AI's Impact on Key Legal Areas for Mediators

*Created by Gemini Deep Research. Note: This is a first draft output and has **not** been fact-checked for accuracy. For sample purposes only.*

Artificial intelligence (AI) is rapidly transforming many industries and, in turn, reshaping the legal landscape in those fields. Mediators who work in areas like employment, healthcare, family, elder, construction, intellectual property, and commercial disputes are beginning to encounter novel issues driven by AI adoption. Below, we explore each of these practice areas, highlighting current and emerging AI technologies used by clients, the new disputes and risks arising from these technologies, and opportunities for mediators to position themselves as forward-thinking, tech-aware neutrals. We also note relevant U.S. regulations, proposed rules, ethical guidance, or case law involving AI in each area, and finish with a brief look at major international AI-related legal trends for dispute resolution professionals.

From hospitals to courtrooms, AI-driven technologies are introducing new tools – and new conflicts – that mediators must understand in order to remain effective neutrals. Staying informed about AI's disruptive impact across industries can help mediators position themselves as trusted, tech-savvy problem solvers. (Image source: user)

Employment Law and AI

AI Technologies in Use: Employers are increasingly deploying AI-driven tools in hiring and workforce management. Common examples include AI résumé screeners and hiring assessments, employee monitoring software, algorithms for performance evaluation or discipline, chatbots for HR inquiries, and automated scheduling systems[1][2]. Studies show roughly half of companies now use AI to assist in recruitment and other HR decisions[1]. This ranges from machine-learning models that rank job applicants to "bossware" that tracks productivity.

New Disputes and Risks: The foremost legal risk is **algorithmic bias** leading to discrimination claims. AI systems trained on biased data can inadvertently screen out protected groups, triggering **Title VII** disparate impact allegations or other employment discrimination claims[3][4]. A landmark case occurred in 2022 when the EEOC sued an employer (iTutorGroup) for an AI hiring tool that automatically rejected older applicants, resulting in an age discrimination settlement[5]. In response, the EEOC launched an **AI and Algorithmic Fairness Initiative** to ensure workplace AI tools comply with civil rights laws[3]. Beyond hiring, biased algorithms in promotions, pay, or firings could likewise lead to disputes. Privacy and surveillance concerns are another flashpoint – employees may challenge AI monitoring as intrusive or contest terminations based on opaque algorithmic decisions. Additionally, if a company relies on AI and it makes an error (for example, flagging the wrong employee for misconduct), disputes over wrongful discipline could

arise. Unions are also weighing in: the impact of AI on job security and working conditions has become a labor issue, potentially leading to grievances or bargaining disputes when automation is introduced.

Opportunities for Mediators: Mediators can add value by understanding how these AI tools function and the limits of their accuracy. In discrimination cases, a tech-aware mediator can help parties explore whether an algorithm was job-related and valid or produced unjustified disparate impacts[6][1]. **Forward-thinking neutrals** might facilitate resolutions by suggesting bias audits or adjustments to AI processes as part of a settlement. In privacy or monitoring disputes, mediators can help craft balanced agreements (e.g. limits on AI surveillance or an appeals process for automated decisions). By staying current on workplace AI trends and regulatory standards, mediators signal that they can handle the "new civil rights frontier" of AI bias (as EEOC Chair Charlotte Burrows has called it[7]). This builds trust with parties who may be wary of technophobic or unprepared neutrals. Mediators can also serve as proactive consultants, helping employers and employees develop **dispute resolution protocols** for AI-related issues before conflicts escalate.

Notable Laws, Rules, Guidance: In the absence of comprehensive federal AI law, a patchwork of U.S. rules is emerging. The **EEOC** has clarified that use of AI in hiring is subject to anti-discrimination laws and issued guidance that viewing AI outputs as "selection procedures" means employers are liable if those tools disproportionately exclude protected groups[4]. The Biden administration's 2023 **Executive Order on Safe, Secure, and Trustworthy AI** directs agencies to combat algorithmic discrimination in employment, among other sectors[8][9]. At the state level, numerous bills have been introduced (and a few enacted) to regulate AI hiring tools. For example, **Colorado's AI Anti-Discrimination Act** (the first of its kind) and proposed laws in states like California, Illinois, New York, and others would require impact assessments of automated hiring systems, notice to candidates, and in some cases the right to human review of AI-based decisions[2][10]. New York City already mandates bias audits for AI hiring tools used by employers in the city. Mediators should be aware of these regulations because they shape the compliance landscape and remedies in disputes. On the ethical side, the ABA has underscored that attorneys must be competent with technology (Model Rule 1.1, Comment 8); by extension, employment mediators should be conversant with AI in HR to meet expectations of competence.

An HR manager interviews a candidate with AI assistance on her laptop. AI-driven hiring and evaluation tools are growing more common, but their potential for bias is leading to new discrimination claims[5][1]. Mediators can help resolve these conflicts by understanding how the algorithms work and where they might go wrong. (Image source: user)

In sum, employment mediators will increasingly encounter disputes sparked by AI – whether it's a rescinded job offer due to a biased algorithm, a termination based on an AI productivity score, or a disagreement over electronic surveillance. By staying ahead of the

curve on AI developments and regulatory responses, mediators can guide parties to creative, future-focused solutions that address both legal and technological dimensions of the conflict.

Healthcare Law and AI

AI Technologies in Use: The healthcare sector is embracing AI across a wide spectrum of applications. Hospitals and clinics use **AI diagnostic tools** (for example, algorithms that read radiology images or flag abnormal test results), **predictive analytics** to identify at-risk patients, AI-assisted surgical robots, and decision support systems that suggest treatment plans[11][12]. Pharmaceutical companies deploy AI in drug discovery and clinical trial design. Patients are experiencing AI through telemedicine bots, symptom-checker apps, and remote monitoring devices (like wearables that use AI to detect heart irregularities). Healthcare payers are also using AI – insurers employ algorithms for claims processing and to approve or deny coverage. This explosion of medical AI promises improved efficiency and outcomes. For example, AI "ambient" scribes now listen and transcribe doctor-patient interactions, and machine learning models are being embedded in prior authorization systems to speed up approvals[11][13].

