



## The humanity in justice and the limits of automated advocacy



BY LAINA CHAN - AUG 26, 2025 2:11 PM AEST

### Snapshot

- Oral advocacy has long relied on the expertise, judgment and intuition of skilled practitioners yet AI is challenging the boundaries of what was once considered uniquely human.

- While proponents highlight gains in efficiency, consistency and fairness, the prospect of automating advocacy with AI raises profound questions about legitimacy, trust and the transparency of courtroom decision-making.
- The future of advocacy may rest on finding the right balance between technological advancement and the irreplaceable value of human presence in the courtroom.

**T**he rise of AI in law has provoked both optimism and caution in equal measure. Across the legal world, practitioners and clients alike are asking: will algorithms eventually render lawyers obsolete? Can technology truly deliver on the promise of wider access to justice or does it threaten to reduce legal reasoning and advocacy to mechanistic output?

The debate has been sharpened by voices such as [Adam Unikowsky](#), who argued AI—when equipped with the right documents—can already handle oral argument in the highest courts with a competence equal to, if not greater than, most human advocates. Unikowsky’s experiment, in which he pitted a leading large language model (‘LLM’) against his own real-world US Supreme Court performance, is emblematic of a new confidence which I suggest overestimates the capabilities of artificial intelligence.

The question at the heart of this debate is not simply about what machines can do, but about what justice requires. In this article, I take up the challenge set by proponents of automation and assess, from a practitioner’s perspective, what is truly at stake. Can legal advocacy be safely and ethically automated? What remains irreplaceable in human lawyering? And, crucially, how should the profession respond if we are to protect both the integrity of law and the public’s access to justice in an AI-powered future?

## The promise and pitfalls of AI in law

Legal research is, by its nature, time consuming and detail oriented. Similarly, contract review and due diligence for mergers and acquisitions are labour intensive. The advent of AI-powered legal tools has already reshaped this domain, allowing lawyers to sift through mountains of documents, case law and commentary with unprecedented speed. In this context, the appeal of automation is obvious: tasks that once consumed days or weeks can now be completed in minutes, with fewer human errors and greater coverage of documents and relevant authorities.

These capabilities are not abstract. It is possible that lawyers in small firms, legal aid centres and regional communities will find that AI research tools can level the playing field with better-resourced opponents. Previously, the ability to marshal every relevant precedent and distil a complex legal question into a coherent answer was the privilege of those who could afford a team of researchers. Soon, it will be within reach for all.

Yet, despite the obvious efficiency gains, it is essential to recognise the limits of what AI can and cannot deliver. LLMs excel at mimicry; they do not reason (see, e.g. Johannes Jaeger, ‘[Artificial intelligence is algorithmic mimicry: why artificial “agents” are not \(and won’t be\) proper agents](#)’ (2024) *Neurons, Behavior, Data Analysis and Theory*). The real work of lawyering is not simply retrieving information but making sense of it—identifying what matters, contextualising facts, exercising judgment and crafting strategy in the fog of real-world dispute.

## Unikowsky’s challenge: the case for automated oral advocacy

The boldest claims for AI in law concern oral advocacy. Unikowsky has publicly argued that, in a world where the briefs and record are provided to the model, a robot lawyer could deliver answers at oral argument that are at least as clear, comprehensive and quick as those of human advocates. In his view, the ‘first frontier’ for AI in legal practice should be oral advocacy, precisely because of the high value placed on speed and responsiveness in appellate proceedings.

Unikowsky’s arguments for AI advocacy can be summarised as follows:

- Speed and composure: AI never gets nervous or loses its place, and answers in perfectly formed paragraphs regardless of the pressure of the courtroom.
- Consistency and accuracy: unlike humans, who may make mistakes under pressure or overlook key facts, an LLM fed with the full record is always ready to provide an answer, even to unexpected or left-field questions.
- Fairness: if both sides use AI-driven advocacy, the playing field is levelled—outcomes depend on the merits, not the skill of the advocate.
- Low risk of error: in oral argument in the US Supreme Court, lawyers are supposed to refer only to the record and briefs. Hallucinations (made-up facts or authorities) are unlikely if the AI is well-designed and inputs are carefully managed.
- Efficiency: since oral argument rarely decides a case, automating it brings little downside risk; the briefs remain the primary vehicle for persuasion.

**No matter how quick or comprehensive an AI’s answers are, they are ultimately the product of pattern recognition, not lived experience or legal intuition.**

While this vision is compelling, it is important to unpack the assumptions behind it and examine both the limits of current technology and the values at stake in human advocacy.

## **The limits of automation: judgment, context and human meaning**

However, oral argument is rarely a mechanical exercise. The heart of advocacy lies in the capacity to read the room, to adapt to the subtext and nuance of judicial questioning and, most importantly, to exercise strategic judgment in real time. No matter how quick or comprehensive an AI's answers are, they are ultimately the product of pattern recognition, not lived experience or legal intuition.

