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Japan
Artificial Intelligence

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This country-specific Q&A provides an overview of artificial intelligence laws and regulations applicable in Japan.

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Japan: Artificial Intelligence

1. What are your countries legal definitions of "artificial intelligence"?

In Japan, there is no legal definition of artificial intelligence. However, on April 19, 2024, the Japanese government released the **AI Guidelines for Business Ver1.0**, which compiles recommendations for businesses involved in the development, provision, and use of AI. In these guidelines, AI is described as "an abstract concept, which includes AI systems (defined below) themselves or software or programs that perform machine learning." An AI system is defined as "a system (such as a machine, robot, or cloud system) that operates with varying levels of autonomy during usage and includes a software component with a learning function."[1]

Footnote(s):

[1] *AI Guidelines for Business Ver1.0 (provisional translation)*, Ministry of Economy, Trade and Industry and Ministry of Internal Affairs and Communications (April 19, 2024), https://www.meti.go.jp/shingikai/mono_info_service/ai_shakai_jisso/pdf/20240419_9.pdf.

2. Has your country developed a national strategy for artificial intelligence?

Yes, the Japanese government has implemented multiple strategies and policies to actively support the development and utilization of AI, while ensuring its safety, in order to maintain competitiveness:

- The **AI Strategy 2022** is a key Japanese national strategy with the stated aim of using AI to overcome social challenges in Japan and enhance industrial competitiveness. This strategy does not impose obligations on specific companies, but rather demonstrates the government's policy direction in relation to AI, clearly expressing an aggressive stance towards the social implementation of the technology.
- Furthermore, in the **Integrated Innovation Strategy 2024**, which was approved by the Cabinet Office in June 2024, "strengthening competitiveness in the AI sector and ensuring safety and security" are positioned as particularly important national strategies.[2] Specifically, the strategy outlines plans to enhance research and development capabilities, foster talent, and advance legal frameworks to ensure the safety and security of AI.
- In April 2024, the Project Team of the Digital Society Promotion Headquarters of Japan's ruling party, the Liberal Democratic Party, released the **AI White Paper 2024**.[3] This document sets the ambitious goal of making Japan "the most AI-friendly country in the world." Particularly noteworthy among several policy proposals is the suggestion to enact minimal necessary legislation for AI models that pose significant risks.
- Additionally, as part of the Hiroshima AI Process, Japan, along with other G7 countries, endorsed the **Hiroshima AI Process Comprehensive Policy Framework** in December 2023.[4] This international policy framework consists of guidelines and a code of conduct aimed at promoting the dissemination of safe and reliable advanced AI systems.

These AI policy discussions are led by the AI Strategic Council, established in May 2023.

Footnote(s):

[2] *Integrated Innovation Strategy 2024*, Cabinet Office (June 4, 2024), https://www8.cao.go.jp/cstp/tougosenryaku/togo2024_zentai.pdf (only available in Japanese).

[3] *AI White Paper 2024 – New Strategies in Stage II – Toward the world's most AI-friendly country*, LDP Headquarters for the Promotion of Digital Society Project Team on the Evolution and Implementation of AIs (April 11, 2024), https://www.taira-m.jp/AI%20White%20Paper%202024.pdf.

[4] *Hiroshima AI Process G7 Digital & Tech Minister's Statement*, (December 1, 2023), https://www.soumu.go.jp/hiroshimaaiprocess/pdf/document02_en.pdf.

3. Has your country implemented rules or guidelines (including voluntary standards and ethical principles) on artificial intelligence? If so, please provide a brief overview of said rules or guidelines. If no rules on artificial intelligence are in force in your jurisdiction, please (i) provide a short overview of the existing laws that potentially could be applied to artificial intelligence and the use of artificial intelligence, (ii) briefly outline the main difficulties in interpreting such existing laws to suit the peculiarities of artificial intelligence, and (iii) summarize any draft laws, or legislative initiatives, on artificial intelligence.

