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“Alexa, Brief the Case For Me” – Legal Challenges of Voice Command Technology

BY [JOEL JESIN](#) / ON FEBRUARY 13, 2017

“Alexa, get me a box of pens, a legal pad, and a Diet Coke!” While this might sound like an order that a hawkish partner at a law firm might bark at a young and innocent associate, this is actually an example of requests that have begun to take place in residential homes on a daily basis. With the new Amazon Echo and other voice command and voice recognition devices becoming a regular fixture in homes and offices, one can tackle chores and errands all while sitting on the couch.[\[1\]](#)

Until recently, voice command software was generally a flashy extra in phones and computers, assisting with basic functions such as transcribing spoken messages into text and making hands free phone calls.[\[2\]](#) Siri and Google Assistant have expanded these capabilities by providing more “smart” functions, such as providing weather updates and sports scores. The functions of voice recognition have expanded even further, especially with technology such as Amazon Echo. Amazon Echo works in a very similar way to other voice recognition devices. When one says the trigger word or wake word, “Alexa” (the name of the Echo’s voice recognition assistant), “Amazon,” or “Echo,” the device wakes up, listens to the information or question that follows, processes that information, and then responds accordingly.[\[3\]](#) Amazon Echo can perform a whole array of functions, including brewing a new pot of coffee remotely, assisting with personal banking, and ordering new items from the Amazon delivery website itself.[\[4\]](#) While Amazon Echo is certainly a major advancement in “smart” technology and provides a number of convenient opportunities and uses, it also creates a number of different challenges, including some that have recently impacted the legal world.[\[5\]](#)

One major issue that the legal world is constantly struggling with in the context of “smart” technology and the Internet is the privacy concerns that these devices create.[\[6\]](#) Smart devices have made great advances in the way that technology is able to learn from its surroundings and process and store information that has always been considered private in the past.[\[7\]](#) Amazon Echo, for example, will listen to whatever follows a wake word, even if the wake word is used accidentally.[\[8\]](#) Whatever dialogue follows after the wake word is picked up by the Echo and processed is then stored on private servers owned by Amazon.[\[9\]](#) In theory, if one were to accidentally say a wake word and then have a private conversation, that conversation would then be stored on Amazon’s private servers.[\[10\]](#) For example, what if someone were having a conversation with someone named Alexa? The moment that person’s name is said, the Echo in theory would process and store the rest of the conversation. What

Amazon can or will do with that information remains unclear, however it definitely creates serious questions regarding the privacy of smart technology.

Privacy concerns were a central issue in a recent murder case in Arkansas, where local police obtained a search warrant on an Amazon Echo belonging to suspect James Bates.^[11] Bates was arrested after a friend was murdered in his home.^[12] The Amazon Echo in Bates' home had been used to play music on the night of the murder, and police were concerned that the Echo could have picked up more dialogue throughout the night, perhaps even clear evidence of the murder.^[13] Although Amazon ultimately responded by refusing "to release the customer's information without a binding and legal demand served" on them, the case raises serious concerns about customer privacy protection and the way that the law will deal with similar situations in the future.^[14] As Fortune Magazine notes, "from a legal perspective, it's unclear how much of this evidence would be admissible.^[15] A defendant, for instance, could challenge it as hearsay or, in some states, as an illegal recording because it took place without their consent."^[16] Only time will truly tell what kind of an impact smart technology and the Internet of Things will have on criminal proceedings, however it is clear that the legal world is entering a new unexplored chapter in privacy law.

Technology like the Amazon Echo is also impacting contract and commercial law. One recent case in particular is a prime example of this trend. In Texas, a six-year-old girl was playing with her family's Amazon Echo and enjoying the responses she was getting from Alexa. The girl then asked if Alexa could "play dollhouse with me and get me a dollhouse".^[17] The girl also told Alexa that she loved cookies and asked if Alexa could get some for her.^[18] Just a few days later, a \$160 dollhouse and four pound of cookies were delivered to the girl's house.^[19] The story became even more out of hand when it went viral and news sites began to cover it.^[20] In San Diego, CW-6 station ran the story on their evening news.^[21] At the end of the segment, the anchor turned to his co-anchor and said, "I love the little girl saying "Alexa ordered me a dollhouse".^[22] Just a few days later, many viewers started complaining to the news station that their Amazon Echoes had picked up what the news anchor had said and then proceeded to order dollhouses for all of them.^[23] While Amazon ultimately agreed to refund all the accidental dollhouse orders, the episode raises many questions about commercial and contract law with technology today. If a device makes a purchase for you or enters into a contract on your behalf without permission, are you bound by it? What kind of agency exists between a human and a smart device? These are all questions that will develop as technology becomes more freethinking and independent, and will continue to be a very hot legal topic in the coming future.

The expansion of smart technology, which generally makes living today easier and more efficient than ever before, also creates some serious legal issues and challenges which have never had to be considered in the past. These challenges are opportunities for the legal community to continue to develop and stay in touch with the continuously evolving modern world. At the rate that technology is developing however, keeping up will be difficult. Soon

enough, technology like might even Alexa will be able to assist lawyers and courts in finding solutions to these new legal challenges. Only time will tell.

Joel Jesin is a second year law student at Benjamin N. Cardozo School of Law and a Staff Editor of the Cardozo Arts & Entertainment Law Journal. Joel is greatly interested in the way that the legal system grapples with questions of continuously developing technology, the Internet, and intellectual property. He looks forward to pursuing a career in law and business, and enjoys spending time with his wife and family and contributing to his community.

[1] Qasim Mohammad, *Voice Recognition Technology is Expediting the Race to Frictionless Retail*, TechCrunch (Nov. 6, 2016), <https://techcrunch.com/2016/11/16/voice-recognition-technology-is-expediting-the-race-to-frictionless-retail/>.

[2] *Id.*

[3] Amazon Echo, <https://www.amazon.com/Amazon-Echo-Bluetooth-Speaker-with-WiFi-Alexa/dp/B00X4WHP5E>.

[4] *Id.*

[5] Anna Massoglia, *Amazon Echo is Both Useful and Risky for Lawyers*, Lawyerist (Jan. 3, 2017), <https://lawyerist.com/139741/amazon-echo-useful-risky-lawyers/>.

[6] Susmita Baral, *Amazon Echo Privacy: Is Alexa Listening to Everything You Say?*, Mic (Dec. 20, 2016), <https://mic.com/articles/162865/amazon-echo-privacy-is-alexa-listening-to-everything-you-say#.t3cFgrSQ3>

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] Jeff John Roberts, *Police Ask Amazon's Echo to Help Solve a Murder*, Fortune (Dec. 27, 2016), <http://fortune.com/2016/12/27/amazon-echo-murder/>.

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] James Rogers, *TV News Report Prompts Viewers' Amazon Echo Devices to Order Unwanted Dollhouses*, Fox News (Jan. 6, 2017), <http://www.foxnews.com/tech/2017/01/06/tv-news-report-prompts-viewers-amazon-echo-devices-to-order-unwanted-dollhouses.html>.

[18] *Id.*

[19] *Id.*

[20] *Id.*

[21] *Id.*

[22] *Id.*

[23] *Id.*