最高人民法院关于依法审理涉人工智能纠纷案件的意见

Opinions of the Supreme People's Court on Adjudicating AI-Related Disputes in Accordance with Law

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为全面贯彻党的二十大和二十届历次全会精神，以严格公正司法服务保障新质生产力加快发展，指导各级人民法院依法审理涉人工智能纠纷案件，根据《中华人民共和国民法典》《中华人民共和国网络安全法》《中华人民共和国数据安全法》《中华人民共和国著作权法》《中华人民共和国反不正当竞争法》《中华人民共和国消费者权益保护法》《中华人民共和国个人信息保护法》《中华人民共和国民事诉讼法》等相关法律，结合人民法院审判工作实际，提出如下意见。

To fully implement the guiding principles of the 20th National Congress of the Communist Party of China and all subsequent plenary sessions of the 20th CPC Central Committee, to serve and safeguard the accelerated development of new quality productive forces through strict and impartial administration of justice, and to guide the people's courts at all levels in adjudicating AI-related disputes in accordance with law, the following Opinions are hereby issued pursuant to 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 (PIPL), the Civil Procedure Law of the People's Republic of China, and other relevant laws, and in light of the adjudication practice of the people's courts.

一、总体要求

I. General Requirements

（一）指导思想

(1) Guiding Thought

坚持以习近平新时代中国特色社会主义思想为指导，深入贯彻习近平法治思想，认真贯彻习近平总书记关于网络强国的重要思想，深刻认识人工智能是新一轮科技革命和产业变革的重要驱动力量，坚持发展和安全并重、促进创新和依法治理相结合，依法公正审理涉人工智能纠纷案件，促进提升人工智能技术应用的安全性、可靠性、可控性、公平性，为以中国式现代化全面推进强国建设、民族复兴伟业提供有力司法服务和保障。

The people's courts shall uphold 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, earnestly implement General Secretary Xi Jinping's important thought on building China into a country strong in cyberspace, and fully recognize that artificial intelligence is a significant driving force of the new round of scientific and technological revolution and industrial transformation. The people's courts shall attach equal importance to development and security, combine the promotion of innovation with law-based governance, and impartially adjudicate AI-related disputes in accordance with law, so as to enhance the safety, reliability, controllability, and fairness of the application of AI technology, and to provide robust judicial services and safeguards for building China into a strong country and advancing the great rejuvenation of the Chinese nation on all fronts through Chinese modernization.

（二）基本原则

(2) Basic Principles

坚持以人为本。发挥司法裁判引领作用，积极引导人工智能增进人民福祉，切实加强数字时代民生权益司法保障。积极稳妥探索、完善涉算法伦理、算法规则等人工智能领域的司法裁判规则和机制建设，用足用好现有法律规定，妥善应对人工智能技术发展带来的规则冲突、社会风险和伦理挑战，促进完善人工智能企业社会责任体系，注重防范和消除算法歧视，依法保障个人在自动化决策中的知情权和选择权，预防和规制滥用人工智能技术侵害人民群众合法权益的行为，促推人工智能为民、向善。

Upholding a people-centered approach. The people’s courts shall give full play to the guiding role of judicial adjudication, actively guide AI to enhance the people's well-being, and earnestly strengthen judicial protection of the people's livelihood rights and interests in the digital era. They shall actively and prudently explore and refine judicial adjudication rules and mechanisms in the AI field, including those concerning algorithmic ethics and algorithmic rules; make full and effective use of existing legal provisions; properly address conflicts of rules, social risks, and ethical challenges brought about by the development of AI technology; promote the improvement of the corporate social responsibility system of AI enterprises; emphasize the prevention and elimination of algorithmic discrimination; safeguard in accordance with law individuals' rights to be informed and to make choices in

connection with automated decision-making; and prevent and regulate the abuse of AI technology to infringe upon the legitimate rights and interests of the people, so as to promote AI that serves the people and advances the public good.

支持创新发展。尊重科技创新规律和人工智能行业发展实践，以符合法律政策精神、符合技术发展规律的司法裁判支持科技创新和产业创新。探索新型权益司法保护路径，不断加大对人工智能创新成果、创新主体、创新行为、创新环境的保护力度。以包容审慎的态度平衡权益保护与技术产业发展，营造鼓励探索、宽容失败的良好环境。依法规制利用人工智能技术实施的垄断或者不正当竞争，依法保障相关主体开发和利用人工智能技术的权利平等、机会平等、规则平等，加强对中小企业等经营主体权益的平等保护。通过依法公正高效审理涉人工智能纠纷案件，积极引导、推动互联网、大数据、人工智能和实体经济深度融合，助力培育壮大人工智能产业，最大限度释放人工智能赋能经济社会高质量发展的巨大潜力。

Supporting innovation-driven development. The people's courts shall respect the laws of scientific and technological innovation and the development practices of the AI industry, and support scientific, technological, and industrial innovation through judicial adjudication that conforms to the spirit of laws and policies and to the laws of technological development. They shall explore judicial protection pathways for new types of rights and interests, and continuously strengthen the protection of AI innovation achievements, innovators, innovative conduct, and the innovation environment. They shall balance the protection of rights and interests with the development of technology and industry in an inclusive and prudent manner, fostering a favorable environment that encourages exploration and tolerates failure. They shall regulate in accordance with law monopolistic or unfair competition practices carried out using AI technology, safeguard in accordance with law the equality of rights, opportunities, and rules of relevant parties in developing and utilizing AI technology, and strengthen the equal protection of the rights and interests of business operators such as small and medium-sized enterprises. Through impartial, efficient, and law-based adjudication of AI-related disputes, the people's courts shall actively guide and promote the deep integration of the Internet, big data, and AI with the real economy, contribute to the cultivation and strengthening of the AI industry, and unleash to the greatest extent the enormous potential of AI in empowering high-quality economic and social development.

