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English Version-Translation

Translated from Chinese into English by

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Recommended citation:

D. Zhou. (2026). *Opinions of the Supreme People's Court on the Adjudication of Disputes Involving Artificial Intelligence in Accordance with the Law (Fa Fa [2026] No. 10): English Translation*. European Institute of Law. SSRN.

Opinions of the Supreme People's Court on the Adjudication of Disputes Involving Artificial Intelligence in Accordance with the Law

In order to fully implement the guiding principles of the 20th National Congress of the Communist Party of China and all plenary sessions of the 20th Central Committee, serve and safeguard through strict and impartial administration of justice the accelerated development of new quality productive forces, guide people's courts at all levels in adjudicating disputes involving artificial intelligence (AI) in accordance with the law, and pursuant to the relevant provisions of the Civil Code of the People's Republic of China, the Cybersecurity Law of the People's Republic of China, the Data Security Law of the People's Republic of China, the Copyright Law of the People's Republic of China, the Anti-Unfair Competition Law of the People's Republic of China, the Law of the People's Republic of China on the Protection of Consumer Rights and Interests, the Personal Information Protection Law of the People's Republic of China, and the Civil Procedure Law of the People's Republic of China, among other relevant laws, and in light of the judicial practice of the people's courts, the following Opinions are hereby issued.

I. General Requirements

(1) Guiding principles

Guided by Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, thoroughly implement Xi Jinping Thought on the Rule of Law and conscientiously implement General Secretary Xi Jinping's important thought on building China into a cyber power; deeply recognize that artificial intelligence is an important driving force of the new round of technological revolution and industrial

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transformation; uphold the principle of giving equal importance to development and security and combining the promotion of innovation with governance in accordance with the law; adjudicate disputes involving artificial intelligence fairly and impartially in accordance with the law; promote the improvement of the safety, reliability, controllability and fairness of AI technology applications; and provide strong judicial services and safeguards for advancing the building of a strong country and the great rejuvenation of the Chinese nation through Chinese modernization.

(2) Basic principles

Putting people first. Give full play to the guiding role of judicial adjudication, actively guide artificial intelligence toward enhancing people's well-being, and effectively strengthen judicial protection of people's livelihood rights and interests in the digital era. Actively and prudently explore and improve judicial adjudication rules and mechanisms in areas of artificial intelligence such as algorithmic ethics and algorithmic rules; make full and effective use of existing legal provisions; properly address rule conflicts, social risks and ethical challenges arising from the development of AI technology; promote improvement of the system of corporate social responsibility for AI enterprises; pay particular attention to preventing and eliminating algorithmic discrimination; protect, in accordance with the law, individuals' rights to know and to choose in automated decision-making; prevent and regulate abuses of AI technology that infringe upon the lawful rights and interests of the people; and promote AI that serves the people and advances the common good.

Supporting innovative development. Respect the laws governing technological innovation and the practical development of the AI industry, and support technological and industrial innovation through judicial adjudication that conforms to the spirit of laws and policies and the laws governing technological development. Explore new avenues for judicial protection of rights and continuously strengthen protection of AI innovations, innovators, innovative activities and innovative environments. With an inclusive and prudent approach, balance rights protection with technological and industrial development, and create a favorable environment that encourages exploration and tolerates failure. Regulate, in accordance with the law, monopolistic or unfairly competitive conduct carried out through AI technology; safeguard, in accordance with the law, equality of rights, opportunities and rules for relevant entities developing and using AI technology; and strengthen equal protection of the rights and interests of small and medium-sized enterprises and other market entities. Through the fair, efficient and lawful adjudication of disputes involving AI, actively guide and promote the deep integration of the internet, big data, artificial intelligence and the real economy, assist in cultivating and expanding the AI industry, and maximize the enormous potential of AI to empower high-quality economic and social development.

