

The Validity of Electronic Signatures in Providing Evidence in Civil Cases

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Abstract: *The development of information technology has encouraged the use of electronic signatures in various civil transactions, but their acceptance as evidence in court still raises legal issues. This study aims to analyze the validity of electronic signatures and their evidentiary power in civil cases in Indonesia. The research method used is normative legal research with a statutory, conceptual, and case approach, through a study of regulations, legal doctrine, and judicial practice. The results of the study indicate that normatively, electronic signatures have been recognized as valid under the Electronic Information and Transactions Law as long as they fulfill the elements of authentication, integrity, and non-repudiation. Conceptually, through the theory of functional equivalence and the theory of evidence law, electronic signatures have an equivalent function to manual signatures in proving the will of the parties. However, in judicial practice, inconsistencies are still found in the acceptance and assessment of their evidentiary power due to unclear norms and a lack of synchronization between material law and formal law. This condition has an impact on legal uncertainty and potential injustice for the parties. Therefore, it is necessary to reformulate civil evidence law through regulatory harmonization, affirmation of evidentiary standards, and increasing the capacity of law enforcement officers so that the use of electronic signatures can be applied consistently and provide certainty, justice, and legal benefits.*

Keywords: *Electronic Signature, Civil Evidence, Legal Validity, Civil Procedure Law.*

INTRODUCTION

The development of information technology has accelerated changes in social structures and patterns of legal relations in society, ultimately requiring adaptation of the legal system, particularly in the realm of civil law. Digital transformation has not only changed the medium of interaction but also the substance of legal relations themselves, with the presence of electronic documents and electronic signatures becoming key instruments in legitimizing the will of the parties. Theoretically, this change can be understood

through the perspective of progressive legal theory put forward by Satjipto Rahardjo, who emphasizes that law must be able to adapt to evolving social dynamics.¹ The principle of freedom of contract as regulated in Article 1338 of the Civil Code has also experienced an expansion of meaning, no longer limited to conventional forms, but also includes digital forms.² Consequently, electronic signatures must be positioned as an integral part of the expression of the will of the parties in a civil agreement. This reality demonstrates that the law can no longer remain static in the face of

¹ Aji, P. B. S. (2026). Hukum Progresif Dalam Sistem Hukum Indonesia. *AMU Press*, 1-85. <https://ejournal.amertamedia.co.id/index.php/press/article/view/648>

² Budi, G. S. (2025). Perkembangan Asas Kebebasan Berkontrak dalam Praktik Hukum Perdata di Indonesia. *Jurnal Kajian Hukum Dan Kebijakan Publik* | E-ISSN: 3031-8882, 3(1), 139-148. <https://doi.org/10.62379/wnaj8r67>

increasingly complex technological developments.

The transition from conventional to electronic systems in civil law practice demonstrates a paradigm shift from physical-based evidence to digital-based evidence. In this context, electronic documents serve not only as evidence but also as legal objects with economic and legal value. Experts such as Edmon Makarim affirm that electronic documents have equal standing with written documents as long as they meet the principles of authentication and integrity.³ The principle of functional equivalence is an important basis for assessing the equivalence between electronic documents and conventional documents.⁴ This principle is also adopted in various international instruments, such as the UNCITRAL Model Law on Electronic Commerce. Therefore, conceptually, there is no reason to discriminate against electronic signatures in civil law evidence systems. The problem lies in how national laws consistently accommodate this principle.

Empirically, the increased use of electronic signatures in Indonesia is a logical consequence of the accelerated digitalization triggered by the COVID-19 pandemic.⁵ These conditions have forced various sectors to adopt technology to maintain the continuity of economic and administrative activities. Data from various institutions shows that the use of electronic certificates and digital signature services has increased significantly in recent

years. From the perspective of legal modernization theory, this phenomenon reflects the need for a legal system that adapts to social change. However, the empirical increase in use has not been accompanied by the readiness of law enforcement officials to understand and implement it. This creates a gap between social practices and legal practices prevailing in the courts.

In civil court practice, electronic signatures still often face resistance, both from judges and the parties to the case.⁶ These doubts generally relate to the authenticity, integrity, and non-repudiation of electronic documents. Theoretically, this relates to the prudential principle of evidence, which requires judges to ensure the validity of every piece of evidence presented. However, an overly conservative approach could potentially hinder the development of the law itself. According to Sudikno Mertokusumo, the law of evidence must be able to provide certainty without sacrificing substantive justice.⁷ Thus, the rejection of electronic signatures without a strong basis can be categorized as a form of legal inability to adapt.

