



# Legal Trends in Artificial Intelligence

## 2024 Report

Forget flying cars and robot butlers—AI’s *real* revolution is happening right now, reshaping industries, disrupting norms, and leaving legal footprints the size of Bigfoot.

As AI-powered technology continues to evolve the way businesses across sectors operate, Dykema will continue to evolve with it. With the launch of our [Artificial Intelligence and Innovation practice group](#), our attorneys stand at the forefront of this rapidly evolving legal and public policy landscape.

Introducing [Legal Trends in Artificial Intelligence](#): Dykema’s guide to navigating AI’s latest technological innovations, regulatory updates, and industry trends.

Want to unlock the most promising opportunities this revolutionary technology presents? Read on.

# Artificial Intelligence and Innovation

## Dykema Practice Group Overview

Working across practices, across disciplines, and across industries, Dykema's Artificial Intelligence and Innovation practice is uniquely positioned to handle a broad and diverse range of complex legal, government policy, and regulatory matters. Our team combines technological prowess with innovative problem-solving, with years of experience navigating the legal landscape of machine learning, data processing, and AI platforms.

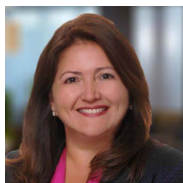
Our team is well-equipped to provide advisory services, manage regulatory compliance, handle litigation matters, influence public policy and facilitate transactions for clients within a wide range of industries. Dykema's Artificial Intelligence & Innovation practice boasts an attorney roster that spans practice areas, providing expert counsel on matters of:

- Compliance and Government Investigations
- Public Policy, Lobbying, and Regulatory
- Labor and Employment
- Licensing and Transactions
- Litigation
- Privacy
- Intellectual Property
- Energy
- Healthcare
- Real Estate

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# Spotlight: Cybersecurity



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## One Big Thing: The New Question of Vendor Stability

The saga of Sam Altman—the OpenAI CEO-turned ex-CEO-turned CEO again—focused attention on a key issue: just how stable is the industry from the standpoint of an end user?

Altman’s ousting—and subsequent rehiring—underscores the volatile nature of the AI industry, and with it, questions of progress versus caution. Altman’s reinstatement—only after key employees threatened to leave—raises new questions. Previously, the conflict was between aggressive “pedal to the metal” developers in a company and their own internal legal and regulatory teams. One group wanted to move services to market quickly and broadly—and the other worried about the company’s ability to comply with mushrooming vertical (sector-specific) and horizontal (privacy- and AI-specific) laws. The Altman drama added a third question to the mix: whether a supplier of AI technology like OpenAI would suddenly lose its key players and fold, leaving corporate users high and dry. This is both a contractual problem—and a practical one.

Businesses should never lose sight of the need for ongoing research, regulatory oversight, skill development, and security improvements. But the Altman situation also provides a cautionary tale for industries like automotive that have long lead times and need high supplier reliability: do your due diligence on software products and know what to do if key computing tools go dark.

# Spotlight: Government Policy



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## One Big Thing: Political Ads Get (Even More) Deceptive

Last April, the RNC released an ad depicting what a second Biden term would look like. The spot showed photos of boarded up storefronts, armored military patrols roaming the streets, and a deluge of immigrants creating panic. Compelling it may have been, the ad was made up entirely of AI-generated images. 2024 will be the first major election cycle in the era of AI's relative ubiquity. But while AI-manipulated media (such as deepfakes) has played a major role in political campaigns of years past, 2024 will see these deceptive practices taken to a new level of quality and pervasiveness.

In August, the Federal Election Commission began the process to regulate AI-generated deepfakes in political ads, while Big Tech companies have introduced policies that require political ads running on their platforms to disclose whether or not they were created using AI. But these regulatory guardrails can only do so much—as artificial intelligence evolves rapidly and bad actors gain access to increasingly powerful software, “synthetic” content is becoming indistinguishable from real-life media.

Looking ahead, expect the FEC to tighten its grip on the use of AI-generated media in political campaigns. At the state level, states like Michigan, Texas, Washington, Illinois, and Minnesota have introduced legislation that would prohibit the distribution of “materially deceptive” media with the intent to influence the outcome of an election.

