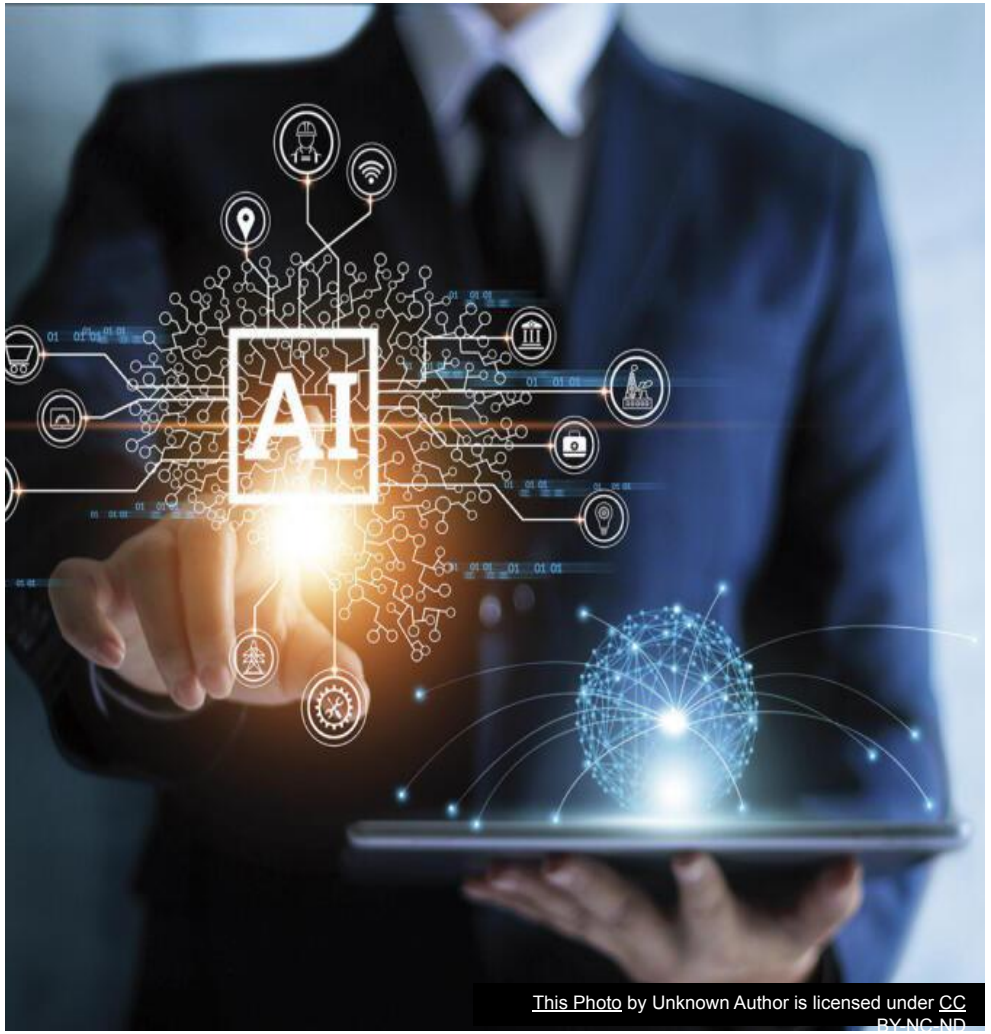


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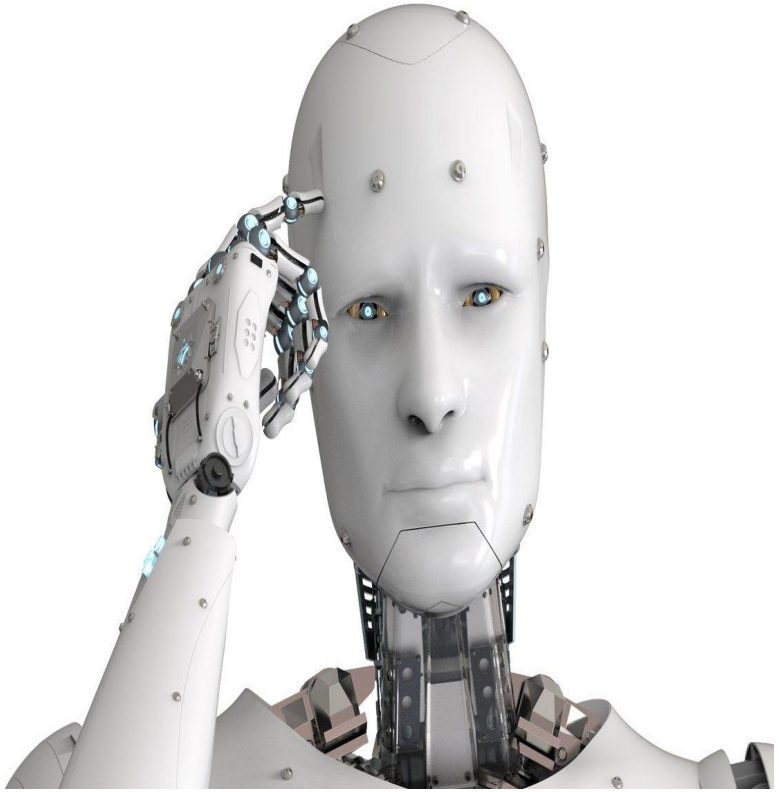
Generative AI: Ethics, Updates, and Case Studies

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Agenda



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- Ethical Duties of GenAI
- Example Cases Checking Citations
- Choosing GenAI Products/Platforms
- Practical Implications & Risk Management

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Overview: Artificial Intelligence



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- **Artificial Intelligence ("AI"):** Technology that allows machines to learn and perform tasks that typically require human intelligence using algorithms and data.
  - Notable Examples: Virtual assistant speech recognition (Siri or Alexa), behavior-based recommendations (Netflix or Amazon), spelling/grammar checking and predictive text in emails and text messages

- **Generative AI ("GenAI"):** Artificial intelligence technology that produces new text, images, audio, and other content based on training data that includes examples of the desired output. Users enter prompts, questions, queries, or other inputs that induce the GenAI model or tool to produce output.
  - Notable Examples: ChatGPT, DALL-E, Google Gemini, Claude

- **Agentic AI:** Artificial intelligence systems that are proactive and autonomous programmed to achieve specific goals. These systems make decisions and execute multi-step tasks with minimal human input.
  - Notable Examples: Self-driving vehicles, AI agents and assistants, workflow automation

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Generative AI: Definitions and Risks

