



**Asia-Pacific
Economic Cooperation**

2019/SOM1/EC/WKSP1/008

Experience Sharing

Submitted by: University of Hong Kong



**Stocktake Workshop on the Strengthening
Economic Legal Infrastructure Online Dispute
Resolution Work Plan
Santiago, Chile
2-3 March 2019**

Experience Sharing

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MSMEs' participation in the APEC Economy

- 99.57% of all total businesses are MSMEs
- Cross-border e-commerce brings significant benefits to MSMEs
- However, legal uncertainties, in particular dispute resolution
- Problems of traditional dispute resolution: high costs, delays, enforcement of judgments, etc.

China's e-commerce data

The year of 2017:

7.18 trillion electronic commerce turnover

772 million Internet users

Population: 55.8%;

Mobile Devices: 97.5%

Online shopping: 69.1% (533 million)

**the CNNIC 41th Development Report & the SAIC 2016 Annual Report on Internet Market Supervision*

Establishment


Alibaba Group
was established in
Hangzhou

1999



2011

Courts in Hangzhou
start research on
ODR

Zhejiang E-
Commerce Online
Tribunal Pilot

2015.03

The Establishment of the China
(Hangzhou) Cross-Border E-
Commerce Comprehensive Pilot
Zone

2015.08

CCP: On the
Establishment of
Hangzhou Internet
Court Program

17.06.26



17.08.18

The Establishment of
Hangzhou Internet
Court



22787 cases
0.5 hour per case

http://www.netcourt.gov.cn

IT Support: Gongdao Network Technology Co Ltd.



Jurisdiction

Hangzhou Internet Court's Guidelines Regarding the Litigation and Jurisdiction of Internet-involved Cases

Article 1

According to "The Notice Issued by the Supreme People's Court on 'The Proposal of the Establishment of Hangzhou Internet Court' ", since August 18, 2017, Hangzhou Internet Court has centralized jurisdiction over the following internet-involved civil and administrative cases of **the first instance** originally under the jurisdiction of the **Basic People's Courts** in Hangzhou City:



1. Disputes over online shopping contracts.

Examples: online shopping disputes raised from taobao.com, tmall.com, etc.

2. Disputes over online shopping products liability.

Examples: online shopping products liability disputes raised from taobao.com, tmall.com, etc.

3. Disputes over Internet microfinance loan contracts.

Examples: online microfinance loan disputes between China Zheshang Bank and borrowers.

4. Disputes over infringements upon others' personality right when using the Internet.

Examples: case (2018) Zhe 0192 Minchu No.975 (浙0192民初975号 江松岩诉陈孝华利用互联网侵害名誉权纠纷)

5. Disputes over the ownership of network copyright and infringement.

Examples: cases filed by Hangzhou Kuaiban Company (杭州快版科技有限公司) on the disputes over the right of communication of works Information network

6. Disputes over Internet domain name.

Example: (2018) 浙0192民初5256号 上海都市生活企业发展有限公司诉浙江天猫网络有限公司互联网域名纠纷 (已立案, 未进入庭审判决)

7. Administrative dispute over Internet administration.

First case on August 20th 2018, Plaintiff v. Defendant Jiaxing market supervision and administration of food safety administrative punishment and defendant Zhejiang Province Food and Drug Administration administrative reconsideration decision case

Litigation documents

- **The Trial Procedure of the Litigation Platform of Hangzhou Internet Court**
- **Hangzhou Internet Court's Guidelines Regarding the Litigation and Jurisdiction of Internet-involved Cases**
- **Hangzhou Internet Court's Notice Regarding the Parties' Rights and Duties**
- **Online Trial Norms of Hangzhou Internet Court**
- **The Outline of Online Court Trial (Simple Procedure)**

(English version all available at

<https://www.netcourt.gov.cn/portal/main/domain/lassen.htm?spm=a1z8s.8020632.0.0.41f04318qEfVeB&lang=En#lassen/litigationDocuments>, 20180821 uploaded)

The operation process of Hangzhou Internet Court

• I'm the plaintiff •



1 Initiating a lawsuit

After getting into the registration and his or her real-name is verified, the plaintiff files a lawsuit with the court by filling out the form according to the format. After being authorized by the user, the Internet Court can retrieve the case related information of e-commerce, transactions, logistics, small amount loan, intellectual property right, etc.



