



Legal framework on the application of artificial intelligence in resolving commercial disputes before courts in China and the European Union (EU), and lessons for Vietnam

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Abstract

This article examines the legal framework for the application of artificial intelligence (AI) in resolving commercial disputes before courts in China and the European Union (EU) from a comparative law perspective. It analyzes key models and stages of AI application in commercial litigation and highlights China's smart court model and the EU's cautious, rights-oriented regulatory approach. Based on this analysis, the article draws lessons and proposes recommendations for improving Vietnamese law on AI-assisted commercial dispute resolution, aiming to enhance judicial efficiency while ensuring the right to a fair trial in the context of digital transformation.

Keywords: Artificial intelligence, commercial disputes, courts, EU, China, Vietnam

Introduction

Research methods

First, the systematic method. This article reviews and synthesizes relevant academic studies and legal instruments related to the research topic. On that basis, the authors select and organize materials in accordance with the overall structure of the study.

Second, the rights-based approach. The article examines the substantive content of the right to a fair trial and assesses the extent to which the application of artificial intelligence affects these rights. Accordingly, the authors identify potential challenges and propose solutions aimed at safeguarding such rights.

Third, the comparative law method. The article analyzes the protection of the right to a fair trial in the context of AI-assisted resolution of civil and commercial disputes in the European Union and China, thereby identifying challenges that Vietnam may encounter. At the same time, the article highlights several comparative lessons for Vietnam in the process of developing its legal framework.

Overview of Artificial Intelligence and its Applications in Judicial Activities

1. Overview of Artificial Intelligence

The concept of artificial intelligence (AI) is not currently unified within the research community, as each scientific field has its own approach. From a linguistic perspective, the Oxford dictionary defines artificial intelligence as follows: "the study and development of computer systems that can copy intelligent human behavior." From a computer science perspective - the field where artificial intelligence originated - artificial intelligence is defined differently, but the common thread among the definitions is that AI is linked to the ability to simulate human intelligent behaviors. Scientist John McCarthy, the father of the term "artificial intelligence," in his article "What is Artificial Intelligence?" (2007), provides the following definition: "Artificial intelligence" is the science and engineering of creating intelligent machines, where "intelligence" is the part of a computer's capabilities that helps humans (or machines) achieve goals in the real world ^[1]. With the recent

development of AI, computer scientists Stuart Russell and Peter Norvig in their work "Artificial Intelligence: A Modern Approach" (2021) argue that AI research involves analyzing intelligent agents - systems capable of perceiving their environment, processing information, and acting to maximize desired outcomes. From this, Russell and Norvig concluded, "Artificial intelligence is the science and engineering of making systems that think and act like humans and rationally ^[2]."

From a legal science perspective, Article 3(1) of the European Union's AI Act 2024, for the first time, provides a statutory definition of an artificial intelligence system as follows: "AI system" means a machine-based system that is designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment, and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments". In 2025, Vietnam also officially enacted the Law on Artificial Intelligence, which adopts a definition of artificial intelligence systems largely similar to that of the AI Act 2024, while further introducing the concept of artificial intelligence as follows: "Artificial intelligence refers to the electronic execution of human intellectual capacities, including learning, reasoning, perception, judgment, and the understanding of natural language".

Based on definitions approached from both computer science and legal perspectives, artificial intelligence may be identified through three main criteria: (i) the capacity for learning and reasoning, whereby AI is able to generate new recommendations, predictions, or decisions based on input data; (ii) operation based on machine learning technologies, as AI relies on electronic and computational technologies; and (iii) a certain degree of autonomy, reflected in the ability of AI systems to operate without direct human intervention. Accordingly, given these advanced characteristics, public authorities, including courts, are increasingly exploiting the potential of AI in order to reduce administrative burdens on the judiciary while enhancing litigants' access to courts.

