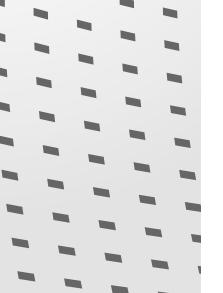


ChatGPT and Generative Al within Law Firms

Law firms see potential, eye practical use cases and more knowledge around risks





ChatGPT & Generative AI within Law Firms: Law firms see potential, eye practical use cases and more knowledge around risks

Roughly six months after OpenAI unveiled the ChatGPT prototype for public use, many lawyers in the U.S., U.K., and Canada are already aware of the tool and what it can do. Many have even experimented with the application and have pinpointed potential use cases within their own work, with more than three-quarters saying they believe that ChatGPT and its overarching technology, generative artificial intelligence (AI), can be readily applied to legal work, and more than half saying that it should be.

And yet there remains several unknowns, with many firms still considering how those use cases should be applied to daily work and how firms can best mitigate the tool's accuracy and privacy risks. And particularly as the generative AI and ChatGPT technology remains in its early stages, it's likely that attitudes will change rapidly as new technological breakthroughs and use cases are introduced.

Executive summary

To shed further light on this, the Thomson Reuters Institute has conducted research around attitudes towards generative AI and ChatGPT within law firms, measuring awareness and adoption of the technology as well as views on its potential risks. Our survey research, summarized and distilled in this report, indicates that a vast majority of lawyers and law firm professionals are aware of generative AI and ChatGPT, and a majority believe it should be used for legal work.

"Within the next six months everybody at the firm will be using it," said Charlotte Woolven-Brown, Head of Employment and a Partner at law firm Sternberg Reed in the United Kingdom. "And there's absolutely no way you're going to stop that, because people will get more in tune with what's happening and how quickly this technology is developing."

Yet, many law firms are eyeing potential risks of the technology and are seeking more information around how generative AI functions and how it uses data inputs. Some respondents sought knowledge on the tools' perceived level of accuracy and the potential for "hallucinations" of made up facts, while others invoked privacy concerns around how confidential data would be used. Some even raised ethical objections to the overall use of generative AI

"Within the next six months everybody at the firm will be using it."

- Charlotte Woolven-Brown, Head of employment, Partner at U.K. law firm Sternberg Reed

for legal work at all, believing attorneys "are guided by ethical rules that take heartfelt understanding that simply cannot be programmed by algorithm."

The result of all this evolving technological change is a law firm world that has positive inclinations towards generative AI but is still seeking its place within the firm: Although many agree that it can and perhaps should be used for legal work, roughly 5% of survey respondents are actually using generative AI right now or have firm-wide plans to introduce generative AI. And in the interim, while about one-third said they were still considering whether or not to use generative AI for firm operations, some are taking a conservative approach: About 15% of respondents said their firms have warned employees against unauthorized generative AI use at work, with 6% saying their firms have banned unauthorized usage outright.

Takeaways of the report

Our survey research revealed several key findings that deserve special attention from law firm leaders and other legal professionals as ChatGPT and generative AI evolve from concept to reality for the vast majority of the legal industry participants.

Evolving attitudes around ChatGPT — While almost everybody we surveyed had heard of ChatGPT and generative AI, more than 80% respondents said there are ways that the new technology can be applied to legal work. However, that percentage fell to just more than half of respondents when they were asked if they believed it should be applied to legal work.

Jason Adaska, Director of the Innovation Lab at U.S. law firm Holland & Hart, said he is finding a similar shift in attitudes among those at the firm. "The biggest delta I've seen is just people understanding that the realm of the possible has sort of shifted in a monumental way," he explained, adding that this means generative AI education has become critical. "This is actually the most important thing for us, strategically the most important thing for the firm and our department, is to put resources out there."

Taking a cautious, yet hands-on approach —

Current use of generative AI or ChatGPT for law firm operations is rare, with just 3% of respondents saying it is currently being used at their firms; and about one-third of respondents are considering its use. Interestingly, 6-in-10 respondents said their firms have no current plans for generative AI use in their operations.

