

Editorial

Dear Congress Delegate, dear Reader,

Hardly ever before have I faced so many unknowns and seen so much potential for disruption. RIAD's 26th Congress in Montreal addressed many of these uncertainties, succeeded to shed some light on a lot of issues, and answered numerous questions and I am proud to present to you the report about this thought-provoking event below.

However, here I am, still not certain what our businesses will look like and whether we will even still be around in the not too far future. From the discussions at the Congress, I gather that I am not alone with this sentiment. There are many unanswered questions: how will legal services be delivered and how easily and quickly can and will they be automated? What will the business of legal protection insurance look like and must we increasingly accept the risk of failure as price for innovation? Is there even enough space for innovation or do regulations and cemented monopolies stand in the way of true changes in

the legal and the insurance world? Will big data and the exploration of artificial intelligence eventually replace humans or will empathy and individual customer-interaction remain relevant in spite of the digitalization of our world? Does the undaunted trust in



technology and the increasing empowerment of millennials through social networks and new technology necessitate a complete overhaul of how we contact and communicate with our customers?

In a nutshell, we have to learn our lessons and prepare our businesses for the future! The Congress in Montreal was a first step in showing us what we need to factor in to make our industry future-proof! Next year, on 5&6 October 2017, I invite you to come to Dublin to discuss those solutions. Resolutions, answers or ingredients that will get us there!

.....to be continued.

Yours faithfully,

Antje Fedderke
RIAD Secretary General (antje.fedderke@riad-online.eu)

Report: 26th RIAD Congress 'LEGAL PROTECTION GOING GLOBAL'

by Luis Millán (lmillan@lawinquebec.ca)

Outline:

1. [Digitalization – This is not the future. This is the present.](#)
2. [Artificial intelligence: Paradigm shift in the cards](#)
3. [Opportunities for legal protection insurers lay ahead](#)
4. [Remaining challenges](#)
5. [Unresolved questions around digitalization & AI](#)
6. [Sharing Economy – A Pandora box](#)
7. [Sharing economy – Brimming with opportunities for legal protection insurers](#)
8. [Sharing economy – Unanswered questions for legal protection insurers](#)
9. [Wrap-up](#)

The practice of law is under duress. Legal service innovations driven by digitalization and globalization are propelling seismic change. So too is the emergence of the sharing economy model which has taken the world by storm. Novel ways of delivering new products and services are seemingly materializing daily to satisfy increasingly demanding and fickle consumers. The rapidly evolving landscape is putting a strain on traditional business models, while governments and regulatory authorities are scrambling to keep up with the dizzying pace of change. But with change comes challenges – and opportunities – for legal service providers and legal protection insurers alike to help achieve the common goal of greater access to justice, all of which was explored at the 26th RIAD Congress, “Legal Protection Going Global,” held in Montreal in October 2016.

1. Digitalization – This is not the future. This is the present.

Law practice has been largely shielded by technological developments over the past fifty years, suffering little more than glancing blows. While the way that law professionals process and share information has evolved with new technologies, primarily with the emergence of personal computers, email, and the internet, it did not fundamentally transform it. The first wave of legal technology, essentially consisting of software relating to billing, timekeeping, and docketing, allowed lawyers to work more efficiently. The second wave sprung with the digitization of case law for attorneys conducting research, and it too lead

to increased productivity. But it did not change the nature of their job. Lawyers were still at the heart of the process, called upon to use their expertise, knowledge and judgment.

That's likely to change. In fact, the future may already be here. The advent of big data analytics is a game changer. Big data analytics examines large amounts of data to uncover hidden patterns, correlations and other insights. Many industries, including the retail and service sectors, are already reaping the benefits from analysing and visualizing the vast amounts of data created nowadays. By 2020, 1.7 megabytes of new data will be created every second for every person on the planet, pointed out Scott Ferraiola, associate general counsel at Watson IBM Corporation.