2. The application of Artificial Intelligence in judicial activities

In the context of increasing technologicalization, the development of artificial intelligence (AI) has given rise to two models for the application of this technology in courts, both in the present and in the future, namely “AI in the court” and “AI as the court”^[3]. Under the former model, AI is employed as an administrative support tool for court personnel (AI by court administrators) and litigants (AI by litigants). Specifically, AI may be used to collect and organize judgments, case law, legal provisions, and scholarly opinions; classify cases; provide legal assistance; verify the formal validity of documents and evidence submitted by litigants; and support judges in decision-making.

By contrast, the “AI as the court” model refers to situations in which AI directly renders judicial decisions, completely replacing the role of judges in adjudication. The fundamental distinction between the two models lies in the degree of judicial involvement in the adjudicative process. Among them, the “AI in the court” model is considered more feasible in the current context, as decisions proposed by AI remain subject to judicial review and approval. From this perspective, judges may adopt one of three approaches^[4]:

1. Affirm that the AI-generated decision is entirely accurate and may be legally recognized;
2. Determine that the decision is only partially accurate, thereby revising its content and specifying the differences from the AI’s proposal; or
3. Conclude that the AI-generated decision is entirely flawed and accordingly issue a new judgment accompanied by independent reasoning.

When examined across different stages of the commercial dispute resolution process, the “AI in the court” model may be applied in the following manner:

AI is used to search for and analyze data, documents, and legal instruments across multiple countries and legal systems, as well as to identify similar cases, thereby facilitating judicial assessment and the more effective use of case law. At present, several online legal databases, such as LexisNexis, Westlaw, AnyLaw, and Justice One, have integrated AI technologies to enhance the systematization and collection of legal data and to optimize the processes of searching and legal research^[5].

AI is also employed to analyze, assess, and predict judicial outcomes on the basis of historical data, thereby assisting judges, lawyers, and prosecutors in making informed decisions. For example, AI-assisted judicial decision-making has been implemented in numerous provinces and cities in China, including the “Smart Judges” system in Beijing, the “Court 206” system in Shanghai, and the “Enforcement AlphaGo” system in Guizhou, all of which have been widely deployed in practice^[6]. In the United States, Judge Juan Manuel Padilla Garcia of the First Circuit Court in Cartagena, Colombia, used ChatGPT as a supportive tool to formulate legal questions and ultimately render a final decision based on AI-generated responses during a hearing held on 30 January 2023^[7].

AI further supports audio recording and the automatic transcription of judicial decisions and statements made during court hearings into written form, replacing the role of court clerks in many proceedings. Currently, speech

recognition and audio-to-text transcription systems have been implemented in courtrooms in several countries, including Hungary and Estonia.

In addition, AI facilitates online court models, thereby alleviating the workload of traditional courts. In China, the online court model was established in Hangzhou to receive case filings and conduct online adjudication with the participation of dedicated AI systems throughout all stages of proceedings, from case acceptance and evidence collection to adjudication and enforcement^[8].

Application of AI in Resolving Commercial Disputes in China

In China, although no specific statute on artificial intelligence has yet been enacted and the concept of AI has not been explicitly codified in legislation, the country adopted the “New Generation Artificial Intelligence Development Plan” as early as 2017^[9]. This strategy sets the objective of positioning China as a global hub for AI innovation by 2030, leading in AI research, technology, and application. On that basis, the smart court model (Smart Courts/Internet Courts) was officially established in China in 2017. In 2018, the Supreme People’s Court of China issued the Provisions on Several Issues Related to the Trial of Cases by Internet Courts, thereby establishing a legal framework for the application of artificial intelligence in judicial activities. After eight years of implementation, the application of AI in Chinese courts has achieved significant results in both legal regulation and practical operation.

1. Application of AI in the Pre-litigation Stage

First, AI is applied to enable parties to submit lawsuits electronically. Article 14 of the Opinions on Several Issues Concerning Case Registration and Filing, issued by the Supreme People’s Court in 2015, requires Chinese courts to implement e-filing services in two forms: online submission of lawsuits and online appointment booking for filing cases^[10].