New Disputes and Risks: As AI becomes integrated into care, it raises complex questions of **liability and standard of care**. A key concern is **medical malpractice**: if a physician relies on an AI's recommendation that turns out to be wrong, who is legally responsible for the harm? Conversely, could failing to use an available AI tool be deemed negligent if that tool is widely accepted to improve care[14][15]? So far, U.S. courts have not seen a definitive malpractice case centering on AI error[16]. However, observers anticipate a "new malpractice frontier" where plaintiffs may argue that a provider was at fault either for *over*-reliance on AI or for *under*-utilizing accepted AI aids[12][17]. Mediators should be prepared for disputes in which a hospital blames an AI software vendor for a diagnostic miss, while the vendor and doctors point fingers at each other. These multiparty cases (hospital, physician, AI company) may be well-suited to mediation due to their technical complexity and need for creative fault-sharing solutions.

Another dispute area is **product liability vs. malpractice**. Many AI medical tools are regulated as devices by the FDA. If an FDA-approved diagnostic AI system fails (e.g. missing a cancer on a scan), injured patients might sue the manufacturer for product defects – but traditional doctrine often shields learned intermediaries and treats such claims as malpractice against the provider using the tool[18][19]. This legal grey zone is evolving, and mediators can help parties navigate it without years of uncertain litigation. We also see **privacy and data security** conflicts: AI systems need vast amounts of patient data, raising HIPAA compliance issues and potential data breach liability if sensitive health info used in AI is hacked or misused. **Bias** is a concern too – if an AI model doesn't perform well for certain demographic groups (say, less accurate for women or minorities due to training data bias), it could trigger discrimination complaints in healthcare (e.g. an AI tool denying Black patients access to high-risk care programs, a scenario which has happened with some algorithmic bias in healthcare decisions[20][21]). Finally, **contract disputes** are

emerging between healthcare institutions and AI vendors: for instance, a hospital might claim the AI software it bought didn't live up to promised accuracy or caused downtime, etc., leading to breach of contract or warranty claims – these are prime for ADR given the desire to keep technical disputes private and resolved efficiently[22].

Opportunities for Mediators: Mediators with healthcare and tech fluency will be in high demand. **Tech-aware neutrals** can help parties dissect whether an injury was caused by a system error, human error, or both. By understanding concepts like how an AI was trained, what its FDA clearance entailed, and the statistical limits of its recommendations, a mediator can earn the trust of doctors, hospitals, and tech firms at the table. This trust is crucial when facilitating a fair outcome. For example, a mediator might propose a settlement where a patient receives compensation for an AI-related injury without any party admitting full fault, coupled with an agreement that the hospital and AI vendor will jointly refine the algorithm (a non-monetary term that could benefit all). Mediators can also guide discussions about **informed consent** and disclosure – e.g. should patients be told an AI is involved in their care? If that didn't happen and becomes an issue in the dispute, a mediator can help craft policy changes for future consent as part of resolution. Additionally, mediators can position themselves as knowledgeable about **regulatory compliance**: understanding HIPAA, FDA software regulations, and new guidelines (like the FDA's proposed updates on AI/ML medical devices) lets the mediator reality-test parties' positions against what the law requires. Being able to speak the language of both health law and data science will set mediators apart as valuable problem-solvers in these cases.

Notable Laws, Rules, Guidance: U.S. law is adapting slowly. **No documented U.S. case has yet squarely decided AI malpractice** (as of late 2025)[23], but the **American Law Institute's Restatement of Liability** (approved in 2024) signals that courts may evolve the standard of care to include AI use when it becomes prevalent and beneficial[24][25]. In other words, what's considered "reasonable" for a doctor could soon include using certain AI tools – mediators should know this when discussing negligence arguments. The FDA has been active: it released an **AI/ML Software as a Medical Device (SaMD) Action Plan** and is considering regulations for adaptive algorithms that retrain over time. The **HIPAA Privacy Rule** remains a constant: any AI that uses protected health information must comply with HIPAA safeguards, so data breaches involving AI (or unlawful sharing of patient data for AI training) can lead to enforcement actions or class complaints. On the legislative front, some states are looking at laws around healthcare AI transparency. For example, a proposed California bill would mandate disclosure to patients when AI is used in radiology; while not yet law, it reflects growing interest in transparency. **Ethically**, the AMA has published guidelines on augmented intelligence, emphasizing that AI should enhance, not replace, physician judgment and that doctors must understand an AI's limitations. Mediators can reference such guidelines to help parties find common ground on best practices moving forward (for instance, agreeing that a hospital will institute physician training on the AI tool that caused an incident). Lastly, **insurers** are adapting policies to address AI risks – some malpractice insurers now offer riders covering AI-related claims[26]. A mediator who is aware of insurance coverage nuances can better

facilitate settlements that take into account who ultimately pays (or whether coverage is contested due to an AI exclusion).

Healthcare and law are increasingly intertwined with AI. For example, a doctor and a legal professional may need to collaborate when an AI diagnostic error leads to a malpractice claim[12][25]. Mediators who understand both medical and AI issues can bridge communication gaps between clinicians, tech companies, and lawyers in resolving such disputes. (Image source: user)

In summary, AI is delivering innovations – from virtual hospitals to AI-guided surgery – but also introducing novel points of failure and accountability in healthcare. Mediators equipped with knowledge of both medicine and machine learning are well placed to help resolve the resulting conflicts, whether it's a patient injured by an algorithm, a hospital fighting with an AI vendor, or a regulator pushing a healthcare system to improve its AI oversight. The goal is to craft solutions that uphold patient safety and trust while acknowledging the realities of cutting-edge technology.

Family Law and AI

AI Technologies in Use: Unlike corporate settings, "clients" in family law are individuals, but they too are adopting or feeling the effects of AI. A growing number of people use **AI-powered tools for personal legal assistance** – for instance, a spouse in a divorce might turn to a generative AI chatbot for advice on property division or use an online platform that utilizes AI to draft a parenting plan. There are AI-driven divorce platforms (one brand bills itself as an "AI-powered digital divorce mediator"[27]) aiming to help couples settle issues through automated negotiation. Parents may use co-parenting apps that incorporate machine learning to optimize schedules or suggest resolutions to disputes about children. Additionally, AI touches family life via social media and communication: algorithms curate what children see online (leading to potential conflicts in parenting styles), and *deepfake* technology or AI-generated text can be misused in family conflicts. Sadly, we've seen **tech-facilitated abuse** in domestic relations – for example, an abusive ex-partner might use smart home AI devices or deepfake porn to harass or control, raising new issues for restraining orders.

