

What's Next: Drive the Legal Road to Autonomous Cars

We talk with O'Melveny's Melody Drummond Hansen to catch up on the future of autonomous and connected vehicles.

Welcome back for another week of What's Next, where we report on the intersection of law and technology. This week, we check in with O'Melveny's Melody Drummond Hansen for a tune up on the full-throttle future of autonomous and connected vehicles. Plus, Amal and George Clooney launch an artificially intelligent app to monitor courtroom corruption. And lawyers share plans to devote a bigger chunk of change to a growing field.

The Road to Legality for Autonomous Vehicles

O'Melveny & Myers' chair for its automated and connected vehicles industry group did not own a car until she moved to the firm's Silicon Valley office a few years ago. Melody Drummond Hansen grew up in rural South Carolina in an area where paved roads were a bit harder to come by. As the firm's intellectual property and technology partner, Drummond Hansen helps companies maneuver around the regulatory and litigation risks, as well as data and privacy concerns on the path to self-driving ubiquity. "I am a long way from that dirt road in South Carolina," she said.

We caught up with Drummond Hansen to check in on the emerging



Melody Drummond Hansen of O'Melveny & Myers.

law around automated vehicles, which she suspects will begin regularly transporting passengers any day now. First, however, the legal community and consumers need to get up to speed.

>> **What are the newest developments around autonomous vehicles?** There are myriad developments that can be challenging to track. We have a **fun widget** on our website that tracks federal and state regulations, but one of the most interesting trends we're seeing is some cooperation among different folks in the industry to educate and collaborate in the space.

There's a coalition called **Partners for Automated Vehicle Education (PAVE)** that was launched earlier this year. It brings together a couple dozen industry leaders, academics and policy advocates, with engineering association SAE as one of the founding members.

The initiative was announced at CES and it hopes to respond to the fact that there's a lot of incomplete information out there. Not only for consumers, who might be swayed by the types of stories the media usually covers, but also agencies like the National Highway

Traffic Safety Administration, which are working really hard to adapt. It's a challenge to reach consensus even on what commonly used terms such as "autonomous" mean.

I think the other major development is around data and privacy. **We are all in a time of reckoning about data and privacy more generally, including for connected technology.** How do we deal with security, privacy, who owns the data and monetization? We're trying to strike those balances, and there are efforts that are more tailored to autonomous and connected vehicles.

>> **What are some laws that are shaping data and privacy in connected vehicles?** When you think about the many laws, including the General Data Protection Regulation and the California Consumer Privacy Act, when you get passed the definitional concerns, we're talking about four different areas: minimization, anonymizing or compartmentalizing, notice or advertising, and responses to incidents and concerns.

The minimization piece asks companies to only collect, store and use what you need. You can do this by minimizing on the front end of what you collect. Just think about a video. How far around or within a vehicle are you going to record a video? You can fuzz out information that you've collected. Can you take the info you need and discard what you don't?

A related but distinguishable concept is anonymizing and compartmentalizing.

When the data is being stored or transferred, can you make it very difficult or impossible to view personal information? Can you break up data into pieces to make it more difficult to connect to individuals?

Notice and advertising is what you tell people about what data you collect and how you're going to use it. And how you respond to a security or privacy breach when it happens is a really important issue. I love the scene in "Taken" when he's talking to his daughter on the phone and says, "This is very important—you're going to be taken." I think there's an aspect to that in AV data security. **Some may be asking, "How can I make an unhackable AV?" The answer is you're not going to.** You've got to assume hacks and breaches will happen, and having a robust response plan is key.

>> **What are some lesser known legal complexities of AV?** International investments and cross-border development is one piece. The Committee on Foreign Investment in the United States develops strategic areas where they may restrict foreign investment in industries the country has identified as key areas of technology. AI has been one of those in the past. It can affect where companies can expand, where they can get investments from and cross-border activity.

There are a lot of open questions about how federal interest in this space might complicate the ability of countries to establish international

locations and to share data. When it comes to technology, China is very interested and invested in the space and has a lot of technical investment in electric, hydrogen, AI and 5G. In light of the current climate of trade policy, the question is where is this going to be headed for cooperation and for competition?

>> **When do you think we'll see autonomous vehicles carrying passengers outside of a pilot?** I have an optimistic view of this. **My answer is any day now.** We have deployment permits already issued in California. Waymo has been giving passengers rides in their vehicles in Arizona for a while now. There now have been permits issued in California from the California Public Utilities Commission to participate in a driverless pilot.

The announcements that you're seeing are announcements for 2020. The technology is really ready, and that's why you're seeing this permitting. California is one of the most consumer protectionist states in the country, so I view it as a big vote of confidence that the state has granted these permits and is forging ahead. I don't think 2020 would be unrealistic, and the date of that probably depends less on the tech and more on regulatory environment and consumer acceptance. The development of an education program is really significant. **Consumers need the opportunity to get up to speed on this and the AV industry is working hard to address their concerns.**