The issue of the validity of electronic signatures in civil cases often arises in disputes involving digital transactions, such as online agreements or electronic contracts. In this context, the authentication aspect becomes crucial because it relates to the identities of the parties to the legal act. Digital identity theory explains that identity in cyberspace requires

³ Rosa, M. (2024). Penyimpanan Protokol Notaris Dengan Konsep Elektronik Dengan Cyber Notary. *Recital Review*, 6(2), 220-235. <https://doi.org/10.22437/rr.v6i2.37172>

⁴ Zainudin, Z. (2025). The Urgency of Reforming Indonesian Civil Law in the Digital Era. *Jurnal Tana Mana*, 6(2), 187-193. <https://doi.org/10.33648/jtm.v6i2.1051>

⁵ Nasim, M. (2026). *Hukum dan Kebijakan Teknologi Informasi*. Penerbit NEM.

⁶ Karmila, R. H. (2025). TRANSFORMASI DIGITAL DALAM

PROSEDUR BANDING SECARA ELEKTRONIK (E-COURT) DALAM HUKUM ACARA PERDATA. *Jurnal Media Akademik (JMA)*, 3(12). <https://doi.org/10.62281/zw9d1683>

⁷ Hadi, M. D., Thalib, H., & Qamar, N. (2025). Analisis Keyakinan Hakim Terhadap Alat Bukti Dalam Memutuskan Perkara Pidana. *Legal Dialogica*, 1(1), 1-11. <https://jurnal.fh.umi.ac.id/index.php/legal/article/view/1481>

different verification mechanisms than identity in the physical world.⁸ Furthermore, the principle of document integrity is also crucial to ensure that the contents of a document have not been altered since it was signed. Uncertainty in understanding these aspects has led judges to doubt the evidentiary validity of electronic signatures. Consequently, there has been inconsistency in the assessment of evidence across various court decisions.

Normatively, the recognition of electronic signatures has been accommodated in the Electronic Information and Transactions Law and its amendments, which explicitly states that electronic signatures have valid legal force. This provision is reinforced by the Government Regulation on the Implementation of Electronic Systems and Transactions, which regulates the technical and administrative requirements for electronic signatures. The principle of legal certainty (*rechtssicherheit*) requires that every normative regulation provide clarity for the public in their actions.⁹ However, these regulations are primarily administrative and technical in nature and do not comprehensively address aspects of procedural law. This raises questions about the effectiveness of these norms in the practice of presenting evidence in court. In other words, normative recognition does not fully guarantee legal acceptance in judicial practice.

The lack of integration between substantive and formal law is one of the main sources of problems in proving electronic signatures. Indonesian civil procedure law,

which still refers to the HIR/RBg and the Civil Code, does not explicitly regulate electronic evidence.¹⁰ The principle of *lex specialis derogat legi generali* should be used to prioritize provisions in the ITE Law as special rules. However, in practice, not all judges apply this principle consistently. This indicates a problem of legal interpretation that has implications for legal uncertainty. According to Lawrence M. Friedman's legal system theory, the effectiveness of law is determined by the interconnectedness of substance, structure, and legal culture.¹¹ In this context, the unpreparedness of legal culture is the main inhibiting factor.

This situation reflects the existence of unclear norms regarding the status and evidentiary power of electronic signatures in civil cases. Vague norms occur when a legal provision does not provide clear boundaries regarding how it should be applied. In this case, although electronic signatures are legally recognized, there are no provisions that specifically regulate the mechanism for proving them in court. The principle of clarity of formulation (*lex certa*), as a principle in the formation of legislation, appears to have not been fulfilled. As a result, excessively broad interpretation actually opens up the opportunity for disparities in decisions. This situation is inconsistent with the legal objective of creating certainty and justice.

This ambiguity in norms also results in inconsistent court decisions regarding electronic evidence. In some cases, electronic

⁸ Kadir, Z. K. (2025). Kejahatan berbasis identitas digital: Menggagas kebijakan kriminal untuk dunia metaverse. *Jurnal Litigasi Amsir*, 12(2), 124-137. <https://journalstih.amsir.ac.id/index.php/julia/article/view/633>

⁹ Aulia, K. N., Lestari, A., Latief, L. M., & Fajarwati, N. K. (2024). Kepastian hukum dan keadilan hukum dalam pandangan ilmu komunikasi. *Journal Sains Student Research*, 2(1), 713-724. <https://doi.org/10.61722/jssr.v2i1.1006>

