

The Day Your Life Changed Forever

by Keith A. Call

You may not know this, but on November 30, 2022, your life changed forever. On that day, a previously little-known software company based in San Francisco released ChatGPT, a chatbot that is designed to be able to “converse” with humans on a variety of topics using natural language. It uses machine learning (artificial intelligence) to generate responses to user input, allowing it to have “conversations” that are similar to what humans might have.

For example, you can ask ChatGPT to “explain *Ferris Bueller’s Day Off* as an existentialist text while drawing thematic parallels between the film and Franz Kafka’s *The Metamorphosis*.” The chatbot will write a pretty impressive essay for you! This is a high school teacher’s and college professor’s nightmare.

The use of chatbots, including ChatGPT, in the law raises a number of ethical concerns. One major concern is the potential for chatbots to perpetuate biases and discrimination. For example, if a chatbot is trained on biased data, it may perpetuate those biases in its responses and decision-making. This could lead to unfair treatment of individuals or groups of people based on their race, gender, age, or other characteristics.

Another ethical concern related to the use of chatbots in the law is the potential for them to erode privacy and confidentiality. Chatbots may collect and store sensitive personal information about individuals, which could be accessed by unauthorized parties or used for purposes other than those for which it was collected. This could have serious consequences for individuals, particularly in the context of legal proceedings.

Finally, there is the issue of accountability. Chatbots do not have the same level of accountability as human lawyers, and it may be difficult to hold them accountable for errors or mistakes they make. This could lead to a lack of confidence in the legal system and may undermine the public’s trust in the legal

profession. It is important that the use of chatbots in the law is carefully regulated and monitored to ensure that they are used ethically and responsibly.

By the way, those last three paragraphs were generated 100%, unedited, by ChatGPT in about five seconds after I put in the following prompt: “Write three short paragraphs regarding the ethics of using chatgpt in the law.”

Just for fun, I have used ChatGPT to:

- Create a short script of a sit-com in which the characters from Seinfeld visited Harry Potter’s school at Hogwarts.
- Write a complete, two-page letter to my daughter who is living in Germany. One of my daughters (not the one living in Germany) was completely fooled by the letter and thought I wrote it.
- Write a very convincing letter from my daughter back to me, by copying and pasting my letter to her and adding a couple of simple prompts.
- Write a mock essay in response to a writing assignment given by a college professor. (I spoke to the professor, who would have given “my” paper an A.)
- Explain the rule against perpetuities.

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This is bound to change how lawyers do their work. I suppose it is only a matter of time until we will be able to copy and paste our opponent's legal brief and have a chatbot spit out a well-written and convincing opposition, complete with legal citations. Courts will also soon have to grapple with attempts to use information generated (or should I say "regurgitated"?) by chatbots.

In fact, ChatGPT is already working towards a law degree, or so it seems. Four law professors at the University of Minnesota recently had ChatGPT take the exams for four law school classes, which included ninety-five multiple choice questions and twelve essays. They blindly graded the answers. ChatGPT got an average score of C+. Not a stellar score, by any means, but it got a passing grade in all four courses. See Jonathan H. Choi, et al., *ChatGPT Goes to Law School*, MINN. LEGAL STUD. RES. PAPER NO. 23-03 (Jan. 25, 2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4335905.

One company skipped right past the law degree. DoNotPay.com bills itself as "The World's First Robot Lawyer." "Fight corporations,

beat bureaucracy and sue anyone at the press of a button," it says. DONOTPAY, www.donotpay.com (last visited Jan. 16, 2023). DoNotPay recently announced plans to take on two speeding ticket cases in court, with its AI instructing the defendants how to respond to their assigned judges. In even more dramatic fashion, DoNotPay's founder, Joshua Browder, offered to pay \$1,000,000 to any lawyer or person with an upcoming case in front of the United States Supreme Court who agrees to wear AirPods and let their robot lawyer argue their case by repeating exactly what it says. See Bailey Schulz, *DoNotPay's "First Robot Lawyer" to Take on Speeding Tickets in Court via AI*, USA TODAY (Jan 9, 2023, 4:25 PM), <https://www.usatoday.com/story/tech/2023/01/09/first-ai-robot-lawyer-donotpay/11018060002/>. It seems Mr. Browder's spirits were quickly dampened after several State Bars sent him unfriendly letters, including a threat of jail time. See Bobby Allyn, *A Robot Was Scheduled to Argue in Court, Then Came the Jail Threats*, NAT'L PUB. RADIO (Jan. 25, 2023, 6:05 PM), <https://www.npr.org/2023/01/25/1151435033/a-robot-was-scheduled-to-argue-in-court-then-came-the-jail->

threats. I'll be watching to see if Mr. Browder comes to play in Utah's legal sandbox.

Do not over-estimate AI's accuracy, however. Aside from earning only a C+ in its law school coursework, SCOTUSblog.com gives ChatGPT a failing grade on its general knowledge of the Supreme Court. *See* James Romoser, *No, Ruth Bader Ginsberg Did Not Dissent in Obergefell*, SCOTUSBLOG (Jan. 26, 2023, 10:57 AM), <https://www.scotusblog.com/2023/01/no-ruth-bader-ginsburg-did-not-dissent-in-obergefell-and-other-things-chatgpt-gets-wrong-about-the-supreme-court/>. Many others have been critical of ChatGPT's accuracy. In fairness, ChatGPT's owners are open about the fact that the current version of their AI is a "free research preview," and they are working to make its AI system more accurate and safe.

As the chatbot skillfully pointed out with just a tiny bit of help from me, there are many ethical concerns with the power of this technology. And, while definitely useful and even fun, the immense power of this technology beyond law and legal ethics is staggering

to me. We should all be very concerned about the power of this technology to perpetuate prejudice, promote fake news, maliciously and improperly influence public policy and elections, and an endless number of other bad things. I dunno, is it too outrageous to wonder if this technology in the wrong hands could be used to start a war??? Hasn't existing social media already done that? *See* Thomas Zeitzoff, *How Social Media is Changing Conflict*, 61 (9) J. OF CONFLICT RESOL., 1970 (Oct. 2017).

It is hard for any one person to imagine all the directions this powerful new technology will take us. But mark November 30, 2022, on your calendar and mark my word (and I feel compelled to reassure you that this is me, Keith Call, writing this), this technology will forever change all of our lives.

Every case is different. This article should not be construed to state enforceable legal standards or to provide guidance for any particular case. The views expressed in this article are solely those of the author.