

# ***IP Exceptionalism in the Age of AI***

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The AI Revolution not only fundamentally changed how law is practiced, it is poised to transform how legal disputes are resolved. Some have welcomed the implementation of AI into such judicial and quasi-judicial processes, while others have vehemently opposed them. Looking past the contours of the complex normative policy questions involved, it is clear that the future will include, at a minimum, a complementary hybrid system where AI agents and human judicial employees work together in some capacity to resolve legal disputes. It is also clear that the impact of such AI implementations will not be felt uniformly across all courts and all legal subject matter areas.

The field of intellectual property law has often deemed itself to be unique and special. The concept of IP exceptionalism offers the justification that IP law is deserving of different treatment because it is fundamentally distinct from other property rights and regulatory frameworks. During the judicial process, IP laws provide uniquely powerful remedies and enforcement mechanism while often requiring substantially more judicial attention and demanding disproportionate litigation costs.

This article explores the intersection between the emerging AI Revolution (i.e., AI's capabilities to streamline and improve the judicial process) and IP exceptionalism's deep roots in the law. Can AI disrupt or enhance some of the institutional frameworks to improve the resolution of IP disputes? Can an AI judicial advisor or decider meaningfully improve the resolution of complex legal issues? Or, at a minimum, can AI help judges and juries better understand both the complicated legal concepts and complex technical facts that frequently accompany IP cases? In attempting to answer these important questions, it will be critical to remember IP's unique normative foundations (balancing innovation incentives with the public's right to access and dissemination of knowledge) as well as established institutional norms and structures, such as specialized courts (the Federal Circuit and PTAB) that for decades have created unique circumstances for resolving IP disputes.