

# BAR BULLETIN



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## When Will a Robot Replace *You*?

**By Larry G. Johnson**

Yes, the question is not “if,” but “when” super-smart artificial intelligence (“AI”) will revolutionize, if not completely replace, trial lawyers and our rickety litigation system.

The coming changes that AI will unleash in law and justice cannot be fully imagined — humans are, after all, notoriously bad at predicting the future. Still, for guidance as to what the future portends, all we have to do is look at what is already happening at one insurance company in Japan to get a glimpse.

I am talking about the “IBM Watson Explorer,” installed by Fukoku Mutual Life Insurance at a cost of \$1.7 million and \$128,000 in annual maintenance fees. This AI came on line at the beginning of this year, replacing 34 claims adjusters and thus saving the company some \$1.1 million a year.<sup>1</sup>

### What This AI Can Do

Here is what this software does, apparently more efficiently than humans: The AI will scan hospital records and other documents to determine insurance payouts, according to a company press release, factoring injuries, patient medical histories, and procedures administered. Automation of these research and data gathering tasks will help the remaining human workers process the final payout faster, the release says....

Watson AI is expected to improve productivity by 30%, Fukoku Mutual says. The company was encouraged by its use of similar IBM technology to analyze customers’ voices during complaints. The software typically takes the customer’s words, converts them to text, and analyzes whether

those words are positive or negative. Similar sentiment analysis software is also being used by a range of US companies for customer service; incidentally, a large benefit of the software is understanding when customers get frustrated with automated systems.<sup>2</sup>

It doesn’t take a lot of imagination to see how this kind of artificial intelligence will find its way into law firms, the courts and alternative dispute resolution systems. I can picture it already: a human voice generated by a computer takes depositions and then instantly analyzes the substantive content, the witness’s body language and voice stresses, and all of that data goes into a gigantic database of every similar case ever decided. When the AI is satisfied it has all the facts it needs in a matter, it renders its decision. Case closed. No need for appeals.

### What AI Portends for Lawyers

It is certain that the changes from AI will come at ever-increasing speeds and at ever-decreasing costs. Indeed, the changes may come so overwhelmingly fast that we will face severe challenges in our ability to adapt to them.<sup>3</sup>

Since humans are so terrible at making predictions, I feel no compunction in making some of my own, but again using a current phenomenon from which to extrapolate: The Finns just decided to launch an experiment that could lead to guaranteeing to all of its citizens a base income.

Finland has become the first country in Europe to pay its unemployed citizens a basic monthly income, amounting to 560 euros (\$587), in a unique social experiment which is hoped to cut government red

tape, reduce poverty and boost employment....

The trial aims to discourage people’s fears “of losing out something,” (a spokesman) said, adding that the selected persons would continue to receive the 560 euros even after receiving a job.<sup>4</sup>

My guess is that approach is the wave of the future: “helicopter money” for everybody at some base amount, since the vast majority of people will no longer have marketable skills. And for the legal profession, that could well include not just paralegals and legal assistants, but many superfluous lawyers as well.

I, for one, think that will be a good thing. Just imagine if lawyers’ inflated egos and emotions were taken out of a litigation process that many think is far too adversarial, expensive, stupid and inefficient. What if 90 percent or more of disputes could be resolved by advanced AI, the contours of which we are presently incapable of predicting, and cases could be resolved in very short order?

What if there were software capable of knowing every minute detail of not only each litigant’s life, including all their medical and financial records, but if it also had access to that same information about every witness and every document he or she created or received. And if the AI could take all that data and sift it through all applicable laws, regulations, case law and jury verdicts for the past 30 years, everywhere in the country, and come up with a decision without delay and at minimal expense to the parties? What if?

I am prepared to say that would probably be better than what we have now.

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**But, but ...**

Well, you might ask, but what about our civil liberties, due process and the right to privacy? Really? I think what we have learned about the NSA and other snooping agencies and companies has made any debate about protecting privacy rights rather quaint and academic now, not to mention the gleeful, massive, voluntary abandonment of privacy people display seemingly every minute with their Facebook, Twitter, Instagram and other social media accounts.<sup>5</sup>

But, not to worry. The future will no doubt offer amazing holographic virtual realities where all of the subsidized masses can still live in made-up worlds of superheroes from a fictional past, and where we lawyers can still use our su-

perannuated skills, be they as cowboy, astronaut or Clarence Darrow. ■

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<sup>1</sup> <http://www.zerohedge.com/news/2017-01-04/its-not-just-blue-collar-jobs-insurance-claim-adjusters-replaced-ibm-watson-explorer>

<sup>2</sup> *Id.*

<sup>3</sup> Two universal buzzwords regarding ever-more-rapid technological change have emerged in recent times: 1) "Moore's Law," formulated by Intel

co-founder Gordon Moore in 1965: computing would dramatically increase in power, and decrease in relative cost, at exponential rates; and 2) the concept of "singularity" developed by genius inventor Ray Kurzweil: "the hypothesis that the invention of artificial superintelligence will abruptly trigger runaway technological growth, resulting in unfathomable changes to human civilization." *Singularity Hypotheses: A Scientific and Philosophical Assessment*, Dordrecht: Springer, 2012, pp. 1–2. Some scholars opine that with singularity humans will either become pets or destroyed by the very artificial intelligence devices they created. Kurzweil has a rosier picture: that humans and AI will advance together in a joint harmonious evolution.

<sup>4</sup> [http://www.nytimes.com/aponline/2017/01/02/world/europe/ap-eu-finland-basic-income.html?\\_r=0](http://www.nytimes.com/aponline/2017/01/02/world/europe/ap-eu-finland-basic-income.html?_r=0)

<sup>5</sup> For a particularly creepy exploitation of their customers' habits and social media accounts while offering cruise passengers a supposedly more convenient and comfortable vacation, check out this disturbing article about Disney and Carnival Cruise Lines: "Coming to Carnival Cruises: A Wearable Medallion That Records Your Every Whim," <http://www.nytimes.com/2017/01/04/business/media/coming-to-carnival-cruises-a-wearable-medallion-that-records-your-every-whim.html>.