It's no wonder then data has been described as the next natural resource. The legal industry is slowly coming round to realizing it is sitting on a goldmine of data that can be put to much better use. Big data analytics can substantially reduce costs and speed-up



processes. "By leveraging advanced technology, we're able to identify what data is relevant in a case, without even looking at the data," noted Dominic Jaar, national leader of forensic technology services at KPMG Canada. "Using advanced analytics, the software can tell you what is relevant. It is able to do that by connecting to case law, doctrine databases and learning law as we lawyers have done for years." A vivid example of the power of data analytics took place on the very same day that Jaar gave his presentation on the legal implications and pitfalls of digitalization. After his address, Jaar headed back to the firm's lab to examine the output of a system that reviewed a terabyte of data in the space of a day for a client lawyer who needed the documents to be reviewed as soon as possible. "That would otherwise have required a hundred lawyers to work probably for three months in order to review all these documents," remarked Jaar.

Big data analytics can also help predict legal outcomes by using algorithms that examine how similar cases fared in the same jurisdiction, which in turn can inform an attorney's strategy in litigating a case, added Jaar. In 2014 American law professor Daniel Martin Katz created an algorithm to predict the outcomes of U.S. Supreme court cases, and attained 70 percent accuracy for 7,700 rulings from 1953 to 2013. But predictive analytics are not just being used by litigators. Juristat, an American legal analytics firm, provides behavioural analytics to attorneys about patent examiners at the United States Patent

and Trademark Office. Armed with such information, attorneys can mould their strategy to the specific examiner evaluating their client's patent application.

But there's more to digitalization than big data analytics. Information and communication technology can be effectively harnessed to resolve claims, settle disputes and provide legal services affordably. "The lack of efficiency, delays and costs are key barriers to access to justice," noted Shannon Salter. The Civil



Resolution Tribunal (CRT), the only online tribunal, not just in Canada, but in the world that is integrated with the justice system, goes a long way towards addressing those issues.

Launched in the summer of 2016 in the province of British Columbia, the CRT allows condominium owners in disputes to file claims online. Before its introduction, low-level condo disputes were heard by the B.C. Supreme Court at a cost of roughly CDN\$25,000-to-CDN\$30,000, and were mired in the system for the longest time. Available 24 hours a day, seven days a week, the CRT aims to educate people in disputes, using plain language and encourages condo owners to resolve issues. The focus, in short, is on early dispute resolution. "Technology lets us do this," explained Salter, the Chair of the CRT. "We rely on communication technology to connect human experts with the people that need the expertise, where ever they happen to be, whenever they happen to need it. We're assuming, given the right tools, you will be able to settle your claim and that adjudication is there as a necessary last resort to give you finality. It's a human-driven process."

The electronic tribunal does not replace an adjudicator with an algorithm. Case managers and facilitators will monitor and assist the parties' progress or transfer the dispute to a specialist tribunal member for a decision if they reach an impasse. More is in store for the CRT. By the spring of 2017, it is expected to hear small claims disputes.

The private sphere too is using digitalization to resolve legal claims. Weclaim, a French online dispute resolution platform founded in 2015, tackles small claims disputes and de facto class actions with a hassle-free approach for consumers. Consumers visit the website and file a claim at no cost. In case of a settlement agreement,



Weclaim takes a 25 percent cut. “In terms of access to justice, you can’t really think of something that works better because claimants don’t have to pay and it takes a few minutes,” said Frédéric Pelouze, Weclaim’s co-founder.

The company uses technology to automate the laborious task of processing the claims. “When you want to address this market you need to think first about how to lower the marginal cost of processing a claim otherwise there is no way you are going to make money,” said Pelouze. “Technology is not just something that is going to enhance the way we do things. It’s going to radically change the way we process claims.”

Now Weclaim is exploring the possibility of using information technology for claims prediction through email parsing. In effect, the planned technology solution would sift through a consumer’s email accounts to determine if there are outstanding legal claims over a purchased item or service. Information asymmetry is an overlooked consideration with respect to access to justice because often consumers do not realize they have a potential claim in their hands, added Pelouze. Such technology would partly address that failing. “If someone sends you a notification to tell you have a claim, (the email would instruct you) to click on the website to make the claim that we would process, then it is really access to justice.”

2. Artificial intelligence: Paradigm shift in the cards

More promising developments lie in the horizon.

The rapidly developing field of artificial intelligence has the potential for a paradigm shift in how legal work is done. It may change the way lawyers think, the way they do business and the way they interact with clients.



