



Continuing Legal Education Application for Course Attendance Credit

This application is for attorneys only. FRPs need to post credit via their online profile.

The Florida Bar
Legal Specialization & Education
651 E. Jefferson Street
Tallahassee, FL 32399-2300
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clemail@floridabar.org

Attorney # _____ Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ Fax: _____
Activity Title: _____
Sponsor Name: _____
Date and Location of Course: _____

Please attach a course brochure and/or outline which:

- (A) Fully describes the course content and level of presentation
- (B) Indicates the time devoted to each topic covered within the program
- (C) Identifies the instructors

BOARD CERTIFICATION CREDIT

Please list the area(s) of certification applicable to this activity:

For more information on The Florida Bar's Board Certification program,
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Total Minutes on Instruction: (excluding breaks, meals and introductions and based on a 50 minute hour)

_____ Total Credit (Total Minutes Divided by 50 = _____ Credit Hours)
50

If requesting Ethics, Professionalism, Substance Abuse, Mental Health & Wellness, Bias Elimination or Technology Credit, please check appropriate box below.

Ethics	Substance Abuse	Bias Elimination
Professionalism	Mental Health & Wellness	Technology

NOTE: If you have completed the minimum number of required CLER hours, and are not seeking Certification credit, please do not submit further courses for evaluation. **There is no carry over of hours in Florida from one reporting period to the next.**

Materials submitted for CLE credit review will be discarded once the credit has been determined. Should you wish to have your materials returned, please enclose a self-addressed stamped envelope.

****PLEASE NOTE OUR NORMAL PROCESSING TIME IS 2-4 WEEKS.****



Title: Are We Evolving With Technology or Is Technology Evolving With Us? The Current State of Artificial Intelligence Within The Legal Industry

Presented by: Jerry McLver, Jaclyn Schoen

Date of Live Presentation: 9/14/2023, 12 pm-1:00 pm ET
60 minute Technology CLE Course

Summary

We hear a lot about new uses and stories on artificial intelligence almost every day. What does that mean for the legal industry? There have been profound impacts from artificial intelligence through the years. Just in the last couple of years, we've also seen rapid growth. How can I use this technology to make my work in the legal industry easier? What should I be cautious of? Learn more about the positives and the drawbacks of this emerging technology.

Takeaways

- Artificial intelligence is here to stay, and it has been here for a while
- We must be cautious in the use of AI for ourselves and our clients
- The cautionary tales of misuse of AI in the legal industry
- Understand how AI works and how generative AI affects your work
- Learn about the different uses of AI and the future of AI in the legal field

Presented By:

Jerry McLver - Director of Trustpoint Cyber Services/Data Privacy Officer for Trustpoint.One

At Trustpoint.One, Jerry is the Director of Trustpoint Cyber Services where he helps clients meet their data privacy needs as the lead data privacy consultant. He assists organizations in meeting data privacy regulations, such as the CPRA, GDPR, and HIPAA, in addition to running data mapping exercises and assessing data privacy risks for an organization. Jerry also serves as the Data Privacy Officer for Trustpoint.One, where he supports and maintains the organization's data privacy program.

Jerry has a collective 20 years of experience supporting organizations with information governance, compliance, legal, cyber, and data privacy needs. Jerry is a Florida-barred attorney and previously served as a HIPAA Compliance Officer for a local health network and acted as the database administrator. He holds the CIPP/US and CIPM certifications and is a member of the International Association of Privacy Professionals. He currently resides in Gainesville, Florida.



Jaclyn "Jacy" Schoen, Esq.

Vice President - Strategy & Augmented Intelligence Consulting

Jaclyn "Jacy" Schoen is an attorney with over 15 years of experience in eDiscovery. She began by managing teams of Review Managers for large-scale litigations and built expertise in multiple eDiscovery, augmented intelligence, and Knowledge Management tools. Jacy has focused most of the last decade on mastering the creation of efficient, disruptive workflows using cutting-edge technology with her team of consultants. Jacy worked with Relativity, NexLP, and CS Disco as "beta-tester" of their Technology Assisted Review software and processes, making recommendations on features and workflow for all three. Jacy held certifications in IBM's knowledge management suite and managed projects in over 50 different tools in all. In 2019 Jacy was recognized by Relativity as a "Stellar Women in eDiscovery," and the TAR workflows she developed were reviewed and approved by Judge Andrew Peck (SDNY) in the landmark Rio Tinto matter. Jacy holds a bachelor's degree in biology from the University of Illinois at Urbana-Champaign. She is also a certified Teacher in both Illinois and Hawaii, where she earned teaching and coaching awards. Jacy began her legal career at Howard University Law School, in Washington, DC, and she earned her JD from Pepperdine University, in Malibu, CA.



Trustpoint.One

Are We Evolving With Technology or Is Technology Evolving With Us? The Current State of Artificial Intelligence Within the Legal Industry



Presenters

Jaclyn Schoen

**Vice President of
Strategy and
Augmented
Intelligence**

Jerry McIver

**Director of
Trustpoint Cyber
Services**



Poll Question

How many of you have used Artificial Intelligence
(personal or in business)?



Poll Question

How many of you are terrified of Artificial Intelligence and its rapid development?



