Artificial Intelligence: What Business Lawyers Need to Know

2023 Advanced Business Law Seminar
The Business Law Section, State Bar of Texas & TexasBarCLE

Ronald L. Chichester, Esq., September, 2023

Overview

- Observations

- Ramifications (for lawyers and clients)

- Legal Issues Abound

- Conclusions

Image credit: Ronald Chichester, using BlueWillow /imagine "A realistic robot overlooking a landscape."

Observations

Credit: Matthew Osborn, https://unsplash.com/photos/wMRIcT86SWU

"My AI doesn't need to be perfect. It just needs to beat a human."

An AI Scientist, New York City, (2019).

https://www.visualcapitalist.com/ai-vs-humans-which-performs-certain-skills-better/

Artificial Intelligence: A
Modern Approach (4th ed.)
Stuart Russell & Peter Norvig

See, specifically, Chapter 2: Intelligent Agents (on pages 36-60).

Stuart **Russell** Peter **Norvig**

Artificial Intelligence
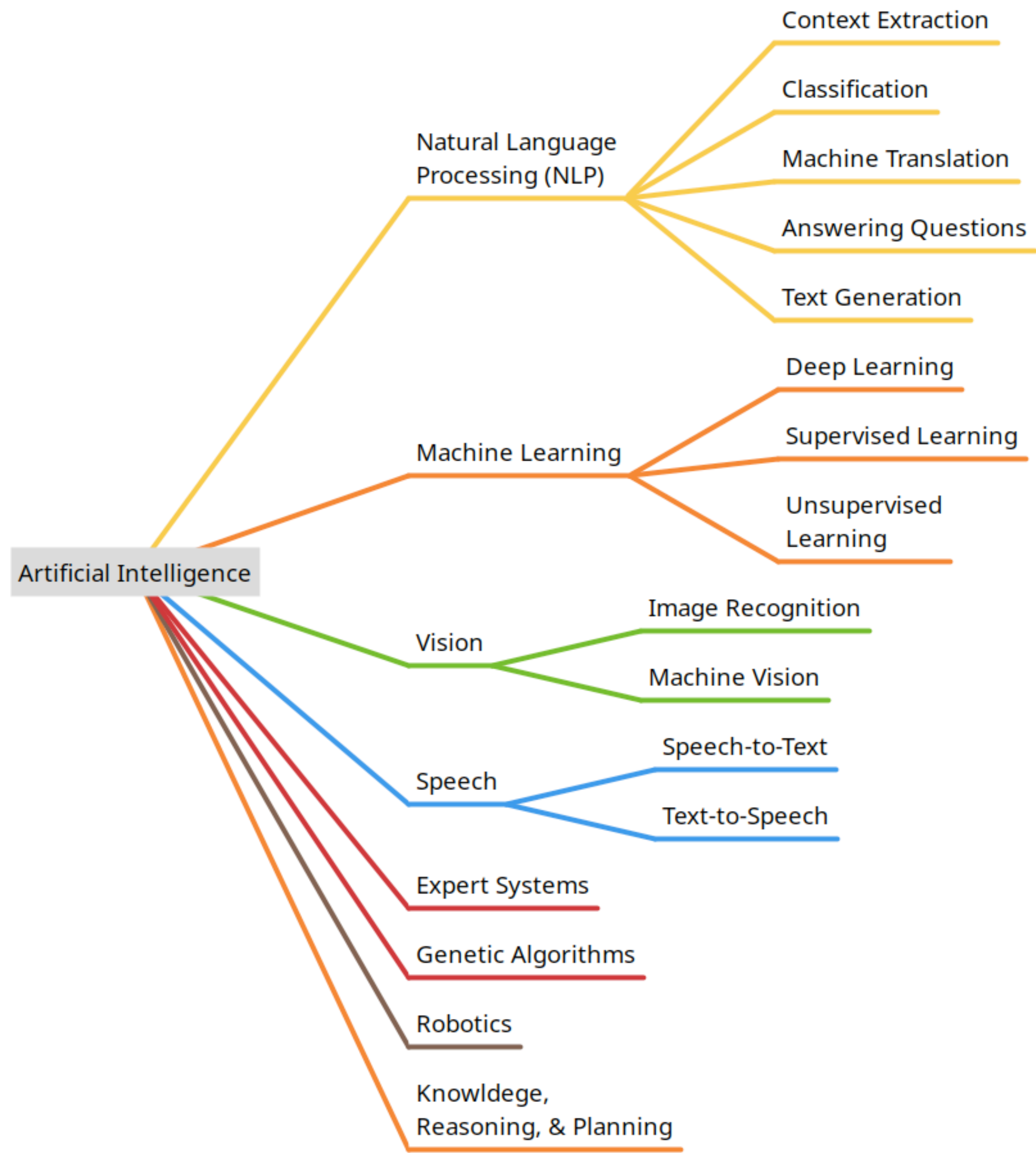A Modern Approach
Fourth Edition