Given this, it's not surprising that some firms are taking a more cautious approach to understanding "The biggest delta I've seen is just people understanding that the realm of the possible has sort of shifted in a monumental way."

- Jason Adaska, Director of the Innovation Lab at U.S. law firm Holland & Hart

generative AI, even while remaining more proactive as opposed to other technologies that law firms might have waited until further in the development cycle to explore. "In this case, we're talking about potential tenfold change. So, the order of magnitude is different, and I think that's why it's catching more attention than all the other technologies that were more incremental," said Arsen Shirokov, National Director, Information Technology at Canadian law firm McMillan.

"As they become available, we want to be able not to just say, here's another news article and another technology vendor announced a product, it's just AI. We want to say, this product actually solves this, this, and that, and then map it to use cases."

Growing awareness of the risks of use and non-use — There remains several unknowns, particularly as it relates to potential ChatGPT adoption and how generative AI would fit into a firm's risk profile. Indeed, concerns voiced in our survey seemed to revolve around the technology's accuracy and security, with worries over how primary law firms concerns of privacy and client confidentiality will be addressed. Perhaps not surprisingly, about one-third of firms surveyed said they are still weighing whether or not they want to apply generative Al to firm operations at all. About the same number reported being unsure about their firm's approach to generative AI risks.

"I don't know if there's anybody out there in the world right now that actually has a good sense of what the boundaries are of what it can do well and what it can't do well," said Holland & Hart's Adaska.

Methodology

The Thomson Reuters Institute conducted the research for this report by sending invitations to an online survey to midsize and large law firms, along with law firm members of the Thomson Reuters Influencer Coalition panel, located in the United States, United Kingdom, and Canada. There were 443 applicable survey respondents between March 21 and 31, 2023.

Of these respondents, 62% were from midsize law firms (between 30 and 179 attorneys); and the remaining 38% were from large law firms (more than 180 attorneys), with 17% of total respondents from firms with more than 500 attorneys. The majority of the respondents were from the U.S. (63%), with 23% of respondents from the U.K., and 14% from Canada.

The respondents' job titles were roughly split between partners/managing partners (34%), associates (30%), and other lawyers (26%). The remaining 11% of respondents were split between paralegals, law librarians, C-suite/executive leadership, and IT/technology management.

Those respondents completing the survey were also asked selected open-ended questions concerning their opinions around why generative AI should or should not be used for legal work, as well as the potential risks of generative AI, and if they believed those risks existed. The Thomson Reuters Institute also conducted additional qualitative interviews to further flesh out generative AI beliefs in addition to the survey responses.

Background

Generative AI — the algorithms that are used to create new content such as images, videos, audio, text, and 3D models — are not a wholly new concept. A 2018 paper titled Improving Language Understanding by Generative Pre-Training¹ proposed the generative pre-training (GPT) model of creating new text by proposing the next word in a series. That same year, the Bidirectional Encoder Representations from Transformers (BERT)² report proposed a similar text-generation method by predicting words found in the middle of a sequence. In the ensuing years, researchers around the world worked to make generative AI models more accurate and more conversant in plain language.

Within the past six months, however, public perception of generative AI applications has skyrocketed. In large part this is due to the public availability of the ChatGPT application, created by research laboratory OpenAI. Originally launched in November 2022, ChatGPT allowed members of the general public to experiment with generative AI tools, giving the application prompts to generate content across a whole host of knowledge disciplines, which would then provide answers in plain text. ChatGPT was originally built on the GPT-3.5 family of large language models and has since been upgraded to GPT-4 for paid subscribers, providing a new level of accuracy to the tool.

With ChatGPT's release, and with companies such as Microsoft and Google introducing their own generative AI tools for public use, the legal industry has begun pondering its own use cases for generative AI. With ideas ranging from document generation and review, to legal research and knowledge repositories, to chatbot and help desk applications, it seems that every aspect of the legal experience could be impacted. Even with the technology's relatively recent rise, some law firms are already considering adoption of generative AI tools.

