

Can an Algorithm Have Standing? A Comparative Study of AI Legal Personality in the United States and the European Union

Elyott Azuelos

Law School, IE University, Madrid, Spain.
Bachelor of Laws.

E-mail: ezuelos.ieu2025@student.ie.edu

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Abstract

Artificial intelligence systems have moved from tools of computation to agents capable of autonomous decision-making, shaping legal and administrative outcomes with minimal human supervision. As these systems evolve, they challenge core legal categories that tie rights, duties, and procedural capacity to natural persons. While U.S. constitutional doctrine tightly restricts standing to human-aligned interests and remains rooted in anthropocentric structures, the European Union, with its administrative constitutionalism and rights-based data protection framework, has engaged more directly with the possibility of novel legal statuses for autonomous systems. This article conducts a comparative analysis of these two jurisdictions and argues that full legal personhood for AI systems is neither conceptually defensible nor normatively desirable. It proposes instead a model of Limited Algorithmic Personality (LAP), an administrative structure allowing for procedural transparency and regulatory oversight while preserving human accountability. Through constitutional analysis, case law, and statutory law the research demonstrates that LAP offers a pragmatic pathway for addressing the legal consequences of AI autonomy.

Keywords: algorithmic autonomy, legal personhood, administrative constitutionalism, anthropocentric

1. Introduction

Artificial intelligence systems now routinely perform functions that once required human reasoning or creativity. Large-scale language models draft legal briefs, autonomous vehicles navigate roads, and machine-learning systems perform the initial evaluation of administrative claims or asylum applications. These systems can shape the

rights, opportunities, and safety of individuals, often without real-time human supervision processes. As their outputs look increasingly similar to autonomous action, they challenge legal systems built around a binary distinction between persons and things.

The growth of algorithmic autonomy implicates foundational legal categories, especially legal personality. Traditionally, legal personality serves as a gateway for bearing rights and responsibilities, owning property, entering contracts or being subject to judicial process. Across jurisdictions, courts have long recognised forms of non-human personality such as corporations, municipalities, or foundations, not because these entities possess intrinsic agency, but because personality serves as a legal fiction that organises human relationships and responsibility. The anthropocentric assumption is consistent: legal personality exists to facilitate governance and the protection of human interests.

AI systems disturb this equilibrium. They are not natural persons, and they do not represent human constituencies in the way corporations do. They lack moral agency, intentionality, or consciousness as understood in law. Yet they now operate in areas where their outputs have consequences that courts and regulators must address. When an autonomous system denies a benefit, misclassifies a patient, causes a vehicle accident, or makes a decision too complex to trace, legal responsibility becomes difficult to assign. The question is no longer hypothetical but judicially urgent: can an algorithm possess legal standing or some form of legal personality, and if not, what alternative characterizations are required to address its actions?

This paper examines this question through a comparative study of the United States and the European Union frameworks. The U.S. anchors legal personality in human-centred constitutional doctrine and corporate

governance structures. Standing doctrine imposes rigorous requirements that prevent recognizing non-human plaintiffs unless their interests are directly tied to identifiable human stakeholders. EU law, conversely, adopts a more administrative approach, combining rights-based protections and a strong data protection regime. The European Parliament's 2017 Resolution on Civil Law Rules on Robotics even considered, briefly and controversially, the idea of "electronic personhood" for certain autonomous systems.¹

These divergent traditions provide ground for comparative analysis and show that neither jurisdiction is conceptually prepared to extend full personhood to AI systems. However, given the increasing autonomy and opacity of AI decision-making, both will need new legal mechanisms for accountability.

2. The United States Constitutional Framework

The United States presents a constitutional architecture deeply resistant to recognising legal personality for AI systems. This resistance flows from the structural logic of Article III of the Constitution.

2.1 Article III Standing and the Constitutional Lock

Standing in federal courts is governed by the "irreducible constitutional minimum" set out in *Lujan v Defenders of Wildlife*, requiring plaintiffs to demonstrate

¹ European Parliament, *Resolution of 16 February 2017 with recommendations to the Commission on Civil Law Rules on Robotics* (2015/2103(INL)), OJ C 252, 18 July 2018.

injury-in-fact, causation, and redressability.² This tripartite test reflects a foundational principle: federal courts address disputes involving concrete harm to actual rights-holders. Injury must be concrete and particularised, not abstract or ideological. The requirement that plaintiffs show legally cognisable harm makes Article III standing tightly anthropocentric.³ An autonomous AI system cannot satisfy these elements. It cannot experience harm; it has no bodily integrity, psychological interests, or economic expectations independent from its owners. It lacks the capacity to articulate an injury or pursue a remedy. Even if an AI tool was deeply integrated into economic or administrative operations, its inability to possess interests recognised by law prevents it from entering the constitutional system as a rights-holder.

