**12<sup>TH</sup> Annual McGill Conference** on International Aviation Liability, Insurance & Finance

# MONTREAL **18-19 OCTOBER 2019**

Plaza Centre-Ville (EVO Building) 777 Boulevard Robert-Bourassa Montreal, Canada H3C 3Z7

For more information visit: https://www.mcgill.ca/iasl/iali/iali2019





This event brings together world-leading aviation liability and insurance experts to address the following topics:

Recent Developments in Air Carrier Passenger Liability Reflections and Predictions on the 20th Anniversary of the Montreal Convention Liability of Airports, ANSPs and Maintenance Providers Global Regulatory Update – Air Transport Regulation Aerospace Insurance Claims Aviation Product Liability Cases Recent Developments in Air Carrier Cargo Liability The Cape Town Convention after 15 Years in Force Update on Liability Issues from Key Montreal Organisations (ICAO, IATA, ACI, IFALPA) Liability Issues Arising from Drone Disruption of Air Travel

In addition, the conference will host social events to facilitate networking among attorneys, insurers, air carriers, airports, manufacturers, government and other air transport representatives.

This is the 12th Annual McGill Conference on International Aviation Liability, Insurance & Finance. Prior Conferences were held in: Toulouse (2008) Montreal (2009) Amsterdam (2010) Montreal (2011) London (2012)

Montreal (2013) Du London (2014) Montreal (2015) Edinburgh (2016) Montreal (2017)

Dublin (2018)

## PROGRAMME

(the notation \* after a speaker's details indicates that the speaker has been invited but has not yet confirmed)

## FRIDAY 18 OCTOBER 2019

### 07.30-08.30 REGISTRATION

#### 08.30-09.30 RECENT DEVELOPMENTS IN AIR CARRIER PASSENGER LIABILITY

- Comparative analysis of recent Warsaw and Montreal Convention jurisprudence
- Applicability of the EU Regulation 261/2004 to non-EU carriers, and update on the "extraordinary circumstances" defence
- Recent aviation disaster litigation, including Lion Air and Ethiopian Airlines Boeing 737 MAX crashes and groundings
- Damage awards, and their influence on forum shopping
- Jurisdictional issues: venue; place where the contract was made; fifth jurisdiction under Montreal 99; treaty and personal jurisdiction; exclusive cause of action; forum non conveniens; removal to Federal court
- Criminalisation, and its impact on civil liability and insurance
- The challenges of achieving global uniformity

#### CHAIR:

#### **Paul Stephen Dempsey**

(Institute of Air and Space Law, McGill University – Montreal, Canada)

#### PANEL MEMBERS:

Brian J. Alexander (Kreindler & Kreindler – New York, New York, USA) Peter Neenan (Stewarts – London, UK) Judy Nemsick (Holland & Knight – New York, New York, USA) Mark K. Schwartz (Driggers, Schultz & Herbst – Troy, Michigan, USA)

#### 09.30-10.00 REFRESHMENT BREAK

#### 10.00-11.00 LIABILITY OF AIRPORTS, ANSPs, AND MAINTENANCE PROVIDERS

- Liability of airports for passenger injury
- Contractual liability of the airport operator
- Challenges facing the modern airport and airport services providers (e.g., increased air traffic; construction, redevelopment and modernization of facilities; modernisation of ATC; cybersecurity; airport security; passenger screening; environmental concerns; regulatory issues; real estate issues; financing issues)
- *Liability of maintenance providers*

#### CHAIR:

Alan Reitzfeld (Retired Senior Partner, Holland & Knight LLP – New York, New York, USA)

#### PANEL MEMBERS:

Sylvain Choinière (Aéroports de Montréal – Dorval, Canada) Laura Pierallini (Studio Pierallini – Rome, Italy) Racquel Reinstein (Port Authority of New York and New Jersey – New York, New York, USA) Jenny Urban (CLEAR – New York, New York, USA)

#### 11.00-12.30 UPDATE ON PRODUCTS LIABILITY CASES AND A CASE STUDY ON MAJOR ACCIDENT LITIGATION: PLAINTIFF AND DEFENDANT STRATEGIES

