

Cite as: Dyane O'Leary, *A-I is a G-O*, 26 Perspectives: Teaching Legal Res. & Writing 33 (2017).

A-I is a G-O

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Meet ROSS, a new junior associate. He can read over one million pages of law in a second.¹ He knows every court in every federal circuit. He understands with ease legal research questions posed to him in plain language, and answers within seconds. He thrives on feedback from his supervisor to improve his accuracy and performance. He gets smarter with each completion of a task. And, I almost forgot: he doesn't take vacations, doesn't get tired, doesn't get frustrated, doesn't require health insurance, doesn't waste time reviewing irrelevant authority, doesn't care about work/life balance, and doesn't bill at an exorbitant hourly rate—only, ROSS isn't human.

Welcome to the latest phase in the evolution of legal research processes: artificial intelligence. Artificial intelligence (AI) has almost as many definitions as it does applications in modern society. In the broadest sense, AI, also often referred to as cognitive computing, is an aspect of computer science that models software on human thought processes generally regarded as intelligent.² This category encompasses, for example, expert systems, machine learning, natural language processing, robotics, and computer agents that perform tests to evaluate data and offer results. AI made its first major news splash in the late 1990s when IBM's "Deep Blue" computer won several chess matches against a world champion. Not to be outdone, in 2011, IBM's Watson computer (on which the ROSS legal research system is based) successfully competed in the game show *Jeopardy!* Indeed, AI's headway into daily life in 2017

is remarkable: just ask your virtual assistant Siri or the Amazon Echo on your kitchen countertop.

AI has already shaken up many facets of lawyering. From contract analysis to e-discovery to predictive modeling (foreseeing case outcomes based on data and analytics), it would be difficult—not to mention foolish—to ignore the inroads into law practice this technology has made. For example, in 2013, a company called NexLP was created to use artificial intelligence to analyze significant quantities of data and use pattern recognition to assist clients in navigating legal issues.³ Recognizing this trend, in April of 2016 Vanderbilt University Law School hosted the first conference ("Watson, Esq.: Will Your Next Lawyer Be a Machine?") dedicated to the future of AI in the legal profession. And students are catching on with increasing fervor by creating computer systems that, although not purely intelligent machines, can replace tasks lawyers once performed, such as the tool "DoNotPay" that handles basic legal aid questions related to everything from parking tickets to immigration matters through a free, online Q&A chat now available in all 50 states.⁴

Back to ROSS. According to one of its creators, it is "an artificially intelligent attorney designed to help with legal research . . . using machine learning and natural language processing."⁵ Gone are the days of typing in awkward Boolean terms and connectors, say proponents, not to mention flipping through hundreds of pages in a treatise to find a relevant chapter. Simply pose a question out loud as you would speaking to an actual lawyer ("Are oil and

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¹ <https://www.youtube.com/watch?v=wwbr0fombF8> (last visited February 2, 2018) (TED Talk by ROSS CEO and co-founder Andrew Arruda).

² Kevin D. Ashley, *Teaching Law & Digital Age Legal Practice with an AI & Law Seminar*, 88 CH.-KENT L. REV. 783, 785-86 (2013); see also Andrew Arruda, *Artificial Intelligence Systems and the Law*, PEER TO PEER: THE QUARTERLY MAGAZINE OF ILTA (Summer 2016) available at <http://www.rossintelligence.com/> ("Artificial intelligence (AI) is a computer that learns to perform intelligent tasks we usually think only humans can do.").

³ <http://www.nexlp.com/> (last visited February 2, 2018) (highlighting legal services relating to e-discovery, fraud investigation, information governance, and defensible deletion).

⁴ <https://donotpay-search-master.herokuapp.com/> (last visited February 2, 2018). I am fortunate to enjoy a front row seat to this new type of student work at Suffolk University Law School, all first year students in the fall of 2016 were introduced to automated legal tools and taught basic coding using the program QnAMarkup. <http://www.qnamarkup.org/> (last visited May 26, 2017). For more information on Suffolk Law's Institute on Law Practice Technology & Innovation, see <http://legaltech.suffolk.edu/> (last visited February 2, 2018).

⁵ Arruda, *supra* note 2.

“[B]ut does it deserve a place in the law school curriculum? Do legal research and writing professors and librarians need to pay attention to ROSS? Do we starting teaching it? What would that look like?”

gas leases executory contracts?”), and let ROSS give a basic answer in seconds, provide supporting sources, and offer suggested readings.⁶ ROSS was first introduced in the Bankruptcy practice area in 2015 (meaning that the system’s knowledge was limited to that subject matter), but is expanding into Intellectual Property and Labor & Employment. In 2016, several large law firms (Baker Hostetler and Latham & Watkins, among the most notable) “hired” ROSS and, in the now all-too-familiar era of law firms seeking to cut costs and offer more efficient representation,⁷ sang its praises.⁸

So what?