In Japan, there are currently no comprehensive rules regulating AI. Instead, various ministries have published a range of guidelines related to AI. Three key documents published recently are particularly noteworthy:

- **AI Guidelines for Business Ver1.0** (issued by the Ministry of Economy, Trade and Industry and the Ministry of Internal Affairs and Communications)—These guidelines offer recommendations to mitigate risks associated with AI for businesses involved in the development, provision, and use of AI technologies. Although they are not legally binding, they serve as a valuable reference for AI operators to understand the recommended practices.
- **General Understanding on AI and Copyright in Japan** (issued by the Legal Subcommittee under the Copyright Subdivision of the Cultural Council of the Agency for Cultural Affairs)—This document outlines the Agency for Cultural Affairs' perspective on issues surrounding AI and copyright law, such as whether copyrighted works can be used for AI training without permission, based on the current state of discussions.
- **Interim Summary of the Study Group on Intellectual Property Rights in the AI Era** (issued by the Study Group on Intellectual Property Rights in the AI Era) —This interim summary presents the government's perspective on various issues surrounding AI and intellectual property rights such as trademarks and patent law. It does not have legal binding force, nor is it definitive, but it serves as a useful reference for understanding the current direction of the discussions.

In addition, the Principles of a Human-centric AI Society issued by the Cabinet Office were formulated in 2019, before the emergence of generative AI. They consist of three fundamental concepts that should be respected in an AI-Ready society and seven basic principles to realize these concepts. They serve as a useful basic reference and are also cited in the aforementioned "AI Guidelines for Business Ver1.0.

4. Which rules apply to defective artificial intelligence systems, i.e. artificial intelligence systems that do not provide the safety that the public at large is entitled to expect?

There is currently no legislation or regulation specific to AI in Japan. Under Japanese law, the laws generally applicable to AI are the Civil Code, the Product Liability Act, and the Penal Code. Please refer to Nos. 5, 6, and 7 below for the details and applicable circumstances of each law.

In addition, liability for defective AI will also be governed by the provisions of any contracts or agreements between the contracting parties.

5. Please describe any civil and criminal liability rules that may apply in case of damages caused by artificial intelligence systems.

The Civil Code, the Product Liability Act, and the Companies Act are among the civil rules that may be applicable in case of damages caused by AI systems.

Under the Civil Code, any person who, intentionally or negligently, infringes on the rights or legally protected interests of another person is liable to compensate them for any resulting damages (Article 709). In addition, if there is a contract or agreement between the parties, the defaulting party is liable for damages if it defaults on any contractual obligations (Article 415).

Under the Product Liability Act, if a defect in a delivered product causes death, bodily injury, or infringement of property, the manufacturer is liable to compensate for losses or damages (Article 3). The term "product" means movables that are manufactured or processed (Article 2.1). AI software itself is not a "product" as it is an intangible object; however, if the AI software is incorporated into and integrated with a tangible object, that object constitutes a "product." In contrast to the EU Proposal for an Artificial Intelligence Liability Directive and Product Liability Directive, there is no presumption of causation or defect in either of the above laws.

Moreover, the Companies Act includes a provision regarding the liability of officers for damages to third parties. If the officers of a company have acted in bad faith or with gross negligence in performing their duties related to an AI product, they are liable for damages to third parties caused by such actions.

On the other hand, the rules applicable to criminal liability are the Penal Code, related special laws, and the Copyright Act. Any person who develops or uses AI may be criminally liable as a negligent offender (*kashitsuhan*). For example, if an autonomous vehicle equipped with AI causes a traffic accident, the driver may be liable under the Act on Punishment of Acts Inflicting Death or Injury on Others by Driving a Motor Vehicle, Etc. (Article 5), provided that the accident was caused by the driver's negligence. However, in some cases, the automobile manufacturer may be held criminally liable.

If the automobile manufacturer ascertains, based on traffic accident information, that an autonomous driving system caused a traffic accident and, as a result of an internal review, identifies a defect in that system but did not recall the vehicle and ignored the defect, under the Penal Code (Article 211), it may be liable for subsequent traffic accidents caused by the autonomous driving system that result in death or injury. In addition, the Copyright Act also includes a provision regarding criminal liability (Article 119.1), and if a company continues to sell AI products despite it being aware that they infringe on copyright, the company itself and its directors may be held criminally liable.

6. Who is responsible for any harm caused by an AI system? And how is the liability allocated between the developer, the user and the victim?

As noted above, under the Civil Code, any person who, intentionally or negligently, infringed on the rights or legally protected interests of another person is liable to compensate for any resulting damages (Article 709). In this context, the term "negligence" refers to the failure to take the necessary measures to avoid the occurrence of a specific result, notwithstanding that the occurrence of such a result was foreseeable. For example, if a person's use of AI causes harm to a third party, the AI user may be held liable in tort if there was "negligence."