- Assessing the Lion Air and Ethiopian Airlines airplane accidents
- Suits in the Northern District of Illinois; forum non conveniens
- Government/CAA liability?
- Crisis management
- Effect of social media on regulatory oversight/certification
- International reciprocity of certification
- Solicitation of families "code of conduct" issues
- Use of delegated authority and the FTCA defence
- Aircraft engines and component parts
- Military accidents, state aircraft issues
- European perspectives (including state aircraft issues)

#### CO-CHAIRS:

**Robert Clifford** (Clifford Law Firm – Chicago, Illinois, USA) **Kenneth P. Quinn** (Baker McKenzie – Washington, D.C., USA)

#### PANEL MEMBERS:

Catherine Chaput (Gasco Goodhue St-German – Montreal, Canada) Clay Hunter (Paterson MacDougall LLP – Toronto, Canada) James Kreindler (Kriendler & Kreindler – New York, New York, USA) Urban Olson (Advokatfirman Urban Olson – Stockholm, Sweden) Darryl Pankratz (Alexander Holburn Beaudin & Lang – Vancouver, Canada) Robin Squires (Borden Ladner Gervais LLP – Toronto, Canada) Diane Westwood Wilson (LeClairRyan – New York, New York, USA)

12.30-14.00 LUNCH KEYNOTE SPEAKER: TBA

#### 14.00-15.00 GLOBAL REGULATORY UPDATE – ARE GOVERNMENTS BUILDING A "CATHEDRAL" OF AIR TRANSPORT REGULATION?

- What is the proper scope of consumer protection?
- Using EU Regulation 261 in other jurisdictions including class actions
- Deciphering the new Canadian regulations and the IATA-led lawsuit challenge
- Prospects for reform of EU 261 and other national regimes
- Patchwork nature of data protection regulations
- Growing international oversight of safety and security
- What does the litigation scene look like?

#### CHAIR:

Brian F. Havel (Director, Institute of Air and Space Law, McGill University – Montreal, Canada)

#### PANEL MEMBERS:

Sophia Iwantscheff (Arnecke Sibeth Dabelstein – Frankfurt, Germany) Andrew W. Macdonald (Bersenas Jacobsen – Toronto, Canada) Catherine Pawluch (DLA Piper (Canada) LLP – Canada) Jeremias Prassl (University of Oxford – Oxford, UK) Charles E. Schlumberger (The World Bank – Washington, D.C., USA) Christopher Smith (The Air Law Firm – London, UK)

#### 15.00-16.00

#### RECEIVING, MANAGING AND SETTLING PRE-LITIGATION AND LITIGATION AEROSPACE INSURANCE CLAIMS: TRENDS FOR THE FUTURE, LEARNING FROM THE PAST

- Preparing and managing aerospace claims at the pre-litigation and litigation stages the plaintiff's perspective: current trends
- *Receiving and managing aerospace claims at the pre-litigation stages the defendant's perspective: current trends*
- *Mediation and dispute resolution both at the outset of a claim and after the lawsuit is filed: current trends*
- Effective execution and finalisation of settlements reached at meditation and requirements for minor's settlements
- The mediation process and how effective resolution of aerospace claims is reached in Latin America (with emphasis on Brazil): trends and difficulties

#### CHAIR:

Patricia Barlow (Barlow Law - San Francisco, California, USA)

#### PANEL MEMBERS:

Luiz Eduardo Arena Alvarez (Arena Alvarez Advogados – São Paulo, Brazil) Sharon Holahan (Global Aerospace, Inc. – Parsippany, New Jersey, USA) Christopher Knight (Fowler White Burnett – Miami, Florida, USA) Steven C. Marks (Podhurst Orseck – Miami, Florida, USA) Brian Poston (MacKenzie Fujisawa LLP – Vancouver, Canada)

#### 16.00-16.30 REFRESHMENT BREAK

#### 16.30-18.00 REFLECTIONS ON THE 20<sup>TH</sup> ANNIVERSARY OF THE MONTREAL CONVENTION – A BLUE RIBBON PANEL

- Impact of MC99 on aviation litigation worldwide
- Impact of MC99 on aviation insurance worldwide
- MC99 and EU Regulation 261: a clash of principles
- Assessment of recent MC99 litigation and what it portends
- *Will MC99 eventually eliminate the Warsaw Convention?*

#### CHAIR:

Ludwig J. Weber (Institute of Air and Space Law, McGill University & ICAO – Montreal, Canada)

