Digital Monsters: Reconciling AI Narratives as Investigations of Legal Personhood for Artificial Intelligence

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Abstract

Cultural legal investigations of the nexus between law, culture and society are crucial for developing our understanding of how the relationships between humans and artificially intelligent entities (AIE) will evolve along with the technology itself. However, narratives of artificial intelligence (AI) have been much debated as a source of investigation for the functioning of human–AI relationships within law and society, with some scholars arguing that these texts are essential and others maintaining that AI narratives are illusory as to the practical operation of AI. This article resolves the discrepancies between these seemingly opposing viewpoints. A cultural legal reading of the updated anime series *Digimon Adventure* (2020) enables a reconciliation of the use of AI narratives as a method of scholarly interpellation of human–AI interactions. Utilising the theory of legal personhood, this reading proposes that AIE form legal and social relations not as a legal person or as a tool, but rather as a monster on a spectrum in between. Reading the contexts of legal personhood through the text of *Digimon Adventure* allows for a more nuanced understanding of these relationships and interactions as AI evolves.

Keywords: AI narratives; legal personhood; cultural legal studies.

1. Introduction

There is always a space in between the object and the person in both narrative and law: the techne,[1] the unknown, the monster. As artificial intelligence (AI) technologies evolve to inhabit this space between object and subject, how else do narratives suggest we should classify them, if not as the monster?

Mary Shelley's *Frankenstein* is frequently utilised as a metaphor for the engagement between humans and AI entities (AIE),[2] a metaphor that emphasises the fears rather than the hopes of AIE. It is this fear that has become the archetype of popular narratives surrounding human– AI relationships in Western media.[3] Coupled with a tendency towards the anthropomorphised, human-like robot being positioned as the prime narrative subject of such drama, this frequently alters the reading of such narratives to focus on human issues, concerns and relationships, rather than on the practicality or reality of human–AI interaction.[4] It follows then that an investigation of these narratives can have an illusory effect, blinding its audience to the true

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[1] *Techne*, the root of the word 'technology', stems from Aristotle's reference to craft through understanding, with Galen developing the term to depict the mechanism of transforming imaginative possibilities into the real, which Bernard Stiegler calls the process of concretisation: Menadue "An Empirical Revision." Menadue et al. argue that this realisation of potentiality is at the very heart of science fiction.
[2] Hudson, "What Can Science Fiction Tell Us?," 203; McCorduck, "Machines Who Think," 19.
[3] Cave, "Hopes and Fears," 75.
[4] Hermann, "Artificial Intelligence in Fiction," 319.

potential and practical effect that AI systems may have on the functioning of society.[5] Narratives operate not just as story and myth, but also as potent influences on how these human–AI relationships are conceptualised and enacted.[6] However, what if the 'monster' archetype of AI could be utilised for a more nuanced reading of the possibility of human–AI interaction? Are there other texts beyond the anthropocentric Western canon that legal scholars can leverage to engage in new ways with the narratives of the digital monster that is AI?

The Japanese *Digimon* (or Digital Monsters) franchise quite literally concerns itself with artificial, intelligent creatures, which can evolve through their relationship with human persons – a nexus between fictitious text and law that is ripe for cultural legal reading of human–AI legal relationality. Different from other narratives of human–AI constructs, the Digital Monsters of *Digimon* take a range of hybrid bodily forms, including plant, machine and animal aspects, demonstrating the possibilities of a non-humanoid physicality for AI, representative of the tension in positioning them as the monster between subject and object.[7] Moreover, the relationship of AI to human in *Digimon* is multifaceted and not defined in a single way, as Digimon are both enemies and monsters, as well as companions and friends to humans throughout the series. This multiplicity of narratives demands that no single simple conception can exist for AI; rather, attention must be given to AI in all its differentiated, evolutionary forms.

Cultural legal investigations of the nexus between law, culture and society are crucial for developing our understanding of how the relationships between humans and AIE will evolve along with the technology. A cultural legal reading of the anime series *Digimon Adventure* (2020) allows a reconciliation of the use of AI narratives as a method of scholarly interpellation of human–AI interactions. Utilising the theory of legal personhood, this reading proposes that AIE form legal and social relations not as a legal person (subject) or as a tool (object), but rather as a monster on a spectrum in between.

Legal personhood is an artificial category that has been utilised to allocate or restrict a range of rights and duties to various entities,[8] a category that evolves and de-evolves – much as do Digimon themselves. Reading the contexts of legal personhood through the text of *Digimon Adventure* allows for a nuanced understanding of these relationships and interactions as AI itself evolves. This reading of the text will be explored in more detail in the following sections; however, the most effective understanding of this reading is contingent on a brief detour through the debate on AI narratives – a spoiler-alert on the franchise of *Digimon*, and in particular *Digimon Adventure* (2020), with an essential stop off in the theoretical grounding of legal personhood. Following this, a cultural legal reading of the text will exemplify the ability of AI narratives to provide a unique investigation on the construction of human–AI constructs.

2. Reconciling AI Narratives

The academic movement that views AI narratives as an essential mechanism of interpellation, spearheaded by Stephen Cave and Kanta Dihal, recognises that representation and narratives around AI are crucial to the influence of AI research, development and regulation, and then to how this specialised work is disseminated more broadly within society.[9] The movement affirms and encourages the use of speculative AI narratives as forms of understanding the construction of potential legal and social relationships with intelligent machines,[10] or human–AI constructs.

However, as with all scholarly movements, emergence breeds critique, and there has been a rebuttal regarding the beneficence of the investigation of AI narratives, and its lack of practicality and realism.[11] Proponents of these viewpoints argue that many of the popular and recognisable representations of future, human-like AI are more a metaphor for humanity, and our own human hopes and desires.[12] While this may be the goal for many technologists, the argument is made that this anthropocentric view obscures the true nature of human interactions with current to near-future AI.