Liability based on the Product Liability Act is primarily a matter between the AI developer and the infringed party and is recognized when the manufacturer of a "defective product" "infringes on the life, body, or property of another" (Article 3), as described above. The term "defect" refers to a lack of safety that a product normally provides.

The existence of a defect is determined comprehensively, in consideration of various factors, such as the product's characteristics and the normally expected use of the product.

If an accident involving a defective product is caused by AI, and there is a contractual relationship between the AI developer and the purchaser of the product, the AI developer may be liable under the relevant contract. To be specific, the failure of AI to meet the performance standards required for the tasks intended by the parties, or to operate in the manner expected, may constitute a default of a contractual obligation under the contract.

7. What burden of proof will have to be satisfied for the victim of the damage to obtain compensation?

The term "negligence" in tort refers to the failure to take the necessary measures to avoid the occurrence of a specific result, notwithstanding that the occurrence of such a result was foreseeable, as noted above. When pursuing liability in tort, the injured party bears the burden of proof that the other party was negligent. Proving negligence on the part of AI users or developers is likely to be extremely onerous, since the development and decision-making processes of AI cannot be easily elucidated.

Additionally, if the injured party will invoke liability based on the Product Liability Act (with the limited scope of applicability mentioned in item 5 above), they must allege and prove that there was a "defect" in the AI product. Since the decision-making process of AI is highly complicated, it is likely to be difficult to allege and prove how or why the technology is defective. However, a number of court decisions in Japan have alleviated the injured party's burden of proof in certain cases, such as when they have difficulty gaining sufficient knowledge and information regarding the product, which may be helpful when considering the burden in product liability for AI.

8. Is the use of artificial intelligence insured and/or insurable in your jurisdiction?

Currently, insurance products specifically designed for the installation or operation of AI are not yet prevalent. Insurance products for corporate customers mainly cover product liability and other risks arising from defective AI products.

However, there is an insurance product that provides

coverage for various costs that companies may incur due to issues such as intellectual property infringement lawsuits, data leaks, and hallucinations resulting from the use of generative AI.[5] Therefore, it is expected that such insurance products related to AI will be more actively developed in the near future as a way of distributing risks for AI developers, users, and infringed parties.

Footnote(s):

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https://www.aioinissaydowa.co.jp/corporate/about/news/pdf/2024/news_2024022701277.pdf

9. Can artificial intelligence be named an inventor in a patent application filed in your jurisdiction?

No. An inventor is assumed to be a natural person under the current Patent Act of Japan. AI cannot be named an inventor in a patent application.

The Tokyo District Court Decision of May 16, 2024 (case number: 2023(*Gyo-U*)5001) found that "inventor" under the Patent Act is construed as limited to a natural person. The decision also states that the legal framework of the AI invention should be discussed in the legislative process. This is a case regarding DABUS, the AI system that autonomously generates inventions via artificial intelligence, which has been the subject of lawsuits in various countries.

In this regard, the Intellectual Property Rights Promotion Plan 2024 (of the Intellectual Property Rights Strategic Headquarters of the Prime Minister's Office) states that a natural person should be named as the inventor, according to the conventional idea that a human being creatively involved in the completion of a characteristic part of an invention will be an inventor, because there would be no creative activities by the AI itself without human contribution. The plan also recommends that the Japan Patent Office, in association with related authorities, should explore how to address situations where AI might autonomously complete a distinctive part of an invention. (The Intellectual Property Rights Promotion Plan 2024 – toward rebuilding of an intellectual property ecosystem that creates and promotes innovation and promotion of "new cool Japan strategy" – was released on June 4, 2024.)

10. Do images generated by and/or with artificial intelligence benefit from copyright protection in your jurisdiction? If so, who is the authorship attributed to?

In Japan, images generated solely by AI are not eligible for protection under the Copyright Act. According to the law, a copyrighted "work" is defined as a "creatively produced expression of thoughts or sentiments that falls within the literary, academic, artistic, or musical domain." Consequently, images autonomously generated by AI are not considered "creatively produced expression of thoughts or sentiments" and are therefore not protected as copyrighted work.

