McCombs, Goryunov, and Clements in The Patent Lawyer: How might an AI Model affect vehicle accident liability?

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The automobile has been around for well over a century. As such, society has in place a legal framework for determining liability in case of an accident. When an automobile is involved in an accident, the law determines whether that accident was the result of a negligent driver or a defective automobile and then assigns liability as appropriate.

Manufacturers have a duty to exercise reasonable care when designing their automobiles to make them safe when used as intended. But even if a manufacturer exercises reasonable care, they may still be strictly liable for manufacturing defects or design defects. Manufacturing or design defects may occur anywhere along the production chain. For example, a defective brake caliper may cause failure of the braking system and lead to a vehicle crash.

But what if an accident involves an autonomous vehicle and the cause of an accident might be a defective autonomous feature, such as autosteering? While determining whether a brake caliper is defective may be a relatively straightforward task, determining whether the software of an autonomous vehicle is defective can be quite difficult. This is particularly so if the autonomous vehicle feature is one that relies on Artificial Intelligence (AI) models. The authors explore some of the challenges that are associated with determining whether an autonomous vehicle feature – that relies on AI models – is defective for the purpose of determining liability.

To read the full article in *The Patent Lawyer*, click here.