Opinions of the Supreme People’s Court on Lawfully Adjudicating Artificial Intelligence-Related Dispute Cases

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Issued by the Supreme People's Court on September 7, 2026 (Fa Fa [2026] No. 10)

Published: September 7, 2026

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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 CPC Central Committee, to serve and safeguard the accelerated development of new quality productive forces through strict and impartial justice, and to guide the people's courts at all levels in lawfully adjudicating artificial intelligence (AI)-related dispute cases, the following opinions are hereby put forward in accordance with 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, the Civil Procedure Law of the People's Republic of China and other relevant laws, and in light of the actual adjudication work of

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the people's courts.

Chapter I — General Requirements

Article 1 — Guiding ideology: adhere to the guidance of 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 a strong country in cyberspace; deeply understand that artificial intelligence is an important driving force of the new round of scientific and technological revolution and industrial transformation; adhere to attaching equal importance to development and security and to combining the promotion of innovation with law-based governance; lawfully and impartially adjudicate AI-related dispute cases; promote the security, reliability, controllability and fairness of the application of AI technology; and provide strong judicial services and safeguards for comprehensively advancing the building of a strong country and the great cause of national rejuvenation through Chinese-style modernization.

Article 2 — Basic principles: adhere to a people-centered approach. Give full play to the guiding role of judicial adjudication, actively guide artificial intelligence to enhance the well-being of the people, and effectively strengthen judicial protection of people's livelihood rights in the digital age. Actively and prudently explore and improve judicial adjudication rules and mechanisms in the field of artificial intelligence involving algorithm ethics and algorithm rules; make full and good use of existing legal provisions; properly address the rule conflicts, social risks and ethical challenges brought about by the development of AI technology; promote the improvement of the corporate social responsibility system for AI enterprises; attach importance to preventing and eliminating algorithmic discrimination; protect individuals' rights to information and choice in automated decision-making in accordance with the law; prevent and regulate acts that abuse AI technology to infringe upon the legitimate rights and interests of the people; and promote AI that serves the people and does good. Support innovative development: respect the laws of scientific and technological innovation and the practice of development of the AI industry, and support scientific, technological and industrial innovation through judicial adjudication that conforms to the spirit of laws and policies and the laws of technological development. Explore new paths for the judicial protection of new types of rights and interests, and continuously strengthen the protection of AI innovation achievements, innovation subjects, innovation activities and the innovation environment. Balance the protection of rights and interests with the development of the technology industry in an inclusive and prudent manner, and foster an environment that encourages exploration and tolerates failure. Regulate monopolies or unfair competition carried out by using AI technology in accordance with the law, safeguard the equality of rights, opportunities and rules for relevant subjects in developing and using AI technology, and strengthen the equal protection of the rights and interests of business entities such as small and medium-sized enterprises. Through lawfully, impartially and efficiently adjudicating AI-related dispute cases, actively guide and promote the deep integration of the internet, big data, artificial intelligence and the real economy, help cultivate and strengthen the AI industry, and maximize the release of the enormous potential of AI to empower high-quality economic and social development. Firmly maintain the bottom line of security: in accordance with the specific damage that artificial intelligence may cause to the legitimate rights and interests of civil subjects in different application scenarios, as well as the nature and magnitude of the risks, lawfully and accurately determine legal liability. Distinguish between general-purpose and special-purpose, and open-source and closed-source large models in terms of their differences in technical principles, risk spillover and control capabilities, and reasonably allocate legal liability among developers, providers, users and other subjects. Comprehensively and accurately implement the criminal policy of combining leniency with severity: for criminal acts such as endangering national security, infringing upon citizens' rights and interests and disrupting social order committed by deliberately using artificial intelligence, resolutely and severely punish them in accordance with the law; for innovative activities in AI research, development and application, handle them prudently in accordance with the law and strictly abide by the principles of legality of crimes and punishment, and of

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suiting punishment to crime and criminal responsibility.

