

The Property Line: AI in Action: Transforming Real Estate Workflows

(This transcript was generated through AI technology.)

Welcome to The Property Line, a commercial real estate podcast brought to you by Seyfarth Shaw's Real Estate department. The Property Line is a brief discussion of current market trends, bringing you insights from our acclaimed national team of real estate attorneys. Each episode focuses on a key takeaway for the busy real estate professional. Now, on to this week's discussion.

James O'Brien

Hello and welcome back to The Property Line. My name is James O'Brien, and my co host today is Eric Greenberg. We are both partners in Seyfarth Shaw's Real Estate practice, and we're joined for this episode by two special guests, Kevin Woolf, a repeat visitor to the property line, who is also a partner in Seyfarth's Real Estate practice, and Justin Lischak Earley, vice president of strategic venture partnerships at First American. Justin writes and speaks extensively on technology and real estate law and interacts with emerging tech startups daily. Justin and Kevin recently teamed up to deliver a presentation on AI and the legal profession at ICSC's US Law conference. They are here today to revisit that topic. So, welcome gentlemen.

Justin Lischak Earley

Thanks James. Appreciate being here.

James O'Brien

Awesome. Yeah, no, it's great to have you here. And this is obviously a very hot topic, not just in the legal profession, but generally. So Justin, why don't we start with just a plain English explanation of what AI actually is, and also perhaps what it isn't?

Justin Lischak Earley

Oh, yeah, great question. What it is, essentially is a lot of math. It's statistics at an unimaginable industrial scale, and it's trying to use what it has learned, quote, unquote, what correlations it's found from a whole lot of training data, mountains and mountains and mountains of training data to predict what comes next after what came before. So, two really important things to remember about that, the first of which is that this tool, it's not like you and me. It might act human. It might respond to you in very human ways based upon questions that you ask it or tasks that you give it, but it is not human. There is no person behind the responses that you're getting back, and it's really important to remember that, because the way human psychology works, we are just hardwired to act and believe as if anything which acts human towards us is human, and it's not. And so don't let yourself fall into that trap. And the other thing to remember about these, about what it's not, is that it's not magic. These tools can do amazing things. In seconds, they can produce for you results that would take you or I hours to draft or create. But that's not magic. It's just a whole lot of math and statistics being run at an incredible scale. And so, when you think about how those tools work, they're based on predicting what comes next based upon what came before. And that's incredibly powerful, but only if you remember what's making it tick underneath the hood. You have to have some degree of confidence, and you have to have some degree of visibility into believing that what comes next is likely to be just like what came before. And you have to be thinking about the consequences if it's not.

James O'Brien

Gotcha, you know, that's interesting. I get that sort of idea of AI is math and statistics when I'm thinking about sort of like an enhanced internet search or something where the AI is going out and researching all this data and coming up with better answers than I would have been able to search on my own. But it confuses me a little bit. I fall into the category of thinking it's kind of like magic when I hear about generative AI, which creates videos or creates voices and songs, and maybe you'll tell it, you know, please draft us a lease, and it'll create a lease, you know. So how is it mapped in that context too?

Justin Lischak Earley

Great question. So the way these things get built is you take mountains and mountains of data, just indescribable amounts of data, and you run a whole bunch of big statistics on them, and then when you and I come back to that tool later on, we ask it to do something. Usually we're giving it words or we're giving it an image, and we're saying, do this or make that. What it's doing is it's trying to look through all those big statistics that it ran and try to predict what we want it to give us based upon the instruction or the input that we gave it. So it's taking all those statistics, it's running them in advance, and then when we give it an input that we call prompt, it's trying to match up what it thinks is the most likely response that we're seeking based upon all those statistics it did previously. So it kind of does its homework and then the question that we give it, but again, it's just math. It's not magic.

Eric Greenberg

Kevin, let's just take what Justin discussed. There's clearly a lot of possibility for AI, but there's also the potential for pitfall. We've all heard the stories of nightmares about it using AI, the litigator who used AI which cited a fake case as one example. What are your maybe top three concerns when it comes to using AI in legal work?

