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Ethics of Artificial Intelligence for Lawyers: Shall We Play a Game? The Rise of Artificial Intelligence and the First Cases

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I. INTRODUCTION

In the 1983 movie *WarGames*, a young computer hacker accidentally accesses a United States military supercomputer programmed to run nuclear war simulations.[1] The computer greets him with the question, "Shall we play a game?" and offers a list of choices. Instead of selecting something harmless like chess or checkers, the hacker chooses global thermonuclear war. Believing he has discovered a new game, he begins "playing" without realizing that his moves could launch real missiles. The world is brought to the brink of nuclear conflict because the machine's simulations were mistaken for reality. The crisis is only averted when the hacker learns how to talk to the computer on its own terms, guiding it to realize that global nuclear war is a game that no one can win.

Four decades after *WarGames*, lawyers are now facing similar challenges of learning to use and communicate with artificial intelligence—hopefully without destroying the world. Artificial intelligence tools, such as ChatGPT, Claude, and Gemini, are quickly being incorporated into legal practice.[2] These systems can draft documents, perform analysis, and support other legal tasks. While lawyers adjust to these new technologies, courts and regulatory authorities are actively developing

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1. WARGAMES (Metro-Goldwyn-Mayer 1983).

2. Shaila Dawan, *Prosecutor Used Flawed A.I. to Try to Keep a Man in Jail, His Lawyers Say*, NY TIMES (Dec. 4, 2025), https://perma.cc/DA8K-STWQ.

appropriate frameworks to guide and supervise the use of these tools within the sector.

This first installment in this series lays the foundation with a brief history of artificial intelligence, the rise of generative models, and the problem of "hallucinations" that make these tools especially dangerous for lawyers.[3] It also surveys the first wave of cases, where courts sanctioned attorneys and pro se litigants for relying on hallucinated citations, imposed new procedural safeguards, and began confronting broader disputes over evidence, intellectual property, education, and government transparency.[4] The next installments will shift from cases to rules by examining the American Bar Association's Formal Opinion 512. Formal Opinion 512 is expansive, so it will be examined in two parts, first through its guidance on competence, confidentiality, and communication, and then through its treatment of candor, supervision, and fees.[5] From there, the series will turn to the rapidly evolving regulatory landscape, surveying federal inaction, California's aggressive framework, the European Union's AI Act, and Arkansas's initial steps.[6] The final entries in this series will focus on practice by outlining best practices that lawyers can adopt today and previewing the new skills that will define the next frontier of lawyer competence.[7]

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3. *See infra*, Part II.

4. *See infra*, Part III.

5. *See* Cliff McKinney, *Ethics of Artificial Intelligence for Lawyers: I'm Sorry Dave, I'm Afraid I Can't Do That: Competence, Confidentiality, and Communication*, ARK. L. NOTES (forthcoming 2026); *see also* Cliff McKinney, *Ethics of Artificial Intelligence for Lawyers: Resistance is Futile: Candor, Supervision, and Fees*, ARK. L. NOTES (forthcoming 2026).

6. *See* Cliff McKinney, *Ethics of Artificial Intelligence for Lawyers: That is the Sound of Inevitability: Legislatures and Regulators Step In*, ARK. L. NOTES (forthcoming 2026).

7. *See* Cliff McKinney, *Ethics of Artificial Intelligence for Lawyers: You Will be Assimilated: Best Practices for Lawyers Using Artificial Intelligence*, ARK. L. NOTES (forthcoming 2026); *see also* Cliff McKinney, *Ethics of Artificial Intelligence for Lawyers: Standalone Resource: Model Policy and Training Program for Responsible AI Use*, ARK. L. NOTES (forthcoming 2026).

II. THE HISTORY OF GENERATIVE ARTIFICIAL INTELLIGENCE AND THE RISE OF LARGE LANGUAGE MODELS

A. The Development of Artificial Intelligence

Artificial intelligence is an old idea. As early as the 1927 classic film *Metropolis*, the Maschinenmensch robot embodied the fantasy of a machine capable of replacing human intelligence.[8] In 1952, Arthur Samuel took the first big step toward artificial intelligence when he developed a "machine learning" algorithm to play checkers.[9] A few years later, in 1957, Frank Rosenblatt created the first "neural network," which is a system that tries to emulate neural systems found in nature.[10] Computer scientists derived "deep learning" from Rosenblatt's work, which allows layered networks to identify complex patterns from large datasets.[11]

Deep learning continued to develop and improve toward the goal of being able to create new text, images, or audio by training systems to learn patterns by studying massive data sets.[12] Computer scientists next developed two types of complementary systems: "generators" that can produce new content, and "discriminators" that can evaluate the realism of the generated content.[13] Generators and discriminators led to early virtual assistants, including Apple's Siri and Amazon's Alexa.[14]

Generative Adversarial Networks (**"GANs"**) debuted in 2014.[15] A GAN operates by setting a generator network in opposition to a discriminator network.[16] The generator network produces content that is challenged for accuracy by the discriminator network, resulting in output that looks and sounds

8. METROPOLIS (Universum Film A.G. 1927).

9. Keith D. Foote, *A Brief History of Generative AI*, DATAVERSITY (Mar. 5, 2024), https://perma.cc/5MH2-BW2D.

10. *Id.*

11. *Id.*

12. BUSINESS MANAGEMENT BLOG, *A Brief History of Generative AI*, https://perma.cc/5QYH-SQDU (last visited Dec. 11, 2025).

