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*Moonbug Entertainment Limited and*

*Treasure Studio Inc.*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MOONBUG ENTERTAINMENT LIMITED and  
TREASURE STUDIO INC.,

*Plaintiffs*

v.

AKWUGFDFO1DDC, AMTIOPS, ANNE  
FRANKLIN, AUTBYWQ, BERSAICY US,  
BESTPARTY, BICLLCSDD YS, BUAAU,  
BUBALUIS, CA POP, CATTIE123,  
CECEBRACELST, CHANGLINGLI, CHAOZE,  
CHENGDUUSAISHUANGYOUJIE,  
CHENGDUUYUZHENGCONGGONGSI,  
DAFARWON, DERMIBEST, DUAXIN,  
DZYHKYMS, FENGUAS, FISHING COWBOY,  
FTSHOP-US, GOLDEN FLOWERPOT,  
GOMONNING, GROCERY STORE FULL OF  
SURPRISES, GROFFRY SPEN,  
GUANGZHOU LUQUINSHANGMAOYOUXIANGON  
GSIO, HAOSHAOXIONG, HESHIZHU,  
HWOZOFAR, JAKE US, JIACHEN INDUSTRIAL  
(SHENZHEN) CO., LTD.,  
JILINSHENGGUMINGDIANZISHANGWUYOUIA  
NGONGSI, JINPO US, JONENLY, KAZUA-US,  
KULOLO, LANMELONS, LAXUA, LUCKMERRY,  
MADING HORSE, MAKE.ANNI, MBVBN,  
MEIJUNDIAN, MIMILE111, MOCEJOE, MOON

**CIVIL ACTION No. 22-cv-5044**

**DECLARATION OF GABRIELA N.  
NASTASI AND ACCOMPANYING  
EXHIBITS IN SUPPORT OF  
PLAINTIFFS' *EX PARTE*  
APPLICATION FOR: 1)  
TEMPORARY RESTRAINING  
ORDER; 2) AN ORDER  
RESTRAINING MERCHANT  
STOREFRONTS AND  
DEFENDANTS' ASSETS WITH THE  
FINANCIAL INSTITUTIONS; 3) AN  
ORDER TO SHOW CAUSE WHY A  
PRELIMINARY INJUNCTION  
SHOULD NOT ISSUE; 4) ORDER  
AUTHORIZING BIFURCATED AND  
ALTERNATIVE SERVICE AND 5)  
ORDER AUTHORIZING  
EXPEDITED DISCOVERY**

**FILED UNDER SEAL**

SHOP US, NUMOSE, NUORUNZHI, ONERBEST,  
PSBYTRD, QINOOU, REHALY, SASATEK,  
SHENGTANGDE, SHIJIE149, SHRUENDI,  
SUMMERTIME-SHOP, SUNKEELON, THUCI US,  
TOKYIA US DIRECT, WAJJIOE,  
WENCHANGSHILUOJIONGCANBAIHUO,  
WQFIRST,  
WUHANTENGMUMAOYIYOUXIANGONGSI,  
XINJIE DIRECT, XISHAPE, XUEHANG TRADING,  
XUZHIMIN77, YAZEBABY,  
YENUOCESHANG2011, YIMEII,  
YONGGUANDIANZISHANGWUYOUXIANGONG  
SI, YUNFEI US, YUSI-US, YUYUANB,  
ZHANGLIANGFUDEBEIMEIDIANPU, ZHI YI  
SHOP, ZHUSHANSHANDEBEIMEIDIANPU,  
ZIYOKO US and 合肥宽岱商贸有限公司1,

*Defendants*

**CONFIDENTIAL/FILED UNDER SEAL  
NOT TO BE OPENED EXCEPT BY ORDER OF THE COURT**

**DECLARATION OF GABRIELA N. NASTASI<sup>1</sup>**

I, Gabriela N. Nastasi, hereby declare as follows:

1. I am an attorney with the law firm of Epstein Drangel LLP, located at 60 East 42<sup>nd</sup> Street, Suite 1250, New York, New York 10165 and represent Plaintiffs Moonbug Entertainment Limited and Treasure Studio Inc. in the above-referenced action. I make and submit this declaration in connection with Plaintiffs' *ex parte* application for the following: 1) a temporary restraining order; 2) an order restraining Merchant Storefronts and Defendants' Assets with the Financial Institutions; 3) an order to show cause why a preliminary injunction should not issue; 4) an order authorizing bifurcated and alternative service and 5) an order authorizing expedited discovery against the above-named Defendants in light of Defendants' intentional and willful offerings for sale and/or sales of Counterfeit Products.
2. Epstein Drangel represents Plaintiffs in intellectual property matters and has been trained by Plaintiffs on how to identify Counterfeit Products.
3. Based on my research, Amazon is a Seattle, Washington-based global online marketplace and e-commerce platform owned by Amazon.com, Inc., a Delaware corporation,<sup>2</sup> that allows manufacturers and other third-party merchants, like Defendants, to advertise, distribute, offer for sale, sell and ship their retail products, which, upon information and belief, primarily originate from China, directly to consumers worldwide and specifically to consumers residing in the U.S., including New York.

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<sup>1</sup> Where a defined term is referenced herein but not defined, it should be understood as it is defined in the Glossary in the Complaint or Memorandum of Law.

<sup>2</sup> *FAQs*, Amazon.com, Inc., <https://ir.aboutamazon.com/investor-faqs> (last visited Apr. 16, 2019).

4. Over the past twenty-seven (27) years, Amazon has become one of the most popular e-commerce platforms in the world, with Amazon receiving an average of approximately 2.6 billion visits a month from January-June 2021.<sup>3</sup>
5. Amazon is recognized as one of the leaders of the worldwide e-commerce and digital retail market and was projected to generate approximately \$367.19 billion in U.S. retail e-commerce sales in 2021, over 40% of the U.S. e-commerce market.<sup>4</sup>
6. As of early last year, Amazon had a market capital of \$1.729 trillion, making it the third largest public company in the U.S.<sup>5</sup>
7. Many of the third-party merchants that have User Accounts with and operate Merchant Storefronts on Amazon, like Defendants, are located in China, with approximately 38% of the top brands on Amazon emanating from sellers based in China in 2021.<sup>6</sup>
8. My research also revealed that Amazon aggressively uses the Internet and television, to market itself and the products offered for sale and/or sold by its third-party merchant users to potential consumers. For example, in 2021 alone, Amazon spent approximately \$16.9 billion on advertising worldwide.<sup>7</sup>
9. As recently addressed in news reports<sup>8</sup> and as reflected in federal lawsuits filed against

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<sup>3</sup> See Worldwide visits to Amazon.com from January to June 2021, STATISTA, <https://www.statista.com/statistics/623566/web-visits-to-amazoncom/> (last visited Feb. 3, 2022).

<sup>4</sup> See Blake Drosche, *Amazon Dominates US Ecommerce, Though Its Market Share Varies By Category*, EMARKETER.COM (Apr. 27, 2021), <https://www.emarketer.com/content/amazon-dominates-us-ecommerce-though-its-market-share-varies-by-category>.

<sup>5</sup> Palash Ghosh, *As Microsoft Nears \$2 Trillion Market Cap, Amazon Is Most Likely To Reach That Level Next*, FORBES (Apr. 26, 2021), <https://www.forbes.com/sites/palashghosh/2021/04/26/as-microsoft-nears-2-trillion-market-cap-amazon-is-most-likely-to-reach-that-level-next/?sh=1a82b933142e>.

<sup>6</sup> Michael Waters, *Amazon Briefing: The Relationship Between Chinese Sellers and Amazon Is Straining*, MODERN RETAIL (September 30, 2021) (noting that 38% of the top brands on Amazon are sellers based in China).