Artificial intelligence (AI), also known as augmented intelligence or cognitive technology, refers to computers learning how to complete tasks traditionally completed by humans. In short, its machine-learning capabilities simulate the human thought process. AI has three

elements that distinguish it from other forms of analytics solutions, explained Ferraiuola. It understands context in natural language. It reasons, which means it has the ability to find similar concepts or themes

and rank them in order of probabilities to predict the best outcome. And it learns, through the use of algorithms and not code. Moreover, it improves over time. Content is the fuel for such machines, and “they are hungry,” said Ferraiola. “That ability to consume massive amounts of information, parse it, retrieve it, rank it, and then show it as a suggested answer is what we’re talking about – that’s a cognitive process,” added Ferraiola.

Sounds like the stuff of science fiction. But it’s not. IBM Watson, which straddles cognitive computing and programmable computing, harnessing and processing the more than 2.5 billion gigabytes of data generated each day, wowed the tech industry when it defeated two champions at a popular television quiz show called Jeopardy in 2011, “a lifetime ago in terms of technology,” noted Ferraiola. More recently still, Google’s DeepMind, an AI system, defeated this year a Korean grandmaster at Go, a 2,500-year-old game that is exponentially more complex than chess and requires, at least among humans, an added degree of intuition.

AI, though it’s in the nascent stages, is not surprisingly generating a lot of interest. Insurance companies as well as law firms are interested in harnessing its power for knowledge management or the ability to identify, capture, evaluate, retrieve and share all of an organization’s information assets. “Who are your experts on certain legal issues? Do they have memos or briefs? Where are they? Can we access them? Can we search them? It’s almost a back-office function. It’s not quite decision-making but it helps in decision-making,” said Ferraiola.

Other law firms are hoping that AI will help them capture insights previously not available about customer feedback, observed Ayan Bhattacharya, a specialist leader in advanced analytics for Deloitte Consulting. At present some financial institutions are using customer’s social media posts to determine life events to glean insights about them. “There is no reason why you could not take that same logic and extend it to the legal space where you could pretty much predict when someone may need support in developing a trust or will or something of that nature,” said Bhattacharya, a member of the original IBM Watson team.

Some law firms intend to use AI more ambitiously. Dentons, the world’s largest law firm, has financially backed what is being marketed as the world’s first artificially intelligent attorney – Ross Intelligence. The AI machine learning machine uses IBM’s Watson cognitive computer technology to act as a legal researcher. Users can ask questions in plain English, and Ross searches legislation, case law and secondary sources. But Ross does more. It not only constantly monitors the law but uses machine learning capabilities to continuously improve its search results.

This raises the very real possibility that the use of AI by the legal sector could improve access to justice. Using an AI such as Ross should make legal research easier and more affordable, thereby driving down legal fees for consumers.

3. Opportunities for legal protection insurers lay ahead

The advent of new technologies such as machine learning will likely have a domino effect. Digitalization, and artificial intelligence, will not only change the practice of law. Legal protection insurers stand to benefit as well.

AI is expected to spur the growth of “predictive justice,” according to Jérôme Dupré, a French magistrate and co-founder of Case Law Analytics. In fact AI is already being used in Australia and by some American companies to quantify the risk or assess the chances a case will succeed in bringing a matter before the courts. “This is a very important shift for the future,” said Dupré. “Through the use of AI, insurers can tell clients that it’s not worth going to court with what they have, (and can instead) promote other solutions. People don’t want to go to court. They want to find amicable solutions. Insurers can be part of this new redesign of what justice will be” in the future.

Besides being leveraged to quickly render “automatic judgments” through online dispute resolution platforms, technological advances are expected to shake up the traditional business model used by law firms, suggested experts at the conference. The days of the highly leveraged partner-associate pyramid model, where associates are leveraged to support partners, appears to be coming to a close. Now that much of the work at the bottom of the pyramid – and tasks performed by lawyers too – are being increasingly automated, it opens the door for non-lawyers. “Lawyers have an opportunity to leverage these technologies, improve their efficiencies, and to push work down to non-lawyers,” said Jaar. “That is going to require lawyers to hire other types of specialists, such as programmers and other types of technicians, and train them. But in the end it will likely reduce costs and improve access to justice.”