- **Hallucination**: GenAI may produce content that is factually incorrect or entirely fabricated but appears plausible, risking legal, reputational, and operational harm.
- **Bias and Discrimination**: AI outputs can reflect or amplify hidden biases found in training data, leading to unfair or discriminatory results
- **Confidentiality Breaches**: Sensitive information may be inadvertently revealed if input data or prompts are not carefully managed
- **Copyright/Intellectual Property Issues**: GenAI may generate content that infringes on third-party copyrights or uses unlicensed material.
- **Lack of Explainability**: GenAI decisions and outputs are often opaque, making it hard to understand or justify results to clients, courts, or regulators
- **Self-Learning Generative AI (data privacy)**: User input or output could be stored or reused by GenAI systems, potentially violating privacy obligations

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Ethical Implications

- Rule 1.1 Competency
- Rule 1.4 Communication
- Rule 1.5 Fees/Expenses
- Rule 1.6 Confidentiality
- Rule 3.3 Candor to Tribunal
- Rule 3.4 Fairness to Opposing Counsel
- Rule 4.1 Truthfulness to Third Parties
- Rules 5.1 and 5.3 Supervision/Training of Subordinate Attorneys and Non-Legal Assistants
- Rule 7.1 Truthfulness in Advertising
- Rules 8.4(a), 8.4(d) and 8.4(g)

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Are there safe products?
Enterprise v. Public GenAI Models



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Common Platforms

- Perplexity
- Claude
- CoPilot
- Westlaw AI
- LexisNexis Protégé
- . . . And More!