Kevin Woolf

Yeah, no, it's very top of mind, as all of us, including those who are just starting out in the legal profession, are dipping their toes into this world. So I think, as sort of a threshold question, you have to think about the relative risk of the task that you are asking AI to do. If you are asking it to help you plan your menu for the week, it's probably not super risky if it happens to get something wrong. If you're asking it to draft a document that's going to control the fate of a billion dollar transaction, I wouldn't recommend that. So our role as humans is we are not being displaced anytime soon. AI is a tool that can help us. But the first thing you think about is, is this the right application? Is this where I want to remove myself and insert a tool? The second thing, really specifically for the lawyers, are the ethical considerations. There are very, you know, real ethical considerations. You mentioned one which is related to hallucinations by the AI, where, in its desire to predict and give you what it thinks you want based on those tunes of prior data, it will sometimes just make stuff up. It will make up case names, cases that don't exist and that have never existed. It'll make up courts that don't exist. They look like and sound like they would plausibly exist, but they don't, so ...

James O'Brien

Generative AI, Kevin. They're generating stuff.

Kevin Woolf

Exactly, exactly they're generating some new, some new precedent that just simply doesn't exist, which is really dangerous if you're signing your name to that that court pleading. There's also the responsibility for we have to have some basic understanding of the tools that we're using and how they utilize information. We all know that attorneys have a confidentiality obligation, and just knowing that anything you put into a public generative AI tool, such as, you know, the ones you'll find on the internet, once you put it in there, it is out into the world you have now, you no longer can guarantee the confidentiality of that information. There are workarounds that law firms are employing which are

basically closed system Gen AI platforms, which are look like and are based on those, those larger external models, but don't leave the firm. So that's one way to work around that. So those are some of the things that come to mind when you think about using AI in legal work. It's a great tool, a great opportunity, but you got to know what you're doing.

James O'Brien

Yeah, it's interesting. I wonder if it's as good a tool if you have to, like, create a smaller data set instead of the large data sets that are publicly available, that there's, I suppose, got to be trade offs between effectiveness and confidentiality. So correct. And imagine there'll be a lot of lawyers, you know, spending time figuring out how to rewrite ethical rules to deal with AI being one of your associates effectively. But you know, with those concerns in mind, Justin, how is it that you would recommend that we, you know, use AI in real estate, and you know, specifically in our case, in real estate projects, you know, what are maybe three best practices you'd recommend?

Justin Lischak Earley

I think I want to build off of what you said about AI being sort of an associate in a way, and also what Kevin said about making sure that you think about relative risk, right? You wouldn't give the core documents of that billion dollar transaction to a summer associate and say, here, go finish this. That's not the right tool for the job, but there are definitely jobs that are allocated depending upon who is the right person to do this job based upon what's their billing rate, what's their competency, what's the relative risk of the task. And it's no different with AI. A human brain power and AI power are just complementary tools in the toolbox. So some tasks go to senior lawyers, some go to junior lawyers, some go to paralegals, and now some tasks go to AIs. And just like people have different competencies, so do AI tools. Some legal practitioners are more generalists that you put me in that category. Others are really specialists. They're great at doing one particular thing, really, really, really well, and both of those have their appropriate lay and the same thing with AI tools. There are some AI tools that are out there that are more legal generalist, and there are some that are tuned for specific practice areas. So I think the best advice that I've got is that, as a senior lawyer, you have to decide who decides. Who is the right tool, what is the right tool for this job and allocate tasks based upon which person or thing has the right level of experience and the right skills to accomplish that task. And I think for clients, finding law firms who know how to do that really well is going to become more and more important as time passes.

