# Aeton Law Partners

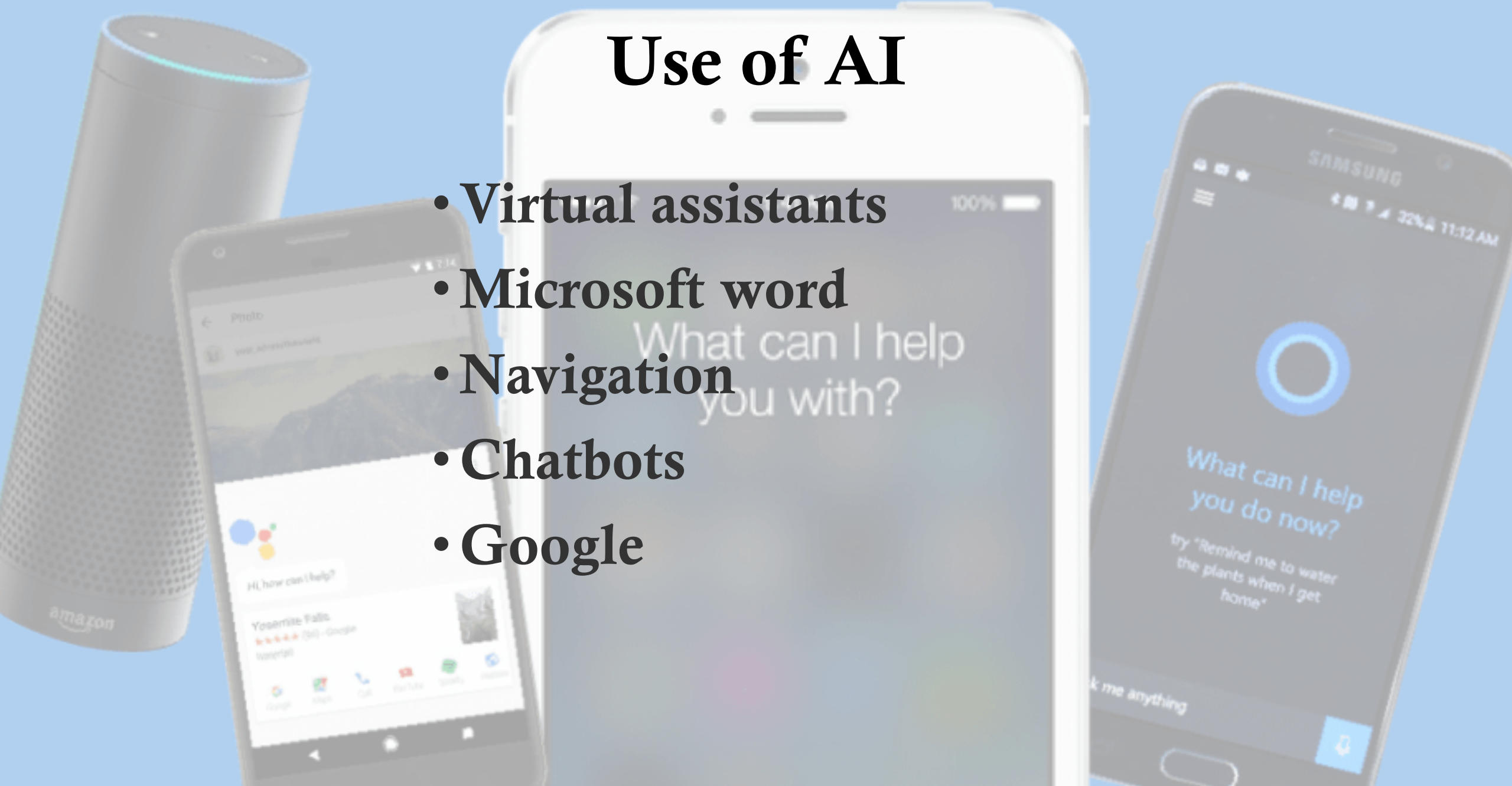
## *Artificial Intelligence: Legal and Business Implications*

# What is Artificial Intelligence?

- AI refers to the development of computer systems or machines that have the ability to perform tasks that typically require human intelligence.
- Congress defined AI as “a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations or decisions influencing real or virtual environments.”
- Statements about whether something was AI "may not be capable of being proven true or false based on how one defines 'artificial intelligence'" In re Rule 45 Subpoenas Issued to Google LLC & LinkedIn Corp., 337 F.R.D. 639 (N.D. Cal. 2020)