筑牢安全底线。根据人工智能在不同应用场景下对民事主体合法权益可能造成的具体损害以及风险的性质和大小，依法准确认定法律责任。区分通用与专用、开源与闭源等不同类型大模型在技术原理、风险外溢与控制能力上的差异，对开发者、提供者、使用者等主体的法律责任作出合理划分。全面准确贯彻宽严相济刑事政策，对于故意利用人工智能实施的危害国家安全、侵犯公民权益、扰乱社会秩序等犯罪行为，坚决依法严惩；对于在人工智能研发、应用中的创新性行为，依法审慎处理，恪守罪刑法定、罪责刑相适应原则。

Firmly safeguarding the security baseline. The people's courts shall accurately determine legal liability in accordance with law based on the specific harm that AI 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. They shall distinguish among different types of large-scale models — general-purpose and special-purpose models, open-source and closed-source models — , based on differences in their underlying technical mechanisms, potential for risk spillover, and controllability, and reasonably allocate the legal liabilities among developers, providers, users, and other parties. They shall fully and accurately implement the criminal

policy of combining leniency with severity: crimes committed deliberately using AI that endanger national security, infringe upon citizens' rights and interests, or disrupt social order shall be resolutely and severely punished in accordance with law; innovative activities in AI research, development, and application shall be handled prudently in accordance with law, in strict adherence to the principle of legality and the principle that punishment shall be commensurate with the crime committed and the criminal responsibility to be borne.

二、依法妥善审理涉人工智能侵权案件，切实维护民事主体合法权益

II. Proper Adjudication of AI-Related Tort Cases in Accordance with Law to Effectively Protect the Legitimate Rights and Interests of Civil Subjects

（三）准确把握涉人工智能侵权责任的归责原则。准确适用民法典、个人信息保护法、产品质量法、道路交通安全法等相关法律规定，依法认定利用人工智能侵害民事权益产生的法律责任。法律没有明确规定适用无过错责任或者过错推定责任的，应当依照民法典第一千一百六十五条第一款规定的过错责任原则认定行为人是否承担侵权责任。在判断行为人有无过错以及过错程度时，应当综合考量人工智能应用的具体场景、自主化程度、技术与信息透明度、潜在风险及影响范围，人工智能开发者、提供者等相关主体为预防和减少人工智能侵权所采取的措施及技术上的可能性，人工智能使用者对利用人工智能技术实施的侵权行为可能造成损害的预见能力与控制能力等因素。

(3) Accurately applying the principles governing the attribution of AI-related tort liability. The people's courts shall accurately apply the relevant provisions of the Civil Code, the PIPL, the Product Quality Law, the Road Traffic Safety Law, and other laws, and determine in accordance with law the legal liability arising from infringement upon civil rights and interests through the use of AI. Where the law does not clearly provide for the application of strict liability or presumption of fault, whether the actor bears tort liability shall be determined in accordance with the fault-based liability principle set out in paragraph 1 of Article 1165 of the Civil Code. In determining whether the actor is at fault and the degree of fault, the people's courts shall comprehensively consider such factors as the specific scenario and degree of autonomy of the AI application, the transparency of the technology and information, the potential risks and scope of impact, the measures taken by AI developers, providers, and other relevant parties to prevent and reduce AI-related infringement and their technical feasibility, and the ability of AI users to foresee and control the damage that may be caused by infringing conduct carried out using AI technology.

（四）依法规制“AI 换脸拟声”“AI 复活逝者”等利用生成式人工智能侵害人格权益的行为。利用生成式人工智能处理特定自然人或者死者的姓名、肖像等，不得违反法律、法规，不得违背公序良俗。除法律另有规定的外，未经自然人同意，利用人工智能处理自然人的姓名、肖像等，生成可识别该自然人的虚拟数字形象并使用、公开，该自然人主张行为人侵害其姓名权、肖像权等人格权益的，人民法院依法予以支持。除法律另有规定的外，未经自然人同意，使用自然人的声音作为训练语料，模仿该自然人的音色、语调和发音风格等生成能够识别该自然人的合成人声，该自然人主张行为人侵害其声音权益的，人民法院依法予以支持。操控生成合成的能够识别特定自然人的虚拟数字形象、声音实施不当行为或者发表不实言论，降低该自然人或者他人社会评价的，人民法院应当依法认定构成对名誉权的侵害。利用人工智能技术擅自制作、使用死者的虚拟数字形象致使死者的姓名、肖像、名誉等受到侵害，死者近亲属

