as

---

<sup>61</sup> See *Knowledge Center*, *supra* note 44 (noting that LegalZoom complies information and contacts for attorneys in different states for their users who have further questions).

<sup>62</sup> See *Legalzoom.com TV Commercial*, ‘Not a Robot Attorney’, iSPOT.TV (2015), archived at <https://perma.cc/RY37-3QHQ> (highlighting that the attorneys used by LegalZoom are real attorneys and not robots). For more complex issues, LegalZoom recommends that its clients retain LegalZoom’s consulting firm at a discounted rate. See also *Attorney Advice*, LEGALZOOM (2018), archived at <https://perma.cc/WLT3-REY9> (citing their prepaid legal plans which are offered for a low monthly fee).

<sup>63</sup> See *How It Works*, *supra* note 44 (describing how customers can utilize its “On Call Service”). For more complex issues, Rocket Lawyer recommends that the customer retain that lawyer at a pre-negotiated price. *Id.*

<sup>64</sup> See *LegalShield Member Bill of Rights*, *supra* note 44 (noting how LegalShield is making its services more accessible to clients through the use of smartphones). The LegalShield app allows customers to fill out questionnaires and communicate with lawyers working in association with LegalShield. *Id.* Additionally, Snap is a program created by LegalShield that allows clients to take a picture of their traffic ticket and send it to LegalShield’s law firm, so the lawyers can start prepping for court. *Id.*

<sup>65</sup> See William D. Henderson & Rachael M. Zagorsky, *Law Job Stagnation May Have Started Before the Recession--And It May Be a Sign of Lasting Change*, ABA J. (July 1, 2011), archived at <https://perma.cc/D8TP-SVR3> (citing a significant drop in the number of law firm layoffs between 2004 and 2008).

<sup>66</sup> See *id.* (highlighting the decrease in legal jobs prior to the recession).

<sup>67</sup> See *Historical Data: Total Number of Law Schools and Students, 1964-2012*, THE FACULTY LOUNGE (Feb. 2, 2013), archived at <https://perma.cc/2H66-58UC> (providing the number of graduating law students over a period from 2011-2013, showing a gradual decrease).

a result of the recession and computers eliminating jobs.<sup>68</sup> One journalist summarizes a new field of law after the recession, where a lawyer must “deal with technology that swallows billable work, a world market that takes the competition international, and a more sophisticated corporate client with vast knowledge available at the click of a mouse.”<sup>69</sup>

On another note, small and large firms are still utilizing paralegals and legal assistants in their practices today.<sup>70</sup> However, due to the advances in technology and cost cutting efforts, the role of paralegals and legal assistants in both small and large firms has changed once again.<sup>71</sup> Paralegals have taken on bigger roles at firms than they once had, such as assisting lawyers in the discovery process, legal research, and even trial preparation.<sup>72</sup> However, as technology advances, this role performed by a paralegal is being replaced or further supported by artificial intelligence.<sup>73</sup> Artificial intelligence is defined as “an area of computer science that deals with giving machines the ability to seem like they have human intelligence” and has the power of mimicking intelligent human behavior.<sup>74</sup> Artificial intelligence is being used to collect electronic discovery, in which it is referred to as predictive coding.<sup>75</sup> Predictive coding is a process by which a machine learns by first watching human behavior and then applies what it has learned, for example, to collect materials useful for electronic

---

<sup>68</sup> See Henderson & Zagorsky, *supra* note 65 (describing the discrepancy between the number of jobs available for lawyers and the number of lawyers looking for work).

<sup>69</sup> See Henderson & Zagorsky, *supra* note 65 (forecasting a new market for the legal profession); Jordan Furlong, *supra* note 4 (predicting change in the legal market and how technology is a significant factor in this change).

<sup>70</sup> See Thomas, *supra* note 21 (summarizing the structure of law firms).

<sup>71</sup> See Thomas, *supra* note 21 (outlining the change technological advances had on the legal industry and the makeup of firms).

<sup>72</sup> See Thomas, *supra* note 21 (noting that paralegals assist in the discovery process, legal research, and even trial preparation, which is work that was traditionally performed by the lawyer).

<sup>73</sup> See Janis, *supra* note 38 (explaining the potential possibilities of artificial intelligence in a law firm).

<sup>74</sup> See Janis, *supra* note 38 (defining artificial intelligence broadly); Marwaha, *supra* note 7 (defining artificial intelligence in the law firm context).

<sup>75</sup> See Janis, *supra* note 38 (noting how predictive coding is a form of artificial intelligence that can be used in the process of collecting information that can be used in electronic discovery).

discovery in a particular case.<sup>76</sup> From this, a blurry line is created, which begs the question, what is the work of the human lawyer and what is the work of the artificially intelligent lawyer?<sup>77</sup>

There are clear and significant differences between a human lawyer and an artificially intelligent lawyer, which must be explained and examined when determining what type of work should each be able to perform in an ethical sense.<sup>78</sup> Generally, there are many barriers to entry in becoming a lawyer, including the receipt of a Bachelor's degree, completion of the LSAT, completion of law school and receipt of a Juris Doctorate, passing the Multistate Professional Responsibility Examination (MPRE), and passing a state Bar Examination.<sup>79</sup> For example, in Massachusetts, the law is that “[a] citizen of the United States, if over eighteen, may file a petition in the supreme judicial court or superior court to be examined for admission as an attorney at law.”<sup>80</sup> If the Board of Bar Examiners believes the petitioner has “good moral character and sufficient acquirements and qualifications and recommends his admission,” he may practice law in all the courts of the Commonwealth.<sup>81</sup> The Board of Bar Examiner’s statement regarding admission indicates that a lawyer admitted into the Massachusetts bar cannot practice law in a jurisdiction in which he is not admitted and cannot assist anyone else in doing so.<sup>82</sup> In 2016, the Massachusetts Supreme Judicial Court adopted the Uniform Bar Exam (UBE), which includes 24 states and the District of Columbia, and allows lawyers taking this exam more flexibility in

---

<sup>76</sup> See Janis, *supra* note 38 (describing some of the functions of artificial intelligence).

<sup>77</sup> See Garcia, *supra* note 20 (highlighting the ethical implications and need for regulation in an area of law that is under-developed).

<sup>78</sup> See Remus, *supra* note 1, at 33 (purporting that artificially intelligent lawyers are capable of advising, communicating, negotiating, interacting with clients, and going to court in replacement of the lawyer).

<sup>79</sup> See *What are the Professional Requirements for Becoming a Lawyer?*, FINDLAW (MAY 2, 2018), archived at <https://perma.cc/A3Z4-7GU8> (detailing the requirements to becoming a lawyer).