This article resolves the discrepancies between these seemingly opposing viewpoints. While the narrative trend in Western popular cinema and streaming media is towards the human-like artificial general intelligences (AGIs), this is not strictly the

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[5] Hermann, "Artificial Intelligence in Fiction," 320; Hermann, "Beware of Fictional AI Narratives," 1.
[6] Cave, "AI Narratives."
[7] Sharpe, "Foucault's Monsters," 387; Kapica, "The Circle Must Be Broken," 215.
[8] Mussawir, "The Law of Persons Today," 26.
[9] Cave, "AI Narratives," 74.
[10] Cave, "AI Narratives"; Cave, "Portrayals and Perceptions"; Cave, "Hopes and Fears"; Recchia, "The Fall and Rise of AI," 8; Dahlin, "Think Differently We Must!," 1; Sartori, "A Sociotechnical Perspective," 1.
[11] Pagallo, "Vital, Sophia, and Co.,"; Bryson, "Robots Should Be Slaves"; Hermann, "Artificial intelligence in Fiction"; Hermann, "Beware of Fictional AI Narratives."
[12] Hermann, "Artificial Intelligence in Fiction," 320.

case universally.[13] In Western literary material and Eastern popular culture, there is a litany of textual sources that expound harmonious operation of human society with current or near-future artificially intelligent systems, on a spectrum from narrow AI to hypothetical AGI.[14] These texts espousing practical relations are nothing new, and they harken back to much of the work of robotics fiction forefather Isaac Asimov.[15]

Acknowledging this, the Royal Society in England ran a joint symposia project in 2018, investigating the dominant narratives around AI and how these affected the acceptance, implementation and regulation of the technology.[16] One of the key recommendations of the report was that scholars needed to engage with narratives outside of the typical Hollywood blockbusters. Eastern media – particularly Japanese media – were identified as a key source for investigation, due to their varied and nuanced representations of AI systems and entities.[17] Much of the Japanese style of animation, identified more globally as anime, is rooted in cultural practices stemming from the Shinto tradition in Japan.[18]

Unlike prominent monotheistic religions such as Christianity and Islam, Shinto is more of a cultural practice than a codified religion, with the traditions differing between region and region, town to town. The commonality of the belief is that spirits known as *kami* inhabit all things, and the respect and reverence for all *kami*, and therefore the interconnectedness of all things, makes Shinto a nuanced and holistic practice.[19] Similarities can be seen with some of the views of First Nations Australians in their Dreaming,[20] and the interconnectedness forms a stark distinction from the individualism and mind–body duality espoused by Western theology.[21] In her work on Japanese media culture, Anne Alison highlights this focus on interconnectivity and openness to elements of fluidity and the fantastic, labelling it 'techno-animism'.[22] Further work in this area has linked this idea of techno-animism with the rise of anime franchises that reflect this same cultural imaginary. Franchises such as *Pokémon* and *Yu-Gi-Oh!* engage directly with this techno-animism with the respective combative creatures essentially being forms of *kami*: spirits and creatures with mystical powers.[23] One of the key features of anime is that it consistently engages with themes of fantasy and technology. The style of anime allows for the normal and fantastical elements to be indistinguishable from each other, being animated in the same way. This contradicts many of the flaws in the computer-generated imagery (CGI) that accompanies live-action fantasy elements, which have a tendency to produce an uncanny valley effect, distancing the viewer from the fantasy narrative.[24] *Digimon* as a franchise sits at the heart of this techno-animistic framework, an anime series that displays a range of *kami*-like creatures, which inhabit a fictional Digital World. Due to the style of animation, the Digimon appear at times little different to the humans who inhabit both the physical and digital worlds, allowing a more nuanced examination of the relationships that form between the various entities, and their connotations for discussions on legal personhood.

With this in mind, a text such as *Digimon Adventure* (2020*)* can reconcile these seemingly dichotomous viewpoints that AI narratives are either illuminating or illusory for legal scholarship. Rather than merely portraying anthropomorphised androids, *Digimon* involves a diverse range of entities, reflecting the definition of AI as a suitcase terminology encompassing a wide range of differing systems – not just that contained to a robotic humanoid form.[25] *Digimon* then becomes a text that directly meets the suggestions set out above (as a Japanese text with a non-traditional portrayal of AI), to conduct a cultural legal reading around AI legal personhood. As the key point of connection to this techno-animistic cultural imaginary, we will proceed to provide a background on the *Digimon* franchise itself and lay the foundations for the cultural legal reading with a brief synopsis of *Digimon Adventure* (2020).

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[13] Cave, "Portrayals and Perceptions," 17.
[14] AGI is the terminology used for a hypothetical AIE or collection of AIE that can operate on a similar level of generality to that of a human being: Emmert-Streib, "Artificial Intelligence," 2.
[15] Hildebrandt, "Legal Personhood for AI?," 9.3.
[16] Cave, "Portrayals and Perceptions," 17.
[17] Cave, "Portrayals and Perceptions," 18.
[18] Hu, "Frames of Anime," 46.
[19] Hu, ""Frames of Anime," 46-47.
[20] Watson, "Buried Alive."
[21] Allison, Millennial Monsters.
[22] Jensen, "Techno-animism in Japan"; Allison, Millennial Monsters.
[23] Jensen, "Techno-animism in Japan."
[24] Thepsoonthorn, "The Exploration of the Uncanny Valley," 1443.
[25] Mocanu, "Gradient Legal Personhood."

3. The *Digimon* Franchise and *Digimon Adventure* (2020)

The *Digimon* franchise began as a virtual pet toy in 1997, designed as the masculine antithesis to the Tamagotchi. The premise was to have a Digital Monster that could grow and evolve when nourished and successful in battles.[26] The franchise expanded through manga, trading card games, video games and eventually the arguably most successful element of the franchise: the anime. The first anime iteration, *Digimon Adventure*, was released in 1999; however, it is the most recent series release, a 2020 modernised remake of the original series, that will form the basis of analysis for this cultural legal reading.