#### PANEL MEMBERS:

Alexander Batalov (Member of the ICAO Air Navigation Commission; Alternate Representative of the Russian Federation, ICAO Council – Montreal, Canada)

**Sean Gates** (Gates Aviation Ltd. – London, UK; former Legal Adviser to the International Union of Aviation Insurers)

Andrew J. Harakas (Head, U.S. Aviation Practice Group, Clyde & Co. – New York, New York, USA) Jiefang Huang (Director, Legal Affairs & External Relations Bureau, ICAO – Montreal, Canada)

### 18.00-21.00 GALA RECEPTION /DANCE

Dance to the classic rock music performed by **The Flying Outlaws**, comprised of the following international aviation lawyers:

Paul Stephen Dempsey – Golden, Colorado, USA Steven Marks – Miami, Florida, USA Urban Olson – Stockholm, Sweden Alan Reitzfeld – New York, New York, USA

## **SATURDAY 19 OCTOBER 2019**

#### 08.30-09.30 RECENT DEVELOPMENTS IN AIR CARRIER CARGO LIABILITY

- Issues arising from the Underwriters at Lloyds v. Expeditors Korea case in the United States
- Issues of uniformity in multimodal transport
- New IATA/FIATA (International Federation of Freight Forwarders Associations) agreement and implications for freight forwarders
- Proposals for amending the cargo provisions of the Montreal Convention

#### CHAIR:

Ralph Carter (Vice President, International Regulatory Affairs, FedEx - Washington, D.C., USA)

#### PANEL MEMBERS:

Barry S. Alexander (Schnader Harrison Segal & Lewis LLP – New York, New York, USA)
Holger Bürskens (Arnecke Sibeth Dabelstein – Frankfurt, Germany)
Heather Devine (Isaacs & Co. – Toronto, Canada)
Georgios Leloudas (Swansea University – Swansea, Wales, UK)

#### 09.30-10.30 "YELP-IFYING" THE CAPE TOWN CONVENTION AFTER 15 YEARS IN FORCE

- Is the Cape Town Convention delivering on its promise of cheaper aircraft financing?
- New uses for Cape Town discount eligibility outside export credit financing
- Aviation Working Group monitoring of compliance with Cape Town who are they and are there parallels with ICAO safety and security scoring?
- The Cape Town Convention Academic Project should airlines be concerned with open access online reports of administrative and non-judicial remedies against them?
- Ranking of jurisdictions generally, e.g. Pillsbury Aircraft Repossession Index, and overlap with the Cape Town Convention Academic Project is it Zagat versus Yelp?
- Discussion on recent replacements for aircraft export credit financing

#### CHAIR:

Donal Hanley (Institute of Air and Space Law, McGill University – Montreal, Canada)

#### PANEL MEMBERS:

Louis Emery (Export–Import Bank of the United States– Washington, D.C., USA)\* Maria Regina M.A. Lynch (Motta Fernandes Avogados – São Paulo, Brazil) Jason MacIntyre (Blakes, Cassels & Graydon LLP – Toronto, Canada) Carlos Sierra (Abogados Sierra – Mexico City, Mexico); former Chair, Legal Advisory Panel, Aviation Working Group Lisa Valentovish (Morgan Lewis – New York, New York, USA)

#### 10.30-11.00 REFRESHMENT BREAK

#### 11.00-12.00 UPDATES ON CURRENT AND FUTURE ISSUES FROM KEY NATIONAL AND INTERNATIONAL AIR TRANSPORT ORGANISATIONS

• What are the current legal and policy issues – including the issues being raised in this Conference – that are on the minds and agendas of four key national and international air transport organisations?

#### CHAIR:

Leslie Lugo (Assistant General Counsel, IATA – Montreal, Canada)

#### PANEL MEMBERS:

Daniel-Robert Gooch (President, Canadian Airports Council – Ottawa, Canada)
David T. Lloyd (UK Representative to ICAO – Montreal, Canada)
David M. Semanchik (Air Line Pilots Association – Washington, D.C., USA)
Carlos Tornero (Deputy General Counsel, IATA – Montreal, Canada)

