

The future of the IP legal profession

Balancing the rise of
artificial intelligence with
human expertise





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The future of the IP legal profession starts now

New strategies and AI-based technologies can help corporate and law firm IP professionals navigate a rapidly changing business landscape.

The business world is evolving in ways never experienced before. The last five years have ushered in unprecedented challenges, from COVID 19-related supply chain risk and hybrid work models to "the great retirement" and the rapid rise of artificial intelligence (AI). All of these trends are combining to accelerate the pace of change throughout the knowledge economy, including the intellectual property (IP) profession.

Corporate and law firm IP professionals must navigate a complex and shifting business landscape. This means managing IP risk, articulating the value of IP and identifying new growth opportunities, while also creating operational efficiencies. It's a tall order.

To explore how IP professionals are managing today's challenges while charting a course for the future, we brought together a panel of experts:

- Monica Baig-Silva, Vice President, Intellectual Property Counsel for Thermo Fisher Scientific
- Theresa Weisenberger, Intellectual Property and Technology Partner at BakerHostetler LLP
- Vasheharan Kanesarajah, Vice President, Head of Strategy, Intellectual Property at Clarivate
- Arun Hill, Senior Consultant, Intellectual Property at Clarivate

"There's a saying that without human expertise, AI is just artificial."

Vasheharan Kanesarajah

Key drivers of change

According to Vasheharan Kanesarajah, today's IP ecosystem is facing four key drivers of change:



IP is increasingly tied to industry-driven strategies that impact IP strategy development and execution.



Managing patents and trademarks is getting more complex, requiring better collaboration and technology-enabled processes.



Mainland China is growing in influence as a source of IP and innovation and as a location for IP enforcement.



Generative AI and large language models are making inroads across the business spectrum, including the IP process.

These trends are impacting the IP legal profession in every dimension — people, process, data and technology.

The impact of AI

43%

**of survey respondents
do not use AI in
their practice.**

To better understand the impact of AI, Arun Hill summarized key findings from a recent Clarivate global survey¹ of 575 IP and R&D professionals around AI deployment. Respondents were skeptical, with 43% saying AI is not currently used in their practice, 64% expecting minimal change to their role due to AI and 49% citing the lack of AI regulation as a concern.