依据民法典第九百九十四条的规定请求行为人承担民事责任的，人民法院依法予以支持。

(4) Regulating in accordance with law "AI face-swapping and voice mimicry," "AI resurrection of the deceased," and other acts of infringing upon personality rights and interests using generative AI. The use of generative AI to process the name, portrait, or the like of a specific natural person or a deceased person shall not violate laws or regulations, nor offend public order and good morals. Unless otherwise provided by law, where, without the consent of a natural person, AI is used to process the natural person's name, portrait, or the like to generate a virtual digital likeness that identifies that natural person, and such likeness is used or made public, the people's court shall support in accordance with law the natural person's claim that the actor has infringed upon his or her personality rights and interests, such as personal name rights and portrait rights. Unless otherwise provided by law, where, without the consent of a natural person, the natural person's voice is used as training corpus, and a synthesized voice that identifies that natural person is generated by imitating his or her timbre, tone, pronunciation style, or the like, the people's court shall support in accordance with law the natural person's claim that the actor has infringed upon his or her rights and interests in one's voice. Where a party manipulates a generated or synthesized virtual digital likeness or voice that identifies a specific natural person to engage in improper conduct or make untrue statements, thereby lowering the social evaluation of that natural person or of others, the people's court shall determine in accordance with law that such conduct constitutes an infringement of the right to reputation. Where AI technology is used to make or use, without authorization, a virtual digital likeness of a deceased person, thereby infringing upon the name, portrait, reputation, or the like of the deceased, and a close relative of the deceased brings a claim under Article 994 of the Civil Code seeking to hold the actor bear civilly liable, the people's court shall uphold the claim in accordance with law.

（五）依法规制利用人工智能实施“网络开盒”“人肉搜索”等侵害自然人隐私权的行为。以刺探隐私为目的，利用人工智能对特定自然人的电话号码、网络账号及社交媒体等公开信息进行追踪、分析，获取私密信息，或者将所获取的私密信息泄露、公开，或者利用所获取信息侵扰私人生活安宁的，应当认定构成对隐私权的侵害。利用人工智能对特定自然人的私密空间、私密活动等实施拍摄、窥视、窃听等行为的，应当认定构成对隐私权的侵害，但是法律另有规定或者该自然人明确同意的除外。

(5) Regulating in accordance with law the use of AI to carry out "online doxxing," cyber crowdsourcing (crowdsourced search), and other acts infringing upon natural persons' privacy rights. Where, for the purpose of prying into privacy, AI is used to track and analyze a specific natural person's publicly available information such as telephone numbers, online accounts, and social media, so as 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, such conduct shall be found to infringe upon privacy rights. Where AI is used to photograph, peep into, or eavesdrop on a specific natural person's private spaces, private activities, or the like, such conduct shall be found to infringe upon privacy rights, unless otherwise provided by law or expressly consented to by such natural person.

（六）依法认定人工智能训练过程中侵害个人信息权益的民事责任。为人工智能模型训练，在合理范围内处理个人自行公开的或者其他已经合法公开的个人信息，且个人未明确拒绝的，一般不认定为侵害个人信息权益的行为。对个人权益有重大影响的，

应当依照法律规定取得个人同意。在认定合理范围时，应当综合考量处理个人信息的目的与模型功能的必要性和适当性，所涉个人信息的类型、敏感程度及对个人权益的潜在影响，个人公开信息时的场景及可合理预期的使用范围等因素。

(6) Determining in accordance with law civil liability for infringement upon personal information rights and interests during AI training. Where, for the purpose of training an AI model, personal information made public by relevant individuals voluntarily or otherwise lawfully made public is processed within a reasonable scope, and the individual has not expressly refused the same, such processing shall generally not be found to infringe upon personal information rights and interests. Where the processing has a material impact on the individual's rights and interests, the individual's consent shall be obtained as required by law. In defining the reasonable scope, the people's courts shall comprehensively consider such factors as the purpose of processing the personal information and the necessity and appropriateness of the model's functions, the type and sensitivity of the personal information involved and its potential impact on the individual's rights and interests, and the circumstances in which the individual made public the information and the reasonably foreseeable scope of use.

（七）审慎认定生成式人工智能服务提供者的侵权责任。生成式人工智能自动生成的内容侵害他人名誉权、隐私权等人格权益，经权利人通知，生成式人工智能服务提供者未及时采取停止生成侵权内容等必要措施的，应当对造成的损害依法承担侵权责任。通知应当包括构成侵权的初步证据及权利人的真实身份信息。网络用户通过输入侵权提示词等方式恶意诱导生成式人工智能生成侵权内容并造成他人损害的，该网络用户应当依法承担侵权责任；经权利人通知，生成式人工智能服务提供者未及时采取停止生成侵权内容、屏蔽相关生成指令等必要措施，权利人依据民法典第一千一百九十五条的规定请求该网络用户、生成式人工智能服务提供者承担民事责任的，人民法院依法予以支持。

(7) Prudently determining the tort liability of generative AI service providers. Where content automatically generated by generative AI infringes upon another person's personality rights and interests such as the right to reputation or privacy rights, and the generative AI service provider, after being notified by the right holder, fails to promptly take necessary measures such as ceasing the generation of infringing content, the provider shall bear tort liability in accordance with law for the damage caused. The notification shall include preliminary evidence of the infringement and the right holder's true identity information. Where an Internet user, by inputting infringing prompts or other means, maliciously induces generative AI to generate infringing content and thereby causes damage to another person, that Internet user shall bear tort liability in accordance with law; where, after being notified by the right holder, the generative AI service provider fails to promptly take necessary measures such as ceasing the generation of infringing content and blocking the relevant generation instructions, and the right holder brings a claim under Article 1195 of the Civil Code, seeking to hold the Internet user and the generative AI service provider civilly liable, the people's court shall uphold the claim in accordance with law.