https://aima.cs.berkeley.edu/
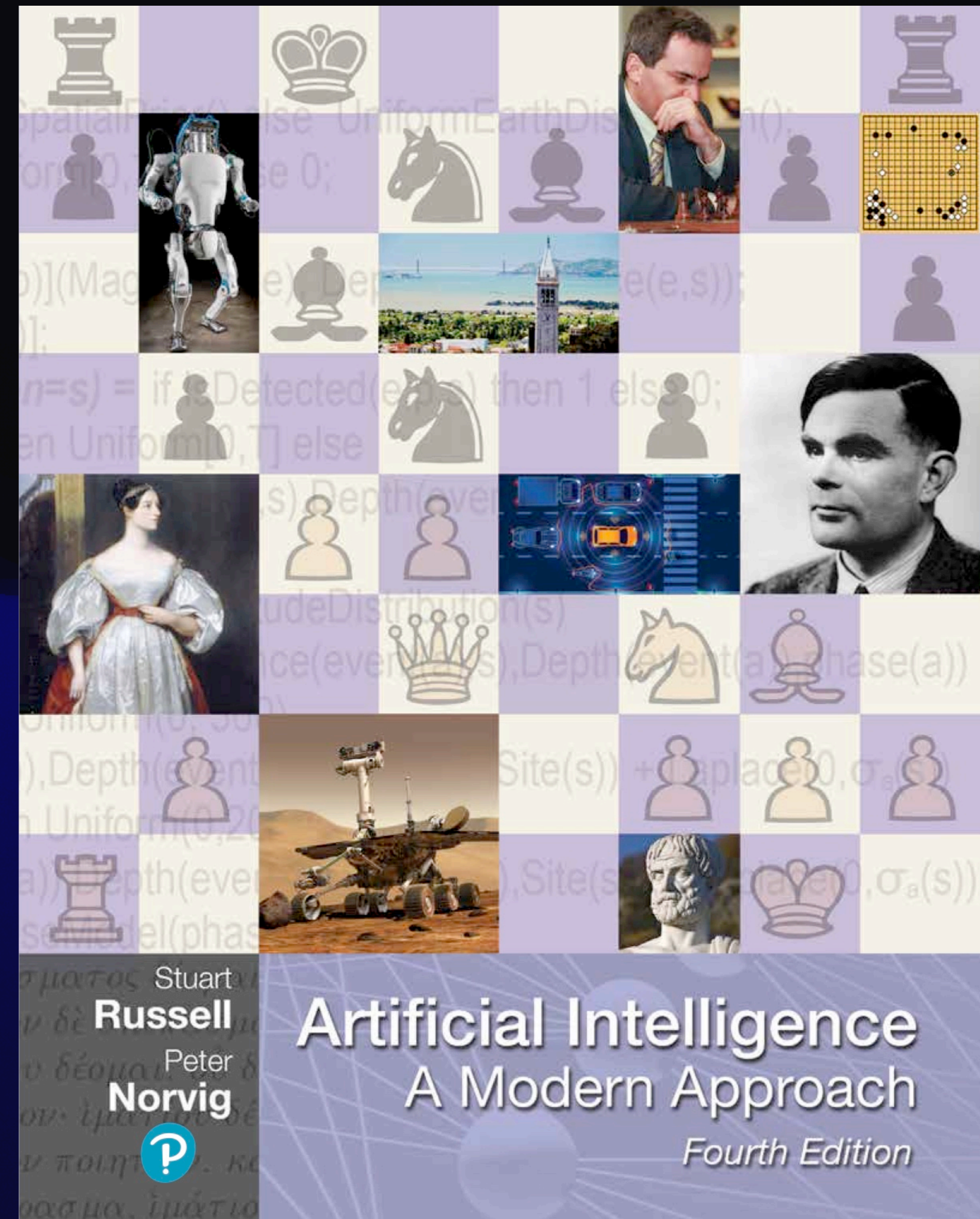
AI is all about *Thinking* and *Acting* both Humanly and Rationally
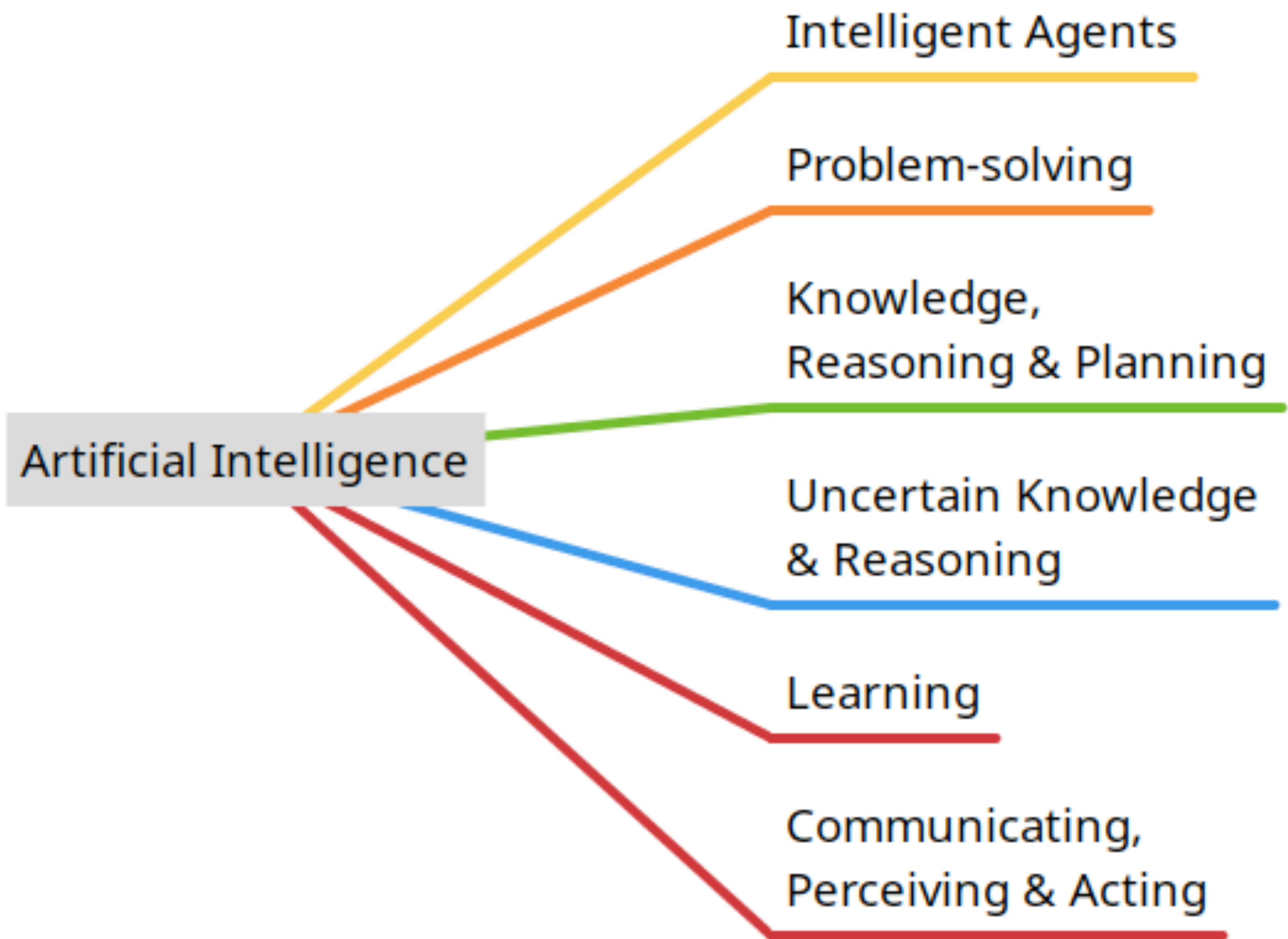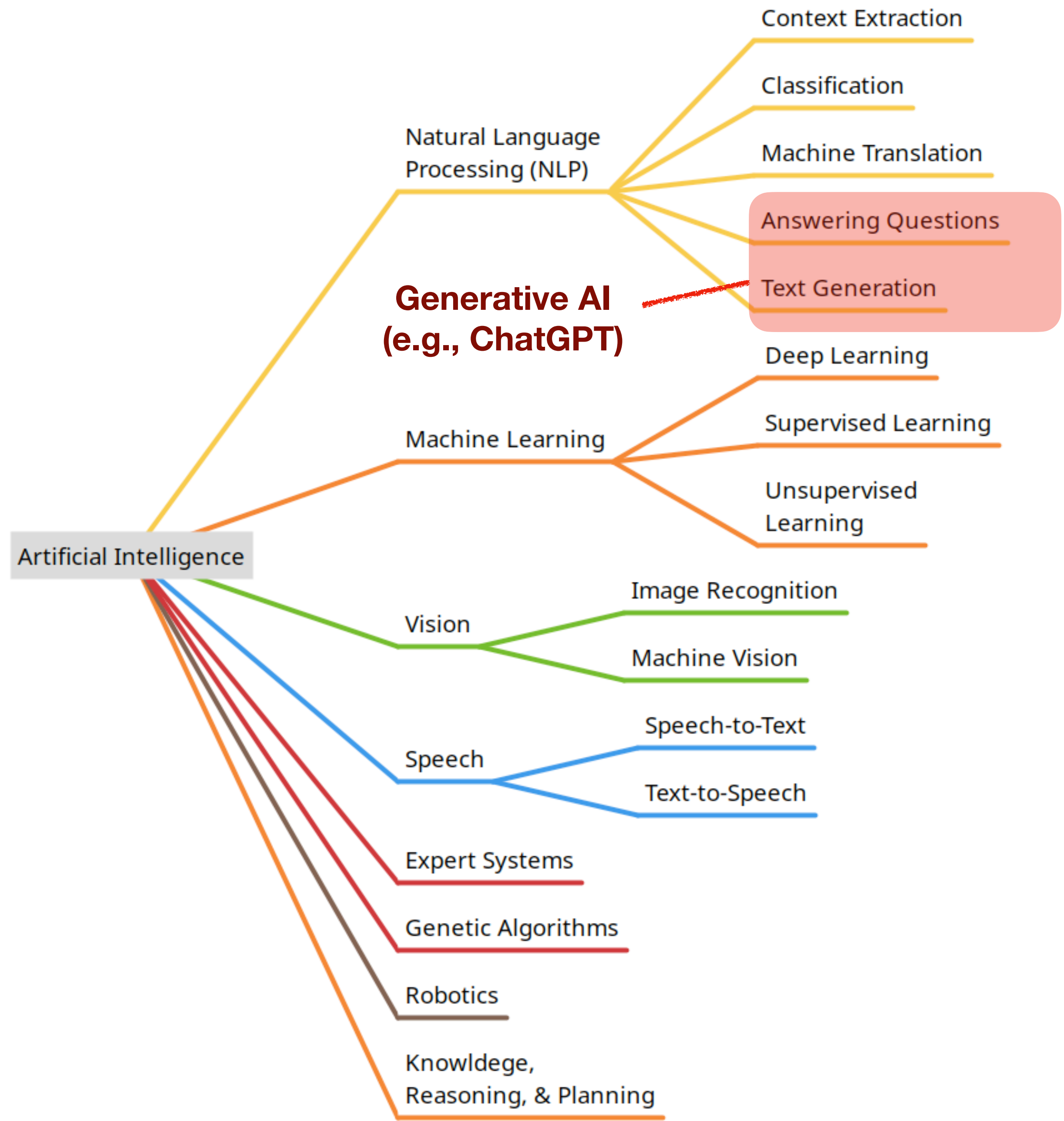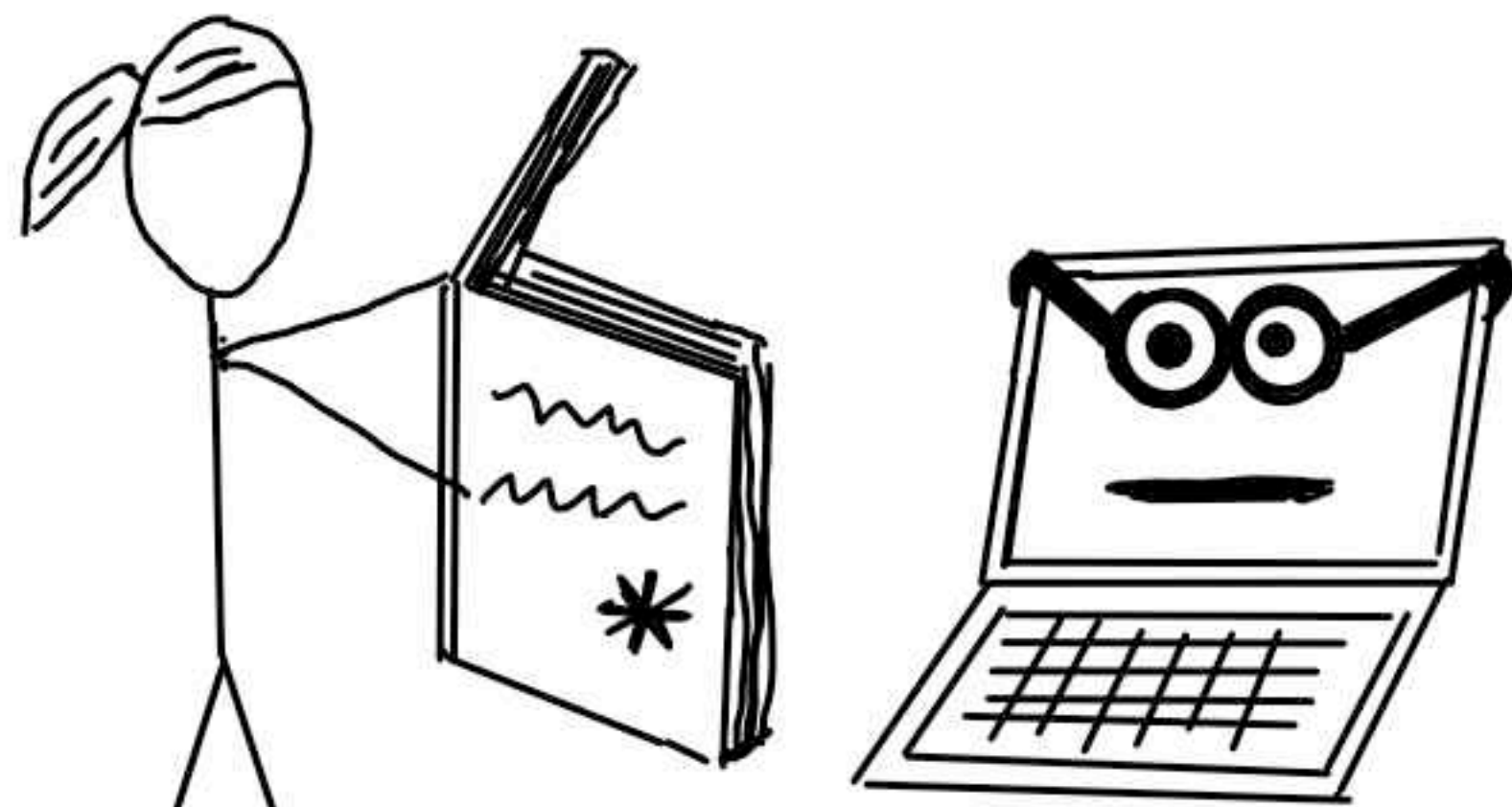
BUILDING THE
MACHINE LEARNING
MODEL