Safeguarding the bottom line of security. Based on the specific harm that AI may cause to the lawful rights and interests of civil subjects in different application scenarios, as well as the nature and magnitude of the risks involved, accurately determine legal liability in accordance with the law. Distinguish among different types of large models, such as general-purpose and specialized models, and open-source and closed-source models, with regard to differences in their technical principles, risk spillovers and control capabilities, and reasonably allocate legal liability among developers, providers, users and other relevant parties. Fully and accurately implement the criminal policy of tempering severity with leniency. For criminal acts deliberately committed through AI that endanger national security, infringe upon citizens' rights and interests, disrupt social order or otherwise constitute crimes, punishment shall be imposed strictly in accordance with the law. Innovative conduct in the research, development and application of AI shall be handled prudently in accordance with the law, while adhering to the principles of legality of crimes and punishments and proportionality between crime, responsibility and punishment.

II. Properly Adjudicating Tort Cases Involving Artificial Intelligence in Accordance with the Law and Effectively Protecting the Lawful Rights and Interests of Civil Subjects

(3) Accurately determining the principles governing liability for AI-related infringement

The relevant provisions of the Civil Code, the Personal Information Protection Law, the Product Quality Law, the Road Traffic Safety Law and other laws shall be accurately applied, and legal liability arising from the use of AI to infringe civil rights and interests shall be determined in accordance with the law. Where the law does not expressly provide for strict liability or presumed-fault liability, whether the actor bears tort liability shall be determined according to the principle of fault liability provided in paragraph 1 of Article 1165 of the Civil Code. In determining whether the actor was at fault and the degree of such fault, the court shall comprehensively consider factors including the specific application scenario of the AI, its degree of autonomy, the transparency of the technology and information, potential risks and the scope of their impact, the measures taken by AI developers, providers and other relevant parties to prevent and reduce AI-related infringement and the technical feasibility of such measures, as well as the user's ability to foresee and control the harm that may be caused by infringing acts carried out through AI technology.

(4) Regulating in accordance with the law conduct such as “AI face-swapping and voice imitation” and “AI resurrection of the deceased” that infringes personality rights through generative AI

The use of generative AI to process the name, portrait or other personal attributes of a specific natural person or a deceased person shall not violate laws or regulations or contravene public order and good morals. Unless otherwise provided by law, where, without the consent of a natural person, AI is used to process that person's name, portrait or other personal attributes to generate and use or publicly disseminate a recognizable virtual digital image of that person, and the natural person claims that the actor has infringed his or her right to a name, right to portrait or other personality rights, the people's court shall support the claim in accordance with the law.

Unless otherwise provided by law, where, without the consent of a natural person, that person's voice is used as training data to imitate the person's timbre, intonation, pronunciation style or other characteristics and generate synthetic speech capable of identifying that person, and the natural person claims that the actor has infringed his or her rights in the voice, the people's court shall support the claim in accordance with the law.

Where a recognizable virtual digital image or voice of a specific natural person is manipulated or generated and used to engage in improper conduct or make false statements, thereby lowering the social evaluation of that natural person or another person, the people's court shall determine in accordance with the law that this constitutes an infringement of the right to reputation.

Where AI technology is used without authorization to create or use a virtual digital image of a deceased person, thereby infringing upon the deceased person's name, portrait, reputation or other rights, and the deceased person's close relatives request the actor to bear civil liability pursuant to Article 994 of the Civil Code, the people's court shall support the claim in accordance with the law.

(5) Regulating in accordance with the law conduct such as “doxxing” and “human flesh searches” carried out through AI that infringes natural persons' rights to privacy

Where, for the purpose of investigating private matters, AI is used to track or analyze publicly available information concerning a specific natural person, such as a telephone number, online account or social media account, in order to obtain private information; or where the private information so obtained is disclosed or made public; or where the information obtained is used to disturb the tranquility of the person's private life, this shall constitute an infringement of the right to privacy.

Where AI is used to photograph, spy on, eavesdrop on or otherwise intrude upon the private space or private activities of a specific natural person, this shall constitute an infringement of the right to privacy, except where otherwise provided by law or where the natural person has expressly consented.