¹ Improving Language Understanding by Generative Pre-Training, OpenAl (Alec Radford, Karthik Narasimhan, Tim Salimans, and Ilya Sutskever); published 2018; available at: https://cdn.openai.com/research-covers/language-unsupervised/language_understanding_paper.pdf.

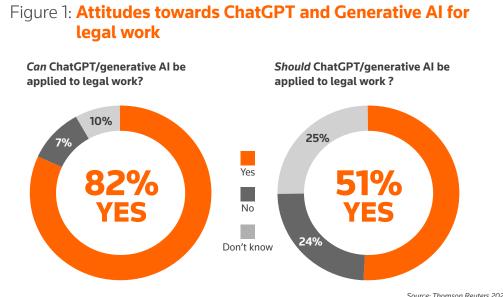
BERT: Pre-training of Deep Bidirectional Transformers for Language Understanding, Cornell University (Jacob Devlin, Ming-Wei Chang, Kenton Lee, and Kristina Toutanova); published May 2019; available at: https://arxiv.org/pdf/1810.04805.pdf.

Evolving attitudes around ChatGPT and generative Al

In general, the legal profession is highly aware of generative AI and ChatGPT. A full 91% of our survey respondents indicated they had heard of or read about generative AI or ChatGPT, including 93% of respondents from large law firms and 90% of respondents from midsize law firms. Those figures also varied slightly by geography: Canada (97%) registered the highest rate of generative AI/ChatGPT recognition, while the U.K. (86%) registered the lowest.

McMillan's Shirokov noted that this technology seems to have caught law firms' collective consciousness like few others technologies before it, especially given the type of work it performs. "It definitely caught much more attention than pretty much all the other technology-related breakthroughs that happened in the last 20 years," he said. "Like when cloud happened, the lawyers just said, 'Yeah, we still work the same way.' But this one, just because the result of the technology directly competes with the result of what lawyers produce, I think it definitely got their attention."

Jessica Lipson, Partner and Co-Chair of the Technology, Data & IP Department at U.S. law firm Morrison Cohen, added that she is receiving more questions about legal technologies than ever before, largely due to the public interest in generative AI's development. "As everybody's reading about ChatGPT and Bard and all these things on the news, they're getting curious. They're saying, 'Hey, could we implement some of these technologies?' And, of course, yes, we can — it's a matter of time and money to implement them, but yes."



Source: Thomson Reuters 2023

In large part, those who were aware of generative AI or ChatGPT felt positively about the tools' potential use in the legal profession. The survey asked separately whether generative Al or ChatGPT can be applied to legal work, and whether it should be applied to legal work. In both cases, more than half of respondents answered in the affirmative.

A large majority of respondents (82%) answered that generative AI or ChatGPT can be applied to legal work, a figure that stayed roughly consistent regardless of geography, size of firm, or job title. Just 7% said that they did not feel generative AI or ChatGPT could be applied to legal work, while 10% of respondents said they did not know one way or the other.

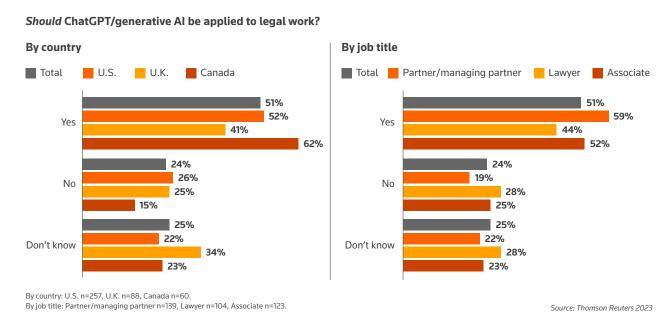
Asking whether generative AI or ChatGPT should be applied to legal work, however, caused some more skepticism and uncertainty. Just more than half (51%) of survey respondents who had heard of generative AI or ChatGPT said they believed it should be applied to legal work. The remaining respondents were roughly split between those who did not believe it should be applied to legal work (24%) and those who did not know either way (25%).