Initial Dataset

Exploratory Data Analysis

PCA SOM

Input variables   Output variable

X_1	X_2	X_3	X_4	X_5	Y
0.1	5.2	2.1	0.2	2.9	A
0.2	4.9	1.9	0.1	3.1	A
5.1	4.8	1.9	1.2	6.1	B

Data cleaning
Data curation
Remove redundant features

Pre-processed Dataset

Data splitting

Use as Training set 80%

SVM
Learning algorithms GBM
DL
RF DT KNN

20% use as Test set

Hyperparameter optimization

Feature Selection

MCC
Specificity
Sensitivity   RMSE
Accuracy R^2 MSE

Cross-Validation Model   Trained Model   Classification Regression

Predicted Y values → Evaluate Model Performance

By: Chanin Nantasenamat
DATA PROFESSOR
http://youtube.com/dataprofessor

January 1, 2020

- Machine Learning Models

  - They learn from experience

  - They can't remember what they were like an hour ago

  - Meaning: The same model might not be able to duplicate a result that it made an hour ago

  - ML models vary in their "transparency"

- Extra term in your Litigation Hold Notice to make a *copy* of the ML model (to preserve what you can)

- Remedies that involve the ML model are often (quite) difficult

Computers Simulating Decision-making

- **Optimal stopping** (decision-making)

- **Sorting/Caching** (faster than a human)

- **Scheduling** (remembering & coordinating)

- **Bayes' Rule** (predicting the future)

- **Randomness** (and how to handle it)

- **Networking** (jurisdictions / remote control)

- **Game Theory** (systems of cooperation)

Algorithms to Live By

The COMPUTER SCIENCE of HUMAN DECISIONS

Brian Christian and Tom Griffiths

Observations

- AI is a nearly-mature technology

- At this point, AI goes from zero to human in about two years

- AI is having a major impact on the sciences (and AI is making AI)

  - The cost of AI will go down

- AI is going open source

- *Making* and *Using* AI is getting easier all the time

- AI isn't going away

Ramifications
(for our profession)

AI will affect *anything* that makes a *decision* or performs an *action*

The Bargain…
Our profession and the public

- Specialized knowledge to help clients make informed *decisions*

- Ability to *act* in special circumstances

- The bargain is subject to termination by the public

  - AI can be used to reduce the scope of our profession

A *Financial Times* BOOK OF THE YEAR

RICHARD SUSSKIND   DANIEL SUSSKIND

UPDATED EDITION

THE FUTURE OF THE PROFESSIONS

HOW TECHNOLOGY WILL TRANSFORM THE WORK OF HUMAN EXPERTS
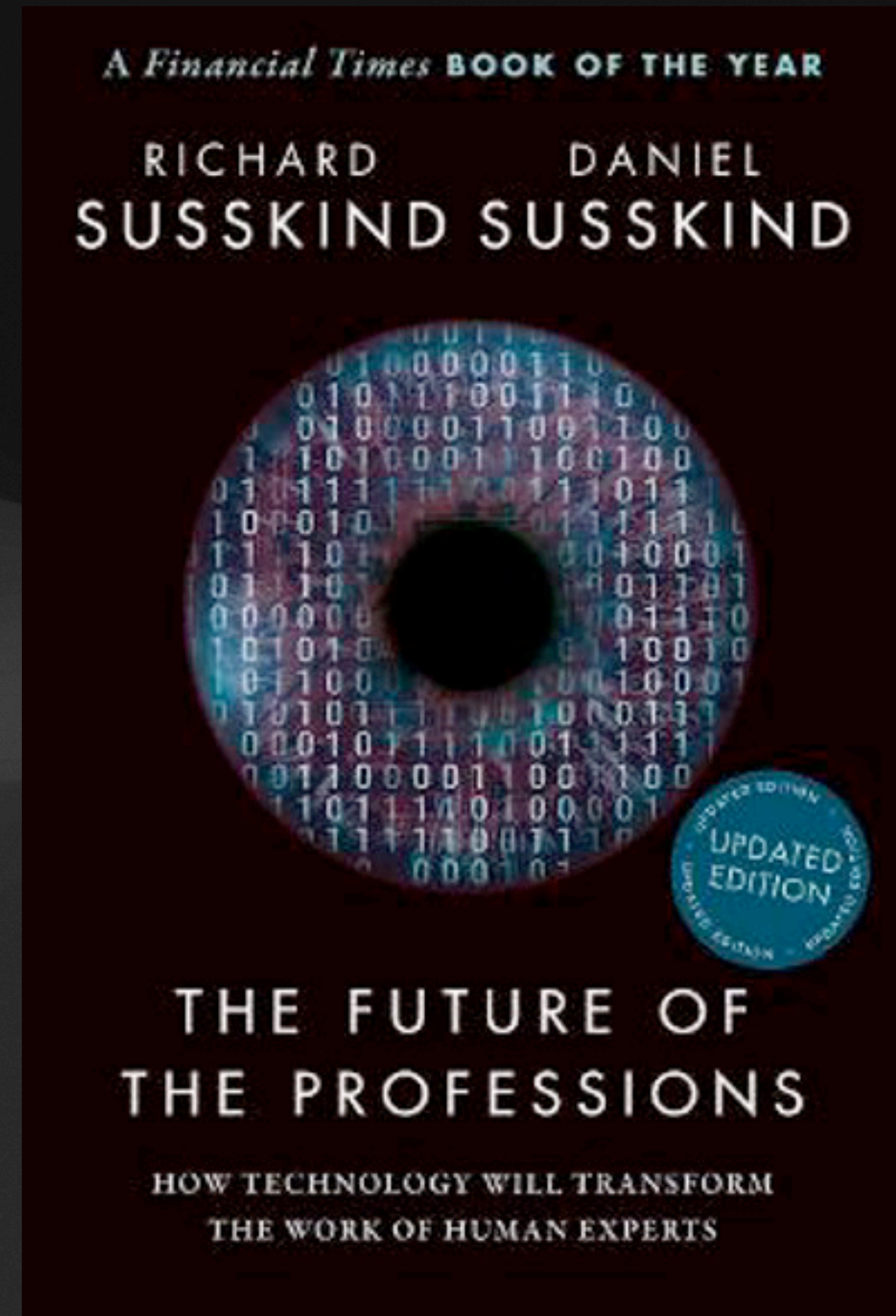
The days of going to law school to avoid math are over!

Good News!

Soon, you will be able to put chunks of AI together like Lego blocks to make great legal applications

… and so will your clients

Ramifications
(for us and our clients)

Ramifications
For both attorneys and clients

- Because AI isn't going away, there will be new skills for you to master

- Roles that people play will change

- You and your clients will have to choose which market(s) upon which to focus

  - Humans only

  - AI only

  - Both simultaneously

  - Devise your own Human/AI Hybrid

Legal Issues Abound

Legal Issues Related to AI
There are many…

- Agency

- Intellectual Property

- Liability

- Criminal Law

- Ethics / Transparency

- Regulation

Law is the regulation of *actions* between *individuals* in a *jurisdiction*

Law is the regulation of *actions* between *individuals and AI* in a *jurisdiction*

Agency

"Agency is the fiduciary relationship that arises when one person (a "principal") manifests assent to another person (an "agent") that the agent shall act on the principal's behalf and subject to the principal's control, and the agent manifests assent or otherwise consents so to act."

Restatement (Third) Of Agency § 1.01 (2006)

"Agency is the fiduciary relationship that arises when one person (a "principal") manifests assent to another person (an "agent") that the agent shall act on the principal's behalf and subject to the principal's control, and the agent manifests assent or otherwise consents so to act."

Restatement (Third) Of Agency § 1.01 (2006)

Synthetic agency: sense of agency in artificial intelligence

Roberto Legaspi[1,2], Zhengqi He[1,2] and Taro Toyoizumi[1,2]

The concept of sense of agency (SoA) has garnered considerable attention in human science at least in the past two decades. Coincidentally, about two decades ago, artificial intelligence (AI) research witnessed an explosion of proposed theories on agency mostly based on dynamical approaches. However, despite this early burst of enthusiasm, SoA models in AI remain limited. We review the state of AI research on SoA, seen predominantly in developmental robotics, vis-à-vis the psychology and neurocognitive treatments, and examine how AI can further achieve stronger SoA models. We posit that AI is now poised to better inform SoA given its advances on self-attribution of action–outcome effects, action selection, and Bayesian inferencing, and argue that synthetic agency has never been more compelling.