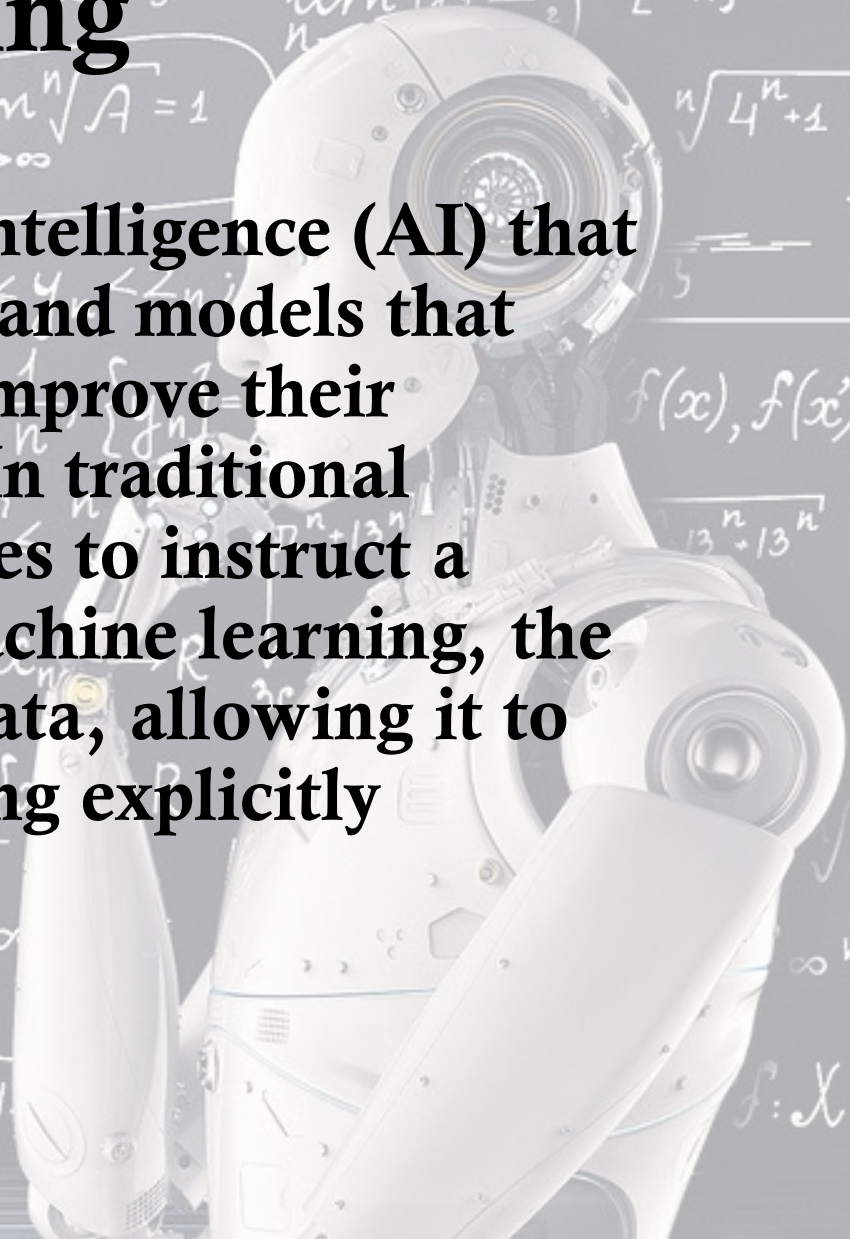
# Use of AI

- Virtual assistants
- Microsoft word
- Navigation
- Chatbots
- Google



# Machine Learning

- Machine learning is a subset of artificial intelligence (AI) that focuses on the development of algorithms and models that enable computers to learn from data and improve their performance on a specific task over time. In traditional programming, humans explicitly write rules to instruct a computer on how to perform a task. In machine learning, the computer learns patterns and rules from data, allowing it to make predictions or decisions without being explicitly programmed for every scenario.