In the not-too-distant future law firms seeking a competitive advantage will continue to rely on the expertise, knowledge and judgement of their attorneys. But at the same time they will develop (or purchase) applications that solve specific problems their clients face in a manner that is accessible and on-demand at a fixed fee. “When you start thinking about the whole model of billing for advice when you are automating the whole thing and you get an answer at your fingertips, that whole paradigm will take some time to shift,” remarked Bhattacharya.

Sally Robertson, vice-president of attorney services at LegalZoom, an online legal technology company, put it another way. “Right now law firms are very top heavy, with a lot of lawyers at the top, some

support staff, and very little technology,” said Robertson. “There needs to be a complete 180-degree turn. It needs to be technology, then support staff, and lawyers at the bottom. It has to be because otherwise we are not going to get the efficiency, and there is no way that we’re going to be able to close the access to justice gap without it.”

That’s where consumers, and particularly legal protection insurers, come into the picture. At present consumers are “angry” at the length of time they have to wait before they can put their case before a judge and just as upset that they cannot get a quick and easy resolution to a legal matter, added Robertson. She believes that consumers will put increasing pressure for innovations to develop in the legal space.

Stronger pressure though will most likely come from legal protection insurers. It is the one sector that can compel law firms to embrace change instead of resisting it. “In terms of processes, insurance companies have for years asked lawyers to bill on a task basis,” pointed out Jaar. “How far are you from



pushing it a bit further and saying you want them to leverage these particular technologies.”

There’s another reason why legal protection insurers would want to drive change – pricing

transparency. “You are providing policies and buying services at a fixed rate, and you want to be able to ensure you are getting the best quality service at the lowest price,” stated Ferraiuola. “And you are constantly evaluating your providers. These technologies can help in doing that. So there’s enormous potential.”

4. Remaining challenges

While AI holds much promise, challenges remain, particularly for legal protection insurers. For one, AI systems are ravenous, and need to be fuelled by data. A staggering 2.5 quintillion bytes of data are created every day, according to IBM. But at least 85 percent of data is either “dark” or redundant, obsolete or trivial (ROT), revealed a 2015 survey by information management firm Veritas Technologies. The survey reveals that 52 percent of all information currently stored and processed by organizations around the world is considered “dark” data, whose value is unknown. Another 33% of data is considered

to be ROT and is known to be useless. Part of the reason so much data is inaccessible is because it sits in the hands of private firms like Amazon, Facebook and Twitter who are not necessarily willing to license it, at least not license it free of charge. Regulations also come into play. Data, such as medical information, is strictly regulated and therefore limits the ability of AI systems to access it. All of which begs the question: will we be able to get access to the right information, the most relevant information and in sufficient volumes, wondered Ferraiuola.



Legal protection insurers then face a conundrum, said several panellists at the 26th RIAD Congress. Since the more content AI systems are fed, the more powerful the technology, would it therefore be in the best interests of industry players to share data? Ferraiuola thinks so as does Jaar. Both suggest implementing parallel strategies: share information stemming from data and find other ways to differentiate one from the other. That is a strategy that Canadian financial institutions have adopted with success to deal with the advent of fintechs.

Canadian banks collaborate with and leverage some fintechs while innovating to compete with others.

Bhattacharya believes there is another compelling reason to join forces. AI is in its infancy, and the technology around it is still evolving. That makes it far too complex for an individual firm to invest a few million dollars and tackle issues that may arise. Bhattacharya pointed out that Salesforce.com, a dominant player in customer relationship management software space, partnered with several companies and start-ups to launch this year an AI system called Einstein.

5. Unresolved questions around digitalization & AI

- On liability. If an AI system provides an answer that is not heeded, what are the legal ramifications?
- On regulations. How can the legal world implement these kinds of technological innovations if there are so many regulatory requirements and customer protection laws that differ from country-to-country?

6. Sharing Economy – A Pandora box

The sharing economy has been likened to a Pandora's box, opening a world of new opportunities while engendering much legal confusion and uncertainty.

A wave of peer-to-peer, access-driven businesses has become a disruptive force in a slew of industries, ranging from travel to car rentals to consumer goods to employment to finance. Even insurance has been touched. And the disruption may be long-term if the new businesses change consumers' attitudes towards ownership. A recent PwC study revealed that 81 percent of people familiar with the sharing economy believed that it is less expensive to share goods than to own them individually. Another 57



percent asserted that access is the new ownership.