Addresses
[1] Laboratory for Neural Computation and Adaptation, RIKEN Center for Brain Science, 2-1 Hirosawa, Wako, Saitama 351-0198, Japan
[2] RIKEN CBS-OMRON Collaboration Center, 2-1 Hirosawa, Wako, Saitama 351-0198, Japan

Corresponding author: Toyoizumi, Taro (taro.toyoizumi@riken.jp)

Here lies the quandary. We strongly desire that we control the technologies we use [6]. However, SoA in AI would permit AI to have a subjective recognition of its own agency. It may be the case that an AI with high SoA is perceived as deterrent to our own SoA because we feel we are being controlled by the AI. Hence, this dilemma of joint human and synthetic agency might as well be front and center of our discourse on human–AI interaction: the pivotal point being an AI with high level of control leads to a dystopic future.

It was the rise of behavior-based robotic AI in the 1990s that catalyzed an outbreak of proposed theories on agency that were mostly based on dynamical approaches [4], but distant from the notions of subjective experience, cognition and intentionality. It is only recent that SoA, with human science theoretical underpinnings, is being adopted in AI. Consequently, concrete implementations are limited so far. Most can be seen in cognitive developmental robotics [7], where the robot distinguishes itself from the world to enhance its motor and cognitive skills

Some fundamental differences:
A human agent is someone that you *contract*
An AI agent is something that you *own* or *license*

The relationship of the agent and principal is different,
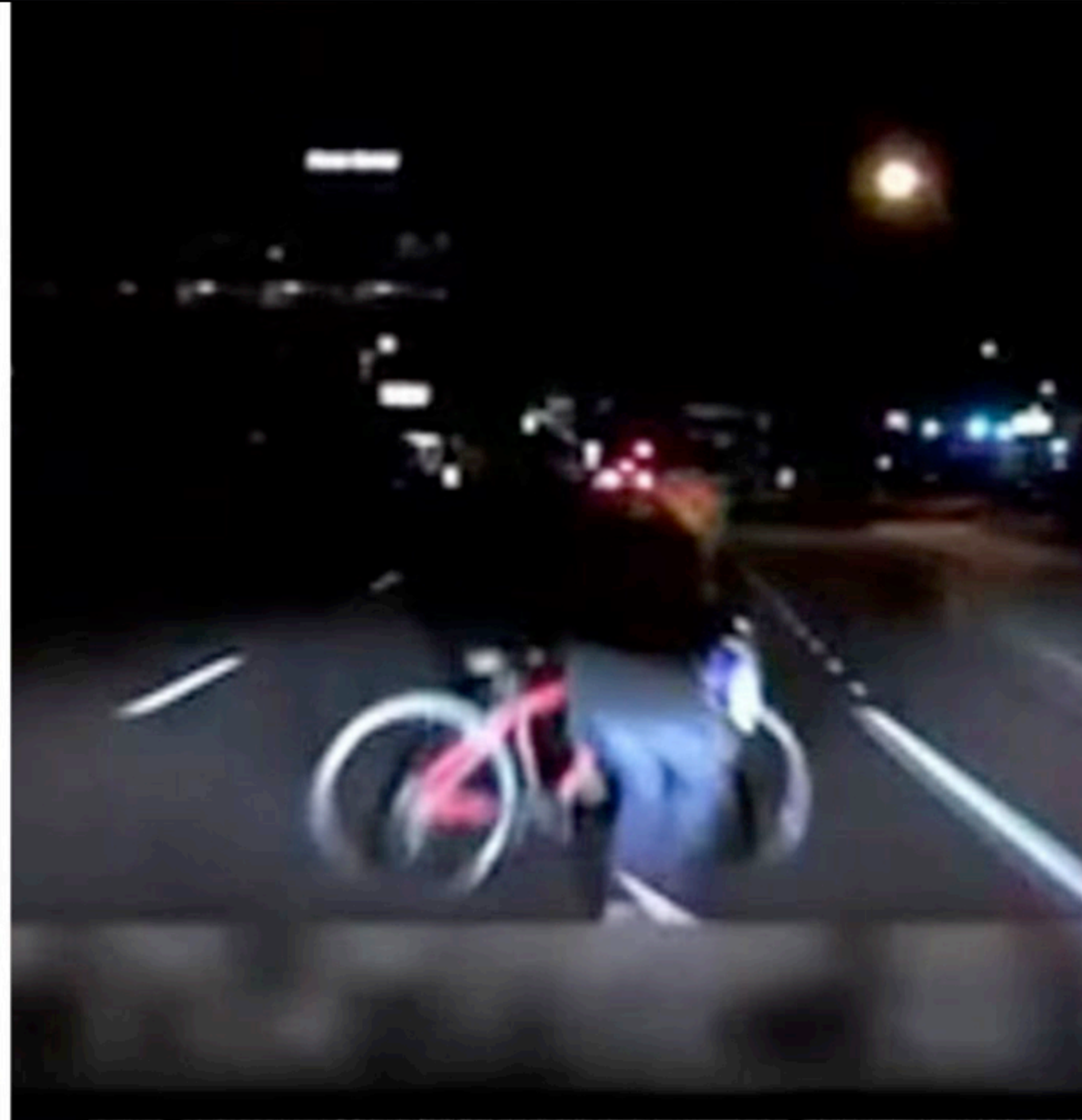…and that difference has legal implications

The Tool/Agency Dichotomy

Liability

"All models are wrong; [but] some models are useful."

George E.P. Box (2005)

Virtual Influencers Are Now Officially Regulated Endorsers
Unless They're "Spokespersons"

by: Heather Nolan

Virtual identities like AI-generated influencers and Vtubers continue to gain followers, brand partnerships, market value[1] - and now federal regulator attention. We've been advising about AI influencers for years, but now we have real-life governance in the U.S. In its updated Endorsement Guides and related commentary, the Federal Trade Commission ("FTC") makes clear that virtual influencers, fake reviewers, and others that "appear to be an individual, group, or institution" are included as "endorsers". [2] So, when these virtual identities communicate what consumers are likely to believe reflects the opinions, beliefs, findings, or experiences of someone other than the sponsoring advertiser, the message is an endorsement and it must meet the related requirements.

Who is at work behind the identity matters.

Virtual identities may be created to be their own brands - think Lil Miquela, Milla Sofia, and Brazil's Lu do Magalu - each of which have millions of followers. When those virtual identities "talk" about other brands, products, services, or industries, they will need to act like real-life influencers. The FTC wants consumers to know that a material connection exists and be assured that the statements - and any implied messages - are accurate.

That said, virtual identities also may be created by brands themselves - perhaps you have heard something about Barbie® lately? The Endorsement Guides FAQs arguably leave some wiggle room for virtual identities that are created by the brands they are talking about to fall under the category of "spokesperson" without triggering. After all, Barbie is known in the context of her own brand, so there's no connection to disclose when her message is about her own self or company.

What are some key endorser requirements that virtual influencers now have to meet?

The creators behind virtual identities that convey an opinion or claim about a third party product, service, brand, company, or industry, will need to, amongst other things[3]:

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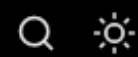
NEWS

'Life or Death:' AI-Generated Mushroom Foraging Books Are All Over Amazon

Experts are worried that books produced by ChatGPT for sale on Amazon, which target beginner foragers, could end up killing someone.

SAMANTHA COLE · AUG 29, 2023 AT 9:04 AM

Will ownership of the AI (or the output of the AI) *automatically* connote liability?

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Home » Blog » Artificial intelligence liability: the rules are changing

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ARTIFICIAL INTELLIGENCE LIABILITY: THE RULES ARE CHANGING

By Ryan E. Long on March 17, 2023 at 5:48 pm

I.   Intro

Artificial intelligence ("AI") use has blossomed. The AI market was valued at $27.3 in 2019 and is projected to grow to $266.92 billion by 2026. Associated AI applications have also grown. For example, the market for facial recognition technology, much of which uses AI, had a value of $3.72 billion in 2020 and is forecasted to grow to $11.62 billion by 2026. At the same time, AI has been known to misidentify faces, among other things, when used in facial recognition technology. If you are an AI investor or entrepreneur, whether and under what circumstances an AI company can be held liable in the U.S. or E.U. for malfunctioning AI is essential.

II.   Applications

The benefits associated with AI applications have grown immensely. In 1996, for example, Lynn Cozart disappeared just days before he was to be sentenced by a Pennsylvania court to spend years in prison for molesting three children. For years, investigators searched for him. However, the case went frigid. Then, in 2015, the FBI's team responsible for face recognition search, called the Facial Analysis, Comparison and Evaluation Services, matched the mug shot to the face of one "David Stone" who lived in Muskogee, Oklahoma, and who worked at a local Wal-Mart. "After 19 years," FBI program analyst Doug Sprouse says, "[Cozart] was brought to justice." AI has also been used to flag "fake news" and "deep fakes." Cheq, based in Tel Aviv, for example, uses various variables to determine the authenticity of content, including the status of a site's reputation and whether the source of the content is a bot. This can assist with online digital reputation management.

Notwithstanding, AI programmed facial recognition technology can misidentify subjects. For example, a 2012 study titled "Face Recognition Performance: Role of Demographic Information", which was co-authored by the FBI, found females more difficult to recognize than males. It also found that that the commercial algorithms tested had the lowest matching accuracy rates on subjects aged 18-30. These inaccuracy rates can reach high percentages. For example, the algorithm running the London Metropolitan Police's facial recognition technology was reported at one time to have an error rate as high as 81%.