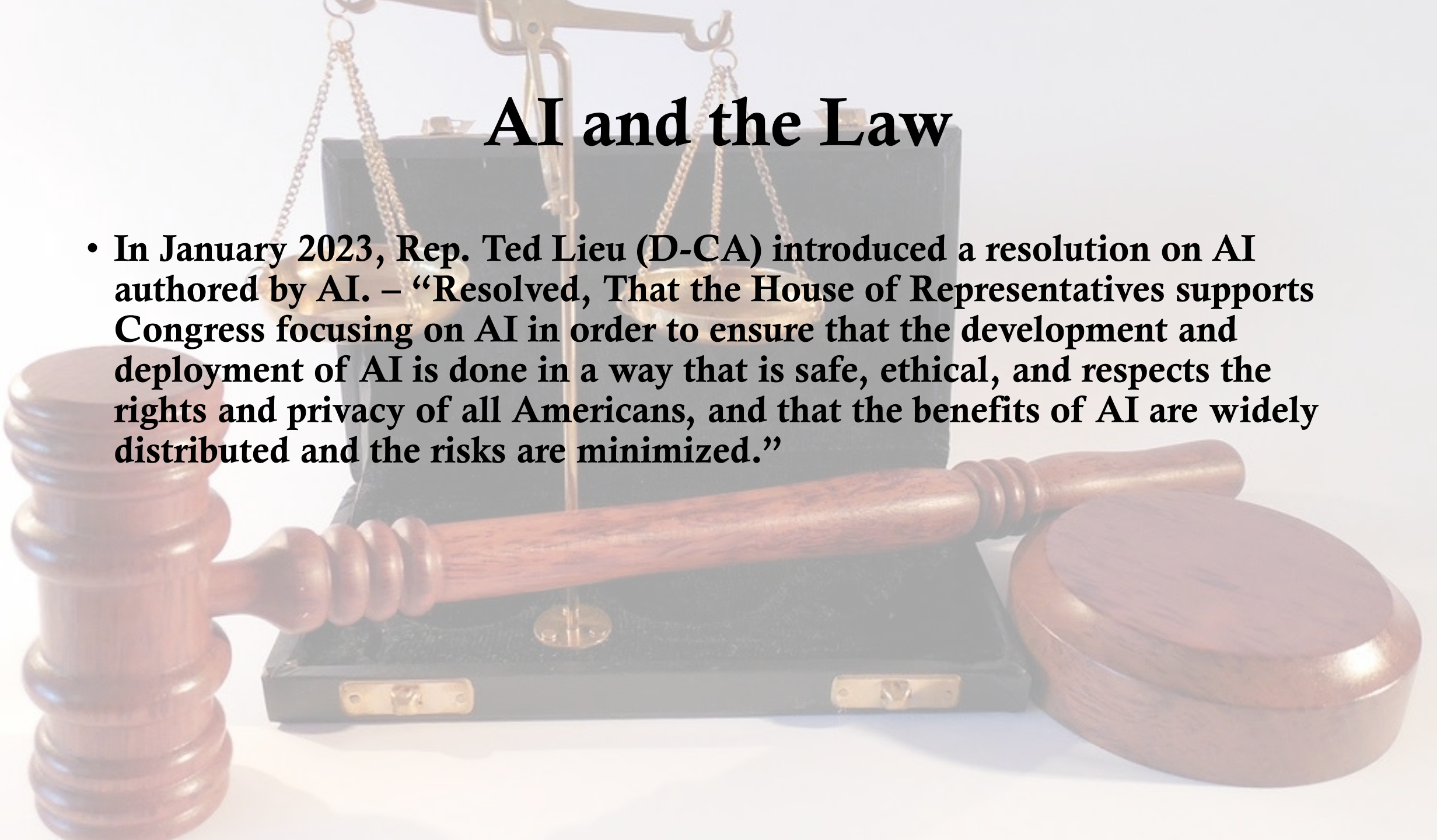


# Generative AI

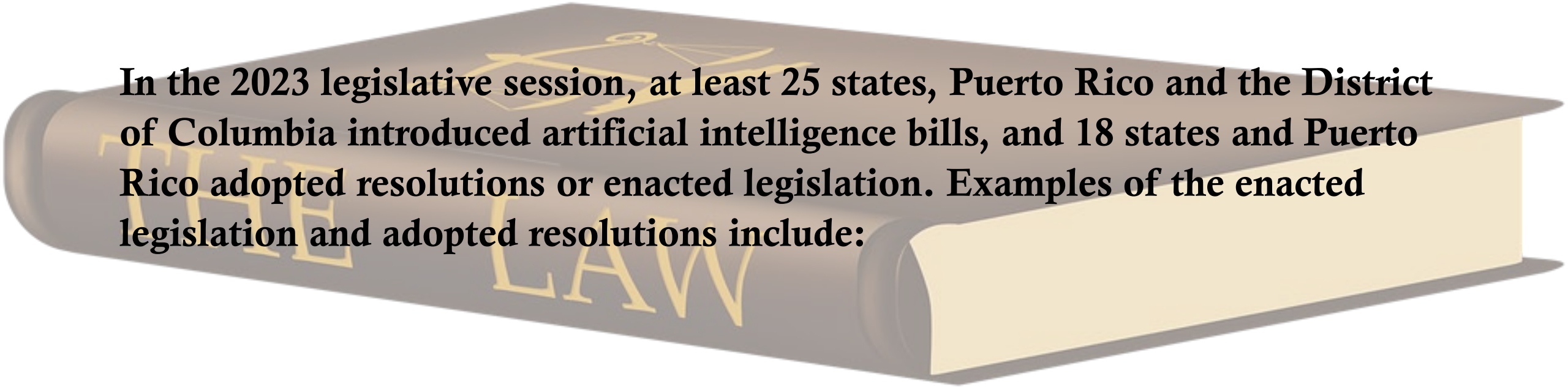
- Subset of AI
- Generative AI is a subset of AI that specifically involves machines creating new content, such as images, text, or other creative outputs, often without explicit human programming for each output.
- Generative AI uses advanced techniques, including neural networks and deep learning, to generate content autonomously. It has the ability to create something original, making it distinct from traditional AI systems
- ChatGPT is a generative model, meaning it is capable of generating text based on the input it receives. It can produce coherent and contextually relevant responses in a conversational style.