The plot of the 2020 anime follows Taichi Yagami, a young boy who is transported inside the Internet following a series of near-catastrophic cyber-attacks on Tokyo. Within the Digital World, he is partnered with a Digimon, Agumon, and is briefly able to stop the attacks. It is discovered that the cyber-attacks were the result of evil Digimon hacking the network, and the ultimate source of the problem originates from a world inside the internet – Digital World, which is the home of the Digimon. There, with the help of other children partnered with Digimon known as the Digi-Destined, he fights and defeats numerous evil Digimon who seek to bring about a cyber apocalypse on the physical world, with all the Digimon evolving into increasingly powerful forms to combat the ever-increasing threat.[27]

4. Legal Personhood

It would be remiss to engage in a discussion on human–AI constructs without an investigation of the artificial category that is legal personhood: what it means to be considered a 'person' by the law. The stakes of legal personhood have always been high, operating as a mechanism determining which entities are granted a variety of rights and duties.[28] Those entities within the legal framework without any rights or duties to fulfil are categorised as objects or 'things', to be legislated about and for. Subjects granted legal personhood, on the other hand, have the capacity to engage more fully in society through recognised citizenship, the right to contract, and the right to own property, most simply stated. The difference between subject and object, at least in orthodox theories of legal personhood,[29] was considered a positive legal determination,[30] a category that at times included or excluded entities such as women, corporations, animals, idols, ships, trees and rivers, and now faces its latest categorisation in the form of AI entities.[31] However, recent theoretical development has established that the artificial category is not so divisive as subject or object. The majority of theorists now prefer more nuanced models of legal personhood, describing the rights and duties comprising legal personhood in separate theoretical relationships as a bundle,[32] a gradient,[33] a juristic operation[34] or a relationship.[35]

The subject-object dichotomy has been rejected with particular regard to AI legal personhood scholarship as being too rigid and anthropocentric, and unable to cope with future considerations of what it means to be a legal actor. As the 'digital monster', AI challenges the distinction of what it means to be either a subject or an object at law.[36] As this article examines AI narratives in a deconstructive manner, so too will this rigid orthodox personhood be deconstructed, viewed with the merit of these more narrative, nuanced views of the theory. With a cultural legal reading, different strands or contexts of legal personhood can be investigated, establishing how a more nuanced view of legal personhood, as portrayed through the lens of *Digimon Adventure* (2020), allows a consideration of the legal relationships of the spectrum of human–AI constructs. A large body of work has judged forms of legal personhood as either appropriate or inappropriate for AIE.[37] The three main contexts of legal personhood identified in the literature in relation to AI are:

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[26] Richtel, "From Virtual Pet to Virtual Pit Bull."

[27] Toei Animation, "Digimon Adventure: 2020."

[28] Bryson, "Of, for, and by the People," 281.

[29] The terminology of orthodox personhood theories is taken from Kurki in A Theory of Legal Personhood.

[30] 'Positive' is used here in the context of legal positivism, the theory that law is valid because of its existence, not some moral or natural law: Hildebrandt, "Legal Personhood for AI?," 9.3.

[31] Bryson, "Of, for, and by the People," 281.

[32] Kurki, A Theory of Legal Personhood.

[33] Mocanu, "Gradient Legal Personhood."

[34] Mussawir, "The Law of Persons Today."

[35] Militsyna, "Legal Personhood for Artificial Intelligence," 155, recognising that relational conceptions of personhood have long been acknowledged – for example, the Hohfeldian relations framework outlined by Kurki.

[36] Kurki, A Theory of Legal Personhood, 52; Mocanu, "Gradient Legal Personhood," 1; Kurki, A Theory of Legal Personhood, 93.

[37] Kurki, A Theory of Legal Personhood; van den Hooven van Gerderen, "Legal Personhood"; Mocanu, "Gradient Legal Personhood"; Militsyna, "Legal Personhood"; Pagallo, "Vital, Sophia, and Co."; Bryson, "Robots Should Be Slaves"; Bertolini, "Artificial Intelligence and Civil Liability" ; Pietrzykowski, "Towards Modest Naturalization"; Schirmer, "Artificial Intelligence and Legal Personality"; Gunkel, "Debate"; Laukyte, "Short AI as a Legal Person"; Mussawir, "The Law of Persons Today"; Fenwick, "AI and Legal Personhood," among others.

1. ultimate value[38]
2. a capability to act in a commercial context,[39] and
3. the ability to be held criminally or tortiously liable for actions.[40]

These contexts are interwoven through *Digimon Adventure* (2020), and the representations of human–AI constructs contained within allow for an investigation of how the relationships between human actors, AIE and society more broadly can, and should, be considered by the law. The extent to which each context allows for the imposition of rights and duties to the spectrum of AIE can then be read together, justifying more nuanced theories of legal personhood as an effective mechanism for understanding the legal positions of a complex range of entities.

5. Cultural Legal Reading of *Digimon Adventure* (2020)

Popular fictional texts are not just a source of entertainment, but a site of law – a nexus point of the cultural imaginary between legal theory, philosophy and social and cultural norms.[41] This tradition of cultural legal reading as method becomes essential as a response to the emergence of AI narratives as a point of scholarly interpellation for understanding the human–AI construct, and the challenges posed to the theory of legal personhood. With this additional call to action from the Royal Society symposiums,[42] this reading forms the scholarly nexus point that unites these divergent strands of literature to allow for an investigation of the cultural imaginary of legal personhood as it relates to AI.