13. *See* Foote, *supra* note 9.

14. *Id.*

15. *See* Foote, *supra* note 9.

16. *Id.*

like it came from a human.[17] A GAN may sound familiar to a lawyer because it works on a principle similar to the common law's adversarial system. The generator network competes against the discriminator to seek "truth," which ultimately allows for the creation of high-quality artificial images, audio, and text.[18]

The development of "transformer" architecture in 2017 permitted models to process entire sequences of data simultaneously rather than step by step.[19] This allowed computers to process more natural language tasks.[20] In 2018, Google introduced Bidirectional Encoder Representations from Transformers (**"BERT"**), which was trained on more than three billion words from Wikipedia and the Google BooksCorpus.[21] BERT set the stage for generative artificial intelligence by demonstrating the ability for systems to absorb enormous amounts of information and recognize patterns in that information.[22]

B. Generative Pre-Trained Transformer Models (GPT)

These technological advancements established the groundwork for the introduction of Generative Pre-Trained Transformers (**"GPTs"**) by OpenAI.[23] In 2015, Sam Altman, Elon Musk, and others formed the nonprofit company OpenAI to develop usable artificial intelligence.[24]

In June 2018, OpenAI released its first public model, GPT-1.[25] GPT-1 trained on data that allowed it to predict subsequent words in a sentence accurately.[26] In 2019, OpenAI released GPT-

17. Kamalmeet Singh, *Transformer Architecture*, MEDIUM (Oct. 20, 2024), https://perma.cc/K66R-G6W2.

18. *Id.*

19. *See* Foote, *supra* note 9.

20. *Id.*

21. Jacob Devlin et al., *BERT: Pre-training of Deep Bidirectional Transformers for Language Understanding*, ASSOC. COMPUTATIONAL LINGUISTICS, June 2019, at 4175.

22. NVIDIA, *BERT*, https://perma.cc/A99S-YHA8 (last visited Dec. 12, 2025).

23. Bernard Marr, *A Short History of ChatGPT: How We Got to Where We Are Today*, FORBES (May 19, 2023), https://perma.cc/9ZW8-VWUL.

24. *Id.*

25. *Id.*

26. *Id.*

2 as an upgraded version.[27] OpenAI released GPT-3 in 2020, which was able to mimic human-like text, such as composing poetry and performing language translations.[28]

OpenAI launched ChatGPT on November 30, 2022, to wide popularity.[29] OpenAI began monetizing the technology in February 2023, with a paid version of ChatGPT that offered more features.[30] Competitors like Anthropic's Claude and Google's Bard (renamed Gemini) quickly followed OpenAI with their own large language models.[31] The widespread adoption of generative artificial intelligence made the technology accessible to lawyers, businesses, and the public.

C. Understanding Large Language Models ("LLMs")

Lawyers think of the Master of Laws degree (Legum Magister) when they hear the phrase "LLM." But LLM stands for Large Language Model in the world of artificial intelligence.[32] Large language models such as ChatGPT, Claude, and Gemini are sophisticated neural networks trained on vast quantities of data.[33] Large language models can generate coherent responses that resemble human writing through their absorption of the vast amount of information that they were trained on.[34]

Large language models do not possess factual knowledge or reasoning.[35] These systems generate responses by using statistical patterns. For example, in response to the question "What is the capital of France?", the system does not access information from a database. Instead, the system determines that "Paris" is

27. *Id.*

28. *See* Marr, *supra* note 23.

29. Shelley Walsh, *Timeline Of ChatGPT Updates & Key Events* , SEARCH ENGINE JOURNAL (Oct. 19, 2025), https://perma.cc/N8FG-MK7T.