# AI and the Law

- **In January 2023, Rep. Ted Lieu (D-CA) introduced a resolution on AI authored by AI. – "Resolved, That the House of Representatives supports Congress focusing on AI in order to ensure that the development and deployment of AI is done in a way that is safe, ethical, and respects the rights and privacy of all Americans, and that the benefits of AI are widely distributed and the risks are minimized."**



# AI and the Law




**In the 2023 legislative session, at least 25 states, Puerto Rico and the District of Columbia introduced artificial intelligence bills, and 18 states and Puerto Rico adopted resolutions or enacted legislation. Examples of the enacted legislation and adopted resolutions include:**

# AI and the Law

- Connecticut required the state Department of Administrative Services to conduct an inventory of all systems that employ artificial intelligence and are in use by any state agency and, beginning Feb. 1, 2024, perform ongoing assessments of systems that employ AI and are in use by state agencies to ensure that no such system shall result in unlawful discrimination or disparate impact. Further, the legislation requires the Office of Policy and Management to establish policies and procedures concerning the development, procurement, implementation, utilization and ongoing assessment of systems that employ AI and are in use by state agencies.

- Louisiana adopted a resolution requesting the Joint Committee on Technology and Cybersecurity to study the impact of artificial intelligence in operations, procurement and policy.

# AI and the Law

- Maryland established the Industry 4.0 Technology Grant Program to assist certain small and medium-sized manufacturing enterprises with implementing new "industry 4.0" technology or related infrastructure. The definition of industry 4.0 includes AI.
- North Dakota enacted legislation defining a person as an individual, organization, government, political subdivision, or government agency or instrumentality, and specifying that the term does not include environmental elements, artificial intelligence, an animal or an inanimate object.
- Texas created an AI advisory council to study and monitor artificial intelligence systems developed, employed or procured by state agencies, with North Dakota, Puerto Rico and West Virginia also creating similar councils.

# AI and the Law: 2024 Election

- Numerous states will consider legislation in 2024 that would restrict the use of artificial intelligence in political campaigns.
- Five states—California, Texas, Michigan, Washington, and Minnesota—already have such laws in place.
- Pending bills will effectively ban AI-made deepfakes by requiring disclosures when the technology is used to make images, video, or audio of candidates.
- Impact on approximately half of the US electorate.