ROSS is making some headway in the legal profession, but does it deserve a place in the law school curriculum? Do legal research and writing professors and librarians need to pay attention to ROSS? Do we starting teaching it? What would that look like? Should we be lecturing about AI after we introduce Westlaw and Lexis? Can we stop telling students to craft appropriate questions presented, given that ROSS understands research inquiries in everyday, plain language?

No. At least, not yet. And probably not anytime soon. For starters, this tool is far from ubiquitous. As mentioned, ROSS is primarily in the larger, private law firm sector, for now. It is limited to discrete practice areas. Use in law schools is scant, and more so in the legal technology context as opposed to the research curriculum. Duke, Northwestern, and Vanderbilt are featured as partners on the ROSS Intelligence website, which notes that law schools “use ROSS free of

charge.”⁹ According to the Manager of Strategic Partnerships at ROSS Intelligence, the company is open to exploring narrow and purposeful partnerships with law schools based on: (a) ROSS’s current subject matter capabilities; (b) its social mission of “democratizing” access to justice; and (c) a school’s particular need and niche (for example, a legal technology or clinical setting).¹⁰

On the flip side, however, professors may not want to turn a blind eye to AI. It is not difficult to imagine a scenario where the ROSS system (or a similar tool) grows in popularity and spreads to smaller firms and perhaps even government offices very soon. Indeed, I agree with ROSS’s Head of Legal Research that clients are “increasingly unwilling to pay for”¹¹ expensive research, and pressure to explore alternative options will mount. What is more, a tool such as ROSS is well-positioned to benefit in the next several years from the bright spotlight shining on the need to expand and improve delivery of legal services through more efficient, less expensive, and non-traditional tools.

The bottom line for the legal research and writing community at this early stage of artificial intelligence legal research is to be aware. Ignorance about this innovation in the field would mimic early disregard of Westlaw and Lexis years ago, when some among us held firm to teaching students to check the pocket part or peruse a descriptive word index to find the needle in the library haystacks. In many ways, ROSS and other emerging tools such as Casetext’s CARA (Case Analysis Research Assistant)¹² and

⁹ *Supra*, note 8; see also <https://blog.rossintelligence.com/duke-law-partners-with-ross-intelligence-923b919a4ad9> (last visited February 2, 2018) (announcing use of ROSS in Duke’s Law Tech Lab).

¹⁰ Telephone Interview with Lindsey Frischer, Head of Strategic Partnerships, ROSS Intelligence (June 2, 2017) (notes on file with author). Readers interested in learning more about ROSS and potential partnerships in legal education may contact Ms. Frischer at lindsey@rossintelligence.com or Thomas Hamilton, Vice President, Strategy & Operations at ROSS Intelligence, at thomas@rossintelligence.com.

¹¹ <https://blog.rossintelligence.com/a-i-is-hype-what-can-it-really-do-in-law-1b45204c7c22> (last visited February 2, 2018).

¹² <https://casetext.com/> (last visited February 2, 2018) (describing how users upload a brief or memo and receive an immediate list of additional “suggested” cases not initially cited). More recently, in January, 2018 ROSS Intelligence announced its own case analysis “drag-and-drop” tool named EVA. EVA is currently available for free, and allows users to upload a brief and (as advertised) receive relevant cases, citations, and fact summaries. See <https://rossintelligence.com/ross-new-coworker-eva/> (last visited February 2, 2018).

⁶ This example was included in a presentation by one of ROSS’s co-founders at the AI and the Law Conference in the spring of 2016 at Vanderbilt University Law School, and is available at https://www.youtube.com/watch?v=LF08X5_T3Oc (last visited February 2, 2018).

⁷ Countless sources in recent years have reported business clients’ reduced spending on legal services, increased competition in the legal market, and pressure on law firms to invest in innovation and cost-saving measures. See, e.g., 2016 REPORT ON THE STATE OF THE LEGAL MARKET (Thomson Reuters Peer Monitor & Center for the Study of the Legal Profession, Georgetown University 2016), https://peermonitor.thomsonreuters.com/wp-content/uploads/2016/01/2016_PM_GT_Final-Report.pdf

⁸ www.rossintelligence.com (last visited February 2, 2018) (“ROSS is a tool to help improve our work processes, reduce costs, and ultimately generate better results for our clients.”).

