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# Generative AI – Emerging Innovative Legal use Cases and the Global Regulatory Response

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# Why Talk about Generative AI?

Generative AI has transformative potential, with significant opportunities for those who leverage it effectively

“ “  
The development of AI is as fundamental as the creation of the microprocessor, the personal computer, the Internet, and the mobile phone

Bill Gates

” ”

“ “  
AI is one of the most important things humanity is working on. It is more profound than, I dunno, electricity or fire.

Sundar Pichai (CEO of Alphabet)

” ”

## Generative AI at K&L Gates

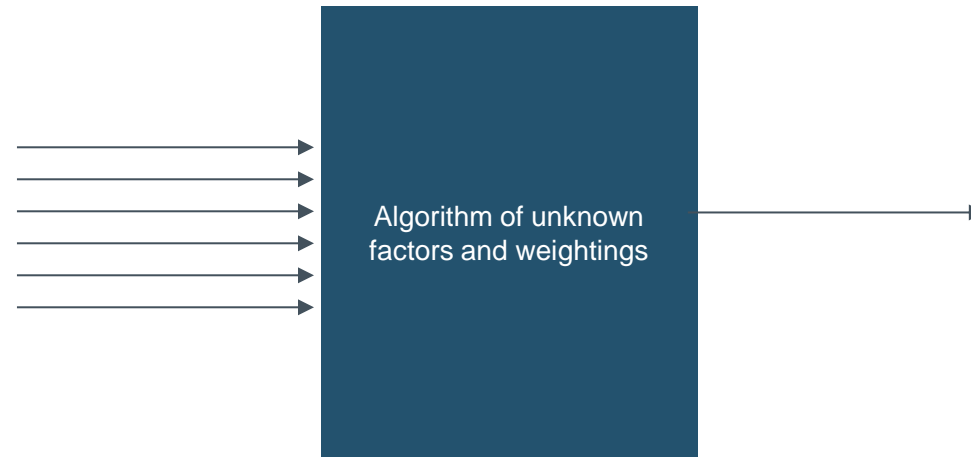
- Global approach
- Piloting various technologies and deploying them for clients
- Guardrails, training and supervision are key



# Introduction to Generative AI

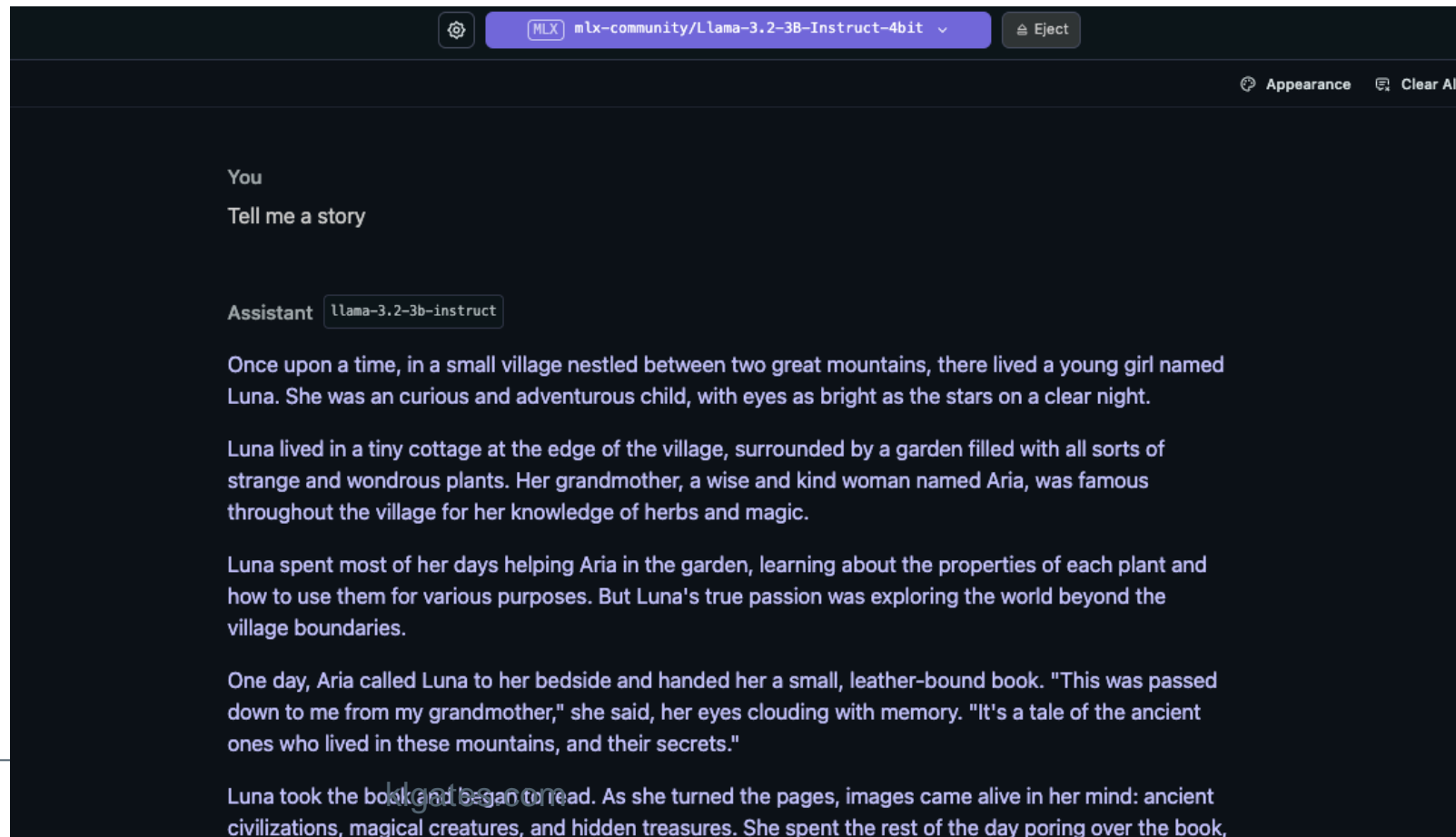
# What is Generative AI?

