Artificial Intelligence

Artificial intelligence is transforming businesses by driving efficiencies and enabling innovation. Kelley Drye helps you harness the potential of AI—and prepare for the risks.

About

Kelley Drye empowers clients to innovate confidently with AI and machine learning, taking advantage of opportunities to enhance their operations and deliver more personalized customer experiences while minimizing legal exposure. With an eye on our clients' end goals, we help companies manage the legal risks, regulatory compliance obligations, and ethical considerations inherent in this dynamic technology. We help clients across industries navigate an evolving AI landscape by seizing opportunities for business expansion, protecting valuable IP, resolving investigations and enforcement actions, building compliance programs, and much more.

Advertising with AI

AI creates new opportunities for savvy marketers to create and deliver innovative content to consumers. But new opportunities give rise to new compliance challenges, as companies navigate shifting rules and requirements around AI model training practices, consumer transparency, ethical AI use, and bias mitigation. State and federal regulators are increasingly focused on AI-related enforcement, meaning that missteps could have costly repercussions.

In this rapidly evolving technological and regulatory landscape, our team provides timely, informed, and practical advice that will allow you to innovate responsibly and successfully. Advising on best practices, identifying regulatory risks, and proposing pragmatic solutions, we help you leverage AI to boost your business—without putting it at risk.

Read More About Our Advertising and Marketing Practice

AI Tech Transactions and Corporate Dealmaking

In this fast-changing environment, the right deal to acquire or leverage AI for your business can give you a critical advantage. Our Corporate team has significant experience advising and supporting clients making strategic moves related to AI, such as acquisitions of and by AI companies, leveraging AI in developing software products, and negotiating agreements to introduce AI into your business and sales processes.

We also offer a full range of corporate and M&A support, including antitrust merger clearances, ESG, private equity, venture capital, and tax services.

Read More About Our Technology Transactions and Sourcing Practice

Read More About Our Corporate and Tax Practice

Claims and Disputes

With the rapid expansion of AI, an increase in disputes and litigation is inevitable, and litigation risk will only continue to grow. Even the most cautious companies may face claims, enforcement actions, and class action lawsuits.

Kelley Drye's multidisciplinary team monitors developing technologies and trends including how new types of data will be treated by courts and regulators. You can rely on Kelley Drye litigators to guide you through the AI evolution, with advice from tech-savvy lawyers who help clients to not only achieve litigation wins but also to mitigate issues that can create legal and business risks.

Read More About Our Litigation Practice

Automated Employment Decision Tools in the Workplace

The adoption of automated employment decision tools (AEDT) in the workplace is accelerating with an increasing number of employers integrating AI-related technologies into every stage of the employment lifecycle – from recruitment to separation. While these technologies offer employers opportunities to streamline processes and make others more objective, they also pose certain challenges and legal risks, particularly discrimination claims.

As federal, state, and local lawmakers and regulators continue to respond to the proliferation of AI-related technologies, an organization that is using these tools in the employment context should take certain steps to ensure legal compliance and help avoid regulatory scrutiny. The Kelley Drye Labor and Employment team marries legal knowledge with real-world pragmatism to offer strategic counseling and comprehensive representation on a full spectrum of workplace issues.

Read More About Our Labor and Employment Counseling Practice

Generative AI and IP Considerations

Generative AI, despite being a recent development, is already facing significant legal challenges. Courts are working to determine how existing laws apply to issues such as infringement, ownership of AI-generated works, and the use of unlicensed content for training data. Key questions include whether users can prompt AI tools with references to copyrighted and trademarked works without permission, and whether AI-generated outputs could be deemed unauthorized derivative works.

The outcomes of these legal battles will hinge on the interpretation of the fair use doctrine, which allows limited use of copyrighted material for purposes like criticism, research, and transformation. While past cases have shaped legal standards, ongoing litigation could further refine how AI-generated content is handled. This shifting legal landscape poses risks for businesses using generative AI, including potential infringement liabilities and the accidental disclosure of confidential information.

Our IP team is well-equipped to manage and defend your valuable assets. With extensive experience in intellectual property litigation, we offer strategic, business-oriented support to navigate these complex legal challenges effectively.

Read More About Our IP Practice

Privacy and Data Security

Training AI, customer engagement, digital advertising, and customer care require consideration of privacy and information security laws and best practices.

Our privacy team works at the cutting edge of media, technology, and business to help you navigate the benefits of AI, while minimizing the risk of stepping on privacy landmines. We work with businesses to help establish privacy safeguards that operate within the confines of existing privacy law, while promoting innovation and competition. We offer pragmatic, creative solutions regarding your use of data and AI along with a clear understanding of the shifting legal landscape that drives our recommendations.

Read More About Our Privacy and Information Security Practice

Regulation and Legislation

The federal government does not currently regulate the use of AI in a comprehensive way, and while there is bipartisan agreement on the need to establish guardrails for the technology, progress has been slow.

Our team tracks developments in the House and Senate as well as in the White House and federal regulatory agencies on behalf of a range of stakeholders. With this knowledge, we can help our clients analyze and understand the risks and opportunities for their industries and weigh in on developing legislation.

Read More About Our Government Relations and Public Policy Practice

State AG Focus on AI

State AGs are at the forefront of enforcing a growing number of laws that cover emerging technologies, and AI is no exception.

For State AGs across the country, AI is a major priority. Some states have passed legislation regulating a business' use of AI, and all states can regulate the use of AI through existing consumer protection authority. AGs will continue to examine AI, both in its functionality and use, and also in how it is disclosed to consumers. We help companies navigate the various state laws, regulations, and AG priorities that impact the day-to-day use of AI.

Read More About our State AG Practice

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Labor and Employment Counseling and Compliance
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