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GenAI: From Privacy to Practice - Considerations for In-House Counsel

Presented to: ACC San Diego Chapter



Agenda

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- Introductions
- GenAI – Impact on Business and Legal
- GenAI – What is it?
- Education and Governance
- Concerns
- Case Law and Compliance Developments
- AI in Practice
- Future State Considerations



Panelists

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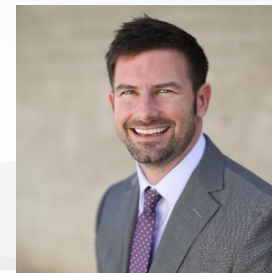


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Senior Privacy and
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Technology Litigator and
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GenAI - Transformative Potential For Legal and Beyond

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"We need to be careful about the balance between convenience and privacy. Technology should empower us, not undermine our fundamental rights."

- **Tim Berners-Lee** (Inventor of the World Wide Web)

"AI is one of the most profound technologies we've ever worked on. It is important that we build it responsibly, with trust and transparency at the core."

- **Satya Nadella** (CEO of Microsoft):

"Artificial intelligence is not a replacement for human judgment, but rather a tool that, when used wisely, can enhance it. The challenge for in-house counsel is to harness this tool responsibly while safeguarding the very principles that define our legal practice."

- **ChatGPT – OpenAI, September 2024**

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Generative Artificial Intelligence – What Is It?

- A type of AI, powered by large models that create new content including but not limited to text, photos, videos, audio and more. By pulling from large foundational datasets and identifying patterns, generative AI is not reliant upon programmatic rules or algorithms which shape other AI-based workflows and processes.
- Open-Source vs. Closed-Source Systems
 - Open – publicly available code and generally free to utilize (Meta’s Llama, Stable Diffusion)
 - Closed – private property which can be licensed (OpenAI – GPT, Google- Gemini, Dall-E)
- Widely Known/Utilized Platforms:
 - OpenAI – ChatGPT, Anthropic – Claude, Microsoft – Copilot, Google Gemini, etc.
- Solutions We Utilize
 - Mistral AI
 - Open AI
 - Customized and Proprietary Algos

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GenAI - What Keeps Us Up at Night?

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- Concerns and Considerations
 - Privacy
 - Security
 - Accuracy
 - Ethical
 - AI-washing
 - Contracting Indemnification



GenAI – Education is an Imperative

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- Internal vs. External Considerations
 - Customers
 - Clients
 - Co-workers
- AI Governance Committees
 - Task forces
 - Stakeholders
 - Action Plans
 - Budget???



Case Law and Competency Obligations

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- Case Law:
 - Mata v. Avianca, Inc., No. 22-cv-1461 (PKC) (SDNY)
 - Mobley v. Workday, Inc., No. 3:23-cv-770-RFL (N.D. Cal.)
 - The New York Times Company v. Microsoft Corporation, No. 1:23-cv-11195 (SDNY)
- Competency Obligations and Certifications
 - CA, NY and FL Bar Associations and 25+ Fed Judges – Guidance for duty of lawyers supervision of AI generated work product
 - IAPP – Certified AI Governance Professional (AIGP)
 - ISO 42001 - this standard provides guidance to organizations that design, develop, and deploy AI systems on factors such as transparency, accountability, bias identification and mitigation, safety, and privacy.
 - Prompt Engineering Universities

GenAI in Practice

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- Current Legal Applications for GenAI (Beta Testing)
 - eDiscovery Review
 - Investigations
 - Breach Response
 - Compliance Efforts
 - Contract Management
 - InfoSec RFPs



Future State and Takeaways

- What's next for GenAI and Legal?
 - Potential to shift hourly billable model across legal
 - Testing, vetting, testing, vetting...
 - Judicial Acceptance
 - Case Law – Good & Bad
 - Attorney Acceptance???



Q & A

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Thank you



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