**Machine learning** uses a very different approach to traditional expert systems



# What is Generative AI? Cont.

Generative AI makes use of a **large language model** to create new content





# Strengths and Weaknesses of First-generation Tools

Strengths	Weaknesses
<i>Guessing the next word</i>	<i>Understanding</i>
Generating plausible text	Providing sources
Engaging in believable chat	Assessing confidence
Continuing a dialogue	Hallucinating
<i>Consuming unstructured data</i>	<i>Processing structured data</i>



# Current Developments in AI



# The Journey so Far

New tools are being developed to solve many of these challenges

- Retrieval Augmented Generation / Document context:
  - Custom GPTs
  - CoPilot Studio
- Special purpose AI tools:
  - CoCounsel / Lexis+ / Harvey
  - Westlaw Precision AI / Lexis+
- Evolution of general purpose tools:
  - OpenAI's Deep Research

Reasoning models:

- Moving away from prediction of the next plausible word
- Moving towards something more like human reasoning
- Trained to apply logical steps and explain them

## The Journey so Far Cont.

Assume laws of physics on Earth. A small strawberry is put into a normal cup and the cup is placed upside down on a table. Someone then takes the cup and puts it inside the microwave. Where is the strawberry now? Explain your reasoning step by step



Assuming the cup was placed upside down on the table and then picked up and placed inside the microwave, the strawberry would likely still be inside the cup. When the cup was lifted, the strawberry would have remained within the confines of the cup due to gravity and the enclosed space. Thus, when the cup was placed in the microwave, the strawberry would be inside the cup, which is now inside the microwave.

# The Journey so Far Cont.

Assume laws of physics on Earth. A small strawberry is put into a normal cup and the cup is placed upside down on a table. Someone then takes the cup and puts it inside the microwave. Where is the strawberry now? Explain your reasoning step by step



Reasoned for 36 seconds >

When you flip a cup upside down on a table, anything that isn't fixed to it (or too big to pass through its opening) will simply fall out under gravity. In this scenario, a small strawberry placed inside a "normal" cup would not be held in by any sealing effect—it would drop out onto the table once the cup is inverted. Then, when someone later picks up the cup and puts it into the microwave, the strawberry is already left behind on the table.

