BOOK REVIEW: *THE CAMBRIDGE HANDBOOK OF GENERATIVE AI AND THE LAW*

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The *Cambridge Handbook of Generative AI and the Law* ('*Handbook*')[1] is a timely and important publication forming the latest instalment in a suite of publications over the past five years by the Cambridge University Press in the areas of artificial intelligence ('AI') and the law including:

- Woodrow Barfield (ed), *The Cambridge Handbook of the Law of Algorithms* (Cambridge University Press, 2021);
- Larry A DiMatteo et al (eds), *The Cambridge Handbook of Lawyering in the Digital Age* (Cambridge University Press, 2021);
- Larry A DiMatteo et al (eds), *The Cambridge Handbook of Artificial Intelligence: Global Perspectives on Law and Ethics* (Cambridge University Press, 2022);
- Silja Voeneky et al (eds), *The Cambridge Handbook of Responsible Artificial Intelligence* (Cambridge University Press, 2022);
- Ernest Lim and Phillip Morgan (eds), *The Cambridge Handbook of Private Law and Artificial Intelligence* (Cambridge University Press, 2024);
- Larry A DiMatteo, Cristina Poncibó and Geraint Howells (eds), *The Cambridge Handbook of AI and Consumer Law: Comparative Perspectives* (Cambridge University Press, 2024);
- Nathalie A Smuha (ed), *The Cambridge Handbook of the Law, Ethics and Policy of Artificial Intelligence* (Cambridge University Press, 2025);
- Stacy-Ann Elvy and Nancy S Kim (eds), *The Cambridge Handbook of Emerging Issues at the Intersection of Commercial Law and Technology* (Cambridge University Press, 2025);
- Amy J Schmitz, Marco Giacalone and Pietro Ortolani (eds), *The Cambridge Handbook of AI in Civil Dispute Resolution* (Cambridge University Press, forthcoming);
- Monika Zalnieriute and Agne Limante (eds), *The Cambridge Handbook of AI and Technologies in Courts* (Cambridge University Press, forthcoming).

As observed in my foreword to this Issue of the *University of New South Wales Law Journal*, it is critical for those who seek to use and embrace generative artificial intelligence ('GenAI') to be properly informed and aware of its limitations as well as its claimed advantages, including the ramifications for its use and consideration

* Chief Justice, New South Wales. I am grateful to my tipstaff, Sebastian Braham, for his assistance in the preparation of this review of the *Cambridge Handbook of Generative AI and the Law*.

1 Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) <https://doi.org/10.1017/9781009492553>.

of critical questions in relation to responsibility and accountability for errors in the outworkings of GenAI. It is similarly critical for those who would seek to regulate the use of GenAI in the disparate areas in which it may be sought to be deployed to have as full as possible an understanding of these possibilities and limitations so as to ensure that regulation strikes an appropriate balance.

The *Handbook* provides an outstanding resource in relation to a wide range of issues that are thrown up by GenAI, some of which had not previously been apparent to me. Comprising some 26 chapters which are logically structured in four parts, one of its central themes, as expressed by Mimi Zou and Ellen Lefley in chapter 25, is: '*how can we harness the transformative benefits of AI while mitigating its risks*?'[2] Consistent with this, the *Handbook* takes as its motif, as the Hon Michael Kirby AC CMG points out in his Foreword,[3] the theme of balance: balance between unleashing GenAI's innovative capacity and numerous countervailing factors, not least of all ethical considerations, including 'transparency and explainability',[4] 'bias and fairness',[5] 'accountability',[6] and 'security and privacy'.[7]

At all stages, the *Handbook* is more discursive than it is dogmatic. That is a good thing. It is neither a treatise nor a thesis and nor should it be. It has a practical spirit, and its purpose is to inform and prompt reflection. The *Handbook* is also truly international in its authorship, featuring contributions from authors based in the United States ('US'), Japan, Italy, Scotland, Belgium, Estonia, Singapore, Germany, England, Spain, Poland, South Africa, Switzerland, China, and Australia. There are chapters focusing specifically on the European Union ('EU'),[8] the US,[9]

2 Mimi Zou and Ellen Lefley, 'Generative AI and Article 6 of the European Convention on Human Rights: The Right to a *Human* Judge?' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) 451 (emphasis added) <https://doi.org/10.1017/9781009492553.031>.

