

Federal Court



Cour fédérale

**NOTICE TO THE PARTIES AND THE PROFESSION**  
**The Use of Artificial Intelligence in Court Proceedings**  
**December 20, 2023**

The Court expects parties to proceedings before the Court to inform it, and each other, if they have used artificial intelligence to create or generate new content in preparing a document filed with the Court. If any such content has been included in a document submitted to the Court by or on behalf of a party or a third-party participant (“intervener”), the first paragraph of the text in that document must disclose that AI has been used to create or generate that content.

This Notice requires counsel, parties, and interveners in legal proceedings at the Federal Court to make a Declaration for AI-generated content (the “Declaration”), and to consider certain principles (the “Principles”) when using AI to prepare documentation filed with the Court. The Court offers below an explanation of why the Declaration and Principles are in the interests of justice, the specific type of AI to which this Notice applies, and how the Court will update its approach to the use of AI at the Court in the future.

**1. Declaration for AI-Generated Content**

This Notice applies to all documents that are (i) submitted to the Court, and (ii) prepared for the purpose of litigation. For greater certainty, this Notice does not apply to Certified Tribunal Records submitted by tribunals or other third party decision-makers.

The Court recognizes that AI may offer substantial benefits in the preparation of documents. However, the Court also has obligations to maintain the integrity of judicial proceedings, safeguard public confidence in the justice system, and uphold the rule of law.

To ensure that the Court understands how AI has been used, any document prepared for the purpose of litigation, and submitted to the Court by or on behalf of a party or intervener that contains content created or generated by AI, must include the Declaration.

The Declaration shall be made in the first paragraph of the document in question, for instance, the first paragraph of a Memorandum of Fact and Law or Written Representations. An example of the Declaration follows:

Declaration

Artificial intelligence (AI) was used to generate content in this document.

## Déclaration

L'intelligence artificielle (IA) a été utilisée pour générer au moins une partie du contenu de ce document.

### **2. Principles on the Use of AI**

The Court recognizes that emerging technologies often bring both opportunities and challenges. Significant concerns have recently been raised regarding the use of AI in Court proceedings, including in relation to “deepfakes,” the potential fabrication of legal authorities through AI, and the use of generative decision-making tools by government officials. It is incumbent on the Court and its principal stakeholders to take steps to address such concerns.

Further, the Court understands that there are both ethical and access to justice issues regarding a lawyer’s use of AI when their client may not be familiar with AI and its various applications. Before using AI in a proceeding, the Court encourages counsel to consider providing traditional, human services to clients if there is reason to believe a client may not be familiar with, or may not wish to use, AI.

The following principles are intended to guide the use of AI in documents submitted to the Court:

**Caution:** The Court urges caution when using legal references or analysis created or generated by AI, in documents submitted to the Court. When referring to jurisprudence, statutes, policies, or commentaries in documents submitted to the Court, it is crucial to use only well-recognized and reliable sources. These include official court websites, commonly referenced commercial publishers, or trusted public services such as CanLII.

**"Human in the loop":** To ensure accuracy and trustworthiness, it is essential to check documents and material generated by AI. The Court urges verification of any AI-created content in these documents. This kind of verification aligns with the standards generally required within the legal profession.

### **3. Explanation of this Notice**

Through consultations with the stakeholders, the Court has developed its Declaration and Principles concerning certain uses of AI, including large language models (“LLMs”).<sup>1</sup> The Court will update this guidance periodically as the Court’s understanding of AI evolves.

The Declaration requirement only applies to certain forms of AI, defined as a computer system capable of generating new content and independently creating or generating information or documents, usually based on prompts or information provided to the system. This Notice does not apply to AI that lacks the creative ability to generate new content. For example, this Notice does not apply to AI that only follows pre-set instructions, including programs such as system automation, voice recognition, or document editing. It bears underscoring that this Notice only applies to content that was created or generated by AI.

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<sup>1</sup> The term “large language model” refers to a type of AI capable of processing and generating human-like text based on vast amounts of training data.

The Court recognizes that counsel have duties as Officers of the Court. However, these duties do not extend to individuals representing themselves. It would be unfair to place AI-related responsibilities only on these self-represented individuals, and allow counsel to rely on their duties. Therefore, the Court provides this Notice to ensure fair treatment of all represented and self-represented parties and interveners.

The Court recognizes both the risks and benefits of AI, including “hallucinations”<sup>2</sup> and the potential for bias in AI programs, their underlying algorithms, and data sets. The Court recognizes that counsel, parties, interveners and the administrative bodies whose decisions they may challenge may increasingly rely on — or be impacted by — AI.

This guidance has benefited from feedback received from various stakeholders. The Court is committed to full transparency and continuing consultations with members of the Bar and other stakeholders on the development of future iterations of this guidance and related policies.

For its part, the Court will not use AI, and more specifically automated decision-making tools, to make its decisions or render its judgments, without first engaging in public consultation. For more information, please consult the [\*Interim Principles and Guidelines on the Court’s Use of Artificial Intelligence\*](#).

Paul S. Crampton  
Chief Justice

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<sup>2</sup> “Hallucination” is a term used to refer to facts, citations, and other content generated by an AI that are not true, and have been fabricated by an AI in response to a prompt or request.