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INTERNATIONAL BAR ASSOCIATION CONFERENCE 2024

A conference presented by the committees in the IBA Intellectual Property,
Communications and Technology Section

The AI battlefields – How to navigate and overcome the legal challenges

7–8 November 2024, Excelsior Hotel Gallia, Milan, Italy

TOPICS INCLUDE:

- Keynote Speaker – ‘Is there a golden standard for regulating AI uses?’
- AI bias and discrimination: Legal considerations and risk mitigation
- Fake artworks created with AI
- Contracting on AI – what to have on your radar?
- Will AI momentum revamp existing ICT infrastructure?
- Does AI toll the death knell for copyright protection in the digital world

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Programme

Thursday 7 November

0830 – 1700 **Registration**

0830 – 0900 **Welcome coffee/tea**

0900 – 0915 **Welcome remarks**

0915 – 0945

Keynote address: 'Is there a golden standard for regulating AI uses?'

A dialogue between Andrea Appella and Professor Stefano Quintarelli.

Keynote speakers

Andrea Appella *Associate General Counsel EMEA, OpenAI, London*

Stefano Quintarelli *Founder, Rialto Venture Capital and Former Member of the AI High Level Expert Group, European Commission, Milan*

0945 – 1115

Roundtables

A dynamic session which will enable delegates to select from a menu of hot topics mainly relating to artificial intelligence (AI) from the perspective of several sectors – including intellectual property (IP), communication, technology, art, media and space – and participate in roundtable discussions.

Topical AI-related issues will be selected to stimulate a lively debate. Moderators on each table will introduce the table topic and the participants will do the rest.

Session co-chairs

Francesca Ferrero *Trevisan & Cuonzo, Milan; Membership Officer and Secretary, IBA Intellectual Property and Entertainment Law Committee*

Elisa Henry *Director, Global Privacy, WSP, The Hague; Vice Chair, IBA Technology Law Committee*

Martin Schirnbacher *HÄRTING Rechtsanwälte, Berlin; Member, IBA Technology Law Committee Advisory Board*

Topic one

Digital therapeutics – legal challenges and opportunities for tech companies and patients

Digital therapeutics can be employed in numerous ways but broadly relates to treatment or therapy that utilises digital and often internet-based health technologies, including the use of AI tools, to spur changes in patient behaviour. The table will discuss legal regulations and IP protection issues encountered by medical and software companies in this field.

Moderators

Jeffrey Costellia *Nixon Peabody, Washington, DC; Vice Chair, IBA Intellectual Property and Entertainment Law Committee*

Rebecca Dunn *Gilbert + Tobin, Barangaroo, New South Wales*

Elisa Stefanini *Portolano Cavallo, Milan; Technology Law Committee Liaison Officer, IBA Healthcare and Life Sciences Law Committee*

Topic two

Large language models (LLMs) and data protection

In March 2023, the Italian Data Protection Authority (DPA) suspended ChatGPT, and in January 2024, it declared that OpenAI's chatbot violated data protection rules. In May 2024, the European Data Protection Board (EDPB) announced that data protection authorities had adopted a report on the work of the ChatGPT task force. In addition, the Hamburg DPA published a discussion paper on 'Large Language Models and Personal Data' in July 2024.

Japan's DPA issued a report focusing on ChatGPT and personal data in 2023 and started discussing possible changes to data protection laws in July 2024, including adding exceptions for AI. It should be useful to have global discussions on the interactions between LLM and personal data protection legislation.