<sup>80</sup> See MASS. GEN. LAWS ANN. ch. 221 § 37 (2008) (summarizing Massachusetts law on the admission of lawyers).

<sup>81</sup> See *id.* (describing the good moral standing requirement in Massachusetts).

<sup>82</sup> See MASS. RULES OF PROF’L CONDUCT r. 5.4; r. 5.5 (summarizing the jurisdictional limitations of practicing attorneys in Massachusetts).

moving between jurisdictions.<sup>83</sup> As of March 1, 2018, Massachusetts is administering the UBE.<sup>84</sup> Massachusetts Rules of Professional Conduct also limit the practice of law to members of the bar because it protects the public from receiving legal services from unqualified people.<sup>85</sup>

Unlike lawyers, paralegals can work for an attorney in any jurisdiction in which the attorney supervising is legally authorized to practice law.<sup>86</sup> However, the Rules of Professional Conduct do not “prohibit a lawyer from employing the services of paraprofessionals and delegating functions to them, so long as the lawyer supervises the delegated work and retains responsibility for their work.”<sup>87</sup> This applies to paralegals performing legal work for an attorney, which the attorney must supervise.<sup>88</sup> Additionally, Rule 5.3 sets that standard in Massachusetts that if a lawyer hires a non-lawyer to perform work for the law firm, the lawyer must make a reasonable effort ensuring that the firm has effective measures of reasonably assuring the non-lawyer’s conduct is compatible with the professional obligations of

---

<sup>83</sup> See Karen Sloan, *Massachusetts Joins the Uniform Bar Exam Crowd*, LAW.COM (July 26, 2016), archived at <https://perma.cc/SL7X-DURB> (noting that Massachusetts is one of the major states that adopted this exam).

<sup>84</sup> See *About the Uniform Bar Exam*, MASS.GOV (May 2, 2018), archived at <https://perma.cc/C5XH-LKV3> (indicating that the UBE will be implemented as of March 1, 2018, and the first UBE will be administered in Massachusetts in July 2018).

<sup>85</sup> See MASS. RULES OF PROF’L CONDUCT r. 5.4 (summarizing the jurisdictional limitations of practicing attorneys).

<sup>86</sup> See Nabeal Twereet, *Can A Virtual Paralegal Work For an Attorney In a Different State?*, GIG.COM, archived at <https://perma.cc/5TPS-KEL7> (summarizing how paralegals are not bound by jurisdiction like attorneys).

<sup>87</sup> See MASS. RULES OF PROF’L CONDUCT r. 5.4 (describing the ethical guidelines of lawyers and non-lawyers in the practice of law).

<sup>88</sup> See *In re Hrones*, 457 Mass. 844, 854 (2010) (citing case law which backs up the Massachusetts rule that requires lawyers to supervise paralegals who perform legal work); David J. Hoey, *Everyday Ethics: Up-to-Date Case Law and Paralegal Issues Arising Every Day*, 2 ANN.2008 AAJ-CLE 2153 (2008) (distinguishing the jurisdictional limitations of an attorney from the lack of jurisdictional requirements for paralegals, broadening the scope of a paralegal’s role).

the lawyer.<sup>89</sup>

Throughout history, robots and other artificial intelligence programs have consistently taken the roles of humans in the workplace across various industries.<sup>90</sup> This started in the industrial revolution and as history has it, replacing humans with machines has led to more and better jobs for humans.<sup>91</sup> Today, in the legal profession, artificial technology is capable of having robots advise, communicate, interact with clients, negotiate on behalf of clients, and appear in court on behalf of the client and the lawyer.<sup>92</sup> Due to the increased use of artificial technology within the legal community, new laws and rules of professional conduct must be written to regulate the use of artificial intelligence in replacing lawyers.

### III. Facts

The legal field is ripe for change and that change is technology. Compared to other industries, law is far behind in the utilization and maximization of technology.<sup>93</sup> However, more recently, new technologies are seeping into the legal field, as the potential is high for these artificial intelligence technologies.<sup>94</sup> For example, Kira is a

---

<sup>89</sup> See MASS. RULES OF PROF'L CONDUCT r. 5.3 (highlighting the supervision requirements of the lawyer and the law firm over nonlawyers). The Massachusetts rule also comports with ABA Model Rule 5.3, and many lawyers wonder whether this model rule will change as artificial intelligence becomes more prevalent, similar to changes made to the model rules when cloud computing became prevalent. *See also* Garcia, *supra* note 20 (questioning whether the model rules will change to address AI use by lawyers).

<sup>90</sup> See Barnes, *supra* note 20 (describing how machines have replaced humans throughout history in general and in relation to the legal field); Rebecca J. Rosen, *In Praise of Short-Term Thinking*, THE ATLANTIC (Sept. 2, 2015), *archived at* <https://perma.cc/2EL8-CUUB> (describing how machines have continuously taken over the job functions of humans).

<sup>91</sup> See Rosen, *supra* note 90 (providing examples of how machines have taken many jobs away from humans over time).

<sup>92</sup> See Remus, *supra* note 1, at 33 (describing the functions of current artificially intelligent technology).

<sup>93</sup> See Furlong, *The Intangible Law Firm*, *supra* note 4 (describing the change as law firms transition from tangible assets to intangible assets).

<sup>94</sup> See Ron Friedmann, *Online Legal Services*, PRISM LEGAL (Mar. 4, 2017), *archived at* <https://perma.cc/H2BR-ZV29> (providing an up-to-date list of artificial intelligence programs used by law firms); *see also* Furlong, *The Intangible Law Firm*, *supra* note 4 (referencing Ron Friedmann's list of artificial intelligence programs for law firms); "The only thing to fear is doing nothing" – BLP becomes

form of artificial intelligence and is a program that is marketed specifically to corporations and law firms.<sup>95</sup> This form of artificial intelligence is being used in law firms for contract review, analysis, and knowledge management.<sup>96</sup> Kira lists benefits that are in line with the goals of using artificial intelligence, to include: mitigating risk of errors, faster deal making, increased speed, improved value, happier clients, and in turn, happier lawyers.<sup>97</sup>

Another example of advancing technology commonly referred to as “Your Brand New Artificially Intelligent Lawyer” is ROSS Intelligence (“ROSS”).<sup>98</sup> ROSS is described as being an artificially intelligent lawyer that assists human lawyers in being able to research

---

*first law firm to sign up to RAVN’s artificial intelligence solution*, *LEGAL IT INSIDER* (Sept. 15, 2015), *archived at* <https://perma.cc/DRF2-LKA5> (noting another artificial intelligence system used by American law firms, ACE).