Introduction to Artificial Intelligence in the Law

- What does Artificial Intelligence Mean?
- Artificial Intelligence is the teaching of computers in how to learn, reason, communicate and make decisions
- Although Artificial Intelligence is rapidly evolving, we are not by any means in a Skynet type of scenario
- The goal is to train the computer, not program it
- Artificial Intelligence is here to make our lives easier



We Use Ai Everyday



NETFLIX Google

amazon



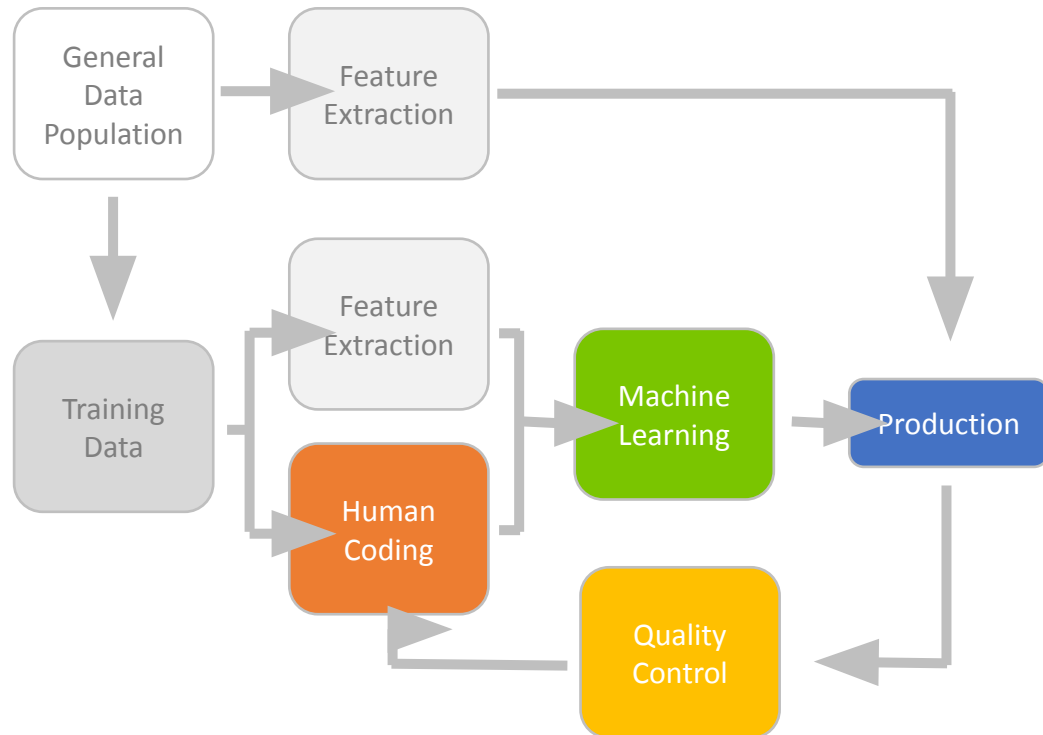
What's in the Box?





What's Under the Hood?

Machine Learning Diagram



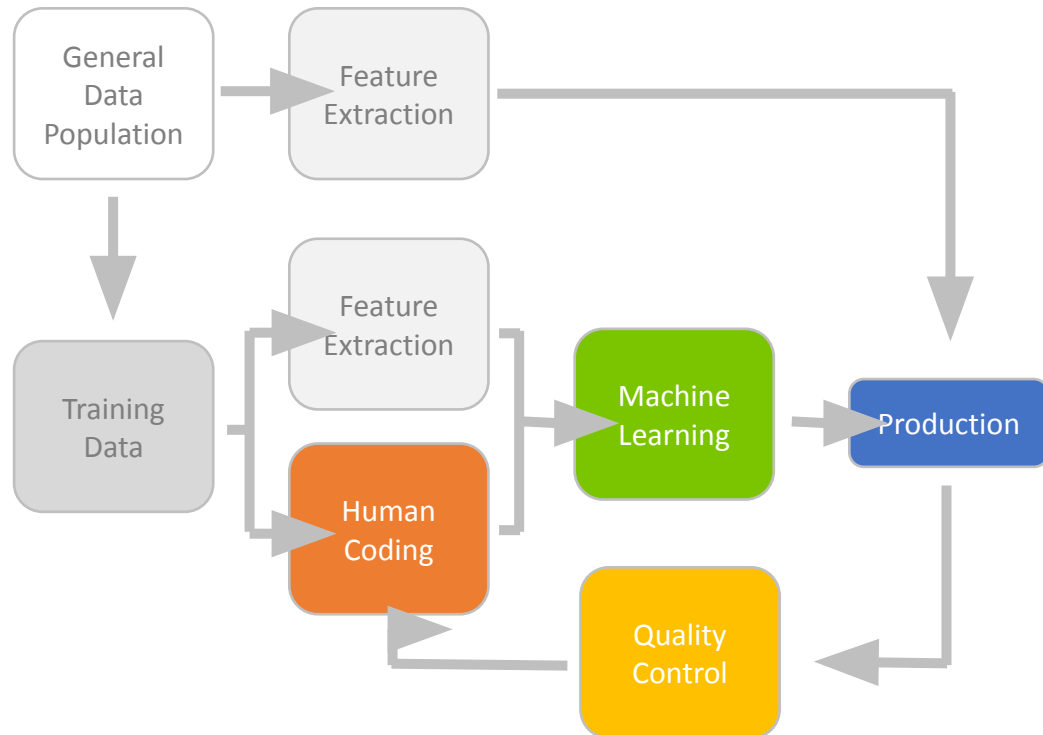
Netflix Features Extracted

1. Actors
2. Genre
3. Filming location
4. Duration
5. Time of day you watch
6. How long you watch
7. Other members with similar interests



What's Under the Hood?