New Disputes and Risks: One alarming trend is the rise of **AI-generated false evidence** in family cases. With modern AI, it's possible for someone to create a "deepfake" video or audio clip of their ex-spouse to influence a custody or divorce proceeding[28][29]. For example, a video could be fabricated to show a parent engaging in abusive behavior that never occurred, or an AI-generated audio might purport to capture a mother making threats. Likewise, AI can generate fake text messages or emails that mimic a person's writing style, complete with realistic metadata and threading[30]. These capabilities are **introducing serious authentication challenges** in family law[31][32]. Parties may dispute the authenticity of critical evidence, leading to side-litigation over what's real. This not only increases cost and conflict, but also poses a risk of miscarriages of justice if courts are deceived. Mediators in family cases might encounter situations where one side insists

damning evidence is fake – a mediator must handle such contentions delicately, perhaps pausing the mediation until an expert can verify the material, or building into a settlement that certain forensic analysis will be done.

Privacy is another concern: family disputes often involve sensitive information, and if AI tools (like a cloud-based AI legal assistant) are used, there's a risk of confidential data exposure. Families also face **disputes over AI's role in child-rearing**. For instance, parents might clash on whether to use an AI nanny camera or tracking app for their child – one parent sees it as prudent, the other as invasive. In eldercare decisions (which often involve family members, bridging into elder law), siblings might disagree about using AI monitoring for an aging parent's safety versus the parent's privacy and autonomy. Additionally, AI can impact support calculations and asset valuation: consider cryptocurrency or digital assets managed by AI – tracing those in divorce can be tricky, and smart contracts might automatically execute financial transfers (or mistakes) that lead to disagreements.

Opportunities for Mediators: Family mediators should **stay updated on technology trends** that affect domestic life, as these can become topics of negotiation. An awareness of deepfakes is now essential – a forward-thinking mediator might proactively establish ground rules with parties about exchanging digital evidence, or suggest involving a neutral digital forensic expert if authenticity is contested. By acknowledging the possibility of fabricated evidence, a mediator helps the honest party feel heard and puts the dishonest party on notice that trickery will be discovered, thereby steering the process back to good faith. On a more positive note, mediators can leverage AI tools themselves to assist couples – for example, using an AI scheduling tool during mediation to generate optimal parenting time calendars based on inputs like school schedules, or employing an online dispute resolution platform that uses algorithms to find compromise options. While AI won't replace the human touch needed in emotionally charged family matters[33], mediators who are **open to augmenting their process with technology** (and can explain its benefits and limits) will appeal to tech-savvy clients. They can advertise as being comfortable handling cases involving digital assets, crypto, and AI issues – distinguishing themselves in a traditionally low-tech field.

Moreover, mediators can educate parties about privacy and mutual agreements on tech use. For example, in a mediation between co-parents, the mediator might help them draft a clause about children's data – e.g. neither parent will consent to a child's biometric data being used in an AI system without consulting the other, or agreement on whether the child can use AI chatbots and under what supervision. This kind of **forward-looking agreement** can prevent future conflict, showing the mediator's worth as someone who helps families future-proof their arrangements in the AI age.

Notable Laws, Rules, Guidance: Courts and legislatures are beginning to respond to these issues. **Evidence law** is evolving: the Judicial Conference's evidence rules committee is considering amendments addressing authentication of AI-generated content[34]. We may soon have formal rules requiring a proponent of digital evidence to

prove it wasn't machine-generated or, conversely, giving a framework for opponents to challenge suspected deepfakes. Some states have enacted laws criminalizing certain deepfakes – for example, New Jersey passed a law in 2025 imposing penalties for creating or distributing deceptive AI content for harmful purposes[35]. While primarily aimed at things like non-consensual porn or election interference, such laws can apply in extreme family law scenarios (e.g. an estranged spouse making a deepfake to extort or defame the other could face criminal charges under these statutes[36]). Mediators should know if their state has any relevant statute, as that can be leverage in negotiation ("What you're accusing could be a crime under NJ law – perhaps we should focus on verifying the truth instead of escalating"). On the civil side, thus far there's limited case law on using AI in family decisions, but one can analogize from general principles: e.g., introducing an AI's output (like a parenting plan suggestion) in court would still be subject to hearsay or expert evidence rules. The **ethics of lawyers** using AI in family practice is a hot topic; bar associations have cautioned that confidentiality and competence must not be compromised by careless use of tools like ChatGPT for legal research or drafting. For mediators, confidentiality is paramount – if a mediator uses any AI translation or note-taking service, they must ensure it doesn't violate mediation confidentiality or party privacy. While no specific mediator ethical rule exists yet about AI, adhering to existing confidentiality rules covers much of it.

Finally, **the human element remains crucial**. Many experts emphasize that even as AI tools proliferate, family disputes benefit from empathy, cultural understanding, and emotional intelligence – qualities uniquely human[37]. Mediators should position themselves as embracing useful tech without losing the personal connection that parties need during highly personal conflicts[38][39]. By doing so, they can outperform any "AI mediator" by combining the best of both worlds.

Elder Law and AI

AI Technologies in Use: AI is increasingly part of elder care and senior services. **Smart home systems** with AI allow adult children to remotely monitor their elderly parents' well-being (e.g. sensors that detect falls or AI assistants that note if medication was taken). **Healthcare AI** specifically benefits seniors through fall-detection wearables, voice-activated assistants (like Alexa equipped with caregiving skills), and predictive health analytics that can alert doctors to early signs of trouble[40]. In financial services, banks are deploying AI to monitor senior accounts for unusual activity as a fraud prevention measure[41]. There are also **social and companion robots** using AI to provide interaction for older adults – for example, robotic pets or AI chat companions to alleviate loneliness[42]. Some elders or their families use AI tools for long-term care planning, such as algorithms that suggest "optimal" care facility placements or schedules based on health data[43]. Even in estate planning, AI-driven document drafting might be used to create wills or trusts (though usually with a lawyer's oversight).

New Disputes and Risks: A primary concern is **capacity and consent**. Many older clients have cognitive impairments. If an elder "agrees" to AI monitoring or signs an AI-

recommended estate plan, was that consent informed and valid[44]? Disputes may arise among family members: one child might argue mom never understood the AI contract she signed for a care robot, making it void, while another child insists it's beneficial. Such conflicts could lead to mediation in guardianship or power-of-attorney contexts, where mediators help families decide on tech use in the best interest of the elder. **Liability for accidents** is another issue. Suppose a care home uses an AI fall-detection system that fails to call an ambulance in time, or an elder is injured by a semi-autonomous wheelchair or robot – the lines blur between medical malpractice, premises liability, and product liability. An elder law mediator could see injury claims where a nursing home and a tech manufacturer each deny responsibility for an AI error, and a family seeks compensation.

