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Judicializing Data Governance

As AI systems proliferate across high-stakes domains, courts increasingly face disputes involving opaque, adaptive technologies for which traditional liability concepts (such as fault, causation, foreseeability, and even product defect) lack workable evidentiary anchors. This paper argues that, in response, adjudication is “judicializing” data governance. Industry-led best practices in dataset documentation, provenance tracking, access controls, bias evaluation, and post-deployment monitoring are pulled into legal reasoning as practical benchmarks of reasonable care and product safety. Judicialization does not require courts to endorse any single technical standard. It is a process by which courts, confronted with informational asymmetry and the need to avoid arbitrary outcomes, translate governance practices into liability-relevant proxies for what a prudent actor would have recorded, tested, constrained, and reviewed at the data layer. The paper develops a theoretical account of this translation mechanism and its institutional consequences, showing how data governance can become the hinge between *ex ante* governance and *ex post* remedies, reallocating risk across developers, deployers, and integrators while reshaping incentives for responsible AI without bespoke AI tort doctrines.