



IP ITeasers 069:

ChatGPT cases consequences

The Opinion and Order on Sanctions in the case where ChatGPT was used to provide fabricated case law to support a party's legal submissions is now available (*Robert Mata v Avianca, Inc.* 22-cv-1461 (PKC), Doc 54, 22 June 2023). It makes brutal, but instructive, reading. Very, very briefly, Mr Schwartz conducted some legal research for Mr LoDuca, the attorney of record, to submit to the court. Mr Schwartz asked ChatGPT to “provide case law”, “show me specific holdings”, “show me more cases” and “give me some cases” to support the arguments that he wished to advance. In response, ChatGPT simply made-up cases, including case citations, quotes and even partial opinions of named judges, some of whom were real judges. In his Opinion, P Kevin Castell USDJ described the output in the following terms: “Its legal analysis was gibberish”, “The summary of the [leading authority's] procedural history is difficult to follow and borders on nonsensical”, and one “decision abruptly ends without a conclusion”. Both lawyers were held to have acted in “subjective bad faith”: Mr Schwartz because he misled the court the court when he asserted that the ChatGPT research supplemented his other research, when in fact it was the only research that he had done; and Mr LoDuca because he had “consciously avoided learning the facts” when confronted by the other side's submissions that the citations were non-existent and when asked by the Court to justify the citations.

In the circumstances, the penalties seem remarkably lenient, and included paying a fine of \$5,000, and writing to “each judge falsely identified as the author of the fake [opinions]”. That latter relief is akin to that available for the tort of false attribution of a copyright work under the CDPA 1988 s. 84. Further, the judge opined “The Court will not require an apology from the Respondents because a compelled apology is not a

sincere apology. Any decision to apologize is left to the Respondents." One can only imagine what the Respondents said by way of exculpation, and what it would be like for either of them to appear before any of the falsely named judges in any future case.