<sup>7</sup> See *Amazon's Advertising Spending in the United States from 2012 to 2020*, STATISTA, [https://www.statista.com/statistics/678153/amazon-ad-cost/#:~:text=Since%202014%2C%20Amazon's%20annual%20advertising,dollars%20in%20the%20previous%20year.&from\\_view=table](https://www.statista.com/statistics/678153/amazon-ad-cost/#:~:text=Since%202014%2C%20Amazon's%20annual%20advertising,dollars%20in%20the%20previous%20year.&from_view=table) (last visited June 14, 2022).

<sup>8</sup> See, e.g., Louise Matsakis, *Amazon Wants Brands to Fight Fake Products Themselves*, WIRED (Mar. 1, 2019), <https://www.wired.com/story/amazon-fake-products-project-zero/>.

Amazon,<sup>9</sup> an astronomical number of counterfeit and infringing products are sold and/or offered for sale on Amazon at rampant rates.<sup>10</sup>

10. Despite the fact that the Amazon has a system in place to report intellectual property infringement,<sup>11</sup> sellers of counterfeit and/or infringing products frequently re-post their listings for such products on their respective Merchant Storefronts on Amazon once taken down or open new User Accounts and/or Merchant Storefronts on Amazon under different seller names and post the same and/or similar listings for counterfeit and/or infringing products.
11. Given our experience in policing against counterfeiters on Amazon and other similarly-situated online marketplaces, sellers operating User Accounts and Merchant Storefronts, like Defendants, often use evasive tactics, such as aliases, false addresses and other incomplete identification information to conceal their identities and avoid detection. These tactics commonly are used to attempt to circumvent restraining orders and other remedies issued with prior notice, by disappearing or claiming ignorance of their responsibilities while simultaneously destroying any evidence of their counterfeiting actions and draining their financial accounts.
12. Further, based upon my research, and upon information and belief, Defendants rarely, if ever, provide complete and accurate contact names, complete addresses or any other contact information on their Merchant Storefronts. As a result, Defendants' correspondence is limited to messaging through their respective User Accounts and

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<sup>9</sup> See, e.g., *Apple Inc. v. Mobile Star LLC*, No. C17-1120 RAJ (W.D. Cal. Aug. 4, 2017) and *Diamler AG v. Amazon.com, Inc.*, 16-cv-00518-RSM (W.D. Wash. Mar. 11, 2019).

<sup>10</sup> See Steve Brachmann, *Amazon's Counterfeit Problem is a Big One-for Shareholders, Brand Owners and Consumers Alike*, IP WATCHDOG (Feb. 27, 2019), <http://www.ipwatchdog.com/2019/02/27/amazons-counterfeit-problem-big-one-for-everyone/id=106710/>.

<sup>11</sup> See *supra* fn. 13.

communications otherwise transmitted over the Internet.

13. However, having a good and accurate email address is necessary for Defendants to operate their User Accounts and Merchant Storefronts on Amazon. For this reason, service by email has proven to be the method of service most reasonably calculated to apprise Defendants of the pendency of this Action.
14. The aforementioned elusive tactics, as well as disappearing, destroying evidence of counterfeiting activities and draining of financial accounts, are commonly used by sellers to attempt to circumvent, among other remedies, restraining orders issued with prior notice.
15. It is my experience that discovery will reveal that certain Defendants are related insofar as they engage in coordinated operations involving the manufacturing, distributing, offering for sale and sale of Counterfeit Products.<sup>12</sup>
16. Epstein Drangel investigated and researched manufacturers, wholesalers and/or third-party merchants offering for sale Counterfeit Products through their respective Merchant Storefronts and User Accounts on Amazon. True and correct copies of Defendants' Infringing Listings are included in **Exhibit A** attached hereto and incorporated herein by reference.
17. Through visual inspection of Defendants' Infringing Listings, Epstein Drangel confirmed that the products that each Defendant offered for sale using virtually identical copies of the CoComelon Marks and/or CoComelon Works are, in fact, Counterfeit Products.
18. A representative sample of true and correct images of the Counterfeit Products taken from Defendants' Infringing Listings in comparison to true and correct images of Plaintiffs' authentic CoComelon Products are attached hereto as **Exhibit B** and incorporated herein

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<sup>12</sup> For example, in a similar case involving the sale of counterfeit toys on a similar online marketplace platform, preliminary discovery and a subsequent initial investigation connected thirty of the defendants as related entities. *See WowWee Group Limited, et al. v. HAOQIN, et al.*, No. 17-cv-9893 (WHP) (S.D.N.Y. Jan. 9, 2018).

by reference.

19. Through visual inspection of the Infringing Listings, we also confirmed that each of Defendants' Infringing Listings accept payment in U.S. dollars.
20. Additionally, our visual inspection of the Infringing Listings revealed that Defendants offer the Counterfeit Products through Amazon at below-market prices.
21. We are able to confirm with certainty that the Counterfeit Products offered for sale by each Defendant in the Infringing Listings are, in fact, counterfeit, through the visual inspection of the Infringing Listings and the low prices at which Defendants are offering the Counterfeit Products.
22. Through our visual inspection of the Infringing Listings, we verified that Defendants offer shipping to the U.S.
23. We specified a shipping address to the New York Address and verified that each Defendant provides shipping to the New York Address. True and correct copies of the checkout pages for the Counterfeit Products being offered for sale by Defendants showing the New York Address as the shipping addresses are included in **Exhibit A**
24. In light of the multiple Defendants involved in this action, most of whom are shipping the same from China with significant lead times (potentially causing an unnecessary and unreasonable delay in the filing of this action), since we are able to confirm with certainty that the Counterfeit Products offered for sale by each Defendant in the Infringing Listings are, in fact, counterfeit, through the visual inspection of the Infringing Listings, the low prices at which Defendants are offering the Counterfeit Products, Epstein Drangel did not complete purchases for Counterfeit Products from each and every Defendant. Epstein Drangel did, however, make purchases of Counterfeit Products from a representative sampling of Defendants. True and correct copies of the Order Confirmations are included

in **Exhibit A**.

25. We also reviewed each of Defendants' User Accounts and Merchant Storefronts and confirmed that many Defendants use unidentifiable seller names unassociated with a registered business, manufacturing company or trading company. Moreover, some Defendants fail to disclose a complete address or any other contact information on their respective User Accounts or Merchant Storefronts on Amazon. Specifically, out of the eighty-two Defendants named in this action, eight (8) of the Defendants display incomplete addresses (only identifying their city, country and/or zip code).<sup>13</sup>
26. For this reason and the reasons discussed earlier, the true identities, locations and contact information of Defendants, as well as the locations of the Counterfeit Products that Defendants are offering for sale and/or selling, are unclear and virtually impossible for Plaintiffs to obtain independently.
27. As part of Plaintiffs' Application, they seek alternative service, and upon entry of an order by the Court granting Plaintiffs' requested relief, Plaintiffs will serve such order on Amazon. It is my understanding an expectation that Amazon will provide Plaintiffs' counsel with true and accurate e-mail addresses for each and every Defendant.
28. It is my understanding that the e-mail addresses to be provided by Amazon will be true and accurate as, based on my experience and understanding, Amazon provides Plaintiffs' counsel with the e-mail addresses Defendants use to log in to their User Accounts on Amazon, to operate their Merchant Storefronts, communicate with customers, complete transactions and receive funds.
29. We have used RMail's online services and confirm that its services include verifying valid

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<sup>13</sup> Defendants Bicllcsdd YS, cattie123, DZYHKYMS, KULOLO, mading horse, make.anni, SASATEK and YIMEII list incomplete addresses on their Merchant Storefronts.



proof of authorship, content and delivery of an email as well as the official time and date an email was sent and received.