#### 12.00-13.00 LIABILITY ISSUES ARISING FROM DRONE DISRUPTION OF AIR TRAVEL

- Changes in regulations for both commercial and recreational operators for US/Canada/EU
- Drone safety at airports and heliports
- The use of UAVs over international waters
- Privacy compliance and management following UAV data collection
- UAV IoT operations and associated risks (for example at interconnected airports, disaster relief)
- UAVs and cybersecurity
- Insurance coverage and contract issues for customers considering adopting their own UAV technology or engaging a third-party UAV provider

#### CHAIR:

Katherine Ayre (Borden Ladner Gervais – Montreal & Toronto, Canada)

#### PANEL MEMBERS:

Jean-Michel Fobe (Sybarius – Brussels, Belgium) Anna Masutti (LS LexJus Sinacta – Bologna & Milan, Italy; University of Bologna – Bologna, Italy) Kathryn A. McCulloch (Dentons – Toronto, Canada) Ehsan T. Monfared (YYZlaw – Toronto, Canada)

#### 13.00-14.30 LUNCH

#### **KEYNOTE SPEAKER**:

Sean Gates (Gates Aviation Ltd. – London, UK; former Legal Adviser to the International Union of Aviation Insurers)

#### 14.30-15.30 A CONVERSATION AMONG IN-HOUSE COUNSEL

• Four leading in-house counsel offer their perspectives on the issues that concern them most in their current professional setting, focusing in particular on the issues raised in this Conference including settlement strategies and discovery compliance

#### CHAIR:

Brian F. Havel (Director, Institute of Air and Space Law, McGill University – Montreal, Canada))

#### PANEL MEMBERS:

Nicolas Drolet (Litigation Counsel, Air Canada – Montreal, Canada) Joan Gabel (U.S. Counsel, Air France – New York, New York, USA) Fernando Garcia (Vice President, Legal, Cargojet, Inc. – Mississauga, Ontario, Canada) Senarath Liyanage (Vice President, Legal Affairs, Etihad Airways – Abu Dhabi, UAE)

#### 15.30-16.30 A CONVERSATION AMONG RISING AVIATION LEGAL PROFESSIONALS (IN COOPERATION WITH THE CANADIAN BAR ASSOCIATION)

- The future of aviation
- Air transport regulations
- Aircraft financing
- Space law and its current prospects for private practice
- Career prospects of next generation aviation professionals

#### CHAIR:

Prithviraj Sharma (ICAO Delegation – Montreal, Canada)

#### PANEL MEMBERS:

René David-Cooper (Transportation Safety Board – Gatineau, Canada) Philippine Dumoulin (Norton Rose Fulbright – Washington, D.C., USA) Maria C. Iannini (Institute of Air and Space Law, McGill University – Montreal, Canada) Ayman Idlbi (Air Canada/Norton Rose Fulbright – Montreal, Canada) Aleksandra Puścińska (Clyde & Co. – London, UK)

#### 16.30-18.00 CLOSING REMARKS AND FAREWELL RECEPTION

## **Conference Information**

### 1. Conference Venue:

## PLAZA CENTRE-VILLE Convention Center (EVO Building – across from ICAO Headquarters)

777 Boulevard Robert-Bourassa Montreal, Quebec, Canada H3C 3Z7 Tel: (514) 879-0718 Fax: (514) 879-0907 info@plazacentreville.com www.plazacentreville.com

The Plaza Centre-Ville (formerly the Delta Centre-Ville Hotel) is centrally located between the historical Old Montreal (*le Vieux Montréal*) and the vibrant downtown Montreal – within walking distance to some of the city's most notable sites including the Old Port (*le Vieux Port*) and Mont Royal. Simply mention McGill University when making your reservation.or use the booking code provided in the listings below:

#### Nearby hotels:

Hotel Bonaventure Montreal 900 de la Gauchetière W., Montreal H5A 1E4 Tel: 514-878-2332 Website: http://hotelbonaventure.com/en/

#### InterContinental Montreal

360 Saint Antoine W., Montreal H2Y 3X4 Website: <u>https://www.ihg.com/intercontinental/hotels/gb/en/montreal/yulhb/hoteldetail</u> **Use code #100240366 when booking** 

#### Le Westin Montreal Hotel

270 Saint-Antoine W., Montreal H2Y 0A3 Tel: 514-380-3333 Website: <u>www.westinmontreal.com</u> *Embassy Suites by Hilton Montreal* 208 Saint Antoine O., Montreal H2Y 0A6 Tel: 514-288-8886 Website: https://embassysuites3.hilton.com/en/index.html