Moderators

Argyro Amidi *FOURDOTINFINITY, Athens*

Takashi Nakazaki *Anderson Mori & Tomotsune, Tokyo; Associations and Committees Liaison Officer, IBA Technology Law Committee*

Matthias Orthwein *SKW Schwarz, Munich*

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Topic three

AI-driven evidence collection and analysis in litigation: balancing accuracy, efficiency, and ethical concerns

AI-driven evidence collection and analysis are revolutionising litigation by significantly enhancing accuracy and efficiency. These technologies enable more precise data retrieval and analysis, streamlining the litigation process and providing valuable insights that were previously difficult to obtain. Courts too are increasingly tempted to use AI in resolving disputes. However, balancing these advancements with ethical and due process concerns remains critical. Issues such as data privacy, algorithmic transparency, the potential for biased outcomes and the parties right to be heard must be addressed to ensure that AI tools are used responsibly. By establishing clear guidelines, the legal community can harness the benefits of AI while safeguarding fairness and integrity in IP litigation. As AI continues to evolve, ongoing vigilance and adaptation will be essential to achieve the right balance between technological progress and ethical and legal considerations.

Moderators

Raffaello Stefano De Marco *Gianni & Origoni, Milan*
Statira Ranina *ALMT Legal, Mumbai, Maharashtra; Asia Pacific Regional Forum Liaison Officer, IBA Intellectual Property and Entertainment Law Committee*
Erik Valgaeren *Stibbe, Brussels*

Topic four

Fault in our AI: pinning of liabilities and obligations

As AI becomes integral to business and everyday life, determining liability for AI failures is critical. This round table will explore the complex legal challenges surrounding accountability in AI systems. Discussions will focus on the assignment of liability between developers, operators, and end-users, particularly in cases of malfunction or harm. Key questions include: Who bears responsibility when AI causes damage? How should contractual obligations and liability frameworks evolve to address AI risks? Lawyers from across jurisdictions will debate emerging regulatory trends, the role of insurance, and strategies to navigate this uncharted legal territory.

Moderators

Anna Beke-Martos *Law Office of Dr Anna Beke-Martos, Budapest; Publications Officer, IBA Media Law Committee*
Raphaël Dana *Dana Associés, Paris; Vice Chair, IBA Fintech Subcommittee*
Shweta Sahu *Nishith Desai Associates, New Delhi, Delhi*

Topic five

AI and the legal profession

The table will be asked to provide input and practical experiences regarding:

- the use of AI tools within law firms in both contentious and non-contentious work;
- how in-house legal teams perceive this expanding trend and how they are incorporating AI tools in their process; and
- if and how the use of AI tools affects the relationship with clients (eg, policies on accepted tools, impact on fees and costs).

Moderators

Lorenzo Battarino *Trevisan & Cuonzo, Milan*
Orit Gonen *Gilat Bareket & Co Reinhold Cohn Group, Tel Aviv, Israel; Chair, Copyright and Entertainment Law Subcommittee*
Janez Sekirnik *OPAM Law, Ljubljana*

Topic six

Impact of European AI regulation in financial sector

As AI continues to evolve, its integration in the financial sector raises important regulatory questions. The AI Act aims at setting clear guidelines for the development and deployment of AI systems across industries, including finance. This roundtable seeks to explore the potential impact of this regulation on financial entities with key discussion points including the scope of the AI Act and how relevant it is for financial entities established outside the EU and the specific benefits and challenges and use cases for the financial sector.

Moderators

Roland Mathys *Schellenberg Wittmer, Zürich; Senior Vice Chair, IBA Technology Law Committee*
Professor Attila Menyhard *Eotvos Lorand University, Faculty of Law, Budapest*
Astrid Wagner *Arendt & Medernach, Luxembourg City; Vice Chair, IBA Artificial Intelligence and Robotics Subcommittee*

Topic seven

AI corporate policies

Given the widespread use of AI by employees, companies – especially those developing IP – should proactively adopt policies governing employee AI usage. The scope of these policies is dependent on the company's specific industry and operations. The roundtable will discuss current standards and allow the attendees to share their current best practices in this evolving legal landscape.