GPT o3

# Generative AI Arms Race

DeepSeek

Alibaba

Baidu

ByteDance

OpenAI

Microsoft

Anthropic

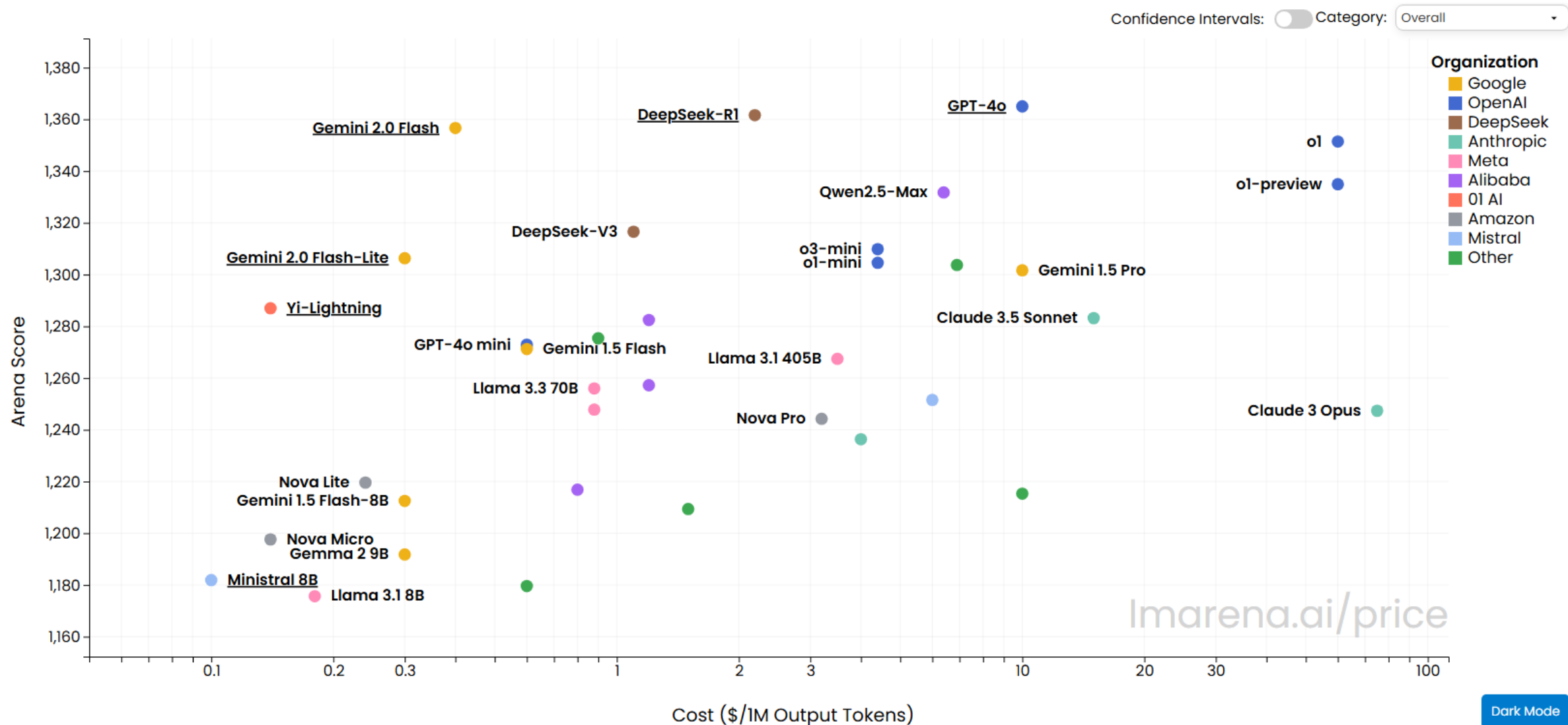
Google

Meta

Hugging Face

Nvidia

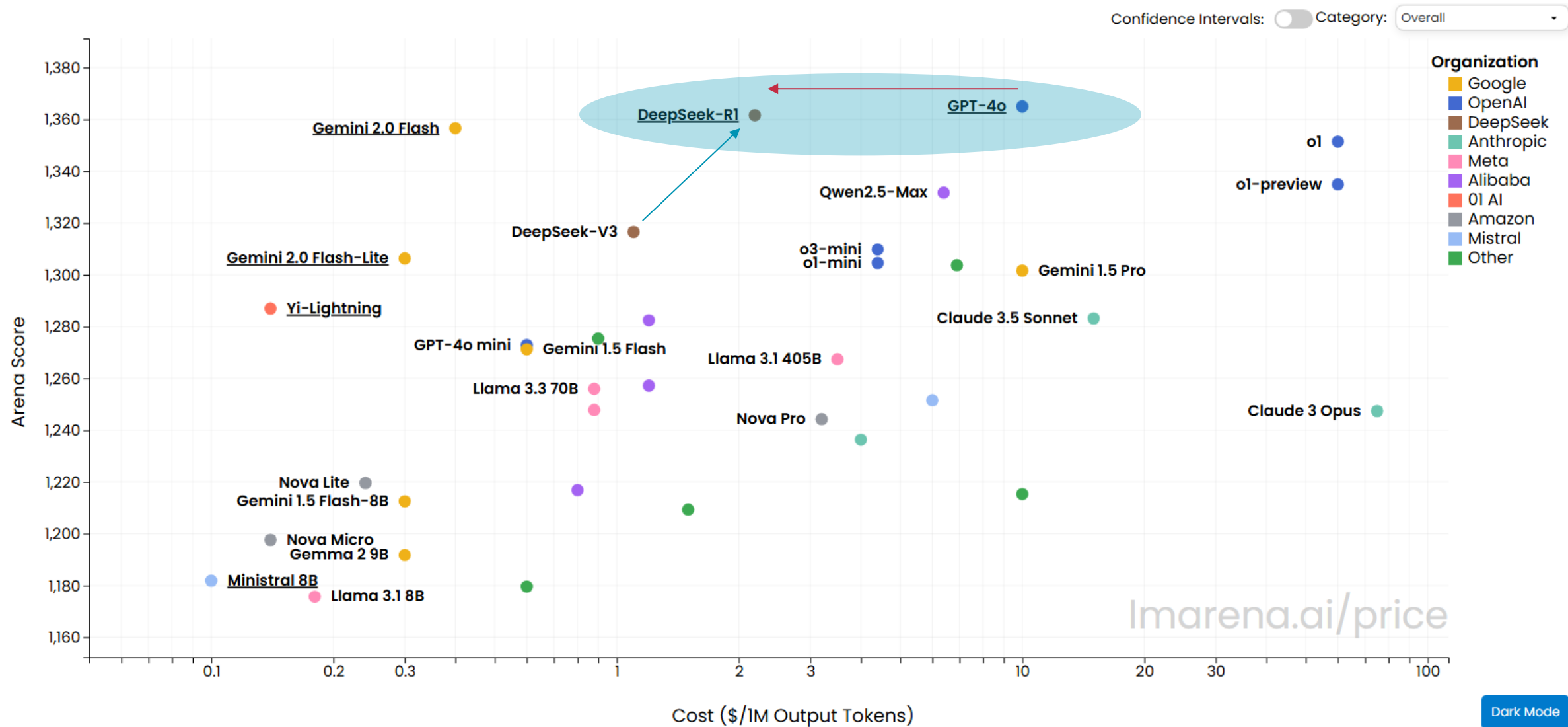
Twitter / X



Chatbot Arena: An Open Platform for Evaluating LLMs by Human Preference

Wei-Lin Chiang and Lianmin Zheng and Ying Sheng and Anastasios Nikolas Angelopoulos and Tianle Li and Dacheng Li and Hao Zhang and Banghua Zhu and Michael Jordan and Joseph E. Gonzalez and Ion Stoica