(6) Determining civil liability for infringement of personal information rights and interests during AI training in accordance with the law

For the purpose of training AI models, processing, within a reasonable scope, personal information voluntarily disclosed by an individual or otherwise lawfully made public shall generally not be deemed an infringement of personal information rights and interests where the individual has not expressly objected. Where the processing has a significant impact on an individual's rights and interests, the individual's consent shall be obtained in accordance with the law.

When determining what constitutes a reasonable scope, the court shall comprehensively consider factors including the purpose of processing the personal information and the necessity and appropriateness of such processing for the model's functions; the type and sensitivity of the personal information concerned and its potential impact on the individual's rights and interests; and the context in which the individual disclosed the information and the scope of use that could reasonably have been expected at the time of disclosure.

(7) Prudently determining the tort liability of providers of generative AI services

Where content automatically generated by a generative AI service infringes another person's personality rights, such as the right to reputation or privacy, and, after being notified by the rights holder, the generative AI service provider fails to promptly take necessary measures, such as stopping the generation of infringing content, the provider shall bear tort liability for the resulting harm in accordance with the law. The notification shall include preliminary evidence establishing the infringement and the rights holder's true identity information.

Where a network user maliciously induces a generative AI service to generate infringing content by entering infringing prompts or through other means, thereby causing harm to another person, the network user shall bear tort liability in accordance with the law. Where, after being notified by the rights holder, the generative AI service provider fails to promptly take necessary measures such as stopping the generation of infringing content or blocking the relevant generation instructions, and the rights holder requests that the network user and the generative AI service provider bear civil liability pursuant to Article 1195 of the Civil Code, the people's court shall support the claim in accordance with the law.

(8) Applying the injunction system for infringement of personality rights in accordance with the law

Where a natural person, legal person or unincorporated organization has evidence proving that an actor is using AI to commit, or is about to commit, an unlawful act infringing its personality rights, and failure to stop the act promptly would cause irreparable harm to its lawful rights and interests, the person or entity may apply to the people's court for measures ordering the actor to stop the relevant conduct or ordering the relevant network service provider or generative AI service provider to stop providing the relevant service. The people's court may issue an injunction against infringement of personality rights in accordance with the law.

When issuing such an injunction, the people's court shall, taking into account the type of personality right infringed, the manner in which the unlawful conduct is carried out, and the scope and degree of potential harm, adopt appropriate injunction measures and shall not exceed what is necessary.

(9) Accurately determining liability for AI products

The people's courts shall, based on the definition of “product” under the Product Quality Law, accurately determine whether an AI product embodied in a physical object constitutes a product under the law and apply the corresponding legal rules. Where a defect in an AI product causes harm, the producer and seller shall bear product liability in accordance with the law.

When determining whether an AI product presents an unreasonable danger endangering personal or property safety, the court shall comprehensively consider factors including the nature and intended use of the AI product, its ability to learn autonomously, upgrades and updates, the degree of user control over the system, and whether it complies with relevant national and industry standards. Particular attention shall be paid to whether the producer and seller have truthfully explained and clearly warned users of the applicable scenarios, inherent limitations and foreseeable risks of the AI product.

(10) Regulating in accordance with the law conduct such as “big-data price discrimination” and “impersonating celebrities for livestream sales” that infringes consumers' lawful rights and interests

With respect to the same product or service, where an operator uses algorithms to impose unreasonable differential treatment in transaction prices or other transaction conditions, thereby infringing another person's lawful rights and causing harm, the people's court shall determine that the operator bears corresponding tort liability in accordance with the law.

In determining whether differential treatment is unreasonable, the court shall comprehensively consider whether it substantially restricts or harms consumers' rights to know, independent choice and fair transactions; whether the transaction conditions are tailored to individual consumers on the basis of information such as their consumption preferences, willingness to pay, ability to pay and browsing history; whether such treatment violates the principle of good faith and business ethics; and whether the reasons for the differential treatment are legitimate, sufficient and non-discriminatory.

