AI in IP Litigation

December 5, 2025

Advanced Patent Law Institute

Topics

I. Prevalence

II. Use Cases in IP Litigation

III. Legal Ethics

IV. Future Impact?

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Prevalence

ABA 2024 AI Tech Report

- Online Legal Research
- Marketing & Communication Technology
- Law Office Technology
- Litigation Technology & E-Discovery
  - Keywords natural language search concepts and AI-assisted search
  - Document prioritization
  - Data culling
  - Quality control
  - Speed
- Technology Basics & Security

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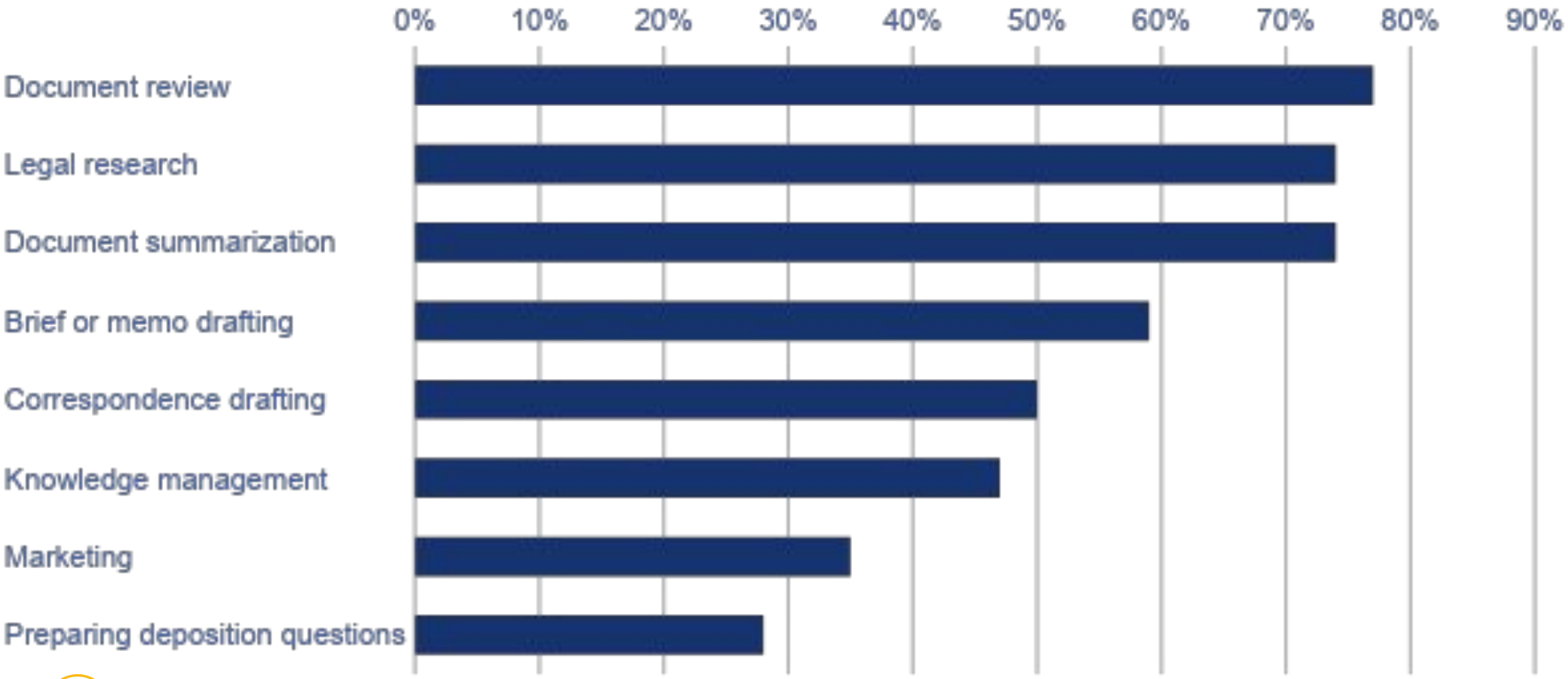
Source: https://www.americanbar.org/groups/law_practice/resources/tech-report/2024/2024-artificial-intelligence-techreport/

