Contract Law and Liability in the field of Robotics

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Warsaw, 17 kwietnia 2016 r.

Do we have a problem already?

- ## High Frequency Trading example

  - HFT is a kind of algorithmic trading (e.g. on stock market) which encompasses trading systems heavily (totally?) reliant on algorithms (*algos*);

  - The idea revolves around a very high-volume short-term trade transactions <u>effectively performed by a computer program</u>

  - In practice, in 2012 more than 60 percent of all futures transactions made on U.S futures market were made by HFT.

What if an (autonomous) robot were to conclude a contract?

What is required to form a contract:

- Legal capacity (capability to be the subject of rights and obligations under civil law)

- Capacity to exercise rights (capability to make a declaration of intent/to make an offer/to accept an offer)

- A declaration of intent/offer/acceptance

Declaration of intent made by a robot

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Possible scenarios to consider:

- robot showing an intent to enter into contract on its behalf

- a robot showing an intent to enter into a contract on behalf of someone else:

  - autonomous robot (a robot that is capable to make its own decision)
  - non-autonomous robot

Declaration of will made by a robot

- Can it express intention (make a statement of will) of its „principal"
    - non-complex algorithm („messenger")
    - more complex algorithm
- What is required to form an intention?

What does „intention" (declaration of intent) mean?

„An external display of <u>making a decision</u> to trigger legal effect"

A decision made by an algorithm

Problems:

- Is there any actual „decision" to enter into contract

  - is „programming" or making decision to use a program sufficient?

    - Pros: Certainty, confidence of the other party.

    - Cons: when me make such decision we might not know what contract we would end with; it is hard to say that there was a decision to make some legal effect;

- what about the decision of the other party?

A decision made by an autonomous robot

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Problems:

- There is no action that could be even remotely considered as declaration of intent made by a <u>person</u>;

    - A contract is concluded if: (a) the parties <u>intend</u> to be legally bound, and (b) they reach a sufficient agreement without any further requirement (The Principles of European Contract Law)

- No legal capacity;

    - It is hard to identify a concept which would allow us to attribute legal effects of robot's action to a human (from a contract law perspective)

Main problem; definition of autonomous robot

Omnis definitio in iure civili periculosa est, parum est enim, ut non subverti potest
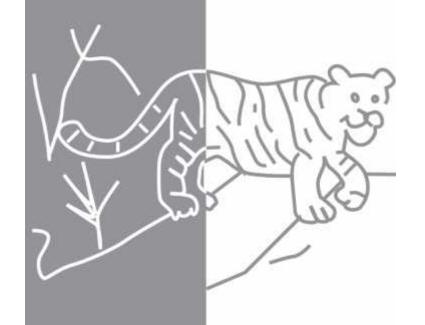
> every definition in civil law is dangerous, for rare are those that cannot be subverted

- Considered concepts:
    - Legal capacity/legal status (recognition as a subject in the field of law), strict liability
    - Compulsory insurance system
    - Compensation fund

- The effectiveness of such concepts is based on definition of robot autonomy

Thank you for your attention

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