¹⁰ Soroinda, D. L., & Nasution, A. A. R. S. (2022). Kekuatan pembuktian alat bukti elektronik dalam hukum acara perdata. *Jurnal Hukum & Pembangunan*, 52(2), 384-405. <https://doi.org/10.21143/jhp.vol52.no2.3344>

¹¹ Razak, A. (2023). Mewujudkan Pemilu Adil dan Bermartabat: Suatu Tinjauan Sistem Hukum Lawrence M. Friedman. *Fundamental: Jurnal Ilmiah Hukum*, 12(2), 471-488. <https://doi.org/10.34304/jf.v12i2.185>

signatures are accepted as valid evidence, while in others they are rejected due to a lack of legal clarity. This inconsistency contradicts the principle of equality before the law, which demands equal treatment in similar cases. Furthermore, this situation has the potential to harm parties who have acted in good faith in using technology in accordance with applicable regulations. According to Gustav Radbruch, the law must encompass three basic values: justice, certainty, and utility.¹² When legal certainty is disturbed, two other values are also threatened.

From a legal utility perspective, ambiguity regarding the validity of electronic signatures can hinder innovation and efficiency in the justice system.¹³ The digitalization of justice currently under development, including through e-courts and e-litigation, requires the full support of an adaptive evidentiary system. The principles of simple, speedy, and low-cost justice, as mandated by the Judicial Power Law, can only be realized if the legal system can accommodate technological developments. Rejection of or doubt about electronic signatures will actually slow down the judicial process. This demonstrates a disharmony between the goal of judicial modernization and conventional evidentiary practices. Therefore, reform of evidentiary law is a necessity.

Within the framework of the legal theory of evidence, evidence must be assessed based on its relevance, validity, and probative strength. Electronic signatures essentially meet all three criteria as long as they meet the requirements stipulated in laws and regulations. Experts such as M. Yahya Harahap emphasize that the probative strength of evidence is

determined not only by its form, but also by its substance and the context in which it is used.¹⁴ Therefore, the assessment of electronic signatures should be conducted objectively and proportionately. Rejections based on ignorance or lack of understanding of the technology are unjustifiable within a modern legal framework. This underscores the importance of enhancing the capacity of law enforcement officials to understand information technology.

Ultimately, the issue of the validity of electronic signatures as evidence in civil cases is not merely technical but also reflects structural problems within the Indonesian legal system. The lack of synchronization between norms, practices, and technological developments demonstrates the need for a more comprehensive reformulation of legal policy. An integrative approach between substantive and formal law is key to resolving this issue. Without clarity and consistency in regulations, the potential for disputes related to electronic signatures will continue to increase. This situation demands certainty regarding how electronic signatures are assessed and used as evidence in court. Therefore, the fundamental question that needs to be answered is the extent to which the validity of electronic signatures can be recognized in the evidentiary system in civil cases and how the ideal structure of such regulations can ensure legal certainty, justice, and benefit.

METHODOLOGY

The research method used in this article is the normative legal research method (doctrinal legal research), namely research that focuses on the study of legal norms contained

¹² Anisyaniawati, A., & alyanti Chandra, H. (2024). Konsep hukum dan keadilan dalam pemikiran Gustav Radbruch. *Praxis: Jurnal Filsafat Terapan*, 2(01).

<https://journal.forikami.com/index.php/praxis/article/view/954>

¹³ Suwandi, J. (2025). Keabsahan tanda tangan elektronik dalam transaksi berbasis blockchain berdasarkan hukum di Indonesia dan

implikasinya. *Jurnal Hukum Lex Generalis*, 6(4). <https://doi.org/10.56370/jhlg.v6i4.879>

¹⁴ Zahra, K. L. A., Al Amjad, M. F. M., Maulidian, S. N., Silvia, S., & Asyifa, F. A. (2024). Relevansi Kepentingan Alat-Alat Bukti Dalam Proses Penyelesaian Hukum Perdata. *The Juris*, 8(1), 95-104.

