

Should Car Manufactures be Liable for Cyberattacks?

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YES!

**So what are we going to talk about for
the next 25 minutes?**



Our topics for today

- Hacking into a car
- In-vehicle technologies
- Current liability regimes
- Justifications for manufacturer's liability.
- Limitations and Ramifications of assigning liability.

**This can really happen
(but doesn't usually)**



Two notes before we begin:

- Mainly relevant in the age of autonomous vehicles
 - Until now – rare and mainly insignificant.
 - Important where full control is passed on.
- Applicable when installed are only manufacturer-made or authorized parts.

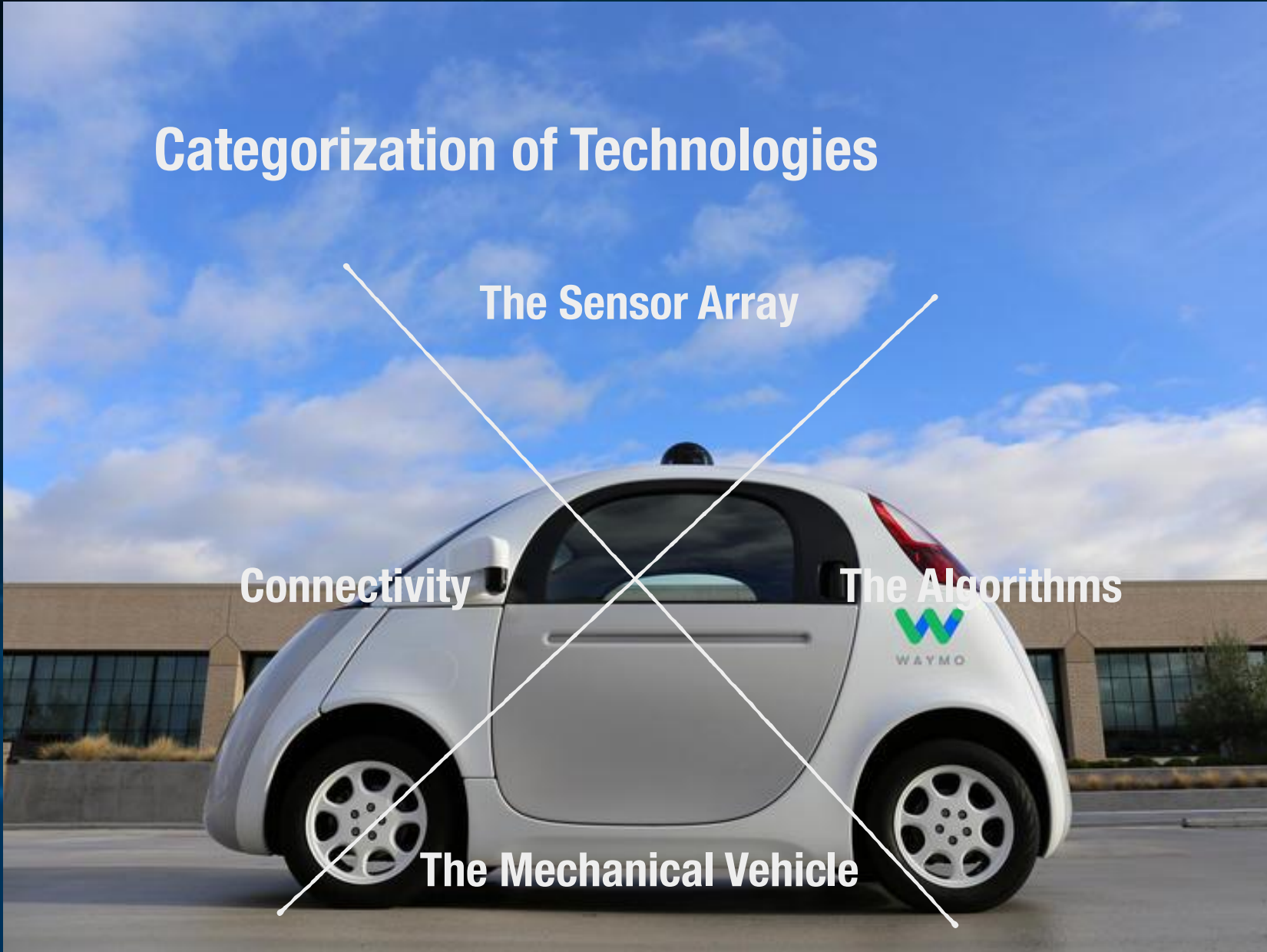
Categorization of Technologies

The Sensor Array

Connectivity

The Algorithms

The Mechanical Vehicle



Unique aspects of algorithm self-driving

- The replacement of the human driver:
 - Most regulatory systems focus on the liability of the driver.
 - People inside the vehicle will be passengers (cargo?).
- Predictions that autonomous vehicles will be a “service”.

Connectivity

- Allows for coordinated action:
 - Essential for traffic control.
 - Cost Effective.
- Assists in accident prevention.
- Security Vulnerability:
 - Any system connected is potentially compromised.
 - Criminal and National Security.
- Privacy

Are they already liable? Maybe...

- Negligence
 - Duty – is there a standard? How do we analyze the relationship between car users and the manufacturer?
 - Breach of duty – case by case? Is this practical?

Cravath, Swaine & Moore and Weil Gotshal & Mang

Are they already liable? Maybe

- Product liability
 - Is this a service or a product?
 - Manufacture flaw or design flaw?
- Strict Liability
 - Common with high-risk activities.
 - Requires legislation \ regulation.

Should manufacturers be liable?

- Cost Effective:
 - Manufacturers have the most knowledge.
 - Manufacturers are best suited to fix.
- Simple to implement.
- In autonomous vehicles there is no driver.
- Manufacturers do not control the vehicle or its usage.
- May create barriers to competition.
- Creating liability may harm private interests (property, privacy)

Establishing duties:

- Formalizing safety standards.
- Regulating licenses.
- Creating safe-harbors.

Predicted ramifications:

- Changing manufacturer-end user relations.
- Updating car software.
 - Security Vs. The right to property.
 - Maintaining standards (when is an update urgent).
 - Updates that require new hardware.
- Post fact enforcement vs. preventative measures.

Thank You!

