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Research

# Generative AI & Disruption

## Emerging Legal and Ethical Challenges

May 2023

Poem on Nishith Desai Associates



A firm of renown,  
Nishith Desai Associates,  
Advising on law,  
Both national and international,  
Their team, expert and astute,  
Guiding Clients with utmost repute.

In M&A and private equity

Their counsel is sound and true

In tax and regulatory

With a team of



## A Poem on Nishith Desai Associates — by ChatGPT

January 22, 2023



<https://chat.openai.com/chat>



Poem on Nishith Desai Associates \_



A firm of renown,  
Nishith Desai Associates,  
Advising on law,  
Both national and international,  
Their team, expert and astute,  
Guiding Clients with utmost repute.

In M&A and private equity,  
Their counsel is sought with great frequency,  
In tax and regulation,  
Their advise is top of the nation,

In intellectual property,  
Their expertise is unparalleled surely,  
In litigation and arbitration,  
Their success rate is commendable and true.

With offices in multiple cities,  
They serve clients with great ease,  
Nishith Desai Associates,  
A name to remember with great please.

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*January 22, 2023. ChatGPT was asked to compose a poem on Nishith Desai Associates.  
In a split second, it presented us with this delightful response.*

Research

# Generative AI & Disruption

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## Emerging Legal and Ethical Challenges

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Ranked as the 'Most Innovative Indian Law Firm' in the prestigious FT Innovative Lawyers Asia Pacific Awards for multiple years. Also ranked amongst the 'Most Innovative Asia Pacific Law Firm' in these elite Financial Times Innovation rankings.



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# Introduction

As a result of the fast-paced advancement in technology, Artificial Intelligence (“AI”) has emerged as a powerful tool for content creation in the last few decades. AI is essentially the method of making machines mimic human intelligence, and Generative AI (“GAI”) is its branch that uses machine learning technology for the generation of new content.<sup>1</sup>

GAI uses unsupervised learning algorithms to create new audio, visual, and textual media based on user prompts.<sup>2</sup> One of the key advantages of GAI is its autonomous functioning, which allows it to process large quantities of data quickly and efficiently, enabling faster content creation.<sup>3</sup> GAI has tremendous potential in a variety of applications, such as video game design,<sup>4</sup> marketing campaigns,<sup>5</sup> and the generation of software codes.<sup>6</sup> With its ability to generate novel content from user prompts, GAI has become an attractive option for businesses seeking to produce unique and engaging content.

Unlike other AI models that primarily classify, analyze, or act on existing data, GAI goes beyond and creates new content every time it is prompted.<sup>7</sup> This makes GAI a valuable tool for content creators, as it can provide them with an endless stream of fresh ideas and material. Additionally, with the increase in computing power and the development of more efficient deep learning networks, GAI models can now generate novel content in every new trial even from the same prompts.<sup>8</sup>

Open AI, a leading AI research and deployment company, has played a prominent role in this sphere. In 2021, it captured media attention with its text-to-image converter, Dall-E.<sup>9</sup> Dall-E can understand complicated and contextualized prompts, producing accurate and realistic images and art. In late 2022, Open AI once again dazzled the world with its latest offering, the Chat Generative Pre-Trained Transformer (“ChatGPT”).<sup>10</sup>

Similarly, Google’s Bard is an AI chatbot that utilizes the Language Model for Dialogue Applications (LaMDA) technology. It is capable of engaging in human-like conversations and providing contextual responses using natural language processing and machine learning.<sup>11</sup> Although it was announced in February 2023, Bard is not yet available to the public.<sup>12</sup>

In this paper, we have systematically analyzed the types of content generated through GAI, its use cases and benefits along with the key legal concerns this technology brings with its advancement. We have also discussed the way forward to accommodate GAI keeping in mind the legal and ethical considerations attached with it.

1 See: <https://www.mckinsey.com/featured-insights/mckinsey-explainers/what-is-generative-ai>, last visited on April 3, 2023.

2 See: <https://www.leewayhertz.com/generative-ai-use-cases-and-applications/>, last visited on April 3, 2023.

3 See: <https://www.thedigitalspeaker.com/what-is-generative-ai-how-disrupt-society/>, last visited on April 3, 2023.

4 See: <https://www.reuters.com/technology/unity-aims-open-generative-ai-marketplace-video-game-developers-2023-03-22/>, last visited on April 3, 2023.

5 See: <https://www.cxotoday.com/press-release/contlo-launches-worlds-first-brand-contextual-generative-ai-model/>, last visited on April 3, 2023.

6 See: <https://www.marktechpost.com/2023/03/02/top-generative-ai-tools-in-code-generation-coding-2023/>, last visited on April 3, 2023.