This is by no means a novel approach to investigating the nexus of speculative fiction and legal theory,[43] even to readings of aspects of legal personhood for AI.[44] However, this reading is novel in its approach to investigating each context of legal personhood within a speculative text, and demonstrating the utility of a narrative understanding of the spectrum of human–AI constructs. Each of the aforementioned contexts of legal personhood will be read through the lens of *Digimon Adventure* before utilising the combination of these contexts to investigate the application of legal personhood to the spectrum of human–AI constructs that is the digital monster.

5.1 The Context of Ultimate Value

One justification for legal personhood is that some entities have ultimate value, in that they are intrinsically of value and that other persons owe them moral consideration. As a context of legal personhood, ultimate value is considered to be the idea that entities must be morally worthy of protection for categorisation as legal persons.[45] The position of ultimate value for AIE is far from settled, with Joanna Bryson, among other theorists, postulating that AI should be treated as nothing more than slaves or tools.[46] The alternate scholarly position[47] rationalises that natural persons could owe certain rights and duties to AI, the way we do to animals or even other natural persons.[48] Gibert and Martin suggest that a positive determination or attribution of sentience or autonomy would be required to grant an AIE the value of a natural person.[49] However, the monstrous space occupied by the AIE does not fall so neatly into this full subjecthood, and Coeckelbergh posits that it is external rather than internal indicia that give rise to relationships of value.[50] Thus, the portrayal of the Digimon becomes a crucial site of analysis to investigate the perception of the social moral value of AI.[51] This analysis of the cultural imaginary brings the exploration of social morality well within the realm of cultural legal study, as it is exactly this nexus of culture and law, shaped by narrative, that such a cultural legal reading is designed to explore.[52]

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[38] Ultimate value is considered to be the idea that things must have the moral worth of protection for identification as legal persons, as per Kurki, A Theory of Legal Personhood, 182.
[39] Kurki, A Theory of Legal Personhood, 183.
[40] Kurki, A Theory of Legal Personhood, 94.
[41] Crawley, "Envisioning Legality," 2.
[42] Cave, "Portrayals and Perceptions," 17.
[43] Tranter, "Living in Technical Legality"; Kapica, "The Circle Must be Broken."
[44] DiPaolo, "If Androids Dream"; Jiang, "Evolutionary Emotion of AI"; Arnold, "Turing's People."
[45] Kurki, A Theory of Legal Personhood, 182.
[46] Bryson, "Robots Should Be Slaves."
[47] Negri, "Robot as Legal Person," 5; Jecker, "Personhood Beyond the West," 59; Kurki, A Theory of Legal Personhood, 183.
[48] Kurki, A Theory of Legal Personhood, 178.
[49] Gibert, "In Search of the Moral Status of AI," 319; Negri, "Robot as Legal Person," 4–5.
[50] Coeckelbergh, "Robot Rights?" 214.
[51] Negri, "Robot as Legal Person," 5.
[52] Crawley, "Envisioning Legality," 2; Leiboff, "Cultural Legal Studies," 5.

In *Digimon Adventure*, the sprite designs of the Digimon creatures range as widely as the spectrum of AI. Most are designed to mirror animals, whether real or mythical, as well as flora and machines, or some amalgamation of these. This amalgamation reflects both halves of Foucault's monster: the physical monstrosity, which goes against natural order; and the monstrousness that challenges the legal order.[53] Both monstrosity and monstrousness have proven to be issues for orthodox conceptualisations of personhood, as it is impossible to categorise all the above entities into a neat theory of subjects and objects. It seems to be no coincidence that many of the arguments around legal personhood in modern jurisprudence involve the legal positions of animals, flora and other natural entities, totems, and AI machines. The depiction of these monstrous entities demonstrates the utility of *Digimon* as a text under analysis.[54] As the Digimon evolve into more powerful forms, their designs take on both more mechanistic and more humanoid forms. Through this design choice, the anime shows a preferential ordering of human and machine personhood as more substantive than the more animalistic or botanical base forms.

It must be noted that the evolutionary pathways of the Digimon are not static, as they are in monster game franchises such as *Pokémon*. Rather, the Digital Monsters have a range of different evolutionary pathways and options, which are triggered by the situation and context of the evolution. This reflects arguments that the ultimate value of AIE should consider the purpose of each entity; it also reflects feminist theories of moral consideration, where value should be considered in a way that is dependent on both subject (or monster) and context.[55]

Despite the fact that Digimon are often more physically and uniquely powerful than their human counterparts, having abilities to create and summon weapons, manipulate the elements or even manipulate time, humans remain indispensable within the text. The specific relationships between the Digimon protagonists and their partners – the dialogue and the genuine care – project the reading that the digital creatures are of some moral, and therefore ultimate, value.[56]

To imbue some Digimon with ultimate value, and restrict it from others, the design and production of the animated characters relies on a number of social and cultural norms. There are some exceptions to this rule, but broadly speaking the antagonist Digimon have sprite designs, including snakes, spiders, wolves and demons, whereas the protagonist Digimon are represented in brighter colours, as birds, seals or dogs – at least in their basic forms. This is almost an identical reflection of domesticated animals versus those animals that are dangerous or wild, reinforcing the reading that *Digimon Adventure* favours regulating, or 'domesticating', AI through an imposition of rights and duties.

Some theorists have suggested in their analysis of science fiction texts that empathy or the ability to feel and understand pain are key features in establishing personhood.[57] This again is presented in the difference between the protagonist and antagonist Digimon within the series. Many of these fearsome, undomesticated Digimon are vanquished in battle over the course of the series, and one distinct commonality is that their defeat often takes the form of a quiet dissolve into data, which dissipates into the Digital World. In some circumstances, such as the defeat of the deranged Devimon, his destruction is seen almost as a mercy, of putting a wild, insane animal out of its misery for the betterment of all.[58] On the other hand, any time a protagonist Digimon is wounded or experiences pain, the darkening of visuals, intensity of the musical score and the visibly distraught reactions from the human counterparts elicit a combination of sympathy and empathy from a viewer, akin to the reaction when harm is done to a human character.[59] The medium of anime allows for a combination of the art, musical score, narrative arc and depictions of pain and emotion to invoke in the viewer the perception that the protagonist Digimon are ultimately valuable, despite the fact that these protagonists are merely creatures of data, like the antagonists they are defeating.