Cleverness in this context is not the same as wisdom. A human advocate brings to the bar not just a store of legal knowledge, but also the ability to discern when to press a point, when to concede and when to recalibrate strategy mid-hearing. The ability to interpret nonverbal cues, to weigh the personalities and perspectives of the bench, and to judge which arguments will resonate is the result of years, if not decades, of practice and immersion in the culture of the law.

What is more, the presence of a human advocate provides a visible marker of accountability. Judges, parties and the public can see and question the reasoning underpinning the arguments put forward. Law's legitimacy depends on this transparency and the sense that parties have been genuinely heard, not simply processed through a digital interface.

## **Speed, consistency and the value of human doubt**

Unikowski's argument for AI in oral advocacy foregrounds the virtues of speed, composure and unflappability. But speed is not itself a legal virtue. Law is slow, sometimes by necessity. It requires deliberation, the weighing of alternatives and the willingness to reconsider. Human frailty—doubt, second-guessing and even momentary confusion—can be a source of strength, signalling to the court that the advocate is taking the task seriously, engaging with the problem in real time and refusing to cut corners.

Clients do not simply want answers. They want judgment, discernment and the reassurance their story has been understood and championed by a real person.

## **Hallucinations: understanding the distinction between advocacy and research**

A particularly telling argument from Unikowski is his claim that hallucinations are a negligible risk in AI-powered oral argument. In the live setting, he notes, advocates are supposed to stick closely to the record and the briefs, and his own experiment with an LLM produced no hallucinations when the model was fed only the permitted materials.

While this may be true in strictly controlled settings where the AI's outputs are confined to well-curated documents, the risk profile changes dramatically in legal research, written submissions and drafting. In these broader contexts, AI tools may invent authorities, distort the holding of a case or miss the nuances that arise from jurisdictional complexity, conflicting precedents or ambiguous legal standards.

In real-world research and preparation, every answer must be anchored to primary sources, complete with pinpoint references and verifiable reasoning. Transparency is essential. Only a system that exposes its sources and chain of logic can be trusted in professional practice. It is in this context that the limitations of AI are most acute, and where human review and verification are indispensable.

## Human connection and the legitimacy of law

Unikowski also challenges the significance of human connection in legal argument, suggesting that justice should be logic-driven and impersonal. Removing 'authentic connections' between advocates and judges, in his view, is a benefit rather than a cost.

This view neglects the social and ethical foundation on which law rests. Human presence in advocacy is not mere tradition; it is a guarantee of accountability, dignity and the right to be heard. Injustice is not just a data point, it is a lived experience. The visible engagement of advocates—accountable, emotionally invested and responsive to the particularities of the case—remains a cornerstone of the legitimacy of our legal system.

### **Advocacy, at its best, is about storytelling.**



Advocacy, at its best, is about storytelling; giving voice to those whose interests are at stake, framing arguments in a way that resonates with the court and demonstrating the human consequences of legal rules. No algorithm, however sophisticated, can fully capture the emotional or moral texture of the law in this way.

## Level playing field: the promise and the challenge

One of the most attractive claims made for AI-driven advocacy is that it promises a more level playing field. If both sides use the same high-quality technology, outcomes will be driven by the merits of the case, not by disparities in legal skill or resources.

This vision has merit, especially where legal service delivery is currently unequal. But true

fairness in law is not only about access to information, it is about the quality and transparency of reasoning, the opportunity for parties to be heard, and the possibility of challenging or appealing questionable outcomes. If the process is opaque, the outputs are unauditable, or responsibility for error is diffuse or uncertain, then the promise of equality rings hollow.

Moreover, a system that automates the differences between advocates away may inadvertently flatten the diversity and creativity that make legal reasoning adaptive and just. The best legal arguments are not those that simply follow patterns, but those that adapt, innovate and respond to changing legal, social and factual contexts.

## **Serving the margins: access to justice as a core value**

Where AI truly shines and where its promise is most profound is in extending the reach of high-quality legal research to those previously excluded or disadvantaged. Community legal centres, small firms and practitioners in rural or regional areas have traditionally struggled to access the resources, databases and time needed to match the performance of large, well-funded teams.

Modern legal AI tools, when designed for transparency and reliability, can dramatically improve access to justice. The ability to instantly summarise new authorities, digest relevant legislation and find overlooked precedents ensures every advocate, judge and litigant is empowered to engage with the law on equal terms.

However, delivering on this promise requires more than just deploying technology. It demands a relentless commitment to accuracy at every level, maintaining the same standards for every user regardless of geography or resources, and ensuring the legal community is trained and equipped to critically assess, verify and challenge AI outputs when necessary.