<https://doi.org/10.56301/juris.v8i1.1185>

in laws and regulations, court decisions, and doctrines or opinions of legal experts. The approaches used include the statute approach, the conceptual approach, and the case approach. The statutory approach is carried out by examining various regulations related to electronic signatures, particularly the Electronic Information and Transactions Law and its implementing regulations, as well as provisions in civil procedural law such as HIR/RBg and the Civil Code. The conceptual approach is used to examine the concept of validity, evidentiary power, and relevant legal theories, while the case approach is carried out through an analysis of court decisions related to the use of electronic signatures in civil case evidence. According to Peter Mahmud Marzuki, normative legal research is a process of discovering legal rules, legal principles, and legal doctrines to address the legal issues faced, so that the results are prescriptive in providing appropriate legal arguments.¹⁵

The legal materials used in this study consist of primary, secondary, and tertiary legal materials collected through library research. Primary legal materials include laws and court decisions, secondary legal materials include books, scientific journals, and opinions of legal experts, while tertiary legal materials include legal dictionaries and encyclopedias. The analytical technique used is qualitative analysis with a deductive legal reasoning method, namely drawing conclusions from general norms to concrete cases that are the object of study. This approach is in line with Soerjono Soekanto's view that normative legal research emphasizes the systematic analysis of legal materials to obtain a complete understanding of a legal problem.¹⁶ Thus, this research aims to provide an argumentative construction

regarding the validity of electronic signatures in proving civil cases and to offer an ideal legal formulation in responding to the ambiguity of existing norms.

RESULTS AND DISCUSSION

Normative and Conceptual Regulations on the Validity of Electronic Signatures in the Indonesian Legal System

The massive development of information technology has shifted the legal orientation from static to dynamic, thus requiring a reconstruction of legal thinking that adapts to changing times. From the perspective of progressive law, as proposed by Satjipto Rahardjo, law should not be trapped solely in normative texts but must be able to adapt to the evolving needs of society as living law.¹⁷ In this case, electronic signatures are a concrete manifestation of modern legal needs arising from increasingly complex digital interactions. Their recognition is based not only on practical needs but also on the philosophical legitimacy that law must serve humanity and the development of civilization. This transformation demonstrates that law can no longer maintain a rigid, conventional paradigm regarding traditional forms of authentication. Thus, the existence of electronic signatures is inevitable in a progressive and responsive legal system.

From a legal perspective, recognition of electronic signatures is rooted in the principles of utility and legal certainty as two main pillars in the modern legal system.¹⁸ The principle of utility requires that the law provide tangible benefits to society, including facilitating the efficiency and effectiveness of electronic transactions. Meanwhile, the principle of legal certainty demands clear norms governing the

¹⁵ Sukmawan, Y. A., & Damayanti, D. (2025). Metode Penelitian Hukum Normatif dan Empiris sebagai Strategi Penguatan Perspektif Kajian Ilmu Hukum. *Notary Law Journal*, 4(3), 114-128. <https://doi.org/10.32801/nolaj.v4i3.116>

¹⁶ Kristiawanto, H., & SHI, M. (2024). *Pengantar Mudah Memahami Metode Penelitian Hukum*. Nas Media Pustaka.

¹⁷ Adiansyah, A., Jailani, A. K., Darmawan, H., Nopriady, E., Santri, D., & Ritonga,

A. J. (2026). Reaktualisasi Konsep Recht Idee Gustav Radbruch Sebagai Fondasi Hukum Progresif Indonesia. *SENTRI: Jurnal Riset Ilmiah*, 5(1), 180-188. <https://doi.org/10.55681/sentri.v5i1.5137>

¹⁸ Ginting, S. N. B. (2025). Potensi Tanda Tangan Digital (Digital Signature) Jika Dimuat Dalam Akta Notaris Demi Mewujudkan Kepastian Hukum. *Jurnal Hukum Lex Generalis*, 6(4). <https://doi.org/10.56370/jhlg.v6i4.2154>

validity and legal force of electronic signatures to avoid ambiguity in practice. In this context, the recognition of electronic signatures is a concrete form of the state's effort to ensure certainty in digital legal relations. However, this legal certainty must not be superficial but rather supported by comprehensive and implementable regulations. An imbalance between utility and certainty has the potential to create injustice in practice.

The paradigm shift from conventional documents to electronic documents in civil law relationships is a logical consequence of the digitalization of society. Documents that were previously physical have now shifted to electronic data stored and transmitted through digital systems. This change concerns not only the medium but also the substance and legal validity of the documents. In civil law theory, documents serve as written evidence reflecting the will of the parties.¹⁹ Therefore, the recognition of electronic documents and electronic signatures must be placed within the expanded meaning of "written" as stipulated in evidence law. Without this expanded meaning, the law will lag behind and lose its relevance in regulating modern legal relations.