Orthodox theories of legal personhood would argue that any granting of rights or duties, such as a consideration of ultimate value, to AI would imbue it with full legal personality.[60] However, as has been stated, the neat divide of full subject or full object is not sufficient to understand the Digital Monster that exists in the space between. The analysis of the contexts of

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[53] Sharpe, "Foucault's Monsters," 387–388.
[54] Kurki, A Theory of Legal Personhood, 127–133 on rivers, idols and corporations as legal persons; Stancioli, "A Bundle of Rights and Pachamama"; Fasel, "Shaving Ockham."
[55] Coeckelbergh, "Robot Rights?" 214–215.
[56] While it may be argued that the Digimon are merely of instrumental value, essentially only granted value through their human counterparts, a relational understanding of value rebuts this argument, as posited by Edirisinghe and Suchet-Pearson in "Nature as a Sentient Being," 227. The Digimon enhance the value of their human counterparts through their ability to act within the Digital World symbiotically to the value that they grant their Digital partners. There is a mutuality in the relationship that goes beyond the mere use of a tool, and mere instrumentality of value.
[57] DiPaolo, "If Androids Dream"; Bukatman, "BFI Modern Classics," 79.
[58] Toei Animation, "Digimon Adventure: 2020," Episode 24: The Final Stage, DoneDevimon.
[59] For example, the first 'death' of Angemon in Episode 20: The Seventh One Awakens.
[60] Kurki, A Theory of Legal Personhood.

commercial activity and legal liability, in conjunction with ultimate value, demonstrates that legal personhood need not be inflexibly attributed or refused; rather, a cultural legal reading of *Digimon Adventure* allows for a more nuanced understanding of each context of legal personhood. The combination of these contexts produces a spectrum of legal personhood, understanding the flexibility of applying rights and duties to a range of entities as broad as the Digital Monsters.

5.2 The Context of Commercial Activity

The ability to be an actor within the commercial landscape has long been an important factor in considering whether an entity is capable of holding certain rights and duties, rendering it the second crucial context of legal personhood. Competency in contracting and the ability to own property are cornerstones of our modern conception of the individual subject of law, or legal person. Kurki suggests a continuum of categorisations of the commercial actor aspect of AI and its potential for legal personhood: as a tool, a legal agent[61] or even a legal person with full commercial capabilities.[62] While each commercial platform can be utilised to understand the spectrum of AI, this reading of *Digimon Adventure* illustrates that a relationship of agency to a corporation or natural person would be an appropriate conceptualisation for the commercial activity of complex artificially intelligent entities, such as the protagonist Digimon.

The plotline of the *Digimon* anime does not examine the commercial implications that the Digital World has on the physical, barring the inferences of damage caused by the repeated attempts at hacking that occur throughout the series.[63] Taking a step beyond a literal reading of the text, the interactions between communities of Digimon within the Digital World deal with Digimon-as-property, Digimon holding property and trade between Digimon, demonstrating a commerciality reminiscent of the real world. However, as MacNeil states, popular texts are often heavily coded, with the reading of the key legal issues hidden behind layers of meaning.[64] With this in mind, one form of interaction that is not overtly legal, yet reveals a site of investigation for the commercial context of legal personhood, is the interaction of Digimon battle. Commercial competitive activity has been cited a key form of interactive relationship that AIE will form with other system and natural persons[65] – which, to be understood through the narrative of *Digimon Adventure,* can thus be read through the similarly competitive lens of the Digimon battle.

Having established the lens through which the commercial context of AI can be read, this reading can return to Kurki's continuum, considering AI's capacity to act commercially and its potential for legal personhood, from essentially being a tool, to a relationship of agency to a corporation, or to a full legal commercial actor.[66] This continuum can be analysed further by reference to two central criteria: separateness and independency. The level of each of these elements that best describes the relationship between the AIE and other entity will determine their position on the continuum.

Separateness refers to a particular quality of the legal platforms – for example, a natural person can own a corporation, and these are separate legal platforms, even though one exerts control over the other. Independency relates to an exercise of competence of legal platforms, distinct from the proximal consideration of separateness. For example, a parental guardian's legal platform is separate from that of their minor child, so a creditor would be unable to pursue the minor for a debt; however, the adolescent can often be restricted by the guardian with regard to what their money is used to purchase.[67]

Considering the aforementioned factors of separateness and independence, the representations of the protagonist Digimon seem to fall into the categories of partial separateness and predominantly partial dependence. The major antagonist Digimon, such as Devimon and Milleniumon, exhibit signs of full separation and complete independence. Finally, the more basic Digimon exhibit the categories of unity (no separation) or partial separation and assimilation (total dependence).

Unlike in other monster franchise games – for example, *Pokémon* – the Digimon are not captured and forced to fight; rather, they partner with a chosen human in a more symbiotic relationship, fighting to protect their partner and sometimes even alongside them. However, if we delve deeper into the fundamental nature of the relationship, the series places significant focus

[61] Bertolini, "Robots and AI as Legal Subjects" defines legal agency, referring to an institution or set of norms that permits and governs the fiduciary relationship in which one entity (the agent) is explicitly or implicitly empowered to act on behalf of another (the principal) in establishing legal relationships with third parties. When the agent acts within the scope of this authority, or when a third party reasonably believes in good faith that the agent has such authority, the principal becomes bound by the obligations the agent creates with third parties. Notably, the agent does not need to have legal capacity for this relationship to have legal effect – only the principal.

