

The Business of AI Conference Provides Practitioners with Key Skills to Responsibly Employ AI

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“AI is like the Taylor Swift of topics; you say the name and fill the room!” This is how Daryl Lim (Penn State Dickinson Law, USA) introduced his session at [The Business of AI Conference](#) hosted by INTA last month in New York City. The room was indeed filled—the Conference saw a record 404 attendees from 46 jurisdictions, making it the Association’s largest-ever yearly March conference. With the help of the AI software Wordly, participants received foreign language interpretation of the Conference in real time.

Conference Co-Chairs David Perry (Blank Rome LLP, USA) and Maysa Razavi (Moderna, USA) agreed that the goal of the Conference was to prioritize an “AI positive future,” as it has become clear that AI represents a paradigm shift for society, with huge challenges and opportunities for the intellectual property (IP) community.

Speaking to the benefits and timing of attending the Conference, Melanie Howard (Loeb & Loeb LLP, USA) noted: “Even if you start understanding AI right now, you will be at the forefront of understanding it.”

No doubt, the emergence of generative AI is a game changer, and governments around the world are also taking steps to regulate the technology. A number of countries signed a declaration on the safe development of AI technology at AI Safety Summit 2023, hosted by the United Kingdom. And we’re seeing increased regulation around the world, including in the European Union, China, and the United States—meaning, in the world’s largest economies. In October 2023, U.S. President Joe Biden issued the Executive Order on Safe, Secure and Trustworthy AI and just last month, the European Union AI Act.

Impact of AI: Is Human Effort Becoming Less Essential?

Throughout the Conference, a multitude of opinions touched on how AI can change the future of work. Overall, the consensus was that, with AI in its current state, much human effort is still required to ensure AI is used responsibly. Therefore, AI is not yet in a place to replace the experience, empathy, and nuance of human practitioners. Nevertheless, as Annya Dushine (Clarivate, USA), who moderated a panel discussion on how AI is shaping the IP practice, said: “There is no doubt that practicing IP law has become more complex in recent years, and AI has contributed to that complexity.”

Commenting on the impact of AI on the marketing industry specifically, Stephen R. Perry (Bailey Brand Consulting, USA) argued that “AI should be seen as a collaborator” at this stage. Speaking on the panel about how AI is shaping IP practice, Theresa Weisenberger (BakerHostelter, USA) agreed, noting that, while it brought many unforeseen opportunities, “with AI we are adding a different flavor but not reinventing the wheel.” Tom Roberts (Allen & Overy, UK) spoke on a panel looking at how law firms can harness AI to serve their clients. He emphasized this point: “AI is in its early days; it is nowhere near being a replacement for years of expertise, in your jurisdiction and market.”

To let them make up their own minds on the matter, participants were able to experience firsthand generative AI tools in action and see how these tools responded to common questions that come up in daily IP practice.

AI Vocabulary

Participants were provided with an **AI glossary** prior to the conference. Some additional vocabulary that can aid understand the of the AI landscape today include:

- **Scraping** | AI scraping takes existing text and images from the internet and uses them to train an AI system. How this process can result in inaccuracies, bias, and IP concerns was explored.
- **Fenced-in AI** | Fenced-in AI is an AI model tailored to a select audience. Tiffany Valeriano (KPMG Law, Germany) demonstrated KPMG’s own fenced-in AI at the conference.
- **Digital Replica** | A digital replica is created when AI is used to portray a digital version of a person’s voice or likeness. Melanie Howard (Loeb & Loeb LLP, USA) highlighted the implications digital replicas have on name, image, and likeness rights. ([See here.](#))

Benefits for Brand Professionals

The Conference highlighted a variety of benefits that AI presents for brand professionals. These included the following:

Speed | AI presents unprecedented opportunities to speed up tasks. Pete Pollard (Fireball Patents, the Netherlands) moderated the **AI Crash Course** and claimed that working with AI was like “having many assistants with a multitude of different types of expertise.”

Creativity | David Perry noted that “AI can help us amplify our creativity.” In the interactive sessions, participants were able to see this creativity in action through the following: art generated by AI, AI answering workplace queries, AI providing translations in real time, and more.

Equality of Information | Nathaniel White (Sanofi, USA), who discussed AI and the pharmaceutical product supply chains, reminded participants that AI is more accessible than other emerging technologies and has a faster and larger uptake of users. This suggests that when used responsibly, AI can democratize access to information.

Practical Risks

While AI no doubt presents myriad benefits, brand professionals should also be mindful of the inherent risks. Speaking to this point Mr. Roberts cautioned participants that “overreliance on AI presents a problem.”

Two of those risks are described here:

Inaccuracy of AI | A key point underscored at the Conference is the veneer of intelligence behind AI. Declan McGonigle (VISUA, Ireland), who joined the **AI Crash Course**, argued that while humans may admit to not knowing something, “AI always provides an answer.”

Unpredictability | Participants were warned about “AI hallucinations,” where AI misidentifies objects or sees nonexistent patterns.