3 Michael Kirby, 'Foreword' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) xv–xvi <https://doi.org/10.1017/9781009492553.001>.

4 Zijie Huang, 'Unleashing Creative Potential: Nurturing Trustworthy Generative AI' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) 21–2 <https://doi.org/10.1017/9781009492553.005>.

5 Ibid 22–3.

6 Ibid 23–4.

7 Ibid 24–5.

8 Teresa Rodríguez de las Heras Ballell, 'Mapping Generative AI Liability Cases in the EU Legal Framework' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) ch 7 <https://doi.org/10.1017/9781009492553.011>. See also Riccardo de Caria, 'Generative AI and Non-discrimination Law in the EU' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) ch 14 <https://doi.org/10.1017/9781009492553.019>.

9 Peter Henderson, 'Challenges for Foundation Model Liability and Regulatory Regimes: An Analysis of US Law' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) ch 8 <https://doi.org/10.1017/9781009492553.012>.

China,[10] Japan,[11] and Singapore.[12] This cross-jurisdictional perspective is invaluable and is reflected in the observations by the authors of chapter 11 that

> [t]he GenAI governance landscape is complex and multifaceted, ranging from 'hard law' approaches in which nations have instituted targeted regulatory regimes, to 'soft law' approaches, where guidelines lead the way in shaping the future of GenAI. Within the G7, the EU has instituted robust and comprehensive regulations through its AI Act, and Canada is in the process of developing similar hard law frameworks. Conversely, Japan, the United Kingdom, and the United States lean towards sector-specific and lighter-touch regulatory approaches.[13]

These authors are correct to conclude that

> this diverse regulatory environment, marked by varying levels of stringency and focus, poses challenges for global operations, requiring businesses to navigate a complex regulatory patchwork, as well as differing rights and obligations, across G7 nations and the world.[14]

It should also be observed that the breadth of the discussion is reflected in the diverse backgrounds of the contributors, comprising experts in the areas of information technology law, intellectual property law, legal informatics, innovation and society, electrical and information technologies, electrical and electronic engineering, computer engineering, computer science, AI and data governance, economic law, private law, criminal law, public law, innovation studies, and journalism and communication.

Part I of the Handbook provides the background behind key terminology relating to GenAI, as well as some of the impact and history of the technology in different fields. The *Handbook* provides and then demands familiarity with a range of terms (and acronyms) useful to anyone working in or endeavouring to come to grips with GenAI. These terms include:

- LLMs – large language models;[15]
- GPTs – generative pre-trained transformers;[16]
- GANs – generative adversarial networks;[17]

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10 Lu Zhang and Mimi Zou, 'Navigating China's Regulatory Approach to Generative AI' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) ch 9 <https://doi.org/10.1017/9781009492553.013>. See also Christoph Rademacher and Wanru Cai, 'Copyright and Generative AI in Japan and China' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) ch 18 <https://doi.org/10.1017/9781009492553.023>.

11 Rademacher and Cai (n 10).

12 Jason Grant Allen and Jane Loo, 'Singapore's Evolving AI Governance Framework' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) ch 10 <https://doi.org/10.1017/9781009492553.014>.

13 Hiroki Habuka and David U Socol de la Osa, 'Shaping Global AI Governance: A Path for the G7 to Foster Rule of Law in a World of Uncertainty' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) 185 (citations omitted) <https://doi.org/10.1017/9781009492553.015>.

14 Ibid 185–6.

15 Tom Melham, 'Generative AI: An Introduction' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) 5 <https://doi.org/10.1017/9781009492553.004>.

16 Ibid 8; Huang (n 4) 13–14.

17 Huang (n 4) 13–14.

- VAEs – variational auto-encoders;[18]
- MVPs – minimum viable products;[19]
- NLP – Natural language processing;[20]
- Foundation models;[21]
- Computational manipulation;[22]
- Compusuasion;[23]
- Hypernudges;[24]
- Hypersuasion;[25]
- Second-generation dark patterns;[26]
- Recommender systems;[27] and
- Influence operations.[28]

One term of art is the so-called 'hypernudge' in the context of what is described, somewhat sinisterly, as 'computational manipulation'. In chapter 4, Stefano Faraoni tells us that:

> If a nudge consists, for example, of putting the salad in front of the sweets to induce individuals to eat healthy food relying on the availability of bias, a hypernudge driven by an AI can reconfigure the entire (virtual) shop according to the cognitive biases of every individual that enters the shop.[29]

The key point, therefore, is that Part I of the *Handbook* provides a basic understanding of specialised terms and concepts which is hugely useful for lawyers, legislators, regulators, and consumers. A familiarity with Part I then helps to inform and engage fully with Parts II–IV.