Interestingly, attitudes as to whether these tools should be applied to legal work varied by both geography and by job title. Respondents from Canada felt more positively about generative AI and ChatGPT, with 62% saying they believe that those tools should be applied to legal work, while 15% said they believed they should not be. On the other end, only 41% of U.K. respondents felt the tools should be applied to legal work. This may be largely due to uncertainty. More than one-third (34%) of U.K. respondents said they did not know whether generative AI or ChatGPT should be applied to legal work, more than 10 percentage points higher than those in the U.S. or Canada.

Worries over accuracy, loss of purpose

Interestingly, partners and managing partners at law firms generally felt more positive than other types of attorneys that generative AI or ChatGPT should be applied to legal work. Fully 59% of partners and managing partners felt generative AI should be applied to legal work, compared with 52% of associates and 44% of other lawyers within firms.





From his own conversations, Shirokov at McMillan noted that many attorneys — and especially partners — are interested in ChatGPT and generative AI not only because of the tools' technological capabilities but for their potential for commodifying low-value work. "[Lawyers] are not typically excited about changing their ways or disrupting the industry that way, but I think lawyers ultimately do see this as an opportunity to actually positively change their business, especially partnership," Shirokov noted. "Partners understand the business model a little bit more."

Holland & Hart's Adaska also noted that the public-facing ChatGPT has offered something that past legal technologies may have not: a chance to be hands-on. That first-person contact can shift perspectives, he said. "I think that's the story of the last few months in this," Adaska added. "That a number of people who maybe would have either not paid attention or have been skeptical are being won over by actually trying things they thought weren't possible and being pleasantly surprised."

On the other hand, many survey respondents who felt that generative AI or ChatGPT should not be applied to legal work felt strongly in their viewpoints. Some focused on accuracy issues in generative AI tools, with one respondent writing: "Rigorous fact-checking would be required and the time spent would likely be similar if the work had been manually done, except with the increased risk that something may slip through the review process."

Others would like to see more out of generative AI in the future, such as one respondent who said: "I tested ChatGPT 4.0 and, although the responses can sound quite convincing, the software completely misunderstood the holding of a case I specifically asked it about and fabricated citations and authorities on a general legal question. These tools are just not dependable yet."

Further, a number of respondents who said generative AI should not do legal tasks were also fundamentally opposed to having technology tackle tasks historically performed by a human. One respondent called the idea "malpractice and practicing law without a license on its face," adding that it was "an affront to the legal profession, which is based on the intelligence, advocacy, and compassion of human minds, for which a computer, technology, or app can never replace."

Other responses mirrored that sentiment, noting that "legal work is more than just words," and "the client relationship and understanding of a client's business... cannot be replicated." Another added that "justice is a human function to be administered by human beings."

It is worth noting, however, that respondents felt slightly better about using generative Al or ChatGPT for non-legal work within a law firm, such as basic question & answer services or other administrative tasks. Almost three-fourths (72%) of respondents said they felt that generative AI or ChatGPT should be applied to non-legal work within a firm, 21 percentage points higher than for legal work. Just 7% answered that they should not be applied to nonlegal work, while 21% answered that they did not know. These findings too were roughly consistent across firm size, geographies, and job titles.

Taking a proactive approach to use in law firm operations

Despite a large number of law firm attorneys and professionals believing that generative AI or ChatGPT can and should be used for legal work, adoption of these tools in law firms has largely not yet begun. Some firms are currently weighing whether or not to use these tools in firm operations, but a majority of respondents indicated they have no plans to use generative AI in firm operations at this current time.

Overall, just 3% of respondents said they are already using generative AI or ChatGPT for law firm operations, and an additional 2% said they are actively planning for its use. About onethird of respondents (34%) are still in the consideration phase for generative AI and ChatGPT, while 60% answered they have no current plans for generative AI use in firm operations.

Holland & Hart is one of those firms that is actively planning use cases for its operations. Adaska, Director of the firm's Innovation Lab, noted that his team has been exploring large language models for years and is currently in an "experimental phase" around generative AI. "My guess is the first cut of this is going to be, in the same way that a senior attorney may have an associate provide an initial draft and they do some analysis on it: 'Okay, Is that good?'" he explained. "There's probably going to be a similar step that's being done, but now some of those inputs come from a generative model."