Google Generative



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How to Choose an Appropriate GenAI Tool

1. Classify the information to be processed, e.g., general information, de-identified information, confidential information, or sensitive personal information

2. Categorize the GenAI Tools, e.g., third-party managed GenAI (native model platforms or API integrations) or self-managed GenAI tools

3. Evaluate and document the applicable GenAI safeguards, e.g., authentication, self-learning, data retention, data isolation, supply chain risk, risk management frameworks, security risk management, terms of use (READ)

4. Manage Client Rights

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Disclosure, Consent, Cost, and Management Reminders

Client Consent: MUST obtain client consent to utilize tools for substantive client work.

Cost: Understand the cost of the tools and the pricing structure.

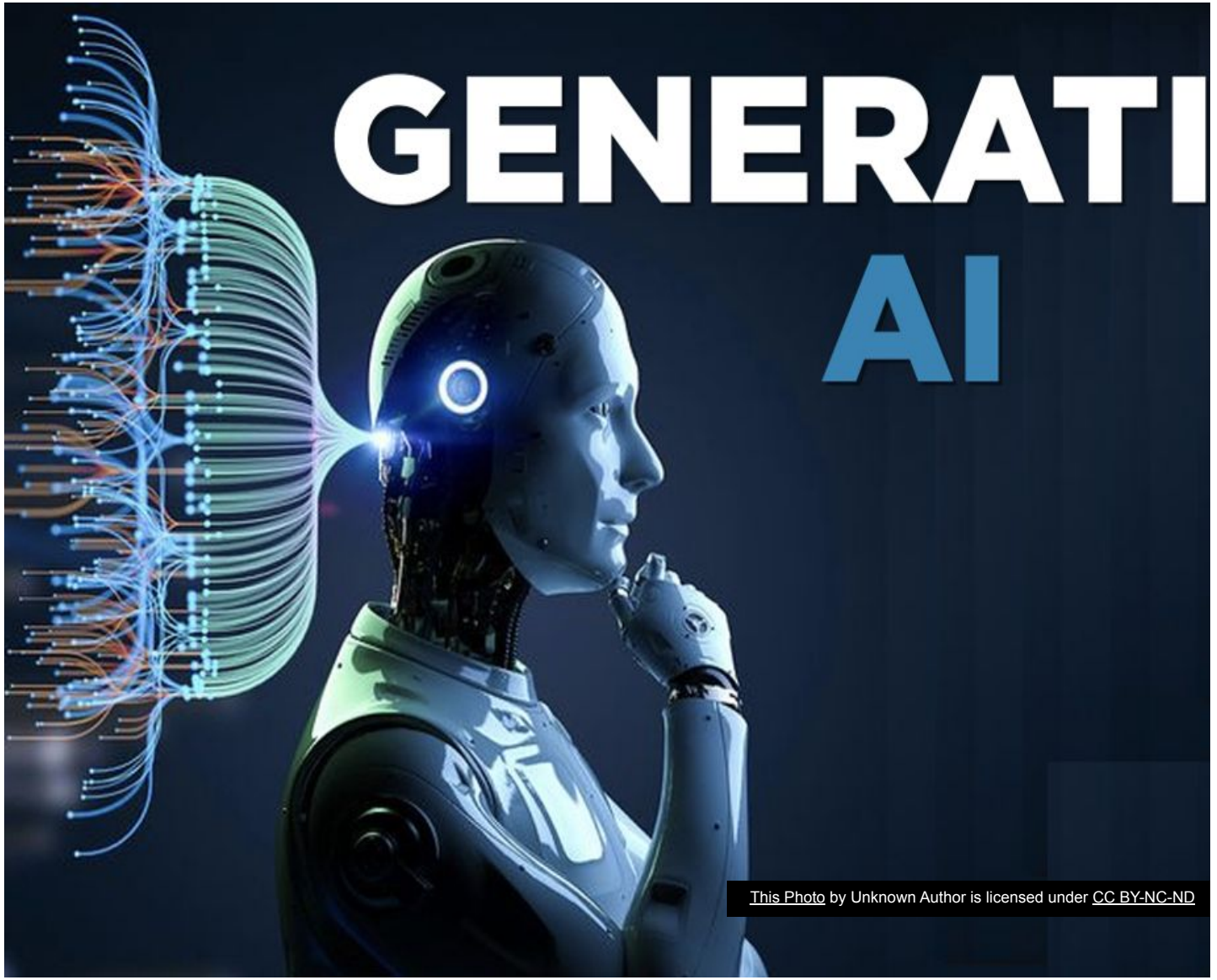
Internal Management: Work with the appropriate internal teams for support and effective management of the tool(s).