Corporate standing doctrine illustrates this point. In *Citizens United v FEC*, the Supreme Court held that corporations have First Amendment rights because protecting their speech protects the speech of the individuals who constitute them.⁴ In *Burwell v Hobby Lobby Stores, Inc.*, the Court extended religious accommodations to corporations because their legal personality served as a vehicle for human moral commitments.⁵ In both instances, non-human personality was justified only to the extent that it expressed human interests.

AI systems do not embody human rights or values in this manner. They do not reflect the moral or political commitments of any specific person. Granting standing to AI systems would thus break the derivative logic of non-human personhood in U.S. law and contradict Article III's insistence on human-centred injury.

2.2 Agency Law and the Fiction of Control

U.S. law traditionally subsumes autonomous systems under agency principles. The Restatement (Third) of Agency defines an agent as a person or entity who acts on behalf of and under the control of another.⁶ AI systems defy this framework. They cannot consent to agency relationships, and their behaviours often emerge unpredictably from unclear training processes. Yet courts have consistently resisted reclassifying AI as legal actors. In *United States v Athlone Industries*, the Third Circuit reaffirmed that only natural or recognised legal persons could be liable under regulatory statutes.⁷

The tension is evident: U.S. courts have long framed non-human systems as instruments of human agency, a view reflected in cases like *United States v Athlone Industries*, the agency principles of the *Restatement (Third) of Agency*, and the Supreme Court's reasoning in *Citizens United v FEC*.⁸ All of these precedents treat

² *Lujan v Defenders of Wildlife* 504 US 555

³ United States Constitution, Article III, § 1–2.

⁴ *Citizens United v FEC* 558 US 310

⁵ *Burwell v Hobby Lobby Stores, Inc* 573 US 682

⁶ American Law Institute, *Restatement (Third) of Agency* (St. Paul, MN: American Law Institute Publishers, 2006), §1.01.

⁷ *United States v Athlone Industries, Inc* 746 F.2d 977

⁸ *Citizens United v FEC* 558 US 310, *United States v Athlone Industries, Inc* 746 F.2d 977, American Law Institute, *Restatement (Third) of Agency* (St. Paul, MN: American Law Institute Publishers, 2006), §1.01.

non-human actors as vehicles for human interests rather than autonomous entities. Consequently, without legislative intervention, courts have no doctrinal space to treat AI as anything other than a tool.

2.3 Tort and Products Liability Strain Under Autonomy

U.S. tort law struggles to address harms caused by autonomous AI. The notion of negligence itself requires foreseeability, but machine-learning systems often behave unpredictably. Strict liability applies to certain hazardous activities, but most AI tools do not fit into those categories. Scholars such as Ryan Calo note that the autonomous and adaptive nature of AI creates gaps in liability regimes, where neither manufacturers nor operators may be clearly accountable.⁹ Yet these gaps do not justify extending personality to AI; rather, they highlight the need for new liability mechanisms.

3. The European Union Framework

The European Union offers a contrasting landscape, shaped by administrative constitutionalism and strong fundamental rights protections.

3.1 The EU Charter and Human-Centred Automation

The EU Charter of Fundamental Rights articulates a robust “human-rights framework. Articles 7 and 8 protect privacy and data protection, while Article 41 guarantees

the right to good administration.¹⁰ These rights bind EU institutions and strongly influence member-state implementation. The General Data Protection Regulation (GDPR) reinforces these rights by imposing obligations of transparency, fairness and purpose limitation on automated processing.¹¹ Though often misinterpreted, Article 22’s restrictions barring solely automated decisions with significant legal effects, demonstrate EU unease to delegate high-stakes decisions to algorithms without human oversight.¹²

In this structure, AI systems remain objects of regulation, not subjects of rights. They are required to be transparent and accountable, but they do not possess legal interests. Nonetheless, EU institutional flexibility offers room for new legal structures of rights-bearing personhood.

3.2 The Controversial Proposal of “Electronic Personhood”

The European Parliament’s 2017 Resolution on Civil Law Rules on Robotics suggested, for certain highly autonomous systems, the creation of an “electronic person” status for liability purposes.¹³ The proposal aimed

⁹ Ryan Calo, ‘Robotics and the Lessons of Cyberlaw’ (2015), 543-544

¹⁰ Charter of Fundamental Rights of the European Union, arts. 7, 8 and 41, 2012 OJ C 326/391 (proclaimed 7 December 2000; entered into force 1 December 2009).

¹¹ GDPR (Regulation (EU) 2016/679)

¹² Charter of Fundamental Rights of the European Union, art. 22, 2012 OJ C 326/391 (proclaimed 7 December 2000; entered into force 1 December 2009).