Morrison Cohen's Lipson, meanwhile, is considering the question & answer capabilities of the tool. "I think it would be a good assistant, if

Figure 3: Planned ChatGPT and Generative AI usage in firm operations

Use/plan to use ChatGPT/ generative AI for firm operations



Source: Thomson Reuters 2023

you will," she said. "Somebody to give you a little bit of guidance, a little bit of initial context."

And in some cases, individual attorneys are adopting these tools to aid their own work as well. That's how Sternberg Reed's Woolven-Brown began using generative AI, exploring publicly available options such as ChatGPT. Now, she said, "I've been using it more for letters, statements, all sorts of things. I'm using it more than Google."

Usage rates vary slightly based on firm size, geography, and job title. Not surprisingly, large law firms were more likely to be considering generative AI than their midsize counterparts, with 40% of large law firm respondents saying they were considering the technology compared to 31% at midsize law firms. Large law firms were also slightly more likely to be using the technology already, with 5% of large law respondents saying such tools were already in use compared to 2% at midsize firms.

A solution for staffing problems?

U.K. and Canadian firms may also be ahead of the adoption curve compared to their U.S. counterparts, according to the survey. In both the U.K. and Canada, 9% of law firm respondents said they were either already using generative AI or planning for its use, compared to 3% of U.S.-based firms. Meanwhile, 64% of U.S. firm respondents said they have no plans for generative AI use in firm operations, compared with 59% of U.K. firms and 48% of Canadian firms.

Law firm partners or managing partners also were more likely to be exploring generative AI use compared with other roles in the firm, particularly associates. While a similar number of respondents across job titles indicated they were using generative AI currently or planned to use generative AI, 40% partners said they were considering whether or not to use the technology — 12 percentage points higher than associates.

Interestingly, more than two-thirds (67%) of associates said they had no plans to use generative Al, compared with 54% of partners or managing partners who said the same.

Plans to integrate ChatGPT/generative AI into firm's operations By law firm size By job title Total Medium law firm Large law firm Total Partner/managing partner Lawyer Associate 3% 3% We are already using 3% Already using for firm operations 2% We are planning to use 3% 2% Planning to use for firm operations 34% 34% Considerina We are considering 40% whether or whether or not to use 38% not to use for firm operations 40% 28% 60% 60% Right now, we have 54% No plans to use no plans to use for 66% 58% firm operations 52% By law firm size: MLF n=248, LLF n=157. By job title: Partner/managing partner n=139, Lawyer n=104, Associate n=123. Source: Thomson Reuters 2023

Figure 4: Planned ChatGPT and Generative Al usage in firm operations

It is worth noting that some of the respondents may be at firms using generative AI or planning to use generative AI in use cases outside of their purview. A separate question asked respondents whether their firms used other forms of artificial intelligence besides generative Al or ChatGPT. In that case, 17% said they believed their firms used other forms of Al, 58% said their firms did not use other forms of AI, and 24% said they did not know. Midsize law firm respondents in particular said their firms did not use AI, with just 9% answering affirmatively compared to 69% reporting no usage and 22% saying they did not know. Among those who responded that they were using or planning to use ChatGPT or generative AI at their firms, knowledge and business operations functions were paramount. More than half of those respondents cited knowledge management and back office functions as potential use cases, while brief and memo drafting, contract drafting, and question & answering services were mentioned by more than one-third of those respondents.

These figures roughly track with external surveys on AI use within law firms, such as the International Legal Technology Association's 2022 law firm technology survey³ that found 60% of firms were not pursuing AI or machine learning options, and an additional 19% were in the research phase.

For some midsize firms in particular, however, generative AI could present a uniquely powerful proposition. Morrison Cohen partner Lipson said that due to generative Al's "intuitive" user interface and the potential for dramatically decreasing the time doing repetitive tasks, she believes midsize firms may eye generative AI differently than other artificial intelligence-powered technologies.