Normatively, the recognition of electronic signatures in Indonesia is regulated in the Electronic Information and Transactions Law, which provides a strong legal basis for the use of technology in legal transactions. The law explicitly states that electronic signatures have legal force and valid legal consequences as long as they meet certain requirements. This provision demonstrates legislative recognition of the existence of electronic signatures as a means of legitimacy in legal relations. From a legality perspective, this regulation provides a clear normative basis for parties in using electronic signatures.²⁰ However, this

normative recognition still requires strengthening in terms of implementation to ensure it doesn't remain merely declarative. This is crucial to ensuring that existing norms can truly be operationalized in practice.

The requirements for the validity of an electronic signature, which include authentication, integrity, and non-repudiation, are key elements in determining its validity as evidence.²¹ Authentication relates to the certainty of the signatory's identity, integrity concerns the document's integrity, while non-repudiation ensures that the signatory cannot deny their involvement. These three elements reflect the precautionary principle in evidentiary law, which aims to guarantee material truth. From a theoretical perspective, evidence must be able to convince a judge of the truth of a legal event. Therefore, fulfilling these requirements is an absolute requirement for the acceptance of an electronic signature as evidence. Failure to fulfill any of these elements has the potential to weaken its evidentiary force.

The distinction between certified and uncertified electronic signatures also has significant legal implications in determining their level of validity and evidentiary power. Certified electronic signatures, supported by an Electronic Certification Provider, have a higher level of trustworthiness because they have undergone a rigorous verification and validation process. Conversely, uncertified electronic signatures tend to have weaknesses in terms of evidentiary power because they are not supported by a standardized authentication mechanism. From a precautionary perspective, judges tend to be more accepting of certified electronic signatures as valid evidence. This indicates a differentiation in evidentiary power based on the level of reliability of the system

¹⁹ Rambe, M. R., Wibowo, H., & Hidayat, F. A. (2025). Kewenangan Notaris Dalam Penyusunan Wasiat: Perspektif Hukum Waris Perdata Indonesia. *Kosmopolitan: Jurnal Sosial, Hukum, Politik, dan Humaniora*, 1(1), 1-12. <https://jurnal.catimoredansahabat.my.id/index.php/kosmopolitan/article/view/281>

²⁰ Balqiys, S. K., Trijaya, M. W., Nurhasanah, S., Septiana, D., & Ariani, N. D.

(2026). Implementasi Tanda Tangan Elektronik dan Legalitasnya dalam Pelayanan Akta Notaris. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 4(1), 593-602. <https://doi.org/10.61104/alz.v4i1.3087>

²¹ Ahmad, U. A. C. (2023). VALIDITAS DAN RISIKO PEMBUKTIAN TANDA TANGAN ELEKTRONIK DALAM PERJANJIAN PERDATA DI INDONESIA. *Salimiya: Jurnal Studi Ilmu Keagamaan Islam*, 4(4), 192-204.

used. Thus, the existence of certification is a determining factor in assessing the validity of an electronic signature.

Strengthening the regulation of electronic signatures is also carried out through the Government Regulation on the Implementation of Electronic Systems and Transactions, which regulates technical and administrative aspects in greater detail. This regulation establishes standards that electronic systems must meet to be legally recognized, including in terms of security, reliability, and auditability. In the context of the principle of legal certainty, the existence of these standards is crucial to ensure that every electronic signature used meets the established criteria. Furthermore, this regulation also reflects the state's efforts to create a secure and trustworthy digital ecosystem. Without clear standards, the potential for misuse of technology will increase and become difficult to control. Therefore, this technical regulation plays a strategic role in supporting the validity of electronic signatures.

The role of Electronic Certification Organizers is crucial in ensuring the validity of electronic signatures, especially in terms of identity verification and system reliability.²² This institution functions as a third party that guarantees the validity of electronic signatures through the issuance of digital certificates. From a trust theory perspective, the existence of an independent third party is crucial for building trust in electronic transactions. Furthermore, the validity of electronic systems, as a prerequisite for document legitimacy, also requires strict supervision and control of system administrators. This aligns with the principle of legal protection, which requires guarantees for the rights of parties in digital transactions. Therefore, the validity of electronic signatures is determined not only by normative aspects but also by the reliability of the infrastructure and institutions that support them.

The theory of functional equivalence is a very important conceptual foundation in understanding the legitimacy of electronic signatures in modern legal systems.²³ This theory asserts that an electronic instrument can be equated with a conventional instrument as long as it has the same legal function, particularly in terms of identification, authentication, and agreement of the parties. Thus, an electronic signature is not judged by its physical form, but rather by its ability to fulfill the legal functions previously attributed to manual signatures. This approach aligns with the need for law to adapt to technological developments, thus avoiding being trapped in rigid formalities. From this perspective, rejecting electronic signatures solely because they lack a physical form is a misconception of the substance of the law. Therefore, the application of functional equivalence theory is crucial in bridging the gap between conventional law and digital reality.