30. *Id.*

31. *Id.*

32. GEEKSFORGEEKS, *What Is a Large Language Model* (LLM) (July 23, 2025), https://perma.cc/AJ65-WW2Z.

33. *Id.*

34. IBM, *What Are Large Language Models (LLMs)?* (Nov. 2, 2023), https://perma.cc/YE2G-RU3S.

35. Atharva Gosavi, *AI Doesn't Think. Here's How It Learns — and Why That's a Problem*, INTERESTING ENGINEERING (May 6, 2025), https://perma.cc/U38C-6D7U.

statistically associated with terms like "capital" and "France," allowing it to pick the most probable answer.[36]

The use of statistical patterns leads to the phenomenon of hallucinations.[37] Because large language models are built to predict the most likely sequence of words, they sometimes generate entirely fictitious material that looks authentic, which is known as a hallucination.[38] In law, where statutes and judicial opinions follow predictable structures, models may produce plausible but nonexistent cases, statutes, or citations.[39]

A recent study by Stanford Law School found hallucinations in 69% to 88% of legal queries posed to large language models.[40] The problem was particularly severe in nuanced or complex legal questions.[41] The study reported that models produced hallucinated court rulings at least 75% of the time and performed no better than random guessing in tasks that measured precedential relationships between two cases.[42] The rate of error was highest with lower court decisions and somewhat lower with Supreme Court decisions, which are more widely published and studied.[43] It is important to remember that large language models cannot tell when it is hallucinating and will respond with the same confidence regardless of accuracy.[44]

While large language models offer impressive capabilities, there are serious risks of hallucinations and false conclusions.[45]

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36. *Id.*

37. *See What Are Large Language Models (LLMs)?*, *supra* note 34.

38. *See* Gosavi, *supra* note 35.

39. Zach Warren, *GenAI hallucinations are still pervasive in legal filings, but better lawyering is the cure*, THOMSON REUTERS (Aug. 18, 2025), https://perma.cc/BFF7-AMS.

40. Matthew Dahl et al., *Hallucinating Law: Legal Mistakes with Large Language Models Are Pervasive*, STANFORD HUMAN-CENTERED ARTIFICIAL INTELLIGENCE (Jan. 11, 2024), https://perma.cc/N3CB-ME68.

41. *Id.*

42. *Id.*

43. *Id.*

44. *See* Gosavi, *supra* note 35.

45. For instance, in the divorce case of Shahid v. Esaam, the husband's attorney prevailed in a motion and drafted the proposed opinion of the court but incorporated hallucinated citations. 918 S.E.2d 198, 199 (Ga. Ct. App. 2025). The judge and the wife's counsel did not recognize the error, and the court's official order included the hallucinations. *Id.* The appellate court recognized the hallucinations and vacated the ruling, as well as imposed a $2,500 fine (the maximum allowed) on the husband's attorney. *Id.* at 202. But this case illustrates the risk of hallucinations impacting the common law if opinions are published with unchecked hallucinations.

Lawyers must understand the limits of these systems and carefully check the results.

III. CASE LAW SURVEY: TWENTY-FIVE CASES

A. Overview and Method

Courts are already dealing with the consequences of generative artificial intelligence. I wanted to get a snapshot of the emerging issues facing courts, so I conducted a Westlaw search for the term "artificial intelligence." I then reviewed the first twenty-five decisions shown by Westlaw's relevance ranking (hereafter referred to as the **"Twenty-Five Cases"**).[46] The goal was to find a cross-section of cases to examine what courts are actually seeing and to identify the emerging patterns that may matter for lawyers.

Of course, a relevance-ranked sample is subject to Westlaw's algorithm and to timing, so it will not capture every critical decision. Conducting the exact search later will also result in different top results, as new opinions are added.

B. High-Level Observations from the Survey

Several patterns recur across the Twenty-Five Cases:

1. *Hallucinated Citations*. Many cases involve filings that included non-existent authorities generated by artificial intelligence. Courts treated these hallucinated filings as failures of candor and competence, not as technology glitches that excuse sanctions.[47] Judges repeatedly stressed

46. Artificial intelligence is truly in its infancy, especially from a case law perspective. A search on July 31, 2025, in Westlaw Edge for *adv:"artificial intelligence"* with All State & Federal jurisdictions selected, found only 1,163 cases nationwide with the phrase in it, and I selected the first 25 listed in relevance by Westlaw. As a side note, changing the search term to *adv:"artificial intelligence" and "sanction"* narrowed the list to 259 cases. Using the search term *adv:"artificial intelligence" and "Rule 11"* yielded 104 cases. The search term *adv:"artificial intelligence" and "ChatGPT*" found 91 cases. Searching *adv:"artificial intelligenc" and "sanction" and "ChatGPT"* yielded 51 cases.

47. Rule 11 of the Federal Rules of Civil Procedure permits judges to impose sanctions, including fines and other penalties, on lawyers and their clients who violate rules. *See* Christopher A. Considine, *Rule 11: Conflicting Appellate Standards of Review and A Proposed Uniform Approach*, 75 CORNELL L. REV. 727, 727 (1990). Most states have an equivalent rule for their state courts, usually also numbered Rule 11. It is common parlance

that artificial intelligence does not change baseline obligations to verify facts and law, to meet deadlines, and to comply with citation and certification requirements.