（八）依法适用人格权侵害禁令制度。自然人、法人或者非法人组织有证据证明行为人利用人工智能正在实施或者即将实施侵害其人格权益的违法行为，不及时制止将使其合法权益受到难以弥补的损害，向人民法院申请采取责令行为人停止有关行为或者责令有关网络服务提供者、生成式人工智能服务提供者停止提供有关服务的措施的，

人民法院可以依法作出人格权侵害禁令。在作出人格权侵害禁令时，人民法院应当结合被侵害的人格权类型、违法行为的方式以及可能造成损害的范围、程度等因素，采取相应的禁令措施，不得超出必要限度。

(8) Applying in accordance with law the system of injunctions against infringement of personality rights. Where a natural person, legal person, or unincorporated organization has evidence proving that an actor is committing or is about to commit, using AI, an unlawful act infringing upon the personality rights and interests of the said person, and failure to stop the act promptly will cause irreparable damage to such person's legitimate rights and interests, such person may apply to the people's court for an order requiring the actor to cease the relevant conduct, or requiring the relevant network service provider or generative AI service provider to stop providing the relevant services. The people's court may issue an injunction against the infringement of personality rights in accordance with law. In issuing such an injunction, the people's court shall consider factors including the type of personality right infringed, the manner of the unlawful act, and the scope and severity of possible damage that may be caused, and shall impose appropriate injunctive measures no more than necessary.

（九）准确认定人工智能产品责任。人民法院应当依据产品质量法关于“产品”的定义，依法准确认定以实物为载体的人工智能产品并适用相应的法律规则。人工智能产品存在缺陷造成损害的，生产者、销售者应当依法承担产品责任。在认定人工智能产品是否存在危及人身、财产安全的不合理危险时，应当综合考量人工智能产品的性质与用途、自主学习能力、升级更新情况、用户对系统的控制程度，以及是否符合相关国家标准、行业标准等因素，并重点审查生产者、销售者是否就人工智能产品的适用场景、固有局限及可预见的风险等进行了真实的说明和明确的警示。

(9) Correctly determining AI product liability. The people's courts shall, pursuant to the definition of "product" in the Product Quality Law, correctly determine in accordance with law whether an AI product embodied in a tangible medium constitutes a product and apply the applicable legal rules. Where a defect in an AI product causes damage, the manufacturer and the seller shall bear product liability in accordance with law. In determining whether an AI product presents an unreasonable danger jeopardizing personal or property safety, the people's courts shall comprehensively consider such factors as the nature and intended use of the AI product, its autonomous learning capability, its upgrading and updating status, the extent of the user's control over the system, and whether it complies with relevant national and industry standards, and shall focus their review on whether the manufacturer and the seller have provided truthful explanations and clear warnings regarding the AI product's applicable scenarios, inherent limitations, and foreseeable risks.

（十）依法规制“大数据杀熟”“仿冒名人带货”等侵害消费者合法权益的行为。针对同一商品或者服务，经营者利用算法在交易价格等交易条件上实行不合理的差别待遇，侵害他人合法权益造成损害的，人民法院应当依法认定其承担相应的侵权责任。在认定是否构成不合理的差别待遇时，应当根据差别待遇是否对消费者的知情权、自主选择权、公平交易权等造成实质性限制或者损害，是否基于消费者的消费偏好、支付意愿、支付能力、浏览记录等信息形成针对其个人的交易条件，是否违背诚信原则及商业伦理等，综合考量实行差别待遇的理由是否正当、充分、非歧视。经营者提供商品或者服务时，利用人工智能实施“仿冒名人带货”且构成欺诈，消费者依据消费者权益保护法第五十五条的规定主张惩罚性赔偿的，人民法院依法予以支持。

(10) Regulating in accordance with law "big data-enabled price discrimination," "impersonation of celebrities in product promotion," and other acts infringing upon the legitimate rights and interests of consumers. Where, with respect to the same goods or services, a business operator uses algorithms to adopt unreasonable differential treatment in respect of transaction prices or other transaction conditions, thereby infringing upon the legitimate rights and interests of another person and causing damage, the people's court shall determine in accordance with law that the operator bears corresponding tort liability. In determining whether differential treatment is unreasonable, the people's court shall comprehensively consider whether the reasons for the differential treatment are legitimate, sufficient, and non-discriminatory, based on whether the differential treatment imposes substantive restrictions or harm on consumers' rights to be informed, to make independent choices, and to fair transactions; whether transaction conditions targeting a specific individual are formed on the basis of information such as the consumer's preferences, willingness to pay, payment capacity, and browsing history; and whether such treatment violates the principle of good faith and business ethics. Where a business operator, in providing goods or services, uses AI to carry out "impersonation of celebrities in product promotion" and such conduct constitutes fraud, and a consumer claims punitive damages under Article 55 of the Law of the People’s Republic of China on the Protection of Consumer Rights and Interests, the people's court shall support such claim in accordance with law.