Top 8 General Litigation Uses for AI in 2025



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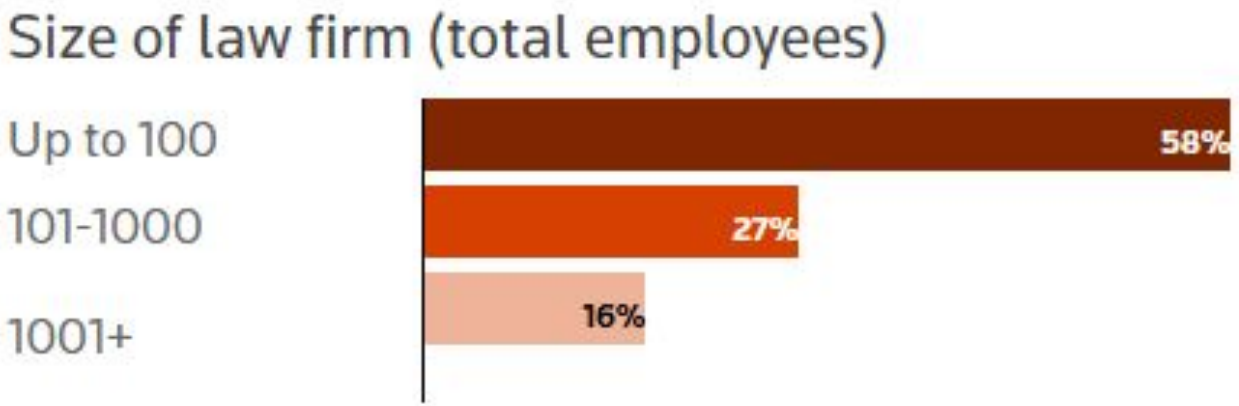
Source: Thomson Reuters 2025 Future of Professionals Report, https://legal.thomsonreuters.com/blog/how-ai-is-transforming-the-legal-profession/

Thomson Reuters: Key value-adds from AI

- Handling large volumes of data (59%)
- Faster client response times (41%)
- Reducing human error (35%)
- Advanced analytics for decisionmaking (3%)

Details about Thomson Reuters Respondents

- 2275 respondents
- Global distribution
- Up to 240 hours/year saved per lawyer (5 hours/week)
- Mostly smaller firms



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Use Cases

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Use Cases in IP Litigation

- Prior art searching
- Claim charts
- Discovery
- Translation
- Brief writing and editing
- Hearing preparation

Local Rules, Judges' Rules and the Persistence of Hallucinated Case Citations

- Hallucinated Case Citation Database (https://www.damiencharlotin.com/hallucinations/)
  - 615 cases and counting (416 in the US)
- Court Rules
  - Range of Rules
    - Regular Ethics Rules Apply: E.g., Judge Lin (ND Cal)
    - DO NOT USE AI for research: E.g. WDNC (requiring *every* brief to include a certification that no AI was used in doing the research for the document, except Westlaw, Lexis, FastCase and Bloomberg))
  - Resources
    - https://www.law360.com/pulse/ai-tracker
- ABA Formal Opinion 512
  - https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/ethics-opinions/aba-formal-opinion-512.pdf

Legal Ethics

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Ethical Considerations

- Duty of Competence
- Duty of Diligence
- Supervision and Unauthorized Practice of Law
- Confidentiality: Attorney-Client Privilege and Attorney Work Product
- Acceptable Use Policies

Exercising Judgment

- **Get Help:** If the lawyer cannot manage the risks and benefits, associate with someone who can. *E.g.*, CA Rule 1.1(c)
- **Inform Client:** Communicate with the client about the benefits and risks of the technology. *E.g.,* ABA Model Rule 1.4
- **Bias in the AI:** Avoid harassment or discrimination against protected classes. *E.g.,* ABA Model Rule 8.4(g)
- **Independent Judgment:** Don't rely blindly on the AI outputs. *E.g.,* ABA Model Rule 2.1

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Summary: Key Ethical Issues

- **Supervision**
  - Errors and anomalies
- **Independent judgment**
- **Confidentiality**
  - Hosting data
  - Data breaches
- **Attorney-Client Privilege**
  - (and Attorney Work Product)
- **Billing**
- **Competence**
  - Changes in the law
  - Changes in the technology

Future Impact?

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