



简介

Introduction

中国目前走在自动驾驶的前沿。随着中国汽车制造业的蓬勃发展，中国仍需进一步发展科技，实现“无人驾驶汽车”，其他各国亦是如此。中国现在正努力成为这一科技领域的领导者，除了因为中国是世界上最大的汽车市场且决心成为这项关键革新技术的领衔国家，更是为了降低本国交通事故的发生率。每天，中国道路上的死亡人数达到700以上。

China is at the forefront of autonomous driving technology. Its dynamic and successful car manufacturers are scurrying to develop the technologies that will make “robocars” a reality on its roads and the roads of the rest of the world. China is focused on seizing leadership in this industry not only because the country is the largest car market in the world and determined to take the lead in a crucial and game-changing technology, but also because of its under-publicized objective to cut road accidents. Every day, more than 700 people die on China’s road.

国家战略:自动驾驶

The National Strategy: Autonomous Driving

2016年12月27日，中国国务院出台了《“十三五”国家信息化规划》，将自动驾驶列为一项战略性尖端科技。自动驾驶已成为国家规划的一部分。

On December 27, 2016, the China State Council promulgated The National Strategy for the Information Age for the Thirteenth Five-Year Period¹, listing autonomous driving as a strategic cutting-edge technology. Autonomous driving has become part of the national plan.

尖端科技往往会对立法者确定新技术监管方式和风险承担主体提出挑战。自动驾驶也不例外。实际上，无人驾驶汽车对驾驶人和其他道路使用者都会造成巨大的风险，因而很难制定正确且合适的法律规定。

Cutting-edge technologies always create challenges for lawmakers, both in deciding how to regulate the new technology and in deciding who shall bear the risks of the new technology. Autonomous driving is no exception. Indeed, given the risks that an autonomous vehicle could pose to the driver and to other road-users, the stakes in getting the law right are unusually high.

本文简要分析了北京朝阳区法院审理的特斯拉“Autopilot”功能案。

Here, we provide a brief analysis of an ongoing case on the Tesla “autopilot” function, which is being heard in the Beijing Chaoyang District Court².

案情

The Case

2016年1月，23岁的男子高雅宁驾驶其特斯拉Model S汽车撞上了一辆道路清扫车，致使高雅宁不幸身亡，事故发生时特斯拉车辆在运行“Autopilot”功能。

In January 2016, Gao Yaning, a 23-year-old man, crashed into a road sweeping truck with his Tesla Model S while using the “autopilot” function. Yaning was killed in the crash. Gao Jubin, Yaning’s father, claims that the car was using the “Autopilot function”.

事故发生后，特斯拉于2016年8月在其中国官网上将“Autopilot”的中文翻译由“自动驾驶”改为“自动辅助驾驶”。

Following the accident, in August 2016, Tesla changed the Chinese translation of “autopilot” from “autonomous driving” to “automatic assisted driving” on its official Chinese website.

高雅宁的父亲高巨斌起诉了特斯拉中国，指控特斯拉中国夸大了“Autopilot”功能，请求特斯拉对虚假广告公开道歉，并赔偿精神损失人民币10,000元。

Gao Jubin, the father of Gao Yaning, launched a legal action against Tesla China claiming the company exaggerated the capabilities of the “autopilot” function. He is seeking a public apology from Tesla and compensation of ¥10,000.

¹ Guowuyuan Guanyu Yinfu Shisanwu “Guojia Xinxihua Guihua de Tongzhi” (《国务院关于印发十三“国家信息化规划的通知”》，国发(2016)73号) [The National Strategy for the Information Age for the Thirteenth Five-Year Period] (promulgated by the St. Council, December 27, 2016, effective December 27, 2016) (The Central Government of People’s Republic of China) (China).

² Gao Yaning Su Tesla Zhongguo (高巨斌诉特斯拉中国) [Gao, Jubin v. Tesla China], (Beijing Chaoyang Dist. People’s Ct.) (China).

Screenshots from Tesla's official Chinese website on August 11, 2016 (left), and on August 15, 2016 (right)³.



(特斯拉中国官网2016年8月11日的截图(左)和2016年8月15日的截图(右))

2018年2月，特斯拉承认事故发生时“Autopilot”功能处于运行状态。

Later, in February 2018, Tesla acknowledged that the “autopilot” function was activated at the time of the accident.

案件关键问题

Key Issues for Deliberation

法院仍未判定涉案的特斯拉汽车是否存在质量问题，也未判定这些问题是否是造成事故发生的原因。法院正在考量“Autopilot”的原始中文翻译是否因未合理告知驾驶员自动驾驶仪的正确使用而存在法律缺陷。

The court is still considering whether the Tesla vehicle involved in the accident was subject to quality issues or even defects. For example, did the original Chinese translation of “autopilot” constitute a warning defect?

虽然本案尚未判决，但有一点可以明确，自动驾驶技术在商业使用中的名称选择也会给汽车制造商造成重大风险。

While the case is not yet decided, it is clear that the choice of name in the commercial use of autonomous driving technology may expose auto manufacturers to significant legal risks in China.

³ Zhu Ruomiao (朱若淼), [Chehuohou, Tesla Guawang Qudiao le “Zidong Jiashi” \(《车祸后，特斯拉官网去掉了“自动驾驶”》\)](#) [After the Accident, Tesla Official Website Removed “Autonomous Driving”] (April 27, 2018) (China).

关键信息

Key Takeaway

汽车制造商应在用户手册、广告、一般营销材料和销售人员培训材料中注意自动驾驶相关内容的表述，并在公开发行之之前，让法律专业人士谨慎核查这些材料的内容。

It is essential to carefully draft the contents related to autonomous driving in user manuals, advertisements, marketing materials generally and salesperson’s training materials, and to have these documents carefully checked by legal professionals before publishing.

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