#### Hotel W

901 Square Victoria, Montreal, QC, H2Z 1R1, Canada Tel: Reservations: 888-627-7081 Website: <u>https://www.marriott.com/hotels/travel/yulwh-w-montreal/</u>

## Marriott Renaissance Montreal Downtown Hotel

1250 Boulevard Robert-Bourassa, Montreal – H3B 1M7 Tel: 514-657-5000 Website: <u>http://www.marriott.com/hotels/travel/yulmd-renaissance-montreal-downtown-hotel</u> 8 *Montréal Marriott Château Champlain* 1050 de la Guichetière West, Montréal, QC H3B 4C9 Tel: 1-514-878-9000 Website: <u>http://www.marriott.com/hotels/travel/yulcc-montreal-marriott-chateau-champlain</u>

**2. Passport/Visa Information**: If you are visiting Canada, a valid passport is generally required. It is the responsibility of the visitor, before entering Canada, to ensure that he/she has the necessary documents, including those to enter Canada and re-entry into his/her own country. Contact the nearest Canadian Embassy or Consulate if you need to obtain a Visa to enter Canada.

Note that all non-US international visitors are now required to apply for **Electronic Travel Authorization** (eTA) prior to entering Canada. For more information, please visit: <u>https://www.canada.ca/en/immigration-refugees-citizenship/services/visit-canada/eta.html</u>

#### 3. For the latest programme information:

Visit the dedicate conference webpage: https://www.mcgill.ca/iasl/iali/iali2019

- 4. Attire: Business attire.
- 5. Sponsorship Liaison:

Please contact Dr. John Saba at john.saba@mcgill.ca or call 514-398-5095

#### 6. Questions and addition information:

Please contact Ms. Maria D'Amico by e-mail <u>conferences.iasl@mcgill.ca</u> or call 514-398-5095

## **REGISTRATION INFORMATION**

#### PRE-REGISTRATION is recommended to avoid delays on-site.

To register for all programmes and events described in this brochure, **please register online or submit your completed registration form and payment to the addresses indicated below.** 

In order to be included in the list of programme attendees, you must register by **1 October 2019**. **No registrations will be processed without payment.** 

There are three easy ways to register:

- > Online: register online at: <u>www.conftool.com/iali2019</u>
- By fax: please complete the registration form and credit card payment information and fax it to +1 514 398-8197, attn: *McGill Conference 2019, c/o Maria D'Amico*
- By mail: please complete the registration form and include payment information (do not mail cash) to:

McGill Liability Conference 2019 Attention: Ms. Maria D'Amico McGill University Institute of Air & Space Law 3690 Peel Street Montreal, QC, Canada H3A 1X1

**On-Site Registration** is available for those persons who miss the registration deadline. On-site registrants must pay the registration fees by *cheque*, *Visa*, *MasterCard*, *or American Express*.

#### **Registration Cancellation Policy:**

Registrants who are unable to attend the conference will receive a refund, less 20% of the registration fee for administrative charges, if written cancellation is received one month before the Conference (prior to **19 September 2019**).

Cancellations must be e-mailed to Ms. Maria D'Amico: maria.damico@mcgill.ca.

Regrettably, **NO refunds will be granted after 19 September 2019**; however, a substitute registrant may be designated in lieu of the original registrant. Please advise us of the substitute's name in advance.

The Conference reserves the right to cancel any programmes and assumes no responsibility for personal expenses.

## **PAYMENT INFORMATION**

### **Registration Fees**

- Registration fees are explained in the Registration Form below.
   There are various categories of participation (General Attendee; Sponsor/IASL Graduate; Academic/Government/Speaker; and Student), so please select the one that is most suitable.
   Guests attending only the gala reception should select the Accompanying Guest category.
- Registration fees include admission to the two-day programme, refreshment breaks, 2 luncheons and the gala reception on Friday evening.
- All fees are expressed in **United States dollars (US\$) and in Canadian dollars (CAD\$).** The Canadian equivalency is based on an approximate amount that may vary on the date your credit card is charged.
- All fees exclude applicable Canadian federal (GST: 5%) and Quebec provincial (QST: 9.975%) sales taxes, which all participants are required to pay (GST No. R11912898 RT0001 & QST No. 1006385920 TQ0002).