The adoption of the principle of functional equivalence in national legal systems is inextricably linked to the influence of the UNCITRAL Model Law on Electronic Commerce, which serves as an international reference for regulating electronic transactions. This principle is incorporated into various national legal provisions that recognize electronic documents and electronic signatures as valid evidence. Normatively, this recognition demonstrates harmonization between national law and international standards. However, this adoption has not been fully and consistently implemented in legal practice, particularly in the judicial sphere. This indicates a gap between the adopted norms and the reality of their application. From the perspective of legal transplantation theory, the successful adoption of a foreign legal concept depends heavily on the readiness of the existing legal structure and culture.

²² Balqiys, S. K., Trijaya, M. W., Nurhasanah, S., Septiana, D., & Ariani, N. D. (2026). Implementasi Tanda Tangan Elektronik dan Legalitasnya dalam Pelayanan Akta Notaris. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 4(1), 593-602. <https://doi.org/10.61104/alz.v4i1.3087>

²³ Sukarno, K. S. (2025). Legitimasi dan Kepastian Hukum Sertifikat Elektronik: Transformasi Digital Sistem Pertanahan Indonesia. *Indonesian Journal of Law and Justice*, 2(2), 66-73. <https://doi.org/10.61476/q8e7s612>

The implication of applying the functional equivalence theory is the need to expand the meaning of "written" in civil law, which has so far been understood narrowly as a physical document.²⁴ In a digital context, the term "written" must encompass electronic documents that can be accessed, stored, and reproduced accurately. This expansion is crucial to ensure the law remains relevant in regulating technology-based legal relationships. Within the framework of the principle of legal certainty, a broad definition of the term "written" will provide clarity for parties in determining the form of a valid agreement. Without such expansion, the law will stagnate and be unable to accommodate technological developments. Therefore, reinterpreting the concept of "written" is inevitable in modern civil law.

From the perspective of the legal theory of evidence, a signature serves primarily as a means of verifying the will of the parties in a legal relationship. A signature indicates agreement and commitment to the contents of the signed document. This function remains unchanged even when the medium used shifts from paper to electronic systems. Therefore, an electronic signature essentially serves the same function as a manual signature: as a means of authentication and legitimacy. According to the legal doctrine of evidence, evidence must be able to convince a judge of the truth of a legal event.²⁵ Therefore, as long as an electronic signature is able to fulfill this function, there is no reason to reject it as valid evidence.

The relevance of an electronic signature in fulfilling the formal and material elements of proof is a crucial aspect in assessing its evidentiary strength. Formally, an electronic signature can prove that a document has been approved by the parties. Materially, an electronic signature can demonstrate the truth

of a document's contents as long as there is no evidence to disprove it. In this regard, the evidentiary strength of an electronic signature depends heavily on the system used, particularly in terms of security and reliability. Legal experts such as M. Yahya Harahap emphasize that evidentiary strength is determined not only by the form of the evidence, but also by its quality and the context in which it is used.²⁶ Therefore, the assessment of electronic signatures must be carried out comprehensively and not partially.

The relationship between electronic signatures and the principle of freedom of contract, as stipulated in Article 1338 of the Civil Code, demonstrates the expansion of the parties' freedom to determine the form of an agreement. This principle grants parties the freedom to enter into any form of agreement, as long as it does not conflict with law, morality, or public order. In this context, the use of electronic signatures is a manifestation of this freedom in the digital era. Electronic signatures serve as a valid symbol of agreement and bind the parties to an agreement. Therefore, restrictions on the use of electronic signatures without a clear basis can be considered a violation of the principle of freedom of contract. However, freedom of contract is not absolute and must still be limited by the principle of prudence, particularly in the context of digital security and validity. The risk of misuse of technology, such as identity forgery or data manipulation, requires strict regulation of the use of electronic signatures. From the perspective of the principle of legal protection, the state has an obligation to protect parties from potential losses resulting from the use of unsafe technology. Therefore, the freedom to use electronic signatures must be balanced with the obligation to ensure their validity and security. This shows that the law

²⁴ da Santo, M. F. O., Sari, L., Kamilah, A., & Reumi, F. (2024). *Pengantar Hukum Perdata: Teori & Referensi Komprehensif Dasar-Dasar Hukum Perdata Di Indonesia*. PT. Sonpedia Publishing Indonesia.