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# Legal use Cases

# Legal use Cases

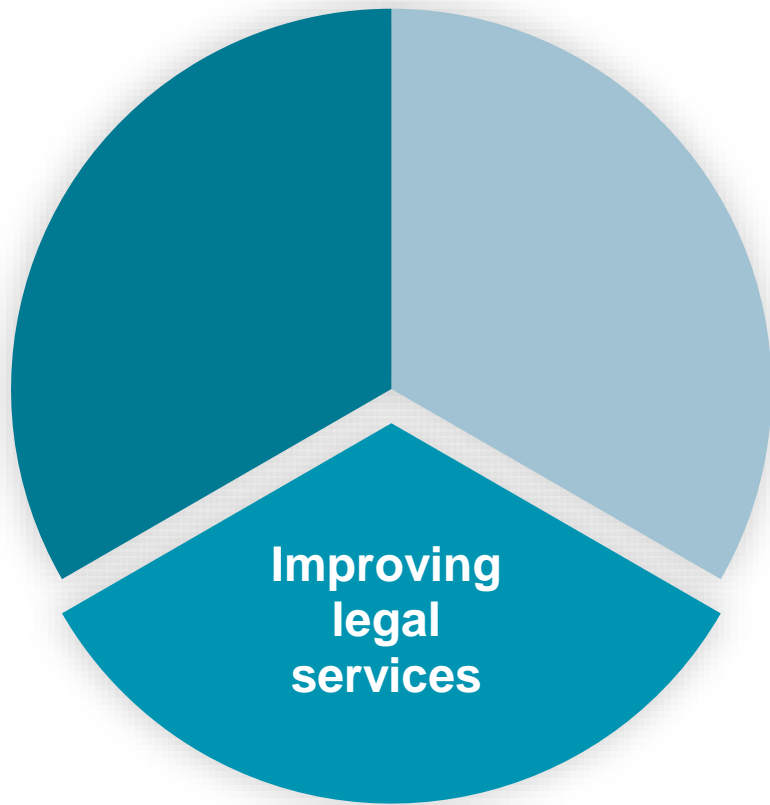


## Legal use Cases Cont.



- Writing emails
- Summarising emails and chat
- Meeting transcripts
- Extracting action items / tasks
- Microsoft CoPilot
- ChatGPT
- Google Gemini
- Claude
- Apple Intelligence

## Legal use Cases Cont.



- Legal research
- Preparing research memos
- Reviewing contracts
- M&A due diligence
- Drafting agreements
- Preparing chronologies
- Analysing transcripts
- Interrogating historical files
- CoCounsel / HarveyAI / Spellbook
- Westlaw Precision / Lexis+
- ChatGPT / Custom GPTs / GPT APIs / CoPilot Studio



# Legal use Cases Cont.

Assistant

llama-3.2-3b-instruct

✓ Retrieved 3 relevant citations for user query

✓ Done predicting

According to the consultation paper, ASIC is considering developing additional examples for INFO 225 on "wrapped tokens and 'stablecoins' that may be financial products." They are seeking feedback on the practical implications for businesses.

Specifically, they propose to include examples of how "wrapped tokens and 'stablecoins' that are financial products" should be regulated, but they also leave the door open for feedback on this issue.

In other words, ASIC is still considering its approach to regulating stablecoins, and they want to hear from stakeholders before finalizing their position.

It's also worth noting that the consultation paper mentions the Government's proposed payment service licensing and DAF/DAP reforms, which may have a material impact on how stablecoins are regulated. However, ASIC is seeking feedback on any practical implications and transitional issues that may arise from these particular digital assets.

42.71 tok/sec • 169 tokens • 4.40s to first token • Stop: eosFound

Citation 1

Citation 2

Citation 3

↺

→

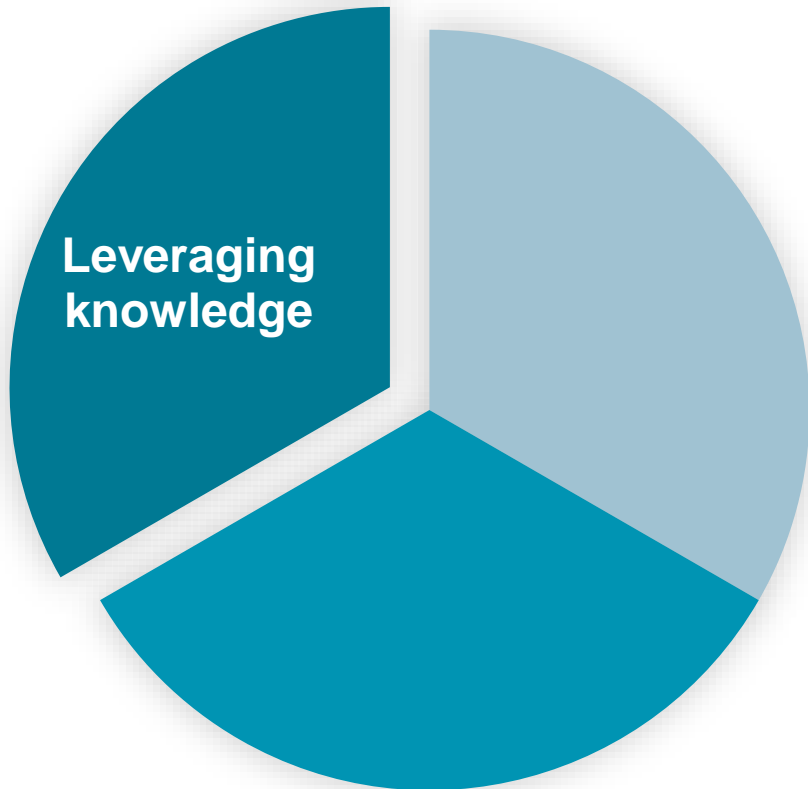
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## Legal use Cases Cont.