<sup>95</sup> See *Benefits*, *supra* note 3 (showing that Kira is currently being used at AmLaw 100, Chambers Band 1, and Big Four); *How Kira Works*, KIRA (Apr. 2, 2018), *archived at* <https://perma.cc/W59D-MUN7> (describing the intuitive user interface, which allows lawyers to collaborate in real time which promotes flexible and efficient project management); *Kira Built-in Provision Models*, KIRA (Apr. 5, 2018), *archived at* <https://perma.cc/QWR2-67CX> (listing Kira’s the built-in provisions which include the topic areas of due diligence, M&A deal points, general commercial, corporate organization, real estate, finance, ISDA schedules, commitment letters and non-disclosure agreements).

<sup>96</sup> See *Benefits*, *supra* note 3 (explaining that Kira was trusted and used by a company who underwent a \$900,000,000 acquisition). Kira was also used by Elevate, a legal services provider in California, whom needed assistance in reviewing multi-lingual contracts for a Fortune 500 Global Pharmaceuticals company. *Id.* Elevate chose to use Kira and was able to save their client \$500,000 and eliminate at least 5,000 hours of document review. *Id.* Kira also notes that users report consist time savings on contract review of 20 to 60 percent. *Id.*

<sup>97</sup> See *Benefits*, *supra* note 3 (noting that the time not spent on document review is spent in more meaningful ways that add more value to the service). Kira also explains that the lawyers are happier when working with Kira because review is done quicker, but the lawyer is still learning the valuable basics of due diligence. *Id.*

*See also* Furlong, *The Intangible Law Firm*, *supra* note 4 (adding that Kira is being used at firms such as Clifford Chance, DLA Piper, and even at Deloitte). *See also* Marwaha, *supra* note 7 (noting that artificial intelligence programs allow lawyers to identify and mitigate potential risks of a lawsuit earlier and potentially before the risk even occurs).

<sup>98</sup> See Amit Chowdhury, *Law Firm Baker Hostetler Hires a ‘Digital’ Attorney Named ROSS*, FORBES (May 17, 2016), *archived at* <https://perma.cc/4LMW-QLT7> (describing how ROSS started out as a research project at the University of Toronto in 2014 before being adopted by law firms around the world).

faster, so the lawyer can focus on advising clients.<sup>99</sup> ROSS is a system that was created based on IBM's Watson technology.<sup>100</sup> This technology works by having the lawyer ask ROSS a series of questions.<sup>101</sup> ROSS then searches its internal database and locates the answer from its hard drive of previously inputted law in just a matter of seconds.<sup>102</sup> The main benefit of ROSS is that the more it is used, the more it is improved in responding to the questions it is asked.<sup>103</sup> Additionally, ROSS has the ability of updating its work when the law changes and tracks the effect the change in law has on each of its

---

<sup>99</sup> See *id.* (explaining that ROSS allows attorneys to improve response time and allows them to focus on the trying issues of each case).

<sup>100</sup> See Paul Caron, *Artificial Intelligence Will Revolutionize Legal Practice (And Legal Education)*, TAX PROF BLOG (June 14, 2016), archived at <https://perma.cc/7AAA-TWJH> (analyzing that ROSS uses Watson to learn how to use technology quickly answer legal questions); Chowdhury, *supra* note 98 (describing that ROSS was based off of Watson); 'Times Are A-Changin': Disruptive Innovation And The Legal Profession, IBA LEGAL POLICY & RESEARCH UNIT 1, 16 (May 2016) [hereinafter IBA Legal Policy & Research Unit] (characterizing Watson's influence over ROSS).

<sup>101</sup> See IBA Legal Policy & Research Unit, *supra* note 100, at 16 (describing ROSS capabilities to include efficiently answering legal questions and monitoring legal amendments that may impact a case).

<sup>102</sup> See IBA Legal Policy & Research Unit, *supra* note 100, at 16 (noting that research is more accurate and complete with the use of ROSS).

<sup>103</sup> See Chowdhury, *supra* note 98 (highlighting that ROSS can sort through billions of documents in seconds and respond efficiently to questions almost as quickly); Caron, *supra* note 100 (noting that ROSS "can read the entire body of law to return a cited answer, monitor the law to recognize other court decisions that could affect the case at hand"); IBA Legal Policy & Research Unit, *supra* note 100, at 16 (adding that ROSS also sorts through secondary sources as well as relevant case law); Top 20 Legal IT Innovators 2016: Profiling the leaders of unprecedented change in the legal industry, LEGALWEEK INTELLIGENCE 1, 12 (Sept. 2016) (describing the progression of ROSS intelligence). The co-founder of ROSS Intelligence, Andrew Arruda, explains how ROSS Intelligence works in practice:

ROSS harnesses the power of natural language processing. When a user asks a (hypothetical) legal research question, just as they would ask a lawyer, it analyses, compares and contrasts the words and sees the relationships those words have on each other, much like humans do, and therefore it uncovers the intent of the question itself.

*Id.*

cases.<sup>104</sup> It is important to note that the makers of ROSS want their technology to augment human intelligence, not replace humans in the legal profession.<sup>105</sup> However, observers in this area of legal technology predict that artificial intelligence like ROSS, as it continues to improve, will cause the structural collapse of law firms by 2030.<sup>106</sup>

The climate of the legal field that gives rise to this issue is inefficiency among both lawyers and law firms.<sup>107</sup> Jordan Furlong, a leading analyst of the global legal market and forecaster of its future development, describes firms that will be best positioned in the new legal market as ones that are consistent, reliable, and ones that clients can confidently count on.<sup>108</sup> More likely than not, these firms will be using artificial intelligence.<sup>109</sup> Furlong notes that law firms should focus on adaptation, not disruption.<sup>110</sup> He advises and warns law firms to adapt, which will avoid the loss of business, and at the same time, improve productivity and their value in the legal market.<sup>111</sup>

---

<sup>104</sup> See IBA Legal Policy & Research Unit, *supra* note 100, at 16 (stating that lawyers will be able to avoid mundane tasks of updating cases when the law changes). ROSS is programmed with all applicable law and any new changes to the law are incorporated to allow ROSS to update cases. *Id.* When ROSS was first programmed, it learned bankruptcy law in around ten months before being able to be sold commercially. See Chowdhury, *supra* note 98. Bankruptcy law was ROSS' first area of law learned, and today, ROSS has many more legal practice modules beyond bankruptcy. *Id.*

<sup>105</sup> See Caron, *supra* note 100 (contending that ROSS was created to work alongside humans and make them more intelligent).

<sup>106</sup> See Caron, *supra* note 100 (noting that artificial intelligence, among other advancements in technology have already replaced humans in some law firms).

<sup>107</sup> See IBA Legal Policy & Research Unit, *supra* note 98 (suggesting that technology can improve upon the systems currently in place at law firms).

