

## Client Alert

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## China's New Judicial Guidance clarifies scope and improves efficiency of internet disputes

Following the promulgation of the PRC E-Commerce Law on 31 August 2018, a milestone legislation for e-commerce business in China, the PRC Supreme People's Court issued the *Provisions on Several Issues Concerning the Trial of Cases by the Internet Court* (the Provisions). The Provisions, which took effect on 7 September 2018, provide more detailed and practical guidance on the trial of cases by Internet courts.

Our alert discusses what this means for business and some of the new features of Internet courts under the new guidance.

### What this means for e-commerce and online disputes

This latest development comes at a time when e-commerce business is on the rise in China, which in turn means the growth of online disputes. This has necessitated the need for greater judicial solutions and guidance. As a response to the increasing volume of online disputes, China established its first specialized Internet court in Hangzhou in August 2017. In its first year, the Hangzhou Internet court heard about 12,000 cases and closed about 10,600. The second Internet court was opened in Beijing on 9 September 2018, and there will be a third one in Guangzhou by the end of this month.

The promulgation of the Provisions represents the efforts of Chinese judicial authorities to improve efficiency and provide a convenient means for litigants of online disputes. For the first time in China, litigants can deal with their lawsuits entirely online. The new procedures including new methods for authenticating electronic evidence will help litigants to save time and money. We therefore consider that the Internet courts could be a useful platform for litigants of online disputes.

As for the scope of disputes falling within the jurisdiction of the Internet courts, this has now been clarified by the Provisions. Civil and administrative cases in relation to the matters listed below and falling within the jurisdiction of grassroots people's courts in Beijing, Guangzhou and Hangzhou will be subject to the jurisdiction of the respective Internet courts in those cities.

#### Scope of cases heard by the Internet courts

1. Online shopping contracts executed or performed through e-commerce platforms.
2. Online service contracts which are executed and performed on the Internet.
3. Financial lending contracts or small-amount lending contracts which are executed and performed on the Internet.
4. Ownership of the copyright or neighboring rights of work initially published on the Internet.
5. Online infringement of the copyright or neighboring rights of work published or disseminated on the Internet.



6.	Ownership, infringement or contract disputes of domain names.
7.	Online infringement of others' personal rights, property rights and other civil rights.
8.	Product liability as a result of the infringement of others' personal or property rights caused by defects of products distributed through e-commerce platforms.
9.	Internet-related public interest lawsuits initiated by procurators; and
10.	Administrative activities of relevant authorities regarding the administration of Internet information services, Internet commodity trading and the management of relevant services.

However, not all online disputes can be heard by Internet courts - certain cases such as disputes over P2P cases will not be within the Internet courts' jurisdiction due to their special nature.

## New features of Internet courts

We have set out some of the new features of Internet courts as provided in the Provisions in the table below.

New features of Internet courts under the Provisions	
1. <b>Online lawsuits</b>	For the first time in China, litigants can deal with their lawsuits entirely online without physically going to the court during the whole litigation process, including a trial by way of an online video system.
2. <b>Time and costs saving</b>	All litigation steps, including identity confirmation, case filing, evidence exchange, pre-trial preparation, court trials, service of judgment documents, and file documentation, can be handled through the online litigation platform operated by the Internet courts. This new form of case trial can save a lot of time and costs for the litigants.
3. <b>New methods for electronic evidence authentication</b>	<p>In the current litigation procedure with ordinary people's courts (other than Internet courts), a litigant has to rely on notary documents or authentication opinions to authenticate relevant electronic evidence. This can be very time consuming and costly.</p> <p>For Internet courts, the methods for authenticating electronic evidence have now been broadened under the Provisions. If the truthfulness of electronic data submitted by litigants can be proved through proper and reliable technical means (such as through electronic signatures, trusted time stamps, hash verification, and block chain) or can be verified on the specific electronic evidence collection and storage platform, then the Internet court will confirm and accept such electronic data as authenticated evidence for trial.</p>
4. <b>Speech recognition technology, electronic trial records and case files</b>	<p>In online trials, the Internet courts may adopt automatic speech recognition technologies to simultaneously generate electronic records during the trial process. Such electronic records shall have the same legal effect as written records if they have been checked and confirmed through the online litigation platform.</p> <p>In addition, the Internet courts shall use the online litigation platform to simultaneously create electronic case files along with the progress of each case, and form electronic archives.</p>

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