



IP ITeasers 066:

ChatGPT creates case-law

Can't find that killer authority? Don't worry, let ChatGPT make one up for you. Fantasy? No. Steven A. Schwartz, an experienced New York lawyer, used ChatGPT to conduct some legal research, which resulted in non-existence cases being relied upon by him in his written submissions to the court. As US District Judge P. Kevin Castel noted in his Order to Show Cause *"Six of the submitted cases appear to be bogus judicial decisions with bogus quotes and bogus internal citations"* (*Roberto Mata v Avianca, Inc.* 22-cv-1461 (PKC), US District Court, Southern District of New York, 4 May 2023). As the decision continued *"Let Peter LoDuca, counsel for plaintiff, show cause in person at 12 noon on June 8, 2023 in Courtroom 11D, 500 Pearl Street, New York, NY, why he ought not be sanctioned pursuant to: ... , for (A) citing non-existent cases to the Court in his Affirmation in Opposition ... , and (B) submitting to the Court annexed to his Affidavit filed April 25, 2023 copies of non-existent judicial opinions"* While interesting from a professional conduct aspect, this case is also very interesting from an IP stance. Not only did ChatGPT apparently create fictional case names and citations, but it also created fictional quotes to support the proposition being advanced by counsel. Interesting copyright and moral rights questions arise, such as were the quotes original (and if so, who is the author), or if copied are there any defences such as fair use, or has there been any false attribution or no proper attribution as to authorship at all, or is there any distortion that amounts to derogatory treatment? Stay tuned!