On the other hand, if a person creates images using (i.e. with) artificial intelligence as a "tool," these images can be protected under the Copyright Act. In such cases, the authorship is attributed to the person.

The Agency for Cultural Affairs issued **General Understanding on AI and Copyright in Japan** on March 15, 2024. It discusses the copyright and authorship of images generated by/with generative AI. According to the document, the determination of whether AI has been used as a "tool" hinges on two factors: the individual's "creative intention" and "creative contribution." It clarifies that if the person's involvement is limited to merely prompting the AI, then they do not meet the creative contribution criterion. A certain level of creative contribution, such as multiple considerations and modifications of the outputs generated by AI, is required for the material to be copyrighted. The document takes three examples of factors for assessing creative contribution to AI work: a) quantity and details of instructions and inputs (such as prompts); b) the number of generation attempts; and c) choice from generated works.

11. What are the main issues to consider when using artificial intelligence systems in the workplace?

The main issues of using artificial intelligence in the workplace revolve around privacy, personal data protection, and labor laws. These issues often arise in scenarios such as recruitment and employee evaluation. In Japan, there are no specific prohibitions or regulations against using AI in these areas. However, it is crucial to ensure that its use does not violate general requirements under labor laws and the Act on the Protection of Personal Information ("APPI").

As a specific case, the labor union of IBM Japan lodged an application for relief to the Tokyo Metropolitan Labor Relations Commission for transparency of decisions on salaries using artificial intelligence named "Watson" in

personnel evaluations made by IBM Japan.

Furthermore, differential treatment with respect to working conditions based on nationality, creed, or social status, and differential treatment with respect to wages based on gender are prohibited under the Labor Standards Act. These issues should be considered where artificial intelligence systems are used in personnel affairs.

In general, it is important to note that, in Japan, the threshold for dismissing employees is high. As such, an employer cannot fire an employee immediately even if their job function can be replaced by artificial intelligence systems under Japanese labor laws.

12. What privacy issues arise from the use of artificial intelligence?

The development and use of artificial intelligence often raise concerns regarding compliance with the APPI, which is the primary legislation for privacy protection in the country. One major concern is the obligation to notify individuals about the purposes for which their data is being used, as well as the prohibition on acquiring sensitive personal information without consent. These issues become particularly relevant in scenarios where AI models are trained and AI services are provided.

In this context, the Personal Information Protection Commission (PPC) issued a warning on June 2, 2023, specifically addressing the use of generative AI services. This warning, directed at OpenAI and other handling operators, administrative agencies, and general users, emphasizes the importance of not acquiring sensitive personal information without consent. It also mandates that necessary measures be taken to ensure that the information collected for machine learning does not include sensitive personal data. Additionally, the warning requires that the purposes for using the data be published or disclosed in a notice in Japanese.

Even when AI and data handling practices comply with laws such as the APPI, there are instances where privacy concerns can still lead to reputational risks. For example, face recognition using cameras in a railway station for the purpose of analysis of people flow and crime-prevention was criticized from the perspective of the infringement of privacy, despite being compliant with the APPI.

Based on the above examples in Japan, it is recommended to consider reputation risk and provide thorough explanations about the purposes and range of use of information to users when artificial intelligence is used in services even if the processing is lawful.

13. How is data scraping regulated in your jurisdiction from an IP, privacy and competition point of view?

In Japan, discussions on the legal issues of scraping are focused on copyright and data protection. On the other hand, discussions regarding competition are not as developed at the governmental or regulatory level. Therefore, the following specifically addresses copyright and data protection:

<u>Copyright</u>: Under the Copyright Act, obtaining or recording copyrighted works through web scraping is, in principle, not permissible without the consent of the copyright holder. However, web scraping may be considered lawful if it falls under exemptions for "non-enjoyment use" (Article 30-4) or "minor use" (Article 47-5).