Financial exploitation of seniors gets an AI twist too: while banks use AI to catch scams, scammers are also using AI. There have been instances of **deepfake voice scams** – criminals clone the voice of a grandchild, call an elderly person and convince them the grandchild is in trouble and needs money. If an elder is defrauded this way, family members might dispute whether a bank should have flagged the withdrawal or whether a caregiver was negligent in safeguarding the elder's assets. These scenarios might come up in mediations over financial abuse claims or adult protective services interventions. **Privacy vs safety** presents a fundamental tension. AI monitoring (cameras, sensors, tracking) can greatly improve safety and health response for elders, but some seniors feel it's an intrusion or even a form of elder abuse if imposed without consent. Families often disagree on this: one sibling might install a camera in Dad's living room to ensure he's okay, another sibling objects on privacy grounds – a mediator can help negotiate a plan (maybe limited monitoring hours or disclosure to Dad's physician only) that balances concerns.

Finally, there's a broader ethical dispute: **autonomy vs algorithmic decision-making**. If AI tools start recommending care decisions (e.g. an algorithm suggests it's time to move to a nursing facility), conflicts can arise between what the elder wants and what the "data" says. Guardians or agents may feel pressure from tech insights that contradict the elder's personal wishes, leading to moral and legal dilemmas suitable for mediation discussions (keeping the elder's voice central, as required by elder mediation best practices).

Opportunities for Mediators: Elder mediators who understand AI can position themselves as indispensable. They should be ready to facilitate conversations about **technology in care plans**. For example, a mediator could help a family draft an agreement on using a medication reminder AI: addressing who gets access to the data, and affirming that if the elder says "turn it off," that wish is respected. By knowing the capabilities and limits of these technologies, mediators can dispel misunderstandings – perhaps a son believes a $500/month AI service will solve all problems, but the mediator, having seen others use it, can help set realistic expectations and thus prevent future disappointment-fueled disputes. **Neutrals can also act as educator**: many older clients "shy away" from new tech, or conversely, might over-trust it without understanding risks[45][46]. A mediator can ensure that an elder's consent to any tech intervention is truly informed by facilitating explanation in plain language during the mediation (potentially asking, "Mom, do you

understand what information the fall detector will collect about you?"). This empowerment aligns with mediation's client-centered ethos.

Mediators versed in elder law will also understand guardianship and elder abuse frameworks. They might use that knowledge to guide discussions about whether a proposed AI usage could violate any rights or laws. For instance, if family members want to place a surveillance camera, the mediator might raise that some states have **"granny cam" laws** requiring consent of the resident – encouraging a solution that incorporates the elder's permission rather than secretly installing it. By being **sensitive to dignity and autonomy**, while also recognizing that AI can enhance safety, mediators can help craft balanced resolutions. Importantly, mediators can include provisions for **reviewing the plan**: technology and health conditions change, so a mediator might suggest the family reconvene in 6 months (perhaps with the same mediator) to evaluate how the AI tool is working or if adjustments are needed. This demonstrates a forward-thinking approach that clients will appreciate.

Notable Laws, Rules, Guidance: The legal landscape for AI in elder contexts is still taking shape. Privacy laws like **HIPAA** and state health privacy statutes certainly apply when health data is involved – an AI monitoring company contracting with a nursing home must follow HIPAA if it handles patient data, and a breach could trigger liability. There aren't yet elder-law-specific AI statutes, but **general consumer protection laws** protect seniors: the FTC has explicitly targeted AI scams under its authority to police unfair or deceptive practices, which helps indirectly protect elders from predatory AI products[47][48]. Some states have robust **financial elder abuse laws** that could apply if someone deploys AI to exploit an elder (for example, using an AI persona to befriend and defraud an older person online could fall under these laws). On the flip side, banks using AI for fraud detection on elder accounts must be careful – if their AI flags transactions and freezes accounts improperly, they might face negligence claims or regulatory scrutiny (banks have duties under laws like the Elder Justice Act to report suspected abuse, and AI is becoming part of how they fulfill that).

Ethically, those working with elders are guided by principles of **substituted judgment and best interests** when the elder lacks capacity. If an AI suggests a course of action, professionals (lawyers, caregivers) still must exercise judgment and not defer blindly to the machine. As one Pennsylvania Bar Institute commentary put it, practitioners must ask: "Are AI systems enhancing autonomy…or replacing it?"[49]. Mediators can use that as a touchstone, ensuring the elder's autonomy is front and center. Another relevant trend is the push for **digital inclusion** – making sure older adults are not left behind. Some advocacy groups and bar committees on aging are developing guidelines for introducing tech to seniors in a respectful, inclusive way. Knowing these can inform a mediator's approach (for instance, making sure any tech solution from mediation is user-friendly for the elder or comes with training).

In essence, mediators should keep an eye on evolving legal standards around consent, capacity, and liability as they relate to AI and elders. By doing so, they can help families

and care providers avoid potential legal pitfalls (e.g. suggesting they consult an attorney about adding a clause in a power-of-attorney document regarding AI decisions). The mediator's holistic perspective can thus promote solutions that are not only agreeable but legally sound and elder-centric.

Construction Law and AI

AI Technologies in Use: The construction industry is harnessing AI and related technologies in multiple phases of projects. **AI design tools** are assisting architects and engineers in generating building plans and running simulations (for example, AI that optimizes a building design for cost and energy efficiency). **Building Information Modeling (BIM)** platforms increasingly have AI components to detect design clashes or propose schedule optimizations[50][51]. On job sites, companies use AI-driven **project management software** that forecasts delays or cost overruns, and they employ **autonomous or semi-autonomous machinery** – like AI-guided bulldozers, drones that use computer vision to track progress, or wearables that monitor worker safety in real time[52][53]. Some workers might wear smart glasses with AI that can recognize if the correct parts are being installed or flag safety hazards[52]. AI is also used in procurement and contract management, analyzing bids or managing supply logistics by predicting what materials are needed when. Even contract drafting has AI help now (standard construction contracts could be reviewed by AI for inconsistencies). Additionally, "smart contracts" on blockchain are being piloted for construction payments – automatically releasing funds when certain milestones (verified by IoT sensors or AI analysis of site data) are reached[54].