Chapter II — Lawfully and Properly Adjudicating AI-Related Tort Cases and Effectively Protecting the Legitimate Rights and Interests of Civil Subjects

Article 3 — Accurately grasp the principle of attribution of liability for AI-related torts: accurately apply the relevant provisions of the Civil Code, the Personal Information Protection Law, the Product Quality Law, the Road Traffic Safety Law and other laws, and lawfully determine the legal liability arising from the infringement of civil rights and interests by using artificial intelligence. Where the law does not expressly provide for the application of strict liability or liability based on the presumption of fault, it shall be determined, in accordance with the principle of fault liability provided for in paragraph 1 of Article 1165 of the Civil Code, whether the actor bears tort liability. When determining whether an actor is at fault and the degree of fault, comprehensive consideration shall be given to factors such as the specific scenario of the AI application, the degree of autonomy, the transparency of technology and information, the potential risks and the scope of their impact, the measures taken by AI developers, providers and other relevant subjects to prevent and reduce AI-related infringements and the technical possibility of such measures, and the AI user's ability to foresee and control the damage that may be caused by infringing acts carried out by using AI technology.

Article 4 — Regulate acts such as "AI face-swapping and voice imitation" and "AI resurrection of the deceased" that infringe personality rights and interests by using generative artificial intelligence: processing the name, likeness and other information of a specific natural person or a deceased person by using generative artificial intelligence shall not violate laws and regulations, and shall not run counter to public order and good morals. Except as otherwise provided by law, where the name, likeness or other information of a natural person is processed by using artificial intelligence without the consent of the natural person to generate a virtual digital likeness capable of identifying that natural person, and the likeness is used or made public, if the natural person claims that the actor has infringed his or her rights of name, likeness or other personality rights and interests, the people's court shall support the claim in accordance with the law. Except as otherwise provided by law, where the voice of a natural person is used without the consent of the natural person as training corpus to imitate the timbre, intonation and pronunciation style of that natural person and generate a synthesized voice capable of identifying that natural person, if the natural person claims that the actor has infringed his or her voice rights and interests, the people's court shall support the claim in accordance with the law. Where a virtual digital likeness or voice capable of identifying a specific natural person generated through manipulation and synthesis is used to carry out improper acts or publish false statements, thereby lowering the social evaluation of that natural person or of others, the people's court shall determine in accordance with the law that this constitutes an infringement of the right of reputation. Where the virtual digital likeness of a deceased person is produced or used without authorization by using AI technology, thereby causing infringement of the deceased person's name, likeness, reputation or other rights and interests, and the close relatives of the deceased person request the actor to bear civil liability in accordance with Article 994 of the Civil Code, the people's court shall support the request in accordance with the law.

Article 5 — Regulate acts infringing the privacy rights of natural persons, such as "online doxxing" and "human flesh search" carried out by using artificial intelligence: where, for the purpose of prying into privacy, artificial intelligence is used to track and analyze publicly available information about a specific natural person, such as telephone numbers, online accounts and social media profiles, to obtain private information, or the private information so obtained is disclosed or made public, or the information so obtained is used to disturb the tranquility of private life, this shall be determined to constitute an infringement of the right of privacy. Where artificial intelligence is used to film, peep at, eavesdrop on or otherwise intrude upon the private space or private activities of a specific natural person, this shall be determined to constitute an infringement of the right of privacy, except where otherwise provided by law or where the natural person has given explicit consent.

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Article 6 — Lawfully determine the civil liability for infringement of personal information rights and interests in the course of AI training: where personal information published by individuals themselves or other lawfully publicized personal information is processed within a reasonable scope for the training of artificial intelligence models, and the individuals have not expressly refused, this shall generally not be determined as an act infringing personal information rights and interests. Where the processing has a major impact on the rights and interests of individuals, the consent of the individuals shall be obtained in accordance with the law. When determining a reasonable scope, comprehensive consideration shall be given to factors such as the necessity and appropriateness of the purpose of processing the personal information in relation to the functions of the model, the types and sensitivity of the personal information involved and the potential impact on the rights and interests of individuals, and the circumstances under which the individuals made the information public and the scope of use that could reasonably be expected.