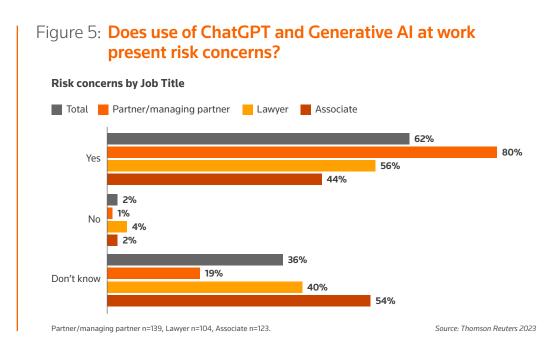
"We still have the people with all the skill, the experience, the knowledge, and the wherewithal to handle [complex] matters. So, it's not the lack of knowledge or skill, it's not the quality of our lawyers that's holding us back, it's just the volume of them," Lipson said. "Once you take away that staffing limitation, which I think could happen — and it's not going to happen tomorrow, but in a number of years, once we have fully implemented technologies like this — I think it could really help us go head-to-head with other firms. The size of the firm will be less important than who is in that firm."

International Legal Technology Association's 2022 Technology Survey, published September 2022; download access at: https://www.iltanet.org/resources/ publications/surveys/ts22.

Law firms eying potential risks of use and non-use

Perhaps one of the main reasons for the discrepancy between generative Al's potential utility and its actual adoption is its risk profile. While generative AI can provide powerful and almost instantaneous content, law firm lawyers and other legal professionals have a number of questions around its accuracy, handling of confidential data, and particularly in the case of public tools such as ChatGPT, the ownership of private data and the security of the tool.

A vast majority of law firm respondents said either that their law firms had risk concerns surrounding the use of generative AI, or they did not know enough to answer either way. Fully 62% of all respondents said their law firms had risk concerns around generative AI's use at work, while an additional 36% said they did not know how their firms view its risk. Just 2% said their firms had no concerns around generative AI or ChatGPT's use at work, and each of those respondents came from midsize firms — not a single one of the 157 large law firm respondents said their firms had no risk concerns about the technology.



While perceptions around risk concerns were roughly equivalent by firm size and geography, more partners and managing partners reported potential risk concerns than other job titles within the firm. A large majority (80%) of partners or managing partners said their firms had risk concerns around generative AI or ChatGPT within the law firm, compared with 44% of associates and 56% of other attorneys. Largely, this difference was due to awareness: Only 19% of partners said they did not know whether their firms had risk concerns around the technology, compared with 54% of associates and 40% of other attorneys.

When asked what their risk concerns were, respondents' answers largely fell into four buckets: accuracy, privacy, confidentiality, and security. The accuracy concern was common, in law as it is in general business practice. ChatGPT creator OpenAI has noted that GPT-4 has a roughly 86% success rate answering from a bank of English-language multiple choice questions, which itself was an increase from around 70% for GPT-3.5. This can be problematic compared with human review in the legal context, as one respondent noted: "These programs search for what they're told. Unlike a human mind that would realize a mistaken citation that resulted in a case from the wrong state in your brief needs to be corrected, and would know the correction, the software or technology just inserts what is there."

This can raise ethical concerns around acting in the best interest of the client, respondents said. "The more lawyers rely on third-party AI for research, writing, etc. the less of the lawyer's true skill set is involved," one respondent explained. "Lawyers may become essentially 'book reviewers' rather than authors. Yet they and their firms are personally and corporately liable for errors and omissions. Raises insurance, malpractice, and other issues."

Other common concerns expressed by respondents centered around the data that is needed for the system to function, particularly if it's a use case that includes private client data. One respondent cited as a risk concern the "confidentiality of source material used to generate Al output," while another pointed to the "extent to which client disclosure is required and sufficiency of such disclosure." Another respondent took issue with how the data would ultimately be used, citing as a concern "ensuring adequate quard rails, such that the AI is not learning incorrect or inappropriate behaviors."

More caution and training needed

Even law firms that are looking to adopt the technologies are aware of potential risks. Every interview we conducted for this report mentioned the importance of applying guardrails to generative AI use, and all noted that they do not fully trust generative AI tools — and particularly the public-facing ChatGPT tool — with confidential data.

