

Kluwer Mediation Blog

(* What a feeling !

Andrea Maia (Mediar360 – Dispute Resolution) · Wednesday, November 8th, 2017

Artificial Intelligence (AI) is unquestionable one of the hottest topics at the moment. At the 2017 International Bar Association Annual Congress, that has just ended in Australia, one of the most recurrent and discussed question was: Will Artificial Intelligence ever be able to replace lawyers or the Law practice as we currently know ?

Before going any further, and in order to put AI into perspective, it is important to understand what is AI. According to [Wikipedia](#), to use a simple definition “Artificial Intelligence is any device that perceives its environment and takes actions that maximize its chance of success at some goal. Colloquially, the term “artificial intelligence” is applied when a machine mimics “cognitive” functions that humans associate with other human minds, such as “**learning**” and “**problem solving**””.

At the above mentioned Congress, there were a number of sessions covering the subject and I had the pleasure to co-chair and speak at one of them: “I, mediator: artificial intelligence of mediating disputes and Online Dispute Resolution (ODR)”. The aim of our panel was to discuss the advances in technology in an increasingly digitalized society and its impact in the dispute resolution process. Among others, the session addressed the future of dispute resolution and the role of the mediators, explored the cutting-edge systems available online today (as well as those that are likely to become available in the near future) and, finally, debated on how ODR can move us closer to a world where disputants have access to fast and fair resolutions (anywhere and at anytime).

As Professors Arno R. Lodder and John Zeleznikow explain at their paper “[Developing an Online Dispute Resolution Environment: Dialogue Tools and Negotiation Support Systems in a Three-Step Model](#)” , “ADR has moved dispute resolution away from litigation and the courts. Online dispute resolution extends this trend further. While ADR represents a move from a fixed and formal process to a more flexible one, ODR – by designating cyberspace as a location for dispute resolution – extends this process even further by moving ADR from a physical to a virtual place. Or, as Karamon explains, “while, originally, ADR took the resolution of disputes outside of the courtroom, the Internet has brought ADR directly to each individual’s personal computer.””

However, despite all the “online buzz” and almost general consensus of its important role in the future, we should also be asking ourselves how far would AI really go, if it in fact can replace us (Mediators) in the long run and whether our interactive and emotional abilities can be replicated in AI software?

There is no question that AI (ODR software) will in fact be able to outperform us in some areas

such as data collection, issue/problem finding, exploring alternative resolution options, organizing and processing information, but it is very unlikely that it will advance far enough to a level where all emotional elements involved in a decision making process will be completely replicated in a stand-alone (without any sort of human direct influence and interaction).

Finally, as corporations, consumers and legal service providers have growing expectations of being able to solve their overall disputes 24/7, 365 days of the year, preferably in a more cost effective manner and hassle-free (from their smartphones, tablets, laptops and PCs), ODR is the natural way forward (and that is a fact). However, despite becoming an almost irreplaceable tool, ODR won't perform miracles by itself, as it is unlikely, regardless of future improvements, that it will ever be able to completely emulate all human capabilities (behavior, feelings, emotions etc...). Even Sci-Fi movies still struggle when it comes to that. As "machines" will continue to develop in the long run, our in-born ability to adapt and survive will prevent us from falling behind. The man-machine coexistence is already a reality and in our "Mediation World" it will be no different.

And I close this month's post with one of my favorite songs of all times, "What a feeling" (from 1983's blockbuster "Flashdance", performed by Irena Cara), as it reflects that sometimes we just "follow our heart" and create the "serendipity" which makes the life more unpredictable and magical.

Passion, dance rhythm, hold of the heart, some feelings only humans can understand.

"Take your passion
And make it happen
Pictures come alive
You can dance right through your life
Now I hear the music
Close my eyes, I am rhythm
In a flash
It takes hold of my heart"

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