Moderators

Yuval Horn *Horn & Co, Tel Aviv; Member, IBA Technology Law Committee Advisory Board*
Violetta Kunze *Djingov Gouginski Kyutchukov & Velichkov, Sofia; Member, IBA Communications Law Committee Advisory Board*
Cristina Mesa *J&A Garrigues, Madrid*



Topic eight

AI supply chains and digital sovereignty

The development of AI products and services is constrained by access to scarce input resources, including the most advanced semiconductor chips, hyperscale compute capacity, and bulk data sets. This roundtable will explore current policy, legal and regulatory developments, including recent EU and US initiatives to reinforce digital sovereignty.

Moderators

Mario Di Carlo *Studio Legale Ristuccia e Tufarelli, Rome*

Professor Christopher Millard *Queen Mary University of London, London*

Daniel Lundqvist *Advokatfirman Kahn Pedersen, Stockholm; Scholarship Officer, IBA Technology Law Committee*

Topic nine

A tricky balance: what is the best solution to the issue of copyright content being used for the teaching of large language and other GenAI models?

This session will explore a balanced framework that respects intellectual property rights while promoting technological advancement. Participants will discuss the potential implementation of a licensing system to ensure fair compensation for content creators, while providing AI developers with legal access to diverse data. We will also consider the establishment of guidelines to prevent unauthorised use of copyrighted material. This roundtable aims to foster a collaborative ecosystem where innovation and respect for copyright laws coexist harmoniously.

Moderators

Antonio Bana *Bana Avvocati Associati, Milan*

Licia Garotti *PedersoliGattai, Milan*

Nick White *Charles Russell Speechlys, London; Vice Chair, IBA Copyright and Entertainment Law Subcommittee*

Topic ten

AI, best practices and self-regulation – the case of journalism and the news sector

The news sector develops itself best strategies on how to deal with AI, also driven by journalist associations. This is a case study on how a profession is developing its own standards. What can we learn from it for other professions? Is self-regulation the answer?

Moderators

Albert Agustinoy *Cuatrecasas, Barcelona; Vice Chair, IBA Technology Law Committee*

Herman Croux *MVVP, Brussels; Member, IBA Intellectual Property and Entertainment Law Committee Advisory Board*

Paulina Silva *Bitlaw, Santiago; Publications Officer, IBA Technology Law Committee*

Topic eleven

What is the legal status of crypto art: moveable or copyright or unknown?

Electronic/crypto art, sometimes generated with AI, is an emerging and important market. It can be sold online, offline and at auctions. What is their legal status, movables (like a painting or a sculpture), immaterial art (subject to copyright) and/or part of a new legal category, undetermined at this stage.

Moderators

Olivier de Baecque *De Baecque Bellec, Paris; Co-Chair, IBA Art, Cultural Institutions and Heritage Law Committee*

Anne-Sophie Nardon *Borghese Associes, Paris*

1115 – 1145 **Coffee/tea break**

1145 – 1300

Contracting on AI – what to have on your radar?

Procuring, developing and deploying artificial intelligence (AI) systems requires focused contracts. Understanding the business opportunities as well as the legal risks associated with an AI system, including as they pertain to confidentiality, intellectual property, data protection, cybersecurity and ethics, is key to implementing sound contractual relationships with suppliers, clients and business partners. In this session, in-house counsel and private practitioners will share their experience and give you pointers on how to tackle the challenge. Case studies, best practices, checklists and model clauses will fuel a pragmatic and interactive session that will help you in building the right sized contracts.

Moderators

Elisa Henry *Director, Global Privacy, WSP, The Hague; Vice Chair, IBA Technology Law Committee*

Erik Valgaeren *Stibbe, Brussels*

Panellists

Carmelo Fontana *Senior Counsel, EMEA AI Regional, Google, Milan*

Daryoush Golhahani *Head of Alliances and Partner Sales, Google Cloud, Milan*

Christopher Holder *Bristows, London; Member, IBA Technology Law Committee Advisory Board*

1300 – 1400 **Lunch**

1400 – 1515

Does AI toll the death knell for copyright protection in the digital world?