Machine Learning Diagram



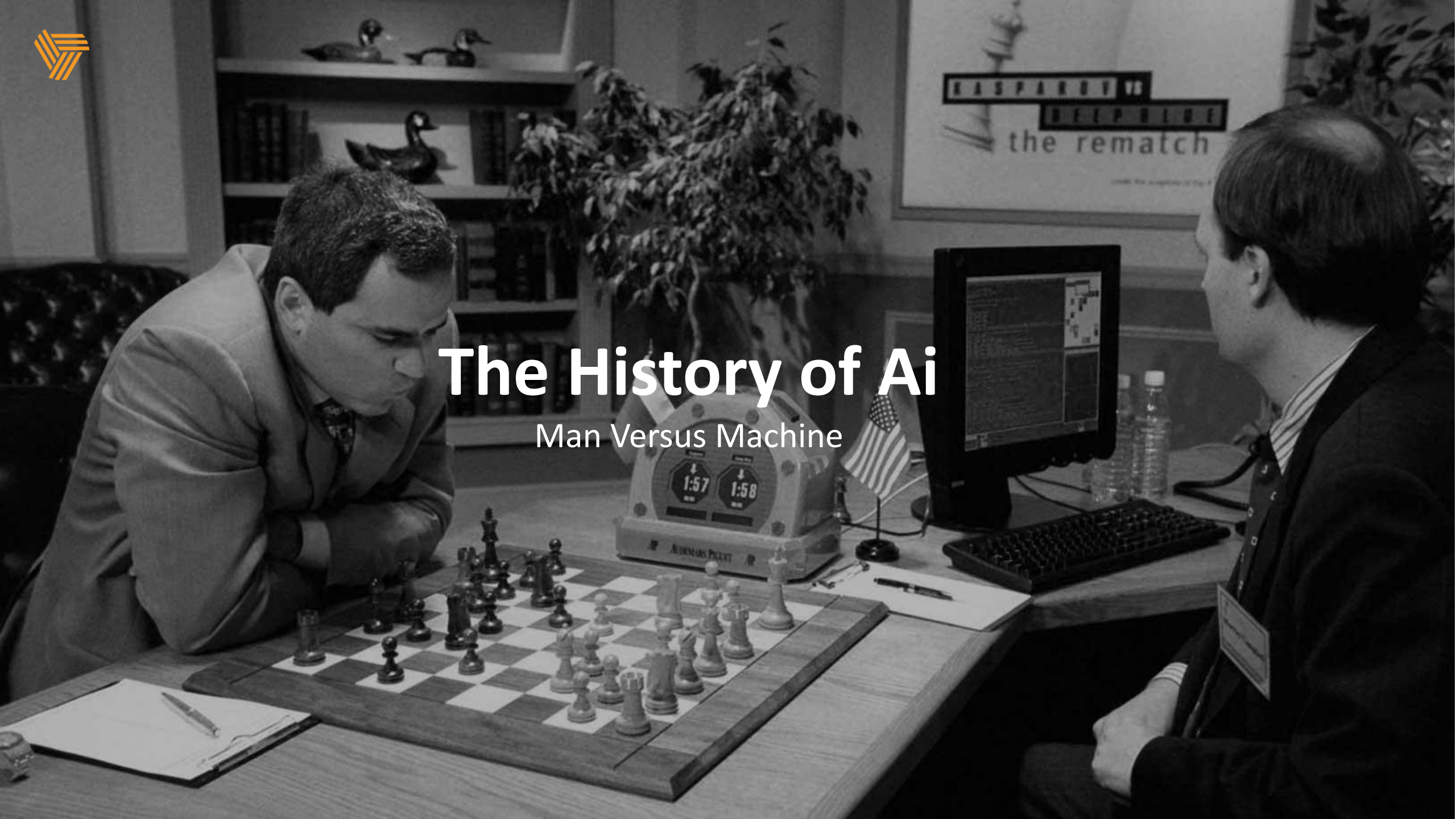
Email





The History of Ai

Man Versus Machine

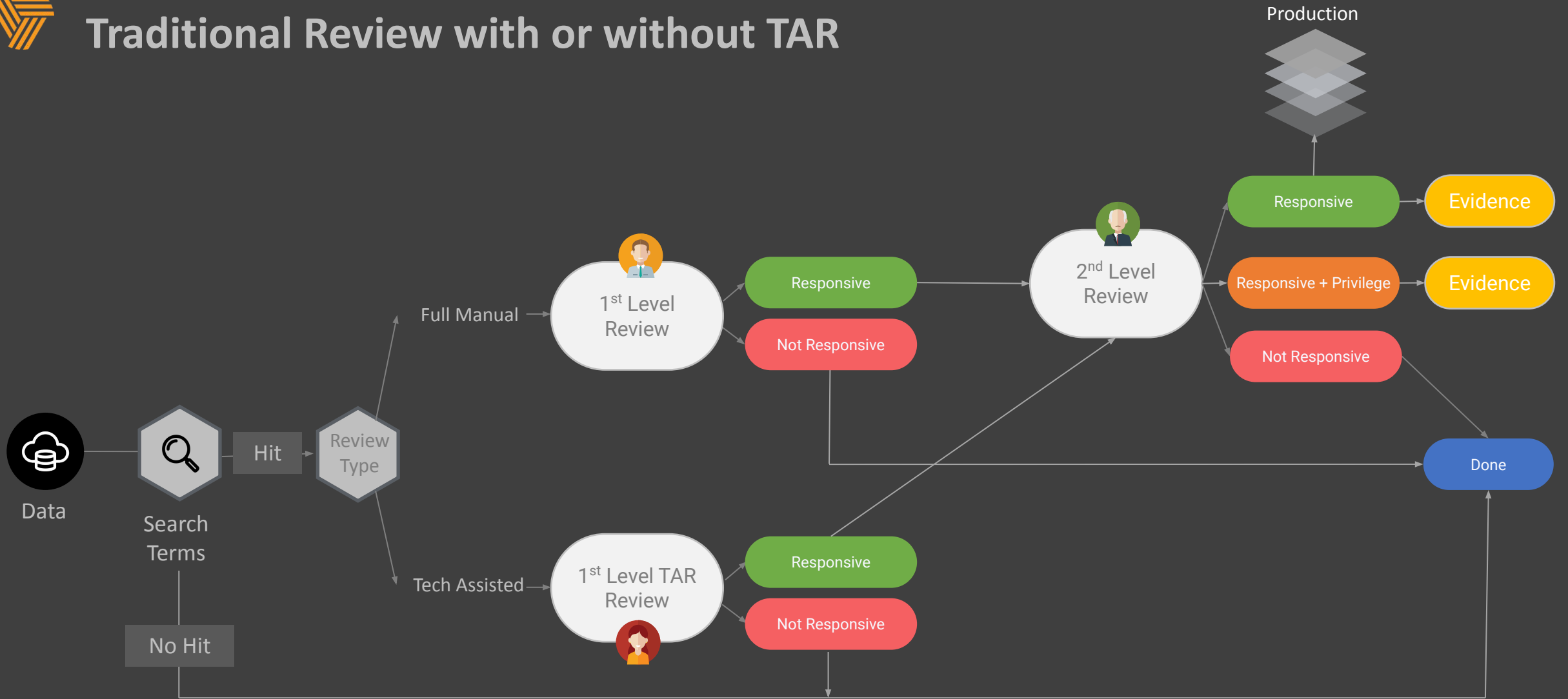




Re-establishing Evidence as the Foundation of Discovery

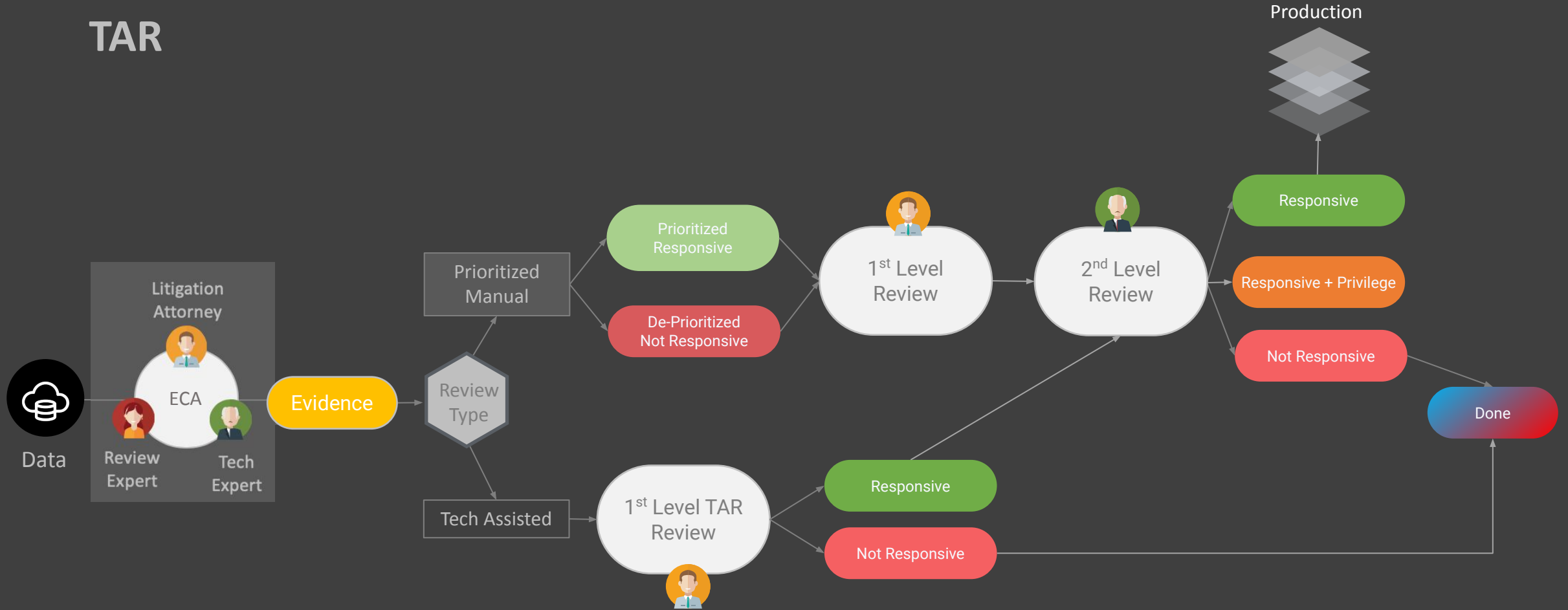


Traditional Review with or without TAR



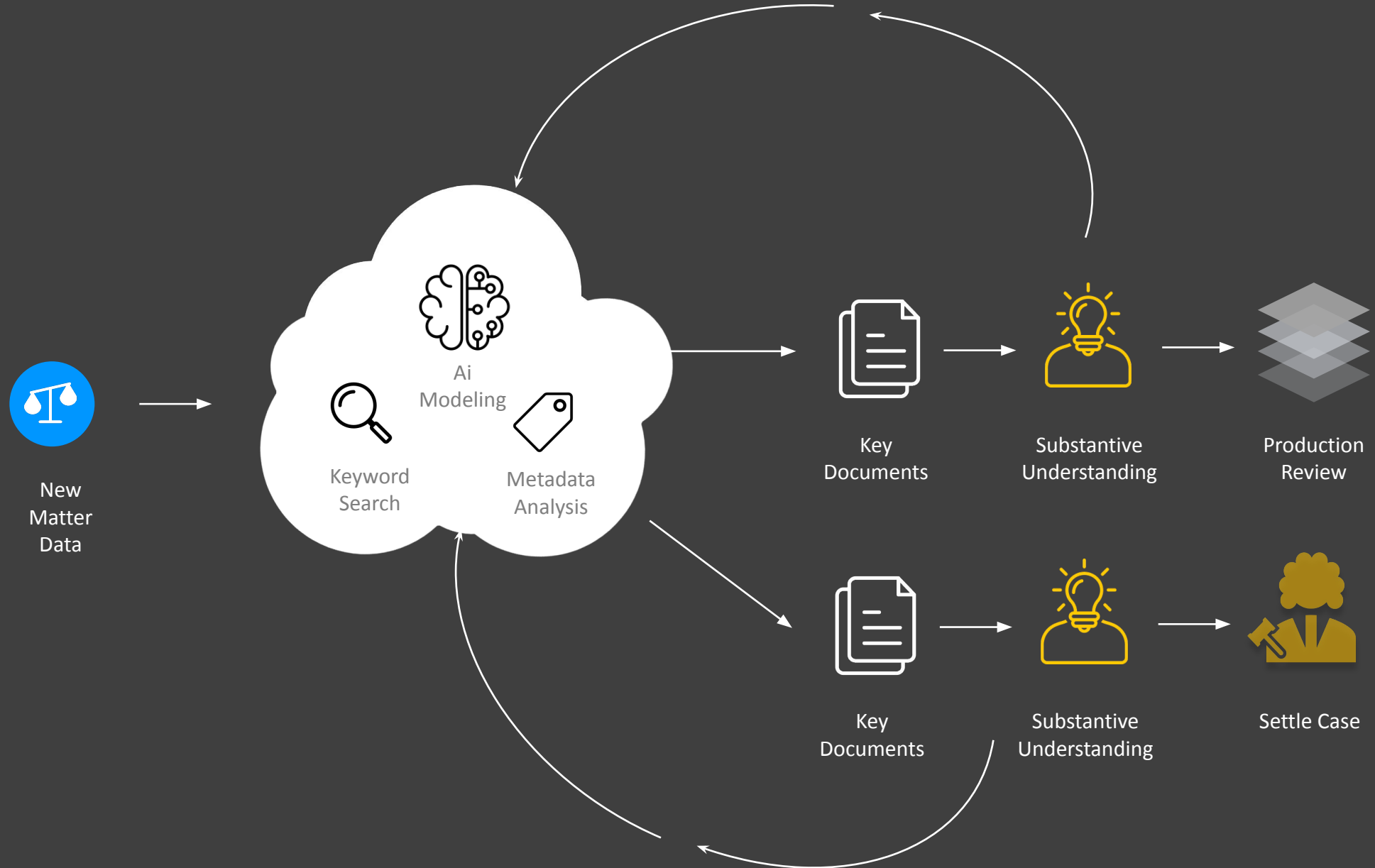


Ai Enhanced Review with or without TAR





Strategic ECA Process





Case Study: ECA Avoids Litigation



20 Custodians



Initial Analysis



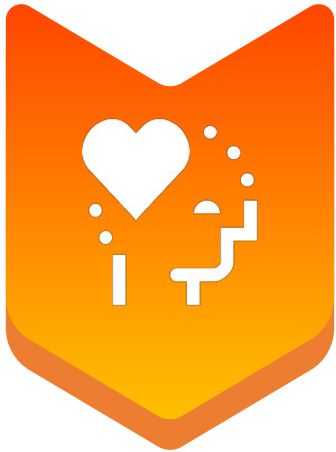
Confirmatory Analysis



Case Settled based on Evidence Found



Not Just Tools but Solutions



Emotional Intelligence