30. Epstein Drangel's Beijing office translated copies of (1) Article 87 of Civil Procedure Law of the People's Republic of China; (2) the Online Litigation Rules of the People's Court, adopted at the 1838th meeting of the judicial committee of the Supreme People's Court on May 18, 2021 and effective as of August 1, 2021; and (3) an article entitled "The Supreme People's Court judge: how to understand the rules of electronic service in online litigation? From the People's Justice Issue 19 of 2021. Translated copies of the aforementioned documents are attached hereto as **Exhibit C**.
31. It is our experience that sellers of counterfeit and/or infringing products, such as Defendants, are in constant communication with each other and regularly participate in online chatroom discussions involving pending litigation and potential new lawsuits.
32. Moreover, the Chinese Ministry of Commerce published an article regarding Epstein Drangel's involvement in litigation regarding the sale of Chinese counterfeits on e-commerce platforms.<sup>14</sup>
33. In our experience, a small group of attorneys represent defendants in anti-counterfeiting lawsuits similar to the case at hand, and we have been informed by said defense counsel that they closely monitor the PACER docket, looking for potential new cases and clients.
34. Neither I, nor anyone else at Moonbug Entertainment Limited and Treasure Studio Inc., to the best of my knowledge, have publicized this Application or Plaintiffs' intent to seek entry of a temporary restraining order against the Defendants to any third party.

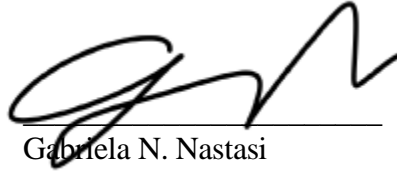
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<sup>14</sup> See Ministry of Commerce of the People's Republic of China, Tips for avoiding the risk of PayPal accounts that are blocked as a result of infringement (Nov. 2017), available at <http://shangwutousu.mofcom.gov.cn/article/resume/af/201711/20171102664964.shtml>.

I declare under the penalty of perjury under the laws of the United States of America that to the best of my knowledge the foregoing is true and correct.

Executed on this 16<sup>th</sup> of June 2022 in New York, New York.

By:



Gabriela N. Nastasi

# **EXHIBIT B**

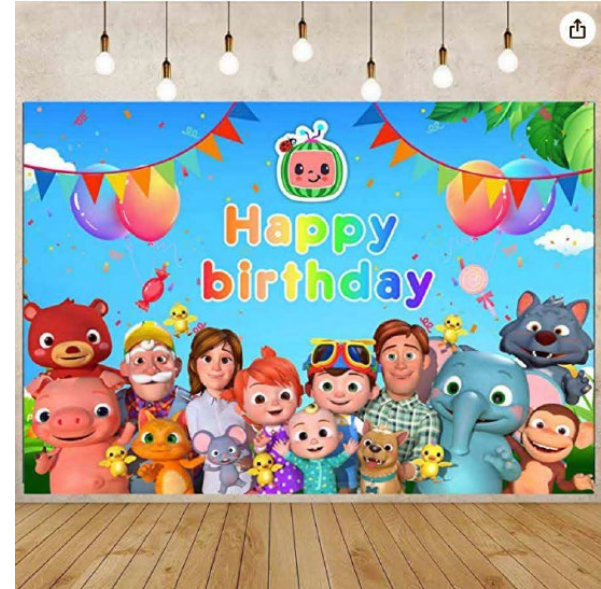
**Authentic Cocomelon Product**



**Defendant**

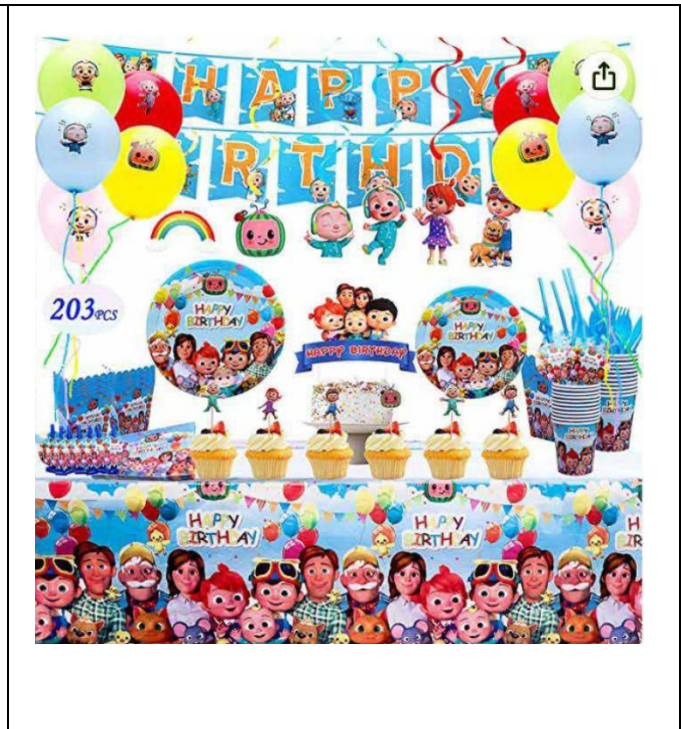
akwugdfdo1ddc

**Defendant's Infringing Product**





Amtiops



Anne Franklin



AUTBYWQ



# **EXHIBIT C**



# Civil Procedure Law of the People's Republic of China (Revised in 2017)

## 第一编 总 则

### Part I General Provisions

#### 第一章 任务、适用范围和基本原则

#### Chapter I Tasks, Scope of Application of Law and Basic Principles

第四条 凡在中华人民共和国领域内进行民事诉讼，必须遵守本法。

**Article 4 all civil proceedings within the territory of the People's Republic of China must abide by this law.**

第五条 外国人、无国籍人、外国企业和组织在人民法院起诉、应诉，同中华人民共和国公民、法人和其他组织有同等的诉讼权利义务。

外国法院对中华人民共和国公民、法人和其他组织的民事诉讼权利加以限制的，中华人民共和国人民法院对该国公民、企业和组织的民事诉讼权利，实行对等原则。

**Article 5 foreigners, stateless persons, foreign enterprises and organizations shall have the same litigation rights and obligations as citizens, legal persons and other organizations of the People's Republic of China in bringing and responding to lawsuits in the People's courts.**

Where a foreign court restricts the civil litigation rights of citizens, legal persons and other organizations of the People's Republic of China, the People's courts of the People's Republic of China shall apply the principle of reciprocity to the civil litigation rights of citizens, enterprises and organizations of that country.

## 第七章 期间、送达

### Chapter VII Period and Service

#### 第二节 送 达

#### Section 2 Service

第八十四条 送达诉讼文书必须有送达回证，由受送达人在送达回证上记明收到日期，签名或者盖章。

受送达人在送达回证上的签收日期为送达日期。

**Article 84 the service of a litigation document must be accompanied by a proof of service, on which the person to be served shall record the date of receipt, sign or seal.**

The date of receipt signed by the addressee on the proof of service is the date of service.

第八十五条 送达诉讼文书，应当直接送交受送达人。受送达人是公民的，本人不在交他的同住成年家属签收；受送达人是法人或者其他组织的，应当由法人的法定代表人、其他组织的主要负责人或者该法人、组织负责收件的人签收；受送达人有诉讼代理人的，可以送交其代理人签收；受送达人已向人民法院指定代收人的，送交代收人签收。

受送达人的同住成年家属，法人或者其他组织的负责收件的人，诉讼代理人或者代收人在送达回证上签收的日期为送达日期。

Article 85 a litigation document shall be served directly on the person to be served. If the person on whom the document is to be served is a citizen, the document shall be signed by the adult family member living with him in his absence; If the person to be served is a legal person or other organization, it shall be signed by the legal representative of the legal person, the main person in charge of other organizations or the person in charge of receiving the documents of the legal person or organization; If the addressee has an agent, he may send it to his agent for signature; If the addressee has appointed a receiver to the People's court, the document shall be sent to the receiver for signature.