[62] Kurki, A Theory of Legal Personhood, 183.

[63] Toei Animation, "Digimon Adventure: 2020," Episodes 1–3, 18, 21–23, 35–36.

[64] MacNeil, Lex Populi, 2.

[65] Kurki, A Theory of Legal Personhood, 182; Bertolini, "Robots and AI as Legal Subjects," 7; Beckers, "Human–Algorithm Hybrids," 2.

[66] Kurki, A Theory of Legal Personhood, 182.

[67] Kurki, A Theory of Legal Personhood, 183.

on the idea that certain Digimon were meant to be partnered with the children known as the Digi-Destined. Reading this idea of destiny in relation to the physical world could easily translate as the basic programming of these Digimon. Essentially, the protagonist Digimon are programmed to protect their human 'partners' and act in their best interests. This 'best interests' depiction is representative of a legal agency relationship, proposing that this is an appropriate form of legal personality to be imposed on AI.[68] This relationship is reflective of the partial separation category, where the visual depiction of the animated characters shows them to be a separated entity; however, the 'programming' of the Digimon ensures that they protect their chosen partners in battle. There is no example in the anime where one of the human protagonists is injured, and their partner Digimon is not damaged in the process. This can be read with the overarching context of battle as analogous to commercial activity as the full legal person being at least partially liable for the debts of the artificial agent. The bravery and courage imbued in their actions create a favourable outlook on this relationship, reinforcing the reading that the agential relationship is the desired form of personhood for an advanced AI. In direct opposition, those Digimon that act for their own benefit, without the relationship to a natural person, demonstrate full separation. They are beholden to none other than themselves, and wreak havoc due to this lack of tether. By depicting them as such, *Digimon Adventure* compounds the ingrained fears of AI as potentially apocalyptic figures,[69] implying that full separation is too risky a form of personhood to grant.

To further outline the reading that *Digimon Adventure* presents of favouring this agential relationship, we can consider how the factor of independence is depicted by the anime. The protagonist Digimon in the anime are able to act without specific direction from the Digi-Destined, often completely autonomously in the defence of their partner natural persons. This relationship reflects the relationship of legal agency, where one entity acts within the scope of authority granted by the principal. This is further exemplified by the crests of the Digi-Destined, a symbol specific to each child that epitomises their own personality, an allegory for the scope of that natural person's implied authority. These crests are blazoned on the Digivices that enable Digimon evolution, positioning the reading that acting within the scope of the principal's agency (or their personal crest) is what will enable AI to act most effectively in a commercial setting. In accordance with the pre-existing concepts of legal agency, if the agent goes outside their crest, or the scope of their authority to perform an action or execute a contract, the principal may not be liable for the agent's actions.[70] It is feasible that a complex future autonomous agent may be able to self-learn to act outside the scope of its programming, and thus outside the liability of a principal or programmer, bringing the aberrance within the scope of consideration for legal liability, as will be discussed below.

Conversely, when Devimon is forced to evolve beyond his Champion form, without a crest or partial dependence on the competence of a full legal person, he is turned insane,[71] allegorising the risks associated in allowing AI to have full capacity to make commercial decisions without the recourse normally available under law. This raises a complicated question of entity hybridity. The complex, self-learning intelligence may have these abilities to act more effectively than natural persons in certain situations; however, the lack of control or liability of the unrestrained autonomous agent presents itself as a central fear in the development of this technology.[72] This portrayal once again speaks to the fear of the uncontrollable, unknown entity: the monster. The introduction of the Digi-Destined encompasses the protagonist Digimon within a more regulated, controlled categorisation along the continuum, imposing the enforceability and liability of interactions on the full legal persons. This relationship transforms the potentially destructive monster into a protagonist, exercising its interactive capacity for the betterment of its principle. This reading reinforces the commercial capacity of the complex AIE being restricted to a relationship of agency,[73] the human element still being essential to the legal operation of even the most complex intelligences.

Finally, many of the minor antagonist Digimon are presented in the anime as mere tools of the 'Dark Digimon' imbued with this full legal personhood. Their decisions and actions are controlled by various means, such as a 'dark miasma' that makes them evil, or mind-controlling Digimon.[74] This positions these controlled Digimon in the category of assimilation, as they have no capacity to act from any sort of free will, or anything that could vaguely be ascribed as intention outside those of the controlling entity. This essentially makes these simple Digimon tools, able to be used in commercial transactions but with no more legal process than a system used to put electronic signatures on a contract.[75] Their employment is at the complete liability of whatever legal person they are attributed to.

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[68] Kurki, A Theory of Legal Personhood, 183.
[69] Cave, "Hopes and Fears," 74.
[70] Hildebrandt, "Legal Personhood for AI?," 9.3.
[71] Toei Animation, "Digimon Adventure: 2020," Episode 24: The Final Stage, DoneDevimon.
[72] Cave, "Hopes and Fears," 74.
[73] Kurki, A Theory of Legal Personhood, 179; van den Hooven van Gerderen, "Legal Personhood," 214; Gibert, "In Search of the Moral Status," 5.
[74] Toei Animation, "Digimon Adventure: 2020," Episodes 5, 9, 12, 59.
[75] Kurki, A Theory of Legal Personhood, 182.

This categorisation again demonstrates that the digital monster of AI cannot be understood as fully a subject or object in commercial interactions; rather, different Digimon, or AI, incur differing rights and liabilities depending on the complexity and context of the system.[76] Therefore, *Digimon Adventure* presents the reading that the current single-function AI can be treated as tools without legal personality, yet when these quasi-human AI are created, they can be attributed a more significant collection of rights and duties in the form of an agential relationship with a natural person or a corporation. However, in order for an agential relationship to be envisaged, an AI must be able have legal liability for when they act outside the scope of their agency.