This session will delve into the creative industries that rely on the exploitation of the economic right of copyright, including, music, film, art and design. It will look at the challenges creators are facing with the increasing use of artificial intelligence (AI), legal actions by guilds and associations, and the relevance to the recent actors' strike. The panel of experts will also discuss the issues around the use of copyright protected works in datasets training AI and will examine fair or (un)fair use in respect of potential copyright infringement.

Moderator

Eileen O'Gorman *Gleeson McGrath Baldwin Solicitors, Dublin; Co-Chair, IBA Intellectual Property and Entertainment Law Committee*

Panellists

Sarah Glennane *Screen Composers Guild of Ireland, Dublin*
Enzo Mazza *President, Federazione Industria Musicale Italiana, Milan*
Massimo Sterpi *Gianni & Origoni, Rome*
Barry Scannell *William Fry, Dublin*

1515 – 1545 **Coffee/tea break**

1545 – 1700

AI bias and discrimination in the news and entertainment media – What do US elections and Netflix have in common?

With the recent advance of generative artificial intelligence (AI), an increasing number of service providers, platforms and apps rely on AI as part of their working processes. However, just like humans, AI systems tend to be or become 'biased'. This bias affects the media industry on many levels. Entertainment media giants such as Netflix use AI systems to enhance their efficiency but are now also experiencing the negative side-effects of AI bias. The power of media as the 'Fourth Estate' is well-known and this session, just a few days after the US presidential election, will examine how AI bias may affect election outcomes and the risks that AI bias may pose in the news media. In addition, the panel will examine what tech companies can do (and indeed do) to prevent and control bias when designing AI systems. Finally, the legal risks concerning AI bias specific to these industry practices will also be assessed, in light of the new AI legislation.

Moderators

Anna Beke-Martos *Law Office of Dr Anna Beke-Martos, Budapest; Publications Officer, IBA Media Law Committee*
Daniela de Pasquale *Ughi e Nunziante, Milan; Secretary-Treasurer, IBA Technology Law Committee*

Speakers

Luna Bianchi *CEO and Co-founder, Immanence, Milan*
Marta Colonna *Chief legal and compliance officer, Pago PA, Rome*
Ignacio Sanchez de Lara *Counsel and Trust & Compliance Officer, IBM Europe, Milan*
Jessica Lee *Loeb & Loeb, New York; Diversity and Inclusion Officer, IBA Technology Law Committee*

Friday 8 November

0845 – 1230 **Registration**

0845 – 0915 **Welcome coffee/tea**

0915 – 1030

Will AI momentum revamp existing ICT infrastructure?

Power, cooling and connectivity requirements for AI result in significant bottlenecks emphasised by scarcity of microprocessors. The outcome is a new playing field for information and communication technology (ICT) infrastructure.

With skyrocketing power and water consumption, current AI-powered data centres are putting huge pressure on grids and on civil infrastructure, with a direct impact on the way AI data centres are built. Resulting operating costs become deterrents for many players.

In this initial phase, small data centres have been favoured (from 1MWh to 4MWh). However, plans shared by Big Tech forecast gigawatt hour (GWh) or more data centres to be operated soon. This exponential growth in terms of capacity requirements results from computer power hungry large language model (LLM) training and fine tuning, but also from inference workloads, each category requesting different needs in terms of connectivity, latency and more generally service-level agreements (SLAs).

Impact on the value chain will be significant. All players will have to revisit their business model, in a race for capacity and efficiency, with a growing number of partnership pre-empting access to resources.

Moderators

Kensuke Inoue *Anderson Mori & Tomotsune, Tokyo*
Torunn Hellvik Olsen *Advokatfirmaet Simonsen Vogt Wiig, Oslo*

Speakers

Blanca Escribano *Be law & ethics, Madrid; Member, IBA Communications Law Committee Advisory Board*
Max Fenkell *Head of Government Relations, Scale AI, Washington, DC*
Aparna Gaur *Trilegal, Mumbai, Maharashtra; Vice Chair, IBA Cybersecurity Subcommittee, IBA Technology Law Committee*