The date on which the adult family members living with the person to be served, the person in charge of receiving the document of a legal person or other organization, the agent or the receiver on behalf of the person to be served sign the proof of service shall be the date of service.

第八十六条 受送达人或者他的同住成年家属拒绝接收诉讼文书的，送达人可以邀请有关基层组织或者所在单位的代表到场，说明情况，在送达回证上记明拒收事由和日期，由送达人、见证人签名或者盖章，把诉讼文书留在受送达人的住所；也可以把诉讼文书留在受送达人的住所，并采用拍照、录像等方式记录送达过程，即视为送达。

Article 86 If the person on whom the documents are to be served or an adult family member living with him refuses to accept the documents, the person on whom the documents are to be served may invite representatives of the relevant grass-roots organization or the unit to which he belongs to be present, explain the situation, record the reasons for and date of rejection on the service receipt, sign or seal the documents by the person on whom the documents are to be served and the witnesses, and leave the documents at the residence of the person on whom the documents are to be served; The litigation documents can also be left at the residence of the person to be served, and the service process can be recorded by taking photos, video recording, etc., which is regarded as service.

第八十七条 经受送达人同意，人民法院可以采用传真、电子邮件等能够确认其收悉的方式送达诉讼文书，但判决书、裁定书、调解书除外。

采用前款方式送达的，以传真、电子邮件等到达受送达人特定系统的日期为送达日期。

Article 87 with the consent of the addressee, the People's court may serve litigation documents by fax, e-mail or other means that can confirm its receipt, except for the judgment, ruling and mediation statement.

In case of service by the method mentioned in the preceding paragraph, the date when fax or e-mail reaches the specific system of the recipient shall be the date of service.

**[The fourth amendment on Civil Procedure Law of the People's Republic of China (Revised in December 2021) has come into force on January 1, 2022: Article 87 is changed to Article 90 and is revised to read: "with the consent of the addressee, the People's court may serve litigation documents by electronic means that can confirm its receipt. If the addressee requests paper documents for the judgment, ruling and mediation served by electronic means, the People's court shall provide the same.**

**If the service is made in the manner mentioned in the above paragraph, the date on which the service information reaches the specific system of the person to be served shall be the date of service."]**

第八十八条 直接送达诉讼文书有困难的，可以委托其他人民法院代为送达，或者邮寄送达。邮寄送达的，以回执上注明的收件日期为送达日期。  
Article 88 if it is difficult to serve litigation documents directly, it may entrust other People's courts to serve them on its behalf or serve them by mail. For service by mail, the date of receipt indicated on the proof of service shall be the date of service.

第八十九条 受送达人是军人的，通过其所在部队团以上单位的政治机关转交。  
Article 89 if the person on whom the document is to be served is a serviceman, it shall be transmitted through the political organ of the unit at or above the regimental level of the unit to which he belongs.

第九十条 受送达人被监禁的，通过其所在监所转交。  
受送达人被采取强制性教育措施的，通过其所在强制性教育机构转交。  
Article 90 if the person on whom the service is to be made is imprisoned, it shall be transferred through the prison to which he belongs.

If the addressee is subject to compulsory educational measures, it shall be transferred through the compulsory educational institution to which he belongs.

第九十一条 代为转交的机关、单位收到诉讼文书后，必须立即交受送达人签收，以在送达回证上的签收日期，为送达日期。

Article 91 after receiving the litigation documents, the organ or unit that delivers them on its behalf must immediately submit them to the person on whom they are to be served for signature. The date of signature on the service receipt shall be the date of service.

第九十二条 受送达人下落不明，或者用本节规定的其他方式无法送达的，公告送达。自发出公告之日起，经过六十日，即视为送达。

公告送达，应当在案卷中记明原因和经过。

Article 92 Where the whereabouts of addressess are unknown or cannot be served by any other means specified in this section, service shall be made by public announcement. After 60 days from the date of issuing the public announcement, it shall be deemed to have been served.

The reasons and course of service by public announcement shall be recorded in the file.

**[The fourth amendment on Civil Procedure Law of the People's Republic of China (Revised in December 2021) has come into force on January 1, 2022: Article 92 is changed to Article 95, and the first paragraph is revised to read: "if the whereabouts of the person to be served is unknown or cannot be served by other means specified in this section, service shall be made by public announcement. After 30 days from the date of issuing the public announcement, it shall be deemed to have been served."]**

#### 第四编 涉外民事诉讼程序的特别规定

#### Part IV Special Provisions on foreign-related civil procedure

#### 第二十三章 一般原则

#### Chapter 23 General Principles

第二百五十九条 在中华人民共和国领域内进行涉外民事诉讼，适用本编规定。本编没有规定的，适用本法其他有关规定。

Article 259 the provisions of this part shall apply to civil actions involving foreign elements within the territory of the People's Republic of China. Where there are no provisions in this part, other relevant provisions of this Law shall apply.

第二百六十条 中华人民共和国缔结或者参加的国际条约同本法有不同规定的，适用该国际条约的规定，但中华人民共和国声明保留的条款除外。

Article 260 where an international treaty concluded or acceded to by the People's Republic of China contains provisions different from those of this law, the provisions of the international treaty shall apply, except for the provisions on which the people's Republic of China has declared reservations.

第二百六十一条 对享有外交特权与豁免的外国人、外国组织或者国际组织提起的民事诉讼，应当依照中华人民共和国有关法律和中华人民共和国缔结或者参加的国际条约的规定办理。

Article 261 civil proceedings brought against foreigners, foreign organizations or international organizations enjoying diplomatic privileges and immunities shall be handled in accordance with the relevant laws of the People's Republic of China and the provisions of international treaties concluded or acceded to by the people's Republic of China.

第二百六十二条 人民法院审理涉外民事案件，应当使用中华人民共和国通用的语言、文字。当事人要求提供翻译的，可以提供，费用由当事人承担。

Article 262 when trying civil cases involving foreign elements, the people's courts shall use the language and written language commonly used in the people's Republic of China. If the party concerned requests to provide translation, it may do so, and the expenses shall be borne by the party concerned.

第二百六十三条 外国人、无国籍人、外国企业和组织在人民法院起诉、应诉，需要委托律师代理诉讼的，必须委托中华人民共和国的律师。

Article 263 if a foreigner, stateless person, foreign enterprise or organization needs to entrust a lawyer to represent it in bringing a suit or responding to a suit in a people's court, it must entrust a lawyer of the people's Republic of China.

第二百六十四条 在中华人民共和国领域内没有住所的外国人、无国籍人、外国企业和组织委托中华人民共和国律师或者其他代理人代理诉讼，从中华人民共和国领域外寄交或者托交的授权委托书，应当经所在国公证机关证明，并经中华人民共和国驻该国使领馆认证，或者履行中华人民共和国与该所在国订立的有关条约中规定的证明手续后，才具有效力。

Article 264 if a foreigner, stateless person, foreign enterprise or organization that has no domicile in the territory of the people's Republic of China entrusts a lawyer or other person of the people's Republic of China to act as an agent in litigation, the power of attorney mailed or entrusted from outside the territory of the people's Republic of China shall be certified by the notary organ of the country where it is located and authenticated by the embassy or consulate of the people's Republic of China in that country, Or it shall become effective only after fulfilling the certification

procedures stipulated in the relevant treaties concluded between the people's Republic of China and the host country.