²⁵ Gulo, N., & Gulo, C. D. Z. (2024). *Timbulnya Keyakinan Hakim dalam Hukum Pembuktian Perkara Pidana di Peradilan*

Indonesia. *UNES Law Review*, 6(3), 8115-8122. <https://doi.org/10.31933/unesrev.v6i3.1672>

²⁶ Bagas, A., Mulyati, N., & Danil, E. (2024). *Pertanggungjawaban pidana dengan menggunakan bukti tidak langsung (circumstantial evidence)*. *Ius Civile: Refleksi Penegakan Hukum dan Keadilan*, 8(2), 1-16.

must be able to balance freedom and protection in the digital context.

The problem of norm ambiguity has become a central issue in the regulation of electronic signatures in civil evidence law. The lack of clarity regarding the position of electronic signatures in civil procedural law has led to varying interpretations among judges. On the one hand, substantive law has recognized the validity of electronic signatures, but on the other hand, formal law has not provided clear guidelines regarding the mechanism for proving them. The lack of synchronization between the Electronic Information and Transactions Law and the HIR/RBg creates broad scope for interpretation and has the potential to lead to legal uncertainty. Consequently, judicial practice becomes inconsistent and provides no certainty for the parties. This situation emphasizes the need for comprehensive legal harmonization to address this norm ambiguity.

The Position and Evidential Power of Electronic Signatures in Civil Cases: Legal Analysis and Judicial Practice

The classification of electronic signatures as evidence in civil procedural law raises a complex conceptual problem, particularly regarding their placement within an evidentiary system still dominated by conventional paradigms. Normatively, Indonesian civil procedural law recognizes written evidence as one of the primary forms of evidence, as regulated in the HIR/RBg and the Civil Code. However, the existence of electronic signatures raises the question of whether they should be categorized as part of written evidence or as a stand-alone type of electronic evidence. From the perspective of evidentiary legal theory, this classification is crucial because it will determine the strength of the evidence attached to it. The principle of the legality of evidence requires that every piece of

evidence must have a clear legal basis to be admissible in court.²⁷ This lack of clarity in classification has the potential to create legal uncertainty in judicial practice.

Within the framework of expanding evidence, technological developments require a reinterpretation of the types of evidence recognized in civil procedural law. An overly textual approach to the provisions of the HIR/RBg will hinder the recognition of electronic evidence as valid evidence. Therefore, a systematic and teleological approach is needed in interpreting legal norms to accommodate current developments. In this regard, electronic signatures can be positioned as part of written evidence in the broad sense, which includes electronic documents. This opinion aligns with modern legal doctrine that recognizes the evolution of forms of evidence. Thus, expanding the meaning of evidence is a strategic step in maintaining legal relevance.

The evidentiary power of electronic signatures must be analyzed from two main aspects: formal and material evidentiary power. Formally, an electronic signature serves to prove that a document has been approved by the relevant party, thus reflecting a statement of intent. In this respect, the function of an electronic signature is no different from that of a manual signature. However, from a material perspective, the evidentiary power of an electronic signature depends on the reliability of the system used and its ability to guarantee the accuracy of the document's contents. From a legal perspective, the material strength of evidence is crucial in forming a judge's conviction.²⁸ Therefore, the quality of the electronic system is an important factor in assessing the evidentiary power of an electronic signature.

A comparison between an electronic signature and an authentic deed and a private deed reveals a fundamental difference in the level of evidentiary power. An authentic deed

²⁷ Hulu, I. P. (2022). Legalitas Pembuktian Dalam Persidangan Secara Virtual Ditinjau Dari Hukum Acara Pidana. *Iuris Studia: Jurnal Kajian Hukum*, 3(2), 171-183. <https://doi.org/10.55357/is.v3i2.245>

²⁸ Cristina, J., & Manalu, I. (2025). Analisis Peran Alat Bukti dan Keterangan Saksi dalam Menentukan Keputusan Pengadilan Pidana. *Jurnal Kajian Hukum Dan Kebijakan Publik* | E-ISSN: 3031-8882, 3(1), 245-263. <https://doi.org/10.62379/6vsnhe93>

has perfect evidentiary power because it is created by an authorized official and meets certain formal requirements.²⁹ Meanwhile, private deeds have weaker evidentiary power because they depend on the parties' confessions. Electronic signatures, especially certified ones, can approach the strength of private deeds and, under certain circumstances, even have a higher level of credibility. However, without clear regulations, the position of electronic signatures in the hierarchy of evidence remains uncertain. This indicates the need for more stringent regulations regarding the position of electronic signatures in the evidentiary system.