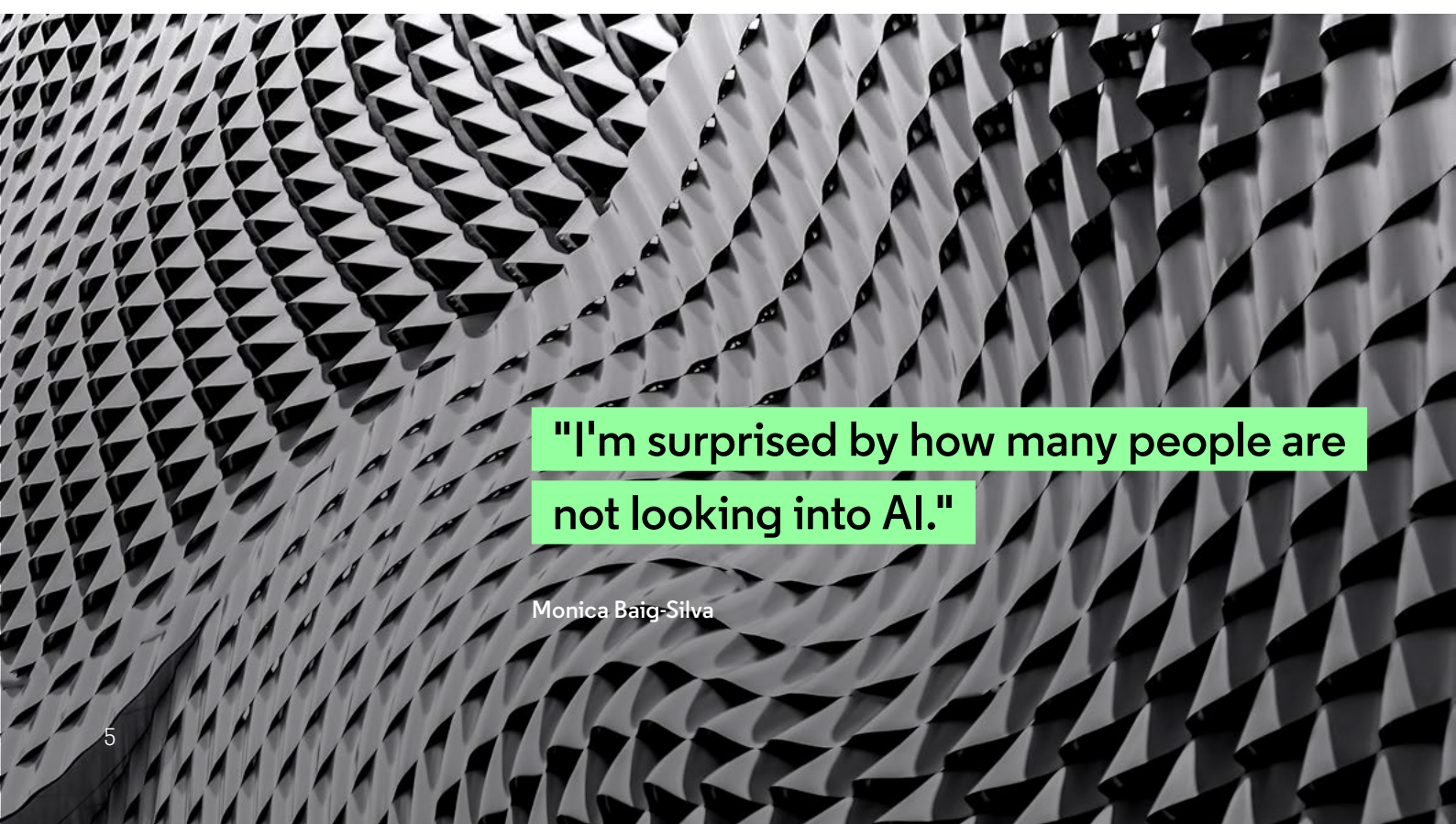
"There is an appetite for using AI in low-risk, easily automated tasks. Intelligence-based use cases and ideation were also found to be desirable areas for AI deployment. Things like supporting prosecution and interaction with the patent and trademark offices dropped to the bottom of the list," Hill noted.

Theresa Weisenberger and Monica Baig-Silva shared their perspectives on AI in the IP field from a law firm and corporate point of view, respectively.

"I think eventually we'll see tools that make our jobs a little bit easier and make some functions a bit different. But I don't think we're there yet," Weisenberger said. "I don't think AI technology is ever going to rise to the level of replacing attorneys. But it's going to make some of the work we do a lot more efficient."

Baig-Silva agreed. "I'm surprised by how many people are not looking into AI. I think there is a definite benefit to using it to enhance the work that you're doing, the non-preferred tasks that you don't want to do, versus the technical area of IP law," she said, noting that her team evaluated AI software for drafting patent applications. "It clearly wasn't there yet. But I think it will get there at some point."

¹ <https://clarivate.com/ai/redefining-artificial-intelligence/>



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Protecting confidentiality

Both attorneys pointed to concerns over accuracy and confidentiality as barriers to AI adoption in IP legal processes. Defining legal protections for confidential information in light of AI is a crucial issue, according to Baig-Silva.

"If you're using an AI system, you need to think about what you are putting in your patent application, because there won't be any protections around it," she notes. "We also have to make sure our employees aren't putting sensitive technical information into ChatGPT. What is the acceptable use policy? That's something we never had to deal with before."

Another issue is how AI models will be trained for IP use. "There's a saying in the AI space that without human expertise, AI is just artificial," Kanesarajah said, noting that the burden of training the models is often placed on legal professionals. "They have to do their day job, plus find time to train the models in order to improve the system. That is one of the biggest challenges, making sure that people are deeply embedded in that process."

Despite these concerns, Weisenberger noted that patent law may be a good field to introduce AI tools because the information going into patent applications will be made public. "I think the time period when you need that information to be confidential is a lot shorter than for some other work that attorneys do and can be further mitigated by using private, secure AI models. Also, IP attorneys are often quicker to adopt new technologies, so it is perhaps a good place to start."