## 第二十五章 送达、期间

### Chapter XXV Period and Service

第二百六十七条 人民法院对在中华人民共和国领域内没有住所的当事人送达诉讼文书，可以采用下列方式：

**Article 267** People's court may serve litigation documents on a party who has no domicile within the territory of the People's Republic of China in the following ways:

(一) 依照受送达人所在国与中华人民共和国缔结或者共同参加的国际条约中规定的方式送达；

(1) Service shall be made in the manner prescribed in the international treaty concluded or jointly acceded to by the country where the recipient is located and the People's Republic of China;

(二) 通过外交途径送达；

(2) Service through diplomatic channels;

(三) 对具有中华人民共和国国籍的受送达人，可以委托中华人民共和国驻受送达人所在国的使领馆代为送达；

(3) With respect to the person to be served who has the nationality of the People's Republic of China, he may entrust the embassy or consulate of the People's Republic of China in the country where the person to be served is located to serve on his behalf;

(四) 向受送达人委托的有权代其接受送达的诉讼代理人送达；

(4) To the agent entrusted by the person on whom the service is to be made and entitled to accept the service on his behalf;

(五) 向受送达人在中华人民共和国领域内设立的代表机构或者有权接受送达的分支机构、业务代办人送达；

(5) To the representative office established by the addressee within the territory of the People's Republic of China or the branch or business agent entitled to receive service;

(六) 受送达人所在国的法律允许邮寄送达的，可以邮寄送达，自邮寄之日起满三个月，送达回证没有退回，但根据各种情况足以认定已经送达的，期间届满之日视为送达；

(6) If the law of the country where the addressee is located allows service by mail, it may be served by mail. If the return certificate of service is not returned within three months from the date of mailing, but it is sufficient to determine that it has been served according to various circumstances, it shall be deemed to have been served on the date of expiration of the period;

(七) 采用传真、电子邮件等能够确认受送达人收悉的方式送达；

(7) Service by fax, e-mail and other means that can confirm the receipt of the addressee;

(八) 不能用上述方式送达的，公告送达，自公告之日起满三个月，即视为送达。

(8) If it cannot be served by the above methods, it shall be deemed to have been served by public announcement at the end of three months from the date of public announcement.

第二百六十八条 被告在中华人民共和国领域内没有住所的，人民法院应当将起诉状副本送达被告，并通知被告在收到起诉状副本后三十日内提出答辩状。被告申请延期的，是否准许，由人民法院决定。

Article 268 If the defendant has no domicile within the territory of the People's Republic of China, the People's court shall serve a copy of the bill of complaint on the defendant and notify the defendant to file a reply within 30 days after receiving the copy of the bill of complaint. If the defendant applies for an extension, the People's court shall decide whether to grant it.

第二百六十九条 在中华人民共和国领域内没有住所的当事人，不服第一审人民法院判决、裁定的，有权在判决书、裁定书送达之日起三十日内提起上诉。被上诉人在收到上诉状副本后，应当在三十日内提出答辩状。当事人不能在法定期间提起上诉或者提出答辩状，申请延期的，是否准许，由人民法院决定。

Article 269 If a party who has no domicile within the territory of the People's Republic of China refuses to accept a judgment or order of a People's Court of first instance, he shall have the right to appeal within 30 days from the date of service of the written judgment or order. The appellee shall submit a reply within 30 days after receiving a copy of the appeal petition. If a party is unable to file an appeal or defense within the statutory period and applies for an extension, the People's court shall decide whether to grant it.

第二百七十条 人民法院审理涉外民事案件的期间，不受本法第一百四十九条、第一百七十六条规定的限制。

Article 270 The duration of the trial of civil cases involving foreign elements by the People's courts shall not be subject to the restrictions provided for in articles 149 and 176 of this law.

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### CERTIFICATION OF TRANSLATION (Certified by Courts)

This is to certify under the penalty of perjury that I am a court certified interpreter in California with license number #301138 and I am fluent in Chinese (Mandarin) and English languages, that the document(s) listed as

1. Online litigation rules of the people's Court - The Supreme People's Court, P. R. China
2. How to understand the rules of electronic service in online litigation - Written by The Supreme People's Court Judge, P.R. China
3. Email Service Case News - Nanhu District Court, P.R. China
4. Email Service Case News - Changsha Intermediate Court, P.R. China
5. Email Service - Qingdao Intermediate Court, P.R. China
6. Email Service - Jingmen Intermediate Court, P. R. China
7. Email Service - Henan High People's Court, P.R. China
8. Email Service - Guangzhou City District Court, P.R. China

is (are) complete and accurate translations of the original written document(s) to the best of my ability and knowledge.

I certify under penalty of perjury under the Laws of the State of California that the foregoing is true and correct.

Signed on February 7, 2022 in Los Angeles, California, USA



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[Source] Supreme People's Court

The Rules of Online Litigation of the People's Court were adopted by the 1838<sup>th</sup> meeting of the Judicial Committee of the Supreme People's Court on May 18, 2021, and are hereby promulgated and shall come into force on August 1, 2021.

Supreme People's Court  
June 16, 2021

F.S [2021] No.12

### Rules of Online Litigation of the People's Court

(Adopted at the 1838<sup>th</sup> meeting of the Judicial Committee of the Supreme People's Court on May 18, 2021 and effective as of August 1, 2021)

According to the *Criminal Procedure Law of the People's Republic of China*, the *Civil Procedure Law of the People's Republic of China*, the *Administrative Procedure Law of the People's Republic of China* and other relevant legal provisions, and combined with the actual work of the people's courts, these Rules are formulated to promote and regulate online litigation activities, improve the rules of online litigation, protect the legitimate rights of the parties and other litigant subjects including participants in litigation in accordance with the law and ensure fair and efficient case trials.

Article 1 The people's courts, parties and other participants in litigation can rely on the electronic litigation platform (hereinafter referred to as "litigation platform") to complete all or part of the litigation activities through the Internet or a dedicated network online such as filing, mediation, exchange of evidence, questioning, trial and service of process.

Online litigation activities have the same legal effect as offline litigation activities.

Article 2 The people's courts shall follow the following principles when conducting online litigation:

(A) The principle of justice and efficiency. Carry out online litigation activities in strict accordance with the law to improve the trial process, perfect the work mechanism, strengthen technical support, improve judicial efficiency and safeguard judicial justice.

(B) The principle of legality and voluntariness. Respect and protect the right of the parties and other participants in choosing litigation mode. Without the consent of the parties and other participants in the litigation, the people's court shall not conduct compulsory or disguised compulsory application of online litigation.

(C) The principle of rights protection. Fully protect the rights of the parties to litigation, strengthen the obligations of reminding, explaining and informing, do not arbitrarily reduce the litigation procedures and derogate from the rights and interests of the parties.

(D) The principle of convenience and benefit to the people. Optimize online litigation services, improve the function of the litigation platform, strengthen the application of information technology, reduce the cost of litigation, improve the efficiency of dispute resolution, integrate and balance the judicial needs of different groups, strengthen litigation guidance for special groups such as minors, the elderly, and the disabled and provide them with the corresponding judicial convenience.

(E) The principle of safety and reliability. Safeguard national security in accordance with the law, protect state secrets, commercial secrets, personal privacy and personal information, and effectively safeguard the security of online litigation data. Standardize the application of technology to ensure technology-neutral and platform-neutral.

Article 3 Taking into account the details of the specific case, the willingness of the parties and technical conditions, the people's courts may apply online litigation to the following cases:

(A) Civil and administrative litigation cases.

(B) Criminal cases under quick judging procedure, commutation of sentence, parole cases, and criminal cases that are not suitable for offline trial due to other special reasons.

(C) Civil special procedures, supervisory procedures, bankruptcy procedures and non-litigation executive review cases.

(D) Civil and administrative execution cases and civil litigation enforcement cases incidental to criminal matters.

(E) Other cases suitable for online trial.

Article 4 The people's court should obtain the consent of the parties when conducting online litigation and inform them of the specific aspects of the application of online litigation, the main forms, rights and obligations, legal consequences and methods of operation.

The people's court shall make the following treatment according to the corresponding intention of the parties to the online litigation:

(A) If the parties choose to apply online litigation on their own initiative, the people's court will not seek their consent separately, and the corresponding litigation procedures can be carried out directly online.

(B) If all parties agree to apply online litigation, the corresponding litigation procedures can be carried out online.