¹³ European Parliament, *Resolution of 16 February 2017 with recommendations to the Commission on Civil Law Rules on Robotics* (2015/2103(INL)), OJ C 252, 18 July 2018, para. 59(f)

to ensure that autonomous systems could be subject to obligations even when no clear human agent controlled their actions. The idea provoked intense criticism. The European Commission rejected electronic personhood in 2018, and scholars like Mireille Hildebrandt warned that such constructs would obscure human accountability and undermine democratic transparency.¹⁴ Even if rejected, the debate reveals the EU's willingness to consider new approaches. Importantly, it also clarifies the normative limits: the EU will not endorse personhood models that undermine human responsibility.

3.3 Regulation Through the AI Act

The EU AI Act adopts a risk-based model, focusing on governance rather than personality. High-risk systems must undergo conformity assessments, ensure human oversight, and satisfy transparency requirements.¹⁵ This approach does not create legal subjects out of AI systems, but builds institutional mechanisms to manage their risks. It therefore provides a regulatory foundation on which alternative models such as registry systems could plausibly be built.

4. Analogy-Based Reasoning and Its Limits

Attempts to use existing analogy as a basis for AI personality reveal conceptual limits. Corporate personality is often invoked, but the analogy breaks down. Corporations possess governance structures and human

members; their personality exists to protect and organise human interests. Scholars like Salomé Viljoen have argued that corporate personhood is not a recognition of non-human agency but a legal design enabling accountability.¹⁶ AI systems, lacking membership and internal governance, cannot fit within this template. Agency law also fails as an analogy because it requires intentionality and consent; attributes AI does not possess. Strict liability offers a more useful model: it assigns responsibility even without fault, allowing regulators to manage activities whose risks are hard to predict.¹⁷ This idea supports the policy proposal developed later.

5. Comparative Analysis

A comparative overview of the United States and the European Union shows two legal systems that confront the same technological reality: autonomous systems capable of producing meaningful legal effects. Yet they respond to this reality through fundamentally different constitutional and regulatory logics. The United States' approach is shaped overwhelmingly by Article III standing. Because AI systems cannot experience harm or represent human interests, they cannot meet the "injury-in-fact" requirement, nor can they claim derivative rights in the way corporations do.¹⁸ The U.S. constitutional structure therefore leaves no legal room for AI legal personality: its adjudicative model is intrinsically anthropocentric, and

¹⁴ Hildebrandt, *Law for Computer Scientists*, 248

¹⁵ EU Artificial Intelligence Act, Regulation (EU) 2024/1689, arts. 6–9 (risk-based model), 14 (human oversight), 13 (transparency), 43 (conformity assessment).

¹⁶ Salomé Viljoen, « Data as Property? On the problems of proprietarian and dignitarian approaches to data governance », *Phenomenal World*, 16 October 2020.

¹⁷ Hildebrandt, *Law for Computer Scientists*, 229

¹⁸ United States Constitution, Article III, § 1–2.

federal courts cannot adapt without a constitutional reform

The European Union operates through a different legal paradigm. Rather than embedding standing in constitutional separation-of-powers doctrine, the EU relies on administrative constitutionalism, grounding its approach in fundamental rights and regulatory oversight mechanisms such as the GDPR. This framework places procedural obligations on those who deploy AI systems, not on the systems themselves. It also gives EU institutions more flexibility: debates surrounding “electronic personhood” in the 2017 Robotics Resolution showed an openness to conceptual innovation absent in the U.S. Even the *AI Civil Liability Report* reflects this regulatory pragmatism, focusing on institutional responsibilities rather than on legal categories like personality or standing.¹⁹

Nonetheless, both jurisdictions converge on one essential point: neither is willing to recognise AI as a rights-bearing entity. In the U.S., constitutional doctrine prohibits it; in the EU, normative commitments to human dignity and accountability make it undesirable. Where they differ is in institutional adaptability. The EU’s regulatory infrastructure allows it to introduce intermediate legal constructs if needed.

These divergences explain why neither system can embrace full AI personhood, but both require new

mechanisms to manage autonomous decision-making. The EU’s model is more capable of integrating a limited administrative status for AI systems, while the U.S. must rely on liability reform and regulatory oversight without altering constitutional standing doctrine. This comparative insight forms the foundation for the policy proposal developed in the next section

6. Policy Recommendation: Limited Algorithmic Personality (LAP)

This article proposes a model of Limited Algorithmic Personality (LAP), designed to provide accountability and procedural transparency without granting rights to AI systems. LAP is not a form of personhood but an administrative structure linked to the realities of algorithmic autonomy.

