



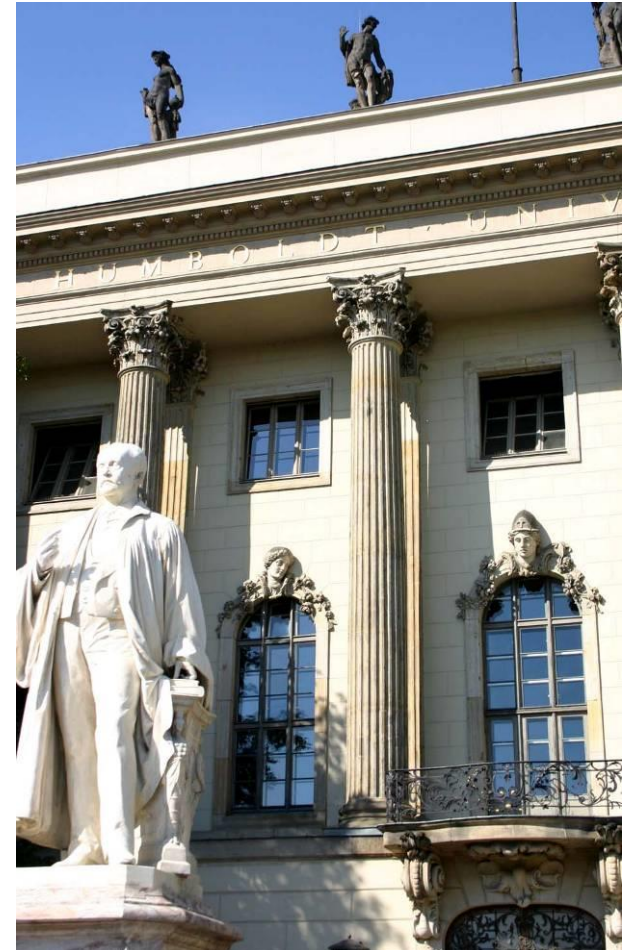
Autonomous Agents as Legal Persons?

A Functional Approach

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What are we Looking at - Objects or Subjects?



The First Dilemma

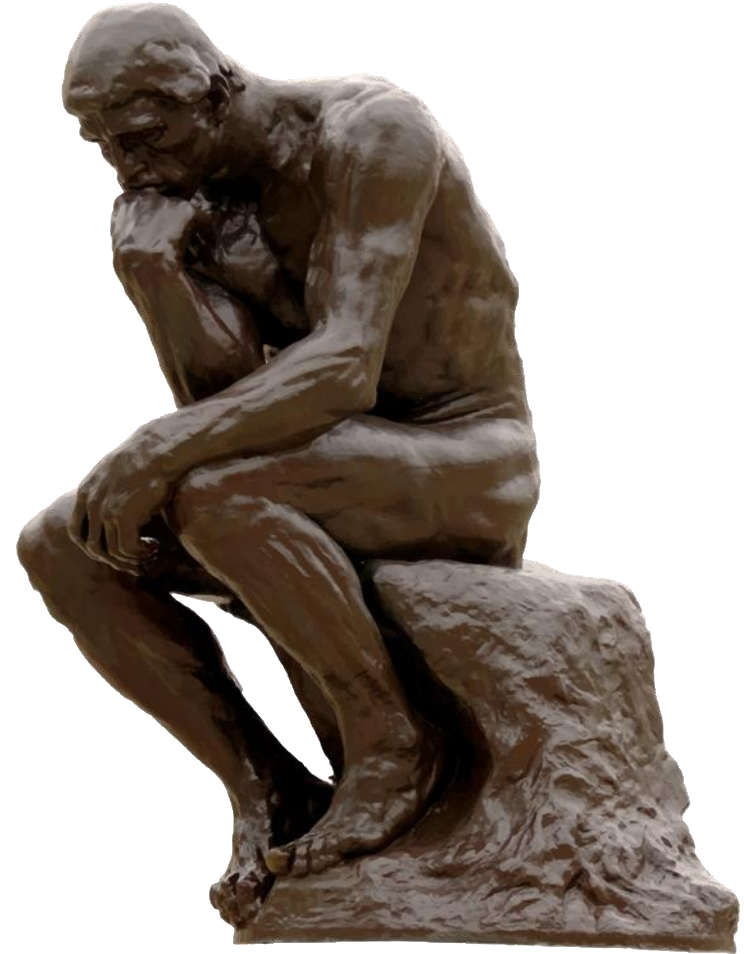
Abilities/perception push for agency



- ✓ Control of behavior; rational decision-making (Dennett and Nozick; Matthias)
- ✓ Second stage wishes (Erhardt and Mona, Matthias)
- ✓ Interactivity, autonomy and adaptability (Floridi and Sanders)
- ✓ Ability to communicate; joys and sorrows (Erhardt and Mona; Teubner)

The First Dilemma

... but where would agency leave us humans?



