Review of: "[Essay] Not Quite Like Us? — Can Cyborgs and Intelligent Machines Be Natural Persons as a Matter of Law?"

Igor Aleksander[1]

1 Imperial College London

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The topic of identifying the legal implications of AI systems that may not be culturally distinguishable from humans seems tricky, so the author can be congratulated for the scholarly and systematic way that he has approached the topic. He asks: “why aren’t AI machines that can match or outperform humans at tasks traditional associated with human higher mental faculties, such as creativity and innovation, not human?” By ‘human’ he intends ‘having the legal rights akin to those of humans’. The difficulty with this kind of analysis is that it can fall at its early steps. The obvious answer is that performing higher mental faculties is a hallmark of humanity but does not define it. The author clearly is not oblivious to such points and identifies a set of detailed issues that may be used to create machine/human distinctions. However he may wish to consider the following argument. He notes that *sapience* as the capacity for intelligent thought may be more important for endowing humanhood to an organism than *sentience*, the capacity for sensing or feeling the world. I would add that *experience: gathering, storage and use* might be the key issues which define the framework that distinguish the human from the machine. Call this the *experienciality* (ugh!) of the organism. It turns out that machines and humans gather their experience in different ways and these become evident in interactions. The developing human adds to her experience every moment of her conscious existence whereas a static machine does it by harvesting information available from a variety of sources including the internet, and it is doubtful if this could be called experience at all. On the other hand, a robot (rather than an unspecified machine)could get closer to a human in terms of gathering experience by exploring the world. But then this experience will be imbued with a strong sense of being a robot and not a human. For example, ask your machine : “do you like strawberries?” the answer should be, “I am a machine so have no means for liking strawberries, but can tell you that 74.6% of humans like strawberries.” A dishonest robot might say “I like strawberries very much”. Indeed the Turing imitation game rests on the computer lying, pretending to be a human. So while it is true that if one puts aside the technical makeup of the questioned automaton, it is possible to be fooled by the machine. But surely it is not the business of the law to endow humanity only to dishonest machines?

It seems evident, as the author fully embraces, that what the law needs to do as machines get super-smart, is to create laws properly adapted to the non-humanity of such organisms *and* their interactions with humans. But this is not the same as endowing legal humanity to a super-smart machine. Of course ‘cyborgs’ and ‘cobots’ can create headaches for lawmakers in the above scenario, but there are many ways of dealing with this. The key question might be about where and when most of the organism’s *experience* had been garnered. But the paper is well worth reading for its intended

stimulation of discourse in this tricky area.