(C) If some of the parties agree to apply online litigation while others of the parties do not agree, the corresponding litigation procedures can be conducted online for consenting parties and offline for non-consenting parties.

(D) If the parties only actively choose or agree to apply online litigation to some litigation procedures, the people's court shall not presume that the parties agree to apply online litigation to other litigation procedures.

When applying online litigation to cases involving the people's procuratorate, the consent of the people's procuratorate should be obtained.

Article 5 In the course of litigation, if there is a lack of online litigation ability of the parties, the parties do not have the conditions for online litigation or the corresponding litigation procedures are not suitable for online processing, the people's court shall conduct the corresponding litigation procedures offline.

If the parties have agreed to apply online litigation to the corresponding litigation links, but regret in the litigation process, they should put forward the discontinuance of online litigation within a reasonable time before carrying out the corresponding litigation activities. After examination, if the people's court believes that there is no intentional delay in litigation and other improper circumstances, the corresponding litigation procedures can be carried out offline.

In the case of mediation, exchange of evidence, inquiry, hearing, court hearing and other litigation links, the party requesting other parties and litigation participants to participate in the litigation offline shall give specific reasons. After examination, if the people's court considers that the case is difficult and complex, or the witnesses are required to testify in court, or evidence and cross-examination are needed, or statements and debates are needed, the corresponding litigation procedures can be carried out offline.

Article 6 If the parties have agreed to apply online litigation, but do not participate in online litigation activities or do not make the corresponding litigation behavior without legitimate reasons, and do not apply for offline litigation within a reasonable period of time, they shall bear corresponding legal consequences in accordance with the relevant provisions of laws and judicial interpretations.

Article 7 The litigant subject participating in online litigation should first complete real-name registration on the litigation platform. The people's court shall verify the real-name mobile phone number, resident ID number, passport number, unified social credit code and other information of the litigant subject through online comparison of certificates and licenses, identity authentication platform, etc., so as to confirm the authenticity of the litigant subject's identity. After completing the identity authentication online, the litigant subject will obtain a special account to log in to the litigation platform.

The litigant subject should properly keep the special account and password for logging in the litigation platform. Unless there is evidence to prove that the account is stolen or the system error occurs, the act of logging in to the litigation platform with a special account shall be regarded as the act of the certified person himself/herself.

When the people's court conducts mediation, evidence exchange, trial and other litigation activities online, it should verify the identity of the litigant subject again; If it is really necessary, the identity should be further verified offline.

Article 8 People's courts, specially invited mediation organizations and specially invited mediators can carry out online mediation activities through the litigation platform and the mediation platform of people's courts. Online mediation should be carried out in accordance with the relevant provisions of laws and judicial interpretations, so as to protect state secrets, trade secrets, personal privacy and other information that should not be disclosed according to law.

Article 9 If the parties submit the prosecution materials online, the people's court shall make the following treatment online within the statutory time limit after receiving the materials:

(A) If the prosecution materials meet the conditions for prosecution, the case shall be registered and the litigation documents such as the Notice of Acceptance of the Case, the Notice of Payment of Litigation Fees and the Notice of Proof shall be served.

(B) If the submitted prosecution materials do not meet the requirements, the parties shall be notified to make corrections in time, and the contents and time limit of correction shall be informed at one time. The case acceptance time shall be recalculated the next day upon receipt of the corrected materials.

(C) If the prosecution materials do not meet the conditions for prosecution or the prosecution materials still do not meet the requirements after correction, but the plaintiff insists on prosecution, it shall be ruled that the case is not accepted or filed according to law.

If the parties have submitted the complaint and other materials that meet the requirements online, the people's court shall not require the parties to provide paper materials.

The online acceptance rules of appeals, applications for retrial, special procedures and enforcement of cases shall be handled with reference to the first and second paragraphs of this Article.

Article 10 Where a case is subject to online litigation, the people's court shall notify the defendant, appellee or other litigation participant and ask whether he or she agrees to participate in the litigation online. If the notified person agrees to accept online litigation, he or she shall verify his/her identity and related cases through the litigation platform within three days after receiving the notice, and know the case information, receive and submit litigation materials and implement other litigation acts through the litigation platform in the follow-up litigation activities.

If the notified person does not expressly agree to accept online litigation and fails to register and log in the litigation platform within the period specified by the people's court, the relevant litigation activities against the notified person shall be carried out offline.

Article 11 The parties can directly enter litigation documents such as complaint, reply, counterclaim and agency opinions on the litigation platform.

The parties can convert offline litigation documents or evident into electronic documents by scanning, copying and transcribing, and upload them to the litigation platform. If the litigation materials are electronic data and the litigation platform has been connected with the platform for storing the electronic data, the electronic data can be directly uploaded to the litigation platform.

If it is really difficult for the parties to submit electronic documents, the people's court may assist the parties to convert offline materials into electronic documents and import them into the litigation platform.

Article 12 The electronic documents submitted by the parties can be directly used in litigation after being examined and approved by the people's court. In case of any of the following circumstances in litigation, the people's court shall require the parties to provide the original:

(A) The other party believes that the electronic document is inconsistent with the original, and puts forward reasonable reasons and basis;

(B) The presentation of electronic document is incomplete, the content is unclear and the format is not standardized;

(C) The relevant regulations on file and file management of the people's court require that the original be provided;

(D) The people's court deems it necessary to submit the original.

Article 13 If the electronic documents submitted by the parties meet any of the following circumstances, the people's court may determine that they meet the requirements for the original form:

(A) The other party has not raised any objection to the consistency between the electronic document and the original

(B) The formation process of electronic document has been notarized by a notary office;

(C) The electronic document has been submitted in the previous litigation and confirmed by the people's court.

(D) The electronic document has been compared with the original online or offline and is consistent with the original

(E) There is other evidence to prove that the electronic document is consistent with the original

Article 14 The people's court, according to the choice of the parties and the case situation, may organize the parties to carry out online evidence exchange, or present evidence or conduct cross-examination online synchronously or non-synchronously.

If the parties choose synchronous online evidence exchange, they shall log on to the litigation platform at the time designated by the people's court and express their cross-examination opinions through online video or other means on the evidentiary materials that have been imported into the litigation platform or copies of evidentiary materials served offline.

If the parties choose non-synchronous online evidence exchange, they shall, within a reasonable period of time determined by the people's court, log on to the litigation platform separately to view the evidence materials imported into the litigation platform and to express their cross-examination opinions.

If the parties all agree to the online exchange of evidence but cannot agree on the specific manner, the synchronous online evidence exchange shall apply.

Article 15 For the electronic documents and electronic data submitted as evidence, the people's court shall, in accordance with the relevant provisions of the law and judicial interpretations, determine their authenticity, legality and relevance after they are proved and cross-examined by the parties. Evidence that has not been verified by the people's court shall not be used as the basis for ascertaining the facts of the case.

Article 16 If the electronic data submitted by the parties as evidence is stored through blockchain technology and verified by technology, the people's court may determine that the electronic data has not been tampered with after being uploaded to the blockchain, unless there is evidence to the contrary to overturn the assertion.

Article 17 If the parties object to the authenticity of the electronic data stored through blockchain technology after it has been uploaded and there are reasonable grounds, the people's court shall make a judgment by combining the following factors:

(A) Whether the evidence preservation platform complies with the relevant provisions of the relevant state departments on the provision of blockchain evidence preservation services.

(B) Whether the parties have an interest in the evidence preservation platform and use technical means to improperly interfere with the process of forensics and evidence preservation.

(C) Whether the information system of the evidence preservation platform complies with the requirements for cleanliness, security, reliability and availability of national standards or industry standards.

(D) Whether the evidence preservation technology and process are in line with the requirements for system environment, technical security, encryption methods, data transmission, information verification and other of relevant national standards or industry standards.