<sup>108</sup> See Furlong, *The Intangible Law Firm*, *supra* note 4 (noting that current law firms are not as reliable as they should be, as Furlong proposes that clients should be billed not from a lawyer's time and effort, but from their finished product); see also Jordan Furlong, *About Jordan*, LAW TWENTY-ONE (Mar. 22, 2018), archived at <https://perma.cc/6NEV-VJBN> (identifying Furlong as a leading analyst in global development for law firms and legal organizations).

<sup>109</sup> See Furlong, *The Intangible Law Firm*, *supra* note 4 (opining that artificial intelligence is part of the new wave in law).

<sup>110</sup> See Jordan Furlong, *Why Law Firms Should Focus On Adaptation, Not Disruption*, LAW TWENTY-ONE (July 6, 2016), archived at <https://perma.cc/7YGH-T3UC> (cautioning law firms to change their technological structure to better conform with the enhancing legal market).

<sup>111</sup> See *id.* (arguing that law firms that adapt with the industry's new technology will grow at a more rapid pace and have a competitive advantage over those firms which are reluctant to evolve); IBA Legal Policy & Research Unit, *supra* note 100,

Inefficiencies of law firms and lawyers in general are not the only determining factor in the new market of law regarding artificial intelligence.<sup>112</sup> Other changes are the result of growing competition from the big four accounting firms and alternatives to the traditional law firm business model.<sup>113</sup> The changes are often described as “disruptive innovation.”<sup>114</sup> Disruptive innovation “[d]escribes a process by which a product or service takes root initially in simple applications at the bottom of a market and then relentlessly moves up market, eventually displacing established competitors.”<sup>115</sup> This process accurately describes the journey and future of artificial intelligence in the field of law.<sup>116</sup>

Additionally, the legal field is becoming increasing susceptible to the idea of artificial intelligence.<sup>117</sup> According to a survey done in 2011 and again in 2015, law firm leaders were asked whether they could envision timekeeper roles in a law firm being replaced by artificial intelligence within the next five to ten years.<sup>118</sup> In comparison to 2011, in 2015, more law firm leaders believe that artificial intelligence could replace timekeeper roles within the next five to ten years.<sup>119</sup> According to the IBA Legal Policy & Research Unit, in

---

at 31 (describing that firms will be doomed if they do not change with the technology).

<sup>112</sup> See Furlong, *The Intangible Law Firm*, *supra* note 4 (highlighting that technology is a driving force behind the recent changes in the legal market).

<sup>113</sup> See IBA Legal Policy & Research Unit, *supra* note 100, at 31 (outlining other factors that are changing the legal industry).

<sup>114</sup> See IBA Legal Policy & Research Unit, *supra* note 100, at 6 (noting that this term was coined by Professor Clayton Christensen in his book, *The Innovator’s Dilemma*).

<sup>115</sup> See IBA Legal Policy & Research Unit, *supra* note 100, at 6 (defining disruptive innovation).

<sup>116</sup> See IBA Legal Policy & Research Unit, *supra* note 100, at 5 (finding that artificial intelligence, especially as it relates to problem solving, will disrupt and radically transform the way lawyers and courts operate).

<sup>117</sup> See IBA Legal Policy & Research Unit, *supra* note 100, at 16 (referencing Figure 20, which is a ‘Law Firms in Transition’ survey that portrays law firm leaders’ perceptions on the likelihood of artificial intelligence taking over roles in a law firm).

<sup>118</sup> See IBA Legal Policy & Research Unit, *supra* note 100, at 16 (defining timekeeper roles as paralegals, first year associates, 2-3 year associates, 4-6 year associates, and service partners).

<sup>119</sup> See IBA Legal Policy & Research Unit, *supra* note 100, at 16 (depicting this finding in a bar chart). More specifically, in 2011, 36 percent of law firm leaders thought paralegals could be replaced by artificial intelligence, compared to 2015,

2011, 46 percent of law firm leaders agreed with the statement, “computers will never replace human practitioners”, but in 2015, only 20.3 percent of law firm leaders agreed with that statement.<sup>120</sup> Change is necessary, especially as the legal market continues to become increasingly competitive.<sup>121</sup> Legal IT Insider, Peter Wallqvist, states in relation to artificial intelligence encroaching on the legal field, “the only thing [law firms] have to fear is doing nothing.”<sup>122</sup> However, Jordan Furlong advises attorneys and future attorneys not to be afraid of artificial intelligence taking away the jobs of lawyers.<sup>123</sup> He instead, asks lawyers to think about how artificial intelligence can be used to help the legal profession and how it can be used for the benefit of clients.<sup>124</sup>

---

where 47 percent agreed. *Id.* In 2011, 23 percent of law firm leaders thought that first year associates could be replaced by artificial intelligence, compared to 2015, where 36 percent agreed. *Id.* In 2011, 14 percent of leaders thought 2-3 year associates could be replaced by artificial intelligence, but in 2015, 19.2 percent agreed. *Id.* Also, in 2011, only 5.5 percent of leaders believed that 4-6 year associates could be replaced by artificial intelligence, where in 2015, 6.4 percent agreed. *Id.* As for service partners, in 2011, 8.5 percent of leaders thought they could be replaced by artificial intelligence and in 2015, 13.5 percent agreed. *Id.*

<sup>120</sup> See IBA Legal Policy & Research Unit, *supra* note 100, at 16 (showing a drastic change in thinking over a four-year period, presumably based on the rapid increase of technology during that time). Additionally, this statement statistically had the most dramatic change in response over just a four-year period. *Id.* In this same study, 4.5 percent of lawyers agreed that computers would replace timekeepers, but not in the next 5-10 years in 2011. *Id.* However, in 2015, 38 percent of lawyers agreed with that statement. *Id.*

<sup>121</sup> See Furlong, *The Intangible Law Firm*, *supra* note 4 (noting that there is a competitive legal market).

<sup>122</sup> See Legal IT Insider, *supra* note 94 (advising law firms to adapt to changes in the market); IBA Legal Policy & Research Unit, *supra* note 100, at 16 (referencing IBM’s success with the supercomputer “Watson” to assert that the status quo is no longer an acceptable means of achievement in the field of law).

