

Enforcement and Dispute Resolution in a Digital Context

Term paper assignment 2017

Case: Autonomous Cars

The US-based company Ghost Cars (abbreviated GC) is planning to launch a fleet of autonomous, self-driving cars in selected cities in EU and EEA countries. The service is based on an app, offered to prospective passengers for download to their mobile devices. This app is used to manage end-users' mobility within the selected cities. Users can fill in the origin and destination of their trip and select from a number of additional options and fees. After a booking, an autonomous vehicle arrives, picks up the passenger(s) and drives them to the selected destination.

Prior to the launch of its service, GC is considering a number of issues, including the following.

Payment is handled through the app, and the users are given a guaranteed time of arrival at destination (with a price reduction if the time is not met). The service is offered under terms and conditions exclusively selecting California and Californian law as jurisdiction and choice of law. In the event of any disputes, the terms and conditions point to an alternative dispute resolution (hereinafter: ADR) mechanism using artificial intelligence. This ADR mechanism makes an automated decision about the dispute, without involvement of a human decision-maker. For disputes below 200 Euros, this ADR mechanism is the only option available to GC customers in the event of a dispute. The decision-making by the artificial intelligence is based on ADR data from previous disputes, which were decided by independent experts in California.

GC's vehicle management system for Europe is run from a cloud service in Ireland, and all user data is stored there. GC uses the cloud environment offered by a cloud computing service provider, Amazon Web Services (AWS). Prior to the launch in Europe, the US authorities have notified GC that they will require access to some user data stored in Ireland, for the purposes of crime and terrorism prevention. The argument made by US authorities is that all user data is accessible from GC's headquarters in California, and that both AWS and GC are based in the US. GC has publicly rejected this claim.

The self-driving cars are programmed not to contravene road traffic laws, so their maximum speed is limited to the speed permitted on the respective local road. However, analysis of driving data from other countries where the service is already available suggests it may be possible to circumvent that limitation. It is not clear exactly how this is done, but there are indications on different web forums that users may be able to access certain emergency codes on the web. If entered into the car's keyboard, these codes allow the users to increase the car speed up to 30 % above the permitted speed limit. These emergency codes are used in the vehicle management system for purposes where GC needs the cars to run faster due to exceptional circumstances, such as testing or emergency. The

cars' limitations to the specified speed limit, as well as the use of emergency codes are best practices recommended by the International Association for Autonomous Cars (IAAC). It is likely that the database with codes was hacked, and codes are being made available to end-users for purchase.

Task for Term Paper

Discuss selected aspects of this case as examples of issues regarding dispute resolution and enforcement in a digital context. Your paper must focus on three (3) of the following perspectives;

- A. The self-driving technology and its limitations as examples of “lex informatica” or “code”;
- B. Self-regulation;
- C. Cybercrime;
- D. Jurisdiction and choice of law issues;
- E. The use of alternative dispute resolution;
- F. How GC manages, or could manage, legal risks;
- G. Legal issues regarding cloud computing;
- H. Information security issues in light of legal requirements.

Your paper must explicitly specify the 3 selected focus areas in the title or subtitle. The analysis should be based on the case described above. If certain facts are necessary for the analysis and not available in the case description, you may make explicit assumptions about such facts, which must be reasonably within the framework of this case.

Draft Term Paper

You must also submit a draft term paper as indicated on the course website. Preferably, that draft should also include (preliminary) research questions regarding the three selected issues. The research questions should inform the reader about your approach to the subject matter under discussion.