New Disputes and Risks: Construction projects already generate many disputes, and AI introduces new twists. A major issue is **allocation of liability when AI is involved**. If an AI scheduling system provided bad information that led to delays, or an autonomous machine made an error in grading a site, who bears the responsibility? Traditionally, if a worker negligently did these tasks, the contractor could be liable for the mistake[55]. But now, if AI "directed" the work incorrectly, parties might argue over whether it's the contractor's fault for using the tool, the software developer's fault for a flawed algorithm, or even the project owner's fault if they mandated that AI be used[56][57]. These arguments can complicate litigation significantly. Mediators can help untangle this by focusing parties on practical risk-sharing solutions rather than finger-pointing that could drag in third-party tech companies. Moreover, contract documents may not have kept pace – many current construction contracts don't explicitly address AI errors. We may see **breach of contract claims** rooted in AI issues: e.g., an owner sues a contractor for defects, and the contractor third-parties in the AI vendor claiming the AI design tool was negligent. Or a contractor sues an owner claiming the owner-provided AI model was flawed.

Another risk area is **standard of care** in design. If architects use AI to produce designs, could they be held to a higher standard ("the AI should have caught that error")? Conversely, if they *don't* use AI and miss something an AI would likely have caught, is that

now a deviation from standard practice? The profession hasn't fully answered this, but as AI becomes common, expectations will shift[51]. Disputes could arise in professional liability contexts – mediators may hear an argument that "any competent engineer today would run an AI clash detection, you didn't, so you're liable for the coordination error." On the jobsite, **safety and labor disputes** can occur. AI monitoring might report a subcontractor's workers violating safety protocols, leading to termination of that subcontract – which the subcontractor might dispute as wrongful. Or if an accident happens, maybe a worker claims the contractor was negligent in not implementing available AI safety tech (similar to how some foresee liability if affordable AI safety measures are ignored[58]). This flips to the idea that failing to use AI could be seen as a breach of duty, just as in healthcare. On the flip side, if a contractor *does* use AI safety tech and an accident still happens, workers might claim the contractor gave a false sense of security or misused the tech.

Opportunities for Mediators: In construction disputes, mediators are often valued for industry knowledge – now tech knowledge is part of that. A mediator conversant in AI can quickly grasp issues that might otherwise require lengthy explanations or expert involvement. They can ask the right questions: Was the AI output based on incorrect training data? Did the contract allocate the risk of relying on AI (for instance, did the contractor disclaim liability for design issues because it used the owner's AI model)? By understanding these nuances, mediators can reality-check parties. For example, if a contractor argues "it's not my fault, it's the software," a mediator aware of standard contract clauses can point out that most software licenses limit liability[59] – meaning suing the software company might not be fruitful, so it's better for contractor and owner to work out a remedy between themselves. This kind of insight pushes parties toward settlement by clarifying their true risks.

Mediators can also propose forward-looking solutions: perhaps the dispute can be settled by a **fix and study** approach – the parties agree to jointly pay to remedy a construction defect (rather than fight over whose fault the AI was), and then collaborate to study what went wrong with the AI process to avoid it in the future. This could involve a neutral expert evaluating the AI's role. Such creative resolutions might appeal to companies that want to maintain relationships and improve processes rather than burn bridges in court. Additionally, mediators can encourage the inclusion of **ADR clauses for smart contracts and AI issues** in future projects (some ADR providers like JAMS have released specialized rules for AI and even smart contract disputes[60][61]). A mediator who knows about these can suggest them as part of a settlement package – e.g., the parties agree that if any further AI-related hiccups occur on the project, they'll use an expedited mediation/arbitration under those specialized rules, instead of stopping work. This shows the mediator's value as a problem-solving partner for the project's success.

Notable Laws, Rules, Guidance: The legal environment here involves both contract and tort law. Many construction contracts are now starting to include **"AI clauses" or disclaimers**, often inserted by forward-looking attorneys. For example, a design contract might state that if AI is used, the professional still retains responsibility to review its output

(trying to prevent a defense of "the computer did it, not me"). Or conversely, contractors might insert language that an owner-provided AI tool is used at owner's risk. Standard industry contracts (like those from AIA or EJCDC) have not fully standardized these yet, but commentary exists urging such provisions[54][59]. Mediators should be aware of any such clauses in the contract at issue, as they can heavily influence the outcome (or at least the bargaining power).

On the regulatory side, workplace safety regulations (OSHA) don't specifically address AI, but if AI equipment injures a worker, OSHA investigations will still apply the same standards (possibly citing the employer if it failed to train the human overseer of an AI machine, for instance). There's ongoing discussion at engineering societies about professional responsibility when using AI – some have issued guidelines that the human professional is ultimately accountable for AI outputs in design. In litigation, **e-discovery in construction cases** now may involve reviewing algorithmic decisions – a recent trend is parties requesting the **"source data" or training data of AI systems** used in the project during discovery[62]. If these requests are granted, it can open up vast and technical inquiries. Mediators should understand that agreeing to broad discovery of an AI's inner workings could be extremely costly; thus, pushing for a settlement avoids a deep dive that neither side may truly want.

One very novel development: the **AAA (American Arbitration Association) has piloted an AI-powered arbitrator** for simple construction disputes, particularly documents-only, to deliver quick decisions[63]. While this is arbitration, not mediation, it underscores how ADR is adapting. It also suggests that in smaller cases, parties might try AI-based online dispute resolution without a human. Mediators can differentiate by handling the complex, relationship-heavy cases that an AI arbitrator cannot. But mediators should also be prepared to work alongside such tools – e.g., maybe in a mediation, an AI could be used to instantly translate technical jargon or crunch a large project dataset to help the parties visualize scenarios. Knowing about AAA's innovation shows a mediator is on top of industry trends.

In conclusion, construction mediators will remain busy as AI generates *more* data and complexity in disputes[64]. By staying educated on how AI is used in construction and the legal implications, mediators can guide parties through complicated, high-stakes conflicts toward resolutions that a judge or jury might struggle to achieve in a reasonable time. Often these settlements will include not just money, but agreements on how to adjust the project or future operations to account for AI – aligning everyone's expectations and responsibilities moving forward, which is a win-win outcome litigation can rarely provide.

Intellectual Property (IP) Law and AI

AI Technologies in Use: In the intellectual property arena, AI is both a tool and a source of new creations, leading to fundamental questions about ownership. **Generative AI** systems (like those that create text, images, music, or code) are now widely used by individuals and companies to generate content. This means AI can "write" articles, compose songs,

produce paintings, or design inventions with minimal human input. Companies also use AI to **assist in R&D** – for example, AI algorithms help invent new drug compounds or optimize engineering designs, potentially yielding patentable inventions. AI is employed in content moderation and data mining as well, sometimes scraping the internet (which implicates others' IP). Even the IP legal practice uses AI for prior art searches and predictive analysis of litigation outcomes. Clients in creative industries may deploy AI to remix or create new works (e.g. a video game company using AI to generate game art), and those in tech fields might integrate AI components that learn and adapt, raising questions of who owns improvements the AI itself generates.