2 Entering into the mediation

After a lawsuit is filed, it is followed by pre-trial mediation. The mediator contacts the parties and then mediate the case through the internet, telephone or videoconference.



3 Filing the case in the court

If the mediation fails, the lawsuit should be formally submitted to the case filing division of the court. After the case filing is approved, then the plaintiff pays the litigation fee online.

• I'm the defendant •

1 Binding to cases

After receiving the electronic service information, the defendant logs into "my lawsuit", enters the query code and sees the complaint information.



2 Entering into the mediation

After being sued, the defendant should enter into the pre-trial mediation. Within fifteen (15) calendar days, the mediator contacts the parties and mediate the case through the internet, telephone or videoconference.



3 Filing in the information responding to the lawsuit

If the court approves the case-filing after the mediation fails, it immediately gives the defendant a notice about responding to the lawsuit.

2017.8—2018.7

11000+ cases accepted

9600 cases concluded

89.2% filed online

100 % heard online with parties' agreement

28 minutes average time of online hearings

38 days (average number of days devoted to online hearings)

*Statistics: http://www.xinhuanet.com/local/2018-08/18/c_1123290510.htm

Benefits

- Awareness
- Cost
- Efficiency
- Fairness



Challenges

- Barriers: IT problems, jurisdictions
- Credibility
- Technology reliability, technical failure, data, electronic evidence
- Mushrooming number of cases vs. limited court resources
- Professional counterfeit hunters
- Procedural change: virtual hearing, courtroom order and authority of judge
- Transparency
- Electronic delivery
- Trust and Fairness

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- Private → Public
 - Access to justice
 - Procedural change
 - Virtual hearings
 - Cyber judges...



Future

- 《关于增设北京互联网法院、广州互联网法院的方案》：
Internet Court of Beijing (Sept. 9, 2018)
Internet Court of Guangzhou (Sept. 28, 2018)
http://big5.xinhuanet.com/gate/big5/www.xinhuanet.com/tech/2018-08/06/c_1123226535.htm
- 最高人民法院发布第一批涉互联网典型案例
<http://www.court.gov.cn/zixun-xiangqing-112611.html>

Internet Court of Beijing

September 9th 2018 established

<https://www.bjinternetcourt.gov.cn/>

Jurisdiction

The Beijing Internet Court has centralized jurisdiction over the following cases of first instance that should be accepted by basic people's courts within Beijing's jurisdiction:

- (1) disputes arising from the signing or performance of online shopping contracts through e-commerce platforms;
- (2) disputes over network service contracts signed and performed on the internet;
- (3) disputes over financial loan contracts and disputes over small loan contracts that have been completed on the Internet for signing and performing acts;
- (4) disputes over the ownership of copyright or neighboring rights in works published for the first time on the internet;
- (5) Disputes arising from infringement of copyright or neighboring rights of works published or disseminated online on the Internet;
- (6) Internet domain name ownership, infringement and contract disputes;

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- (7) Disputes arising from infringement of other people's personal rights, property rights and other civil rights and interests on the Internet;
 - (8) disputes over product liability arising from the infringement of personal and property rights and interests of others due to product defects of products purchased through the e-commerce platform;
 - (9) Internet public interest litigation cases filed by procuratorial organs;
 - (10) Administrative disputes arising from administrative actions such as Internet information service management, Internet commodity trading and related service management by administrative organs;
 - (11) Other Internet civil and administrative cases designated by the people's court at a higher level.

Different with the Internet Court of Hangzhou, the Inter Court of Beijing has jurisdiction over Internet public interest litigation cases filed by procuratorial organs.

Internet Court of Guangzhou

- September 28th 2018 established.
- It has 10 judges, 6 of them are born in 1980s and 4 of them are born in 1970s, average age 36.
- Court trial experience has been described like China's social networking App Wechat chatting.
- According to the report by Guangzhou Intermediate People's Court, the courts in Guangzhou have accepted 45705 civil and commercial cases involving the Internet between 2014 to 2017, with an average annual increase of 49.06 %, which shows a rapid growth.

Future

- Nationwide?
- Online litigation, as part of ODR?
- Trial process management, evidence proof, the trial system and the execution system, all become electronic?
- Internet plus & Smart Court Construction in China



Thanks!

Prof. Zhao Yun