Part II introduces the reader to what Ugo Pagallo describes in chapter 6 as 'the race to AI Regulation',[30] and, as I have already noted, the balance between the 'lighter touch' approach which promotes industry growth, and the more

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18 Ibid 15.

19 Allen and Loo (n 12) 160.

20 Huang (n 4) 16; Rūta Liepiņa et al, 'Automating Legal Tasks: LLMs, Legal Documents, and the AI Act' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) 408 <https://doi.org/10.1017/9781009492553.029>.

21 Rodríguez de las Heras Ballell (n 8) 101.

22 Stefano Faraoni, 'Why Generative AI Is Not Cyrano de Bergerac: A Computational Manipulation Perspective on Generative AI' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) ch 4 <https://doi.org/10.1017/9781009492553.007>.

23 Ibid 45.

24 Ibid.

25 Cristina Poncibò, 'Regulating Hypersuasion' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) ch 20 <https://doi.org/10.1017/9781009492553.025>.

26 Faraoni (n 22) 45.

27 Poncibò (n 25) 353–4.

28 Beatrice Panattoni, 'Generative AI and Criminal Guilt: When No One Meant to Harm' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) 394 <https://doi.org/10.1017/9781009492553.027>.

29 Faraoni (n 22) 45 (citations omitted).

30 Ugo Pagallo, 'LLMs Meet the AI Act: Who's the Sorcerer's Apprentice?' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) 87 <https://doi.org/10.1017/9781009492553.010>.

stringent approach, embodied by the EU's *AI Act*,[31] which 'advocates for dedicated regulatory bodies and requires AI applications to be subject to rigorous testing and pre-market approval processes'.[32]

Some regulations discussed in Part II have changed even since publication, but nevertheless one emerges from Part II with a greater appreciation of the many difficulties in maintaining the currency of regulations amidst the rapid development of new technologies.[33] In this vein, the attribution of liability to a human actor lying behind a chatbot (the pursuit for the 'natural person behind the AI')[34] – an increasingly legitimate source of work for lawyers – requires the disentanglement of GenAI operators along the design pipeline which, absent analyses like those provided in chapters 8[35] and 22,[36] remains opaque to the lay lawyer and/or consumer.

Part III of the *Handbook* will naturally attract the lawyers among us, as it dives deep into specific legal questions arising from the use of GenAI, including how such use might violate data protection,[37] privacy,[38] copyright,[39] anti-discrimination,[40] competition,[41] and even criminal laws.[42]

The ways in which GenAI might impinge on these established legal categories are evolving in real time and the *Handbook* deals with cases on foot in various courts around the world, including, for example, the several lawsuits underway in the United States against Google and OpenAI alleging privacy violations by GenAI models.[43] At least one of these was resolved last month with a federal jury determining that Alphabet's Google must pay $425 million for invading users'

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31 *Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence and Amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act)* [2024] OJ L 2024/1689.

32 Zhang and Zou (n 10) ch 9.

33 Sebastian Hallensleben, 'Generative AI and International Standardisation' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) ch 12 <https://doi.org/10.1017/9781009492553.016>.

34 Panattoni (n 28) 400.

35 See Henderson (n 9) 123–4: 'The foundation model pipeline can be thought of as consisting of five parts: (1) data creation; (2) data collection; (3) model development; (4) model deployment; and (5) model use. These parts of the pipeline map neatly onto several actors.'

36 Panattoni (n 28).

37 Hannah Ruschemeier, 'Generative AI and Data Protection' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) ch 15 <https://doi.org/10.1017/9781009492553.020>.

38 Elana Zeide, 'Generative AI and the Fundamental Limitations of US Privacy Law' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) ch 16 <https://doi.org/10.1017/9781009492553.021>.

39 Bruce E Boyden, 'Generative AI and IP under US Law' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) ch 17 <https://doi.org/10.1017/9781009492553.022>.