As it stands, PwC predicts the sharing economy will grow at over a staggering 30 percent rate per year, with growth broad spread across the five most prominent sectors – collaborative finance, peer-to-peer accommodation, peer-to-peer transportation, on-demand household services, and on-

demand professional services. The consulting company forecasts that total transactions from these sectors in Europe could rise to US\$712 billion by 2025, up from US\$35 billion today. Moreover, PwC estimates that revenues accrued by platforms in the five key sectors of the sharing economy could reach US\$107.3 billion by 2025, up from just US\$5 billion today. In terms of investment, US\$3.5 billion in venture funding was invested in sharing economy companies, a figure that climbed to US\$17 billion in 2015, noted April Rinne, a thought leader who gave the keynote address about the sharing economy at the 26th RIAD Congress.

“The sharing economy and the new business models in it are fundamentally transforming how we think about business, how we deliver mobility, how we earn income and what we think about in terms of employment,” asserted Rinne, adding that three kinds of things can be shared – space, stuff and skills.

The sharing economy was made possible and is empowered by a combination of the internet, big data analytics, low-cost cloud storage, the prevalence of social media and the widespread use of mobile devices.

But at its heart, the sharing economy is driven by three principles: resource utilization, decentralization and relationships, said Rinne. Resource utilization basically means “how much you use the things you have.” Cars sit parked and unused on average 23 hours a day. “It’s incredibly inefficient but it is also really expensive to maintain structures like this,” pointed out Rinne.

The second principle behind the sharing economy is decentralization. Before the onset of the sharing economy companies held centralized inventory that was rented or sold. But thanks to new technologies, decentralized inventory has taken hold. Companies like Airbnb and Uber and BlaBlaCar do not have or



worry about the infrastructure that accompanies centralized inventory. Airbnb does not own any hotels, and yet has more rooms to rent than Hilton or the Marriott. BlaBlaCar transports more people than the entire Eurostar train network every day while Uber boasts that it provided 140 million car rides in 53 countries and more than 250 cities without owning any cars or employing full-time drivers.

The third anchor is relationships, said Rinne, noting that the vast majority of the sharing economy requires some kind of human interaction.

This new way of doing business has spawned legal and regulatory uncertainty. “This is not surprising because when you look at the rules that are in place we see that they come from an ownership era, without smartphones,” observed Rinne. “So the rules in the books in many places for the most part couldn’t fathom the kinds of business models that are possible today. It doesn’t make them bad rules. It simply means that they are outdated, and there is an enormous opportunity in updating them. We’re in the early stages of an exciting and challenging process of policy reform. Figuring out how to regulate for innovation is nothing new. Technology has always outpaced the law.”

The danger rests with regulatory authorities introducing regulations to completely eschew risk, said Jean-Nicholas Guillemette, the general manager of Uber Quebec. Trust is central to the sharing economy, and is the lubricant of this entire space. Nearly all sharing companies establish trust through crowdsourcing, with online peer reviews at the heart of the sharing economy. Before consumers agree to rent an Airbnb room, use an Uber driver, or use a TaskRabbit handyman, they see what others who have used the service have to say. Indeed, new platforms like Copenhagen-based start-up Deemly have surfaced that enable users to leverage their personal trustworthiness online, underscoring that shift underway from institutional trust to peer trust. “If we regulate to avoid incidents we will kill the sharing economy,” said Guillemette. “We need to understand the difference between institutional trust and peer trust, and that is a huge change in the way that regulations work right now. We need to be careful not to create too much regulation.”

7. Sharing economy – Brimming with opportunities for legal protection insurers

Legal protection insurers are in an enviable position. The insurance sector has the potential of becoming one of the most significant factors determining the growth of the sharing economy and how it grows, noted Rinne. That's because the number one thing that sharing economies want is an insurance product that works for them. Some insurance companies are seizing the opportunity by introducing innovative products such as Metromile, a San Francisco-based car insurance start-up that offers pay-per-mile insurance coverage. Or Germany's Friendsurance, peer-to-peer insurtech which allows groups of people to pool insurance premiums together and offers an annual no-claims reward. But that is just the tip of the iceberg. "At a more fundamentally disruptive level there are platforms that are emerging that challenge in how we think about insurance itself," said Rinne. That would certainly be the case with Trov, an on-demand insurance platform that lets users buy insurance for specific products for a specific amount of time.