III.   Law

The law has been relatively slow to regulate AI. There has been some case law in the United States concerning the regulation of computerized robotics. For example, in *Jones v. W + M Automation, Inc.*, the plaintiff's complaint against a manufacturer and programmer of a robotic loading system for product defect was dismissed by New York's Appellate Division. In the court's view, the defendants were not liable for plaintiff's injuries at the GM plant where he worked because these defendants showed they "manufactured only non-defective component parts." As long as the robot – and associated software – was "reasonably safe when designed and installed," the defendants were not liable for plaintiff's damages. GM, the end user, however, could still be liable for improperly modifying the hardware or software. The implication is that creators of AI software or hardware aren't liable for any injuries as long as these products were non-defective when made. That being said, defectively made AI, or AI that is modified by a licensee and causes damages as a result, can create liability for both the licensor and/or licensee. Whether AI is defectively made will depend, like in other product liability cases, on prevailing industry standards.

Recently, the Federal Trade Commission proposed guidelines concerning the regulation of AI. On April 8, 2020, the Commission wrote a blog "Using Artificial Intelligence and Algorithms." In it, the FTC basically recommends that those who use or license AI in a way that affects consumer well-being do so in a way that is "transparent" – particularly regarding decisions that affect a consumer's credit. As such, many of the decisions concerning the use and implementation of AI in the consumer context can be regulated by Section (5)(a) of the FTC Act, which provides that "unfair or deceptive acts or practices in or affecting commerce . . . are . . . declared unlawful." Thus, to the extent that AI companies warrant or represent things about their products are untrue or deceptive, the FTC – along with private attorney's general – could hold such companies liable for resulting damage. The FTC echoed many of these sentiments in a more recent April 19, 2021, post "Aiming for truth, fairness, and equity in your company's use of AI."

The E.U. has also issued AI liability guidelines. In 2019, the E.U. released Liability for Artificial Intelligence and other Emerging Technologies. The document explains that some applications of AI will warrant strict liability --

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Counsel for Plaintiffs and the Proposed Classes

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

PLAINTIFFS A.T., J.H., individually, and on behalf of all others similarly situated,

　　　　Plaintiffs,

　　vs.

OPENAI LP, OPENAI INCORPORATED, OPENAI GP, LLC, OPENAI STARTUP FUND I, LP, OPENAI STARTUP FUND GP I, LLC, OPENAI STARTUP FUND MANAGEMENT LLC, MICROSOFT CORPORATION and DOES 1 through 20, inclusive,

　　　　Defendants.

Case No.:

CLASS ACTION COMPLAINT

1. VIOLATION OF ELECTRONIC COMMUNICATIONS PRIVACY ACT, 18 U.S.C. §§ 2510, *et seq.*

2. VIOLATION OF THE COMPUTER FRAUD AND ABUSE ACT, 18 U.S.C. § 1030

3. VIOLATION OF THE CALIFORNIA INVASION OF PRIVACY ACT ("CIPA"), CAL. PENAL CODE § 631

4. VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW, BUSINESS AND PROFESSIONS CODE §§ 17200, *et seq.*

5. NEGLIGENCE

6. INVASION OF PRIVACY

7. INTRUSION UPON SECLUSION

8. LARCENY/RECEIPT OF STOLEN PROPERTY

9. CONVERSION

Intellectual Property

Ⓝ Notice

2019 Revised Patent Subject Matter Eligibility Guidance

A Notice by the Patent and Trademark Office on 01/07/2019

PUBLISHED DOCUMENT

📄 Start Printed Page 50

AGENCY:

United States Patent and Trademark Office, Commerce.

ACTION:

Examination Guidance; Request for comments.

SUMMARY:

The United States Patent and Trademark Office (USPTO) has prepared revised guidance (2019 Revised Patent Subject Matter Eligibility Guidance) for use by USPTO personnel in evaluating subject matter eligibility. The 2019 Revised Patent Subject Matter Eligibility Guidance revises the procedures for determining whether a patent claim or patent application claim is directed to a judicial exception (laws of nature, natural phenomena, and abstract ideas) under Step 2A of the USPTO's Subject Matter Eligibility Guidance in two ways. First, the 2019 Revised Patent Subject Matter Eligibility Guidance explains that abstract ideas can be grouped as, *e.g.,* mathematical concepts, certain methods of organizing human activity, and mental processes. Second, this guidance explains that a patent claim or patent application claim that recites a judicial exception is not "directed to" the judicial exception if the judicial exception is integrated into a practical application of the judicial exception. A claim that recites a judicial exception, but is not integrated into a practical application, is directed to the judicial exception under Step 2A and must then be evaluated under Step 2B (inventive concept) to determine the subject matter eligibility of the claim. The USPTO is seeking public comment on its subject matter eligibility guidance, and particularly the 2019 Revised Patent Subject Matter Eligibility Guidance.

DOCUMENT DETAILS

Printed version:
PDF

Publication Date:
01/07/2019

Agencies:
United States Patent and Trademark Office

Dates:
Applicable Date: The 2019 Revised Patent Subject Matter Eligibility Guidance is effective on January 7, 2019. The 2019 Revised Patent Subject Matter Eligibility Guidance applies to all applications, and to all patents resulting from applications, filed before, on, or after January 7, 2019.

Effective Date:
01/07/2019

Document Type:
Notice

Document Citation:
84 FR 50

Page:
50-57 (8 pages)

Agency/Docket Number:
Docket No. PTO-P-2018-0053

Document Number:
2018-28282

DOCUMENT DETAILS

Copyright.gov | U.S. Copyright Office

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Home / Copyright and Artificial Intelligence

Copyright and Artificial Intelligence

The Copyright Office has launched an initiative to examine the copyright law and policy issues raised by artificial intelligence (AI) technology, including the scope of copyright in works generated using AI tools and the use of copyrighted materials in AI training. After convening public listening sessions in the first half of 2023 to gather information about current technologies and their impact, the Office will publish a notice of inquiry in the *Federal Register*.

Announcements

March 16, 2023 - Copyright Office Launches New Artificial Intelligence Initiative

Past Events

July 26, 2023 – International Copyright Issues and Artificial Intelligence
June 28, 2023 – Registration Guidance for Works Containing AI-Generated Content (recording available)
May 31, 2023 – Music and Sound Recordings Listening Session (recording available)
May 17, 2023 – Audiovisual Works Listening Session (recording available)
May 2, 2023 – Visual Arts Listening Session (recording available)
April 19, 2023 – Literary Works, Including Software Listening Session (recording available)
Fall 2021 – Copyright Law and Machine Learning for AI: Where Are We and Where Are We Going?
Winter 2020 – Copyright in the Age of Artificial Intelligence

Past Announcements

Fall 2021 – Artificial Intelligence: The Copyright Connection

Copyright Registration Guidance

Copyright Registration Guidance for Works Containing AI-Generated Material

Guidance as Published in Federal Register

Zarya of the Dawn Registration Decision

A Recent Entrance to Paradise Review Board Decision

Related Resources

Compendium of U.S. Copyright Office Practices, Third Edition

Statements to Congress ⌄

Review Board ⌄

USCO Comment to NTIA on AI Accountability

USCO Guidance Letter to The MLC

USPTO on Artificial Intelligence

WIPO on Artificial Intelligence

September 13, 2023

Copyright Office Holds That 600+ Prompt Iterations Are Not Enough 'Human Authorship' for Registration of GenAI Artwork

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On September 5, 2023, the U.S. Copyright Office Review Board affirmed the Copyright Office's refusal to register a digital artwork created with the Midjourney text-to-image GenAI tool. The Review Board held that text prompts alone did not constitute sufficient human authorship, despite the claim that the work was the result of 624 iterative prompts.

The claimant's 600+ step process on Midjourney was described as follows:

> Mr. Allen created a text prompt that began with a "big picture description" that "focuse[d] on the overall subject of the piece." He then added a second "big picture description" to the prompt text "as a way of instructing the software that Mr. Allen is combining two ideas." Next, he added "the overall image's genre and category," "certain professional artistic terms which direct the tone of the piece," "how lifelike [Mr. Allen] wanted the piece to appear," a description of "how colors [should be] used," a description "to further define the composition," "terms about what style/era the artwork should depict," and "a writing technique that Mr. Allen has established from extensive testing" that would make the image "pop." He then "append[ed the prompt] with various parameters which further instruct[ed] the software how to develop the image," resulting in a final text prompt that was "executed . . . into Midjourney to complete the process" and resulted in the creation

WRITTEN BY:

Katten   Katten Muchin Rosenman LLP

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👤 Michael Justus   + Follow

PUBLISHED IN:

