

Podcast

We Get AI for Work: AI Deployment and Development

By Eric J. Felsberg & Joseph J. Lazzarotti

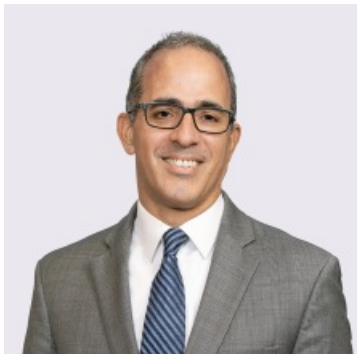
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Despite a burgeoning use of AI in the workplace, organizations have barely scratched the surface of how efficiency and productivity may be enhanced by employing advancing technologies. However, an unchecked use of AI tools in the workplace can raise serious concerns for employers about ensuring the accuracy, reliability, and defensibility of AI deployment and development.



Transcript

INTRO

Despite a burgeoning use of AI in the workplace, organizations have barely scratched the surface of how efficiency and productivity may be enhanced by employing advancing technologies. However, an unchecked use of AI tools in the workplace can raise serious concerns for employers about ensuring the accuracy, reliability, and defensibility of AI deployment and development.

On this episode of our AI podcast series, We get AI for work, we surface and scrutinize AI risk factors recently reported in Fortune 500 businesses' SEC filings and their application beyond the Fortune 500—and how to enter this new business frontier safely through proper policies and education and emerge ahead of the game.

Today's hosts are Eric Felsberg, principal in Jackson Lewis's Long Island office, and Joe Lazzarotti, principal in the firm's Tampa office, also co-leaders of the firm's AI Service Group.

Eric and Joe, as AI continues to revolutionize the workplace by boosting productivity, fostering innovation, and providing valuable insights through data analysis, the question on everyone's mind today is: What are the potential risks of integrating such advanced technologies, and how does that impact my organization?

CONTENT

Eric J. Felsberg

Principal and Artificial Intelligence Co-Leader

Welcome to Episode Three of our new podcast dedicated to the issue of AI in the workplace. My name is Eric Felsberg and I'm joined by my partner, Joe Lazzarotti. How's it going, Joe?

Joseph J. Lazzarotti

Principal and Privacy, Data and Cybersecurity Co-Leader

It's all good, Eric. Good to see you.

Felsberg

So, Joe, we've all heard about the positive impact AI will have on workplace productivity and efficiency. It seems like every day we hear about a new technology that promises to streamline our work. As a result, there's a lot of excitement and anticipation about how our work will evolve.

But a lot of us have this nagging concern — I know I do and I think you're the same — about the risks associated with the use of AI. Indeed, many are concerned about the unbridled use of AI tools in the workplace and how they may raise issues, including, but definitely not limited to, accuracy, reliability, explainability and bias. Many in the industry, and that includes regulators, are focusing on identifying these issues and constructing methods for controlling these risks.

Lazzarotti

That's right, Eric. We recently posted on a trend; *CIO Drive* reported that there was an analysis done of Fortune 500 businesses and their identification of AI as a potential risk factor in their SEC files. It's been really a pretty interesting development, and certainly a sign of the times as businesses are trying to manage this balancing act of risk and reward when it comes to AI deployment and development.

While it's certainly important, at least for our purposes, to identify risk associated with AI use for our listeners, rest assured, we're also going to be covering during this podcast series strategies for employers to help mitigate risk while also leveraging the benefits of the AI tools that they're considering. With that in mind, we're always thinking, what's an employer to do? How do we best serve our clients? And certainly, again, risk management is key, as illustrated by these SEC filings.

But of course, it's not only for the Fortune 500, right? And just as an aside, to put some perspective on this, there was an interesting data point that was noted in the Arise AI, which is the organization actually dove into these SEC filings. And that data point says that when they look back at, I think in 2012, there was a similar surge in SEC filing, citing a particular business risk, something you all may have heard of, cyber risk, right? And in that year, there was several large data breaches, some during that year dubbed it the year of the data breach. Maybe you might say so much for that more than 10 years later, given all the breaches we've had since. But in any event, as Arise AI noted, it was a jump in cyber risk disclosures of

about 86 percent between 2010 – 12. Contrast that with the jump that Eric and I are talking about here, the jump in AI risk reported in SEC filings between 2022 – 24 was 473 percent. Quite a difference there.