Under the online submission mechanism, litigants or lawyers submit electronic versions of the statement of claim and relevant documents related to commercial disputes, such as contracts, evidence of product quality, invoices, and vouchers. Judges then review these materials online. If the documents meet formal requirements, the case will be accepted electronically^[11]. Under the online appointment mechanism, litigants or lawyers upload electronic versions of the required documents in advance. Where deficiencies are identified, judges request supplementation, and once the dossier is complete, litigants or lawyers may submit the case in person, thereby avoiding repeated travel to the court^[12].

Although the application of AI in case filing enhances judicial efficiency - since e-filing overcomes the limitation of traditional models where judges can only examine and accept cases at fixed locations - it still faces legal challenges. In particular, the absence of unified regulations on filing procedures has resulted in inconsistent application among local courts, such as those in Beijing and Hangzhou. In Beijing, for example, only lawyers are permitted to upload electronic litigation documents for online submission. Even if the documents are deemed valid, lawyers must still send hard copies by courier to the court. Both litigants and lawyers may make online filing appointments, but only for three categories of cases: first-instance civil cases, first-instance commercial cases, and

intellectual property cases^[13]. This experience highlights the need for a unified regulatory instrument issued by the Supreme People's Court or the National People's Congress to ensure consistent nationwide application. Moreover, electronic filing lacks a clear legal basis, as Article 120 of the 1991 Civil Procedure Law of the People's Republic of China only recognizes paper-based statements of claim and does not address the legal validity of electronic submissions. Second, AI is applied in legal consultation for civil and commercial disputes. The following is an example of legal advisory services provided by an AI legal robot:

"Hello, I am the robot XiaoYu. How may I assist you? I would like legal advice on filing a lawsuit. Can you help me? Of course! What type of case do you intend to file? A contract dispute. What documents do I need to prepare? Your case falls within the civil and commercial domain. You need to prepare: a statement of claim, identification documents, and evidence. If you have a lawyer, a power of attorney is required. If you are a company, basic business information must be provided."

This dialogue took place between the well-known host Beining Sa and the AI legal assistant XiaoYu at the Anhui Provincial Court^[14].

2. Application of AI in the Trial Preparation Stage

China has achieved notable success in applying technology to evidence preservation and has established a relatively comprehensive regulatory framework governing the use of blockchain technology in judicial proceedings. Articles 16, 17, 18, and 19 of the Online Litigation Rules of the Supreme People's Court of China provide that electronic data submitted by parties as evidence may be stored using blockchain technology and verified through consistent technical inspection, allowing courts to determine that such data has not been tampered with after being recorded on the chain, unless contrary evidence sufficient to rebut this presumption is provided.

Where parties challenge the authenticity of blockchain-stored electronic data with legitimate reasons, courts are required to issue rulings by comprehensively considering relevant factors. In cases where parties fail to verify the authenticity of electronic data prior to storage and cannot provide evidence or explanations, courts may require a party to use blockchain technology to store electronic data and provide proof of authenticity prior to on-chain storage. Courts may also examine specific data sources, generation mechanisms, storage processes, notarization records, third-party testimony, and related verification data. Parties may request expert opinions on technical issues related to blockchain-based data storage, and courts may entrust blockchain service providers to verify authenticity or collect other relevant evidence for cross-examination.

These provisions demonstrate that China has taken a leading role in integrating blockchain technology into judicial proceedings and has legislatively recognized blockchain as a legitimate means of preserving electronic evidence^[15].

At present, China applies blockchain technology to preserve electronic evidence in online commercial disputes, where sellers and buyers are often geographically distant. Under traditional international litigation rules, consumers seeking compensation must file lawsuits at the seller's principal place of business, incurring high travel and litigation costs, while electronic commerce evidence is often difficult to collect in physical courts. Consequently, litigation costs may

exceed potential compensation^[16]. To address this issue, China has adopted blockchain-based evidence preservation and AI-assisted online adjudication in smart courts such as the Hangzhou Internet Court and the Beijing Internet Court^[17].

In Hangzhou, parties use hash functions to convert online evidence (such as screenshots and website source code) into unique hash values, which are then recorded on the blockchain with time stamps, ensuring the integrity of evidence from collection to trial. In Beijing, the Internet Court employs the "Tianping Chain" system^[18] to securely store and authenticate digital evidence, and it has the authority to directly recognize blockchain technology as a legally valid method for fixing electronic evidence.