## **Beyond the hype: what lawyers really want from AI**

It is a common misconception that lawyers simply want faster tools. In practice, a legal research partner who delivers transparency, accuracy and efficiency, and who supports, not supplants, the skills and judgment of practitioners is what is needed.

Trust and traceability are paramount. Every output must be footnoted, directly linked to the authoritative source, and structured to mirror the way lawyers think and reason about problems. Whether preparing for mediation, drafting pleadings or validating strategy, practitioners must know exactly where their information comes from and how it holds up under scrutiny.

AI tools that meet this standard are powerful allies, not threats. They free lawyers from drudgery, enable greater strategic focus and empower practitioners to deliver better outcomes—particularly in settings where time and resources are scarce.

# Data security, confidentiality and professional responsibility

No discussion of AI in law is complete without attention to security and professional integrity. Legal AI systems must meet the highest standards of confidentiality, privacy and regulatory compliance, and have robust protocols for data protection across jurisdictions. Practitioners must be able to explain, defend and, where necessary, challenge the outputs provided by their tools, retaining ultimate responsibility for the advice and advocacy delivered in their name.

This principle holds with special force where the technology is used by or on behalf of vulnerable communities, or in cross-border matters where the stakes for privacy and due process are especially high.

**Overreliance on AI, especially among junior practitioners, can lead to missed nuances, ethical blind spots and, in the worst cases, professional malpractice.**



## Education, ethics and the future of the profession

The rise of AI in legal practice requires a new approach to professional education and ethics. Law schools and professional bodies must ensure future lawyers are not only fluent in using new tools, but also trained to question, verify and supplement machine output with human expertise. One way may be to train law students to dissect and critically analyse outputs generated by AI—much like we were trained to analyse English texts at school. Overreliance on AI, especially among junior practitioners, can lead to missed nuances, ethical blind spots and, in the worst cases, professional malpractice.

Hybrid models in which AI augments but never replaces the human lawyer are not simply a pragmatic compromise. They represent the best of both worlds: the efficiency and coverage of technology, married to the discernment, empathy and ethical sensibility of human professionals.

The emergence of examples where practitioners have not checked their AI outputs before using them in court include the widely reported cases *Mata v Avianca, Inc* 22-cv-01461 (DC NY 2023), *Ayinde v Haringey* [2025] EWHC 1383 and *Dayal* [2024] FedCFamC2F 1166. These examples, together with explicit warnings from the [Law Society of NSW](#) and the [Supreme Court of NSW](#) about the dangers of unverified AI outputs, stand as a reminder that technology

cannot be a substitute for professional judgment, diligence or ethical responsibility.

## **Autonomy and the illusion of choice**

Unikowski's claim that AI-driven advocacy supports litigant autonomy is, in theory, appealing. However, for autonomy to be meaningful, users must be genuinely informed of the technology's capabilities and limitations, and there must be robust mechanisms for oversight and redress. In the absence of these safeguards, vulnerable parties may be exposed to new forms of risk; unaware of the possible errors or biases in machine-driven argument, or unable to challenge or appeal an AI-generated outcome.

Courts, regulators and professional bodies have a critical role in setting the standards for review, transparency and ethical conduct in an AI-powered legal system.

## **The irreplaceable role of human lawyers**

Despite all the advances in AI, the case for human lawyering is, if anything, stronger than ever. Lawyers are not just conduits of information, but stewards of justice, ethical actors and trusted advisers. The best lawyers combine technical mastery with judgment, empathy and the courage to challenge received wisdom or push for new solutions.

AI may co-author arguments, check citations or draft initial submissions, but it is the human lawyer who must decide, interpret and stand behind every word. Professional responsibility remains with the advocate, not the algorithm.

## **Building the future: augmentation, not automation**

The most promising future for legal practice is not a contest between human and machine, but a true partnership. Legal AI should be built for transparency, traceability and with human-in-the-loop design. Automation can take on the heavy lifting by sifting, organising and verifying law while human lawyers focus on strategy, ethics and client service. Legal education and professional development must reflect this new reality: teaching not only how to use AI, but how to challenge it, verify it and, when necessary, override it.

## **Justice in the hybrid age**

Justice cannot and should not be automated away. The great promise of AI in law is to empower, not to replace. It can bring greater efficiency, accuracy and access but only if deployed with humility, ethical rigour and a relentless commitment to the core values of our profession.

As we stand at the crossroads of legal tradition and technological innovation, let us not be guided by the illusion of frictionless automation, but rather by the lived realities of law and the enduring needs of our communities. The soul of law is still and always will be human. As we move forward, the challenge for the profession is not simply to adopt new tools, but to do so



with humility, vigilance and a renewed commitment to justice.

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