2. *Failures of Supervision*. In several cases, the misuse of artificial intelligence was tied to failures of supervision. This sometimes arose in the *pro hac vice* context, where sponsoring or local counsel were held accountable for filings prepared by out-of-state attorneys. Other cases involved inadequate oversight of law clerks, paralegals, or even law partners who had relied on generative artificial intelligence without adequate verification. Courts consistently emphasized that Rules 5.1 and 5.3 impose responsibility on supervising attorneys to ensure that all personnel, from partners to support staff, meet their professional obligations when using artificial intelligence.
3. *Sanctions Variability*. Sanctions varied widely. Some courts imposed monetary penalties ranging from $500 to $5,000 for citing hallucinated cases. Other courts also ordered education and restitution to opposing counsel for the time spent dealing with the hallucinations. Other courts ordered public shaming, such as requiring the offending lawyer to send copies of their punishment to other judges, clients, and law partners. Some courts also considered whether the use of hallucinated citations should be treated as a per se violation of professional-conduct rules or whether the lawyer's knowledge and intent must also be considered.
4. *Emerging Issues Beyond Hallucinations*. Although most of the surveyed cases involved sanctions for submitting hallucinated citations, the Twenty-Five Cases also illustrate several other categories of disputes. Some involved court-management rules, such as standing orders requiring parties to disclose when filings were prepared with generative artificial intelligence. One case dealt with expert testimony where an expert relied on artificial intelligence tools without being able to explain their operation. Intellectual property disputes also appeared, including copyright, patent, and

for lawyers to refer to use the term Rule 11 to refer to both the violation of rules and the sanctions that a judge may impose.

trademark claims related to artificial intelligence development and branding. A pair of decisions addressed public records and open-meeting requirements for governmental commissions focused on artificial intelligence. One case arose in the education context, testing whether a student's use of artificial intelligence in coursework could be grounds for discipline.

These themes frame the detailed discussion that follows. In the next subsection, I group the Twenty-Five Cases by issue and explain what, exactly, courts said about candor, competence, supervision, and sanctions. I will then turn to the practical implications for the practice of law.

C. Detailed Discussion of the Twenty-Five Cases

The following subsection examines each of the Twenty-Five Cases by category. The goal is to identify emerging legal trends and the development of case law around artificial intelligence issues.

1. Hallucinated Cases

The most common issue in the Twenty-Five Cases involved litigants (both lawyers and pro se) submitting pleadings that cited cases or quotes that did not exist. These hallucinated citations were generated by artificial intelligence tools and used the pleadings without independent verification. Courts emphasized that Rule 11 requires litigants to confirm the accuracy of their pleadings before presenting them to the court.

While the types of sanctions varied, courts made it clear that using artificial intelligence does not excuse professional negligence. In some cases, judges imposed monetary penalties, often in the range of several hundred to several thousand dollars. In others, courts required attorneys to attend continuing legal education or to notify clients, opposing counsel, law partners, or other courts of their misconduct.

A brief summary of the cases confronting hallucinations follows:

a. Attorneys Sanctioned for Hallucinations

The largest group of cases involved licensed attorneys who filed pleadings containing hallucinated citations. Courts emphasized that bar admission comes with non-delegable duties of candor and competence, and they imposed sanctions to reinforce that artificial intelligence cannot excuse professional lapses.

1. *In re Martin*: Attorneys in an Illinois bankruptcy case submitted a brief with four citations hallucinated by ChatGPT. One case was fictitious; the others were real but miscited with fabricated quotations. The court imposed a $5,500 fine and required the lawyers to attend a continuing education class on the dangers of artificial intelligence.[48]
2. *Mata v. Avianca*: Plaintiff's counsel submitted multiple non-existent judicial opinions and fabricated quotes generated by ChatGPT and continued to stand by them after judicial orders questioned their existence. In addition to Rule 11 sanctions, the court also considered that submitting false cases could constitute a federal crime for making a false statement to a tribunal. The court imposed a $5,000 Rule 11 sanction and required the attorney to notify each judge falsely identified as the author of a hallucinated opinion.[49]
3. *Mid Central Operating Engineers Health and Welfare Fund v. Hoosiervac LLC*: Defense counsel relied on at least three hallucinated cases across three filings. The court found violations of Rules 1.1 (Competence), 3.1 (Meritorious Claims and Contentions), and 3.3 (Candor Toward the Tribunal), imposed a $15,000 fine, ordered the attorney to provide a copy of the order to the client's CEO, and referred him to the state disciplinary authority.[50]

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48. In re Martin, No. 24 B 13368, 2025 WL 2017224, at *3 (Bankr. N.D. Ill. July 18, 2025).

49. Mata v. Avianca, Inc., 678 F. Supp. 3d 443, 466 (S.D.N.Y. 2023).

50. Mid Cent. Operating Eng'rs Health & Welfare Fund v. HoosierVac LLC, No. 2:24-CV-00326-JPH-MJD, 2025 WL 574234, at *5 (S.D. Ind. Feb. 21, 2025), report and recommendation adopted as modified, No. 2:24-CV-00326-JPH-MJD, 2025 WL 1511211 (S.D. Ind. May 28, 2025).