5.3 The Context of Legal Liability

The third context of legal personhood centres on the ability to be held legally liable. The nature of liability changes between civil and criminal contexts. Liability in a civil context centres on finding fault through breach of a duty to compensate victims, whereas the criminal context frequently relies on the intention to commit criminal behaviour, establishing punishable fault through the *mens rea*[77] of the perpetrator. This section considers liability in both a civil and criminal sense, with legal personhood having ramifications within each of these spheres of law.

Fenwick and Wrbka suggest that AI would be an effective central, easily identifiable, responsible entity due to the multifaceted nature of the production processes that go into AI development and operation, and the difficulty this creates in the apportionment of liability between the relevant parties.[78] The development of AI, even with regard to current systems, involves a range of separate parties: code developers, technicians for the physical components, salespeople and operators, to name only a few.[79] Holding an AI liable for going outside the scope of agency would then allow fault to be apportioned appropriately while also addressing recompense more efficaciously to harmed parties.[80] This is reflected in *Digimon Adventure* through the defeat of Devimon, which used dark miasma to control good Digimon.[81] The Digi-Destined, as the form of the law in the Digital World, defeat Devimon as a centralised entity, and all the dark miasma effects fades away.[82] This reads favourably to defeating, or holding liable, a central entity to simplify the process of solving the liability issues of multiple parties.

One of the prominent arguments against providing legal personhood to AI is the risk that natural persons and corporations could use these entities as liability shields.[83] The agency formulation would rebut many of these doubts, and the representation of the relationships between the Digimon and Digi-Destined appears to rebut this liability-shielding critique. The Digi-Destined often fight beside their partners, despite being hopelessly outmatched on the battlefield,[84] and will regularly put themselves in danger to rescue their partners if they are ever hurt and forced to de-evolve. This reading does not necessarily rely on the nobility of the human principal, but rather on the hybridity of the agency relationship. The principal cannot remove themselves from liability of the actions of their agent should that agent be acting within their scope of authority.[85]

Although the practical compensation of injury by artificial agents is likely to come in the form of civil law, it is a worthwhile enterprise to consider the potential criminality of these systems if they are endowed with a form of legal personhood. Classic liberal individual theories of criminal law ascribe criminal intention to persons committing actions, which enables the state to punish that person[86]

However, more recent theories of criminality have the potential to bring AI within the fold of criminal law. One such proposal is to consider criminal responsibility as an upholding of social expectations and norms, allowing for punishment when an action (whether the individual is directly responsible or not) destabilises these norms.[87] A key argument against AI being held legally liable is that it is programmed to act in a certain way according to its coding. With self-learning algorithms becoming more complex, it is conceivable that an AI will be able to evolve and learn in relation to its coding.[88] By the old criminal philosophy,

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[76] Kurki, A Theory of Legal Personhood; Mocanu, "Gradient Legal Personhood," 3.

[77] The 'guilty mind' so popularised in the discourse on criminal actions: Simmler, "Guilty Robots?," 10–11.

[78] Fenwick, "AI and Legal Personhood."

[79] Fenwick, "AI and Legal Personhood."

[80] Fenwick, "AI and Legal Personhood."

[81] Toei Animation, "Digimon Adventure: 2020," Episodes 10, 11, 21, 23, 24.

[82] Toei Animation, "Digimon Adventure: 2020," Episode 24: The Final Stage, DoneDevimon.

[83] Pagallo, "Vital, Sophia, and Co.," 4; Laukyte, "Short AI as a Legal Person," 2; Militsyna, "Legal Personhood," 155.

[84] Perhaps a metaphor for how much more effective certain AI can be at certain functions.

[85] This could also be seen as similar to the responsibility imposed by directors' duties in corporate law: Kurki, A Theory of Legal Personhood, 185.

[86] Simmler, "Guilty Robots?," 22; Kurki, A Theory of Legal Personhood, 179.

[87] Simmler, "Guilty Robots?," 25.

[88] Kurki, A Theory of Legal Personhood, 180–181.

it would not be able to be held liable, due to a lack of individual responsibility; however, this new proposed theory would allow an AI to destabilise social norms. In response to a destabilising action, criminal punishment could be utilised as a regulatory method for the AI's behaviour – more of a protective measure than a punitive one.[89] Interestingly, this new theory of criminal liability equates a natural person's actions with those of artificial persons or robots: both perform actions that are products of social programming.[90] This theory displays criminality as culturally constructed, so again encourages an analysis of the nexus between the law and *Digimon Adventure*.

The series appears to affirm this view of criminality in the near-instantaneous actions of the Digi-Destined as wielders of the law. When witnessing behaviours that destabilise the norms with which they are familiar in the physical world, they react by using their power to punish the aberrant entities. They do not question the intention behind the action, but rather identify the threat to the norms and neutralise them. However, the action of neutralisation differs – for example, the repeated criminal actions of Devimon are punished with destruction,[91] whereas a hunger-fuelled attack of Potamon on a peaceful village is treated by de-evolving the Digimon so it no longer poses a threat.[92] A primary goal for criminal punishment for natural persons is deterrence, and this aim could be reflected in the criminal punishment of AIE. If an AI were aware of the potential punishment of deactivation thwarting its goal-based programming, it would likely avoid conduct outside the scope of authority of its own volition.[93] This gives rise to the reading that AI could be prosecuted and punished like natural persons, furthering this theory that AI should be envisaged as more than mere tools, which are incapable of legal responsibility.

