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Gibson Dunn Wins Significant Victory for Client OpenAI Defending Against Defamation Claim Based on “Hallucinated” Generative AI Output

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A team of Gibson Dunn litigators notched an important win in the first-ever case against an artificial intelligence developer by a plaintiff claiming that he had been defamed by “hallucinated,” or factually inaccurate, generative AI output. In *Walters v. OpenAI*, the plaintiff, Mark Walters, a prominent Second Amendment-rights advocate, radio host, and commentator, sued our client OpenAI in state court in Gwinnett County, Georgia, alleging he was defamed when ChatGPT incorrectly said that Walters had been sued over allegations of embezzlement. While the case was the first of its kind and involved a new, complex technology, Gibson Dunn successfully grounded the dispute in basic principles of tort and defamation law. Our team demonstrated that the plaintiff objectively could not establish “defamatory meaning” because OpenAI meticulously warns users of the risks of hallucination and because the context of the particular user’s interaction with ChatGPT was rife with red flags to any reasonable user that the tool was not providing factual information. Our team also showed that the plaintiff could not prove any level of fault, as Georgia law and the U.S. Constitution require for defamation claims: not “actual malice” because he had no evidence that OpenAI knew or recklessly disregarded the risk the user would receive false output, and not even negligence because OpenAI leads the industry in efforts to reduce the risks of hallucinations and goes to great effort to warn users that hallucinations can occur anyway. Finally, we successfully demonstrated that under the facts and under Georgia and federal constitutional law the plaintiff could not recover any damages. On May 19, 2025, Judge Tracie Cason granted summary judgment in favor of OpenAI in full, adopting all our arguments. The decision will help guide future litigation involving similar claims arising from generative AI output. Our winning team was led by partners Theodore J. Boutrous (who successfully argued the summary judgment motion), Orin Snyder, and Connor S. Sullivan and included associates Zachary C. Freund, Chase Weidner, Doran J. Satanove, and Cate Harding.

Related People

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Related Capabilities

Litigation

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