Where an operator uses AI to engage in “impersonating celebrities for livestream sales” in providing goods or services and such conduct constitutes fraud, and the consumer seeks punitive damages pursuant to Article 55 of the Law on the Protection of Consumer Rights and Interests, the people's court shall support the claim in accordance with the law.

(11) Determining liability for compensation for traffic accidents involving autonomous vehicles and vehicles equipped with assisted-driving functions

Where an autonomous vehicle or a vehicle equipped with assisted-driving functions is driven on a road and causes damage in a traffic accident, liability for compensation shall be determined in accordance with the relevant provisions of the Civil Code and the Road Traffic Safety Law.

Where a product defect in the vehicle causes a traffic accident resulting in damage, and a party requests that the producer or seller bear liability pursuant to Chapter IV of Book VII of the Civil Code, the people's court shall support the claim.

Where a vehicle equipped with assisted-driving functions causes the same harm through a combination of a vehicle defect and the driver's fault, and a party simultaneously requests that the driver and the vehicle producer or seller bear compensation liability pursuant to Article 1172 and other relevant provisions of the Civil Code, the people's court shall support the claim in accordance with the law.

Where vehicle producers or sellers make false or misleading publicity concerning the level of automation, intelligence, performance, intended use or other characteristics of autonomous vehicles or vehicles equipped with assisted-driving functions, thereby harming consumers' lawful rights and interests, and consumers request that the vehicle producer or seller bear civil liability pursuant to the Civil Code, the Law on the Protection of Consumer Rights and Interests and other laws, the people's court shall support the claim in accordance with the law.

For the purpose of determining the cause of a road traffic accident, the people's court may require vehicle producers, sellers, operators or other data controllers to provide, within the necessary scope, authentic and complete data such as autonomous-driving and assisted-driving event records required to ascertain the facts of the case.

III. Properly Adjudicating Intellectual Property Disputes Involving Artificial Intelligence in Accordance with the Law and Safeguarding High-Quality Development and High-Level Security of Artificial Intelligence

(12) Regulating in accordance with the law conduct involving AI-related infringement of intellectual property rights

Where AI-generated content infringes another person's copyright, the people's court shall, taking into account factors including the type of AI service, industry characteristics, source of training data, degree of participation of the parties, necessary measures taken and profits obtained, reasonably determine the liability of the AI developer, provider and user in accordance with the law.

Where an AI developer raises a non-infringement defense, the court shall require the developer to provide evidence such as the source of training data, records of the training process, model operating mode and scientific or theoretical basis.

Where a rights holder alleges that an AI provider has infringed copyright through the use of algorithmic technology, the rights holder shall provide relevant evidence.

Where an AI user knew or should have known of the existence of a prior work, used AI to generate a work substantially similar to that prior work without a reasonable defense, and the rights holder of the prior work requests that the user bear infringement liability, the people's court shall support the claim.

Where AI is used to commit acts of counterfeit infringement, false advertising, manipulation of views, orders or transactions, or other conduct infringing another person's rights or constituting unfair competition, the responsible party shall bear corresponding liability in accordance with the law.

(13) Reasonably determining the legal liability of parties involved in AI-related open-source software

When adjudicating cases involving open-source software, the court shall, when determining the infringement liability of open-source software developers, providers and subsequent developers or providers, comprehensively consider factors including the type of open-source license, the specific content of rights restrictions, security and compliance measures, and the degree of information disclosure, and shall provide appropriate exemptions from liability to open-source software developers and providers in accordance with the law.

Where open-source software developers or providers make available, free of charge and on an open-source basis, certain code modules required for AI software research and development, and publicly explain their functions and security risks, the people's court may determine that the open-source software developer or provider does not bear infringement liability where another person uses those code modules and thereby causes infringement.

(14) Regulating in accordance with the law the granting and confirmation of patent rights for AI-related inventions

Where an AI-related invention uses technical means that follow the laws of nature, solves a technical problem and achieves a technical effect consistent with the laws of nature, the people's court shall determine in accordance with the law that it constitutes subject matter protected by patent law, except where it violates laws or social morality, harms the public interest, or where a natural person has made no substantive contribution.

