[OPINION]

Large Language Models

A look at their role in e-discovery.

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Attorneys have long been known as "merchants of words"—we trade in language, build arguments around text, and parse meaning from documents. From drafting complaints and motions to reviewing thousands of pages of discovery, our work demands both precision and efficiency in the interpretation of words. Our profession now faces a pivotal moment: Should we, as counsel, incorporate artificial intelligence to assist our discovery processes—and if so, how quickly must we adopt it?

FROM MANUAL REVIEW TO TECH-ASSISTED REVIEW

In the early days of discovery, reviewing documents was an entirely manual process. Attorneys would spend countless hours sifting through boxes filled with physical documents—contracts, emails, letters, billing statements, and more. The goal was (and still is) to identify information that might be relevant to the issues in a case. However, the sheer volume of material that a single attorney could reasonably read in a day, week, or month placed obvious constraints on how thorough and cost-effective this approach could be.

When more voluminous requests arose, some law firms attempted to streamline manual review by offshoring large-scale document review projects. Yet this solution was hardly ideal. Documents were still subject to human error, inconsistencies in review standards, and potential confidentiality concerns—not to mention the enormous costs that inevitably arose from paying a specialized labor force.

Enter technology-assisted review (TAR). Over the past couple of decades, TAR has introduced more sophisticated ways to sift through a mountain of electronically stored information.[1] Early TAR tools relied heavily on keyword search. Counsel would feed in a list of key terms—names, product references, or significant events—and the software would retrieve documents containing those terms. While these tools were far more efficient than manual review alone, attorneys often noticed that keyword-only methods would bring back false positives (due to overbroad search terms) and still miss documents containing synonyms or differently phrased content. The technology is also highly niche and commonly inaccessible to the small practitioner.[2]

With the rise of user-friendly large language models (LLMs) such as ChatGPT, Claude, Gemini, Grok, and other general consumer-facing AI models, the discovery landscape has shifted yet again.

EMERGENCE OF LARGE LANGUAGE MODELS

Large language models represent the next frontier in discovery review. They are powered by billions of "parameters," which are essentially the numerical values the model learns and adjusts during training to detect patterns in language.[3,4] Rather than searching for exact keywords, they glean meaning from context, synonyms, and phrasing. This means that an attorney can ask an LLM to locate all documents discussing a certain topic—even if the topic is never spelled out by the same words. For instance, a user might prompt: "Retrieve all emails that mention dissatisfaction with a specific product launch," and the model might find references to "problems," "issues," "glitches," or "complaints" in addition to the word "dissatisfaction." A search through social media history for "vehicle" may return posts referencing "cars," "trucks," or "motorcycles."[5]

ADVANTAGES OF AI FOR E-DISCOVERY

Finding What You Don't Know You're Missing

One of the most promising advantages of AI in discovery is its capacity to find things you never knew to look for. With keyword searches, you are limited to what you can guess is important. If you do not use synonyms for "contract," the system will not catch references to "agreement" or "memorandum of understanding." Large language models do not rely on rigid syntax alone; they interpret semantics, focusing on meaning rather than just words. It's possible to type to an LLM in the same way an attorney would type to an associate. This dramatically reduces the risk of missing key documents simply because keywords were phrased differently.

Sentiment Detection

LLMs can detect sentiment—whether a speaker is angry, frustrated, pleased, or suspicious. This can be pivotal in high-stakes litigation. For example, a cryptic email from a corporate executive might hint at wrongdoing, but unless you read every word from every email you might miss it. An AI-driven approach can detect negative or secretive undertones that suggest a deeper problem. By highlighting these nuances, lawyers can spot red flags faster, leading to more informed case strategies. Moreover, AI review can quickly discover communication patterns that keyword searches, and even human review, may miss.

Time Savings and Cost Efficiency

Time is money—for both the attorney and the client. A thorough manual review of large volumes of emails and documents could take months or even years, rack up enormous billable hours, and burn out staff. AI speeds this process exponentially, reviewing tens (or hundreds) of thousands of pages in a fraction of the time. The result is a win-win: attorneys can handle more cases and clients save money on the overall cost of discovery.

Repeatability and Consistency

Another boon of AI-assisted document review is repeatability. Large language models retain the same level of diligence every time you rerun a search or train a new model. Humans, on the other hand, can miss details on a second or third pass due to fatigue or oversight. AI ensures consistent results across a standard model.

CONTEXT WINDOW: THE LIMITING FACTOR

A defining feature of large language models is the "context window," or the amount of information—beyond the model's general training—that you want it to process at once. Early large language models could only analyze a few thousand tokens (a token is typically around a few characters). Newer consumer-grade large models can handle hundreds of thousands of tokens, corresponding to hundreds of thousands of words—enough for entire pleading sets, demand letters, discovery responses, emails, contracts, medical records, and more to be parsed and processed simultaneously.

The impact of increasing context windows is remarkable. Today, large language models can draft bespoke discovery requests and respond in kind, and they are rapidly becoming multimodal—capable of processing not just text but also images, audio, and video. As a result, the only real limitation for lawyers is the size of the LLM's context window.