3. Application of AI in Online Adjudication

Article 259 of the Civil Procedure Law of the People's Republic of China provides that, under simplified procedures, online hearings using audio-visual transmission technology may be conducted with the consent of both parties. Accordingly, disputes eligible for online adjudication primarily include: (i) four categories of commercial disputes listed in Article 2 of the 2018 Provisions on Several Issues Related to the Trial of Cases by Internet Courts; and (ii) first-instance civil, business, and commercial cases involving a small number of parties and relatively simple legal relationships, subject to judicial discretion.

Building on these general provisions, the Opinions on Online Litigation issued by the Supreme People's Court in 2022 further specified online adjudication procedures. Article 25 stipulates that courts, parties, their representatives, witnesses, experts, and evidence may participate in online hearings via judicial service platforms, electronic litigation platforms, and judicial service websites. Judicial investigations, courtroom debates, witness testimony records, signature of transcripts, and other trial activities must be preserved in audio, video, and written formats throughout the proceedings.

4. Application of AI in the Enforcement Stage

Practice in China shows that approximately 80-90% of judicial corruption cases arise in the enforcement stage, with a similar proportion concentrated in traditional judicial auctions. Traditional auction methods suffer from limited information disclosure, low participation, and short auction periods, resulting in low asset sale prices and infringement of the lawful interests of creditors and judgment debtors. Against this background, the implementation of online judicial auctions supported by AI and digital technologies is regarded as a crucial solution for reducing judicial corruption while enhancing transparency and efficiency in asset enforcement.

The legal basis for this practice was established by the 2016 Provisions of the Supreme People's Court on Several Issues Concerning Online Judicial Auctions. Article 12 requires minimum public notice periods of 15 days for movable property and 30 days for immovable property or other property rights, while Article 3 mandates that online auctions last no less than 24 hours and be subject to public supervision.

Following the implementation of the smart court model, smart enforcement was further specified in Article 30 of the Opinions on Online Litigation, which requires courts to use

intelligent enforcement systems to process enforcement cases online, comprehensively record enforcement activities, conduct multi-level supervision, and support online enforcement measures such as asset investigation and control, valuation, auction, payment of enforcement funds, and credit sanctions^[19].

The first and most critical step in enforcement is identifying recoverable assets, which may exist in various forms, including bank deposits, real estate, vehicles, and securities. AI systems connecting courts with banks, real estate registries, vehicle authorities, and stock exchanges significantly enhance asset tracing efficiency and reduce opportunities for judgment debtors to evade enforcement. Courts in Shanghai, Zhejiang, and Chongqing have widely adopted online auctions, and since 2012, more than 1,400 courts in 28 provinces have independently conducted approximately 250,000 online auctions, involving assets valued at around RMB 150 billion.

Overall, China's experience demonstrates that the application of AI in resolving commercial disputes before courts has brought about fundamental transformations, enhancing access to justice, procedural quality, and enforcement effectiveness. These experiences provide valuable lessons for improving the application of AI in Vietnamese courts.

Application of AI in Resolving Commercial Disputes in the European Union

The European Union (EU) is world-widely regarded as one of the world's pioneer in establishing and refining a legal framework governing Artificial Intelligence (AI), as can be seen through the adoption of the Artificial Intelligence Act 2024 (AI Act 2024), the first comprehensive AI legislation globally.

1. Application of AI in the Pre-litigation Stage

At the EU level, the Guidelines on electronic court filing (e-filing) and the digitalisation of courts provide that parties are able to submit statements of claim, applications, and accompanying documents and evidence through electronic filing systems (e-filing)^[20]. For each electronic filing, the e-filing system automatically records a timestamp issued by the competent judicial agent, thereby ensuring legal certainty and transparency regarding the time of submission and significantly reducing disputes related to procedural deadlines^[21]. If the e-filing systems have flaw(s), parties are entitled to an extension of the filing deadline. However, EU law regulated that electronic filing should function as a preferred, rather than exclusive, method. Judicial authorities are required to maintain traditional filing methods for individuals who are unable to access digital technologies, in order to safeguard the right of access to the court^[22].