<sup>123</sup> See Furlong, *Getting Over Technology*, *supra* note 5 (explaining that artificial intelligence can be a benefit to the legal profession and should not be feared or looked down upon); Marwaha, *supra* note 7 (noting how the quality of a lawyer’s work is improved by artificial intelligence because it reduces the chance for human error). Moreover, the quality of a lawyer’s work is improved through artificial intelligence because it ensures that language is used consistently, even when multiple lawyers are working on the same document. *Id.* Further, artificial intelligence can point out terms that are not properly defined, add internal cross-references, and better organize a document. *Id.*

<sup>124</sup> See Furlong, *Getting Over Technology*, *supra* note 5 (proposing that artificial intelligence may make the client’s experience better because a client will be able to get not only what he or she needs faster and at a lesser cost, but also, the client may

The United States does not currently have any laws regarding the regulation or rights of artificially intelligent beings or robots.<sup>125</sup> However, in January 2017, the European Union began to explore the regulation of robots.<sup>126</sup> Specifically, “European parliament has urged the drafting of a set of regulations to govern the use and creation of robots and artificial intelligence, including a form of ‘electronic personhood’ to ensure rights and responsibilities for the most capable [artificial intelligence].”<sup>127</sup> There was an overwhelming majority vote by the parliament’s legal affairs committee to pass the report, which outlines proposed regulation.<sup>128</sup> Additionally, this report proposes a legal status for robots and artificially intelligent beings,

---

be able to receive higher quality work if lawyers are using artificially intelligent tools in practice); Marwaha, *supra* note 7 (discussing that the use of artificial intelligence will lead to more consistent results, which in turn will increase client satisfaction because there will be more predictability and more confidence in an attorney’s assessments of claims). Additionally, artificial intelligence will decrease many of the mundane tasks lawyers usually preform such as research and document assembly. *Id.* This leaves more time for the lawyer to spend with the client to get more information and to keep the client better informed. *Id.*

<sup>125</sup> See Garcia, *supra* note 20 (describing artificial intelligence as the “wild west” when it comes to the lack of regulation in the United States).

<sup>126</sup> See Rep. of the Comm. of Legal Aff., at M, U.P. Doc. (2015/2103(INL)) (2017) [hereinafter *Report*] (depicting a general system of regulation for robots in the EU); Alex Hern, *Give Robots 'Personhood' Status, EU Committee Argues*, THE GUARDIAN (Jan. 12, 2017), *archived at* <https://perma.cc/TG6E-ADAW> (describing the recent advancement in the discussion of the EU parliament on the regulation of robots); Jon Auston, *Rights For Robots: EU reveals plans for new class of AI electro-person*, EXPRESS (June 23, 2016), *archived at* <https://perma.cc/AR2W-5WCK> (explaining that the reason the EU is looking into the regulation of robots is because robots and artificial intelligence could soon reach the point where they are beginning to think for themselves).

<sup>127</sup> See Hern, *supra* note 126 (noting that a legal framework concerning robots is needed to ensure that robots remain in the service of humans); Auston, *supra* note 126 (mentioning that the EU has discussed limiting the number of human jobs robots and artificial intelligence can replace). The EU is proposing legislation that may include some limitation on the amount of human jobs that can and should be replaced by robots and artificial intelligence. *Id.* There is a push to regulate this area because there is fear that the lack of regulation will cause mass unemployment across the EU. *Id.*

<sup>128</sup> See Hern, *supra* note 126 (describing the proposed report as to the legal status of robots that was voted on in 2017 was expected to be highly controversial). The report identifies a number of areas in need of specific oversight from the European Union, including:

[T]he creation of a European agency for robotics and AI; A legal

which is similar to a corporate legal status.<sup>129</sup> Such a legal status for robots would allow “firms to take part in legal cases both as the plaintiff and respondent.”<sup>130</sup> Because change is imminent, it is necessary to predict and prepare for future laws and implications on the use of artificial intelligence and its limits/boundaries in the field of law.<sup>131</sup>

#### IV. Analysis

The legal industry is undergoing a dramatic change where technology is the driving force.<sup>132</sup> Artificial intelligence will soon become a norm in the legal industry, which means that there should be some regulation before practitioners and non-practitioners abuse this technology.<sup>133</sup> Overall, new technology and artificial intelligence will not

---

definition of “smart autonomous robots”, with a system of registration of the most advanced of them; advisory code of conduct for robotics engineers aimed at guiding the ethical design, production and use of robots; A new reporting structure for companies requiring them to report the contribution of robotics and AI to the economic results of a company for the purpose of taxation and social security contributions[.] A new mandatory insurance scheme for companies to cover damage caused by their robots[.]

*Id.*

*See also Commission on Civil Law Rules on Robotics*, Committee on Legal Affairs (2015) final (Jan. 1, 2017) (explaining the ethical and privacy guidelines that will shape the way information is stored and used in relation to artificially intelligent machines).

<sup>129</sup> See Hern, *supra* note 126 (identifying that this will be helpful in regulating robots, such as robots used in automatic vehicles, medical robots, and drones).

<sup>130</sup> See Hern, *supra* note 126 (pondering the legal implications of fault when dealing with robots in everyday life).

<sup>131</sup> See Debra Cassens Weiss, *Artificial Intelligence In The Legal Profession Should Be Regulated*, *Op-Ed Argues*, ABA J. (July 14, 2016), archived at <https://perma.cc/FL2D-KUKK> (discussing the lack of regulation of artificial intelligence in the United States); Sean Semmler & Zeeve Rose, *Artificial Intelligence: Application Today and Implications Tomorrow*, 16 Duke L. & Tech. Rev. 85, 96 (2017) (highlighting concerns in future the foreseeable regulation of artificial intelligence).

<sup>132</sup> See *The Future of the Professions*, *supra* note 1, at 66 (anticipating a change in the legal field where there will be increased use and a more sophisticated used of technology).

<sup>133</sup> See Remus, *supra* note 1, at 1 (questioning the role of artificial intelligence in law).

end the market for lawyers, however, artificial intelligence will greatly affect the legal profession, meaning lawyers will have to adapt and firms will have to change their business models in order to survive in the new market.<sup>134</sup> This change in the market will likely lead to a combination of work performed by artificially intelligent programs and lawyers, whether the lawyers are solo practitioners or working for a law firm.<sup>135</sup> Due to this change, the artificially intelligent programs will be taking over some of the basic tasks previously performed by lawyers, which means that (1) lawyers will have to adapt and find different areas of work,<sup>136</sup> (2) lawyers should use new forms of technology to their competitive advantage,<sup>137</sup> and (3) new laws of the legal industry must be created in order to include the regulation of artificially intelligent lawyers.<sup>138</sup>

The goal in using artificially intelligent programs is to better lawyering overall.<sup>139</sup> With an artificially intelligent lawyer at your side, lawyers can research faster, put more of a focus on advising clients, and potentially save the client money because of the lawyer's more efficient and lean work process.<sup>140</sup> Lawyers will also be needed

---

<sup>134</sup> See Remus, *supra* note 1, at 1 (foreshadowing how technology will once again change the tasks that lawyers perform).

<sup>135</sup> See Remus, *supra* note 1, at 3 (describing how lawyers will work with artificial intelligence in the future).