4. *Park v. Kim*: Plaintiff's counsel filed a reply brief in a medical malpractice case citing a hallucinated case from ChatGPT. When called out by the court, the plaintiff's counsel tried to justify her act by claiming that ChatGPT had been accurate in the past and that she did not rely too much on the hallucinated case in her reply, even though it was one of only two cited cases. The court sanctioned her under Rule 11, referred her to the state disciplinary authority, and ordered her to deliver the decision (translated into Korean) to her clients.[51]
5. *Kaur v. Desso*: An attorney for a habeas petitioner used Anthropic's Claude to generate a brief containing hallucinated U.S. Supreme Court quotations. Even after the government flagged the errors, he still failed to correct them. The attorney later apologized, stated that he had not practiced in federal court in decades, and claimed he had been sick before the filing deadline. He also said that he felt rushed to submit the brief because he thought his client might be deported. The court imposed a $1,000 fine and ordered him to attend continuing education on the risks of artificial intelligence.[52]
6. *Gauthier v. Goodyear Tire & Rubber Co.*: Plaintiff's counsel filed a response to summary judgment citing two hallucinated cases and several fabricated quotations. Plaintiff's counsel ignored opposing counsel's warnings and filed a sur-reply without correcting the hallucinations. The court imposed a $2,000 sanction, ordered the attorney to attend continuing legal education, and required him to give a copy of the order to his client.[53]

b. Pro Se Litigants and Hallucinations

Several cases involved pro se litigants who submitted pleadings with hallucinations. Judges were more lenient with these litigants and mostly issued warnings rather than more severe

51. Park v. Kim, 91 F.4th 610, 616 (2d Cir. 2024).

52. Kaur v. Desso, No. 9:25-CV-726 (AMN), 2025 WL 1895859, at *4 (N.D.N.Y. July 9, 2025).

53. Gauthier v. Goodyear Tire & Rubber Co., No. 1:23-CV-281, 2024 WL 4882651, at *3 (E.D. Tex. Nov. 25, 2024).

sanctions. However, the judges warned of more serious consequences for future violations.

1. *Moales v. Land Rover Cherry Hill*: A pro se plaintiff's complaint cited non-existent authority. The court issued a caution and warned that future filings must contain accurate representations.[54]
2. *Reilly v. Connecticut Interlocal Risk Management Agency*: A pro se plaintiff filed multiple deficient complaints containing hallucinated cases and quotations. The court dismissed the claims and cautioned the plaintiff about accuracy in future filings.[55]
3. *Huntington National Bank v. M/Y Something About Meri*: A pro se defendant and a non-party putative intervenor submitted numerous frivolous motions that the bank alleged were generated by artificial intelligence. Although the court declined to issue sanctions, it struck improper filings and warned that pro se litigants must ensure submissions are their own work product.[56]
4. *Ferris v. Amazon.com Services, LLC*: A pro se employee's complaint included a hallucinated citation, followed by six more in his opposition and additional hallucinations in later filings. The court ordered him to reimburse the employer for attorneys' fees caused by the improper pleadings.[57]

c. Failures of Supervision

Attorneys are also being sanctioned for the use of hallucinated citations by their colleagues. Courts imposed sanctions on lawyers who failed to properly oversee law clerks, paralegals, *pro hac vice* counsel, or fellow partners who submitted fabricated authorities, underscoring the significance of Rules 5.1 and 5.3.

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54. Moales v. Land Rover Cherry Hill, No. 3:25-CV-544 (VDO), 2025 WL 1249616, at *4 (D. Conn. Apr. 30, 2025).

55. Reilly v. Connecticut Interlocal Risk Mgmt. Agency, No. 3:25-CV-640 (VDO), 2025 WL 1726366, at *2 (D. Conn. June 20, 2025).

56. Huntington Nat'l Bank v. Meri, No. 25-61018-CIV, 2025 WL 1684109, at *3 (S.D. Fla. June 11, 2025), report and recommendation approved, No. 0:25-CV-61018-WPD, 2025 WL 1684136 (S.D. Fla. June 16, 2025).

