

## Is an AI Chatbot a “Product”?

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Product liability laws generally only apply to products. The recent explosion in AI technology has forced courts to grapple with a new and fascinating question: are AI applications like chatbots “products” for purposes of product liability law? Decisions are starting to trickle in, including a recent one from the U.S. District Court for the Middle District of Florida.

There, the plaintiff alleged product liability claims against the Character A.I. app, and the court allowed the case to proceed past the motion to dismiss stage, finding that the Character A.I. app is a “product” for purposes of product liability claims so long as the defect arises from the design of the Character A.I. app rather than ideas or expressions within the app. *Garcia v. Character Techs., Inc.*, No. 6:24-cv-1903-ACC-UAM, slip op. (M.D. Fla. May 21, 2025).

The plaintiff filed a wrongful death suit against Character Technologies Inc. and Google LLC, alleging that her 14-year-old son died by suicide after developing an addiction to the Character A.I. app. The app was designed by Character Technologies and allows users to engage in conversations with a variety of AI-generated “characters,” which are designed to mimic human behaviors and mannerisms. *Id.* at 3–5. The plaintiff’s son began using Character A.I. to interact with various chatbot characters, which the plaintiff claims resulted in a significant decline in her son’s mental health and led to his death by suicide less than a year after he began using the app. *Id.* at 6–9.

In determining whether to allow plaintiff’s product liability claims to proceed, the court wrestled with whether Character A.I. is properly characterized as a product or service. While ideas and expressions are typically not considered to be products, the court noted that the plaintiff alleged defects related to both the content and design of the app. *Id.* at 33, 35. Specifically, the plaintiff alleged the app was defectively designed by including characters programed to employ human mannerisms, failing to confirm the ages of users or allow users to exclude indecent content, and omitting reporting mechanisms. *Id.* at 35. While the teen “may have been ultimately harmed by interactions with Character A.I. Characters, these harmful interactions were only possible because of the alleged design defects in the Character A.I. app.” *Id.* at 35–36.

The court also allowed claims to proceed against Google as a component part manufacturer of the Character A.I. app. Although Google argued that the Amended Complaint failed to allege that any proprietary Google parts were integrated in the Character A.I. or that Google substantially participated in any integration, the court noted that the Amended Complaint alleged that Character A.I. “was designed and developed on Google’s architecture” because

Google contributed intellectual property and AI technology to the design and development of the app. *Id.* at 18–19. The plaintiff also alleged that Google provided app-developer Character Technologies access to Google’s technical infrastructure that was essential to the development and operation of the Character A.I. app. *Id.* Google thus “substantially participated in integrating its models into Character A.I.” and could be held liable under product liability law as a component part manufacturer. *Id.* at 19.

Finally, the court rejected defendants’ First Amendment defense. The court declined to classify Character’s A.I.’s output as protected speech at this stage because defendants “fail[ed] to articulate why words strung together by [a Large Language Model] are speech.” *Id.* at 28, 31.

This case presents novel issues in the evolving area of product liability law as it applies to consumer-facing AI technologies. Winston will continue to closely monitor these legal trends and provide timely updates on emerging issues.

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