

Foreword

This book is for lawyers, policymakers, executives, and all other people who want to understand artificial intelligence (AI). There are dozens of accurate ways to describe and define AI, but few capture its full impact on society. I titled the book “Think Like a Lawyer about Artificial Intelligence” because lawyers are forced to focus on how a technology interacts with our civilization and on the risks that technology causes for their clients, themselves, and the systems they operate within. We can all benefit from thinking about how this crucial technology functions in the real world and how it alters societal risks.

I understand that many of the specific examples in this book will quickly become old news and the cases cited for legal discussions will be decided, overturned, or superseded by others post-publication. This should not negatively affect future readers of this book. In nearly all chapters, cases and laws serve as examples of certain types of thinking, rather than support for a “correct” analysis. We are exploring together how lawyers think about risk, about technology, and about how rules affect us all. When those winds shift, it only proves my point that the wind exists and that the wind, whichever direction it blows, affects our behavior. “Thinking like a lawyer” is an eternal exercise. This book explores legal thinking methods through a crashing wave of new technology swamping our previously comfortable interactions. Once the wave has subsided, leaving its imprint on all that it touched, the analysis is still valid, and it can help us anticipate and manage the next wave.

To that end, I advise thinking about AI through its practical functionality, analyzing how AI is actually used in day-to-day life and how those operations create risk. I have assigned these functional groups to incorporate differing sets of legal issues, so that the groupings are understandable

as distinct legal and policy problems. Many of these functional groupings use nearly identical underlying technology and their development may be indistinguishable from each other to technologists. In addition, it is likely that if this book is updated or rewritten five years hence, entirely new functionalities will have arisen and a different set of categories would be more appropriate, especially as generative AI splits into multiple silos of usage. However, none of these changes affects the basic premise of this book—that people would benefit from understanding AI as a series of functionalities impacting our society in different ways. This helps us understand not just the technology itself, but its significance for all of us.

Lawyers are called to help with real-world problems. Sometimes these problems involve technology or are created by the new applications that a technology can produce. One of the most vexing problems addressed in this book involves deepfakes of real people generated by AI. Whether pornographic deepfakes or those generated to shed bad light on political candidates, people's lives can be ruined through this process, and the only practical solution is application of the law. In some cases, new laws are needed. In others, current rules protect the innocent. But attorneys are asked to think creatively about solutions for novel disasters that new technology spawns.

Policymakers must also consider impact and risk. Initial panic about the negative possibilities of generative AI led many public voices to advocate for sweeping regulation of AI technology. Some cited a failure to limit the societal damage of social media a decade earlier as evidence that AI should be hog-tied as a general matter to prevent harms that we could predict but which had not become widespread. Such thinking is destructive when AI, in its many forms and functions, can also remake our society in positive ways. This book advocates for precise thinking, precise definitions, and precise regulation of known harms, rather than wholesale restriction of useful technology.

So as the law shifts, various types of AI advance in utility and functionality, and the world learns more ways to incorporate the AI into lives, we should still try to think like a lawyer about AI.