（十一）依法认定涉自动驾驶汽车、具备辅助驾驶功能汽车交通事故的赔偿责任。自动驾驶汽车、具备辅助驾驶功能汽车上道路行驶，发生交通事故造成损害的，依据民法典和道路交通安全法有关规定承担赔偿责任。因车辆存在产品缺陷导致交通事故造成损害，当事人请求生产者或者销售者依照民法典第七编第四章的规定承担赔偿责任的，人民法院应予支持。具备辅助驾驶功能的汽车因车辆缺陷与驾驶人的过错行为结合导致同一损害，当事人依据民法典第一千一百七十二条等规定同时请求驾驶人和车辆生产者或者销售者承担赔偿责任的，人民法院依法予以支持。车辆生产者、销售者对自动驾驶汽车、具备辅助驾驶功能汽车的自动化等级、智能程度、性能、用途等进行虚假或者引人误解的宣传，损害消费者合法权益，消费者依据民法典、消费者权益保护法等法律规定请求车辆生产者、销售者承担民事责任的，人民法院依法予以支持。为查明道路交通事故发生原因，人民法院可以要求车辆生产者、销售者或者运营者等数据控制方，在必要范围内提供真实、完整的自动驾驶、辅助驾驶事件记录等查明案件事实所需要的数据。

(11) Determining in accordance with law liability for compensation in traffic accidents involving autonomous vehicles and vehicles with driver-assistance functions. Where an autonomous vehicle or a vehicle with driver-assistance functions travels on the road and is involved in a traffic accident that causes damage, liability for compensation shall be borne in accordance with the relevant provisions of the Civil Code and the Road Traffic Safety Law. Where a product defect in a vehicle causes a traffic accident resulting in damage, and a party claims against the manufacturer or seller the liability for damages under Chapter IV of Book Seven of the Civil Code, the people's court shall uphold such claim. Where a vehicle with driver-assistance functions causes the damage as a result of a vehicle defect and the driver's fault in combination, and a party, pursuant to Article 1172 and other provisions of the Civil Code, seek to hold both the driver and the vehicle manufacturer or seller liable for compensation, the people's court shall uphold the claim in accordance with law. Where a vehicle manufacturer or seller makes false or misleading representations regarding the automation level, level of intelligence, performance, or intended use of an autonomous vehicle or a vehicle with driver-assistance functions, thereby harming the legitimate rights

and interests of consumers, and a consumer brings a claim under the Civil Code, the Law of the People's Republic of China on the Protection of Consumer Rights and Interests, or other applicable laws, seeking to hold the vehicle manufacturer or seller civilly liable, the people's court shall uphold the claim in accordance with law. To ascertain the cause of a road traffic accident, the people's court may require the party(s) controlling relevant data such as the vehicle manufacturer, seller, or operator to provide, to the extent necessary, truthful and complete records of autonomous-driving and driver-assistance events and other data needed to ascertain the facts of the case.

三、依法妥善审理涉人工智能知识产权纠纷案件，保障人工智能高质量发展和高水平安全

III. Proper Adjudication of AI-Related IP Disputes in Accordance with Law to Safeguard the High-Quality Development and High-Level Security of AI

（十二）依法规制涉人工智能侵害知识产权的行为。人工智能生成内容侵害他人著作权的，人民法院应当综合考量人工智能服务类型、行业特点、训练数据来源、各方参与度、采取的必要措施以及获利情况等因素，依法合理认定人工智能开发者、提供者、使用者的责任。人工智能开发者提出不侵权抗辩的，应当责令其提供训练数据来源、训练过程记录、模型运行模式以及科学理论依据等予以佐证。权利人主张人工智能提供者利用算法技术侵害其著作权的，应当提供相关证据。人工智能使用者知道或者应当知道在先作品存在，利用人工智能生成与在先作品实质相似的作品且无合理抗辩理由，在先作品权利人请求其承担侵权责任的，人民法院应予支持。利用人工智能实施侵权假冒、虚假宣传、刷量刷单等行为，侵害他人权利或者构成不正当竞争的，依法承担相应责任。

(12) Regulating in accordance with law AI-related infringements of intellectual property rights. Where AI-generated content infringes upon another person's copyright, the people's court shall comprehensively consider factors including the type of AI service, industry characteristics, the sources of training data, each party's involvement status, the necessary measures taken, and the profits obtained, and reasonably determine in accordance with law the liability of the AI developer, provider, and user. Where an AI developer raises a non-infringement defense, the people's court shall order the developer to provide supporting evidence, including evidence concerning the sources of training data, records of the training process, the model's operating mode, and the underlying scientific rationale. Where a right holder claims that an AI provider has used algorithmic technology to infringe upon its copyright, the right holder shall provide relevant evidence. Where an AI user knew or should have known of the existence of a prior work, uses AI to generate a work substantially similar to the prior work, and lacks reasonable grounds for a defense, the people's court shall uphold a claim brought by the right holder of the prior work seeking to hold the user liable for infringement. Where AI is used for infringement and counterfeiting, false advertising, or artificially inflating online traffic or fabricating transactions, or similar conduct, thereby infringing upon another person's rights or constituting unfair competition, the actor shall bear corresponding liability in accordance with law.