New Disputes and Risks: Perhaps the most high-profile IP disputes involving AI are **copyright battles over generative AI**. AI models like image generators and large language models are trained on massive datasets of copyrighted works. This has led to lawsuits by artists, authors, photographers, and media companies alleging that AI companies infringed their copyrights by using their works without permission to train AI, and that the AI's outputs are effectively unauthorized derivatives. For example, a class action on behalf of visual artists was filed against Stability AI (maker of Stable Diffusion) alleging it scraped billions of online images (many copyrighted) and now produces images that sometimes closely mimic protected artwork[65][66]. Similarly, major publishers and authors have sued OpenAI and Meta, claiming their books were ingested to train large language models in violation of copyright[67]. These cases, some consolidated into multi-district litigation, are pending and raise novel issues of fair use, the scope of reproduction in training, and even the applicability of the DMCA. **Mediators may play a key role** if these disputes head to settlement – a mediator who understands machine learning could facilitate a solution such as a licensing arrangement or the creation of an industry fund to compensate creators (options a court might not be able to impose). Indeed, because the law is untested, ADR may be attractive to both sides to avoid a risky precedent.

Another category is **IP ownership of AI-generated works and inventions**. U.S. law currently holds that only humans can be authors or inventors, not AI. The U.S. Copyright Office and courts have denied protection to purely AI-generated art and writings, and the U.S. Patent and Trademark Office (USPTO), backed by the Federal Circuit and even the Supreme Court's refusal to review, has ruled that an AI cannot be listed as an inventor on a patent[68][69]. For instance, Dr. Stephen Thaler's attempts to patent inventions supposedly created by his AI "DABUS" were rejected on the principle that inventorship requires a natural person[70][69]. These developments mean that companies using AI in innovation must structure their processes so a human can be deemed the inventor (or accept that some results won't be patentable). Disputes could still arise internally – imagine a scenario where an employee claims they deserve inventorship credit (and thus ownership or bonus) for guiding an AI that produced an invention, while the company asserts it was the machine's work and not a human "conception." Such conflicts over inventorship or authorship can be mediated by neutrals who understand both patent law and how AI contributes to inventive processes. The mediator might help parties agree on joint inventorship or a compensation scheme without deciding the philosophical question of AI's role in creation.

Trademark and right of publicity issues also emerge with AI. Deepfake technology can clone voices and likenesses – we've seen lawsuits by celebrities (or their estates) against AI firms for creating unauthorized digital replicas. For example, voice actors are concerned about AI models mimicking their voices without permission (a potential violation of their publicity rights). Brands worry about AI-generated content that features their trademarks inappropriately (e.g., someone using generative AI to create fake advertisements or products). These are new species of IP-related disputes where the legal theories range from trademark infringement/dilution to misappropriation. Mediators might be called upon in disputes where, say, a company claims an AI chatbot's responses are defaming or infringing their brand, and the AI operator tries to resolve it outside court to avoid bad press.

Trade secrets present another area: the data used to train AI or the algorithms themselves can be trade secrets. If a former employee takes a company's proprietary dataset to use in an AI startup, or if an AI model inadvertently **reveals** a trade secret (say, by reproducing a chunk of secret code it saw in training), disputes will follow. These might be litigated as trade secret misappropriation, and mediation could assist especially given the complexity and need for confidentiality (ADR can better protect secret information than a public trial). Indeed, one of the early generative AI lawsuits involves code generation tool Copilot, accused of exposing licensed open-source code without attribution – part copyright, part contract/license issue, part maybe trade secret.

Opportunities for Mediators: IP disputes, especially involving AI, are highly technical and often high stakes. A mediator with combined knowledge of IP law and AI technology can build credibility quickly. They can speak the language of both software engineers and IP attorneys, translating between them as needed. This is invaluable when, for example, discussing whether an AI output is "substantially similar" to a copyrighted work or whether an AI's operation can be considered transformative use – the mediator can help parties realistically assess these factors with the aid of experts. **Creative settlement structures** are where mediators can shine. In generative AI copyright cases, options like establishing royalty pools, future licensing frameworks, or usage monitoring might be on the table. These require crafting forward-looking agreements rather than just a damages number, which is well-suited to mediation.

For ownership disputes, mediators can help parties avoid zeros and ones (winner-take-all) outcomes by, say, agreeing to share credit or revenue. For example, if a researcher and a company tussle over an AI-developed patent, a mediator might help them agree that the researcher will be named as a co-inventor (satisfying their desire for credit) but assign the patent to the company with a royalty to the researcher – an outcome that courts could not reach if they strictly interpret the human inventor requirement one way or the other. Similarly, in content disputes, mediators could facilitate agreements where AI companies implement **opt-out or opt-in systems for creators' works** and maybe compensate past use with a settlement fund. These industry-wide solutions are being discussed in the creative community, and a mediator involved in a specific case could pilot an approach that sets a template.

Notable Laws, Rules, Guidance: We've touched on some: U.S. law (and most countries') currently **denies IP rights to AI-generated works absent human involvement** – mediators should know the *Thaler v. USPTO* outcome[70][69] and the Copyright Office's stance (as in the **"Zarya of the Dawn" graphic novel case, where only the human-authored text got copyright, not the AI images). These form a backdrop that influences leverage in disputes. For instance, if an AI artwork is used without license, the creator might struggle to claim copyright, but they could use** unfair competition** or contract theories – a mediator can help parties see the strengths and weaknesses of these paths.

No comprehensive legislation has passed yet in the U.S. specifically resolving AI IP issues, but the USCO and USPTO have been holding public consultations. The **EU**, in contrast, has been debating whether data mining by AI should be a copyright exception (the EU already allows some text-and-data mining with an opt-out for rights holders). Internationally, **WIPO** has convened conversations on AI and IP, signaling possible future treaty work or guidelines. Mediators dealing with multinational parties should be aware of the EU's more aggressive stance on protecting authors (for instance, the EU Copyright Directive's provisions might require AI outputs to carry metadata of source works if available – not yet reality, but ideas like that circulate). Also, IP mediators should note that specialized forums exist: **WIPO's Arbitration and Mediation Center** has adapted its rules to be suitable for tech disputes and even specifically markets its services for AI disputes[71]. Knowing about these can help a mediator suggest the right venue or approach if court litigation stalls.