At the national level, Bulgaria adopted its Civil Procedure Code in 2020, allowing parties to submit claims electronically, collect digital evidence, and give statements in commercial disputes through online hearings^[23]. Also, Germany has already gotten a plan of a full transition to mandatory electronic by the end of 2026^[24].

Currently, many EU Member States have incorporated e-filing systems into judicial practice. A prominent example is Estonia, which allows litigants to submit documents, receive notifications, manage case files online, and receive court documents via the Public E-File system^[25]. Estonia has also issued electronic ID cards to approximately 98% of its

population, enabling access to a wide range of public digital services^[26], including e-filing.

2. Application of AI in the Trial Preparation Stage

Firstly, AI is used to assist in reviewing commercial case files and relevant legal provisions. Article 8(a) of Annex III of the AI Act 2024, which regulates high-risk AI systems, provides that "AI systems intended to assist judicial authorities in researching facts and the law and in applying the law to a concrete set of facts" are classified as high-risk. Accordingly, litigants, lawyers, and judges may input case materials into AI systems for analysis and assessment.

Secondly, AI is applied in the cross-border collection of commercial evidence. Articles 12(4) and 20 of Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters^[27] provides that courts may use video conferencing and other electronic technologies to exchange data across borders in the collection and assessment of evidence. On this basis, EU law recognizes and facilitates the use of AI-based technical support tools, such as data processing, transcription, and translation, during the process of collecting evidence. However, the application of AI does not replace human role. Procedural actors have the right to review all collected evidence and the analytical outputs generated by AI systems because AI-generated conclusions is not legally binding and not obliged to follow.

Thirdly, AI is applied in the cross-border service of commercial evidence. Article 19.1 of Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters allows Member States to serve commercial evidence electronically. However, electronic service applying AI must be conducted through delivery services that meet some legal requirements, including: (i) provide by a qualified trust service provider; (ii) a high level of reliability in identifying the send-er; (iii) reliable identification of the recipient; (iv) data security ensuring that any unauthorized alteration is detectable; and (v) the use of timestamps to accurately determine the time of sending, receipt, and any subsequent modification of the data^[28].

3. Application of AI in the Adjudication Stage

AI may be used to organize and operate virtual hearings, which are particularly vital in cases where parties are located in different states and not be able to physically attend before in the court. Although the EU has not yet adopted a specific legal instrument governing virtual hearings, the applicable principles may be inferred from existing legislation^[29].

Regulation (EU) 2020/1783 on the taking of evidence, while primarily focused on witness testimony, is considered by scholars to be applicable by analogy to virtual hearings due to similarities in procedural methods and technical requirements. Procedural Principle No. 30 provides that it is essential that effective means of obtaining, preserving and presenting evidence are available and that rights of defence are respected and confidential information is protected. In this context, it is important to encourage the use of modern technology. This provision shows the EU's recognition of the role of AI and digital technologies in organizing virtual

hearings for commercial dispute resolution, also, subject to the protection of business secrets.

The European Small Claims Procedure (ESCP), established by Council Regulation (EC) No. 861/2007^[30], represents a typical model for resolving cross-border civil and commercial disputes within the EU with a value below EUR 5,000. A feature of the ESCP is the use of video conferencing or other distance communication technologies for taking evidence or conducting parts of the virtual hearing. In such low-value commercial disputes, parties may represent themselves without legal counsel. Judicial decisions rendered under the ESCP are binding and automatically recognized in other Member States.

For virtual commercial disputes hearings, EU law requires courts to balance the principle of public hearings with the protection of personal data under Regulation (EU) 2016/679 (GDPR). The recording of virtual hearings must be particularly checked, as it may involve sensitive personal data such as biometric information, bank account, credit balance, and the business secrets of the parties.

In summary, a distinctive feature of the EU legal framework on commercial dispute resolution is its emphasis on cross-border evidence collection and the strict requirements for data security in the application of AI. These elements provide valuable reference points for Vietnam in the process of developing its legal framework.