Identification of most interesting documents



Pattern Recognition

Identify breaks in routine



Communicator Analysis

Identify persons of interest

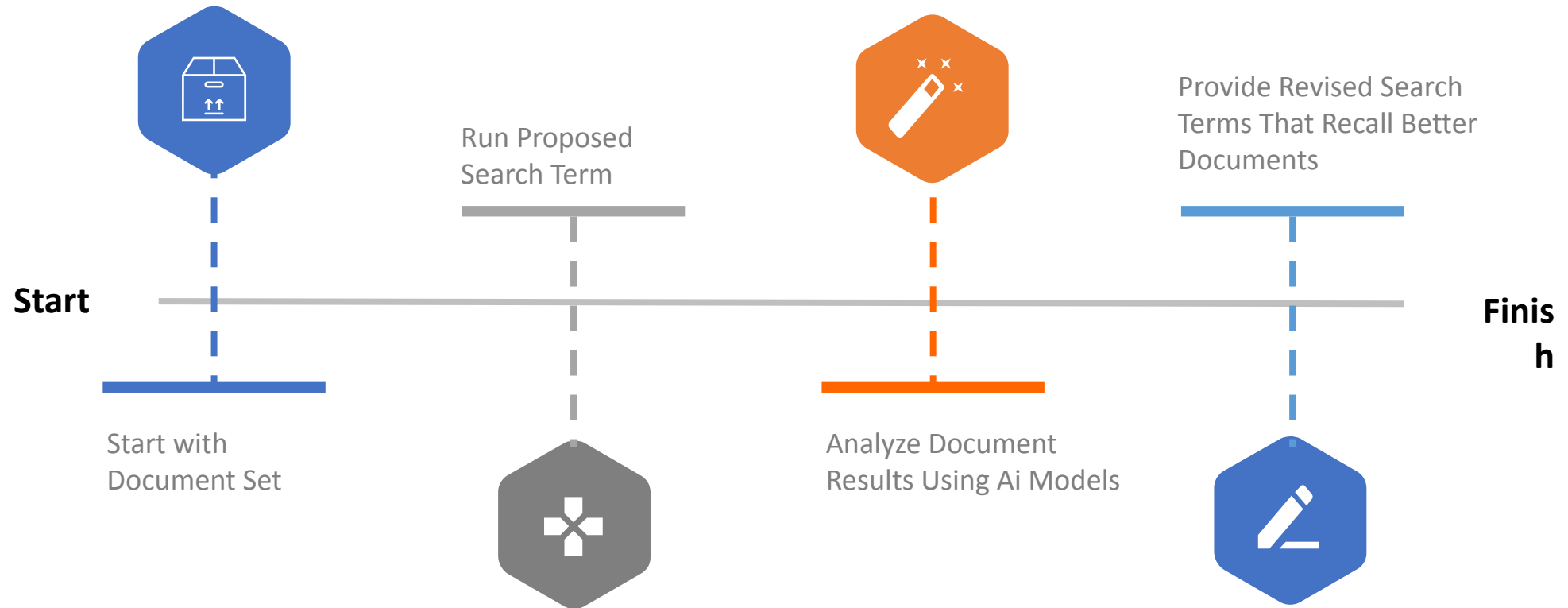


Model Creation

Train the model to recognize specific items



Search Term Analysis Using Ai





Categorization & Prioritization



Substantive categories built around your case (essentially precoding documents)



Table of contents of your dataset



Prioritize and control who reviews what; develop substantive experts around specific themes



Case Study: Highly Technical Subject Matter

Privacy Matter involving widely used
Cloud-Based Software



- Document Review Team does not understand concepts of importance due to the highly technical nature.



- Creation of Model based on Second-Level Review Documents as test use case.
- It worked! The Ai was able to identify documents of interest.



- Use of Ai searching tools to identify areas of interest as they arise providing training document sets based on those identified. Used training sets to identify more.



- Release of review attorneys lacking in understanding. Firm is able to handle review on their own in partnership with Ai Experts & tools.



Over-Reliance on Software Can Lead to Disaster

1. CAL Team not informed of responsiveness
2. Reviewing top hits only
3. No communication between reviewers



Large Language Models in Litigation

- What is a large language model?
 - Large language models are a type of AI that works with language.
 - Trained through deep learning algorithms to understand how we use language and how the meaning can change based on the use of that language.
 - Accuracy and understanding comes from being trained on vast quantities of data from all different sources.
 - Google BERT.
- How can a large language model assist in litigation?
 - Generate questions
 - Create vectors at the beginning of a matter
- Drawbacks of Large language model in the law
 - Lack of on point data available for training.