（十三）依法合理认定涉人工智能开源软件相关方的法律责任。审理涉开源软件案件，认定开源软件开发者、提供者以及后续开发者、提供者的侵权责任，应当综合考

量开源许可协议类型、权利限制的具体内容、安全合规举措和信息披露程度等因素，依法给予开源软件开发者、提供者适当的责任豁免。开源软件开发者、提供者以免费开源的方式提供涉人工智能软件研发所需要的部分代码模块，并公开说明其功能和安全风险，他人使用该代码模块导致侵权的，人民法院可以认定开源软件开发者、提供者不承担侵权责任。

(13) Reasonably determining in accordance with law the legal liability of parties involved with AI-related open-source software. In adjudicating cases involving open-source software, when determining the tort liability of open-source software developers and providers as well as subsequent developers and providers, the people's court shall comprehensively consider factors including the type of open-source license agreement, the specific scope of the rights limitations, security and compliance measures, and the extent of information disclosure, and shall grant appropriate liability exemptions to open-source software developers and providers in accordance with law. Where open-source software developers or providers make available, free of charge and on an open-source basis, certain code modules needed for the research and development of AI-related software, and publicly explain their functions and security risks, and another person's use of such code modules results in infringement, the people's court may find that the open-source software developers or providers shall not be liable for the infringement.

（十四）依法规范涉人工智能发明创造的专利授权确权行为。涉人工智能发明创造采用遵循自然规律的技术手段，解决了技术问题，实现了符合自然规律的技术效果的，人民法院应当依法认定其为专利法所保护的客体，但是违反法律、社会公德、损害社会公共利益或者自然人没有实质贡献的除外。自然人使用人工智能完成的发明创造，该自然人对发明创造的实质性特点作出了创造性贡献的，应当认定该自然人为发明人。涉人工智能专利说明书对技术方案的表述，达到本领域普通技术人员能够实现该发明的程度的，应当认定符合公开充分的授权条件。

(14) Regulating in accordance with law the patent grant and validity determination of AI-related inventions. Where an AI-related invention-creation employs technical means that follow the laws of nature, solves a technical problem, and produces a technical effect consistent with the laws of nature, the people's court shall determine in accordance with law that it constitutes subject matter entitled to protection under the Patent Law, except where it violates any law or social morality, harms the social public interest, or natural persons have made no substantive contribution. Where a natural person uses AI to complete an invention-creation, and that natural person has made a creative contribution to the substantive features of the invention-creation, that natural person shall be recognized as the inventor. Where the technical solution in an AI-related patent specification is described in sufficient detail to enable a person of ordinary skill in the art can carry out the invention, the specification shall be determined to satisfy the requirement of sufficient disclosure for patent grant.

（十五）依法审慎认定涉人工智能技术合同履行的违约责任。人民法院审理涉人工智能技术开发、转让、许可、咨询、服务合同纠纷案件，应当根据合同约定，充分考量人工智能技术研发特点、技术开发方是否尽到合理努力等情形依法认定违约责任。

(15) Prudently determining in accordance with law liability for breach of contract in the performance of AI-related technology contracts. In adjudicating disputes over contracts for AI-related technology development, assignment, licensing, consulting, or services, the people's court shall determine liability for breach of contract in accordance with law and the

terms of the contract, with full consideration of factors including the characteristics of AI technology research and development and whether the technology developer has made reasonable efforts.

（十六）依法规范涉人工智能数据使用行为。人工智能开发者通过采集生成、衍生创造、受让取得、授权许可等方式合法获取数据并享有相应数据权益的，人民法院应当予以保护。对于构成汇编作品或者符合其他作品构成要件的数据、数据集合，应当依照著作权法予以保护。对于构成商业秘密的数据、数据集合，应当依照反不正当竞争法予以保护。对于不构成商业秘密的数据、数据集合，被诉侵权行为违反反不正当竞争法第十三条规定的，应当依法承担责任。经营者利用数据、算法等技术手段达成垄断协议或者实施滥用市场支配地位等行为的，依法承担相应责任。采取虚构干扰数据、恶意标注数据、对抗样本攻击等技术手段，损害人工智能运行安全的，依法承担相应责任。

(16) Regulating in accordance with law the use of AI-related data. Where an AI developer lawfully obtains data through collection or generation, derivative creation, acquisition by transfer, licensing, or other means and enjoys corresponding data rights and interests, the people's court shall protect such rights and interests. Data and datasets that constitute compilation works or satisfy the requirements for other types of works shall be protected in accordance with the Copyright Law. Data and datasets that constitute trade secrets shall be protected in accordance with the Anti-Unfair Competition Law. Where data or datasets do not constitute trade secrets but the allegedly infringing conduct violates Article 13 of the Anti-Unfair Competition Law, the actor shall bear liability in accordance with law. Where a business operator uses data, algorithms, or other technical means to conclude a monopoly agreement or engage in activities such as abuse of market dominance, it shall bear corresponding liability in accordance with law. Where a party employs technical means such as fabricating data to cause interference, maliciously labeling data, or conducting adversarial-example attacks to impair the security of AI operations, it shall bear corresponding liability in accordance with law.