The Second Dilemma

'Responsibility gaps' push for E-Personality...



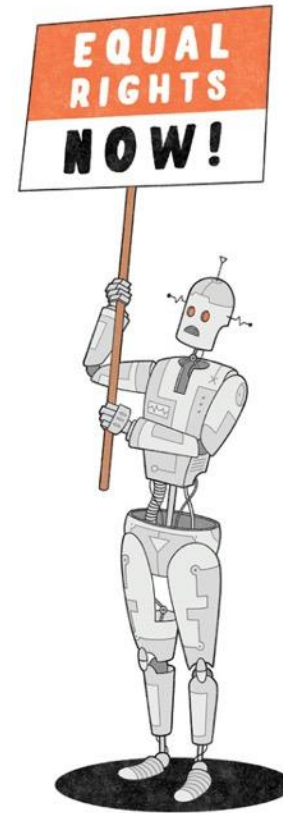
- 'Autonomy risk'
 - Conceptual and practical issues with contract formation, torts
- European Parliament, 2017:
 - EU-wide new civil law rules on "robots, bots, androids and other manifestations of artificial intelligence"
 - Legal status of electronic persons to fill 'responsibility gaps'

The Second Dilemma

... but legal personality is a slippery slope



- 'Humanization trap':
Corporate entities warning
example
- Justification needed:
Why should autonomous
agents should not enjoy the
same rights as other persons?



A 'In-Between Status' Made in Germany Introducing *Teilrechtsfähigkeit*



- 'In-between status' needed, halfway between person and object
- German law offers exactly that: *Teilrechtsfähigkeit* – partial legal capacity
- An entity is recognized as a legal subject, yet the range of its subjectivity is limited by its specific function (e.g. unborn child, pre-company)
- Bottom-up instead of top-down
Form follows function

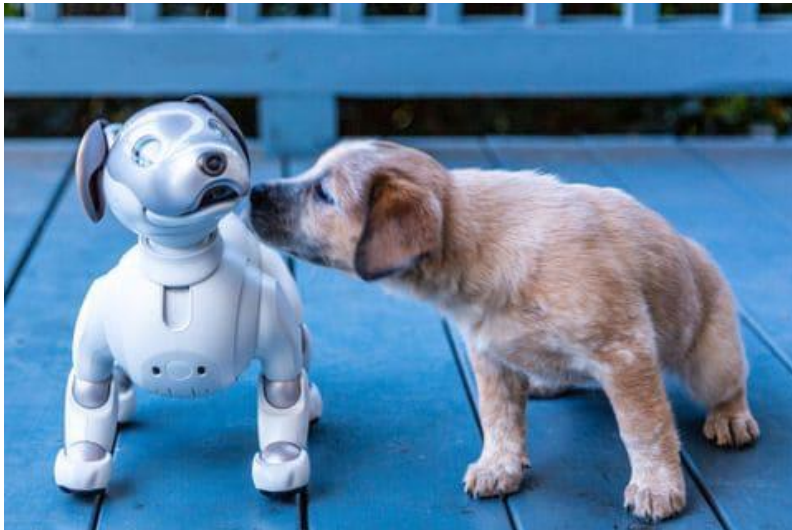
A 'In-Between Status' Made in Germany Introducing *Teilrechtsfähigkeit*



- Autonomous agents do not (yet) act in their own interest. Their job is to provide support for both natural and legal persons
- They should be treated as legal subjects *insofar* as this status reflects their function as *sophisticated servants (e.g. contractual agents)*
- With *Teilrechtsfähigkeit* we can have it both ways!
Solving the doctrinal and practical problems without the slippery slope

Of Mice and Machines

Implementing a 'reversed animal rule'



- Historically, courts have been very reluctant when it came to acknowledging legal subjectivity for non-human actors
- Slight push needed: Implementing a 'reversed sec. 90a BGB':

Autonomous agents are not persons. Consistent with their serving function, they are governed by the provisions that apply to agents, with the necessary modifications, except insofar as otherwise provided

Recommended Readings



- *Teubner, Gunther: Digitale Rechtssubjekte? Zum privatrechtlichen Status autonomer Softwareagenten, Archiv fuer die civilistische Praxis 2-3 2018, 155-205*
- *European Parliament: P8_TA(2017)0051 - Civil Law Rules on Robotics*
- *Schirmer, Jan-Erik: AI and Legal Personality – Introducing *Teilrechtsfähigkeit*: A Partial Legal Status Made in Germany (forthcoming)*
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