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The dangers of artificial intelligence in the legal profession : a troubling example

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The use of artificial intelligence is becoming widespread across various sectors, including the legal profession. While these technological tools may provide invaluable assistance to legal professionals, they simultaneously present significant risks that demand careful scrutiny.

Recent judicial incidents involving lawyers' use of AI have raised serious concerns within the legal profession, both in the United States and internationally¹. In these cases, attorneys have faced sanctions for incorporating entirely AI-fabricated legal precedents into their legal documents.

As the personal experience recounted below demonstrates, these incidents are not isolated but reveal a systemic problem in AI assisted research.

A disturbing experience : the fictional 4A_414/2019 Swiss Federal Court Ruling, invented from scratch by Claude AI

A lawyer with Forty-Four Avocats recently made an illuminating experience highlighting these risks. When asking Claude AI (an universal AI) about recent case law concerning the validity of a share transfer that had taken place in violation of statutory restrictions, the AI fabricated an entire Federal Court ruling (4A_414/2019 from March 19, 2020). Claude AI provided precise, seemingly authoritative details, including a specific claim that "*the Federal Court has ruled that where the articles of association of a joint stock company prohibit the transfer of shares by written assignment, such a transfer may be considered invalid*". On question, the AI even indicated the specific section that dealt with the issue (4.2) and indicated that the ruling had been handed down in German.

¹ see notably <https://www.legaldive.com/news/chatgpt-fake-legal-cases-generative-ai-hallucinations/651557/> ; <https://www.reuters.com/legal/transactional/lawyer-who-used-flawed-ai-case-citations-says-sanctions-unwarranted-2024-08-27/> ; <https://www.scl.org/uk-litigant-found-to-have-cited-false-judgments-hallucinated-by-ai/>

A check on the Swiss Federal Supreme Court website reveals that this ruling simply doesn't exist. This was purely an AI invention, and our lawyer pointed out to Claude AI that the case law it was quoting did not exist. The AI tool then acknowledged its error, apologized for it and admitted that it had not discovered any recent case law on the subject.

The limits of AI: a critical risk of misinformation

This experiment highlights several critical issues:

- Universal AIs generate responses based on probabilistic models, creating seemingly coherent but potentially fictitious information;
- Their ability to "hallucinate" is particularly dangerous because it can produce fictitious but very convincing information;
- AI tools actively attempt to persuade users of their responses' authenticity.

Recommendations for Responsible AI Tool Usage

To mitigate potential errors, it is essential to :

1. systematically cross-reference AI-generated information with official legal databases;
2. remain skeptical of overly precise answers lacking verifiable sources;
3. use AI as a complementary tool to human analysis, never as a replacement;
4. maintain rigorous skepticism, even when presented with seemingly credible information.

Conclusion

Although artificial intelligence is a promising technology for the legal sector, it has significant limitations that require particular attention. Rigor and precision must remain paramount, with AI tool usage always accompanied by systematic source verification to prevent misinformation.

While AI can be a valuable tool for legal professionals, it can never substitute human legal expertise and thorough source validation. Its application must be governed by strict professional protocols to ensure information reliability

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