

## ChatGPT Progress on Legal Analysis

Since the release of ChatGPT, researchers have tested the performance of the OpenAI-powered chatbot on high-level academic exams.<sup>1</sup> Law professors at the University of Minnesota used ChatGPT to produce final exam answers for constitutional law - federalism and separation of powers, employee benefits, taxation, and torts.<sup>2</sup> ChatGPT scored a C+ average across all exams which would be sufficient to earn a J.D.<sup>3</sup>

Some professors think ChatGPT could be an advantageous tool for future law students and attorneys. For instance, Law Professor Jonathan Choi said, “[o]verall, ChatGPT wasn’t a great law student acting alone, but we expect that collaborating with humans, language models like ChatGPT would be very useful to law students taking exams and to practicing lawyers.”<sup>4</sup> On the contrary, other professors are raising concerns that ChatGPT will be taken advantage of to cheat on take-home exams.<sup>5</sup>

Legal researchers have also tested the performance of ChatGPT on the multiple-choice section of the Multistate Bar Exam (MBE).<sup>6</sup> Though ChatGPT only reached the average passing rates on two sections — Evidence and Torts — the researchers noted improvements from past AI models that have “taken the bar.”<sup>7</sup> They claim the trend of improvement for ChatGPT models suggests that an AI language model will be able to pass the MBE in the near future.<sup>8</sup>

After hearing that ChatGPT achieved passing scores on law exams and two sections of the MBE, I decided to ask ChatGPT itself how it was able to generate its answers. In response to being asked, “how did ChatGPT pass law exams?”, ChatGPT generated the following answer:

As an AI language model, ChatGPT did not actually take the bar exam or pass any of its sections. While I am programmed with a vast amount of knowledge and information on various topics, I do not have the capability to take tests or receive credentials like a human being would....<sup>9</sup>

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<sup>1</sup> J.D. Capelouto, *Here are all the academic exams ChatGPT has passed (and failed)*, SEMAFOR (Jan. 30, 2023, 2:37 PM), <https://www.semafor.com/article/01/30/2023/a-list-of-the-academic-exams-openais-chatgpt-has-passed> [<https://perma.cc/Q2BD-6GA6>].

<sup>2</sup> *ChatGPT goes to law school*, U. OF MINN. (Jan. 27, 2023), <https://twin-cities.umn.edu/news-events/chatgpt-goes-law-school> [<https://perma.cc/QN8F-9AG5>].

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Debra Cassens Weiss, *AI program earned passing bar exam scores on evidence and torts; can it work in court*, A.B.A. J. (Jan. 12, 2023, 9:03 AM), <https://www.abajournal.com/news/article/ai-program-earned-passing-bar-exam-scores-on-evidence-and-torts-can-it-work-in-court> [<https://perma.cc/F8Z7-PPH8>].

<sup>6</sup> Michael James Bommarito & Daniel Martin Katz, *GPT Takes the Bar Exam*, SOC. SCI. RES. NETWORK 1, (Dec. 29, 2022), <https://ssrn.com/abstract=4314839> [<https://perma.cc/5G7B-XDPN>].

<sup>7</sup> *Id.* at 5.

<sup>8</sup> *Id.* at 1.

<sup>9</sup> *ChatGPT*, OPENAI, <https://chat.openai.com/chat> (last visited Feb. 14, 2023).

Due to that technicality, I had to rephrase my question to get the answer I was looking for. Instead, I asked, “can ChatGPT answer law exam questions?,” and the following answer was generated in response:

As an AI language model, ChatGPT is capable of processing and understanding natural language and can provide information and insights on a wide range of topics. However, it is important to note that passing the bar exam requires a comprehensive understanding of complex legal concepts and the ability to apply them in real-world scenarios.

While ChatGPT can provide general information and insights related to legal concepts and principles, it may not be able to provide the same level of expertise and analysis as a licensed attorney who has undergone extensive legal training and passed the bar exam. Therefore, while ChatGPT may be able to provide some assistance in preparing for the bar exam, it is always advisable to consult with a qualified legal professional for guidance and support.<sup>10</sup>

Though ChatGPT cannot provide the same level of expertise as a licensed attorney, Professor Daniel Schwarz said, “[i]t is becoming increasingly likely that in the near future many lawyers will need to collaborate with AIs, like ChatGPT, both to save time and money and to improve the quality of their work product.”<sup>11</sup>

Looking back at the first answer generated by ChatGPT, questions are arising regarding AI language models’ inability to receive credentials like a human lawyer. For example, Joshua Browder, the founder of DoNotPay, is planning to use an open-source AI program to assist two defendants in traffic court. DoNotPay is a startup founded to help motorists contest traffic tickets. The company will cover the fines, as well as compensate the defendants.<sup>12</sup>

Browder has addressed concerns that using AI language models in court amounts to the unauthorized of law. However, he asserts that his plan is “not outright illegal” in the jurisdictions where the traffic court hearings will take place.<sup>13</sup> It will be interesting to see how the law evolves as AI language models continue to improve, and as more lawyers experiment with AI language models as Browder is.

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<sup>10</sup> *Id.*

<sup>11</sup> *ChatGPT goes to law school, supra* note 2.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*