Where a natural person uses AI to complete an invention and makes a creative contribution to the substantive features of the invention, that natural person shall be recognized as the inventor.

Where the description of the technical solution in an AI-related patent specification reaches a level enabling a person skilled in the art to carry out the invention, the requirement of sufficient disclosure for patent grant shall be deemed satisfied.

(15) Prudently determining breach-of-contract liability concerning AI technology contracts

When adjudicating disputes concerning contracts for AI technology development, transfer, licensing, consulting or services, the people's court shall, based on the contractual provisions, fully consider the characteristics of AI technology research and development and whether the technology developer has made reasonable efforts, among other circumstances, and determine liability for breach of contract in accordance with the law.

(16) Regulating the use of AI-related data in accordance with the law

Where AI developers lawfully obtain data through collection and generation, derivative creation, transfer, authorization or licensing and enjoy corresponding data rights and interests, the people's court shall protect such rights and interests.

Data or data collections that constitute compilations or satisfy the requirements for protection as other works shall be protected pursuant to the Copyright Law.

Data or data collections constituting trade secrets shall be protected pursuant to the Anti-Unfair Competition Law.

For data or data collections that do not constitute trade secrets, where the alleged infringing conduct violates Article 13 of the Anti-Unfair Competition Law, the responsible party shall bear liability in accordance with the law.

Where operators use data, algorithms or other technical means to enter into monopoly agreements or abuse a dominant market position, they shall bear corresponding liability in accordance with the law.

Where technical means such as fabricated or manipulated data, malicious data labeling, adversarial-example attacks or similar methods are used to compromise the operational security of AI, the responsible party shall bear corresponding liability in accordance with the law.

IV. Improving Procedural Rules for Adjudicating AI Disputes and Punishing in Accordance with the Law Illegal and Criminal Conduct Using Generative AI to Obstruct the Administration of Justice

(17) Accurately ascertaining the facts of AI-related disputes in accordance with the law

Given the highly technical and specialized nature of disputes involving AI, people's courts shall strengthen litigation guidance and legal clarification in accordance with the law, guiding the parties to complete the presentation of evidence concerning disputed facts in a timely and comprehensive manner.

Where a party is objectively unable to collect evidence independently, it may apply to the people's court for investigation and collection. Where necessary, the people's court may investigate and collect evidence on its own initiative.

Where a party applies for preservation of evidence in order to preserve key technical evidence, the people's court shall promptly examine the application in accordance with the law.

Where a party controlling documentary evidence, electronic data or other evidence refuses without justifiable reason to submit it, and the opposing party claims that the content of the evidence is unfavorable to the party controlling it, the people's court may determine that such claim is established.

For specialized issues involving AI technical principles, operating mechanisms and similar matters, the people's court shall make full use, in accordance with the law, of people's assessors, expert appraisers, expert assistants and technical investigators to assist in ascertaining the facts of the case.

(18) Exploring and improving rules for examining evidence in AI disputes

People's courts shall fully consider the complexity of AI technology, the opacity of system operations and the particularities of evidence collection, and continuously improve evidence examination rules adapted to new technological developments.

Particular attention shall be paid to the authenticity and integrity of the generation, collection, storage and transmission of electronic data.

Different examination priorities shall be established for evidence generated by different information technologies, including big data and blockchain.

For evidence in the form of big-data analysis reports, particular attention shall be paid to the source of the underlying data, data-cleaning rules and the scientific validity of analytical methods.

For evidence involving blockchain-based preservation, particular attention shall be paid to the authenticity of the data before it was uploaded to the blockchain and the reliability of the technological platform.

Where a party uses AI-generated content as evidence of infringement, the people's court shall comprehensively consider factors including the design of the prompts and their impact on the generated results, the degree of similarity between the generated content and the work in which rights are claimed, the consistency of repeated tests, and model training, algorithm design and content-filtering mechanisms.