- **Non-enjoyment use**: Article 30-4 permits the use of copyrighted material without the permission of the copyright holder in cases where such use does not involve the perception of thoughts or emotions expressed in the copyrighted work during information processing, such as "information analysis," to the extent considered necessary. Information analysis refers to the extraction of language, sound, images, or other information constituting such information from numerous copyrighted works and other vast amounts of information, and the comparison, classification, and analysis of such information, which web scraping may potentially qualify as. The purpose of this provision is that copyright law should extend to the enjoyment of copyrighted works, and for uses that do not involve enjoying the work, it is not necessary to provide copyright protection. However, the provision specifies that <u>the exception does not apply if such use "unreasonably harms" the interests of the copyright holder</u> based on the type and purpose of the copyrighted work and the manner of use, but what constitutes unreasonable harm remains ambiguous. There are currently no court precedents on this issue.
- **Minor use**: Article 47-5 recognizes the minor use of published copyrighted works for information analysis services within the scope that is deemed necessary for the purposes of the services and to the extent that it is

inherently part of the services themselves. However, as also stated in Article 30-4, such use should not unreasonably harm the interests of the copyright holder.

Data Protection: The APPI applies to the collection and processing of personal information. When web scraping only involves the collection and use of non-personal data, it is not subject to the APPI, but if personal information is gathered through the course of web scraping, it would be necessary to abide by the obligations of businesses handling personal information, including:

- specifying and notifying the data subjects, or making the purpose of collecting the personal information (typically through a privacy policy) available to the public;
- using personal information within the specified purpose; and
- not using personal information in any manner that entails the possibility of fomenting or prompting unlawful or unfair acts.

14. To what extent is the prohibition of data scraping in the terms of use of a website enforceable?

Under the Copyright Act, there is no explicit provision that prohibits overwriting by contract actions that are permitted under the law, such as non-enjoyment use. According to a report by the Intellectual Property Policy Office of the Ministry of Economy, Trade and Industry in February 2022, while individual circumstances need to be considered, clauses that restrict the use of copyrighted works for AI learning and other purposes are, to that extent, considered to have a significant possibility of being deemed void as contrary to public policy and good morals. However, there is currently no court precedent on this issue.

Merely having access to the website does not typically equate to agreeing to the terms of use of the website, and therefore one would not always be bound by these terms simply by scraping data. However, for instance, if membership registration and a login are required for data collection, and one is bound by the usage terms, scraping could potentially constitute a breach of contract. Additionally, under the provisions of standard terms and conditions in Civil Code of Japan, there's a possibility that terms of service may have contractual binding force even without a clear consent process in certain cases. However, this issue remains unresolved.

15. Have the privacy authorities of your jurisdiction issued guidelines on artificial intelligence?

The PPC has not issued any comprehensive guidelines applicable to the development and use of artificial intelligence. However, the PPC has published guidelines and warnings that may relate to AI as follows:

As mentioned in Q12, the PPC has issued warnings regarding the use of generative AI services. The warnings include notices for entities, administrative agencies and users.

The PPC warnings require entities and administrative agencies that input prompts with personal information into generative AI services to sufficiently confirm that the input falls within the scope necessary to achieve the specified purpose of use of the personal information. If they input prompts including personal data into generative AI services without the prior consent of the data subject, the entities and administrative agencies should also sufficiently confirm that the service provider does not use the personal data for machine learning, because processing personal data for purposes other than the output of responses against the prompts violates the APPI.

The PPC warnings also require the users to consider the risk that, (i) when users input personal information to generative AI, generative AI may use input personal information for machine learning and may output accurate or inaccurate contents statistically linked with other information; (ii) when they process personal information using generative AI, generative AI may output inaccurate personal information because of its output process of generation based on probabilistic correlations. Users should also sufficiently confirm the terms of use and the privacy policy of the provider of the generative AI services, and make appropriate decisions on the use of generative AI services.

Moreover, the PPC has published FAQs related to the APPI guidelines, which include mentions of profiling. For profiling, the PPC has stated that a business must specify the purposes of use, including the analysis and processing of the behavior and interests of the data subject. Additionally, the PPC has issued guidelines on the use of camera systems with facial recognition functions for crime prevention and safety purposes. According to these FAQs and guidelines, a business should specify the purposes for which the facial recognition function is used, and either notify the data subjects or make the purposes of use public.

The PPC frequently updates its FAQs on guidelines about the APPI. Further guidance about artificial intelligence may be issued hereafter.

16. Have the privacy authorities of your jurisdiction discussed cases involving artificial intelligence?

The PPC has discussed the use of artificial intelligence or related technologies such as profiling and face recognition with a camera system in the FAQs and guidelines as mentioned in Q15. The PPC has also issued warnings related to OpenAI as mentioned in Q12. Please see those questions for details.