The sharing economy will compel insurers, and legal protection insurers particularly, to re-examine their policies, said Simon Warr, RIAD vice-president and underwriting manager with AmTrust International.

"Everything is insurable," observed Warr. "There is no such thing as bad risk. Just a bad premium.

One of the things we have to maintain is the relevance of our policies. If we provide exactly the same policy we provide in twenty year's time, a lot of the coverage will become irrelevant so people will stop buying it. The disruption is an opportunity."



Airbnb is a good example. The firm is headquartered in San Francisco, has offices around the world, is present in 34,000 cities, some of which allow home sharing and short-term rentals. "There is an enormous opportunity here but it requires you to rethink your cross-border coverage and limitations so that you can take advantage of companies like this that are growing like wildfire and likely to become integrated into our economies over time," said Rinne.

8. Sharing economy – Unanswered questions for legal protection insurers

There are just as many questions as opportunities for legal protection insurers. Here are a few of them:

- On space. TechShop is a fast-growing chain of co-working spaces that provides access to instruction, tools, software and space. The firm is “forcing us to rethink innovation,” said Rinne. Square, the mobile-payment company, was prototyped in TechShop. From a legal protection insurance perspective, what does user protection and liability look like?
- On stuff. Trov provides on-demand insurance for single items over short periods of time, with a click or swipe on an app. Is it a new policy every time a consumer swipes his smartphone on and off? Is the insurance sector prepared to deal with such micro-data?
- On work. Is a TaskRabbit handyman a person or a business in terms of insurance coverage?

9. Wrap-up

The practice of law and world of legal insurance protection is being shaken by innovation. Digitalization, artificial intelligence and the sharing economy are provoking changes unforeseen as little as a decade ago. That has spurred three trends that are still evolving and that have important ramifications for access to justice, said Jin Ho Verdonschot, a justice technology architect at HiiL Innovating Justice. The first is the simplification of legal procedures. The province of Quebec is a case in point. It recently



introduced in January 2016 a new Code of Civil Procedure that puts an emphasis on alternative dispute resolution. Moreover, the province bars lawyers from representing litigants for small claim matters under CDN\$15,000. As many panellists noted, that is food for

thought.

A second trend that is emerging is the growing use of non-professionals providing legal services. Paralegals can and should be used more effectively to dramatically reduce legal costs, said Verdonschot. The state of Washington in the United States may end up providing a template others may follow that allows for affordable legal support. It became the first U.S. state to allow for the practice of legal technicians, professionals who are trained and licensed to advise and assist people going through divorce, child custody and other family-law matters.

The other trend that is taking root is the use of technology. While the legal and insurance sector is still grappling with the tectonic shifts that digitalization, artificial intelligence and the sharing economy

present, there are already examples of the use of technology that provide good reason for optimism. Alibaba, one of the world's biggest online commerce companies, has a very effective online dispute resolution system in place. Every day one million disputes are resolved, 80 percent of which are resolved through automation, noted Verdonschot. "There is no human intervention that takes place so technology will reduce costs," added Verdonschot.

Collaboration, however, is key to encourage greater access to justice, said Élizabéth Corte, Chief Justice of the Court of Quebec. Innovation is not just about making new things. "It is about changing the way we do things, the way we talk as well as changing the culture of the of justice. That is how we are going to improve access to justice."

RIAD, the International Association of Legal Protection Insurance, is the only body worldwide representing the original interests of legal protection insurers and service providers in this field from Europe, Canada, South Africa and Japan. In this capacity, RIAD defends the high potential of legal protection insurance as an easy, affordable and high quality solution for access to justice and the law. To preserve and endorse this true value of legal protection insurance for its users it is essential that consumers are informed explicitly and separately about the content of their legal protection policy and, therefore, RIAD urges other stakeholders, policy makers, and legislators to respect and maintain the specific character and value of legal protection insurance by supporting that consumers receive a separate IPID for their legal protection coverage.