Article 18 If the parties propose that the electronic data is no longer authentic before being uploaded to the blockchain, and provide evidence or explain the reasons, the people's court shall review it.

According to the case situation, the people's court may require the parties submitting the blockchain technology to store electronic data to provide evidence to prove the authenticity of the data before uploading the data for storage, and make a comprehensive judgment based on the specific source, generation mechanism, storage process, notarization by the notary office, witness by the third party, and related confirmation data of data storage on the blockchain. If the parties cannot provide evidence or make a reasonable explanation, or the electronic data cannot be mutually confirmed with other evidence, the people's court will not confirm its authenticity.

Article 19 The parties may apply for a person with specialized knowledge to give opinions on technical issues related to the storage of electronic data with blockchain technology. The people's court may, upon the application of the parties or based on its power, entrust an organization to verify the authenticity of the electronic data stored with blockchain technology, or retrieve other relevant evidence for verification.

Article 20 With the consent of the parties, the people's court may designate the parties to log on to the litigation platform separately for a certain period of time to conduct mediation, exchange of evidence, investigation and inquiry, court hearings and other litigation activities in a non-synchronous manner.

For cases tried by following small claims procedure or civil and administrative summary procedure, if the following circumstance are met, the people's court and the parties may, within a specified period of time, separately record the videos of their participation in the trial and upload them to the litigation platform in accordance with the trial procedures, so as to complete the trial activities in a non-synchronous manner:

(A) The parties have difficulties in participating in court hearings online at the same time.

(B) One party makes a written application and all the parties agree with the application;

(C) After online evidence exchange or investigation and inquiry, there is no dispute between the parties on the main facts and evidence of the case.

Article 21 For cases heard by the people's court, it shall decide whether to adopt online video trial according to the wishes of the parties, the case situation, social impact, technical conditions and other factors, but in any of the following circumstances, online trial shall not be adopted:

(A) All parties expressly disagree with online trial, or one party expresses disagreement and has valid reasons;

(B) The parties do not have the technical conditions and the ability to participate in the online trial;

(C) It is necessary to find out the identity, verify the original and check the physical objects at the scene of the trial;

(D) The case is difficult and complex, the evidence is numerous, the application of online trial is not conducive to the identification of facts and the application of law;

(E) The case involves national security and state secrets;

(F) The case has a great social impact and has received wide attention;

(G) The people's court believes that there are other circumstances that are not suitable for online trial.

For cases that are tried online, if one of the above situations is found during the trial, the people's court shall promptly change to offline trial. The completed online trial activities still have legal effect..

For the application scope and conditions of online inquiry, please refer to the relevant rules of online trial.

Article 22 For cases applying to online trial, trial activities such as pre-trial preparation, court preparation and court debate should be carried out in accordance with the relevant provisions of laws and judicial interpretations, so as to protect the litigation rights of the parties to apply for withdrawal, proof, cross-examination, statement and debate.

Article 23 For cases where an announcements needs to be served, the people's court may specify the ways to participate in the online or offline court trial in the announcements, and inform the parties of their right to choose online trial. If the announced party fails to agree to the online trial to the people's court before the trial, the announced party shall apply the offline trial. Other parties who agree to apply online trial can participate in the online trial.

Article 24 If the trial activities are conducted online, the people's court should set up an online court with complete environmental elements. The online court should display the national emblem in a prominent position, and the names of judges and seats should be in a reasonable area of the screen. If it is really necessary to organize the online trial in other places rather than the online court due to special circumstances, it shall be reported to the chief judge of the court for approval.

Personnel participating in the online trial should choose a quiet, interference-free and relatively closed place with good lighting and network signal, and should not participate in the court trial in places that may affect the audio and video effects of the trial or impair the seriousness of trial. If necessary, the people's court may require the personnel to attend the online trial in a designated place.

Article 25 Persons appearing in an online trial shall respect judicial etiquette and abide by court discipline. The people's court shall apply the relevant provisions of the Court Rules of the People's Courts of the People's Republic of China in accordance with the characteristics of online trials.

Except for network failure, equipment damage, power interruption or force majeure, if the parties fail to participate in the online trial without justifiable reasons, it shall be deemed as "refusing to appear in court"; Those who withdraw from the trial without authorization and fail to correct after being prompted and warned shall be regarded as "withdrawing from the court halfway" and both of them shall be dealt with in accordance with relevant laws and judicial interpretations.

Article 26 If a witness appears in court online, the people's court shall ensure that he/she will not attend the trial of the case and will not be interfered by others through designating an online court place or setting up an online witness room. If a party raises an objection to the witness's online appearance in court and has reasonable reasons, or if the people's court deems it necessary, the witness is required to testify in court offline.

If an expert witness, an inquest or a person with special knowledge appears in court online, the provisions of the preceding paragraph shall be referred to.

Article 27 For cases that apply to online trial, the trial activities shall be made public in accordance with the relevant provisions of laws and judicial interpretations.

For cases involving national security, state secrets, personal privacy, the trial process shall not be made public on the Internet. If the parties apply for trial in camera of civil cases involving minors, trade secrets or divorce, the online trial process may not be made public on the Internet..

Without the consent of the people's court, no one shall illegally record, intercept or disseminate the audios, videos or document and graphic files involving the online court process.

Article 28 If an online litigation participant intentionally violates the provisions of Articles 8, 24, 25, 26 and 27 of these Rules and commits an act that obstructs the order of online litigation, the people's court may deal with it according to the relevant provisions on obstructing litigation process in laws and judicial interpretations.

Article 29 With the consent of the addressee, the people's court may deliver litigation documents and evidential materials to the addressee's e-mail, instant messaging account, special account of the litigation platform and other electronic addresses through the delivery platform in accordance with the relevant provisions of laws and judicial interpretations.

Under any of the following circumstances, the people's court may determine that the addressee agrees to electronic service:

- (A) The addressee expressly agrees with electronic service;
- (B) The addressee has made an agreement or commitment to apply electronic service before the lawsuit
- (C) The addressee voluntarily provides the electronic address for receiving service in the complaint, appeal, application and reply submitted.



(D) The addressee accepts the completed electronic service by replying to receipt, participating in litigation, etc., and does not explicitly disagree with the electronic service.

Article 30 The people's court may, by telephone, online litigation platform, or sending offline electronic service confirmation, etc., confirm whether the addressee agrees with electronic service, and the specific way and address for the addressee to receive electronic service, and inform the scope of application, effectiveness, change of service address and other matters related to service that need to be informed.

Article 31 If the people's court serves documents or evidential materials to the electronic address voluntarily provided or confirmed by the addressee, the information shall be deemed to have been served when it reaches the system where the electronic address is stored.

If the addressee fails to provide or confirm a valid electronic address and the people's court serves information to the addressee's electronic address that can be confirmed, it shall determine whether the service is effective according to the following circumstances:

(A) If the addressee replies "received" or has made corresponding litigation act according to the content of service, it shall be deemed that the service has been effectively completed;

(B) If the system where the addressee's electronic address is stored feeds back that "the addressee has read it", or there is other evidence to prove that the addressee has received it, it is presumed that the effective service has been completed, except that the addressee can prove that there is a system error, and the service address is not used or read by himself/herself.

When the people's court carries out electronic service, it shall leave traces in the whole process in the system and make an electronic service certificate. The electronic service certificate has the effect of service receipt.

If the materials with the same content are sent to the addressee by various electronic means, the effective service time shall be the time when the first effective service is completed.

Article 32 If the people's court applies electronic service, it can notify the addressee to check, receive and download relevant materials by means of SMS, instant messaging tools and litigation platform prompts.

Article 33 For cases where online litigation is applicable, the litigants of all parties can confirm and sign for mediation agreements, transcripts, electronic service certificates and other litigation materials through online confirmation and electronic signature.

