

# CMS: AI WILL BRING AN INCREASED RISK OF DISPUTES

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Almost seven in ten (69%) corporate counsel and risk managers say that their organisation will make greater use of new technologies such as artificial intelligence (AI) over the coming years. This is one of the key findings of a survey of over 500 corporate counsel and risk managers from multiple industries around the world that has been published in *Technology Transformation: Managing Risks in a Changing Landscape*, a new technology report from international law firm CMS.

However, the use of new technologies also carries risks. More than half (56%) of respondents expect to see an increase in AI-related disputes, while half (50%) believe that the use of AI technologies will give rise to risks and disputes that cannot currently be foreseen.

"The study shows that most companies expect that intellectual property, trade secrets, business intelligence, and smart contracts to be a key source of litigation in the next three years. With the exception of intellectual property, these are new realities, which just a few years ago did not even exist in the form in which we see them.

New technologies have become the most relevant and valuable asset of companies, beyond the tangible assets that appear on the balance sheet, and therefore they need to be protected, and they will be a key source of litigation", says **Javier Torre de Silva**, head of CMS's global telecommunications group and CMS's TMC department in Spain.

## The next three years will see new types of disputes

The sources of disputes expected over the next three years are different to the past three and reflect developments in technology and the legal world.

Respondents point to compliance and regulatory issues (65%); performance or service levels of IT suppliers and outsourcing partners (61%); and intellectual property (IP) and trade secrets (52%) as key sources of disputes over the past three years.

However, over the next three years, respondents expect disputes to be driven by issues arising from IP and trade secrets (62%); issues arising from the use of AI (56%), smart contracts (55%) and cryptocurrencies (52%); and cloud services (51%).

"With the adoption of new technologies being a fundamental vector of business competitiveness, our experience shows us that the role of legal teams (both in-house and external) is crucial both to minimise the risks of their implementation and to deal with the legal uncertainty (and possible litigation) of those risks which, although minimised, cannot be completely eliminated. In this respect, the new challenges posed by the implementation of new technologies will require unique approaches and solutions", says **Jorge Sánchez**, partner of the TMC and Litigation departments in Barcelona.

## New forms of dispute resolution are needed

Over half (57%) of respondents agree that new forms of dispute resolution should be used to resolve disputes arising from new technologies, whilst only a third (34%) expect that disputes arising from AI technologies would follow the same principles as non-AI disputes. This highlights a potential dissatisfaction with current methods of dispute resolution and a question of whether they are 'fit for purpose' for future tech disputes, where multi-vendor, cloud and platform transactions are likely to become more common, where an 'on-platform' method of dispute resolution, possibly powered by AI, might be preferred.