Artificial Intelligence   + Follow

Authorship   + Follow

Copyright   + Follow

Copyright Office   + Follow

Intellectual Property Protection   + Follow

Intellectual Property   + Follow

Science, Computers & Technology   + Follow

"Large Language Models are made possible only by laundering the ownership of copyrighted works."
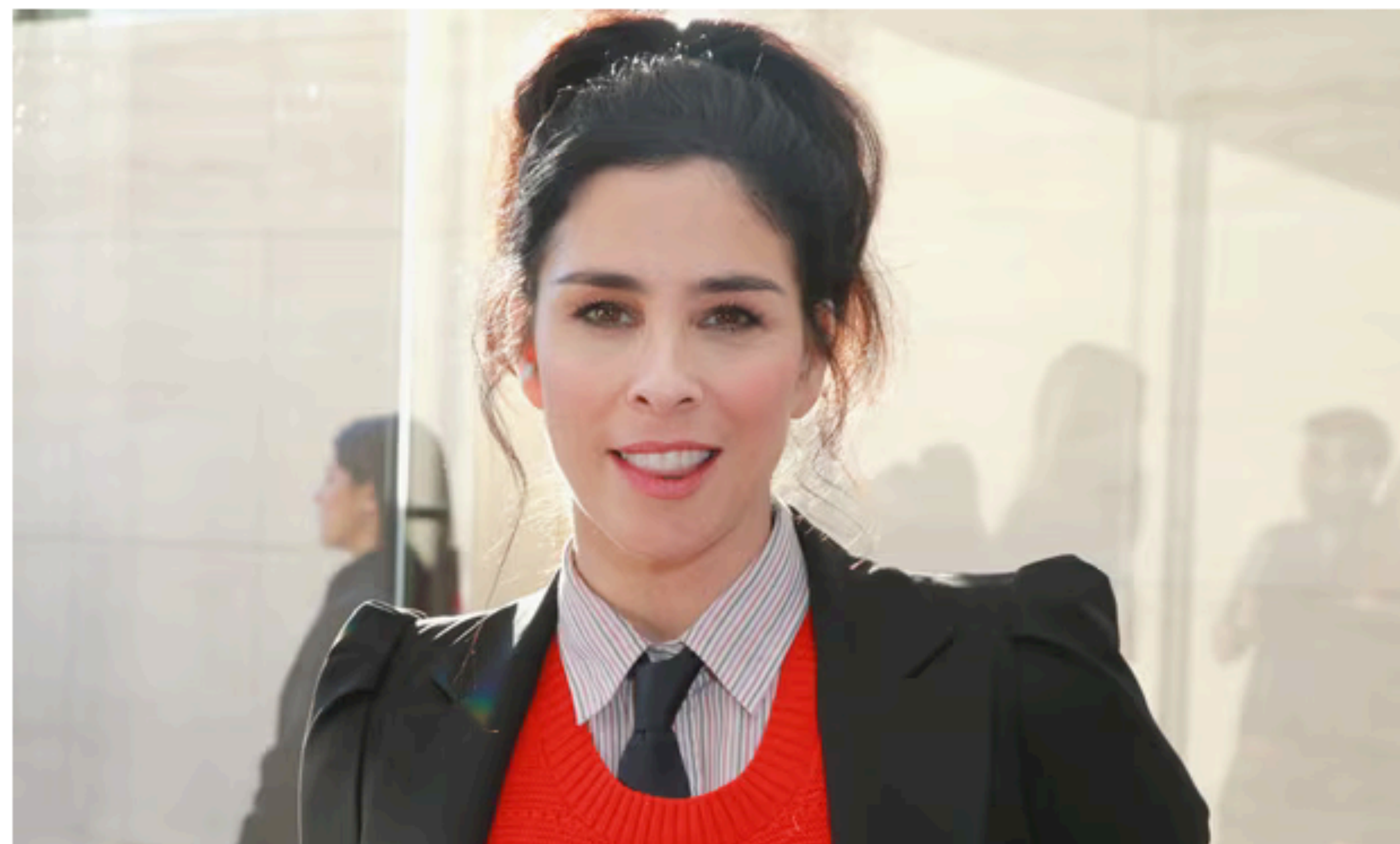
Ronald Chichester (2023)

Artificial intelligence (AI)

Sarah Silverman sues OpenAI and Meta claiming AI training infringed copyright

US comedian and two other authors say artificial intelligence models used their work without permission

Dan Milmo *Global technology editor*

Mon 10 Jul 2023 08.41 EDT

📷 It is claimed that Sarah Silverman and the other authors' works were obtained from 'shadow library' sites. Photograph: Rich Fury/Getty Images for THR

September 12, 2023

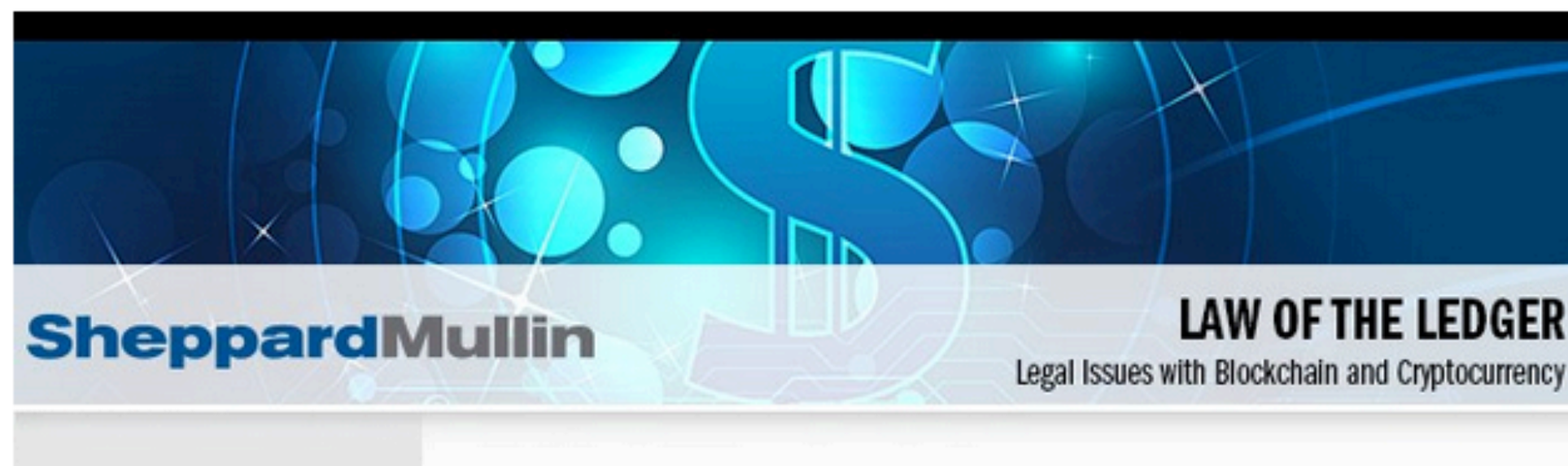# Microsoft to Indemnity Users of Copilot AI Software – Leveraging Indemnity to Help Manage Generative AI Legal Risk

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Sheppard Mullin

LAW OF THE LEDGER
Legal Issues with Blockchain and Cryptocurrency

The rapid growth of generative AI (GAI) has taken the world by storm. The uses of GAI are many as are the legal issues. If your employees are using GAI, they may be subjecting your company to many unwanted and potentially unnecessary legal issues. Some companies are just saying no to employee use of AI. That is reminiscent of how some companies "managed" open source software use by employees years ago. Banning use of valuable technology is a "safer" approach, but prevents a company from obtaining the many benefits of that technology. For many of the GAI-related legal issues, there are ways to manage the legal risks by developing a thoughtful policy on employee use of GAI.

WRITTEN BY:

Sheppard Mullin Richter & Hampton LLP

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James Gatto   + Follow

PUBLISHED IN:

Artificial Intelligence   + Follow

Employees   + Follow

Employer Liability Issues   + Follow

Indemnity   + Follow

Intellectual Property Protection   + Follow

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We continue to keep our customers at the forefront of our development regarding AI capabilities. If there is a specific use case you would like to explore, please get in touch with your relationship partner to discuss.

Sean Fitzpatrick
CEO, North America, UK and Ireland
LexisNexis Legal and Professional

Julie Chapman
Head of Legal, North America
LexisNexis Legal and Professional

Criminal Law

Artificial Intelligence and the Practice of Criminal Law

March 27, 2023 by Jeff Welty

Print

You've probably heard of ChatGPT, the artificial intelligence chatbot built by the company Open AI. The most recent version of Open AI's product, GPT-4, "scored in the 88th percentile on the LSAT . . . and did even better on the [Uniform Bar Exam] by scoring in the 90th percentile." More details here, but this might reasonably make criminal lawyers wonder whether we could be replaced by AI.

It almost happened already. The first "robot lawyer" was supposed to debut this spring. An AI startup called DoNotPay planned to equip two litigants challenging their traffic tickets with smart glasses. The glasses would enable a litigant to record what the judge said, feed that into an AI, and hear suggested responses through an earpiece. After threats from various state bar officials suggesting that the company would be engaged in the unauthorized practice of law, the company backed away from its plans, as NPR reports here. Now it has it the defendant in a civil suit accusing it of the unauthorized practice of law, according to Reuters.

Some applications are pretty obvious. Robot lawyers might not be here yet but you're already using AI when you do legal research on Westlaw. According to this article:

> [AI] has been seamlessly woven into . . . research services . . . [like] Westlaw Edge, launched by Thomson Reuters more than three years ago. The keyword or boolean search approach that was the hallmark of the service for decades has been augmented by semantic search. This means the machine learning algorithms are trying to understand the meaning of the words, not just match them to keywords. Another example of an AI-powered feature from Westlaw Edge is Quick Check, which uses AI to analyze a draft argument to gain further insights or identify relevant authority that may have been missed.

10 AI Cybersecurity Firms to watch in 2023

The development of AI techniques has seen Artificial Intelligence (AI) start to appear in a lot of different IT products, including in the field of cybersecurity. Read about the leading cybersecurity companies spearheading AI initiatives.

STEPHEN COOPER
@VPN_News   **UPDATED:** August 24, 2021

f 𝕏 p in

Improvements in technology are driven by fierce competition that drives every provider to include new innovations to keep ahead of rivals. New and innovative businesses entering the market push that need for new approaches even further.

The field of cybersecurity is very active at the moment, with new techniques and attack prevention methods appearing almost every day. In the vanguard of cybersecurity, there's an elite group of innovative companies building AI into products in order to defeat attackers and win customers. In this review, we'll look at these companies in more detail.

