

## More “NetCourts” Opening in China

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In September 2018, Beijing inaugurated China’s second internet court, or “NetCourt,” just one year after China’s first NetCourt opened in the city of Hangzhou. Two more NetCourts have opened in Beijing and Guangzhou. What are these courts? What matters do they adjudicate? How are they relevant to foreign businesses?

### Location and Jurisdiction

The purpose of the NetCourts is to adjudicate cases related to the Internet. NetCourts are grassroots courts, and cannot have jurisdiction over disputes of a high value, those involving foreign elements such as a foreign plaintiff or defendant, or those in the exclusive jurisdiction of other courts (e.g. trademark and patent disputes). Appeals against a NetCourts’ judgments must be filed with the territorially competent Intermediate Court or an IP court.

The two NetCourts in Beijing can adjudicate the following disputes that may be relevant to IP rights holders in China:

- Disputes arising from the signing or performance of online shopping contracts through the e-commerce platform;
- Network service contract disputes that are completed and performed on the Internet;
- Copyright or neighboring rights disputes regarding the first publication of the work on the Internet;
- Infringement disputes arising from the publication or dissemination of works on the Internet that are subject to copyright or neighboring rights;
- Internet domain name ownership, infringement and contract disputes;

Although trademark, design and patent disputes are not within the jurisdiction of NetCourts, other relevant IP rights can be litigated before these new judicial bodies. Most important among these are copyright and domain name disputes. In case of the latter, the NetCourts may be a cheaper and

faster alternative to the more traditional CIETAC arbitration procedures currently in place.

## **In What Way are NetCourts innovative?**

NetCourts' procedures are less formal than alternative procedures and do not require physical attendance. For example, filing, evidence submission, payment, and service of documents are all processed online. Court hearing and mediation are organized online as well, and the parties do not need to travel to the court to attend. Court hearings will be held via video conferencing technology on any available media utilized and approved by the court.

Aside from eliminating traveling and paper submissions, NetCourts are also supposed to operate efficiently. For this reason, hearings are scheduled for no longer than 20 minutes. Another important aspect is the preservation of evidence and filing authenticity. NetCourts will use and allow "blockchain" to synchronize evidence with a notary public and the other government bodies as well as commercial websites, so the parties cannot tamper with it.

## **How Did the NetCourts Do in Their First Year?**

Data are currently available for the first Chinese NetCourt, in Hangzhou. These data suggest that the experiment in Hangzhou was a success. From its establishment in August 2017, the Hangzhou NetCourt accepted a total of 12,074 cases involving network cases and concluded 10,391 cases. All of the cases of related parties were heard online. The trials took an average of 28 minutes and the average procedure lasted 38 days.

Clients with domain and copyright disputes of minor value should consider using these courts when possible for a quicker, and less expensive redress of their claims.

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