Article 7 — Prudently determine the tort liability of generative AI service providers: where content automatically generated by generative artificial intelligence infringes the reputation, privacy or other personality rights and interests of others, and the generative AI service provider fails to promptly take necessary measures such as stopping the generation of the infringing content after being notified by the right holder, the provider shall bear tort liability for the resulting damage in accordance with the law. The notice shall include preliminary evidence establishing the infringement and the true identity information of the right holder. Where an internet user maliciously induces the generative artificial intelligence to generate infringing content by inputting infringing prompts or by other means, causing damage to others, the internet user shall bear tort liability in accordance with the law; where, after being notified by the right holder, the generative AI service provider fails to promptly take necessary measures such as stopping the generation of the infringing content and blocking the relevant generation instructions, and the right holder requests the internet user and the generative AI service provider to bear civil liability in accordance with Article 1195 of the Civil Code, the people's court shall support the request in accordance with the law.

Article 8 — Apply the injunction system against 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 committing or is about to commit, by using artificial intelligence, an illegal act infringing its personality rights and interests, and that failure to stop the act in time would cause irreparable damage to its legitimate rights and interests, and applies to the people's court for measures ordering the actor to stop the relevant act or ordering the relevant internet service provider or generative AI service provider to stop providing the relevant services, the people's court may issue an injunction against infringement of personality rights in accordance with the law. When issuing an injunction against infringement of personality rights, the people's court shall take corresponding injunction measures in light of factors such as the type of personality right infringed, the manner of the illegal act and the scope and degree of the possible damage, and shall not exceed the necessary limits.

Article 9 — Accurately determine AI product liability: the people's court shall, in accordance with the definition of "product" under the Product Quality Law, lawfully and accurately determine artificial intelligence products in physical carriers and apply the corresponding legal rules. Where an AI product is defective and causes damage, the producer and the seller shall bear product liability in accordance with the law. When determining whether an AI product has unreasonable dangers endangering personal or property safety, comprehensive consideration shall be given to factors such as the nature and purpose of the AI product, its autonomous learning capability, its upgrades and updates, the degree of control the user has over the system, and whether it conforms to relevant national standards and industry standards, with focused review of whether the producer and seller gave truthful explanations and clear warnings regarding the applicable scenarios, inherent limitations and foreseeable risks of the AI product.

Article 10 — Regulate acts infringing the legitimate rights and interests of consumers, such as "big data price discrimination" and "impersonating celebrities to promote goods": where, with respect to the same goods or

services, a business operator uses algorithms to apply unreasonable differential treatment to transaction conditions such as transaction prices, thereby infringing the legitimate rights and interests of others and causing damage, the people's court shall determine in accordance with the law that the operator bears corresponding tort liability. When determining whether differential treatment is unreasonable, comprehensive consideration shall be given to whether the differential treatment materially restricts or harms consumers' rights to information, independent choice and fair trade; whether transaction conditions targeting individual consumers are formed on the basis of information such as their consumption preferences, willingness to pay, payment ability and browsing records; and whether it runs counter to the principle of good faith and business ethics, so as to determine whether the reasons for the differential treatment are proper, sufficient and non-discriminatory. Where a business operator, in providing goods or services, uses artificial intelligence to "impersonate a celebrity to promote goods" and this constitutes fraud, and the consumer claims punitive damages in accordance with 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.