Generative Artificial Intelligence in the Law

- What is Generative Artificial Intelligence?
 - Uses large language models
 - Large language models gather content from various sources and user input
 - Generates essays, letters, stories, articles, legal briefs, etc
- Emerging technology that can generate the following:
 - Video
 - Audio
 - Designs
 - Source Code



Generative Artificial Intelligence in the Law

- Litigation involving documents generated from AI
 - Ever increasing cases involving documents generated from AI
- What if a document that makes or breaks a case was AI generated?
- Scenarios:
 - Scenario 1: Bot text conversations “John is the best person for the job.”
 - Scenario 2: Generated transcripts
 - Scenario 3: “Transfer the money between these two accounts”
- Detect and verify the source upon receiving data – this may become a standard practice in the future.



Generative Artificial Intelligence in the Law

- Using Generative Artificial Intelligence for generating legal documents
 - Not always accurate
 - You must verify the information
 - Examples of cautionary tales
- There may be risks
 - Bias
 - Misinformation or inaccuracies
 - Security
 - Errors
- Attribution
 - May be required if Generative Artificial Intelligence is used



Data Privacy Concerns with Generative AI

- Generative AI uses not only a large language model, but also information fed into it by users
 - Use of personal and sensitive information in generative AI tools
 - Always assume someone else will see the information fed into a generative AI tool
- Threat actors using generative AI to create more convincing and compelling phishing emails.
 - Avoids the obvious typos from phishing emails
 - More trustworthy



Cautions of using Generative AI

- If using generative AI, check the source
- Don't rely on AI to do all of the work for you
 - Trust, but verify
- Responsible use of AI
- Keep an eye out for future uses of AI in eDiscovery and our personal lives



Ethical Concerns of using Artificial Intelligence

- Are the AI tools and models in litigation agreed upon?
- Is AI the right tool to perform the work?
- Should you consult with and receive client consent if to use AI? Is that client asking about AI use?
- Checking for accuracy (Who is checking?)
 - Facts
 - Analysis
 - Disclosure of sensitive information
- For confidentiality, what is fed into the large language models may be seen/used in the future



What Does Artificial Intelligence Look Like In The Future?

- Again, we are not going into a Skynet type of situation
- We control how the models are trained, so we will need to make sure AI use is needed and use responsibly.
- We feed the information into the models, so it's based on our own environment
- AI will make our lives easier, but we must not fully trust it in its current state
- AI on top of AI
- Emerging AI to level-set concerns of AI
 - Redactions of personally identifiable information before being entered into a model



Conclusions and Takeaways

- AI isn't new. We've been using it all along, but it has made some rapid development recently
- With large language models, we should be cautious of the information we feed it
- Generative AI makes for new challenges within the legal industry
- Responsible AI use will lead to more advancement
- Must always consider the ethical concerns of AI use
- The future is bright and we need to embrace AI, but we should remain cautious



Thank You.



Case Study: Construction Fraud Litigation



State Hospital Gov SubPoena Fraud & Funding Organized Crime



- Search Term Analysis
- Culling
- ECA Memos
- Categorization & Prioritization
- Review Optimization



Leveraged Ai to create ECA memo's for Key custodians detailing potential liability and areas of concern.



- Search Term Analysis saved \$95,786
- Culling saved \$116,375
- Speed Increase saved \$65,208
- Total Saved = \$277,369 from the cost of review



Case Study: Multi-entity Reinsurer SEC Investigation



SEC Subpoena covering
27 domestic and foreign entities
17 trust accounts
52 business partner entities and funds



700,000 documents
32 transactions of interest
Dozens of entities



Leveraged Ai to create categories
following transactions guiding
review team groups of 2-3 by
transaction



Created memo that provided
structure and assisted when
client changed law firms at a
crucial point in the litigation



Case Study: False Claims Act Review



- Fortune 100 Company
- 3.3M Documents



- 2 Month Review Deadline
- 2 Different Outside Counsel
- Review Team Issues



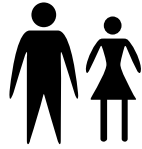
- Case Analysis
- Ai Enhanced Review
- Quality Control



- Reduced 3.3M to 880k docs
- Speed 40/hr 68/hr
- Accuracy 65% 88%



Employment Discrimination



- 2 Person Team
- 1 attorney & 1 Paralegal



- Organized documents by priority
- Key Document identification by multi-modal searching and pre-built modeling.
- Separated out non-relevant regular course of business emails from relevant emails