So, putting some structure around the use of AI in any organization, increased governance over that process is really critical from what we're seeing and what we're talking to clients about. And again, not only for the Fortune 500. It of course does require some thought, some investment of time.

The considerations around governance can be lengthy depending on what you're looking to accomplish. For example, some of the things that we're seeing and encountering is who in the organization is going to lead the effort? Is it one person, is it a group from what areas of expertise? What level of institutional knowledge do we want that person to have? I'm finding that some organizations are realizing that they need more input from persons other than IT and may be forming committees. I don't know, Eric, are you seeing that kind of thinking around this issue of governance?

Felsberg

Absolutely. The considerations that we're discussing now very well may require more than just IT professionals, right? Think about stakeholders from HR, legal, compliance and others. They may all need to play a role depending on how the particular organization is leveraging the AI technology.

Lazarotti

Go past that. When you think about, “Okay, who's going to govern it?” You say, as many folks in human resources are used to doing, “What if we engage a third party to help?”

Then you say, what questions do we ask them? What issues do we cover in the agreement? We've collaborated on several vendor agreements dealing with these issues on a whole range of areas of those agreements, notably how do we deal with liability? Can we shift some of that liability?

It's worth noting that in the ARISE report, there were four main categories of risk that Fortune 500 companies identified. How will AI affect that? Competitive environment, some general harms, bias, reputational risk, ethical claims, maybe civil rights issues. Regulatory risk is always a concern, and also data security. All of these can come into play when dealing with vendors. So regulatory risk and data security can be pretty significant there.

Other issues in terms of governance: Organizations also want to know “How do we measure success?” You embark on this mission say, got to use AI somehow, right? So how do we know if we're being successful with it? Who's authorized to use it? Are they using AI tools? Are they using generative AI? Under what circumstances? How do we train the tool? How do we train employees to use the tools or applications that the company decides to deploy? Have we addressed privacy and security relating to confidential and business information?

So here [last question in particular], in addition to vendors, companies /

employers need to be thinking about their own systems, access management to platforms that use these technologies, record retention, data minimization, there's a host of issues here. What kind of record keeping policies? I know that some state regulations have been toying with how to maintain — and for how — long record keeping around AI applications. Have we appropriately considered ethical issues around the deployment? How should we approach notice and transparency and safety? Some of the common themes we see around thinkers who are talking about AI technologies.

From a notice and transparency perspective, Eric, just thinking about a lot of the work we've been doing in the New York City law, that whole rollout, including publication of bias audits and so on, what are you seeing? I don't know if you're seeing what I am in regard to harmonizing that law with others that are now popping up and some that have popped up in terms of those issues?

Felsberg

I agree. I think it's challenging for employers to try to manage what is becoming a rapidly developing patchwork of laws around the country. And, you know, these laws are developing almost as quickly as the AI technologies themselves are developing.

As far as the New York City AI law is concerned, for at least a period of time and maybe a little bit even now, that was one of the more advanced AI laws in the country. So, there was this feeling that, “if I feel that I'm in compliance with New York City, that may put me in good stead with other laws around the country.” But as these things start to develop — again, rapidly — at the pace they're currently developing, it's going to be really challenging for employers to come up with a universally compliant framework for implementation of AI platforms.

Just to keep in mind, these are just a few of the considerations that we're talking about. Employers also must think about how they're going to tailor these considerations consistent with the use case. So how are they using AI? What is the context in which they're using it? And how do we tailor those considerations? The considerations, for example, associated with the use of AI in a marketing campaign. We could see how that would differ very much from those associated with permitting employees to use AI note takers, for example. Employers must think through all these considerations, Joe, that you're discussing, the use cases, and think about whether they should be addressed in a policy.

For our listeners, rest assured, we will be covering AI policies in a future episode. So please stay tuned for that.

Lazarotti

That's exactly right, Eric. Really dealing with use cases, knowing what you want to do, I think is critical. I think that's kind of a good place to stop here for this episode. We'll definitely be addressing and continuing this discussion going forward.

Again, as we mentioned at the announcement of this series: If you'd like to hear about a particular topic or if you'd like to participate in an episode, we'd love to

have you. We'd love to hear what you're interested in. So please email us at ai@jacksonlewis.com.

Thanks for listening.

OUTRO

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