<sup>136</sup> See SUSSKIND, *supra* note 1, at 109 (highlighting some of the new tasks lawyers will ultimately end up performing). Some of the new roles for lawyers that Susskind foreshadows are the “Legal Knowledge Engineer”, the “Legal Technologist”, and the “Legal Hybrid”. *Id.* at 112-13. Susskind also notes that lawyers and law firms will need to further diversify in order to stay competitive in the market as a result of increased efficiency across the profession resulting from technology. *Id.* at 113

<sup>137</sup> See Furlong, *Getting Over Technology*, *supra* note 5 (recommending that artificial intelligence be used by law firms to help the client-attorney relationship and help lawyers deliver services more accurately and efficiently to clients); IBA Legal Policy & Research Unit, *supra* note 100, at 30 (providing three areas in which law firms can use technology to improve: the structure of the law firm, the attorney-client relationship, and collaboration between lawyers).

<sup>138</sup> See Furlong, *Getting Over Technology*, *supra* note 5 (foreshadowing that while it may take time for the law to catch up to technology, it likely will, eventually).

<sup>139</sup> See KIRA, *supra* note 3 (detailing the benefits of Kira); ROSS, *supra* note 3 (detailing the benefits of ROSS).

<sup>140</sup> See *Do More Than Humanly Possible: Supercharge Lawyers With Artificial Intelligence*, *supra* note 3 (explaining the goals behind the creation of ROSS include intuitive inquiries, precision highlighting, law monitoring, thorough legal memoranda, and targeted overviews); Marwaha, *supra* note 7 (noting benefits of artificial

to analyze new law and apply new laws to cases, something artificial intelligence will not be able to do until it is programmed.<sup>141</sup> This means that lawyers will have to become more advanced in information technology and begin to better bridge the gap between law and technology in the future.<sup>142</sup> This is an example of how the job function and work process of lawyers will change with the increased use of artificially intelligent lawyers in law firms.<sup>143</sup>

There has been a recent trend for more contract lawyers as seen in the examples of online legal service providers including LegalZoom, Legal Shield, and Rocket Lawyer.<sup>144</sup> For contract lawyers to be successful in a world with artificially intelligent lawyers, it will be necessary to specialize in a certain area of law and become an expert in that area.<sup>145</sup> Richard Susskind disagrees with this view and asserts that lawyers will have to further diversify their practice areas in the new era of the legal field.<sup>146</sup> Susskind notes that lawyers will need to broaden their areas of expertise in order to add more value to the legal services they are offering their clients because lawyers will be competing and/or delegating work to the artificially intelligent

---

intelligence in law firms include better quality work, better client interaction and overall satisfaction, and less frustration for lawyers).

<sup>141</sup> See SUSSKIND, *supra* note 1, at 111 (noting that this will be a task for the “Legal Knowledge Engineer”). This will be a more taxing job than it has been in the past, but will still involve legal analysis and legal research that must be performed by an attorney. *Id.* These lawyers must also be equally skilled in programming the artificially intelligent programs with the new law and the analysis of the new law. *Id.* at 112.

<sup>142</sup> See SUSSKIND, *supra* note 1, at 112 (noting that this will be a task for the “Legal Technologist”). Previously, information technology consultants worked with lawyers to perform tasks, but it would seem more efficient for lawyers to be able to be knowledgeable enough in information technology to be able to perform these tasks without expert consultants. *Id.*

<sup>143</sup> See SUSSKIND, *supra* note 1, at 112 (highlighting potential new jobs for lawyers in the future).

<sup>144</sup> See *Knowledge Center*, *supra* note 44 (indicating its recent push for hiring contract attorneys to better assist clients from different jurisdictions). A contract lawyer is one who is brought in the firm as a subcontractor to handle a specific case or legal task. *Id.*

<sup>145</sup> See *Knowledge Center*, *supra* note 44 (suggesting that there is a specialist attorney from many jurisdictions and in many concentrations across the country).

<sup>146</sup> See SUSSKIND, *supra* note 1, at 113 (noting that this will be a task for the “Legal Hybrid” as diversification becomes essential to stay in business).

lawyers.<sup>147</sup> However, Susskind then adds that lawyers will need to diversify and then become so knowledgeable in the new area of law they are trying to master, that they then become experts.<sup>148</sup> Therefore, there is ultimate agreement that lawyers will need to do more specializing, even if that means they will be specializing in more than one area of law in order to meet the needs of the new legal market.<sup>149</sup> With a new legal market emerging, lawyers must continue to adhere to the laws of their jurisdiction, but what does this mean for the new artificially intelligent lawyers?<sup>150</sup> As previously discussed, the barriers to entry in becoming a lawyer, include obtaining a Bachelor's degree, taking the LSAT, receiving a Juris Doctorate from an accredited law school, passing the MPRE, and passing a state Bar Examination.<sup>151</sup> In addition to all of the above-mentioned requirements, the Board of Bar Examiners must decide whether each person requesting to be admitted into the bar has a good moral standing to be an attorney at law.<sup>152</sup> Unlike these stringent rules for soon-to-be attorneys, robots and artificially intelligent programs do not have to go to law school, take a state Bar Examination, nor go through any of the requirements that prospective lawyers must go through.<sup>153</sup> Based on this information, how can the law and state regulations possibly allow robots to advise, communicate, interact with clients, negotiate on behalf of clients, and appear in court on behalf of the client and the lawyer?<sup>154</sup>

---

<sup>147</sup> See SUSSKIND, *supra* note 1, at 113 (predicting that diversification is the future for lawyers as “traditional service[s] become less common”).

<sup>148</sup> See SUSSKIND, *supra* note 1, at 113 (implying that lawyers must become knowledgeable in more than one subject area of law).

<sup>149</sup> See SUSSKIND, *supra* note 1, at 113 (indicating that lawyers need to be specialized in more than one area of law); Knowledge Center, *supra* note 44 (providing resources to contact lawyers who are specialized in multiple areas of law).

<sup>150</sup> See Furlong, *Getting Over Technology*, *supra* note 5 (mentioning that the law will need time to catch up to current and future changes in technology). Specifically, Furlong notes, “Law, which is so far behind technologically and has so much ground to make up, is going to experience that gift in an especially rapid-fire and visceral fashion.” *Id.*

<sup>151</sup> See M.G.L.A. 221 § 37 (providing the general requirements to become a lawyer in Massachusetts).

<sup>152</sup> See M.G.L.A. 221 § 37 (highlighting the importance that every lawyer must have a good ethical standing in order to be admitted as an attorney).

<sup>153</sup> See M.G.L.A. 221 § 37 (explaining the rules of admission of a lawyer in Massachusetts).