Article 34 For cases where online litigation is applicable, the people's court shall form electronic transcripts in mediation, evidence exchange, court trial, panel discussion and other litigation links. The electronic transcripts have the same legal effect as written transcripts after being checked and confirmed online.

Article 35 For cases where online litigation is applicable, the people's court shall use technical means to generate electronic files synchronously with the cases and form electronic files. The filing, filing, storage and utilization of electronic files shall be carried out in accordance with the relevant laws and regulations on file management.

If there are no paper materials in the case or all the paper materials have been converted into electronic materials, the people's court of first instance may use electronic files instead of paper files for appeal transfer.

If there are paper materials in the case applicable to online litigation, they shall be filed and preserved in accordance with relevant laws and regulations on file management.

Article 36 The relevant provisions of these Rules shall apply to the online filing, electronic submission of materials, execution settlement, questioning of parties and electronic service of enforcement ruling cases.

The people's court may complete online property investigation, seizure, attachment, freezing, transfer, price change and disciplinary enforcement implementation links such as property identification, seizure, freezing, transfer, appraisal and disciplinary actions through the property investigation and control system, network inquiry and evaluation platform, network auction platform, credit disciplinary system, etc.

Article 37 For criminal cases that meet the requirements of Item 2 of Article 3 of these Rules, with the consent of the public prosecutor, the parties and the defender, the court may ask the defendant online, hold a trial or pronounce a sentence according to the circumstances of the case.

If a case is tried online, it shall be handled according to the following circumstances:

(A) If the defendant or the criminal is detained, he or she may appear online in a detention center, a prison and any other place of detention;

(B) If a defendant or criminal is not detained but is unable to appear in court due to special reasons, he/she may appear in court online at a place designated by the people's court.

(C) Witnesses and experts should generally appear in court physically, except as otherwise provided by law and judicial interpretation.

Article 38 The relevant subjects involved in online litigation shall comply with the relevant laws and regulations on data security and personal information protection, and fulfill their obligations on data security and personal information protection. Except for the information disclosed by the people's court in accordance with the law, no one shall disclose, disseminate and use online litigation data information in violation of the law. In case of the above circumstances, the people's court may, according to the specific circumstances, pursue the legal responsibility of the relevant units and personnel in accordance with the laws and judicial interpretations on data security and personal information protection as well as provisions on obstruction of litigation, and if a crime is constituted, criminal responsibilities shall be investigated according to law.

Article 39 These rules shall come into force as of August 1, 2021. If the provisions concerning online litigation in the judicial interpretation previously issued by the Supreme People's Court are inconsistent with these Rules, the Rules shall prevail.

Note: All information in this database comes from the Internet, newspapers and other public media, and this article is for reference only. If you need to quote any of them, please refer to the official documents.

## Supreme Court Judge: How to understand the rules of electronic service of process in online litigation?

Author: Liu Zheng, He Fan, Li Chengyun

Unit: Supreme People's Court

Source: People's Justice, No. 19, 2021

Excerpted from the author's article, originally titled: The Understanding and Application of the People's Court Online Litigation Rules

Articles 29 to 32 of the Rules clarify the overall mechanism of electronic service, the conditions of application, the scope of application and the effective standards. In practice, the following four aspects need to be grasped.

First, the conditions for the application of electronic service. The Rules adhere to the consent of the parties as a prerequisite for electronic service, with the expansion of "consent" of the methods and the establishment of electronic service of implied consent rules, the consent extends the agreement beforehand, the conduct and recognition after the fact, on the basis of the full protection of the rights of the parties, to encourage and guide the parties to choose electronic service, and to expand the application of electronic service in a proper and orderly manner.

Second, the scope of electronic service of process. The scope of electronic service of documents should strictly comply with existing laws, in addition to the NPC Standing Committee authorized to carry out the simple and complicated civil proceedings by the pilot reform of the court, other courts are not yet ready to engage in electronic service of judgments, rulings, mediation. At present, the Supreme People's Court is actively promoting the revision of the civil procedure law according to the pilot program. Local courts need to amend the law according to the situation after having a clear legal basis for electronic service of judgment documents.

[...]various electronic addresses, including emails of the person served, instant messaging accounts, dedicated accounts for litigation platforms, etc.

In practice, attention should be paid to avoid scattered and multiple service, the same content material in principle should only take one service mode, in order to determine the effective time of service, to facilitate the exercise of the parties' rights in subsequent litigation. The "Rules" at the same time clarify the duties attached to the electronic service of the people's court, and the application of electronic service should be done through SMS, telephone, instant messaging tools and other means to prompt and notify, in order to fully protect the parties' right to know, and to enhance the efficiency of electronic service.

Fourth, the effective standard of electronic service. The "Rules" clarifies the standards and circumstances for two kinds of service to take effect: the parties taking the initiative to provide or confirm the electronic address are to take the "arrival doctrine". The people's court taking the initiative to obtain the electronic address of the person served for service is to take the "receipt doctrine. On the "receipt doctrine" of the application, the first should grasp the "receipt doctrine" of the two applicable conditions: one is that the parties have agreed to use electronic service, but did not provide a valid electronic service address or the address provided has errors; second is to be able to confirm the service of the electronic address of the person served, such as after the real name authentication, the recent electronic addresses that were actively used or had once been completed with electronic service, etc. The people's court should have a process of identification and determination, rather than to any one of the accessible electronic addresses for service. The second is to grasp the "receipt doctrine" of service's effective time. Since the "receipt", it is not appropriate to reach a specific system as the effective time of service, but it should be the confirmed receipt of the time point as the standard, including the specific response to the time of receipt, the corresponding litigation time, the system's feedback as to the time it was read. When the above time

points exist, the first time to occur is the effective time of service. This determination standard is consistent with the objective situation of the person served to receive information, but also conducive to timely determination of the effectiveness of service for the trials thereafter.

#### Attachment: People's Court Online Litigation Rules

Article 29 With the consent of the person to be served, the people's court can serve, through the service of process platform, to the person to be served via e-mail, instant messaging account, dedicated account and other electronic addresses of litigation platforms, in accordance with the relevant provisions of the law and judicial interpretation of service of process and evidentiary materials.

The People's Court may determine that the person served agrees to electronic service if one of the following circumstances exists:

- (A) the person served expressly agreed to it
- (B) the person served by law has made an agreement or commitment to the application of electronic service before the lawsuit.
- (C) the person to be served in the submission of the indictment, appeal, application, response provided the electronic address used to receive service of process.
- (D) the person served, through replying to the receipt, participation in the proceedings and other ways, accepts that the electronic service has been completed, and did not expressly disagree with the electronic service of process.

Article 30 The people's court can confirm by telephone, litigation platform online confirmation, sending electronic service confirmation offline, etc., to confirm whether the person served agrees to electronic service, and the specific manner and address of the person served to receive electronic service, and inform the scope of application of electronic service, effectiveness, the method to change the address of service and other matters to be informed of the service.

Article 31 When the People's Court serves to an emails address provided or confirmed by the person served, the service is deemed completed when the information reaches the system of the email address.

In case the person served does not provide or confirm a valid electronic address for service, and the People's Court is able to confirm that an email address belongs to the person served, validity is determined according to the following circumstances:

[...]

(B) When the electronic address of the person served in the system responds that the person served has read, or when there is other evidence that the person served has received, the service is presumed to have been effectively completed, except in cases wherein the information served has not been received and the person served can prove that there is a system error, the service address belongs to him/her or was not read by him/her.

During electronic service the People's Court full records shall be kept in the system, and electronic proof of service shall be produced. Electronic proof of service is an effective return receipt of service.

When the same content of service is served to the person served via multiple electronic methods, the time of service of the first method to complete effectively shall be deem the effective time of service.

Article 32 The people's court applies electronic service, can be synchronized through SMS, instant messenger, litigation platform prompts, etc., through the moment subject to legal service to access, receive, relevant service of materials.

Author / Source: Tianjin Hexi Court