



WHAT IS DIRECTION IS CHINA TAKING IN THE DIGITALISATION OF ITS LEGAL SYSTEM?

THE CREATION OF CYBER-COURTS:

It is exactly a year since China decided to officially invest in the digitalisation of its legal system, by creating cyber-courts in key cities in mainland China.

The first cyber-court opened its doors in the city of Hangzhou in August 2017 and the choice of this city to test an «Internet» court was not accidental.

In fact, Hangzhou is the headquarters of several Chinese companies with activities connected to the Internet, among them the famous Alibaba. The company Alibaba alone annually receives about 4 million complaints from customers, the majority of which are left unanswered by the ordinary courts.

This first cyber-court has been equipped with cutting edge technology that allows litigants to process an action entirely on line.

Applicants may submit their legal actions and upload evidence on line, and the defendants are notified by text message (SMS). The parties can attend hearings by video conference.

According to the court's website, a case may be submitted to the court in five minutes and the average time for the court accept a case on line is 25 minutes.

The Cybernetic Court of Hangzhou deals with 10 types of civil and administrative actions relating to the Internet, including e-commerce disputes and infringement of intellectual property rights.

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Since its creation, this court has decided more than 10,000 cases and the duration of proceedings has been drastically reduced by the use of disruptive technologies.

This court was also a pioneer in the decision it handed down in June 2018 allowing blockchain technology as an appropriate means of proof that is valid in the case of an online violation.

The dispute between the company Hangzhou Huatai Yimei Cultura Media Co., Ltd. and the company Shenzhen Daotong Technology Development Co., Ltd. involved the unauthorised republication of an article originally published in the newspaper City Express.

The newspaper City Express had licensed the article for publication on line and the site, First Female Fashion Network, owned by the defendant company, republished the article without permission.

The court's decision was based on the verification of evidence submitted by the parties, in particular, records of screen shots of the article from the offending website.

The authenticity of the article was demonstrated through a platform for conserving evidence that uses blockchain technology, from a third entity called Baoquan.com. The court came to the conclusion that the evidence collected using the blockchain technology was admissible and valid.

The innovation of this decision lies in the fact that, for the first time, the court concluded that the electronic data protected using blockchain technology should be analysed fully, on a case-by-case basis, and should not be devalued because it results from something new and complex.

The judge held that blockchain technology meets the standards necessary to preserve and protect electronic data and ensures their integrity.

The success achieved by the Cybernetic Court of Hangzhou has led the Chinese Government to launch a second cyber-court project 2018, and it has chosen Daxing (south west of Beijing) as its location.

This second cyber-court opened its doors on 9 September and it also has power to settle civil and administrative disputes on line, particularly those involving online intellectual property rights, loan disputes, infringement of copyright, purchase contracts and domain names.

Specifically, this court has jurisdiction over:

- Disputes over online purchases involving e-commerce platforms;
- Disputes relating to contracts for services performed through the Internet;
- Disputes relating to loans, in which the agreement is made over the Internet;
- Disputes relating to copyright when the work is initially published on the Internet;
- Copyright law disputes involving online violations;
- Disputes over ownership, infringement and contracts involving domain names;
- Disputes arising from the online violation of personal, property, or other civil rights;
- Liability for defective products bought on e-commerce platforms;
- Public interest litigation relating to the Internet indicated by the Prosecution Service (equivalent entity to the Public Prosecutor in Portugal);
- Other civil or administrative or cases relating to the Internet that are indicated by the Superior Court of the People's Republic of China.

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THE USE OF INNOVATIVE TECHNOLOGIES TO SETTLE DISPUTES:

In both the Cybernetic Court of Hangzhou and the new Cybernetic Court of Beijing, the parties may access the proceedings by a video link, actions are started at the speed of a click and the cases begin with an attempt at mediation between the parties. Everything is processed electronically and digitally.

The court is working initially (24 hours/day) with 38 judges, who are around 40 years of age and have an average of 10 years' experience.

The parties can attend the trials on line via a digital platform that provides information about the status of the processes, including the decisions of the judges.

One innovation at the Court of Beijing is the use of facial and speech recognition technologies, as well as electronic signatures.

These methods allow the parties to participate in legal proceedings on line via computers or mobile devices, after being recognised by a facial recognition system (national identification system).

In addition, the Cybernetic Court of Beijing provides the parties with risk assessment tools based on artificial intelligence, such as the creation of legal documents with automatic translation and voice interaction with the system.

This new methodology allows a reduction of approximately 50% in the average duration of a trial in the cyber-courts, compared with a trial in the ordinary courts.

In 2017, in the city of Beijing alone, the ordinary courts received more than 45,000 legal actions involving online disputes.

The launch of this second cyber-court - and the announced opening of a third cyber-court in Guangzhou (southern China) - demonstrates China's strong commitment to digitalising its legal system and the important role these courts are playing in reducing the bureaucracy of disputes.

The use of new technologies by the courts makes things more convenient for the parties and simplifies the legal procedures. It also means there is no need for the interested parties to be physically present to obtain a final decision.

The idea is to make the legal system in China more efficient and open, which is necessary to ensure its credibility and transparency.



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