Morrison Cohen's Lipson added that while her firm is exploring all sorts of use cases, they typically fall in the question & answer realm of publicly available data sets. "I think that using it in a generic sense, understanding that anything I put in there is going to be made public potentially, is the only approach that we can take that is practical right now," she said.

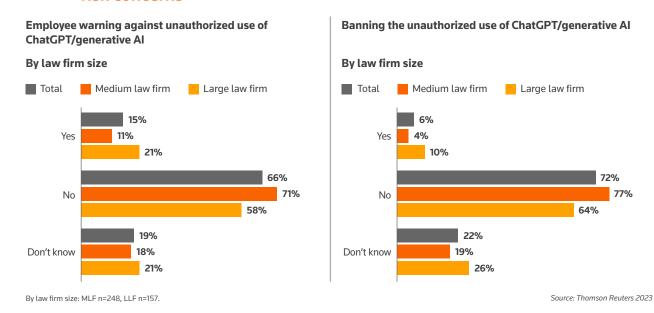
McMillan's Shirokov agreed, adding that while the firm is actively talking with its technology vendors about potential generative AI applications in their tools, we won't rush to train those tools with the firm's own data. "The barrier in the next little while will be that I think many of these startups will be releasing products that actually work, but governance is usually not the first thought," he said.

Additionally, many firms don't have the quality of data needed to train these tools accurately in the first place, Shirokov added. "I am a little bit more skeptical about using internal data

because I think traditionally companies didn't expect to need to have data that is highly curated so that you can actually train AI on it," he explained. "We'll need to do a lot of work to filter down our entire data sets to the highly curated and filtered quality data set that we can then say, if we train AI on it, it will give us accurate answers that we're going to be able to trust."

With these risk considerations in mind, some law firms have taken to warning employees against generative AI or ChatGPT's use at work, or in certain cases banning its unauthorized use entirely. Those firms remain in the minority, however, with a majority of firms issuing no formal warnings against generative AI usage at work.

Figure 6: Steps law firms have taken to mitigate ChatGPT and Generative Al risk concerns



In total, 15% of law firm respondents said their firms have issued a warning around generative Al or ChatGPT usage at work, including 21% at large law firms and 11% at midsize law firms. Two-thirds (66%) indicated they had not received such warnings, including 58% at large law firms and 71% at midsize law firms. And 19% said they did not know whether or not their firm had issued a warning. The warning rates were largely equivalent by geography.

Some law firms have gone beyond simply warning employees about ChatGPT or generative Al use to banning unauthorized usage of generative Al tools outright. While 6% of law firm respondents reported their firms had banned unauthorized usage of generative AI or ChatGPT, 72% of respondents said their firms had not banned unauthorized usage, and 22% did not know. Large law firms were slightly more likely to ban unauthorized usage, at 10% of respondents compared to 4% for midsize law firms. The percentage of firms banning unauthorized use remained largely static by geography.

Conclusion

Certainly, the legal industry, among many others, will be greatly impacted by the evolution of generative AI and public-use models like ChatGPT. As our research shows, even as actual use in the legal industry may be rare, attitudes are changing, and potential use cases are being explored.

Still, many law firm leaders we spoke with talk of remaining cautious in their approach, even while recognizing that generative AI may indeed be the game-changer they had hoped and even feared it might be. Indeed, the concern over risks around the technology's accuracy, privacy, confidentiality, and security are paramount in law firm professionals' minds.

By any stretch, however, we are still early in the game for generative AI and ChatGPT, and any and all future use will have to address the growing awareness of the risks of use and the potential loss of business for non-use. As time and experimentation make users more comfortable with these tools, a day will come when generative AI and ChatGPT is as common in law as online legal research and electronic contract signing have become now.

All of this colors Stenberg Reed's Woolven-Brown's view that ChatGPT is simply part of a new daily routine — one she expects to catch on globally as more people try generative AI tools. "I couldn't go back," she noted. "I use it every day."

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