Ethical guidance for IP lawyers using AI (e.g., be cautious using AI for drafting patent claims due to confidentiality and accuracy) indirectly affects mediators – if an agreement is drafted via AI, it must be carefully reviewed. Mediators might gently remind parties of such duties if they plan to use AI to generate settlement terms.

Overall, the IP field is perhaps the **most visibly disrupted** by AI right now, with headline-grabbing cases. Mediators who can navigate the legal uncertainties and the emotional component (creators feeling violated by AI; tech companies feeling existential risk from broad liability) will be crucial. They can help forge compromises that the slower-moving law may later catch up to, essentially becoming architects of the peace between innovation and creativity.

Commercial Litigation and AI

AI Technologies in Use: Beyond the specific domains above, AI is impacting general commercial operations in ways that lead to disputes. Businesses use AI for everything from **marketing and consumer analytics** (targeted ads, dynamic pricing algorithms) to **automated decision-making in services** (like loan approvals in finance, or insurance claim decisions). **Smart contracts** (self-executing agreements often using blockchain) are beginning to be adopted in supply chain and commercial transactions, sometimes with AI or IoT inputs triggering contract events. Companies deploy AI in **cybersecurity** (to detect breaches) and ironically, hackers use AI to find vulnerabilities or craft more convincing

phishing. In e-commerce, AI chatbots handle customer service – occasionally causing customer disputes if they give wrong info or act inappropriately. The finance industry's algorithmic trading systems can cause market events that spark litigation (for example, an AI trading bot causing a "flash crash" might lead investors to sue a brokerage for failures in controls). **Antitrust** is an area to watch: there's academic debate about whether independent AI pricing algorithms could implicitly collude (if so, companies might face antitrust investigations).

New Disputes and Risks: A key theme is that **AI errors or over-promises lead to contractual or tort disputes**. Consider a scenario: a software vendor sells an AI system to a retailer promising it will boost sales by 20% via better pricing strategies. If it fails or causes chaos (e.g., setting prices too high/low), the retailer may sue for breach of contract or misrepresentation. Indeed, misrepresentation and fraud claims are on the rise when AI is involved – so-called "AI washing" where companies overhype products as AI-powered and superior[72]. In 2024, there was a spike in securities class actions alleging that companies misled investors about their AI capabilities or results[73]. Such litigation (sometimes against fintech or Big Tech companies) often ends in settlement; mediators handling them need to grasp both securities law and the reality of the AI tech that underperformed.

Another major risk is **algorithmic bias in consumer services**, which can bring regulatory action. For example, if a bank's AI lending tool discriminates against minority borrowers (a violation of **Equal Credit Opportunity Act** or Fair Housing Act), the bank could face class actions and enforcement by CFPB/DOJ[20][21]. These cases blend civil rights and consumer protection – mediators might be involved in negotiating settlements that include not just monetary relief, but changes in the AI model or lending practices (similar to how past lending discrimination cases required banks to change policies). The FTC has signaled aggressive oversight of AI in the marketplace, stating that long-standing laws against deception and unfairness apply to AI just as much as anything else[74][75]. In 2024 the FTC launched **"Operation AI Comply,"** a coordinated enforcement effort targeting false or harmful AI products[76]. For example, the FTC took action against firms using AI chatbots in misleading ways or selling biased hiring algorithms[47][77]. Mediators may find themselves dealing with regulators in the room: some settlements might be three-way among a company, the harmed consumers, and the government. The FTC (and DOJ) often require consent orders – a mediator could facilitate a global resolution covering private lawsuits and regulatory penalties together.

Data privacy is a huge issue in commercial use of AI. Companies that use AI on consumer data risk breaching privacy laws (CCPA/CPRA in California, BIPA in Illinois for biometrics, etc.). Illinois' BIPA has already led to suits against AI systems like facial recognition databases (Clearview AI famously was sued for scraping images and settled with an agreement to restrict certain sales) and voice analysis tools. If a company's AI violates privacy (say, analyzing faces without consent), mediators could be instrumental in class action settlements that establish funds and new privacy measures. There's also **cybersecurity liability**: if AI guards miss a breach or, worse, an AI is hijacked (imagine an

AI customer support bot manipulated to give out users' personal data), companies might face negligence claims.

Opportunities for Mediators: The breadth of "commercial" AI disputes means mediators with strong general commercial litigation experience can apply their skills, with some tech upskilling. One concrete opportunity is **multidistrict litigation (MDL) resolution** – many AI-related cases (like the various copyright class actions, or biometric privacy class actions) get consolidated. These often end in mediation with a seasoned neutral. Being knowledgeable about AI can position a mediator to be chosen for these high-profile MDLs to craft industry-wide settlements.

Mediators can also help companies craft **ADR frameworks in their contracts involving AI**. For instance, a SaaS agreement for an AI service might include a requirement to mediate before litigating, or special procedures if an AI error causes a dispute (perhaps quick-fire arbitration with technical experts). If mediators market themselves as experts in resolving AI tech disputes, companies might even consult them in drafting these clauses or pre-positioning to handle any that arise.

Another advantage mediators can bring is managing **public relations concerns**. AI disputes often carry reputational risk – e.g., a company doesn't want to be seen as racist because its algorithm was biased, or a software maker doesn't want it known that its "AI" was actually half human. In mediation, these issues can be addressed candidly and creative solutions found (like a joint statement or an agreement on an AI ethics audit, appeasing public concern). The confidentiality of mediation is a big draw here[78]. A mediator who appreciates the PR dimension can better facilitate a resolution that satisfies not just the legal claims but the parties' desire to preserve public trust.

Notable Laws, Rules, Guidance: Many have been mentioned earlier under specific contexts. Broadly, **consumer protection laws (FTC Act)** are being actively used – the FTC has published business guidance like "Keep your AI claims in check" warning against exaggeration or obscurity in AI product marketing[79][80]. The FTC has also indicated that companies will be held responsible for foreseeable misuse or risks of their AI – "it's a black box" is not an excuse[81]. Mediators should understand the implications: a company can be liable if it should have known its AI could cause harm and didn't prevent it[81]. This can drive settlement decisions.