四、完善涉人工智能纠纷案件审理程序规则，依法惩治利用生成式人工智能实施妨害司法秩序等违法犯罪行为

IV. Improving Procedural Rules for the Adjudication of AI-Related Disputes and Punishing in Accordance with Law, Illegal and Criminal Acts Committed Using Generative AI to Disrupt Judicial Order

（十七）依法准确查明涉人工智能纠纷案件事实。基于涉人工智能纠纷案件技术性、专业性强等特点，人民法院应当依法加强诉讼引导和释明，引导当事人围绕争议事实及时全面地完成举证。当事人因客观原因不能自行收集的证据，可申请人民法院调查收集；必要时，人民法院可以依职权调查收集证据。当事人为固定关键技术申请证据保全的，人民法院应当及时依法审查。控制书证、电子数据等证据的当事人无正当理由拒不提交，对方当事人主张该证据的内容不利于控制人的，人民法院可以认定该主张成立。对于涉及人工智能技术原理、运行机制等专业问题的，人民法院应当依法充分发挥人民陪审员、鉴定人、专家辅助人以及技术调查官的作用，辅助查明案件事实。

(17) Accurately ascertaining in accordance with law the facts of AI-related disputes. Given the highly technical and specialized nature of AI-related disputes, the people's courts shall strengthen litigation guidance and judicial clarification in accordance with law, and guide the parties to promptly and fully produce evidence concerning the disputed facts. A party may apply to the people's court for investigation and collection of evidence that the party cannot collect on its own for objective reasons; where necessary, the people's court may investigate and collect evidence ex officio. Where a party applies for evidence preservation concerning key technologies, the people's court shall review the application in a timely manner in accordance with law. Where a party controlling documentary evidence, electronic data, or other evidence refuses to submit it without justifiable reason, and the opposing party asserts that the content of such evidence is adverse to the controlling party, the people's court may find that assertion established. For specialized questions involving AI technical principles, operating mechanisms, or the like, the people's court shall make full use, in accordance with law, of people's assessors, appraisers, expert assistants, and technical investigation officers in ascertaining the facts of the case.

（十八）探索完善涉人工智能纠纷案件证据审查规则。人民法院应当充分考量人工智能技术的复杂性、系统运行的不透明性以及证据收集的特殊性，不断完善适应新技术发展的证据审查规则。对电子数据生成、收集、存储、传输过程的真实性、完整性进行重点审查。对大数据、区块链等不同信息技术产生的证据明确差异化证据审查重点。对大数据分析报告类证据，应当重点审查其原始数据的来源、清洗规则及分析方法的科学性等；对区块链存证类证据，应当重点审查其上链前数据的真实性及技术平台的可靠性等。当事人将人工智能生成内容作为侵权证据的，人民法院应当综合考量提示词的设计及其对生成结果的影响、生成内容与主张权利作品的相似程度、重复测试的一致性，以及模型训练、算法设计、生成内容过滤机制等因素予以认定。

(18) Exploring and improving rules for reviewing evidence in AI-related disputes. The 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 rules for reviewing evidence that accommodate developments in new technologies. They shall focus their review on the authenticity and integrity of the processes by which electronic data is generated, collected, stored, and transmitted. They shall specify differentiated review priorities for evidence produced by different information technologies such as big data and blockchain. For evidence in the form of big data analysis reports, review shall focus on such matters as the sources of the underlying data, the data-cleaning rules, and the scientific soundness of the analytical methods; for evidence preserved through blockchain, review shall focus on such matters as the authenticity of the data before it was committed to the chain and the reliability of the underlying technology platform. Where a party submits AI-generated content as evidence of infringement, the people's court shall evaluate such evidence by comprehensively considering factors including the design of the prompts and their effect on the generated outputs, the degree of similarity between the generated content and the work in which the party claims rights, the consistency of the results across repeated tests, and the model training process, algorithmic design, and mechanisms for filtering generated content.

（十九）依法规制利用人工智能不当取证等妨害司法秩序的行为。当事人利用人工智能自主学习、自主决策的特性，通过删除或者篡改生成合成内容标识、特定指令输入、选择性结果呈现、对抗性干扰等人为干预或者误导的方式取得虚假证据，捏造民事案件基本事实，进行虚假诉讼，企图侵害国家利益、社会公共利益或者他人合法权益的，人民法院应当依法驳回其诉讼请求，并根据情节轻重予以罚款、拘留；构成犯

罪的，依法追究刑事责任。诉讼参与人或者其他人利用人工智能伪造证据，妨碍人民法院审理案件的，依据民事诉讼法第一百一十四条规定处理。诉讼参与人提交诉讼文书、案例检索报告等材料如系使用人工智能生成，在提交法庭前应当认真核实相关法律、司法解释、案例等内容的真实性、准确性，在提交法庭时对使用人工智能辅助情况作出说明，并对有关内容的真实性、准确性依法承担责任。

(19) Regulating in accordance with law improper evidence collection using AI and other acts obstructing judicial order. Where a party exploits the autonomous learning and autonomous decision-making characteristics of AI to obtain false evidence through human intervention or misleading means — such as deleting or tampering with labels identifying generated or synthetic content, entering specific instructions, selectively presenting results, or introducing adversarial interference — fabricates the basic facts of a civil case, and initiates fraudulent litigation in an attempt to infringe upon national interest, public interest, or the legitimate rights and interests of others, the people's court shall dismiss the party's claims in accordance with law and impose a fine or detention according to the severity of the circumstances; where a crime is constituted, criminal liability shall be pursued in accordance with law. Where a litigation participant or any other person uses AI to fabricate evidence, thereby obstructing the people's court's adjudication of a case, the matter shall be handled pursuant to Article 114 of the Civil Procedure Law. Where litigation documents, case search reports, or other materials submitted by a litigation participant are generated using AI, the participant shall, before submission to the court, carefully verify the authenticity and accuracy of the relevant laws, judicial interpretations, cases, and other content, disclose the use of AI assistance when submitting them to the court, and bear liability in accordance with law for the authenticity and accuracy of the relevant content.