(19) Regulating in accordance with the law improper evidence collection and other conduct using AI that obstructs the administration of justice

Where a party exploits the autonomous learning and autonomous decision-making characteristics of AI and obtains false evidence through human intervention or misleading methods, such as deleting or altering labels identifying generated or synthesized content, entering specific instructions, selectively presenting results or carrying out adversarial interference, thereby fabricating the basic facts of a civil case and bringing a false lawsuit in an attempt to infringe upon national interests, public interests or the lawful rights and interests of others, the people's court shall dismiss the claims in accordance with the law and may impose fines or detention depending on the seriousness of the circumstances. Where the conduct constitutes a crime, criminal liability shall be pursued in accordance with the law.

Where a participant in litigation or another person uses AI to fabricate evidence and obstructs the people's court in hearing a case, the matter shall be handled pursuant to Article 114 of the Civil Procedure Law.

Where litigation participants submit pleadings, case-law research reports or other materials generated using AI, they shall carefully verify the authenticity and accuracy of the relevant laws, judicial interpretations, cases and other content before submitting such materials to the court. At the time of submission, they shall disclose their use of AI assistance and shall bear legal responsibility for the authenticity and accuracy of the relevant content.

(20) Punishing criminal activities carried out through AI in accordance with the law

Where AI is used to commit fraud, insult, defamation, damage to commercial or product reputation, infringement of citizens' personal information, unlawful acquisition of computer information system data, or the production, sale or dissemination of obscene materials, and the conduct constitutes a crime, criminal liability shall be pursued in accordance with the law.

Where, after activating an assisted-driving function, a person uses privately installed equipment or accessories to evade monitoring by the assisted-driving system, thereby causing a road traffic accident that constitutes a crime, criminal liability shall be pursued in accordance with the law.

V. Strengthening Judicial Guidance for AI-Related Disputes and Continuously Improving Working Mechanisms**(21) Giving full play to diversified dispute-resolution mechanisms**

People's courts shall actively use diversified dispute-resolution mechanisms to properly resolve AI-related disputes, promote the establishment of coordinated mechanisms with competent AI industry authorities, professional and industry-specific mediation organizations, AI experts and scholars, and jointly conduct dispute resolution, with an emphasis on effective pre-litigation mediation.

Based on their judicial functions, people's courts shall promote the rule-of-law-based prevention and resolution of AI-related disputes, actively clarify rights and obligations and establish behavioral boundaries through open hearings, legal education through cases and other means, give full play to the exemplary and guiding role of judicial decisions, and promote the prevention of AI-related disputes at their source and their timely resolution.

(22) Strengthening supervision and guidance of adjudication

People's courts shall actively standardize the application of transferring cases to higher-level jurisdiction and strengthen their exemplary and guiding role, thereby making judicial supervision and guidance effective.

For AI-related disputes involving major interests, difficult and complex new types of cases, cases of significance for establishing legal rules, or cases requiring unified standards for the application of law, higher-level people's courts shall assume jurisdiction and hear the cases directly.

The people's courts' case database shall be fully utilized to strengthen case guidance, promote uniform application of the law and improve the rules governing AI governance.

(23) Strengthening interdepartmental cooperation and coordination

Through various means, including issuing judicial recommendations and establishing cooperation mechanisms, people's courts shall give full play to their judicial functions in serving national and social governance.

Coordination and cooperation with cyberspace administration, public security, procuratorial and market-regulation authorities shall be strengthened, and long-term comprehensive governance mechanisms shall be established and implemented.

Relevant enterprises, platforms and industry associations shall be guided toward standardized self-governance, so as to promote a comprehensive protection framework combining AI industry self-regulation, administrative supervision and judicial safeguards.

(24) Strengthening international judicial exchanges and cooperation

AI-related disputes and cross-border data disputes shall be properly adjudicated.

On the basis of mutual respect, equality and mutual benefit, exchanges and cooperation in foreign-related adjudication in the field of AI shall be promoted; coordination and mutual learning concerning rules shall be strengthened; and efforts shall be made to build a fairer, more reasonable, inclusive and open AI governance system, thereby promoting and protecting the diversity of AI ecosystems and human civilization.