Kevin Woolf

And I want to touch on something that Justin said which is, wearing the client hat, you are perfectly within your rights and, in fact, I encourage you to ask the question of your law firms, are you using AI on my projects? And if so, how? Just like you wouldn't necessarily want to see that summer associate in Justin's example, leading a particularly sensitive part of a deal, you may not want to see AI in that role either. So it should be a dialog between client and attorney about what's the right application of AI in a particular project.

Justin Lischak Earley

Firms that are competent in this area, they're going to be able to answer those questions for you.

James O'Brien

Yeah, no, I was going to say, I think, you know, we as attorneys are stewards of our clients resources in a way, and the time that we're spending on their behalf, and we have to employ those resources in a correct way. You know, there are certain projects where a client would want you to use associate in certain projects, but they wouldn't want you to use an associate. And as Kevin said, you have those dialogs. And in my experience, the question is becoming less are you using AI, and more from the

clients, more, in what way are you using AI? They're coming to expect it. And if you're not using AI, you're being left behind, I think, and are not as effective an advocate for your clients positions and needs.

Eric Greenberg

And on that note, I'm seeing that more too, James, with my clients, with prospective clients, where there's almost an expectation that law firms should be using AI. So on that note, and I've been very excited with the AI opportunities that we've been playing around with in my practice, but let's sort of think about our listeners in the real estate world, and sort of get to that level. What are some of the experiences that you've seen using AI to bring real estate projects to life. Can you share some recent examples and things that have been really helpful?

Justin Lischak Earley

I'll take that one first, and then maybe you can go after me. Kevin, I think my favorite example that I've seen in the market out there is lease review and abstracting. I mean, I know when I was a junior associate, I did tons of that work, you know, just boxes and boxes and boxes of leases that needed to be read and key information taken out and, oh, but had these tools existed, you know, back then.

Kevin Woolf

I hear you on that Justin, I will say my counterpoint to that, I tried to use generative AI to review a portfolio of leases for a large company that had several thousand sites across the country, many of which they had leased for decades, and that had rolled up through acquisitions over time. And so you think about ground leases with maybe 15, 16, 17 amendments to them. The AI was utterly incapable of piecing that together. It couldn't, to go back to your very first answer, it couldn't predict what was supposed to come next, because in amendment 17, it was amending two words from amendment 13, which amended four words from amendment 12, and it just it, the AI was not able to piece all that together in a way that made any sense whatsoever. So there are limits now but, five years or five months from now, those limits may be surpassed. But that was sort of my counterpoint on that was, if it got too complex, it's predictive capabilities fell short. I will say, this wasn't Gen AI. This was sort of a precursor and an earlier version of AI, if you will, that I utilized probably six years ago. Client gave us 7,000 documents and said we need to understand change of control provisions in those 7,000 documents. They really only cared about 700 of the documents, those that pertain to the United States, and the rest were overseas and outside the scope of the project. And the AI tools were able to take it from 7,000 to 700 in about five minutes. You know, by sorting for domicile of the of the organizations on the paper, the language that the document was written in, it very quickly was able to whittle that down in a way that even a very, very fast human couldn't have opened up 7,000 PDFs and found the right information and sorted them in anywhere close to that amount of time. So that was a that was a positive example. Personally, very recently, I was actually on a webinar with my team, and we decided to just kick the tires on one of our internal Gen AI tools. So we took a lease that I had signed up the day before, plugged it into the system and, you know, as an attachment, and said, run a critical dates memo on this document using this template. And we uploaded the template as well, and the Gen AI was able to produce a critical dates memo in about 30 seconds, which that usually takes a paralegal 30 minutes to an hour, depending on the complexity of the document. So that was awesome. It wasn't fully correct. It missed a key date at the end. Because I just had it signed up, I knew what to look for, and so I came behind it and spot checked it, and sure enough, it did miss a key date. But, you know, it was still got us a 95% product that didn't take long to go and spot check in record time. So I think the applications, we're just starting to figure those out, and we're just starting to figure out how we can best leverage this, these various tools. But I think the power is there. It's up to us to figure out how to use it.