Ethical Considerations

Alongside the practical risks, brand professionals must be mindful of the ethical considerations associated with AI. A session titled **Balancing Act: The Ethical Tightrope of AI Deployment** presented an overview of how organizations must weigh stakeholder priorities when utilizing AI, offering the metaphor of walking a

tightrope to demonstrate the constant push-and-pull between business value, security, and trust that organizations face when deploying AI. Bias and trust are chief among these considerations:

Bias | If AI models are based on data that contains (human) bias, these biases will remain in the outputs. Mr. White summarized this as “bias in, bias out.” Speaking on the ethics panel, Colin Gray (Indiana University Bloomington, USA) explained another aspect of bias in the data: “We do not yet have good data on disenfranchised populations, which creates risks that they are left out of key data sets.” Racial profiling of shoplifters and the potential for misuse of AI in Human Resources decisions were discussed as examples of biased data. Panelists debated where the responsibility lies to combat such biases.

Trust | Also speaking on the ethics panel, Daryl Lim (Penn State Dickinson Law, USA) suggested that “the image of AI as a black box is central to the distrust of AI.” Consumer trust is also a major consideration in that consumers must trust organizations in terms of how their data is being used and how it is being used by AI. On this point, JoAnn Stonier (Mastercard, USA) highlighted that, while consumers have a right to know how their data is being used by AI, full transparency cannot always be provided given the need to protect trade secrets. She emphasized that there is a “need to balance transparency and business decisions.” She encouraged organizations to consider how to explain their AI use without disclosing trade secrets.

Business Development Activities

Registrants had the opportunity to enjoy New York City through unique and curated experiences while networking with fellow registrants. Activities included archery, painting, and an escape room competition. They were also able to sample and learn the secrets behind the famous New York-style pizza.

Learn more about INTA's [Business Development programming scheduled for the upcoming 2024 Annual Meeting.](#)

Legal Considerations

A multitude of legal considerations that must be considered when employing AI were presented. Chief among them were

- Fair use;

- Privacy;
- Name, image, and likeness rights;
- Establishing liability; and
- Establishing ownership

Skilling Up

Participants received advice on the skills necessary to responsibly deploy AI and when to engage with AI. The following are some key skills that stakeholders can benefit from:

Understanding AI | This involves keeping up with ever-changing legislation and technological developments. Due to the complex and ever-changing nature of AI, collaboration and continuous learning are vital.

Embracing Change Quickly | Ms. Weisenberger noted: “I used AI technology three weeks ago in ways I do not use it today.” An AI governance plan can be useful for future proofing.

The Art of Prompting | In the interactive sessions, participants learned that the quality of AI outputs depends in part on how it is prompted (i.e., how AI is instructed).

Vendor Review | Because of various legal considerations different AI vendors present, they should be carefully vetted. Aryn Emert (Paramount, USA), a panelist on the session looking at how AI is sharing the IP practice, went so far as to say that “vendor review is now part of an IP practitioner’s job.”

Grasping AI Risk Tolerance and Communicating Risk Effectively | When utilizing AI to create work product for external parties, organizations must understand their risk appetites. Because AI remains mostly uncharted territory, communicating risk is also an important skill. “We all play a role in mitigating the risks of AI,” encouraged Jenna Loadman (QVC, USA).

Where Does This Leave Us?

Sharing a “glass is half full” perspective, INTA CEO Etienne Sanz de Acedo concluded that, “AI won’t replace IP professionals but will provide IP professionals who know how to use it with distinct advantages.”

In conclusion, the Conference solidified that, as Anna Manville (USPTO, USA) emphasized, “It is an interesting time to be an IP practitioner.”

AI Sessions at the 2024 Annual Meeting

The following sessions at the 2024 Annual Meeting will focus on issues related to artificial intelligence:

In-House Practitioners Workshop and Luncheon Session 1: AI, the Universe, and Everything: Getting to the Finish Line with Practical Tips for Your Brand Lifecycle (Sunday, May 19 from 9:00 am to 2:00 pm)

IP and Innovation: Law Firm Idea Exchange: Using AI to Strengthen Client Relationships and Target New Clients (Sunday, May 19 from 2:30 pm to 4:00 pm)

IP and Innovation: Similarity, AI, Ranking, and Beyond: How New Technologies Play a Role in Determining Likelihood of Confusion (Monday, May 20 from 3:45 pm to 4:45 pm)

IP and Innovation: Innovation and AI in Latin America and the Caribbean: What's in Store for Corporations and Law Firms (Tuesday, May 21 from 2:30 pm to 3:30 pm)

IP and Innovation: Decoding Copyright in the Era of ChatGPT: Generative AI and Copyright Law (Wednesday, May 22 from 10:15 am to 11:15 am)

Business: A View from the CIO's Office: The Use of AI, Data, and Intellectual Property to Accelerate Business (Wednesday, May 22 from 10:45 am to 11:30 am)

IP and Innovation: AI in the Practice of IP (Wednesday, May 22 from 11:30 am to 12:30 pm)

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