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Fake Cases, Real Consequences

Do not be the next statistic

[AI Hallucination Cases Database – Damien Charlotin]



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Other Cases

Mata v. Avianca

- Notorious first case (YouTube Video)

Smith v. Farwell

- 3 separate legal memoranda that cited and relied on fictious cases
- Blamed ignorance of AI, and 2 recent law school grads and an associate

Kruse v. Karlen

- 22 of 24 cases were fictitious
- Made up sounding generic names, e.g., ABC Corp., jones, XYZ Corp.

Gauthier v. Goodyear Tire & Rubber Co.

- Cited 2 cases that did not exist as well as quotations
- Admitted to AI, and failure to double check results

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Damien Charlotin Scholarship *Curriculum Vitae* Data Book Projects

AI Hallucination Cases

This database tracks legal *decisions*[1] in cases where generative AI produced hallucinated content – typically fake citations, but also other types of arguments. It does not track the (necessarily wider) universe of all fake citations or use of AI in court filings.

While seeking to be exhaustive (**259** cases identified so far), it is a work in progress and will expand as new examples emerge. This database has been featured in news media and online posts.[2] (Readers may also be interested in this project regarding AI use in academic papers.)

If you know of a case that should be included, feel free to contact me.

Click to Download CSV

Search cases, courts, tools,

State

Argentina (0)

Australia (0) Brazil (0)

Canada (0) Germany (0)

India (0)

International Arbitration (0)

Ireland (0) Israel (0)

Italy (0) Netherlands (0)

New Zealand (0)

Case	Court / Jurisdiction	Date ▼	Party Using AI	AI Tool	Nature of Hallucination	Outcome / Sanction	Monetary Penalty	Details
Oready, LLC	GAO (USA)	25 September 2025	Pro Se Litigant	Implied	**Fabricated** Case Law (4) **Misrepresented** Case Law (1)	Protests dismissed for abuse	—	
Source: David Timm								
Evans, et al. v. Robertson et al. (2)	E.D. Michigan (USA)	25 September 2025	Pro Se Litigant	Implied	**Fabricated** Case Law (3) **False Quotes** Case Law (3)	Warning to both parties	—	
Source: Volokh								
BFG aka Byline Financial v. Pierce RE Holdings & Brewster	N.D. Illinois (USA)	24 September 2025	Lawyer	Implied	**Fabricated** Case Law (1)	Warning	—	

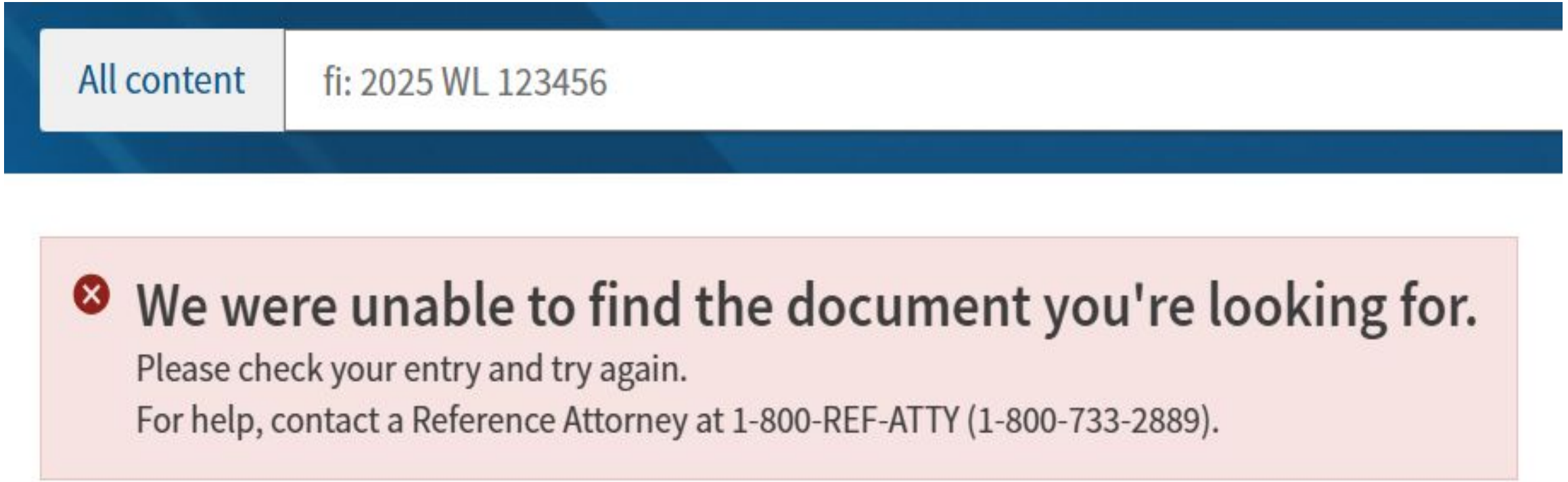
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Checking Opposing Counsel Briefs/ Materials



