中华笔译大赛总决赛
英汉互译（法律）

一、外译中：请将如下英文译为中文。

Machine learning constantly evolves, making more complex decisions based on the data it operates on. While most outcomes are anticipated, there is the distinct possibility of an unanticipated or adverse outcome given the absence of human supervision. The automated and artificial nature of AI raises new considerations around the determination of liability. Tort law has traditionally been the mechanism used in the law to address changes in society, including technological advances. In the past, the courts have applied the established analytical framework of tort law and have applied those legal principles to the facts as they are presented before the court.

We start the tort analysis with the following questions: Who is responsible? Who should bear liability? In the case of AI, is it the programmer or developer? Is it the user? Or is it the technology itself? What changes might we see to the standard of care or the principles of negligent design? As the AI evolves and makes its own decision, should it be considered an agent of the developer and if so, is the developer vicariously liable for the decisions made by the AI that result in negligence?

The most common tort—being the tort of negligence—focuses on whether a party has a duty of care to another, whether the party has breached the standard of care, and whether damages have been caused by that breach. Reasonable foreseeability is a central concept in negligence. Specifically, the test is whether a reasonable person is able to predict or expect the general consequences that would result because of his or

her conduct, without the benefit of hindsight. The further that AI systems move away from classical algorithms and coding, then they can display behaviours that are not just unforeseen by their creators but are wholly unforeseeable. When there is a lack of foreseeability, are we placed in a position where no one is liable for a result, which may have a damaging effect on others? One would anticipate that our courts would respond to prevent such a result.

In a scenario where there is a lack foreseeability, the law might replace its analysis based on negligence to one based on strict liability. The doctrine of strict liability also known as the rule in Rylands v Fletcher provides that a defendant will still be held legally responsible when neither an intentional nor a negligent act has been found and it is only proven that the defendant's act resulted in injury to the plaintiff.

Should a negligence analysis remain, then the standard of care requirements will need to be redefined in an AI context. Some of the following questions will be central to the court's consideration:

1. Is the decision-making transparent so that the court can determine how the "black box" reached the outcome it did?
2. What steps were taken to monitor outcomes arising from machine learning?
3. Was the integrity and quality of the data appropriate for the purpose for which it was intended?
4. Was the data used representative or does it promote bias and/or discrimination?
5. Was the algorithm appropriately designed to guard against unintended outcomes?

二、中译外：请将如下中文译为英文。

《人工智能时代的刑法观》一书共包含两大部分的内容。第一编主要研究了人工智能时代下所面临的刑事风险以及刑法基本理论的应对策略。犯罪行为因人工智能的介入而呈现出新的特征，体现为传统犯罪行为危害性的"量变"、新型犯罪形式的产生等，甚至还可能出现人工智能产品脱离人类控制而实施严重危害社会行为的情形。这些变化对刑法理论提出了巨大的挑战，因此，有必要探讨如何在树立前瞻性刑法理念的基础上对人工智能时代刑事责任的归责路径、刑事责任主体以及刑罚体系予以重构等问题。第二编主要分析了人工智能在一些具体应用领域中所体现的刑事风险以及刑法的具体应对措施。人工智能技术的蓬勃发展，使得其已经在各行各业中大展身手。例如，自动驾驶汽车已经上路，人工智能机器人进行文学创作已成为现实，以达芬奇手术机器人为代表的人工智能医疗机器人已经开始普及，以人工智能交易为代表的一系列人工智能在金融领域的应用系统相继问世等。在不同的应用领域，因人工智能技术发展及应用程度的差异，其刑事风险的体现也各不相同，因此，有必要根据各领域人工智能技术的应用现状，在分析其具体刑事风险的基础上，对各领域所涉人工智能犯罪的具体归责路径进行研究。