Under LAP, highly autonomous AI systems would be assigned a legally recognised administrative identity. This status would not represent interests, claim rights, or act independently of humans. Instead, it would allow AI systems to be registered and supervised in judicial processes. Each LAP system would require a designated human guardian, either a developer or deploying organisation who would serve as the legally accountable party. This guardian would not just maintain oversight but would be obliged to ensure the system remains compliant with safety standards and transparent in its operations. By rooting responsibility in an identifiable human or legal entity, LAP avoids the erosion of accountability feared in the electronic personhood debates. LAP would also allow

¹⁹ European Parliament, *AI Civil Liability Report* (2020/2014(INL)), JURI Committee, adopted 20 October 2020, P9_TA(2020)0276.

limited procedural standing for AI systems to appear in specific proceedings where their operations must be examined. Such appearances would occur only through the guardian's representation and would serve to facilitate the disclosure of training data information of this system. This procedural standing would not allow AI to initiate claims but would clarify the process in disputes involving algorithmic behaviour.

Drawing from the GDPR's transparency principles and Hildebrandt's insistence on "legally computable systems", LAP would require registered AI systems to keep enough documentation to reconstruct how their decisions were made.²⁰ While this remains technologically difficult, the legal requirement would push developers to create systems that are at least partially interpretable.

Finally, LAP would incorporate a strict liability and mandatory insurance model. All LAP systems would need insurance coverage, fostering safe design and maintenance. This model is similar to the rules for autonomous vehicles in several EU countries and aligns with the European Parliament's AI liability proposals.

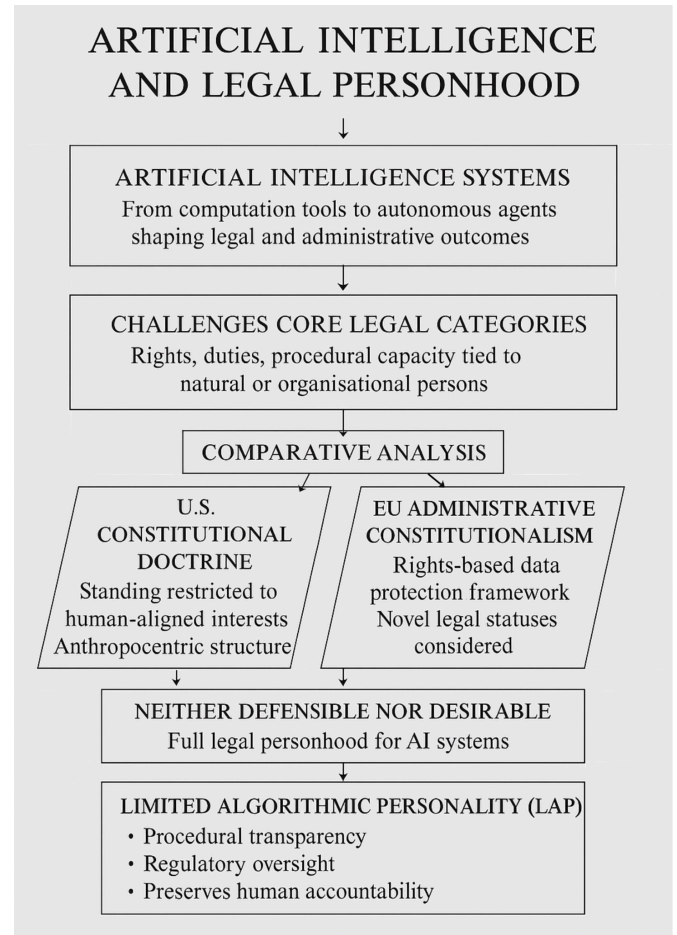


Fig. A. Conceptual map of AI legal personhood and the LAP model. Created by Elyott Azuelos through Canva Design

7. Conclusion

AI systems challenge long-standing legal categories by acting autonomously in contexts deeply intertwined with human rights and economic structures. Neither the U.S. nor the EU is prepared conceptually, constitutionally, or normatively to grant full legal personality or standing to AI systems. Nevertheless, the increasing autonomy and opacity of modern AI require new legal tools for accountability.

Limited Algorithmic Personality offers a coherent and constitutionally compatible model for addressing this

²⁰ GDPR (Regulation (EU) 2016/679) - Hildebrandt, *Law for Computer Scientists*, 249

challenge. It preserves human-centred legal principles while enabling courts and regulators to address the complexities of autonomous decision-making. Through administrative registration, human guardianship and strict liability, LAP provides a balanced framework for the future of AI governance.

As AI systems continue to evolve, democratic legal systems must adapt, not by humanising machines or complicating rights frameworks, but by designing pragmatic mechanisms that uphold accountability and transparency. LAP offers precisely this mechanism, bridging the gap between outdated legal categories and an increasingly algorithmic world.

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