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Finders v. Keepers, 2025 WL 123456



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Contains a fake case name and year:
Finders v. Keepers, 123 N.W.2d 785 (1994).

But it includes a real citation to a real case:
Johnson v. Caldwell, 123 N.W.2d 785 (1963)

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Where do jurisdictions, courts, and clients stand on the use of AI in the legal practice?



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AI Note-Taking and Videoconferencing (Third-Party Tools)

- Fireflies.ai
- Otter.ai
- Read.ai

AI Note-Taking Tools (Third-Party Tools)

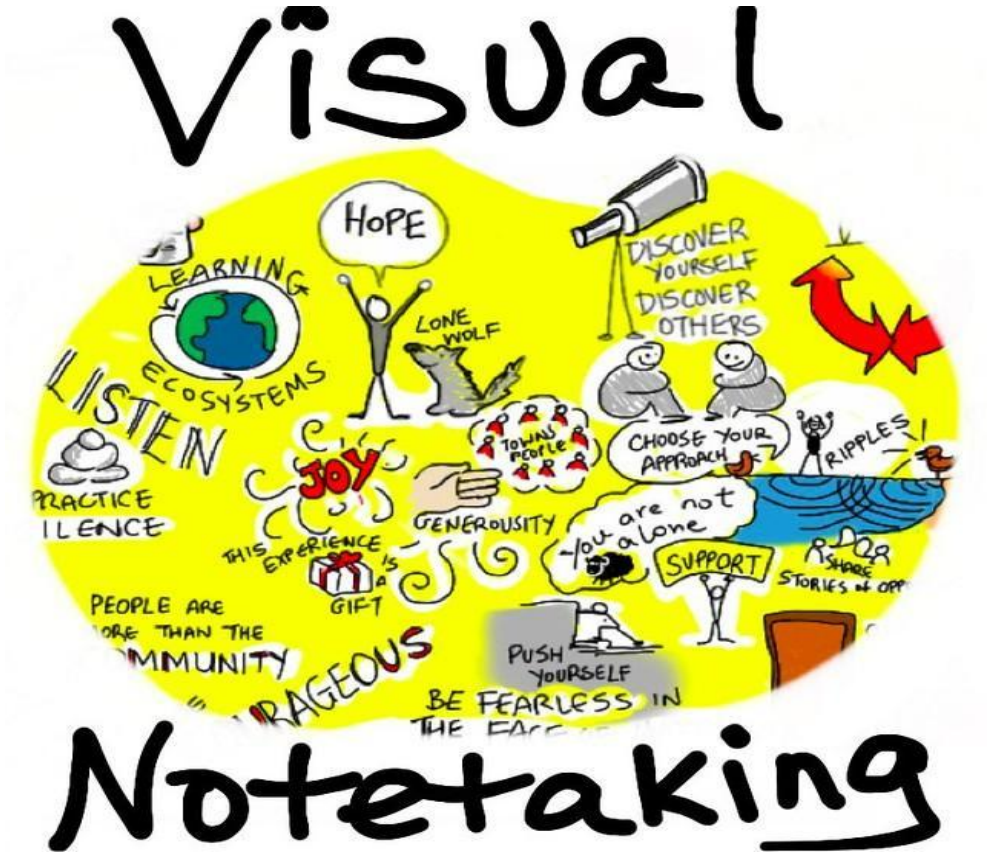
- Zoom
- Teams
- Cell Phones

What Ethical Issues or Client Issues Arise in using AI Note-Taking Tools?



