

Using AI as a Lawyer? Beware — They Will Find Out

Hands up if you have heard about Article 50 of the EU AI Act? No, I don't blame you. But ignore it at your peril if you are a lawyer using AI.

OK so here is a true example. I did a case earlier this year against a LIP (litigant in person). The gentleman in question had, on his own account, English as his third or fourth language. Having listened to him for twenty minutes, it was clear that he was struggling to explain himself even at a conversational level. His witness statement, by contrast, was a thing of wonder. It had subheadings. It had a chronology that would have been the envy of a Chancery junior. And it had, by my count, the word “discombobulate” three times.

I asked him what it meant. He did not know. I asked, having taken the precaution of consulting a reliable online translation, whether he knew what it meant in his own native tongue. He did not know that either. There followed one of those silences that used to be filled by the sound of a judge sighing and reaching for a pen.

Nobody said the words “AI” out loud. Nobody needed to.

I record this without much triumph. Our man was not the villain of the piece so much as its victim: unrepresented, out of his depth, and rescued by a machine that gave him a document he could not read, let alone defend. The give-away was not that the statement was bad. The give-away was that it was far too good. It was lawyer-grade prose sitting above a signature belonging to someone who could not have written a line of it. Plagiarism, in the old-fashioned sense, at least required you to have read the thing you were stealing.

What does the Bar Council say?

The Bar Council has been admirably unfrightened about all this. Its guidance, refreshed in November 2025 in the wake of *Ayinde*, does not tell us to put the toys away; it tells us that the ultimate responsibility for the work remains with the barrister, that outputs cannot be taken on trust or at face value, and that an LLM (large language model) is a prediction engine rather than a thinking one. Barbara Mills KC, launching it, warned of the dangers of misuse and its implications for public confidence in the administration of justice. Quite so. The offence is not using the tool. The offence is signing what it produced without reading and checking it.

The regulator has since caught up, with a commendable absence of drama. The Bar Standards Board's guidance on artificial intelligence came into force in May. It creates no new rulebook; it reads AI into the Core Duties we already owe, observes that the free tools are generally unsuitable for legal work, and confirms that whatever they get wrong is your mistake rather than theirs. The Civil Justice Council, reporting in June, found broad agreement that pleadings and skeletons need no AI-specific rules, but that the use of AI in witness statements remains under consideration. Our friend with the third or fourth language is, it turns out, a live question of policy.

Article 50 of the EU AI Act

Which brings us to the interesting part. From this month, Anthropic — the makers of Claude — have begun weaving an invisible watermark into text their newer models generate, in response to Article 50 of the EU AI Act. It is applied at model level, it is invisible to the reader, and, in the company's own words, it “will travel with the text when it's copied and pasted elsewhere”. Rivals are expected to follow.

Before anyone reaches for the smelling salts: the mark is not proof of authorship. Ask the machine to tidy your grammar and the mark may attach to your own prose. Rewrite heavily, paraphrase or translate and it fades. A short paragraph may not carry enough signal to register at all.

But it is there, in the words themselves, in every draft that leaves your chambers.

Will it be implemented into UK law?

No, and that is rather the point. The EU AI Act is not part of domestic law, because the UK has left the European Union, and the government has shown no appetite for mirroring Brussels. The AI Opportunities Action Plan expressly rejected calls for a UK AI Act on the EU model, ministers have said since early 2025 that most AI systems are best regulated at the point of use by the existing sector regulators, and no AI Bill is presently before Parliament.

None of which will save you. Anthropic is an American company, headquartered in San Francisco, with its EMEA base in Dublin — and it has not confined the watermark to the European market. It has chosen to apply marking wherever Claude is offered, worldwide. Parliament declines to legislate; Brussels legislates; and the rule arrives on your desk regardless. The economists call this the Brussels Effect. Practitioners may prefer something shorter.

One caveat for the diary. In May the Council and Parliament reached provisional agreement on a Digital Omnibus delaying the Act's more demanding obligations. The Article 50 transparency provisions were not among them. They took effect on 2 August.

So beware...the detectors are being built!

NO AI USED HERE