40 de Caria (n 8).

41 Sylvia Papadopoulos, 'Redefining Rivalry: Generative AI and the Evolving Landscape of Competition Law' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) ch 19 <https://doi.org/10.1017/9781009492553.024>.

42 Panattoni (n 28).

43 Ruschemeier (n 37).

privacy by continuing to collect data for millions of users who had switched off a tracking feature in their Google account.[44]

Elements of Part III are prescient. In chapter 22, for example, on 'Generative AI and Criminal Guilt', Beatrice Panattoni suggests that 'the list of harmful content that *might be* generated by LLMs include[s] advice or encouragement for self-harm behaviours'.[45] Regrettably, that prediction has already materialised since the date of publication. In August of this year, OpenAI was sued by the parents of a teen who died by suicide in California after ChatGPT allegedly coached him on methods of self-harm. The parents alleged that the chatbot validated the boy's 'most harmful and self-destructive thoughts' in what is the first legal action accusing OpenAI of wrongful death.[46]

Patrick J O'Malley's contribution entitled 'Generative AI Systems and Corporate Governance, Compliance, and Liability: Rethinking Director and Officer Roles in Light of a New World of Technological, Legal and Ethical Challenges' is of particular interest.[47] He explains how familiar risks have been made new by AI, including discrimination and bias, cybersecurity and data security, privacy, confidentiality, trade secrets, quality control, competition issues, and insurance matters.[48] The points made in chapter 21 include that:

- 'AI avoidance by boards of directors and executive "C-Suiters" is no longer an option.'[49]
- 'Our ideal director must know what AI is and how, at this point in time – *today* – all of these generative AI products can and maybe should be put to productive use for some aspect of the corporate group's activities, and when such should be avoided as too risky.'[50]
- 'There will be important liability issues for corporations and other players in the global trade and financial ecosystem.'[51]
- 'Directors and executive officers will have to ask themselves to what extent should, or must, AI tools be used in the strategic business decision-making and monitoring process as an integral part of governance and its growing compliance and oversight component … What should they, as corporate leaders, be doing to ensure that their corporate organisations are maximising the best positive use of AI, whilst avoiding and/or limiting AI-related risks to the extent possible, from both a legal and ethical perspective?'[52]

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44 Peter Hoskins and Lily Jamali, 'Google Told to Pay $425m in Privacy Lawsuit', *BBC News* (online, 5 September 2025) <https://www.bbc.com/news/articles/c3dr91z0g4zo>.

45 Panattoni (n 28) 393–4 (emphasis added).

46 Nadine Yousif, 'Parents of Teenager Who Took His Own Life Sue OpenAI', *BBC News* (online, 27 August 2025) <https://www.bbc.com/news/articles/cgerwp7rdlvo>.

47 Patrick J O'Malley, 'Generative AI Systems and Corporate Governance, Compliance and Liability: Rethinking Director and Officer Roles in Light of a New World of Technological, Legal and Ethical Challenges' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) ch 21 <https://doi.org/10.1017/9781009492553.026>.

48 Ibid 370.

49 Ibid.

50 Ibid 369 (emphasis in original).

51 Ibid.

52 Ibid 367.

Plainly, it will not be long before issues of corporate governance in relation to the use of GenAI will reach the courts. Indeed, O'Malley refers to one AI-related US securities class action filed by investors in relation to alleged faulty GenAI safety technology in which the board and executive management were sued for allegedly making materially false and/or misleading statements and omissions that overstated the efficacy of its products, and hid the effectiveness of its AI products with regard to detecting knives and guns, which was said to have led to an increased risk of undetected weapons entering locations such as schools.[53]

The balance of the *Handbook*, in Part IV, capitalises on the specialised knowledge built up in the previous chapters to ask some of the 'hotter' questions: how will GenAI be used in automating legal tasks,[54] legal services regulation,[55] and public administration?[56]

The elephant in the room – the prospect of fully autonomous AI judges – is not left unmentioned – and Zou and Lefley's chapter 25 picks up that issue in a creative exposition of whether article 6 of the *European Convention on Human Rights* bestows a right to a human judge. To delve into that topic would require at least a full-day seminar. Such an exploration would include the embedding of biases in LLMs as well as far more existential questions relating to legitimacy and trust in a judicial system where emotional as opposed to artificial intelligence and distinctly human qualities such as empathy and compassion are of profound importance.