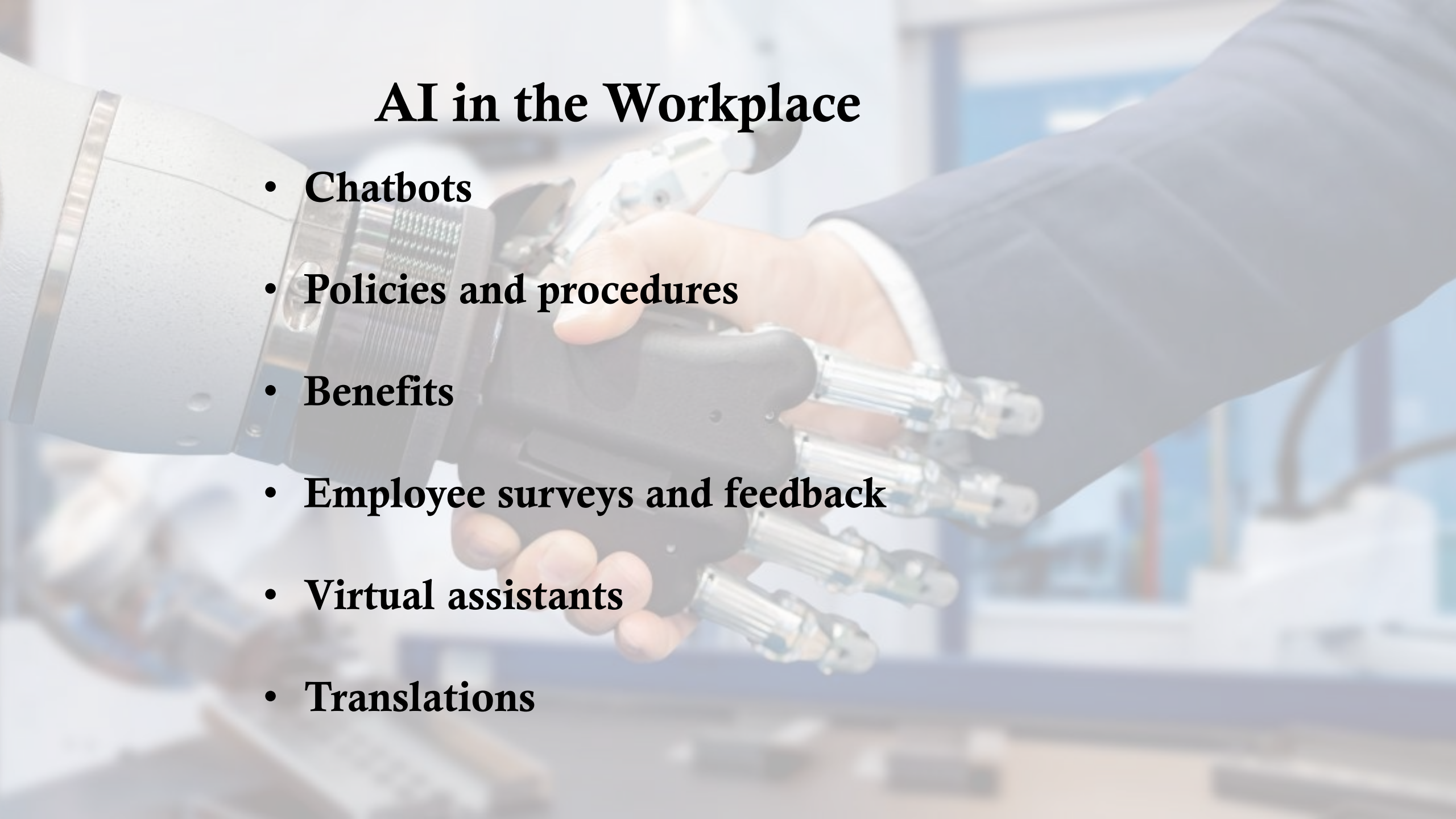
# AI and the Courts

**U.S. District Judge Brantley Starr of the Northern District of Texas requires attorneys to file a certificate to indicate either that no portion of any document they filed was generated by an AI tool like ChatGPT, or that a human being has checked any AI-generated text.**

**The US Court of Appeals for the Fifth Circuit proposed a similar rule**

# College Admissions

- University of Michigan Law School admissions department banned the use of Chatbots and AI tools.
- Candidates must certify they did not use any AI tools to draft applications.



# AI in the Workplace

- Chatbots
- Policies and procedures
- Benefits
- Employee surveys and feedback
- Virtual assistants
- Translations

# Risks of AI in the Workplace

- Discrimination
- Intellectual Property Ownership
- Copyright Infringement

# Privacy Considerations

- Protection of Data and potential breaches
- Understand how data is being gathered and used. What is AI collecting and how is it assimilating and using data at an organizational level and at a personal level?
- Disclosure to employees and customers

# Best Practices

- Become familiar with what AI is generally and AI use within the company
- Determine what uses of AI are appropriate for your workplace and, equally as important, what uses are not appropriate.
- Ensuring that AI is not used in a way that could adversely impact any group based on protected characteristics.
- Develop and implement a policy for employees governing the use of AI in the workplace. The policy should specify which AI tools are permitted to be used and what information is permitted to be submitted to such AI tools. Consider offering training to employees on appropriate uses of AI to ensure a clear understanding across your workforce.
- If applicable, develop and implement a similar policy for how vendors and/or independent contractors may use AI in the work they perform for your organization. Additionally, consider whether your vendor agreements need to be updated to control whether and how vendors are permitted to use your data in AI applications.
- Understand how data is being gathered and used. What is AI collecting and how is it assimilating and using data at an organizational level and at a personal level?