Justin Lischak Earley

What great examples, because it just illustrates you as the senior lawyer, knowing how to allocate tasks to the right decision maker and knowing how to review the work of that decision maker. And I think that as these AI tools expand into our practice, and there's more AI tools out there, it's not going to be any different than having a new associate or a new paralegal come on. You're going to figure out what their competencies are, and you're going to give them the right jobs for where they're at in their progression.

James O'Brien

Yeah, no, I think that's interesting. It's funny that you say the example, Kevin, because I've got on my to do list today getting a couple of critical dates memos done. So, maybe I'll get AI to do it.

Kevin Woolf

Maybe you got time for that two Martini lunch now, James?

James O'Brien

Well, it's funny, like a lot of people are afraid of AI and how it will replace, you know, lower level workers, new associates. And it's funny. I'm just hearing this and thinking it's a continuum of things that have been going on throughout my practice. It shows how old I am. But as a first year associate, a large part of what I did was organize faxes. When we were sending documents out, they were stacks and stacks of documents that were not being emailed, but were being faxed, which now can be done in the push of a button, but like the first year associate's life is a lot better if they're not spending hours and hours sending faxes. They can do higher productivity work that requires some actual thinking. So I think it's a positive. But anyway, we've been talking about what it is, how you know how to use AI, but how we're going to get people comfortable with it, to my point where people are a little bit afraid of it. I think what are some effective training methods and ways to integrate AI into our day to day?

Justin Lischak Earley

I think for me, my best advice is just play with these tools. The important thing to remember is that, really these generative AI tools have at most been out there in consumer hands or ordinary people's hands for what, two and a half, maybe three years. And so, there isn't a set playbook that you can just pull off the shelf. We're all learning this on the fly, and the tools advance rapidly. And so, I don't think that there's a training course you can take or a certain set of best practices, because it's all developing. So my advice is, play with these tools in low risk contexts, as Kevin pointed out. Play with them to plan your menu. Play with them to help plan your vacation. And the more you get used to them, and the more you experience how they work and what they respond to, the better you're going to be able to utilize them in higher risk context and to know what their competencies and skills are.

Kevin Woolf

And the only thing I'd add to that is leverage the younger folks on your team. They are, in many cases, more comfortable with this and more willing to try. Ask them, how would you use Gen AI or AI tools in this task that I'm asking you to do? You'd be surprised what you can learn from the generations coming behind us.

Justin Lischak Earley

I'll give one example of a way that I use them that I think is very helpful for me. It frames my thinking. It's called role, goal, context: RGC. So, when I'm using one of these tools, especially if it's a text based tool, I'm going to give it a roll, act as a blank. I'm going to give it a goal, produce for me blank. And then I'm going to give it context. Use the attached documents. Consider the following facts. Look at x and y and z. And it's very similar to the way that you would give instructions to a second or third year associate, for example. The better you are at explaining what you want that in pointing this tool in the right direction, the more likely you are to get back the result that you want.

James O'Brien

Well, that's I'm writing that down right now. RGC, role, goal context.

Kevin Woolf

I already did.

James O'Brien

That sounds great. Well, we're kind of running up at the end of our time, so we're going to go ahead and wrap it up here. But I mean, it's a fascinating discussion we could certainly continue. Justin and Kevin, thanks for joining us today and for sharing your insights.

Kevin Woolf

Our pleasure.

Justin Lischak Earley

It was a pleasure to be here. Thank you for having me.

Eric Greenberg

Thanks so much.

James O'Brien

You're welcome and a special thanks to our listeners as well for tuning in. Please keep an eye out for future episodes of The Property Line, and until then, be well.

You have been listening to The Property Line, a production of Seyfarth Shaw's Real Estate department. To be sure that you don't miss future episodes, visit our web page at Seyfarth.com, where you can subscribe to The Property Line on iTunes, Spotify, Google Podcast, or SoundCloud. If you enjoyed this episode, please give us a five-star rating and share the podcast with your friends and colleagues. We look forward to having you with us again soon.