Article 11 — Lawfully determine the liability for compensation for traffic accidents involving autonomous vehicles and vehicles with assisted driving functions: where an autonomous vehicle or a vehicle with assisted driving functions is driven on the road and a traffic accident occurs causing damage, compensation liability shall be borne in accordance with the relevant provisions of the Civil Code and the Road Traffic Safety Law. Where a traffic accident causing damage occurs due to a product defect of the vehicle, and a party requests the producer or seller to bear compensation liability in accordance with the provisions of Chapter IV of Book VII of the Civil Code, the people's court shall support the request. Where, with respect to a vehicle with assisted driving functions, the same damage is caused by a combination of a vehicle defect and the driver's faulty conduct, and a party requests the driver and the vehicle producer or seller to bear compensation liability simultaneously in accordance with Article 1172 of the Civil Code and other provisions, the people's court shall support the request in accordance with the law. Where a vehicle producer or seller makes false or misleading publicity about the automation level, degree of intelligence, performance, purpose or other aspects of an autonomous vehicle or a vehicle with assisted driving functions, thereby harming the legitimate rights and interests of consumers, and the consumer requests the vehicle producer or seller to bear civil liability in accordance with the Civil Code, the Law on the Protection of Consumer Rights and Interests and other laws, the people's court shall support the request in accordance with the law. For the purpose of ascertaining the cause of a road traffic accident, the people's court may require the vehicle producer, seller or operator, or other data controllers, to provide, within the necessary scope, truthful and complete data needed for ascertaining the facts of the case, such as records of autonomous driving and assisted driving events.

Chapter III — Lawfully and Properly Adjudicating AI-Related Intellectual Property Dispute Cases and Safeguarding the High-Quality Development and High-Level Security of Artificial Intelligence

Article 12 — Regulate acts infringing intellectual property rights in connection with artificial intelligence in accordance with the law: where content generated by artificial intelligence infringes the copyright of others, the people's court shall, through comprehensive consideration of factors such as the type of AI service, industry characteristics, sources of training data, the degree of participation of each party, the necessary measures taken and the profits gained, lawfully and reasonably determine the liability of the AI developer, provider and user. Where an AI developer raises a defense of non-infringement, it shall be ordered to produce evidence in support, such as the sources of its training data, records of the training process, the mode of model operation and the scientific and theoretical basis. Where a right holder claims that an AI provider has infringed its copyright by using algorithmic technology, the right holder shall provide the relevant evidence. Where an AI user knows or ought to know that a prior work exists, and uses artificial intelligence to generate a work substantially similar to the prior work without a reasonable defense, and the right holder of

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the prior work requests the user to bear tort liability, the people's court shall support the request. Where acts such as infringing counterfeiting, false publicity, and fake traffic and fake orders are carried out by using artificial intelligence, infringing the rights of others or constituting unfair competition, the corresponding liability shall be borne in accordance with the law.

Article 13 — Lawfully and reasonably determine the legal liability of the parties related to AI-related open-source software: when adjudicating cases involving open-source software and determining the tort liability of open-source software developers and providers and subsequent developers and providers, comprehensive consideration shall be given to factors such as the type of open-source license agreement, the specific content of the restriction of rights, safety and compliance measures and the degree of information disclosure, and appropriate liability exemption shall be granted to open-source software developers and providers in accordance with the law. Where open-source software developers and providers provide, free of charge and in an open-source manner, part of the code modules needed for the development of AI-related software, and publicly explain the functions and safety risks of such modules, and the use of such code modules by others causes infringement, the people's court may determine that the open-source software developers and providers do not bear tort liability.

Article 14 — Regulate the patent grant and confirmation of AI-related inventions and creations in accordance with the law: where an AI-related invention or creation employs technical means that follow the laws of nature, solves a technical problem and achieves a technical effect conforming to the laws of nature, the people's court shall determine in accordance with the law that it is subject matter protected by the Patent Law, except where it violates the law or social morals, harms the public interest, or the natural person has made no substantive contribution. Where a natural person completes an invention or creation by using artificial intelligence, and the natural person has made a creative contribution to the substantive features of the invention or creation, that natural person shall be determined as the inventor. Where the description of the technical solution in an AI-related patent specification reaches the level at which a person of ordinary skill in the art can implement the invention, it shall be determined that the grant condition of sufficient disclosure is satisfied.