Facilitating knowledge transfer

Another important trend is the "great retirement" as the "baby boom" generation leaves the workforce. This creates the question of transferring knowledge — how important is it and how is it best achieved?

"Knowledge transfer is very important," Weisenberger said, adding that late-career attorneys have valuable knowledge, including "soft skills" gained over decades of building and maintaining client relationships. "It's important for senior attorneys to consciously pass on that information to younger attorneys. There is so much we can learn from people who have seen a lot."

Generational differences can make this challenging, Weisenberger said, noting that early in her career, she learned by watching more experienced attorneys. "I have found that some Generation Z

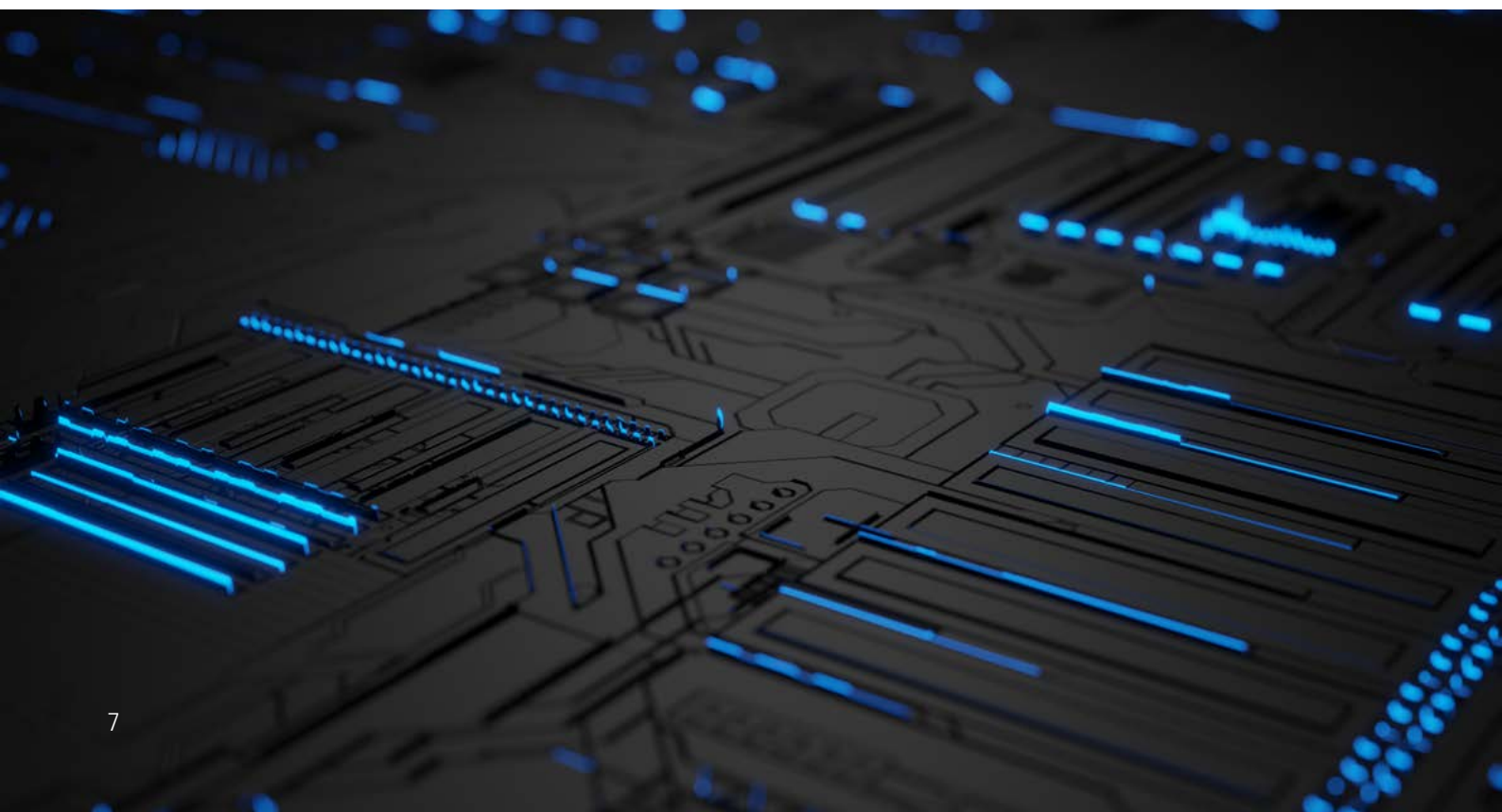
attorneys benefit more from direct training. It's important to remember that the way you developed your career doesn't always translate to other generations."