- Create and implement playbook
  - Based on legal requirements, internal policy, house positions, acceptable fallbacks and previous contracts
  - Review new contracts against playbook
- Generative drafting based on internal precedents
- Self-service chatbot based on prior advices
- Negotiate based on market standard positions
- APIs to public models
- Locally hosted models
- Custom trained models
- Combining multiple tools
- Existing datasets and knowledge base

# Legal use Cases Cont.

Answer the following questions based on the documents I provided. If I try to sell a house to someone, but I don't really own it, will the purchaser be entitled to the house? Or will it still belong to the person who owned it originally?

## Who Owns the House If You Sell Without Ownership?

If you try to sell a house you don't own, whether the purchaser gets the house or it stays with the original owner depends on whether the **Torrens system of title** applies and whether fraud is involved.


### General Rule: Nemo Dat Quod Non Habet

Under general property law, the principle of **nemo dat quod non habet** applies, meaning "you cannot give what you do not have." This means that if you don't own the house, you cannot transfer legal ownership to a buyer. The original owner would retain ownership (**Prop Summary, p.26**) .

### Torrens System and Indefeasibility of Title

In Australia, most land is registered under the **Torrens system**, which provides **indefeasibility of title**. This means that once a purchaser is **registered as the new owner**, they generally hold **absolute ownership**, even if the sale was made by someone who did not rightfully own the property (**Prop Summary, p.33**) .

*"RP shall, except in the case of fraud, hold absolutely free from all other encumbrances whatsoever (s.42)."*

This means that if the buyer is an **innocent party**  **the transaction is registered**, they are usually protected, even if the seller had no right to sell the property.



# Regulatory Response

# Regulating Generative AI

## Australia (Automated decision making)

- New APPs 1.7 to 1.9
- If the entity has arranged for a computer program to make, or do a thing that is substantially and directly related to making, a decision using personal information, that could reasonably be expected to significantly affect an individual's rights/interests
- Its privacy policy must set out the kinds of information used in such programs, the kinds of decisions, and whether they are made solely, or substantially, by such computer program
- 24-month transition period



# Regulating Generative AI Cont.

## Australia (General)

- Federal Government's Safe and responsible AI in Australia:
  - Focus on AI's role in automated decision making and the need for transparency for impacted consumers
- Interim Response:
  - "Existing laws likely do not adequately prevent AI-facilitated harms before they occur, and more work is needed to ensure there is an adequate response to harms after they occur."
  - Government to consider mandatory safeguards for "high risk" settings.
  - Work with industry on voluntary safety standards
- Existing general laws (consumer protection, privacy, copyright)

# Regulating Generative AI Cont.

## Australia (Lawyers)

### New South Wales

- Use permitted for written submissions and summaries of argument, subject to verification and disclosure
- Prohibition on entering material into genAI
- Prohibition on genAI use for evidentiary material and expert reports
- Prohibition on use by judges, commissioners and registrars

### Victoria

- Permitted use by litigants, subject to professional obligations, verification and disclosure
- Use encouraged for large scale document review

### Queensland

- Use encouraged by non-lawyer litigants
- No guidance released on use by lawyers

### Western Australia South Australia

- Use permitted subject to professional obligations, risk management and disclosure requirements

### Tasmania ACT Northern Territory

- No regulations released

# Regulating Generative AI Cont.

## Australia (industry specific)

- ASIC - Joe Longo, ASIC Chair (21 May 2024):  
We are reviewing the use of AI and advanced data analytics in a sample of entities in banking, credit, insurance and financial advice, and **testing how licensees are identifying and mitigating potential consumer harms**
- APRA – Therese McCarthy Hockey, APRA Member (22 May 2024):  
APRA broadly supports our regulated entities beginning to test how they can incorporate AI into their practices. We would caution, however, that **not all banks, insurers and superannuation trustees are equally capable of doing so**. Having monitored developments in this area over several years, our advice now is **that entities with robust technology platforms and a strong track record of risk management are good candidates to experiment with AI and should feel confident proceeding**

# Regulating Generative AI Cont.

## Around the Globe

- United States:
  - Federal Government consultations
  - Other regulators (eg CFTC, SEC, USPTO, EEOC, State based agencies)
- United Kingdom:
  - Existing protections in UK GDPR
  - Exploration of specific AI regulatory response:
    - AI Regulation white paper
    - Blechley Declaration

# Regulating Generative AI Cont.

## Around the Globe

- European Union
  - Existing protections in GDPR
  - AI Act
- Asia
  - Differing approaches being taken across the region



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