57. Ferris v. Amazon.com Servs., LLC, No. 3:24-CV-304-MPM-JMV, 2025 WL 1122235, at *3 (N.D. Miss. Apr. 16, 2025).

1. *Garner v. Kadince, Inc.*: Defense counsel's opposition contained multiple hallucinated cases from ChatGPT. At the show cause hearing, the lawyer admitted a law clerk had prepared the draft and that the firm lacked an artificial intelligence policy. The court sanctioned him, ordering reimbursement of opposing counsel's fees and a $1,000 donation to a legal aid fund.[58]
2. *Benjamin v. Costco Wholesale Corporation*: An attorney used a third-party platform called "ChatOn" to rewrite a paralegal's draft. ChatOn produced hallucinated citations that contradicted the attorney's own legal arguments, and she later admitted that she only spent twenty minutes reviewing the pleading. The court sanctioned her with a $1,000 fine and ordered her to attend continuing education on the use of artificial intelligence.[59]
3. *Wadsworth v. Walmart Inc.*: Plaintiff's counsel filed motions *in limine* with nine citations, eight of which were hallucinated by a platform called MX2.law. When caught, the attorney admitted the mistake, paid opposing counsel's fees, and implemented new policies. The court still fined him $3,000, revoked his *pro hac vice* status, fined the lead counsel $1,000, and fined the local who sponsored the *pro hac vice* admission an additional $1,000.[60]
4. *Versant Funding LLC v. Teras Breakbulk Ocean Navigation Enterprises, LLC*: Defense counsel filed a response that relied on a hallucinated case. Opposing counsel pointed out the error in their reply brief. Defense counsel waited two weeks before filing a "Notice of Withdrawal of Citation" without explaining why it was being withdrawn. The attorney later apologized and offered to compensate the other side for the time spent researching the hallucinated citations. The court found the two-week delay in admitting the error to be a "serious misrepresentation" and criticized the Notice of Withdrawal for its lack of candor. The judge stressed that both the *pro hac vice* attorney who drafted the pleading and

58. Garner v. Kadince, Inc., 2025 UT App 80, ¶ 16.

59. Benjamin v. Costco Wholesale Corp., No. 2:24-CV-7399 (LGD), 2025 WL 1195925, at *9 (E.D.N.Y. Apr. 24, 2025).

60. Wadsworth v. Walmart Inc., 348 F.R.D. 489, 499 (D. Wyo. 2025).

the local counsel who sponsored the filing were equally culpable. The court required both attorneys to reimburse the opposing party's fees incurred because of the hallucinated citation, ordered them to attend CLE training on the ethical use of artificial intelligence, fined the drafting attorney $1,000, and fined local counsel who sponsored the *pro hac vice* admission $500.[61]

d. Procedural Responses

Finally, some courts responded not just with case-specific sanctions, but with standing orders or new certification requirements. These decisions show a judicial trend toward embedding artificial intelligence safeguards directly into procedural rules, requiring parties to disclose use of generative tools and to verify citations before filing.

1. *Lillard v. Offit Kurman P.A.*: After plaintiff's counsel filed pleadings with numerous hallucinated citations, the court issued an order requiring that all future filings include a certification page disclosing any use of generative artificial intelligence. The certification had to identify the platform used, which sections were drafted with artificial intelligence and include sworn verification that all citations were checked against authoritative sources.[62]
2. *Willis v. U.S. Bank National Association, as Trustee*: The court entered a "Standing Order Regarding Use of Artificial Intelligence" requiring parties to disclose the use of generative artificial intelligence when preparing filings. The order warned that parties who failed to verify citations could be subject to Rule 11 sanctions.[63]

Courts are still figuring out how to deal with hallucinated cases and citations. Judges are imposing fines, issuing warnings, and imposing other penalties. Courts are likely to place more

61. Versant Funding LLC v. Teras Breakbulk Ocean Navigation Enters., LLC, No. 17-CV-81140, 2025 WL 1440351, at *7 (S.D. Fla. May 20, 2025).

62. Lillard v. Offit Kurman, P.A., No. N24C-10-001 DJB, 2025 WL 800833, at *1–2 (Del. Super. Ct. Mar. 12, 2025).

63. Willis v. U.S. Bank Nat'l Ass'n as Tr., Igloo Series Tr., No. 3:25-CV-516-BN, 2025 WL 1408897, at *2 (N.D. Tex. May 15, 2025).

emphasis on verifying the existence of authorities before submitting them in pleadings.

2. Evidentiary Issues

Only one case in the Twenty-Five addressed the evidentiary use of artificial intelligence, but it highlights an area likely to grow. The decision illustrates how courts may respond when expert witnesses rely on artificial intelligence tools they cannot explain, raising questions of reliability and admissibility. The opinion suggests that, going forward, judges may require disclosure whenever artificial intelligence is used in expert reports and may subject such evidence to *Frye* or *Daubert* scrutiny.

Matter of Weber as Trustee of Michael S. Weber Trust: In a trust accounting dispute involving property in the Bahamas, the objecting party's expert used Microsoft Copilot to cross-check his financial calculations. The court found him unqualified on other grounds but added a detailed discussion of artificial intelligence. The expert could not identify his prompts or explain how Copilot generated its results. The judge, rerunning the same calculation on Microsoft Copilot on three different courthouse computers, received three different, but similar, outputs. Expressing strong skepticism about using artificial intelligence in expert testimony, the court held that parties have an affirmative duty to disclose the use of artificial intelligence and that any evidence generated by such tools should be subject to a *Frye* hearing before admission.[64]