1030 – 1100

The impact of AI on law firms

Join us for an eye-opening session as we delve into how AI may be revolutionizing the legal landscape and specifically law firms worldwide. This IBA Section on Public and Professional Interest (SPPI) AI Working Group practical session offers insights into the transformative capability of AI within law firms based on data collected by the IBA from over 300 law firms in more than 75 jurisdictions, through an IBA sponsored survey and individual deep dive interviews with law firm AI experts. This data was gathered as part of the 2024 IBA Presidential AI Task Force Project. Discover how law firms of all sizes are assessing AI to enhance efficiency, accuracy and strategic decision-making, while also addressing the challenges and ethical considerations involved. The session will deal with issues including how law firms are using AI and what is foreseen over the next five or more years.

Discover the approaches to critical questions that will redefine the future of the legal profession.

Moderators

Itzik Amiel *Founder and CEO, THE SWITCH™ | THE SWITCH HUB™, Amsterdam; Commissioner, IBA Future of Legal Services Commission*

Martijn Lesterhuis *Partner, Venturis Consulting Group, Amsterdam*

1100 – 1130 **Coffee/tea break**

1130 – 1245

Fake artworks created with AI

This session will consider:

- how are fake artworks made using artificial intelligence (AI) and how can they be identified; and
- what claim an artist has against third parties where the artists' works is being used to train AI models and those models are then used to create art works.

Moderators

Giuseppe Calabi *CBM & Partners Studio Legale, Milan*

Olivier de Baecque *De Baecque Bellec, Paris; Co-Chair, IBA Art, Cultural Institutions and Heritage Law Committee*

Panellists

Laurence Mauger-Vielpeau *Professor, Private Law and Criminal Sciences, University of Caen, Caen*

Kamala Naganand *Aarna Law, Bangalore, Karnataka; Senior Vice Chair, IBA Art, Cultural Institutions and Heritage Law Committee*

Oreste Pollicino *Professor of Constitutional Law, Bocconi University, Milan*

Katherine Wilson-Milne *Schindler Cohen & Hochman, New York*

1245 – 1300 **Closing remarks**

1300 **Lunch**



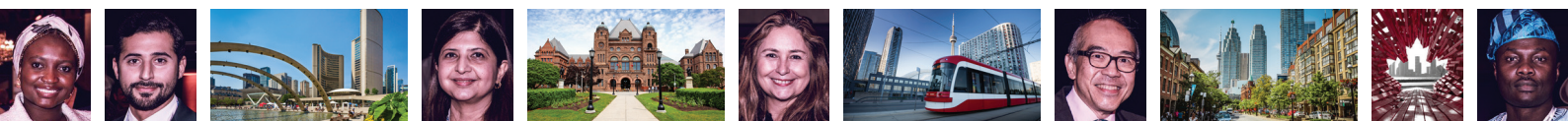
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About the IBA

The International Bar Association (IBA), established in 1947, is the world's leading organisation of international legal practitioners, bar associations, law firms and law societies.

The IBA influences the development of international law reform and shapes the future of the legal profession throughout the world. It has a membership of more than 80,000 individual lawyers and more than 190 bar associations and law societies spanning over 170 countries.

Inspired by the vision of the United Nations, the IBA was founded in the same spirit, just before the Universal Declaration of Human Rights was proclaimed in 1948.

The IBA covers all practice areas and professional interests, providing members with access to leading experts and up-to date information, enabling them to better represent their clients' interests.

Through its various committees, fora, and task forces, the IBA facilitates the exchange of information and views among its members as to laws, practices and professional responsibilities relating to the practice of law around the globe.

Intellectual Property, Communications and Technology Section

The role of the Intellectual Property, Communications and Technology Section is to coordinate the activities of the following committees:

- Art, Cultural Institutions and Heritage Law Committee
- Communications Law Committee
- Intellectual Property and Entertainment Law Committee
- Media Law Committee
- Space Law Committee
- Technology Law Committee

For more information please visit the **Intellectual Property, Communications and Technology Section home page**.

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