Here's our list of nine key innovators in cybersecurity that are using AI to give their products an edge:

WHAT'S IN THIS ARTICLE?

About artificial intelligence

The leading AI cybersecurity firms

1. CrowdStrike

2. Darktrace

3. Cynet

4. FireEye

5. Check Point

6. Symantec

7. Sophos

8. Fortinet

9. Cylance

10. Vectra

Investing in AI-based cybersecurity

Industry disruption

actuate

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GUIDES

Smart Video 101

Real-time video analytics AI enables security professionals to improve their surveillance operations drastically.

However, it is crucially important to consider an organization's operational requirements and limitations in anticipation of an analytics deployment.

This guide provides information on how a "smart" aka AI video surveillance system is architected, its capabilities and limitations, and the trade-offs of processing the analytics on the cloud vs. on-premise.

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1. What is Smart Video Surveillance?

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3. How Cameras Impact Analytics Deployments

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7. Key Takeaways

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If Police Have Devices That Can Read Your Mind, How Does the Fifth Amendment Fit In?

BY LUCILLE NALBACH TOURNAS   MAY 28, 2021 • 9:00 AM

Technologically enhanced interrogation?   Photo illustration by Slate. Photos by fpphotobank/iStock/Getty Images Plus and Min Jing/iStock/Getty Images Plus.

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This article is part of the Policing and Technology Project, a collaboration between Future Tense and the Tech, Law, & Security Program at American University Washington College of Law that examines the relationship between law enforcement, police reform, and technology.

The police show up to your house. It's the middle of the night, you are disoriented, and they want to know where you were earlier in the day. You have no idea at that moment that your ex-girlfriend was found dead, and some of your fingerprints were found at her house—but you do know you have the right to remain silent. Until the cops bring out the headset.

Ethics

"I think we're all worried that AI will behave like that other artificial person — *a corporation*."

Ronald Chichester (2023)

🇺🇸 An official website of the United States government   Here's how you know ⌄
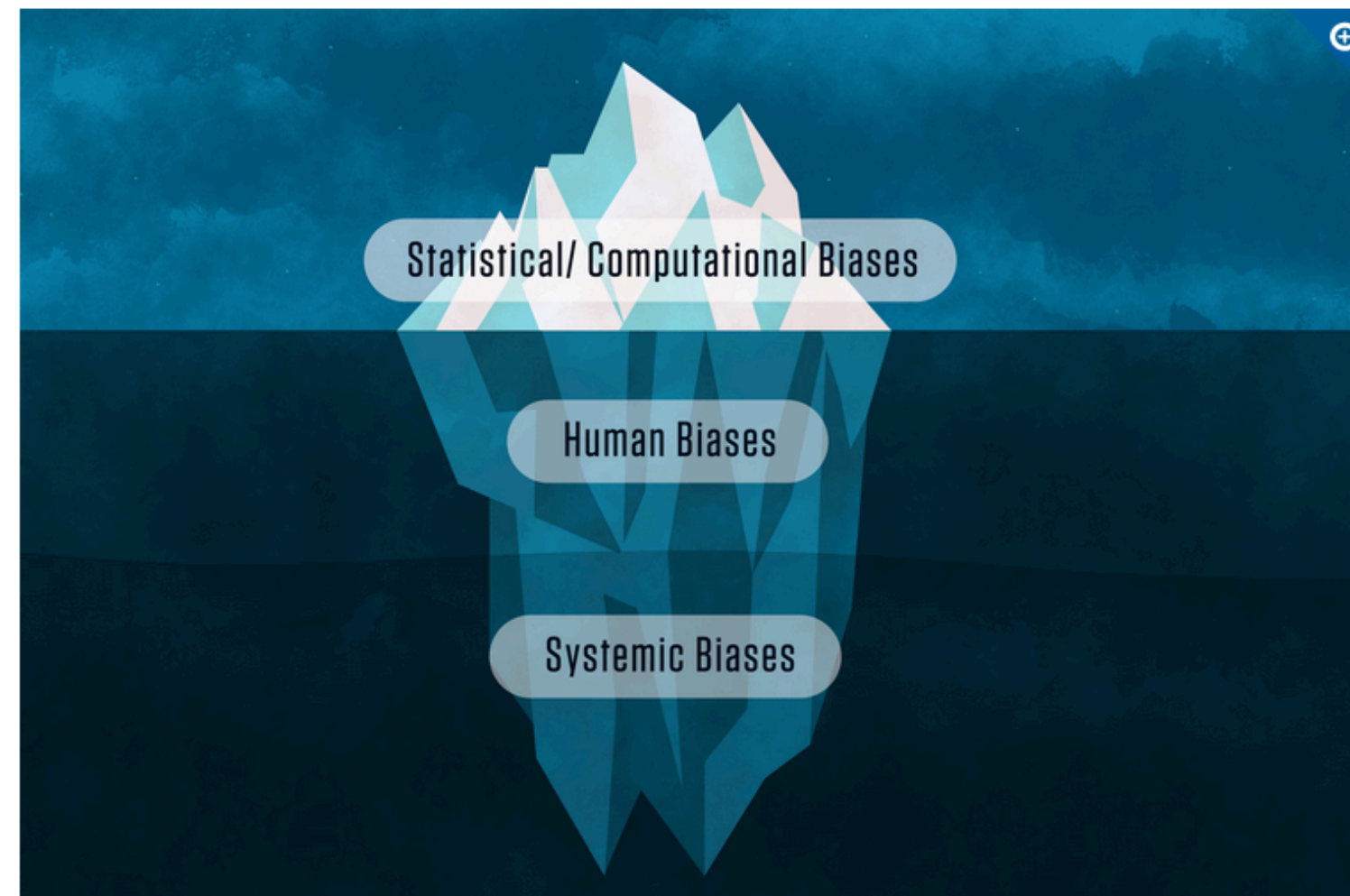
NIST

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NEWS

There's More to AI Bias Than Biased Data, NIST Report Highlights

Rooting out bias in artificial intelligence will require addressing human and systemic biases as well.

March 16, 2022

Bias in AI systems is often seen as a technical problem, but the NIST report acknowledges that a great deal of AI bias stems from human biases and systemic, institutional biases as well.
Credit: N. Hanacek/NIST

As a step toward improving our ability to identify and manage the harmful effects of bias in artificial intelligence (AI) systems, researchers at the National Institute of Standards and Technology (NIST) recommend widening the scope of where we look for the source of these biases — beyond the machine learning processes and data used to train AI software to the broader societal factors that influence how technology is developed.

The recommendation is a core message of a revised NIST publication, *Towards a Standard for Identifying and Managing Bias in Artificial Intelligence* (NIST Special Publication 1270)⤤ , which reflects public comments the agency received on its draft version released last summer. As part of a larger effort to support the development of trustworthy and responsible AI, the document offers guidance connected to the AI Risk Management Framework that NIST is developing.

According to NIST's Reva Schwartz, the main distinction between the draft and final versions of the publication is the new emphasis on how bias manifests itself not only in AI algorithms and the data used to train them, but also in the societal context in which AI systems are used.

"Context is everything," said Schwartz, principal investigator for AI bias and one of the report's authors. "AI systems do not operate in isolation. They help people make decisions that directly affect other people's lives. If we are to

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NIST Special Publication 1270

Towards a Standard for Identifying and Managing Bias in Artificial Intelligence

Reva Schwartz
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Andrew Burt
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NIST

**National Institute of
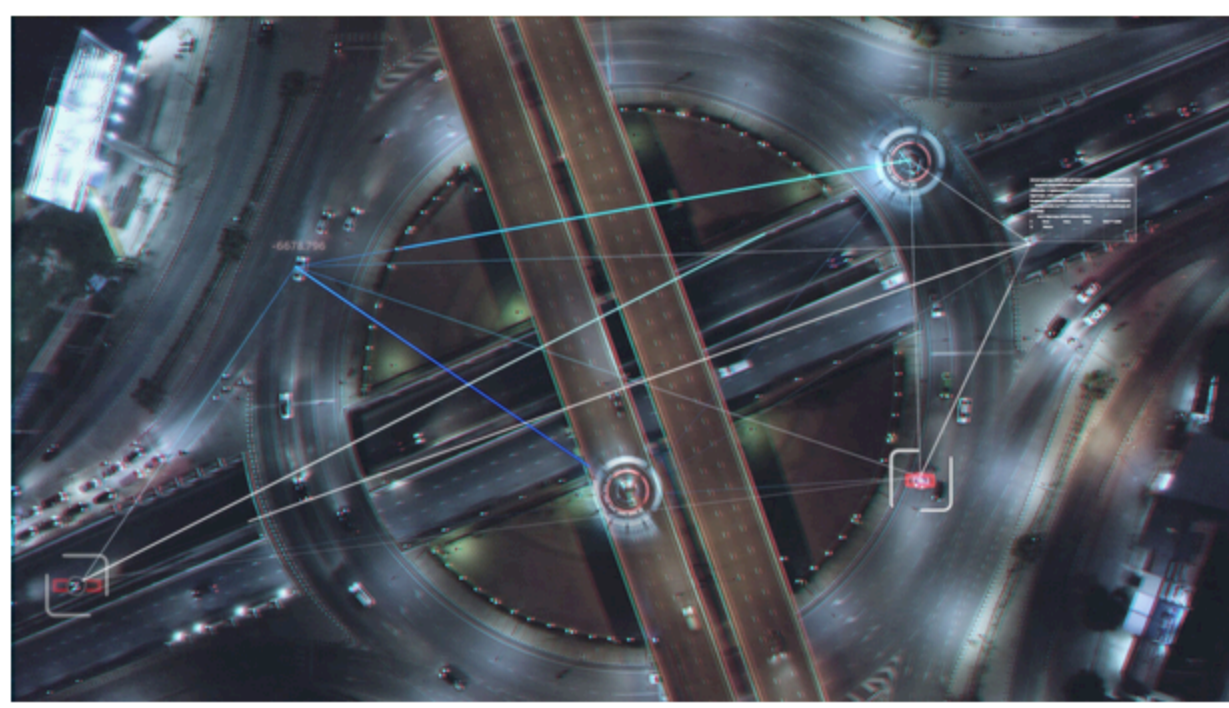Standards and Technology**

U.S. Department of Commerce

Strategy

A Practical Guide to Building Ethical AI

by Reid Blackman

October 15, 2020

MR.Cole_Photographer/Getty Images

Summary.   Companies are quickly learning that AI doesn't just scale solutions — it also scales risk. In this environment, data and AI ethics are business necessities, not academic curiosities. Companies need a clear plan to deal with the ethical quandaries this new tech is...   **more**

