

Kluwer Mediation Blog

Elementary My Dear Watson !

Andrea Maia (Mediar360 – Dispute Resolution) · Tuesday, August 8th, 2017

In 2011, a computer gained fame as a celebrity. Its name was [Watson*](#), of IBM. This was right after taking part in a very popular Q&A show on American TV ([Jeopardy](#)), in which Watson, with its ability to understand our language using only information recorded in its memory, and working offline, managed to successfully overcome two of the best Jeopardy players from past shows. Watson used Artificial Intelligence (AI) for this challenge.

From there, AI has been increasingly discussed and applied in several walks of life and has grown tremendously, revolutionizing the traditional models of decision making, as well as the 21st century job market. Nowadays, there are two recurring questions regarding Artificial Intelligence that are very difficult to be answered: How far will humans interact with machines? And until what point humans can be replaced?

Since 2011, the world has been changing, especially as far as technology and AI are concerned, at a very quick pace. Take for instance the Artificial Intelligence behind the applications used by Google, Uber, AirBNB, Netflix, Spotify etc..., which maybe know our own tastes and preferences better than we do ourselves, makes us wonder how far can it go. In the market place, new forms of service provision and relationship networks are also being created and renewed in an increasingly fast way. The emergence of “crowd-working” and “work-on-demand” via apps are also evidence of this transformational era.

The service sharing industry is an irreversible trend and recent studies demonstrate that simply through the use of sharing, the volume of service provision will grow by twenty times over the next ten years according with the last IBA Report titled “[Artificial Intelligence and Robotics and Their Impact on the Workplace](#)”.

Disruption is the word of the moment!

And what is the AI impact in the mediation setting ? In Brazil, for instance, Online Platforms and Artificial Intelligence are rapidly growing in importance as one of the solutions to alleviate the problems related to the slow Judicial System and the huge number cases pending trials (or solutions). As I already mention in a recent post , according to the “[Justice in Numbers 2016?](#)” report, published by the National Justice Council (CNJ), in 2015 in Brazil, the expenses with the judiciary came to approximately 79 billion reais or the equivalent of approximately 1.3% of national GDP in that year, which is far too much for a nation that also needs to focus on other important structural problems.

Overall, taken into consideration only the labor and contractual disputes, consumer's cases ranks 3rd amongst those faced by Brazilian companies and in Rio de Janeiro alone (Brazil's second largest State), with over 500 thousand new cases are filed every year. In order to try to decrease such a high demand of pending and new cases, the 125/2010 CNJ (National Justice Council) Resolution, which regulates the Judicial Policy for the Treatment of Conflicts, was recently updated. On its Amendment number 2, as well as several other important adjustments, [the Digital Mediation System was introduced](#) for allowing pre-procedural resolution of conflicts and, in the interest of each Court of Justice or Federal Regional Court, for consensual action in ongoing legal proceedings .

However, despite its recent efforts, especially as compared to more developed nations, Brazil is still at the early stages to become part of this digital reality to resolve consumer conflicts through online systems and procedures, as around the world there are already a wave of platforms developed to facilitate, accelerate and catalyze such processes. To decrease such a high volume of consumer cases, which are more procedural related (which are generally non-emotional and with fewer variables involved) has become imperative to allow Brazilian Courts to speed up their processes, to better focus on more complicated cases and, as result, arrive at better solutions to the parts involved.

Generally speaking, the ideal platform should, in a timely and strategic way, disseminate information in order to align consumer and companies expectations and facilitate the conclusion of agreements with mutual gains. In addition, it should also select and present options that were already successfully used by other users, with the possibility of building a selection of online precedents to help consumers to prepare for a session of negotiation or mediation.

Regardless of the clear benefits, but as it normally happens over and over when innovations are introduced in a well established professional environment, there are some resistance to the idea of Online Dispute Resolution Platforms. And, at this point, we go back to the question in the beginning of the text: Until what point humans can be replaced by machines?

The answer is not so elementary as Sherlock would say. In my point of view, to predict the growth and overall applicability of AI and other digital technologies in our lives would be like to predict the future on internet back in 1996. However, avoiding entering in the discussion of its impact and consequences in the job market, the AI platforms will unquestionably spare humans from repetitive activities in the future, thus opening more time to further creativity and, among others, irreplaceable activities such as social interaction and personal interconnection.

From the Mediation standpoint, well established institutions within the industry already recognize this trend. For instance, members from [IMI's Independent Standards Commission \(ISC\)](#) have recently set up a special [Task Force](#) consisting of thought leaders and outstanding practitioners in E-Mediation in order to, among others, explore and design a measurable set of criteria for competency in E-Mediation for professionals worldwide. The IMI Competency Certification in E-Mediation will help users to make informed decisions while choosing and appointing e-mediators for negotiations and Dispute Resolution (DR).

Finally, some field experts state that, in general terms, [AI will be able to replace approximately 45%](#) of the activities performed in almost every industry and it is pointless to deny this irreversible reality. Online Dispute Resolution platforms using AI will only tend to increase and improve in the future. Mediators, as every other service professional, must see AI as another professional tool and

use it to their advantage as, fortunate enough, our ability to create empathy, evaluate and understand cultural elements, manage human behavior (among several other set of skills and abilities) will remain irreplaceable (at least in the foreseeable future).

(*) Watson computer was named after the company's founder (Thomas J. Watson)


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