Lessons for Vietnam in Improving the Legal Framework on the Application of AI in Resolving Commercial Disputes

Based on the experiences of China and the European Union, the authors propose several recommendations for improving Vietnam's legal framework on commercial dispute resolution.

Firstly, Vietnam should adopt a unified legal framework governing electronic filing of statements of claim and procedural documents. China's experience demonstrates that although e-filing has significantly reduced judicial administrative burdens, the absence of a nationwide binding legal framework has resulted in inconsistent application among local courts. In contrast, the EU adopts a regional approach by issuing general guidelines on e-filing and requiring Member States to transpose minimum standards into domestic law, thereby ensuring consistency and access to justice. Vietnam should therefore promptly issue guidance at the level of the Supreme People's Court (or at the legislative level) regulating: (i) the scope of commercial disputes eligible for e-filing; (ii) the legal validity of electronic claims, documents, and evidence; and (iii) mechanisms for electronic timestamping and handling technical system failures. At the same time, traditional filing methods should be maintained to ensure access to courts for individuals without adequate technological resources.

Secondly, Vietnam should establish a clear legal framework for the application of AI in adjudication based on the model of "AI-assisted, human-decided" justice. Both China and the EU share the view that AI serves only as a supportive system and does not replace judges in making final decisions. China implements an "AI in the court" model with deep technical integration, while the EU exercises stricter control through the AI Act 2024 by classifying judicial support AI systems as high-risk and subjecting them to human oversight. Vietnam's legal framework should therefore reaffirm the principle of human centrality in

adjudication by clearly defining: (i) the scope of commercial procedural activities in which AI may be used (case file research, case classification, legal research assistance, and final decision prediction); (ii) judges' accountability when adopting or rejecting AI recommendations; and (iii) the right of litigants to access, examine, and challenge AI-generated analyses. This approach enables Vietnam to harness the benefits of AI while minimizing risks to the right to a fair trial.

Thirdly, Vietnam should complete the legal framework for electronic service and AI-assisted collection of commercial evidence, ensuring reliability and data security. According to EU's law, cross-border electronic service and evidence collection are recognized only when stringent standards on identity authentication, data security, and electronic timestamps are met. Meanwhile, China stands out for legally recognizing blockchain and AI in the storage, preservation, and authentication of electronic evidence, particularly in online commercial disputes. In comparison, Vietnamese law should be supplemented with specific legal and technical requirements governing AI-assisted electronic service and evidence collection, including standards for technology service providers, data authentication mechanisms, and the responsibilities of courts in protecting business secrets and personal data. These measures are essential for enhancing business confidence in court-based dispute resolution.

Fourthly, Vietnam should promote the application of AI in commercial enforcement proceedings in relation to requirements of transparency and anti-corruption. China's experience shows that AI and digital technologies, particularly online judicial auctions, have significantly contributed to reducing judicial corruption, improving asset disposition efficiency, and protecting the rights of commercial actors. While the EU has not implemented similar mechanisms on this issue, it consistently emphasizes transparency, supervision, and data protection in electronic enforcement activities. Vietnam should therefore consider establishing an AI-enabled electronic enforcement mechanism focusing on: (i) data connectivity between courts and asset management authorities; (ii) online auctions for commercial enforcement assets; and (iii) social oversight mechanisms covering the entire enforcement process. This constitutes an important step in ensuring the effective enforcement of court judgments in commercial disputes.

Conclusion

The application of artificial intelligence in resolving commercial disputes is an inevitable trend in modern judicial systems. The practical application in China demonstrates that AI enhances procedural efficiency, transparency, and enforcement effectiveness. The European Union, by contrast, adopts a more cautious approach, prioritizing the protection of the right to a fair trial and data protection. Despite the differences in implementation systems, both of them converge on the principle that AI serves a supportive role and does not replace judges. This provides an important reference for Vietnam in the process of developing digital justice. Establishing a clear legal framework for AI application will contribute to improving the effectiveness of commercial dispute resolution while ensuring a balance between judicial reform, human rights protection, and the development of the digital economy.

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