<sup>154</sup> See Remus, *supra* note 1, at 33 (describing the functions of artificially intelligent programs, which are weak at the moment, but may gather strength in time).

Some argue that these forms of artificial intelligence are created and then enhanced by humans, particularly by lawyers.<sup>155</sup> The artificially intelligent programs used by law firms today go through a training process in order to be ready to work alongside lawyers.<sup>156</sup> These artificially intelligent programs like Kira and ROSS are first programmed with legal information, including statutes and all possible case law, and then lawyers further program Kira and ROSS as they work, so these robots can continuously become more knowledgeable in the field.<sup>157</sup> Even though these artificially intelligent lawyers will learn on their own, they were programmed by humans and are ultimately the product of humans.<sup>158</sup>

Lawyers using artificially intelligent programs to perform basic functions such as legal research are realistically not much different from how lawyers outsource work to contract attorneys, paralegals, and offshore firms.<sup>159</sup> If lawyers begin outsourcing work to robots and artificially intelligent programs, will this lead to ethical issues of the unauthorized practice of law?<sup>160</sup> Normally, non-lawyers cannot perform legal tasks.<sup>161</sup> However, as previously noted in the

---

<sup>155</sup> See *Benefits*, *supra* note 3 (introducing an artificially intelligent program used in law firms); *Do More Than Humanly Possible: Supercharge Lawyers With Artificial Intelligence*, *supra* note 3 (quoting an argument that the artificial intelligence is the product of lawyers).

<sup>156</sup> See *How Kira Works*, KIRA (Apr. 2, 2018), *supra* note 95 (noting the process by which this technology was created); ROSS, *supra* note 3 (detailing how lawyers adapt the artificially intelligent programs to become more knowledgeable about not only the law, but also about human interactions).

<sup>157</sup> See *Kira Built-in Provision Models*, *supra* note 95 (describing the built-in provisions which cover various areas of legal work and allow rapid adaption to new concepts).

<sup>158</sup> See Remus, *supra* note 1, at 33 (predicting the impact of automation on areas of client counseling will remain weak because of the need for human interaction regardless of the tools available).

<sup>159</sup> See Silver, *supra* note 43, at 404 (providing examples of how lawyers delegate work, such as tasks including: financial and accounting services, presentation preparation services, and litigation support services).

<sup>160</sup> See *In re Opinion No. 24 of the Committee on the Unauthorized Practice of Law*, 128 N.J. 114, 127 (1992) (noting the decision made on the unauthorized practice of law). Attorneys may delegate tasks to unauthorized employees in order to maintain direct relationships with clients as long as the attorneys supervise the work. *Id.*

<sup>161</sup> See *id.* (discussing paralegals who work under the supervision of an attorney). A paralegal can be both an employee of the law firm or retained as an independent paralegal. *Id.*

context surrounding paralegals performing legal tasks under lawyers, paralegals may perform legal tasks under the supervision of an attorney.<sup>162</sup> This law specifically points to paralegals having this power, but if artificial intelligent lawyers, such as robots, begin to perform legal tasks, this law should be further extended to include robots.<sup>163</sup> Otherwise, lawyers could attempt to act unethically by using their artificially intelligent co-counsel, who would have no ethical obligations under the law.<sup>164</sup>

Even though there have been new advents of technology in the legal field, there is a notable difference here in using an artificially intelligent lawyer unethically and other pieces of technology unethically, which gives a better argument to extend ethics laws to include robots specifically.<sup>165</sup> For example, if a lawyer did not do enough legal research through Lexis or Westlaw to zealously advocate for their client, this may be an ethical violation against the lawyer, not Lexis or Westlaw.<sup>166</sup> However, if an artificially intelligent lawyer unethically negotiates on behalf of its client, the human lawyer may not be ethically responsible.<sup>167</sup> Considering the fact that artificially intelligent programs are able to negotiate, mediate, and advise clients, this would be the performance of a legal task beyond what is permitted even for paralegals, and new law should be created to reflect these potential ethical violations.<sup>168</sup>

<sup>162</sup> See *id.* at 125 (recognizing that attorneys often delegate work to non-lawyers including clerks, secretaries, and other lay persons, and the permissibility of such delegation).

<sup>163</sup> See *id.* at 129 (stating that paralegals sometimes have the power to perform legal tasks without having to belong to any paraprofessional organizations).

<sup>164</sup> See *In re Opinion No. 24*, 128 N.J. 114, 127 (1992) (asserting that if an attorney does hire a paralegal, both the attorney and paralegal have ethical obligations to fulfill).

<sup>165</sup> See JENSON, *supra* note 12 (describing the need for attorneys to maintain an understanding of advancements in order to properly and ethically use technology).

<sup>166</sup> See Black, *supra* note 29 (highlighting Lexis and Westlaw as examples of legal technology).

<sup>167</sup> See *In re Opinion No. 24* of the Committee on the Unauthorized Practice of Law, 128 N.J. at 125 (1992) (discussing that ethical standards apply to paralegals who are “person[s]”). The ABA defines a paralegal as “a person qualified through education or training” to perform legal tasks. *Id.*

<sup>168</sup> See Canaday, *supra* note 26 (highlighting the work paralegals are legally authorized to perform for an attorney).

Additionally, lawyers can only practice law in the states in which they have passed the Bar Examination and have been admitted.<sup>169</sup> However, paralegals may work for lawyers in different jurisdictions as long as the attorney they are working under is authorized to practice law in that particular jurisdiction.<sup>170</sup> With this considered, what should be the law regulating practice in terms of jurisdiction for artificially intelligent lawyers?<sup>171</sup> Artificially intelligent lawyers, such as the Kira and ROSS systems, have the capability of learning the law in every jurisdiction across the nation and also have the ability to recall any portion of the law accurately when prompted.<sup>172</sup> Due to this, new law regarding the jurisdictional limitations surrounding artificially intelligent lawyers should mimic the jurisdictional rules of paralegals, rather than the jurisdictional laws for lawyers.<sup>173</sup>

The United States should look at law comparatively from other nations when drafting law that would regulate robots and artificial intelligence in the workplace, including law firms.<sup>174</sup> The European Union's (EU) recent report from January 2017 that proposes how the EU regulates robots and artificial intelligence is a broad regulation of robots and artificial intelligence across society and attempts to give robots corporate legal status.<sup>175</sup> This report also places

---

<sup>169</sup> See MASS. RULES OF PROF'L CONDUCT r. 5.5 (setting forth the law in Massachusetts regarding jurisdictional limitations for lawyers).

<sup>170</sup> See Hoey, *supra* note 88 (defining the role of paralegals and noting that jurisdictional limitations do not apply to paralegals the same way they apply to attorneys).