17. Have your national courts already managed cases involving artificial intelligence?

In one case tangentially related to AI, a lawsuit was filed by a restaurant claiming compensation against the company that operates the Tabelog restaurant review and booking website, alleging that its sales decreased due to unfairly lowered assessment scores on the site. In that case, the court concluded in the first trial that the change in the algorithm that determines the rating points constituted an abuse of a superior bargaining position and acknowledged liability for damages. Later, in the second trial, the court dismissed the plaintiff's claim, concluding that the change in the algorithm was rational to a certain level, and that the transaction was a disadvantageous one by taking advantage of a superior bargaining position, but not to the extent of being unfair and unwarranted.

There is other case related to AI on whether an AI can be named an inventor in a patent application. For details of the case, please see Q9.

In addition, although it is not a case concerning AI, there is an informative case based on the Product Liability Law in which a defect in a product caused a fire and the death of a person. In this case, the court stated that if the party claiming that the "product" is defective has limitations in identifying and proving in detail the specific site of the defect and the cause of the accident, it is sufficient to prove that the plaintiff used the product in accordance with its normal usage and that the accident occurred despite such usage. This court case is helpful by analogy to judgments in future AI disputes.

It is necessary to keep a close watch on the approach Japanese courts will take in the future in deciding the burden of proof in case of claims for damages based on

tort or product liability.

18. Does your country have a regulator or authority responsible for supervising the use and development of artificial intelligence?

There is currently no dedicated regulator or authority solely responsible for supervising the use and implementation of AI in Japan. On February 14, 2024, similar to the United States and the United Kingdom, Japan established the AI Safety Institute to explore and evaluate methods for assessing the safety of AI. Furthermore, various government bodies are involved in overseeing different aspects of AI usage.

The Personal Information Protection Commission plays a crucial role in addressing privacy and data protection concerns related to AI applications. It ensures that personal information is handled appropriately and protected in accordance with relevant regulations.

When it comes to AI implementation in vehicles, the Ministry of Land, Infrastructure, Transport and Tourism oversees the usage of AI and other technologies in the transportation sector, ensuring safety and compliance with regulations.

Additionally, the Japanese government has established the AI Strategic Council to consider the national strategy on AI. The council includes representatives from the Digital Agency, the Ministry of Economy, Trade and Industry, and the Cabinet Office. Together, they work to develop policies and guidelines for the effective and ethical use of AI in various sectors of the economy.

19. How would you define the use of artificial intelligence by businesses in your jurisdiction? Is it widespread or limited?

We believe that businesses in Japan are generally positive about implementing and using generative AI. Especially after ChatGPT quickly grew in popularity in the Japanese market, the country has rapidly adopted AI technologies to enhance productivity, improve efficiency, and drive innovation across various sectors.

As part of its national strategy, the Japanese government has actively supported the development and utilization of AI, and this proactive approach is growing. In the budget request for FY 2024, the total AI-related budget of the Japanese government is 164.09 billion yen (approximately 1 billion US dollars), marking an increase of about 44 percent from the previous fiscal year's

budget. These funds are primarily intended for strengthening AI development capabilities and promoting the use of the technology. Although many Japanese companies are generally cautious about risks, a positive attitude towards leveraging AI has emerged with this strong support for its development and use, and its use in business is expected to continue to expand.

For example, PARCO CO.,LTD. utilized image-generating AI to create and release a fashion advertisement for its "HAPPY HOLIDAYS Campaign." As another example, LY Corporation has started offering a feature on its advertising management tool that suggests titles and descriptions generated by AI.[6]

Footnote(s):

[6] *Document Nos. 1 to 3 presented at the 9th AI Strategy Meeting*, Kunihiro Tanaka (May 2024), https://www8.cao.go.jp/cstp/ai/ai_senryaku/9kai/9kai.html.

20. Is artificial intelligence being used in the legal sector, by lawyers and/or in-house counsels? If so, how?

Yes, in recent years, a significant number of AI services tailored for lawyers and in-house counsel have been released. Although the legal industry has traditionally been slow to digitize, law firms are increasingly adopting AI due to its potential to transform legal operations, including tasks such as contract review and analysis, due diligence, and document automation.