5.4 Legal Personhood of the Digital Monster

While each of these narrative readings is an individually useful and interesting investigation of legal personhood and how that pertains to the digital monster that is AI, it is through their combination that both the reading of *Digimon* and an understanding of the use of legal personhood can best be articulated. Perhaps the key features of the Digimon themselves as representations of AI entities is the portrayal of the spectrum of entities within the suitcase terminology of AI, and the flexibility and context-dependence of legal personhood through evolution, de-evolution and the imposition of relationships with natural persons. As established in the introduction, 'artificial intelligence' is a term that defies exact definition, further convoluted by the lack of definition of intelligence itself, and is rather utilised as a suitcase terminology to encapsulate a range of systems from the current narrow algorithms to hypothetical complex future AI to the point of AGI.[94]

The range of Digimon is an effective exemplification of this idea, portraying artificial monsters ranging from simple, single-purpose systems, to complex relational entities, to advanced, superhuman beings, and the complete spectrum between. Not only is this an accurate representation of the range of systems referred to in discussions around AI,[95] but the nature of Digimon evolution and de-evolution is a direct depiction of the fluid and contextual nature of a narrative understanding of legal personhood. The term 'monster' is both the physical aberration (monstrosity) and, more crucially, a challenge to the normative constructs of law (monstrous).[96] The Digimon are monstrosities in their amalgamation of the embodied attributes of the human, animal, plant and machine, but also monstrous in that orthodox models of personhood do not adequately address the challenges the Digital Monsters, and thus the human–AI construct, pose to the normative order.

Ultimately, *Digimon Adventure* demonstrates that neat categories of subject and object do not effectively consider the legal position of such a spectrum of entities, evolving and devolving in different contexts in their capacity for rights and duties. For example, some Digimon evolve in terms of their physical power – read through this article as commercial transacting ability; however, they never evolve beyond their simple, battle-driven purpose. This mirrors an AI algorithm designed for more complex commercial transactions, and perhaps should be given more consideration in this context of personhood, but it does not gain the requisite ultimate value or have any purpose to being held legally accountable when other parties are determining that purpose. To the same extent, there is good reason to impose duties to protect some AI that demonstrate ultimate value, even if they do not have this commercial capacity. The Digi-Destined frequently protect innocent Digimon from perceived pain and suffering, despite the fact that they have not evolved in the other more practical capacities of commerciality. This is a reflection of entities that possess a requisite level of ultimate value, despite not being legal persons within the other strands of

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[89] Simmler, "Guilty Robots?," 25.
[90] Simmler, "Guilty Robots?," 26.
[91] Toei Animation, "Digimon Adventure: 2020," Episode 24: The Final Stage, DoneDevimon.
[92] Toei Animation, "Digimon Adventure: 2020," Episode 39: Jyagamon, Potato Hell.
[93] Kurki, A Theory of Legal Personhood, 181.
[94] Mocanu, "Gradient Legal Personhood," 3.
[95] These superhuman AGI, although purely hypothetical, have been a constant of the cultural imaginary, and continue to be raised in discussions around the hopes and fears of AI, as posited by Cave, "Hopes and Fears."
[96] Sharpe, 'Foucault's Monsters," 387.

personhood. Finally, there is practicality in holding accountable those Digimon, such as Devimon, that go outside the scope of their authority to cause destruction and chaos, particularly when evolved in the other contexts to make a legal person capable of having such restrictions applied.

Each of these examples centres around AIE, yet each involves completely different entities, operating for different purposes with different relationships. This reading of *Digimon* demonstrates that it is not appropriate to consider each case with the same rules of rights and duties. Nor is it appropriate to consider each AIE as a static entity, with the evolutionary self-learning potential of the technology needing an evolutionary ordering mechanism to understand the relationships between them and human, or other, entities. Legal personhood, when considered through a more nuanced, narrative lens, becomes the mechanism that allows social norms and the law to understand how AIE at varying levels can and should interact with humans, and how this can evolve with the complexity of the technology.

This is where AI narratives – particularly alternate narratives – become essential. The Digital Monster is only a monster when it is unknown. This spectrum in between tool and person, object and subject, is currently the space of the unknown. The only way to combat the unknown is engage with the monster, to write on it, to read about it, to create narratives that investigate, critique and question the monster, in all its iterations. To understand the Digital Monster, we must become the Digi-Destined, and form those relationships, those constructs, with AI entities in all the forms in which they appear.

6. Conclusion

As this reading has demonstrated, AI scholarship must engage with cultural texts outside the Western, dramatic AI narratives as a way to better understand human–AI constructs. This reading of the text *Digimon Adventure* (2020) investigates the construction of situations where the relationship of legal personhood will enforce duties to not harm AIE, potential agential relationships between natural persons and AIE in commercial contexts, and situations where the construct could be distinguished to find the AIE themselves civilly or criminally liable. It has demonstrated that AIE should not be seen merely as the tool, or as the full legal person, but rather as the digital monster in between. However, this article does not propose to be a determinative solution to the ever-changing question that is human–AI constructs and how they should be constituted at law. What this article does propose is an invitation to scholars to diversify the use of AI narratives as ways of understanding AIE, of understanding legal personhood and of understanding the social and legal relations being formed through the nexus of such points of inquiry. It is a reconciliation of the ideas that AI narratives are only enlightening or only illusory, to form the perspective that they can be both, and it is only through new forms of the cultural imaginary that we will find new understanding and new points of investigation on this complex topic.

By utilising the mechanism of more nuanced conceptions of legal personhood through the lens of texts that project the cultural imaginary, we can find ways to more effectively understand the rights and duties relevant to each different construction of relationships between humans and AIE, rather than trying to form a standardised, orthodox, dichotomous rule. It is only through understanding the complexity of entities encompassed by the suitcase term 'artificial intelligence' that we can begin to analyse the complex social and legal interrelations between them and human beings.

To paraphrase the theme song of *Digimon Adventure* (2020), we are flying towards a Glorious World, however it is through the proper use of AI narratives that we will be able to understand the new world we are creating.

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