Suffice it to say that any judge who seeks to use GenAI in the exercise of their judicial decision-making function, as we now have observed in the US,[57] the United Kingdom,[58] Colombia,[59] the Netherlands,[60] and Singapore,[61] should, and I would suggest, must be aware of the fundamental architecture behind the technology, and its shortcomings and limitations, including, for example, the so-called 'black box problem', where the ways in which GenAI models reach their outputs are opaque even to their designers.[62]

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53 Ibid 389–90.

54 Liepiņa et al (n 20).

55 Martin Ebers, 'LawGPT: LLMs under Legal Services Regulation' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) ch 24 <https://doi.org/10.1017/9781009492553.030>.

56 Sophie Weerts, 'Generative AI in Public Administration' in Mimi Zou et al (eds), *The Cambridge Handbook of Generative AI and the Law* (Cambridge University Press, 2025) ch 26 <https://doi.org/10.1017/9781009492553.032>.

57 *Snell v United Specialty Ins Co*, 102 F 4th 1208 (11th Cir, 2024).

58 See Hibaq Farah, 'Court of Appeal Judge Praises "Jolly Useful" ChatGPT after Asking It for Legal Summary', *The Guardian* (online, 15 September 2023) <https://www.theguardian.com/technology/2023/sep/15/court-of-appeal-judge-praises-jolly-useful-chatgpt-after-asking-it-for-legal-summary>.

59 See Luke Taylor, 'Colombian Judge Says He Used ChatGPT in Ruling', *The Guardian* (online, 3 February 2023) <https://www.theguardian.com/technology/2023/feb/03/colombia-judge-chatgpt-ruling>.

60 Zou and Lefley (n 2) 460–1.

61 See the experiments with 'red-teaming' discussed in Aidan Xu, 'Legal and Regulatory Issues with Artificial Intelligence: The Use (and Abuse) of AI in Court' (Speech, IT Law Series 2025, 30 July 2025) [21]–[23] <https://www.judiciary.gov.sg/news-and-resources/news/news-details/justice-aidan-xu--speech-at-the-it-law-series-2025--legal-and-regulatory-issues-with-artificial-intelligence>.

62 Subject to the development of 'explainable AI' technology. See also Melham (n 15) 5, 7.

In 2023, the CEO of OpenAI, Sam Altman, warned that humanity faces the risk of 'extinction' with the rise of AI.[63] In 2015, an open letter issued by the Future of Life Institute, Bill Gates, Elon Musk, Stephen Hawking and others warned against the threats of AI and robotics.[64] As Pagallo says in chapter 10 of the *Handbook*:

> Some of these risks are real and *yet it is the source of the warning that is at times unconvincing. It reminds us of the Sorcerer's Apprentice who is to blame for their own fate.* Consider Sam Altman: on one hand, the CEO of OpenAI warns against the risks of human extinction; on the other, his company goes on doing business as usual.[65]

This dilemma – the so-called 'Sorcerer's Apprentice' – is exacerbated by the fact that the private companies developing AI products tend to resist sharing information behind their algorithms and future developments, citing trade secrets and competitive advantages.

We should resist an information monopoly concentrated in guarded actors with vested proprietary interests. To do so we need independent, impartial and dedicated experts to clear the path through the thicket, and well-informed and courageous regulators. This *Handbook* will serve an important role in this regard by virtue of the quality of its content, the accessibility of its discussion and the detail of its references. It is a ready-made toolkit for those who know much, little, or nothing at all about GenAI. It is a well-written and beautifully produced work which I would recommend not only to my colleagues on the bench and to fellow lawyers, but also to academics, policymakers and practitioners in various professions.

The authors and editors of the *Handbook* are to be congratulated on the timeliness and quality of this publication.

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63 Samantha Kelly, 'Sam Altman Warns AI Could Kill Us All. But He Still Wants The World to Use It' (Web Page, 31 October 2023) <https://www.judiciary.gov.sg/news-and-resources/news/news-details/justice-aidan-xu--speech-at-the-it-law-series-2025--legal-and-regulatory-issues-with-artificial-intelligence>, quoted in Pagallo (n 30) 87.

64 Pagallo (n 30) 87.

65 Ibid 87–8 (emphasis added).