Companies are leveraging data and artificial intelligence to create scalable solutions — but they're also scaling their reputational, regulatory, and legal risks. For instance, Los Angeles is suing IBM for allegedly misappropriating data it collected with its ubiquitous weather app. Optum is being investigated by regulators for creating an algorithm that allegedly recommended that doctors and nurses pay more attention to white patients than to sicker black patients. Goldman Sachs is being investigated by regulators for using an AI algorithm that allegedly discriminated against women by granting larger credit limits to men than women on their Apple cards. Facebook infamously granted Cambridge Analytica, a political firm, access to the personal data of more than 50 million users.

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Zoom Reverses Course on Contemplated Use of Customer Content to Train Artificial Intelligence

SEPTEMBER 12, 2023

Zoom's recent reversal on changes to its terms of service illustrates both data security and privacy minefields particular to the growth of generative AI.

Previously, the terms of service of the popular videoconferencing technology stated that it would treat users' non-public information as confidential. On March 31, Zoom quietly amended those terms, including by giving itself the right to preserve, process, and disclose "Customer Content" for a range of purposes, including "machine learning"

Related People

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Regulation

"Those in power don't like disruptive technologies because it jeopardizes their hold on power. AI is a disruptive technology, so it is no surprise that there is a movement to limit AI."

Marc Andreessen, "AI and Accelerationism with Marc Andreessen" Hermitix Podcast (8/4/2023)

Regulation of AI
On the Federal Level

- American Data Privacy and Protection Act (ADPPA)

- Algorithmic Accountability Act of 2022 (AAA)

  - Neither bill has passed

  - Both would require assessments of AI that make decisions that could pose a "consequential risk of harm to an individual or group"

  - AAA would go further, by encompassing decisions that affect the "cost, terms, or availability" of education, employment, utilities, healthcare, or housing with an ongoing requirement of assessment and modification

Regulation of AI
On the Federal Level

- A few agencies are taking the initiative

  - Consumer Financial Protection Bureau (CFPB), the DoJ, EEOC, and the FTC issued a joint statement on AI in April, 2023

    - Argued that the current legal framework applies to AI (*i.e.*, it doesn't matter if a machine makes a wrong decision, liability still applies)

    - FTC uses a remedial tool called "algorithm disgorgement" which requires deletion of ill-gotten data and the subsequent models and products

    - EEOC warns about using AI when complying with the ADA

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Copyright Office Issues Notice of Inquiry on Copyright and Artificial Intelligence

Issue No. 1017 - August 30, 2023

Today, the U.S. Copyright Office issued a notice of inquiry (NOI) in the *Federal Register* on copyright and artificial intelligence (AI). The Office is undertaking a study of the copyright law and policy issues raised by generative AI and is assessing whether legislative or regulatory steps are warranted. The Office will use the record it assembles to advise Congress; inform its regulatory work; and offer information and resources to the public, courts, and other government entities considering these issues.

The NOI seeks factual information and views on a number of copyright issues raised by recent advances in generative AI. These issues include the use of copyrighted works to train AI models, the appropriate levels of transparency and disclosure with respect to the use of copyrighted works, the legal status of AI-generated outputs, and the appropriate treatment of AI-generated outputs that mimic personal attributes of human artists.

https://copyright.gov/newsnet/2023/1017.html

Regulation of AI
At the State Level

- Ten states have passed omnibus consumer privacy laws

    - Some of those laws encompass AI that makes "critical decisions" concerning, *e.g.*, housing, credit, employment, criminal justice, etc.

    - Some of those laws require proper notice of the use of AI (and some require an opt out provision)

- Illinois' Artificial Intelligence Video Interview Act (2020)

- Maryland prohibits an employer from using facial recognition AI that creates a facial template during an interview

- 43 more bills in 21 states regarding the regulation of AI (4 passed, 18 still pending)

A Word About Open Source AI

∞ Meta AI

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Introducing Llama 2

The next generation of our
open source large language model

Llama 2 is available for free for research and commercial use.

Download the Model

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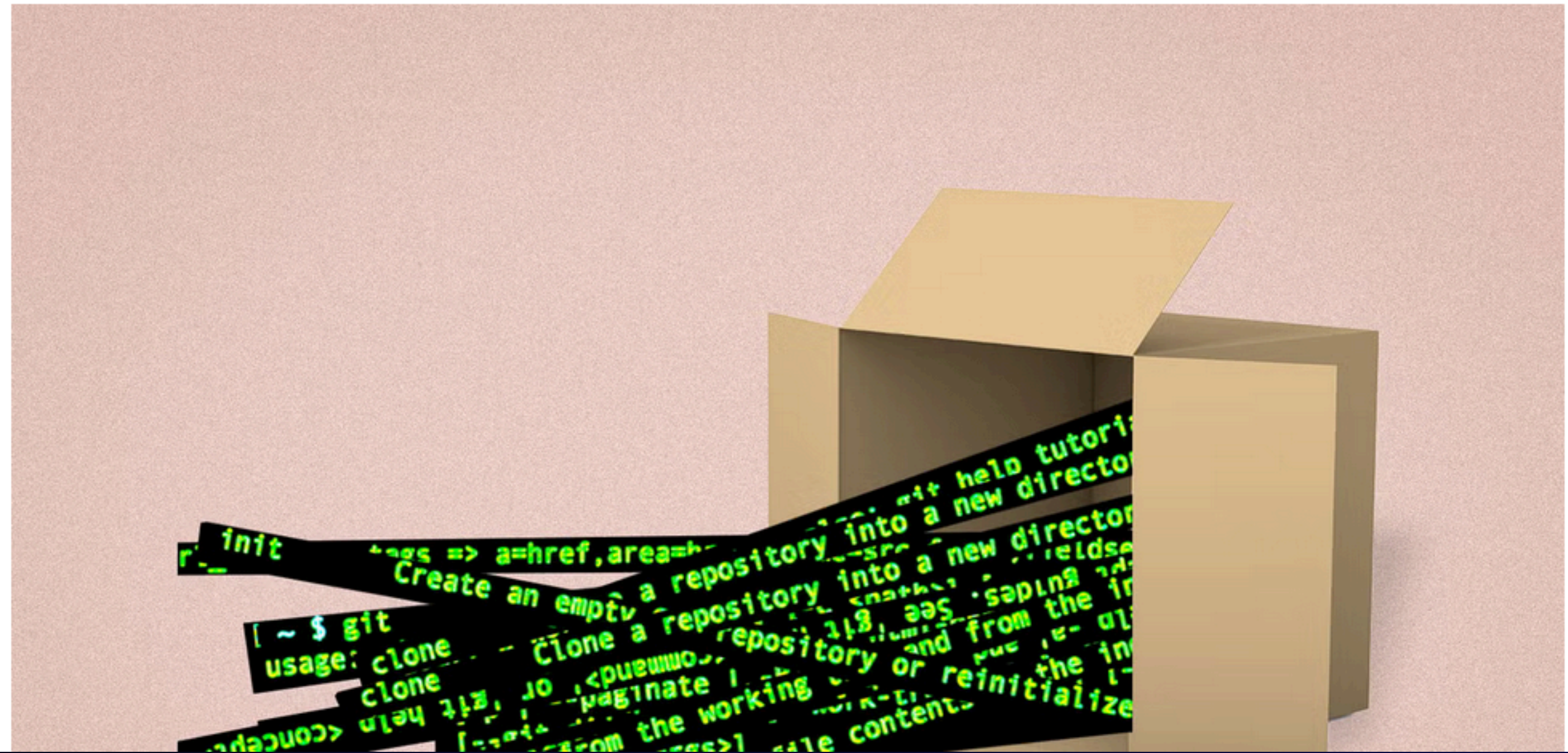A WEDNESDAY/SUNDAY TO REMEMBER

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Big Tech Isn't Prepared for A.I.'s Next Chapter

Open source is changing everything.

BY BRUCE SCHNEIER AND JIM WALDO   MAY 30, 2023 • 4:25 PM

Conclusions …

Credit: Ronald Chichester via BlueWillow

The Immediate Importance of AI
(The Bottom Line)

- AI will *not* take your job (unless you let it)

- AI can give lawyers a competitive advantage

    - … that they can use to take your job (if you let them)

- Your clients are under the same AI "gun" that you are

- The pressure to automate and to streamline will be relentless for many years

- Eventually, competence with AI will be part of your technical competence for your practice (and your license)

Brainyacts

The Brainyacts

Pragmatic insight & tips on generative AI use in legal services.

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Don't Forget...

"When you compete with a slave, you _are_ a slave."

Kurt Vonnegut, Player Piano (1952)

Questions?

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