3. Patent and Trademark Issues

Some of the most contested disputes in the Twenty-Five Cases involve intellectual property, particularly around art and creativity. These cases ask whether an artificial intelligence system can be an "inventor" or "author," and whether training on copyrighted works constitutes infringement. The answers so far show courts reluctant to extend authorship or inventorship beyond human beings, while beginning to entertain claims that the way

64. Matter of Weber as Tr. of Michael S. Weber Tr., 85 Misc. 3d 727, 743, 220 N.Y.S.3d 620, 635 (N.Y. Sur. 2024).

generative models are trained may violate copyright law. By contrast, more traditional patent and trademark disputes involving artificial intelligence technology have produced straightforward applications of existing doctrine.

e. Human Authorship and Inventorship

One emerging question is whether an artificial intelligence system can qualify as an "inventor" or "author." Two cases, one in the context of a patent application and the other a copyright application, both brought by the same individual, sought judicial recognition of artificial intelligence systems as an inventor or author.

1. *Thaler v. Hirshfeld*: Stephen Thaler, a computer scientist, attempted to list his artificial intelligence system "DABUS" as the inventor of a "neural flame" light beacon and a beverage container with a fractal design. Thaler argued that DABUS had designed the inventions and is the actual inventor. The Patent Office rejected Thaler's position. The court agreed with the Patent Office and held that the Patent Act requires inventors to be natural persons. The court emphasized that Congress has never authorized anything other than a human being to be an "inventor" and that expanding the definition of "inventor" will have to come from Congress instead of the courts.[65]
2. *Thaler v. Perlmutter*: Thaler also tried to register a copyright for a visual artwork titled *A Recent Entrance to Paradise* created by his "Creativity Machine." The Copyright Office denied registration, holding that only a human being qualifies as an author for copyright purposes. Thaler challenged the denial in federal court, but the court upheld the Copyright Office's decision. The court ruled that the Copyright Act of 1976 requires all eligible works to be authored by a human.[66]

65. Thaler v. Hirshfeld, 558 F. Supp. 3d 238, 241 (E.D. Va. 2021), *aff'd sub nom.* Thaler v. Vidal, 43 F.4th 1207 (Fed. Cir. 2022).

66. Thaler v. Perlmutter, 130 F.4th 1039, 1041 (D.C. Cir. 2025).

f. Copyright Claims Over Training Data and Artistic Works

Anderson v. Stability AI Ltd.: A group of artists filed a class action alleging that artificial intelligence image-generating companies violated the law by training their programs using copyrighted materials. The defendants moved to dismiss because the plaintiffs did not allege direct copying. The court dismissed some claims but allowed others to continue with further discovery.[67]

This decision is one of the first to deal with the serious issue of how artificial intelligence systems utilize copyrighted materials. There will likely be many more cases where this becomes an issue until there is either a U.S. Supreme Court ruling or legislation from Congress.

g. Traditional Patent and Trademark Applications

The next two cases dealt with traditional patent and trademark concepts applied to the world of artificial intelligence.

1. *Mullen Industries LLC v. Meta Platforms, Inc.*: The plaintiff alleged Meta infringed its patent in the artificial intelligence used in Meta's virtual reality goggles. The court applied traditional patent laws to analyze the claims and side with Meta.[68]
2. *OpenAI, Inc. v. Open Artificial Intelligence, Inc.*: OpenAI sued to prevent a competitor from using the name "Open AI" (same name but with a space between Open and AI). The defendant claimed prior use of the name but could not provide any credible evidence to back its claim.[69]

4. Education Issues

The rapid integration of artificial intelligence into educational settings has raised important concerns about plagiarism, authorship, and student behavior. One case

67. Andersen v. Stability AI Ltd., 744 F. Supp. 3d 956, 986 (N.D. Cal. 2024).

68. Mullen Indus. LLC v. Meta Platforms, Inc., No. 1:24-CV-354-DAE, 2025 WL 326402, at *6 (W.D. Tex. Jan. 29, 2025).

69. OpenAI, Inc. v. Open A.I., Inc., 719 F. Supp. 3d 1033, 1051 (N.D. Cal. 2024), *aff'd*, No. 24-1963, 2024 WL 4763687 (9th Cir. Nov. 13, 2024).

demonstrates how courts are starting to handle disputes when students use artificial intelligence to produce assignments and when schools penalize such use. Although still a small subset, these disputes show how artificial intelligence could transform academic integrity debates across all levels of education.

Harris v. Adams: A high school student used artificial intelligence to prepare a history project, copying text and including citations to hallucinated books. Although the teacher had permitted brainstorming with artificial intelligence, the student went further, presenting work that was indiscriminately copied from the artificial intelligence and contained misrepresented sources. The student failed two segments of the project, received one Saturday detention, and was temporarily excluded from the school's National Honor Society. The student's parents sued to expunge his record and have his grade increased. The parents cited due process concerns and argued that artificial intelligence does not qualify as an "author" for plagiarism purposes. The court ruled that the parents were unlikely to succeed on the merits of the case.[70]

5. Government Transparency

Finally, courts have begun to address artificial intelligence in the context of government transparency and accountability. Litigation involving the National Security Commission on Artificial Intelligence tested whether the commission was subject to the Freedom of Information Act and open-meeting requirements. The resulting decisions make clear that agencies and commissions created to study artificial intelligence remain bound by the same transparency obligations as other government bodies, even when dealing with rapidly evolving technology.