Technology can play an important role in achieving the transfer of institutional knowledge, Baig-Silva said. "In the

past, we've seen that individuals have all this knowledge in their head or on their laptop. Then they leave the organization and it's gone. But with cloud-based data storage and AI tools there is a great opportunity to make sure that information is captured and maintained, so you're not having to recreate the wheel."

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The role of data and analytics

Data and analytics are becoming increasingly central to the IP profession, the experts agreed. This can help business leaders better understand the value of their IP investments, Baig-Silva said.

"Having metrics to show, for example, that a patent maps to a product that generates this much revenue for the company, and that we're protecting those assets. Or that we're potentially creating a bubble around the market that we want to keep. Having the right metrics allows us to have a seat at the table, helping inform the business strategy," Baig-Silva said.

AI can play a role in generating these metrics, she added. "AI can help with competitive intelligence modeling, looking not only at your own IP portfolio, but also those of your competitors. Are they going after something that we aren't going after?


Why are we filing in a jurisdiction where competitors are not? These kinds of analytics help a lot with the decision-making process."

Weisenberger agreed that analytics can help justify investments in IP, noting that startups may focus on different metrics than large, established companies. "It's not necessarily showing the inherent value of the IP itself, but how long can you use IP protections as a barrier to entry by others? It's analyzing if I have a two-year head start over my competitors, how much better is my position? That's what a lot of my discussions with smaller and younger companies have focused on."

Arun Hill noted that more powerful tools are emerging that enable new capabilities for IP management. "In working with our clients, I see that they're increasingly multidisciplinary,

ingesting different types of data and looking at how to fit those pieces together. This can provide the ability to retell the value of IP through a narrative, which can be super powerful," he said, adding that it is critical that analytics be focused on a clear purpose. "What is it trying to measure? We need to ensure that data and analytics actually achieve something useful."

Hill pointed out that the quality of data used by AI analytics is crucial. "AI can reduce bias or it can bake in bias at scale. So how was the data collected in the first place? How representative was it?," he said, noting that human experts need to be involved. "Making sure it's designed with that person or task in mind, with the ability to provide feedback to the model. There's a need for continuous monitoring and validation."

A photograph of a server room with two people working at a computer. The room is filled with rows of server racks. Two people, a man and a woman, are standing in the aisle, looking at a monitor. The lighting is blue and the scene is slightly dim.

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Monica Baig-Silva

Looking to the future

So what should IP professionals focus on to prepare for the future? Understanding and adopting the right technologies is one critical factor, even for those IP professionals who are not particularly tech-savvy, Baig-Silva said.

"It's important to understand how the technology works, what it is capable of and what its limitations are," she said. "It can be hard to adopt a new technology. But change is happening so you should figure out how to best use it to enhance your work performance. Don't be afraid to learn something new."

When it comes to implementing AI, Weisenberger advises a gradual process.

"It can be overwhelming to jump right into AI if you're not familiar with it. We have to remember that it's going to be an iterative process and it's going to work differently in different departments. I recommend taking it on a case-by-case basis and iteratively developing your policy around AI," she says, adding that educating colleagues on the benefits, risks and shortcomings for different use cases is key. "It requires communication across different departments and open dialog."

About Clarivate

Clarivate is a leading global information services provider. We help people and organizations think forward by connecting them to intelligence they can trust to transform their perspective, their work and our world. We are the partner law firms and companies rely on to transform the way they create, manage and protect intellectual property. Our comprehensive intellectual property data, software and expertise helps companies drive innovation, law firms achieve practice excellence, and organizations worldwide effectively manage and protect critical IP assets. Clarivate is home to Derwent Innovation™, CompuMark™, Innography™, Darts-ip™, IPfolio™, FoundationIP™ and other leading IP solutions.

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