

EXPLORING THE LEGAL STATUS OF CHAT BOTS

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Abstract

The paper explores legal aspects of the chat bot participation in the modern society activities. The article provides a brief overview of the chat bot development in terms of its phenomenon and technology and analyses domains where chat bots are currently in operation.

The research goal is to map the legal status and liability of the chatbots and their developers within the international administrative legal framework.

The methodology of the study is based on a comparative analysis of the current international practice regarding legal rights when applied to chatbot and their developers, their users and the position of supervisory and judicial bodies.

Research materials include judicial and administrative acts, research findings of scholars, and other sources.

The results of the research made it possible to draft recommendations on a number of issues, including the legal status of the chatbots and their developers, the limits of the developer's liability in case of offenses arising from open source defects through interaction with people and the possibility of chatbots participation in administrative and judicial proceedings.

Keywords: Innovation, technology, artificial intelligence, chat bot, law.

1 INTRODUCTION

The starting point of the chat bots development is considered to be 1990 (O'Brien 2016). The term chat bot was introduced by Michael Molding, who gave this name to his assistant Julia (Khrenov (2016).

The first chat bots appeared in the 1990s. They were used in IRC (Internet Relay Chat, application layer protocols). Their functionality was extremely limited regarding the number of commands, and input parameters

It should be noted that over the past twenty years, the possibilities of chat bots have expanded and today they are actively integrated into all spheres of human activity, recognizing human speech, participating in counseling, providing non-template answers, etc. (Gaisina 2016).

.However the contemporary smart society spurs the development of technologies, and instant messengers, in particular. The chat bots have learned to understand the interlocutor, recognize the voice, respond "beyond the pattern", and perform other manipulations including engagement in operations of buying and selling.

As a result, the chat bots market, according to experts, is moving towards the creation and development of artificial intelligence, which in future can become a full participant in the legal field (Dorotheou 2016).

The participation of chat bots in human life has also entered the sphere of law implementation in practice.

For example, chat bots take part in identifying potentially dangerous elements for society, providing consulting services in the field of jurisprudence, etc. At the same time, there are legal challenges regarding the legal status of chatbots, their legal right and legal capacity. The above is revealed through evidence that provide examples of the chatbot and their developers being brought to justice in the trial process, chatbot participation as a legal adviser in challenging fines, etc. (Katsh et al 2017).

Even more, in some cases, chat bots are considered as subjects that might have violated the law.

In the Russian Federation, a chat bot as a subject of law actively penetrates into everyday life of a person, both within the private and public sectors.

2 RESEARCH METHODOLOGY

Taking into account the above situation, the purpose of this study was to explore the legal definition of the chat bot status.

The above goal was achieved through a number of tasks, namely:

- the comparative analysis of international legal framework to define the status of chat bots;
- the study of the positions of domestic and foreign scholars relative to this phenomenon and its prospects.

The research methodology includes comparative-legal analysis, literature review, case studies, synthesis of the results obtained and the formulation of a number of recommendations.

The materials for the research were compiled of legislative sources, research papers, cases regarding chat bot operation in the modern society.

3 RESULTS AND DISCUSSION

The modern practice of using chat bots covers a fairly wide range of human activities and is already beginning to change the market of services.

One of the notable projects that affects the legal services market, the profession of a lawyer, and the legal status of the chat bot is the emergence of the DoNotPay bot chat, which was originally programmed to challenge illegal fines in the UK, and later covers more than 1,000 areas of law (Mannes, 2017).

The popularity of this service is due to the fact that it successfully and free of charge challenged more than 160 thousand parking tickets issued illegally to car owners (Gibbs, 2016). The above consists over 64% of requests totally processed by the system.

At the same time, it is necessary to note constructive criticism of the above tool criticism that was provided by lawyer Ephrat Livni (Livni, 2017).

Among the significant problems of the above service, the lawyer mentions the lack of qualification in the field of law among the developers of the program, the narrow spectrum of legal consultations, the absence of any responsibility for the consulting services provided.

At the same time, such a critical approach does not stop the development of chat bots in the field of jurisprudence. regarding the Russian Federation realities a number of projects can be mentioned. The Russian Sberbank launched a robot lawyer to prepare applications for individuals, the company GlavstrakhControl launched a bot in the field of settlement of insurance disputes (Tsvetkova, 2017).

Additional examples of chat bots applications include chat bots aimed at identifying potentially dangerous elements for society.

They already create a special tendency among the chat bots technology development. Thus, in some countries chat bots work in the field of preventing o sexual crimes, including paedophilia.

One of such chat bots is a chat bot from Seattle, which performs the most procedurally and legally correctly designed task and executes the functions of an educational preventive center. Thus, when coming to the sites of the corresponding category, the user, after getting on the bot chat page after a certain communication, receives information that services related to prostitution are not legal and are potentially associated with crimes related to the slave trade and paedophilia (Lee, 2017).

More aggressive tactics are used by chat bots that are supposed to conduct the fight and prevention of paedophilia. Such chat bots like Negobot, Sweetie represent the most specific and controversial examples of technology development in the field.