CARA Brief Finder¹³ are to Westlaw and Lexis what those databases were to case reporters and hard copy statutory compilations years ago. Sure, instructors lament how Google and natural language searching (itself a form of AI) in databases such as Lexis Advance¹⁴ can turn students into passive receivers of information who jump at the first bone thrown their way, instead of the proactive, analytical go-getters of old who dive deep into the murkiness of the law. But those Googling-coding-start-up-developing-Generation Y students are tomorrow's lawyers. It remains our job to craft their skills as best we can, cognizant that we may not know the precise research platform they will eventually use.

My recommendation, then, is this: briefly introduce the existence of artificially intelligent legal research systems, but tie them to the more relevant "Google" natural language searching context for students to reinforce universal principles about good research practices. Do not rush to "teach" AI. In fact, I have never used the full ROSS research system, as is likely the case with most readers. An Advanced Writing or Research elective course could offer more syllabus space to explore a system such as ROSS or CARA, but I suspect most agree the first-year research and writing curriculum is already jam-packed with little room to add more material. First year professors could, however, show students the ROSS website (or assign an introductory video such as the founder's TED Talk¹⁵) as a contemporary twist for today's students on some good-ol' lessons:

- **Planning and organizing:** even before posing a question to ROSS, a lawyer would need to

interview, fact-gather, strategize, and understand the nature of a client's legal problem.

- **Context:** a lawyer who takes ROSS's first "answer" at face value without even a moment's pause risks making the same errors that have plagued law students for decades: what jurisdiction? How recent? Is it a primary source? Is it dicta? Are the facts from a particular case easily distinguishable? Is a new policy concern applicable? Would an administrative regulation be more appropriate?
- **Careful reading, processing and understanding:** What good is a quick answer from an AI system (or the top result from a Google search or Westlaw query, for that matter) if a lawyer cannot comprehend its significance, confidently ignore irrelevant aspects, place it in the "big picture" of a particular area of law, discuss it with a client, argue it to a judge, or explain it in a brief?
- **Competence:** Students cannot be reminded enough in the research context that the first professional obligation of a lawyer (literally, Rule 1.1 of the ABA Model Rules of Professional Conduct) is to provide competent representation, which specifically includes thoroughness. Perhaps it is coming in the not-so-distant future, but I cannot imagine a scenario today where sole reliance on one spoken "answer" from a machine obtained in seconds qualifies as such.

In sum, it is not the development of new AI tools that unnerves me as much as it is lawyers' use (misuse?) of them. ROSS would be a helpful associate to have on board, as long as his colleagues exercised the necessary caution, professionalism, and perspective in using him on a client's behalf. In other words, if an intelligent machine can someday "transform"¹⁶ our students' more mundane tasks to make room for more important and stimulating legal work, then I'm all for it. Welcome to the team, ROSS.

“[T]hose Googling-coding-start-up-developing-Generation Y students are tomorrow's lawyers. It remains our job to craft their skills as best we can . . .”

¹³ <http://www.businesswire.com/news/home/20170517005306/en/Casetext-Unveils-CARA-Finder> (last visited February 2, 2018) (noting that CARA was named new product of the year in 2017 by the American Association of Law Libraries (AALL) and describing the Brief Finder tool as applying artificial intelligence and data science technologies that allow users to access "highly relevant legal briefs").

¹⁴ Indeed, this past summer Lexis itself announced its acquisition of Ravel Law and touted Ravel's judicial analytics, data visualization technology and unique case law PDF content. See <https://www.lexisnexis.com/en-us/about-us/media/press-release.page?id=1496247082681222> (last visited February 2, 2018). Lexis also announced a new "Lexis Answers" tool that purports to "[i]nfuse[e] New Artificial Intelligence Capabilities into the Company's Flagship Legal Research Platform." <https://www.lexisnexis.com/en-us/about-us/media/press-release.page?id=1498484103628687> (last visited February 2, 2018).

¹⁵ *Supra*, note 1.

¹⁶ Julie Sobowale, *Beyond Imagination: How Artificial Intelligence is Transforming the Legal Profession*, ABA Journal (Apr. 2016) available at http://www.abajournal.com/magazine/article/how_artificial_intelligence_is_transforming_the_legal_profession (quoting a former big firm lawyer) ("Technology that automates tedious tasks, while not a panacea, can free up lawyers' time to perform higher-level, more intellectually satisfying work which clients would be willing to pay for. It would help to make lawyers happier and more productive.")