The CEO of OpenAI (maker of ChatGPT) suggests that, in the near future, context windows will expand to natively accommodate many *billions* of words.[6] This expansion means attorneys might eventually feed every bit of information even remotely related to a case—hundreds of thousands or even millions of pages—into a LLM at one time.

MOVING TOWARD A DUTY TO USE AI

Raising the Standard of Practice

As these models become more sophisticated and ubiquitous, the legal industry must confront a pressing question: Does failure to use AI tools in document review risk a violation of the attorney's duty of competence? The current proposed ethics opinion says no.[7] But what does the future hold? Many practitioners and ethics boards are beginning to assert that ignoring AI might fall below the standard of practice—especially in complex litigation where vast amounts of data are at stake.[8,9] If cost-effective AI solutions can locate relevant material that might otherwise remain hidden, an attorney who proceeds solely with manual or outdated review strategies might open themselves up to malpractice claims.

Ethical and Practical Considerations

Of course, adopting AI does not absolve attorneys of the responsibility to ensure confidentiality or compliance with privilege rules. Lawyers remain the gatekeepers for what is produced. Ethical obligations such as verifying the accuracy of the documents identified by AI, maintaining client confidentiality, and safeguarding privileged material remain paramount. If an AI tool is used, it is incumbent on attorneys to verify the reliability and security of the platform. Many large language models allow for secure cloud deployment, mitigating concerns about data breaches or accidental sharing of confidential information.[10] However, due diligence in selecting an AI provider is crucial.

Access to Justice

When used responsibly, AI can also enhance access to justice by reducing legal fees. Small firms and solo practitioners who previously found large-scale e-discovery cost-prohibitive can now leverage AI-driven services. By lowering financial barriers, more clients can afford to pursue legitimate claims or defenses. In this way, AI may not only redefine best practices but also reshape how we serve a broader population in need of legal representation.

CONCLUSION

In a profession defined by words, large language models represent a natural evolution of our craft. Rather than an assault on our traditional role, AI is becoming an indispensable ally, freeing us to do what we do best: develop legal strategies, counsel clients, and focus on the higher-level skills that define our calling.

For those who remain skeptical, consider this: as context windows stretch to encompass billions of words, as AI systems learn to cross-reference details at a granular level, the concept of what is "discoverable" will change dramatically. The time spent in data review will shift to time spent in strategic thinking. Clients will be better served, and attorneys will be more effective. Indeed, in the not-too-distant future, AI-assisted discovery will likely become a baseline expectation—a

standard tool that every attorney is expected to command. To stand still is to fall behind. The future is now, and it speaks in ones and zeros—but it speaks our language all the same. **TBJ**

NOTES

1. Maura R. Grossman and Gordon V. Cormack, *Technology-Assisted Review in E-Discovery Can Be More Effective and More Efficient Than Exhaustive Manual Review,* XV11 Rich. J.L. & Tech. 11 (2011), http://jolt.richmond.edu/jolt-archive/v17i3/article11.pdf.
2. Ross, *E-Discovery Technology Assisted Review (TAR): Is It Worth the Cost?,* GoldFynch (Jan. 26, 2020), https://goldfynch.com/blog/2020/01/26/ediscvery-technology-assisted-review-tar-is-it-worth-the-cost.html.
3. Stephen Wolfram, *What Is ChatGPT Doing … and Why Does It Work?,* Stephen Wolfram Writings (Feb. 14, 2023), https://writings.stephenwolfram.com/2023/02/what-is-chatgpt-doing-and-why-does-it-work.
4. Grant Sanderson, *Transformers (how LLMs work) explained visually | DL5,* YouTube (Apr. 1, 2024), https://youtu.be/wjZofJX0v4M.
5. *Id.*
6. Lex Fridman, *Interview with Sam Altman*, *Lex Fridman Podcast,* Ep. 367 (Mar. 18, 2024), available at https://lexfridman.com/sam-altman.
7. Opinion No. [PO-2024-6] [Draft opinion], Professional Ethics Committee for the State Bar of Texas (November 19, 2024), https://www.texasbar.com/AM/pec/vendor/drafts/PO_2024_6.pdf; "Rule 1.01 almost certainly does not require the use of generative AI for any particular purpose in the practice of law, especially at the present moment where the technology is still developing and the cost-benefit analysis remains somewhat unclear," https://www.texasbar.com/AM/pec/vendor/drafts/PO_2024_6.pdf.
8. Marcin M. Krieger & David R. Cohen, *Navigating the Seven C's of Ethical Use of AI by Lawyers,* Reed Smith (Dec. 20, 2024), https://www.reedsmith.com/en/perspectives/2024/12/navigating-the-seven-cs-of-ethical-use-of-ai-by-lawyers?
9. Formal Op. 512, ABA Standing Committee on Ethics & Professional Responsibility (July 29, 2024), p. 14, https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/ethics-opinions/aba-formal-opinion-512.pdf. ("Lawyers using GAI tools have a duty of competence, including maintaining relevant technological competence, which requires an understanding of the evolving nature of GAI.").
10. *OpenAI Trust Portal,* OpenAI, https://trust.openai.com.

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