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Ethical Issues for Clients



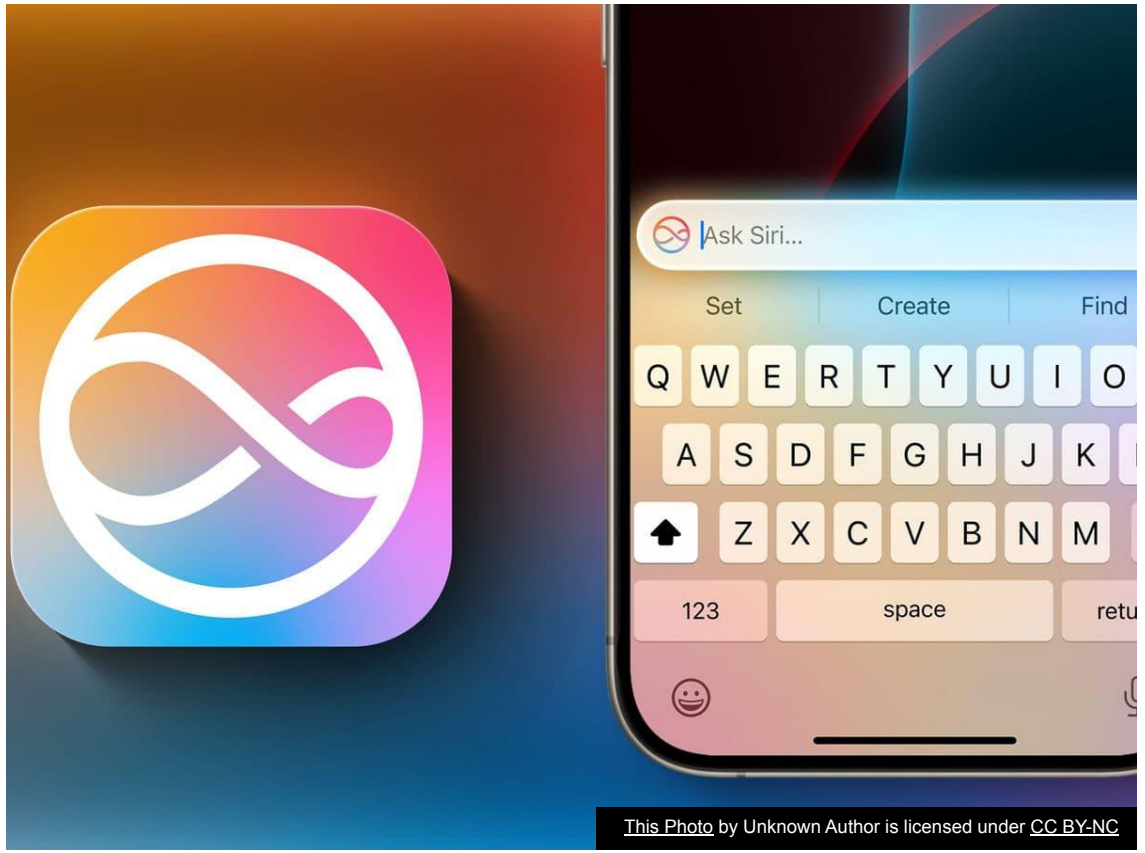
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- Evidence Creation (volumes of unwanted evidence!)
- Document Management/Storage & Collection
- Inadvertent Disclosure/Confidentiality
- Supervision
- Sharing Data with Third Parties
- Control Over Data
- Deletion of Data
- Security
- Accuracy and Reliability of Data
- Wiretapping Statutes

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Other Apple Intelligence

- Emails
  - Email Categorization (priority messages)
  - Email Summarization and Writing
- ChatGPT Integration
- Focus Mode Changes
- Siri



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Cybersecurity Considerations



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Let's Try It Out



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WHEN IN DOUBT

REACH OUT!

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QUESTIONS?

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