State laws like BIPA (Illinois) provide statutory damages for biometric AI violations, fueling a lot of class actions. Other states (Texas, Washington) have their own biometric laws, and new state privacy laws (in California, Virginia, Colorado, etc.) include automated decision-making provisions that will kick in with rulemaking. For example, California's CPRA will eventually give consumers rights regarding automated decision-making transparency. This could lead to disputes or at least duties to disclose AI logic, which in turn might provide evidence in lawsuits (or fodder for mediation as parties negotiate how much transparency is appropriate).

Antitrust law is adapting too: the DOJ and international competition authorities are studying AI collusion. While no major case has been filed as of 2025, companies are wary. If one does arise (say, retailers accused of price-fixing via the same AI pricing software), it might be suitable for mediation to avoid massive fines, especially across jurisdictions.

ADR institutions are gearing up: AAA and JAMS have not only promulgated specialized **AI dispute rules**[60] but also smart contract rules. These provide mediators and arbitrators with tools tailored to tech issues (like ways to protect trade secrets in AI disputes[82][83], or to appoint neutrals with technical expertise). A mediator who is aware of these can either operate under those rules or incorporate similar techniques informally (for instance, agreeing on protocols to shield proprietary algorithms during mediation so parties can be frank without fear of exposure).

In sum, "commercial" AI disputes cover everything not caught by the other categories – making it a vast and evolving field. **The common thread is that AI can fail or cause harm in ways businesses didn't fully anticipate, and legal responsibility often isn't clearly defined in statutes or contracts yet.** That uncertainty, coupled with high stakes, makes mediation an attractive path in many cases[84][85]. By staying on top of legal developments and fostering an adaptable, informed approach, mediators can help parties find clarity and resolution amid the technological fog.

International Trends and Relevance for Neutrals

AI is a global phenomenon, and several international legal trends are shaping the dispute landscape in ways mediators should note:

- **Comprehensive AI Regulation in the EU:** The European Union is finalizing its **AI Act**, a sweeping regulation that will categorize AI systems by risk (unacceptable, high, limited, minimal) and impose requirements on higher-risk systems (e.g. those used in employment, credit, legal decisions, etc.). Once in force, companies globally may have to adjust their AI practices to meet EU standards if they operate in Europe. This can impact disputes elsewhere – for example, if an AI system is banned or heavily regulated in Europe (such as real-time biometric identification in public), that could bolster negligence claims in the U.S. arguing the tech is unsafe. Additionally, the EU is working on an **AI Liability Directive** to ease victims' ability to sue for AI harms by, among other things, potentially presuming fault in certain cases. While U.S. law hasn't gone that route, U.S. companies with international reach might prefer to settle disputes to avoid setting precedent that leads to EU fines or liability. **Mediators dealing with cross-border parties should be aware of these developments** and even use them as reality-testing: "If you don't address this issue now, note that in Europe you might face even stricter consequences[86]." Knowing international norms can guide more future-proof solutions in a mediation agreement.

- **Global Convergence on AI Ethics and Governance:** Bodies like the **OECD** and **UNESCO** have issued AI ethics guidelines, emphasizing principles like

transparency, accountability, and human oversight. Many countries, from Canada to Singapore, are adopting national AI strategies reflecting these principles. While these aren't laws, they influence what's considered reasonable or best practice. For mediators, this means that when fashioning solutions, pointing to widely accepted principles can be persuasive. For instance, suggesting that a company implement an AI ethics review or an algorithmic audit as part of settlement aligns with global trends and can give both sides confidence that the resolution is grounded in emerging international standards.

- **Data Localization and Cross-Border Data Disputes:** Internationally, there's movement towards stricter data control (Europe's GDPR, newer laws in Brazil, India, etc.). AI often relies on large datasets, which may be transferred across borders. Disputes can arise if data needed for a case (like training data for an AI) is stored abroad or if transferring it for discovery violates privacy laws. Mediators may need to tackle conflicts where one party says, "I can't give you that data because of GDPR." A mediator who is knowledgeable in these data protection regimes can help find solutions (maybe using anonymized or synthetic data as a proxy – an increasingly popular idea, even mentioned as "synthetic data" initiatives in healthcare). International arbitrations involving AI might also come to mediation especially if enforceability or differences in legal standards (US vs EU approach) threaten the outcome.

- **Notable International Case Law:** Other countries have been grappling with AI in courts too. For example, the UK Supreme Court recently ruled against AI inventorship in patents (mirroring the US stance)[87]. China issued regulations on deepfakes requiring clear consent and labeling, and its 2023 rules on generative AI mandate security reviews and content controls. These disparate international laws mean a multi-national company could be compliant in one place and violating law in another. Neutrals in international disputes (or domestic disputes involving a foreign party or law) need to juggle these. For example, a mediator might help a Japanese and American company settle an AI licensing dispute by crafting terms that ensure compliance with both Japanese law and U.S. export controls on AI technology.

- **ADR Institutions and Cross-Border AI Disputes:** Institutions like **WIPO** (for IP) and the **Singapore International Mediation Centre (SIMC)** are gearing up for AI cases. WIPO has indicated its mediation and arbitration rules are well-suited for AI/IP disputes and is promoting them[71]. The **AI Arbitration Tribunal of the Digital Arbitration Institute** (a hypothetical example) or other new specialized forums may emerge. International commercial contracts are starting to include arbitration clauses that specify arbitrators with AI expertise. Therefore, mediators who want to be involved internationally should cultivate a reputation in those circles and possibly get on panels for these institutions. The advantage for parties in cross-border AI disputes to mediate or arbitrate is huge: avoiding picking a national court with possibly underdeveloped AI jurisprudence and instead choosing expert

neutrals. We may even see **online dispute resolution (ODR)** platforms that use AI themselves to help resolve lower-value international disputes (for example, e-commerce disputes on platforms that connect buyers/sellers across countries). While ODR may handle simpler issues, mediators might be called upon for the more complex ones that the AI ODR flags as needing human intervention.

In conclusion, mediators should recognize that AI-related disputes might not respect borders. Being informed about major international legal trends – like Europe's regulatory push, global ethical norms, and cross-jurisdictional challenges – enables a mediator to remain a neutral that all sides trust in a transnational dispute. It helps in crafting settlements that are durable globally, not just under one country's laws. In the rapidly changing AI context, a mediator's continual learning and adaptation (much like an AI retraining on new data!) is key to success. By understanding how AI is transforming clients' industries worldwide and anticipating the conflicts that result, mediators can truly position themselves as **trusted, forward-thinking neutrals** in this brave new world of technology and law.

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