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SPOTLIGHT

ChatGPT and AI are here to stay, the ramifications and restrictions surrounding them are less certain

The proliferation of sophisticated AI tools like ChatGPT will revolutionize working lives, generating both enthusiasm and caution as industries and individuals tackle the inevitable changes and emerging issues.

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ChatGPT has become an overnight sensation. Since its launch in November 2022, millions of people have been using this new artificial intelligence (AI) tool. Reactions from users range from awe and excitement, to caution and concern.

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So, what exactly is ChatGPT and why is it so popular?

ChatGPT (Generative Pretrained Transformer) is a conversational AI chatbot developed by San Francisco start-up OpenAI. It is an informational tool designed to interact with humans as naturally and conversationally as possible. It has many capabilities from answering questions and explaining complex topics to creating content such as essays, social media posts and even poetry.

"In 2023 AI is coming out of the background and into the foreground," said Darrell A. Fruth, a partner at Smith Anderson in Raleigh, who leads the law firm's Technology and Software Transactions group. Whether or not we've realized it, we've been interacting with AI for a while. Apps like Siri, Alexa, and Google Maps, all use machine learning, but, in addition, many news outlets have been utilizing AI for years. So there's been widespread use of AI, but now we're starting to see these tools being put into the hands of the public.

"That's why so many are excited about ChatGPT," said Fruth. "It gives the user access to all of its capabilities. You can sit at your computer and play with it and see for yourself just how much it can do for you."

ChatGPT was trained through ingesting vast amounts of online content, including articles, books, and websites, so it can answer questions on a huge range of topics. However, OpenAI has openly stated that they launched the technology with a free trial period so that they can, "get users' feedback and learn about its strengths and weaknesses."

There is a need for caution as the technology develops. "One of the known issues on the OpenAI website is that ChatGPT sometimes writes plausible sounding, but incorrect and nonsensical answers. It sounds very convincing, but at the end of the day it might not know anything about what you're asking. And so, you're never sure how much you can rely on it," Fruth explained.

The technology will continue to improve, and Fruth's group understands that as the improvements come, usage will increase and, inevitably, legal issues will arise.

AI is already incorporated into several tasks to save time and reduce errors. Email marketing services and typing assistants like Grammarly, are commonly used. Many copywriters have taken the next step and utilize various AI tools to create a first draft.

"If I were a copywriter, I would definitely use it," said Fruth, adding that it's a decent place to start. "But I would never publish something that came straight out of a model," he emphasizes. "I would rewrite it."

An important fact to note, especially for those hoping to use the tool for creative purposes, is these tools have scraped the internet for its store of information without the consent of original creators. This raises issues of ownership and copyright. And educators are also worried about plagiarism, since students can easily use AI to write their essays.

The concern goes beyond the written word. In a matter of seconds AI tools like Midjourney, can generate an image that replicates a particular artist's style. But who then owns the created piece?

Some artists are seeking to settle that issue. In Northern California, a group of artists have filed a lawsuit against three AI art generators. They claim their protected work is being used without compensation or attribution. But, if the work is technically generated - a new original, so to speak - what is the legal standing? And how should writers and artists legally attribute work generated by AI?

And, as legal action likely continues to be filed, how will attorneys stay a step ahead of technology that is unprecedented and moving so quickly?

It's a question that Fruth and his colleagues at Smith Anderson are actively considering.

"What's the right balance when you're talking about AI models? Who is the author? You probably can't even copyright the output as it's not even a human author or artist," said Fruth. "We don't know what 'written by AI' means yet."

He imagines that one potential solution is on the front-end. "You can imagine getting to a world where, when you publish content, you have the right or ability to specify whether you want it to be ingested in these [data collecting] models or not – we might need to create a system for that," he said.

Fruth believes the aforementioned art lawsuit will offer clarity on how copyright works in this space and what is considered infringement. "We must get to work on all this sooner rather than later as the genie is already out of the bottle. My guess is it will be a mix of the courts, legislators and industry groups taking steps to address this."

As for issues of student plagiarism? While there are apps now available to detect this, Fruth advises educators to recognize that people are going to use these tools, so it's best to teach them how to use them responsibly in a way that doesn't kill creativity. "You might have to find different ways to assess people's understanding of knowledge," he said.

"Technology is always changing the way work happens and sometimes the disruptions are faster than others, but over the centuries we've been able to accommodate and adapt and everyone found something new to do," said Fruth. "I feel like it's a very powerful tool and there's going to be countless ways that it's going to be used. It will unlock a lot of human potential and will also disrupt a lot of industries where there are jobs that could be replaced by one of these models that can do so much, so fast."

Whatever your industry, it doesn't pay to ignore AI. It will become an integral part of our everyday lives. "It is just another step in the technological progression. This is a good time to play with it, as it's never been so easy, nor has it been so important to understand how these things work. If you put your head in the sand and just say it's not going to affect me – you do so at your own peril," said Fruth.

These tools could push automation forward at speeds faster than the economy can absorb, and faster than the society can absorb. But, Fruth noted, "If done correctly, we will all ultimately benefit from it, and we'll figure out ways to equitably share in the value that's being generated."

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