Article 15 — Prudently determine liability for breach of contract in the performance of AI-related technology contracts in accordance with the law: when adjudicating disputes over contracts for the development, transfer, licensing, consulting or service of AI-related technology, the people's court shall, in accordance with the contract, fully consider the characteristics of AI technology research and development and whether the technology developer has made reasonable efforts, among other circumstances, to lawfully determine liability for breach of contract.

Article 16 — Regulate the use of AI-related data in accordance with the law: where AI developers lawfully obtain data through collection and generation, derivative creation, acquisition by transfer, authorization and licensing, or other means and enjoy corresponding data rights and interests, the people's court shall protect such rights and interests. Data and data collections constituting compilation works or meeting the constitutive elements of other works shall be protected in accordance with the Copyright Law. Data and data collections constituting trade secrets shall be protected in accordance with the Anti-Unfair Competition Law. With respect to data and data collections not constituting trade secrets, where the alleged infringing act violates Article 13 of the Anti-Unfair Competition Law, liability shall be borne in accordance with the law. Where business operators use technical means such as data and algorithms to reach monopoly agreements or abuse market dominance, the corresponding liability shall be borne in accordance with the law. Where technical means such as fabricating interfering data, maliciously labeling data and adversarial example attacks are adopted to harm the operational security of artificial intelligence, the corresponding liability shall be borne in accordance with the law.

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Chapter IV — Improving the Procedural Rules for Adjudicating AI-Related Dispute Cases and Lawfully Punishing Crimes That Impair Judicial Order Committed by Using Generative Artificial Intelligence

Article 17 — Lawfully and accurately ascertain the facts of AI-related dispute cases: in light of the highly technical and specialized nature of AI-related dispute cases, the people's court shall strengthen litigation guidance and clarification in accordance with the law, and guide the parties to complete the production of evidence in a timely and comprehensive manner with respect to the disputed facts. Where a party is unable to collect evidence on its own due to objective reasons, 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 for the purpose of fixing key technology, the people's court shall review the application promptly in accordance with the law. Where a party controlling documentary evidence, electronic data or other evidence refuses to submit it without justifiable reasons, and the opposing party claims that the content of the evidence is unfavorable to the controlling party, the people's court may find the claim established. With respect to professional issues involving AI technical principles, operating mechanisms and the like, the people's court shall, in accordance with the law, give full play to the role of people's assessors, appraisers, expert assistants and technical investigators in assisting with ascertaining the facts of the case.

Article 18 — Explore and improve the rules for reviewing evidence in AI-related dispute cases: the people's court shall fully consider the complexity of AI technology, the opacity of system operation and the particularities of evidence collection, and continuously improve the rules for evidence review adapted to the development of new technologies. Focused review shall be conducted on the authenticity and integrity of the generation, collection, storage and transmission processes of electronic data. Differentiated priorities for evidence review shall be defined for evidence generated by different information technologies such as big data and blockchain. With respect to evidence in the form of big data analysis reports, focused review shall be conducted on the sources of the original data, the cleaning rules and the scientific nature of the analysis methods; with respect to evidence in the form of blockchain-based evidence preservation, focused review shall be conducted on the authenticity of the data before it is recorded on the chain and the reliability of the technical platform. Where a party uses AI-generated content as evidence of infringement, the people's court shall make a determination through comprehensive consideration of factors such as the design of the prompts and their influence on the generation results, the degree of similarity between the generated content and the work whose rights are claimed, the consistency of repeated tests, and the model training, algorithm design and content filtering mechanisms.