1. *Electronic Privacy Information Center v. National Security Commission on Artificial Intelligence*: The plaintiff brought a Freedom of Information Act (**"FOIA"**) case against the Congressionally created National Security Commission on Artificial Intelligence (**"NSCAI"**) and the Department of Defense. Congress created the NSCAI in 2019 and charged

70. Harris as next friend of RNH v. Adams, 757 F. Supp. 3d 111, 145 (D. Mass. 2024).

it with reviewing advances in artificial intelligence, including national security needs. The court denied the request of the NSCAI and the Department of Defense to dismiss the FOIA request and held that NSCAI is an agency that is subject to FOIA.[71]

2. *Electronic Privacy Information Center v. National Security Commission on Artificial Intelligence*: In follow-up litigation, the court found that the NSCAI had violated FOIA by failing to provide public notice of meetings, failing to open them to the public, and failing to make records available. The court issued a writ of mandamus ordering the NSCAI to comply with its FOIA obligations.[72]

D. Key Themes in the Twenty-Five Cases

This cross-section of the legal issues created by artificial intelligence reveals recurring patterns: the use of hallucinated law, patent and trademark disputes, academic misconduct, expert witness reliability, and government transparency. Sixteen of the cases concerned the use of hallucinated cases or quotations by lawyers or pro se litigants. Five of the cases concerned patent or trademark disputes. Of these, two examined whether a copyright or patent could be obtained for work produced by artificial intelligence, one involved the use of copyrighted material to train artificial intelligence, and two were more traditional claims about the improper use of patented or trademarked materials. Two of the cases involved the application of FOIA to the government's consideration of artificial intelligence in the national security context. One case addressed the reliability of artificial intelligence work product in expert testimony, and one case involved a student disciplined for using artificial intelligence to complete an academic project.

There are several key takeaways:

1. *Most cases involve misuse by attorneys and pro se litigants*. So far, courts are dealing with many cases where attorneys

71. Elec. Priv. Info. Ctr. v. Nat'l Sec. Comm'n on A.I., 419 F. Supp. 3d 82, 95 (D.D.C. 2019).

72. Elec. Priv. Info. Ctr. v. Nat'l Sec. Comm'n on A.I., 466 F. Supp. 3d 100, 123 (D.D.C. 2020).

and pro se litigants are failing to meet ethical obligations of candor and competence. The next section of this article will examine these ethical obligations in much greater detail.

2. *Courts are facing challenges with evidentiary and disclosure issues*. Courts are also now dealing with issues raised by expert witnesses who rely on artificial intelligence. Courts are also considering procedural measures, such as certification orders, to require disclosure when artificial intelligence is used. This is an especially challenging issue since many lawyers use products like Microsoft Editor or Grammarly, which utilize artificial intelligence to suggest grammar and style changes, including rewriting sentences and paragraphs for clarity. An enormous number of documents would need a disclaimer if disclosure were required for every use of artificial intelligence.
3. *Intellectual property disputes are beginning to test statutory limit*s. Courts consistently rule that only humans can be inventors or authors, excluding artificial intelligence. Legislative action will likely be necessary to resolve the controversies surrounding the use of copyrighted material in training artificial intelligence.
4. *Academic definitions of cheating are being challenged.* The *Harris* case shows how courts may uphold traditional standards of academic integrity even as artificial intelligence tools become more common in classrooms. Students and institutions will need to adapt to a world where artificial intelligence is as widespread. Students will use artificial intelligence, so schools must teach students how to use it ethically and competently.
5. *Access to justice may be impacted*. Pro se litigants are using artificial intelligence in their cases. While this may be helpful, pro se litigants may not understand the risks of hallucinations. This has raised new issues about the ethical obligations of pro se litigants. There is also a potential for more problems with unauthorized practice of law, especially if non-lawyers begin using artificial intelligence to represent other people.

This analysis of recent cases involving artificial intelligence demonstrates that there are many new issues that courts and

attorneys will have to face. New rules may be needed to address the use of artificial intelligence by litigants and expert witnesses. Congress may have to reconsider current laws defining "authorship" and ownership of intellectual property. Schools and universities will have to redefine plagiarism and academic integrity. The Twenty-Five Cases provide only a sample of the many issues that artificial intelligence will create.

The next part of this series will shift from case law to ethics rules, beginning with the American Bar Association's Formal Opinion 512 and its guidance on competence, confidentiality, and communication in the age of artificial intelligence.