7 See: <https://arxiv.org/pdf/2301.04655.pdf>, last visited on March 29, 2023.

8 See: <https://arxiv.org/pdf/2301.04655.pdf>, last visited on March 29, 2023.

9 See: <https://openai.com/product/dall-e-2>, last visited on April 3, 2023.

10 See: <https://openai.com/blog/chatgpt>, last visited on April 3, 2023.

11 See: <https://bard.google.com/>, last visited on April 7, 2023.

12 On March 21, 2023, Google opened up its Bard waitlist, granting access to limited users in UK and US on a rolling basis.

To access the complete paper, please reach out to us at [artificialintelligence.nda@nishithdesai.com](mailto:artificialintelligence.nda@nishithdesai.com), and our team will share a copy with you.





## About NDA

At Nishith Desai Associates, we have earned the reputation of being Asia's most Innovative Law Firm — and the go-to specialists for companies around the world, looking to conduct businesses in India and for Indian companies considering business expansion abroad. In fact, we have conceptualized and created a state-of-the-art Blue Sky Thinking and Research Campus, Imaginarium Aligunjan, an international institution dedicated to designing a premeditated future with an embedded strategic foresight capability.

We are a research and strategy driven international firm with offices in Mumbai, Palo Alto (Silicon Valley), Bangalore, Singapore, New Delhi, Munich, and New York. Our team comprises of specialists who provide strategic advice on legal, regulatory, and tax related matters in an integrated manner basis key insights carefully culled from the allied industries.

As an active participant in shaping India's regulatory environment, we at NDA, have the expertise and more importantly — the VISION — to navigate its complexities. Our ongoing endeavors in conducting and facilitating original research in emerging areas of law has helped us develop unparalleled proficiency to anticipate legal obstacles, mitigate potential risks and identify new opportunities for our clients on a global scale. Simply put, for conglomerates looking to conduct business in the subcontinent, NDA takes the uncertainty out of new frontiers.

As a firm of doyens, we pride ourselves in working with select clients within select verticals on complex matters. Our forte lies in providing innovative and strategic advice in futuristic areas of law such as those relating to Blockchain and virtual currencies, Internet of Things (IOT), Aviation, Artificial Intelligence, Privatization of Outer Space, Drones, Robotics, Virtual Reality, Ed-Tech, Med-Tech and Medical Devices and Nanotechnology with our key clientele comprising of marquee Fortune 500 corporations.

The firm has been consistently ranked as one of the Most Innovative Law Firms, across the globe. In fact, NDA has been the proud recipient of the Financial Times–RSG award 4 times in a row, (2014-2017) as the Most Innovative Indian Law Firm.

We are a trust based, non-hierarchical, democratic organization that leverages research and knowledge to deliver extraordinary value to our clients. Datum, our unique employer proposition has been developed into a global case study, aptly titled 'Management by Trust in a Democratic Enterprise,' published by John Wiley & Sons, USA.

## Research@NDA

Research is the DNA of NDA. In early 1980s, our firm emerged from an extensive, and then pioneering, research by Nishith M. Desai on the taxation of cross-border transactions. The research book written by him provided the foundation for our international tax practice. Since then, we have relied upon research to be the cornerstone of our practice development. Today, research is fully ingrained in the firm's culture.

Over the years, we have produced some outstanding research papers, reports and articles. Almost on a daily basis, we analyze and offer our perspective on latest legal developments through our "Hotlines". These Hotlines provide immediate awareness and quick reference, and have been eagerly received. We also provide expanded commentary on issues through detailed articles for publication in newspapers and periodicals for dissemination to wider audience. Our NDA Labs dissect and analyze a published, distinctive legal transaction using multiple lenses and offer various perspectives, including some even overlooked by the executors of the transaction. We regularly write extensive research papers and disseminate them through our website. Our ThinkTank discourses on Taxation of eCommerce, Arbitration, and Direct Tax Code have been widely acknowledged.

As we continue to grow through our research-based approach, we now have established an exclusive four-acre, state-of-the-art research center, just a 45-minute ferry ride from Mumbai but in the middle of verdant hills of reclusive Alibaug-Raigadh district. Imaginarium AliGunjan is a platform for creative thinking; an apolitical eco- system that connects multi-disciplinary threads of ideas, innovation and imagination. Designed to inspire 'blue sky' thinking, research, exploration and synthesis, reflections and communication, it aims to bring in wholeness — that leads to answers to the biggest challenges of our time and beyond. It seeks to be a bridge that connects the futuristic advancements of diverse disciplines. It offers a space, both virtually and literally, for integration and synthesis of knowhow and innovation from various streams and serves as a dais to internationally renowned professionals to share their expertise and experience with our associates and select clients.

We would love to hear from you about any suggestions you may have on our research publications. Please feel free to contact us at [research@nishithdesai.com](mailto:research@nishithdesai.com).

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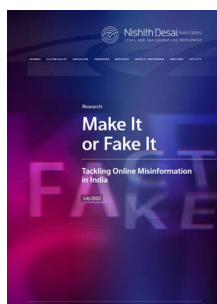
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