Article 19 — Regulate acts impairing judicial order, such as improper evidence collection by using artificial intelligence, in accordance with the law: where a party exploits the autonomous learning and autonomous decision-making characteristics of artificial intelligence and obtains false evidence by means of human intervention or misleading, such as deleting or altering the labels of generated or synthesized content, inputting specific instructions, selectively presenting results and adversarial interference, fabricates the basic facts of a civil case and carries out false litigation, thereby attempting to harm the national interest, the public interest or the legitimate rights and interests of others, the people's court shall dismiss the claim in accordance with the law and impose a fine or detention according to the seriousness of the circumstances; where a crime is constituted, criminal liability shall be pursued in accordance with the law. Where litigation participants or other persons forge evidence by using artificial intelligence and obstruct the people's court in hearing the case, the matter shall be handled in accordance with Article 114 of the Civil Procedure Law. Where materials such as litigation documents and case retrieval reports submitted by litigation participants are generated by using artificial intelligence, the litigation participants shall carefully verify the truthfulness and accuracy of the relevant laws, judicial interpretations, cases and other contents before submitting them to the court, explain the use of AI assistance when submitting them to the court, and bear legal liability for the truthfulness and accuracy of the relevant contents.

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Article 20 — Punish criminal activities committed by using artificial intelligence in accordance with the law: where acts such as fraud, insult, defamation, harming commercial reputation or the reputation of goods, infringing upon citizens' personal information, illegally obtaining data from computer information systems, and producing, selling or disseminating obscene materials are committed by using artificial intelligence and constitute crimes, criminal liability shall be pursued in accordance with the law. Where an actor activates assisted driving functions and then uses privately installed devices to evade the monitoring of the assisted driving system, causing a road traffic accident, and a crime is constituted, criminal liability shall be pursued in accordance with the law.

Chapter V — Strengthening Trial Guidance on AI-Related Dispute Cases and Continuously Improving the Working Mechanisms

Article 21 — Give full play to the role of the diversified dispute resolution mechanism: the people's court shall actively use the diversified dispute resolution mechanism to properly resolve AI-related disputes, promote the establishment of coordinated mechanisms with competent authorities in the AI industry, industry and professional mediation organizations, AI experts and scholars, jointly carry out dispute resolution work, and effectively implement mediation as the first step. Based on its adjudication functions, the people's court shall promote the legalization of the prevention and resolution of AI-related disputes, and actively clarify rights and obligations and delimit behavioral boundaries through open court hearings, case-based interpretation of the law and other means, so as to give play to the demonstrative and guiding role of judicial adjudication and promote the prevention at the source and timely resolution of AI-related disputes.

Article 22 — Strengthen trial supervision and guidance: actively and properly apply escalated jurisdiction, strengthen the demonstrative and guiding role, and effectively implement trial supervision and guidance. With respect to AI-related dispute cases involving major interests, difficult, complex and new types of issues, rule-establishing significance, or the need to unify the standards for the application of law, they shall be heard by people's courts at a higher level. Make full use of the case database of the people's courts, strengthen case-based guidance, and promote the unified application of law and the improvement of AI governance rules.

Article 23 — Strengthen inter-departmental coordination: through the issuance of judicial recommendations, the establishment of cooperation mechanisms and other means, give full play to judicial functions and serve national and social governance. Strengthen coordination with the cyberspace administration, public security, procuratorial, market regulation and other departments, and establish and implement long-term comprehensive governance mechanisms. Guide relevant enterprises, platforms and industry associations to regulate self-governance, and promote the formation of a full-chain protective synergy of AI industry self-discipline, administrative supervision and judicial protection.

Article 24 — Strengthen international judicial exchange and cooperation: properly adjudicate disputes involving AI and cross-border data, and on the basis of adhering to the principles of mutual respect, equality and mutual benefit, promote exchange and cooperation in foreign-related adjudication in the field of artificial intelligence, strengthen the alignment of and mutual learning between rules, promote the building of a fairer, more reasonable, more inclusive and more open AI governance system, and promote and protect the diversity of AI ecosystems and human civilization.

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