

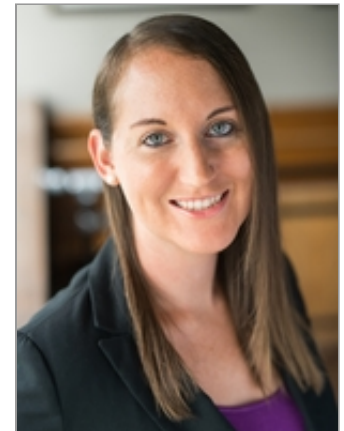


Portfolio Media, Inc. | 860 Broadway, 6th Floor | New York, NY 10003 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Man Vs. Machine: The New Era Of Self-Driven Cars

Law360, New York (February 5, 2016, 11:52 AM ET) -- Man vs. Machine — a common literary theme which some argue dates back to the 19th century when Mary Shelley created the infamous monster in Frankenstein. Just as the story of Frankenstein was a struggle between human and machine, the recent invention of the self-driven car presents a similar conflict.

Although self-driven cars are a very new development, many different companies are scrambling to develop a foothold in this arena. Google Inc., Tesla Motors Inc. and Nissan Motor Co. are only a few examples of companies who have begun testing self-driven cars on our roadways. Naturally, the introduction of self-driven cars raises a number of moral and legal concerns. Are self-driven cars going to replace humans? *Can* they replace humans? And if so, *should* they replace humans? What happens if you get into a car accident with a self-driven car and are injured? Who can you bring a claim against? Better yet, what happens if there is a human in the car but that human does not engage a “manual override” switch? Is that human responsible?



Kimberly L. Wald

An additional concern revolves around the actual software being utilized in these cars. Imagine yourself driving down the highway when the driver to your right starts drifting into your lane. Logically, you will want to avoid a collision so you will adjust your driving. However, this adjustment may include a maneuver that is not entirely “proper” or “legal.” For example, you may speed up rapidly and drive over the posted speed limit, or you may swerve into the lane to your left or the shoulder of the highway. These maneuvers are not “legal” per se and you may be “breaking the law” in order to avoid a collision. How would a self-driven car approach these situations? Are they programmed to “break the law” when necessary? And how do you program a machine to “break the law?” And if a law is violated, who is responsible?

Some of these questions are already being posed because there have been numerous instances of accidents both caused by and also involving self-driven vehicles. One of the first self-driven cars was introduced by none other than the people who gave us our favorite search engine, Google. Google began testing its self-driven cars in 2009. Since then, Google has reported at least fourteen car accidents involving these cars; however, the majority of these accidents were actually caused by human-driven vehicles, not a Google car. It is interesting that one of the only reported incidents of a Google vehicle breaking the law was in November of last year when one of Google’s cars was actually pulled over in Mountain View, California, for driving under the speed limit.

Besides Google, both Nissan and Tesla have also entered the self-driven vehicle marketplace. Nissan has recently utilized the software, Cruise Automation RP-1, in some of its Leaf

autonomous vehicles. Cruise Automation is software which combines data from cameras, radar, sensor pods and other measurement systems to automatically control vehicles with no need for human operators. These sensors all integrate to a computer which is placed in truck of the vehicle. There is also a "cruise" control which provides the operator an easy method of disengaging the autopilot feature.

Only a few weeks ago in San Francisco a self-driven car manufactured by Nissan, operated by Cruise Automation, collided with a parked vehicle. In this instance, the automatic computer was operating the car when it began to veer off course. The human operator in the car decided to take over manual control; however, he did not properly correct the path, which resulted in a collision. Did the man have a duty to correct the automatic computer earlier? If so, what kind of duty and to whom? What if that human operator was texting while "monitoring?" Is that an additional citation or violation?

Telsa has also recently introduced a vehicle with an "autopilot" feature. Last October, Tesla introduced a "Version 7.0" update to its Model S vehicles that allows the human operator to sit back while the machine fully controls the car. This software is an advanced radar-guided cruise control that can bring a car to a complete stop, steer the car inside a lane and automatically parallel park the car. However, there have been reports that this autopilot is problematic when driving through curvy roads at high rates of speed because the car is programmed to follow lane lines and not the geometric center of a turn. Shortly after this feature was released, three men decided to test out the autopilot on their 2,994 mile cross-country trip from California to New York. The men reported that, although the autopilot provided a wonderful advantage, when they were driving on curvy roads, at times they were forced to take over manual control out of fear that the car would drive off the road.

This incredible machine is not only changing the landscape of our roadways, but is also changing our laws. Many states, such as California, Connecticut, Hawaii, Georgia, Illinois, Maryland, North Carolina, New York and Texas, have already begun to address these issues through legislation. As stated in California Assembly Member Bonilla's Jan. 6, 2016 bill, "California law permits the operation of an autonomous vehicle on public roads for testing purposes if, among other requirements, the driver is seated in the driver's seat and is capable of taking immediate manual control of the vehicle in the event of an autonomous technology failure or emergency."

Further, last November, New York Congresswoman Grace Meng introduced the Autonomous Vehicle Privacy Protection Act of 2015 (H.R. 3876). This bill requires the Government Accountability Office to make publicly available a report that assesses the organizational readiness of the Department of Transportation to address autonomous vehicle technology challenges including consumer privacy protections. This bill has been referred to the Subcommittee on Highways and Transit.

Thus, this modern, automotive machine and the conflict between it and man, leaves more questions than answers. Although these self-driven cars may not look as frightening as Mary Shelley's horrendous monster, they are potentially more dangerous and raise many worrisome moral and legal questions.

—By Kimberly L. Wald, Kelley Uustal PLC

Kimberly Wald is an attorney in Kelley Uustal's Fort Lauderdale, Florida, office.

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