

Autonomous future could question legal ethics

BECKY RASPE | SPECIAL SECTIONS STAFF REPORTER
braspe@cjn.org | @BeckyRaspeCJN

As companies release prototypes of self-driving cars or robots that can think freely, a world like the Jetsons seems less and less like a cartoon and more like the future.



Northman

According to Tod Northman, counsel at Tucker Ellis LLP in Cleveland, and Dana Paris, associate attorney at Nurenberg Paris in Cleveland, an autonomous future could change the way law works, specifically the ethics behind it.



Paris

“I think what is going to be reflected in the case law approach, it’s going to be based on some strange policy decisions that we will need to make,” Northman said. “If we go with driver-assisted

technology, that case law and statutory laws are already existent. The most interesting case is once we go to try and reach fully driverless living, that’s going to be a policy decision on whether we hold the software developer accountable for the choices they make, or as I think more likely, we sort of give them a pass to encourage innovation.”

Paris said there are many ideas that need to be considered during the process of developing autonomous living.

“The solutions are still being developed,” she said. “With the legal aspect of it, that’s being developed as well. I think the way cases are being approached is going to be the same, but the landscape will follow the same pattern that lawyers follow on all of their cases.”

But for Northman, he thinks the work lawyers do will shift in an autonomous world.

“I think it will shift the types of problems that we face,” he said. “We are going to see a lot less litigation once it’s fully implemented. The type of collisions and damages are going to go down dramatically, and we will shift it to a much more intellectual property heavy practice where we will focus more on sorting out who owns what.”

Paris said, “At the end of the day, (lawyers) are just trying to figure out what happens. With automated vehicles, it’s collecting data the entire time. That’s the great thing about autonomy, you have this concrete data that will tell the story

in great detail. Two human drivers may tell two different stories. Unless there is a surveillance video or an eyewitness at the scene of a crash that can attest to what actually happened, you are stuck in a situation of he said versus she said.”

Northman said he finds the ethical implications of an autonomous future interesting, but completely contradictory to what he learned in law school in the 1990s.

“People were expected to be responsible for their activities,” he said. “And as long as it was within their means to stop something or more tellingly anticipate a problem before it occurs, they have an obligation to do so. When you blend software over the top of this level of autonomy, we are left with some difficult boundaries to try and assess where a driver’s responsibility starts or the software programmers continues on.”

When considering the ethics surrounding autonomous living, Paris referenced the “trolley problem.” The trolley problem goes as this: there is an automated vehicle operating on an open road, and ahead there are five people in the road and one person off to the side. The question here, Paris said, is should the vehicle consider traveling on and hitting the five people or will it swerve and hit just the one?

“When humans are driving vehicles, they are the moral decision makers that make those choices behind the wheel,” she said. “Can engineers program automated vehicles to replace that moral thought with an algorithm? Will they prioritize the five lives or that one person? There are a lot of questions and not too many solutions at this point. With these ethical dilemmas, you have to be careful about what is being implemented.”

Northman and Paris agreed autonomous living is on the horizon. So, even though innovations are happening, they both believe the law still has some way to go before it can catch up.

“It’s going to happen, and it’s going to take longer than our vision allows,” Northman said. “We have already seen a number of states, including Ohio, to start to try to develop laws to encourage (development) and to stay on the forefront of this. So, I think individual states and municipalities are going to be fairly aggressive in adopting regulations and laws. But ultimately, it’s going to be difficult to figure out what that law will look like.”



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