<sup>171</sup> See MASS. RULES OF PROF'L CONDUCT r. 5.5 (providing that in order for a lawyer to practice, he/she must be admitted to the bar in his/her respective jurisdiction); Cassens Weiss, *supra* note 131 (discussing the lack of regulation over artificial intelligence becoming a question of legal protection).

<sup>172</sup> See KIRA, *supra* note 3 (considering the learning capabilities of artificially intelligent programs); ROSS, *supra* note 3 (explaining learning capabilities of artificially intelligent lawyers).

<sup>173</sup> See Sean Semmler & Zeeve Rose, *supra* note 131 (examining regulatory concerns surrounding artificial intelligence use in legal practice). Among other things, this article points out how artificially intelligent lawyers do not go to law school and do not hold licenses to practice law. *Id.* In this regard, artificially intelligent lawyers can be characterized much like paralegals. *Id.*

<sup>174</sup> See Hern, *supra* note 126 (noting that the EU has begun developing regulations on robots and artificial intelligence); Auston, *supra* note 126 (suggesting that the EU began discussions on the regulation of robots before June 2016 because of an increase in the production and use of robots).

<sup>175</sup> See Report, *supra* note 126 (providing broad regulation framework for robots across several industries in the EU); Hern, *supra* note 126 (commenting that robots may be given corporate legal status and thus be subject to litigation).

limitations and restrictions on the developers and manufacturers of robots and artificially intelligent machines.<sup>176</sup> Interestingly, the European Committee on Legal Affairs referenced robots and artificial intelligence in the workplace specifically, with a focus on new liability concerns and where legal responsibility lies.<sup>177</sup> Law that is developed more fully in the EU and in the United States in the future should consider the implications and legal liability on robots in specific professional fields, including the legal field.<sup>178</sup> Although this is only the beginning of regulation for robots and artificial intelligence, the EU seems to be on the forefront of law in this area.<sup>179</sup>

In looking at the legal field specifically, new law should be created to prohibit artificially intelligent lawyers from being able to negotiate, mediate, or advise clients because these are tasks performed by lawyers, and if performed by someone other than a lawyer on behalf of a client, is the unauthorized practice of law.<sup>180</sup> These tasks would go beyond the scope of a machine and into the scope of what it means to be a practicing attorney.<sup>181</sup> Instead, new law should seek to set ethical boundaries for artificially intelligent lawyers in

---

<sup>176</sup> See *Report*, *supra* note 126 (asserting that there should be a “kill switch” or other similar mechanisms that can be employed by the designer, manufacturer, or user). The Committee on Legal Affairs also advises designers to “take into account the European values of dignity, autonomy and self-determination, freedom and justice before, during and after the process of design, development and delivery of such technologies including the need not to harm, injure, deceive or exploit (vulnerable) users.” *Id.*

<sup>177</sup> See *Report*, *supra* note 126 (suggesting that the status of legal liability of robots in the workplace needs to be further developed over time).

<sup>178</sup> See *Report*, *supra* note 126 (developing broad regulation and looking at a few of the fields that robots impact significantly, including vehicle manufacturing, medicine, and the military).

<sup>179</sup> See Auston, *supra* note 126 (explaining that while the majority of robots used in the world are in Japan and Germany, the EU in particular is taking the regulatory implications seriously).

<sup>180</sup> See *Report*, *supra* note 126 (describing the proposed law of the EU regarding robots and artificial intelligence). The European Parliament also notes in its report that “it is vitally important for the legislature to consider its legal and ethical implications and effects, without stifling innovation...”. *See also Furlong, supra* note 5 (asserting that new law should reflect the changes in technology, but will take a while to do so).

<sup>181</sup> See M.G.L.A. 221 § 37 (highlighting a set of the governing rules to practice law in Massachusetts include filing a petition and becoming a member of the state bar); Denckla, *supra* note 50, at 2583 (pointing out how the law prohibits non-lawyers from providing legal advice and drafting legal documents).

performing tasks similar to what is allowed for paralegals.<sup>182</sup> Specifically, artificially intelligent lawyers should be permitted to perform legal research for an attorney, assist the attorney in creating legal arguments for a case, and possibly even co-chairing with an attorney in a court of law.<sup>183</sup> However, an artificially intelligent lawyer should not be able to have its own clients, negotiate on its own behalf of a client, nor should it be allowed to go to court alone on behalf of a client.<sup>184</sup> If an artificially intelligent lawyer did any of the previous prohibitive tasks, it would be the unauthorized practice of law and therefore, unethical.<sup>185</sup> Thus, this new law should include a caveat authorizing the artificially intelligent lawyer's work to be supervised by an attorney, similar to supervision of paralegals or non-lawyers performing legal functions.<sup>186</sup>

## V. Conclusion

Whenever there is a significant change in a market or profession, regulations and rules should always accompany the change in order to prepare the market and to ensure that there is no abuse caused by lack of regulation. The legal market has been changing at the hand of technology and as technology advances, the more dramatic the change is for the legal profession. The current wave of technology in law is artificial intelligence. Lawyers and law firms are already using artificially intelligent programs such as ROSS and Kira to do legal research and analysis. As artificial intelligence increases in complexity, it will be necessary to impose regulations to limit its use in the legal practice. Watson-like artificial intelligence technology is starting to be used by law firms.

---

<sup>182</sup> See *In re Opinion No. 24 of the Committee on the Unauthorized Practice of Law*, 128 N.J. 114, 127 (1992) (discussing the authorized scope of paralegal work under New Jersey law and ethics rules).

<sup>183</sup> See *id.* at 125 (quoting how the ABA's defines paralegal, including the broad routine tasks he or she may perform in the scope of his or her work).

<sup>184</sup> See *id.* at 127 (reserving these particular tasks and functions to licensed attorneys).

<sup>185</sup> See M.G.L. c. 221 § 41 (providing the statutory prohibition on the unauthorized practice of law in Massachusetts); MASS. R. PROF. CONDUCT r. 5.3 (outlining the unauthorized practice of law within Massachusetts).

<sup>186</sup> See MASS. R. PROF. CONDUCT r. 5.3 cmt. 2 (indicating that work by a non-lawyer must be adequately supervised by an attorney).

Today, there is the capability and possibility that robots a.k.a. artificially intelligent lawyers to perform client intakes, advise clients, take depositions, and even sit as co-counsel at a trial. This is worrisome as it encroaches into the realm of the unauthorized practice of law, which is prohibited in all states. Due to this, jurisdictions should consider limiting the amount of work an artificially intelligent lawyer could perform. A practical solution would be for jurisdictions to limit the work paralegals are authorized to perform, as well. Regulating the work an artificially intelligent lawyer can perform would create commonality through the United States and would prevent the risk of the unauthorized practice of law.