- Reduced Review Set By 44%
- Avoided Cost of Contractor Team



<p>Not for Distribution MLB: 000754-00419</p> <p style="text-align: center;">Memorandum</p> <p>To: Counsel From: Trustpoint Date: May 2, 2020 Re: Ty Cobb v. MLB SAMPLE SMALL MATTER CATEGORIZATION</p> <p>This Initial Case Assessment contains:</p> <ul style="list-style-type: none"> • Recommended Document Prioritization for efficient completion of Review <ul style="list-style-type: none"> o Review of the most relevant documents first o Review of documents highly likely to be not responsive last • Other Key Individuals <ul style="list-style-type: none"> o A list of individuals, some who are not custodians, who were involved with Cobb • Recommendations <p>We have completed our initial analysis of the Ty Cobb v. MLB dataset. We were able to create a rough sketch of the events leading to Ty Cobb's termination and develop a recommended workflow for your review. We were also able to remove approximately 1,100 documents from the review set because they were duplicate emails or attachments. Please see the accompanying Excel spreadsheet which contains our timeline of events.</p> <p>1. Prioritization</p> <ol style="list-style-type: none"> These are in order of recommended review based on relevance. Job Performance and Performance Plan <ol style="list-style-type: none"> These documents focus on various aspects of Cobb's job performance and include the actual plan documents. There are also internal communications between MLB employees about Cobb's performance. Examples of documents: <ol style="list-style-type: none"> Email between Yogi Berra (Lead Employee Relations Manager) and Connie Mack asking to move Ty Cobb from a CAP (Corrective Action Plan) to a PIP (Performance Improvement Plan). (MLB0000323) Email between Yogi Berra (Lead Employee Relations Manager) and Connie Mack containing the details and requirements for the CAP employee program. (MLB0000264) 	<p>Not for Distribution MLB: 000754-00419</p> <ol style="list-style-type: none"> Email from Connie Mack to Ty Cobb outlining his failure to CC him on all emails per his PIP. (MLB0000052) Internal MLB form containing updates to Cobb's PIP. These include a Progress Review section that is updated by his supervisor Connie Mack. (MLB0000015) <p>iii. 412 documents</p> <p>c. Job Accommodation</p> <ol style="list-style-type: none"> These documents contain communications and reports that detail Ty Cobb's request for a disability accommodation in the workplace. Cobb made two requests for disability at MLB. The first was made on January 30, 2017 and the second was made on February 20, 2017. Examples of documents: <ol style="list-style-type: none"> Cobb's approval for short term disability (MLB0000165) Emails and documentation regarding the specific accommodations that were requested by Mr. Cobb through the MLB Integrated Disability Management Services center upon his return to work after his short-term disability was over (MLB0000103) Discussions with his superiors about the accommodations Mr. Cobb requested because of his alleged disability (MLB0000010) Emails detailing the denial of the accommodation request from the Integrated Disability Service Center (MLB0000034) <p>iii. 74 documents</p> <p>d. Cobb Communications</p> <ol style="list-style-type: none"> Most of these documents are emails between Ty Cobb and Joe Torre or Connie Mack. A majority of these documents relate to his daily activities, reports, and goals. The documents relating to daily activities and action items are likely part of the Performance Improvement Plan. Examples of documents: <ol style="list-style-type: none"> Emails from Ty to Connie Mack outlining his daily activities as part of his task outlined in his performance improvement program. The date range for these documents is 8/2/16 - 9/20/2016. (MLB0000225) Emails from Ty Cobb to Joe Torre and Connie Mack with his daily action plan. (MLB0000062) <p>iii. 357 documents</p> <p>e. Regular Course of Business</p> <ol style="list-style-type: none"> Documents, emails, and reports that relate to the regular business dealings MLB engages in. Cobb may or may not be involved in 	<p>Not for Distribution MLB: 000754-00419</p> <p>these communications. These are the everyday dealings with customers and other MLB employees regarding their business.</p> <ol style="list-style-type: none"> These documents do not typically involve Cobb's performance or accommodation plan, but instead will be him performing his normal job duties. Examples of documents: <ol style="list-style-type: none"> Typical, everyday emails regarding customers (MLB0000068; MLB0001071) Employee scheduling requests (MLB0000081) Outlook appointment documents (MLB0000182) Internal training/learning documents (called Lunch and Learn sessions) (MLB0000104) 1,670 documents <p>f. Case Related Documents</p> <ol style="list-style-type: none"> These documents are about the case itself, including discovery responses and general discussion about the lawsuit. 12 documents <p>2. Other Key Individuals</p> <ol style="list-style-type: none"> Jackie Robinson <ol style="list-style-type: none"> MLB Employee Relations Manager Corporate Attendance Team He has multiple email interactions in the database regarding Ty Cobb and analysis of his accommodations. Other HR Individuals <ol style="list-style-type: none"> When evaluating Cobb's accommodation requests and Mack's termination request a Corporate Attendance Team member was included in this evaluation. Potential parties of interest included in these email are: <ol style="list-style-type: none"> Cy Young <ol style="list-style-type: none"> HR Specialist who works directly with Hank Aaron (MLB0000363) Babe Ruth <ol style="list-style-type: none"> He was involved during the termination process while Hank Aaron was out of the office. (MLB00003610) Wille Mays <ol style="list-style-type: none"> Universal Leave Examiner - Escalations He had a meeting with Nolan Ryan regarding Cobb's termination. (MLB00003611) <p>3. Recommendations</p> <ol style="list-style-type: none"> We recommend setting up a call with our team to: <ol style="list-style-type: none"> Discuss the reduced number of documents needing review; Discuss the prioritization of the review set; Discuss setting up the Relativity workspace for your review; Answer any questions
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