（二十）依法惩治利用人工智能实施的犯罪活动。利用人工智能实施诈骗、侮辱、诽谤、损害商业信誉、商品声誉、侵犯公民个人信息、非法获取计算机信息系统数据、制作、贩卖、传播淫秽物品等行为，构成犯罪的，依法追究刑事责任。行为人激活辅助驾驶功能后利用私自安装的配件逃避辅助驾驶系统监测导致道路交通事故，构成犯罪的，依法追究刑事责任。

(20) Punishing in accordance with law criminal activities carried out using AI. Where AI is used to commit acts such as fraud, insult, defamation, damage to business or product reputation, infringement of citizens' personal information, illegal acquisition of data from computer information systems, or the production, sale, or dissemination of obscene materials, and the conduct constitutes a crime, criminal liability shall be pursued in accordance with law. Where an actor, after activating driver-assistance functions, uses privately installed accessories to evade monitoring by the driver-assistance system, thereby causing a road traffic accident, and the conduct constitutes a crime, criminal liability shall be pursued in accordance with law.

五、加大对涉人工智能纠纷案件审判指导力度，不断健全完善工作机制

V. Strengthening Adjudication Guidance for AI-Related Disputes and Continuously Improving Working Mechanisms

（二十一）充分发挥多元解纷机制作用。人民法院应当积极运用多元解纷机制妥善化解涉人工智能纠纷，推动与人工智能行业主管部门、行业性专业性调解组织、人工智能专家学者等建立联动协同机制，共同开展纠纷化解工作，做实先行调解。立足司法

审判职能，推动提升涉人工智能纠纷预防化解的法治化水平，积极通过庭审公开、以案释法等方式明确权利义务、划定行为边界，发挥司法裁判示范引领作用，促进涉人工智能纠纷源头预防、及时化解。

(21) Giving full play to diversified dispute resolution mechanisms. The people's courts shall actively employ diversified dispute resolution mechanisms to properly resolve AI-related disputes, promote the establishment of coordination mechanisms with the competent authorities overseeing the AI industry, industry-specific and professional mediation organizations, and AI experts and scholars, jointly carry out dispute resolution work, and render pre-litigation mediation substantive and effective. Anchored in their adjudicatory functions, the people's courts shall promote the rule-of-law level of AI-related dispute prevention and resolution, actively clarify rights and obligations and delineate boundaries of conduct through such means as open court hearings and explaining the law through cases, give play to the exemplary and guiding role of judicial adjudication, and promote the prevention of AI-related disputes at the source and their timely resolution.

（二十二）加强审判监督指导。积极规范适用提级管辖，强化示范引领作用，做实审判监督指导。对涉及重大利益、疑难复杂新类型、具有规则确立意义、需要统一法律适用标准等涉人工智能纠纷案件，由上级人民法院提级审理。充分运用人民法院案例库，加强案例指导工作，促推法律适用统一和人工智能治理规则的完善。

(22) Strengthening adjudication supervision and guidance. The people's courts shall actively apply, in a standardized manner, elevated jurisdiction, strengthen exemplary and guiding role, and render adjudication supervision and guidance substantive and effective. AI-related disputes involving significant interests, novel, difficult, or complex issues, having significance for the establishment of rules, or requiring uniform standards for the application of law shall be elevated for trial by a higher-level people's court. The people's courts shall make full use of the People's Courts Case Database, strengthen case guidance work, and promote the unified application of law and the improvement of AI governance rules.

（二十三）加强部门协作协同。通过制发司法建议、建立合作机制等多种方式，充分发挥司法职能，服务国家和社会治理。加强与网信、公安、检察以及市场监管等部门衔接协作，建立并落实长效综合治理机制。引导相关企业、平台、行业协会等规范自治，推动形成人工智能行业自律、行政监管、司法保障的全链条保护合力。

(23) Strengthening interdepartmental coordination and cooperation. The people's courts shall give full play to their judicial functions and serve national and social governance through various means, such as issuing judicial recommendations and establishing cooperation mechanisms. They shall strengthen coordination and cooperation with cyberspace administration, public security, procuratorial, market regulation, and other departments, and establish and implement long-term comprehensive governance mechanisms. They shall guide relevant enterprises, platforms, industry associations, and others in standardizing their self-governance, and promote the formation of a full-chain protection synergy combining AI industry self-discipline, administrative regulation, and judicial safeguards.

（二十四）加强国际司法交流合作。妥善审理涉人工智能及数据跨境纠纷案件，在坚持相互尊重、平等互利原则基础上，推进人工智能领域涉外审判交流合作，加强规则

对接与互鉴，推动构建更加公平合理、包容开放的人工智能治理体系，促进、保护人工智能生态系统和人类文明的多样性。

(24) Strengthening international judicial exchanges and cooperation. The people's courts shall properly adjudicate cross-border disputes involving AI and data, and, on the basis of the principles of mutual respect, equality, and mutual benefit, advance exchanges and cooperation in foreign-related adjudication in the AI field, strengthen the rules alignment and mutual learning, promote the building of a fairer, more reasonable, inclusive, and open AI governance system, and promote and protect the diversity of the AI ecosystem and human civilization.

最高人民法院

Supreme People's Court

2026 年 9 月 7 日

September 7, 2026