## Methods of Registration and Payment

- Online registration and payment with credit card (Visa, Master Card or American Express) (charged in Canadian dollars): <u>https://www.conftool.com/iali2019/</u>
- To register by fax or by mail:
  - Please complete the registration form below and send a cheque or money order in US or Canadian funds payable to "McGill University Institute of Air & Space Law"; or
  - Please complete the registration form below and make a bank wire transfer payment in either US dollars or Canadian dollars using the bank details below:

Kindly have your bank indicate that the payment is for *McGill University Institute of Air and Space Law*" <u>and</u> e-mail <u>maria.damico@mcgill.ca</u> to confirm the wire transfer has been initiated.

#### <u>Beneficiary bank detail for</u> payment in US dollars:

RBC Royal Bank of Canada 1 Place Ville Marie Montreal, Quebec H3C 3A9 Canada

<u>Beneficiary bank details for</u> payment in Canadian dollars:

RBC Royal Bank of Canada 1 Place Ville Marie Montreal, QC H3C 3A9 Canada Transit code: 00001 ABA code (Europe): 021000021 Bank/Branch code: 003 McGill Bank Account #: 406-133-9 Currency of account: US\$ Account name: McGill University Please state: "McGill Institute of Air & Space Law"

Transit code: 00001 Swift code: ROYCCAT2 Bank/Branch code: 003 McGill Bank Account #: 308-101-5 Currency: C\$ Account name: McGill University Please state: "McGill University Institute of Air & Space Law 12th Annual McGill Conference on International Aviation Liability, Insurance & Finance

#### 18-19 October 2019 Plaza Centre-Ville, Montreal, Canada

#### **REGISTRATION FORM**

$\Box$ Mr. $\Box$ Mrs. $\Box$	Ms. $\Box$ Dr.					
·	First Name	Initial(s)	Last Name			
Position		Organization / Firm				
Address						
City	State/Province	Postal/Zip Cod	e Country			
Email		Date				

#### Kindly check mark which one of the following categories and registration fees applies to you.

**Registration fee** includes admission to the 2-day programme, refreshments, luncheon, and reception. *Additionally, Canadian (5%) and Quebec (9.975%) sales taxes will be applied to the fees below. ((GST No. R11912898 RT0001 & QST No. 1006385920 TQ0002).* 

Registration Category	Early Bird	Regular	
	(Postmarked on or before 19 September 2019)	(Postmarked after 20 September 2019)	
General attendee	□ US\$695 / C\$895*	□ US\$795 / C\$1025*	
Sponsors / IASL Graduate	□ US\$595 / C\$775*	□ US\$695 / C\$895*	
Academic/Government/Speaker	□ US\$395 / C\$495*	□ US\$495 / C\$650*	
Student (present ID card at conference)	□ US\$195 / C\$250*	□ US\$295 / C\$375*	
Accompanying Guest	□ US\$150 / C\$195*	□ US\$250 / C\$325*	
SPECIAL 1-DAY Rate	$\Box$ 30% Discount off above rate	$\Box$ 30% Discount off above rate	
□ I will attend Friday Luncheon □	I will attend Gala Reception	will attend Saturday Luncheon	

\*Fees above are based on US dollars. The Canadian equivalency is based on an approximate amount that may vary on the date your credit card is charged.

<b>Method of Payment</b> : Check or Wire transfer payable to <i>McGill University Institute of Air &amp;</i>						
<i>Space Law;</i> or by	□ MasterCard	🗆 Visa	American Express			
Card No:						
Expiry Date:	Name of card holder:					
Date:	Signature of cardholder:					
DISCLAIMER: For security reasons, please do not send your credit card information electronically via email, instant messaging, scanned document, etc). Please fax this form to 514-398-8197.						

#### **Methods of Registration**

BY INTERNET AT: Register online at:

Visit: <u>https://www.conftool.com/iali2019/</u> for credit card payments only

BY FAX: Fax completed registration

McGill Liability Conference 2019, c/o Maria D'Amico, Fax number: (514) 398-8197



McGill Liability Conference 2019,

Att: Maria D'Amico, McGill University Institute of Air & Space Law, 3690 Peel Street, Montreal, Quebec, Canada H3A 1W9



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