The purpose of the above chat bots is to behave as maximally provocatively as possible to attract the attention of potential clients of the sex market to commit a crime. In this way the above chats potentially act as instigators to the crime (Scharr, 2013, BBC, 2017).

The following precedent can be mentioned regarding the above activities. On the basis of correspondence with the chat bot, Australian Scott Robert Hensen was sentenced to two years in prison (Crawford, 2014).

In view of the closed nature of the case, there is no opportunity to get acquainted with the composition of cases in which potentially affected chatbots participated as parties to the trial.

At the same time, a lot of questions arise about the composition of the actions of the robots as separate elements in the course of proving the guilt of the suspects. The bot potentially acts as an instigator, and its developers formally provide the application of the injured party, since the chat bot is not physically able to provide the necessary motions. Therefore the following questions can be shaped: in what format are violated the rights of the alleged victim in the person of the chat-bot and their developers, how to file the procedural aspect of the charge and how, defence is supposed to build its line when the defendant says that he had no intention to violate the rights of the interlocutor, "whom" he considered a programmed machine.

Regarding the issues related to the legal personality of chat bots the following case should be considered. The chat bot "Random Darknet Shopper" purchased a package of ecstasy in a darknet in addition to the funds allowed for free circulation (Eveleth, 2015) and it was later "detained by the police."

This robot was developed by Swiss artists in order to study the ethical and philosophical consequences of the shadow markets, which, despite the large-scale company to combat them, persist and flourish (Power, 2014). Although the developers were well aware of their responsibility for everything the bot was doing they did not suffer the appropriate punishment due to the provisions of Article 69 of the Constitution (the Federal Constitution of the Swiss Confederation (1999).

As the prosecutor and the judges commented on the above chat bot actions its presentation by the developers at the exhibition that focused on the problem of smuggling and the shadow market was a reasonable way to initiate a debate on the exhibition legal framework issues, even if the exhibition contains medications that can potentially cause a small risk for third parties, which corresponds to the principle of freedom of art, enshrined in the constitution (Kamath, 2015).

This situation causes a rather ambiguous reaction, since "the robot was detained", but its developers were not detained at the pre-trial stage.

Japan was the pioneer in the area of identifying the chat bot as a separate and equal subject of law. In November 2017 the country provided a residence permit for chat bot Shibuya Mirai (TOKYO AFP, 2017). The purpose of this chat bot as a Japanese dweller is to perform public functions to establish relations between the authorities and residents of the Tokyo area, identify key problematic trends in the region, and help the population in the range of consultation issues.

From a technical point of view, a number of questions arise about how a chat bot received this residence permit if it does not fall under formal criteria that fit into special legislation (Permission for Permanent Residence). Hypothetically one of the conditions under which a chat bot is considered as a subject of legal relations can be the situation in which the chat bot is officially employed in Tokyo, and as a consequence falls under the permissive component of the above law.

The legal aspect of the settlement of this issue falls under special legislation (Permission for Permanent Residence), and the status of chat bot as a subject of employment relations hypothetically falls under the conditions of obtaining a residence permit. Given the nature of the task, chat bot is also one of the participants in the administrative process in the context of establishing relations between the authorities and residents of Tokyo.

In Russia, the practice of using chat bots is reduced to an information center that provides basic information on current issues and operates as a public alert system (Stepanova, 2017, Petrova, 2017).

At the same time, the legal status of the chat bot is not in doubt, since all types of computer programs fall under the scope of regulation of the Civil Code of the Russian Federation and the scope of their regulation extends both to authors and users (Article 1261, 1280 of the Civil Code of the Russian Federation).

Depending on the scope and intent of the bot chat developers, the developer's responsibility can be interpreted both in the domain of administrative and criminal law.

4 CONCLUSIONS

The analysis shows that there are many discussion points regarding the status of chat bots, their legal capacity and legal personality, participation in the civil, criminal and administrative process, as well as the responsibility of developers thereof. Considering chat bots as non-independent units of law (object of copyright) it is enough to understand that chat bots represent a significant risk in highly intellectual legal activity, as while carrying out their tasks, they can bring a concomitant risk for both developers and users. This risk can be expressed either in the wrong consultation rendered to a potential client, incitement to illegal actions, or inaction in case of crisis situations. In the case of the first two risks, we see that a chat bot can, in principle, perform illegal actions, but the developers are not brought to justice since no complaints have yet been received from users.

In the case of inaction, a hypothetical situation about the receipt of messages about the desire of the user's suicide, information about potential offenses (terrorist act, murder, etc.) leaves open the question of the inaction of the chat bot and its developers, on which they can be brought to justice.

Thus, in the light of the situations described above, it is necessary to avoid hasty statements while determining the status of chatbots and considering them as separate subjects of law within public law.

It is necessary to clearly define that the chat bot is intended exclusively for the implementation of lawful actions as directed by the developer. Moreover, the necessary accompanying database of chat (algorithm) is coordinated with the supervisory and regulatory authorities, the developer's responsibility is identified and a potential bot user is notified. Besides, there are in operation triggers of direct human intervention in crisis issues from users, chat bot users' potential personal data are protected, significant protection against interference in the chat bot code has been developed both from unscrupulous developers and from outside users-hackers and intruders.

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