However, when providing legal services using AI tools, it is crucial to ensure compliance with Article 72 of the Attorneys Act, which prohibits the handling of legal matters by non-lawyers. This area has been somewhat ambiguous regarding what specifically constitutes a violation, but in August 2023 the Ministry of Justice published guidelines clarifying the permissible scope for providing legal services using AI, making the regulations more transparent.

21. What are the 5 key challenges and the 5 key opportunities raised by artificial intelligence for lawyers in your jurisdiction?

The following points highlight the challenges and opportunities that we believe will arise from the use of AI in the legal profession.

Challenges:

1. **Regulatory Uncertainty**: The utilization of AI may introduce legal issues of unprecedented complexity, for which current laws may not provide clear guidelines. This presents a challenge for lawyers in advising clients within a regulatory landscape that lacks specific regulations addressing these novel concerns. As AI technologies evolve, legal professionals must navigate the ambiguity and advocate for the development of appropriate regulations and guidelines.
2. **Attorney Regulations**: The use of AI raises ethical concerns and challenges for lawyers. They must navigate potential violations of attorney ethics when employing AI tools, ensuring that they uphold their professional responsibilities while leveraging technology. For example, lawyers should be cautious not to include AI-generated fake cases or evidence, as it would contravene legal ethics.
3. **Impact on Less Complex Matters**: The advancement of AI has the potential to automate simpler legal tasks, impacting entry-level positions and raising concerns about training opportunities for lawyers. Differentiating lawyers from other potential competitors, particularly in less complex matters, may become challenging as AI takes on routine legal tasks.
4. **Understanding of AI**: Lawyers will need to stay updated with the latest developments in the AI market to provide efficient guidance to clients and leverage AI technologies effectively. As AI tools become more prevalent, expectations for lawyers to incorporate AI into their services will increase, potentially influencing the standard of care owed to clients.
5. **Security and Data Protection**: The use and development of AI tools involve handling larger volumes of data, which increases the risk of data breaches and security incidents. It is essential for lawyers to consider additional measures to mitigate these risks and ensure the protection of sensitive client information.

Opportunities:

1. **Expansion of Practice Areas/Services:** The emergence of legal issues related to AI creates opportunities for lawyers to explore new areas of practice. There will be a growing demand for legal services that address AI-related concerns, such as intellectual property violations, data protection, and privacy issues.

2. **Streamlining of Work Processes**: AI has the potential to enhance efficiency in legal practice by automating simpler tasks, allowing lawyers to focus on more complex and strategic matters. This streamlining of work processes can lead to increased productivity and improved client service.

3. **Improved Accuracy and Reduced Errors**: By employing AI for legal research and document drafting, lawyers can minimize human error and enhance the overall quality and accuracy of their legal advice. AI tools can help lawyers access vast amounts of legal information quickly and efficiently, enabling them to provide more accurate and comprehensive guidance to clients.

4. **Enhanced Access to Justice**: AI can help overcome barriers of time and cost, thereby improving access to legal services and the justice system. AI-powered legal tools and platforms can provide affordable and easily accessible legal assistance to individuals and businesses, ensuring a more inclusive and equitable legal landscape.

5. **New Career Possibilities**: The integration of AI in the legal profession opens up new career paths for lawyers. They can explore opportunities in technology-related fields that involve leveraging their knowledge of AI technology within a legal context. For example, lawyers can pursue roles in legal tech startups, AI ethics consulting, or legal advisory positions in AI development companies, combining their legal expertise with their understanding of AI systems.

22. Where do you see the most significant legal developments in artificial intelligence in your jurisdiction in the next 12 months?

In the next 12 months, there is a possibility that Japan may introduce new regulations targeting AI. While the country has primarily focused on encouraging voluntary initiatives through soft law and guidelines issued by relevant regulators, the AI Strategy Council has recently started discussions on the introduction of hard law regulating AI. While being cautious not to overregulate, it is suggested that there is a need to explore the appropriate legal regulations (hard law) for AI applications that pose high risks or could lead to human rights violations or crimes.

Even if some form of hard law is established in Japan, the importance of soft law here is expected to remain unchanged. Guidelines such as the **Guidelines for AI Businesses** are intended to be updated as "living documents," so it is necessary to keep an eye on what the regulators issue over the next year. Further guidelines are anticipated particularly in areas like intellectual property rights, including copyright, and personal data. Continued attention to the trends in Japan's AI policy will be necessary.

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