# Spotlight: Corporate Law

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## One Big Thing: M&A Strategy Formulation

AI technology is transforming the M&A landscape by enhancing data analysis, due diligence, risk assessment, and valuation modeling. Large firms such as Blackstone, EY, and KKR are already using sophisticated AI machine learning algorithms and data analytics platforms to process vast data sets quickly, aiding in identifying patterns, risks, and opportunities in financial and operational data to inform their decision-making. These AI-driven insights not only enhance the efficiency and thoroughness of diligence and decision-making, but also empower firms with a competitive edge in negotiation strategies by providing data-backed arguments. The increasing democratization of this technology will allow smaller players to compete more effectively, opening up new avenues for innovation and strategic agility in the M&A market.

However, the usefulness of AI in the M&A realm is heavily contingent on the quality and integrity of the underlying data fed into these models. While AI excels in data analysis, it lacks the nuanced capacity to fully grasp the subtle yet critical aspects of company culture and human relationships that are often pivotal to the success of an acquisition or combination. Further, the confidentiality, ethical, and privacy concerns, including the inherent biases in AI algorithms, are crucial issues that need careful navigation. Despite these hurdles, the evolving role of AI is undeniably reshaping the M&A landscape, offering both large and small firms enhanced capabilities to refine their strategies and improve decisions and deal outcomes.



# Spotlight: Intellectual Property



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## One Big Thing: A Better, Faster, Cheaper Trademark Cycle

Registering a trademark is a deeply complex, technical, and, perhaps most importantly, *human-powered* process that can take 12 to 18 months to complete. But what if you pawn some of that legwork—the clearance research, the filing, the back and forth with the Trademark Office Examining Attorney, and the post-registration policing and protection of the mark—onto a machine? AI-powered trademark tools, while still in their early stages of development, are poised to completely revolutionize the end-to-end registration process.

From a clearance perspective, AI-powered trademark tools can analyze vast amounts of research data with greater speed and accuracy than their human counterparts. By sifting through millions of prior trademarks to proactively identify potential conflicts and assess the likelihood of registration, these tools can save time on the backend by avoiding rebranding efforts later. They can even provide personalized insights and recommendations that help applicants develop a brand that is most relevant to their target audience.

Some tools can even aid in the creativity and innovation stage, using algorithms to generate a wider range of trademark ideas than human brainstorming alone. Tools like this can assess infinite combinations of words, symbols, and designs to create trademarks, logos and slogans that are more unique, more memorable, and more protectable. As these tools become more affordable and accessible, businesses will have the opportunity to leverage their capabilities to stay competitive.

# Spotlight: Healthcare



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## One Big Thing: Data Becomes the New Prophylactic

AI-powered algorithms that can analyze vast amounts of patient data—including medical history, genetic information, and lifestyle factors—can help enable proactive interventions and have the potential to revolutionize the way we approach chronic disease management. They also raise concerns about potential surveillance, manipulation, and loss of control over personal data.

Patients have the right to understand how their data is collected, who has access to it, and how AI technology can make decisions that impact their care. The current legal framework that protects these rights is fragmented and evolving rapidly, so lawmakers and regulatory bodies will need to establish clear guidelines and regulations that ensure patient safety and ethical use of AI technology. As AI-powered healthcare applications become more powerful, existing data protection regulations like HIPAA and GDPR will need to be reviewed and potentially amended to address the specific risks associated with them.

Healthcare providers, for their part, will need to ensure transparency in the algorithms that power their applications, and provide clear explanations about how consumer data is used and how it affects their treatment plans.

# Spotlight: Energy



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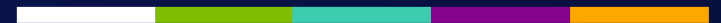
## One Big Thing: A Modernized Grid Needs Modernized Governance

Between 9,200 electric generating units, one million megawatts of generating capacity, and over 600,000 miles of transmission lines, a system as vast and complex as the U.S. electric grid is primed for an AI-powered transformation. But as the integration of smart technology continues to make strides in modernizing the otherwise archaic infrastructure of our grid, it's important to consider the emerging legal implications that surround it.

Perhaps most imperative is the issue of data privacy, as smart grid technology leverages vast amounts of operational data for both grid management and energy distribution. With the potential to inflict widespread outages and disruption, AI-powered energy systems are particularly vulnerable targets for cybercriminals to exploit. So as these systems become more integrated, robust cybersecurity measures and incident response protocols will become more essential to protect against cyber threats and safeguard critical energy infrastructure. On the privacy side, legislation like the California Consumer Privacy Act (CCPA) may require amendments that more specifically address the risks posed by these data flows, such as more secure storage practices, access control measures, and incident response protocols.

Beyond CCPA, lawmakers may very well consider entirely new regulatory frameworks to address novel challenges and opportunities that arise from AI's proliferation in the energy sector. In this context, international cooperation and knowledge sharing will be crucial for developing effective measures.





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