An analysis of the authentication requirements for electronic signatures shows that the validity of the signatory's identity is crucial. In electronic systems, identity is no longer verified through physical presence, but rather through complex digital mechanisms. Therefore, the reliability of the authentication system is a key determinant in assessing the validity of an electronic signature. From a prudential perspective, the validity of every piece of evidence must be tested before being admitted in court.³⁰ Failure to verify the identity of the signatory can invalidate a document's evidentiary value. Therefore, authentication is a fundamental element in electronic evidence systems.

In addition to authentication, document integrity is also a crucial factor in assessing the validity of an electronic signature. Integrity relates to ensuring that a document has not been altered since it was signed. In a digital context, the risk of data manipulation is higher than with physical documents. Therefore, a mechanism is needed to ensure the document's continued integrity. From a legal perspective, document

integrity is essential for ensuring material truth. Without guaranteed integrity, the evidentiary value of an electronic document is questionable. This demonstrates the crucial role technical aspects play in determining legal validity.

The role of cryptographic technology in ensuring the security of electronic signatures cannot be ignored in the legal analysis of evidence. Cryptography enables data encryption so that it can only be accessed by authorized parties.³¹ Furthermore, this technology also allows for the detection of any changes to documents. From an information security perspective, cryptography is a key tool for ensuring authentication, integrity, and non-repudiation. Therefore, the use of this technology is a prerequisite for creating a trustworthy electronic signature system. Without adequate technological support, the legal recognition of electronic signatures will lose its rational basis.

The negative evidentiary system theory approach (negatief wettelijk bewijsstelsel) provides an important analytical framework in assessing electronic signatures as evidence.³² In this system, judges are not only bound by the evidence presented, but also by their own beliefs in assessing the truth of a legal event. This allows judges to assess electronic evidence more flexibly, but also creates the potential for subjectivity. The interaction between electronic signatures and other evidence is crucial for strengthening their probative value. In practice, judges often require supporting evidence to confirm the validity of electronic signatures. This situation demonstrates that, despite being normatively recognized, the acceptance of

²⁹ Dewantara, Y. P., Hadi, M. C., & Tedjokusumo, D. D. (2024). Kekuatan Pembuktian Akta Otentik dalam Perspektif Hukum Acara Perdata (Studi Kasus Putusan Mahkamah Agung No. 656 PK/Pdt/2019). *Paradigma: Jurnal Filsafat, Sains, Teknologi, Dan Sosial Budaya*, 30(3), 24-31. <https://doi.org/10.33503/paradigma.v30i3.71>

³⁰ Cristina, J., & Manalu, I. (2025). Analisis Peran Alat Bukti dan Keterangan Saksi dalam Menentukan Keputusan Pengadilan Pidana. *Jurnal Kajian Hukum Dan Kebijakan Publik* | E-ISSN:

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³¹ Saragih, J. G. (2025). Penerapan Kriptografi untuk Pengamanan Data Nilai Siswa dengan Algoritma Super Enkripsi. *ADA Journal of Information System Research*, 2(2), 77-85. <https://doi.org/10.64366/adajisr.v2i2.78>

³² Baharini, E. (2025). Kedudukan Akta PPAT Sebagai Alat Bukti Otentik Dalam Rancangan KUHAP. *Notary Journal*, 5(1), 79-98. <https://doi.org/10.19166/nj.v5i1.9945>

electronic signatures remains highly dependent on the judge's interpretation.

The case approach to judicial practice indicates that the acceptance of electronic signatures in civil cases remains volatile and has not yet achieved a sufficient level of consistency. In some decisions, judges accept electronic signatures as valid evidence based on normative recognition in laws and regulations, while in other decisions, they express skepticism by rejecting or questioning their validity. This variation reflects the lack of uniformity in understanding the legal status of electronic signatures among judicial officials. Theoretically, this inconsistency contradicts the principle of legal certainty, which requires uniformity in the application of norms. These differences in approach also indicate that the legal system has not yet fully internalized technological developments into judicial practice. As a result, litigants face uncertainty in relying on electronic evidence.

Inconsistencies in judges' considerations of electronic evidence stem not only from differing interpretations of norms but also from disparate understandings of the technical aspects of the technology itself. Judges with adequate digital literacy tend to be more open to accepting electronic signatures, while judges with less technological understanding tend to be conservative. From the perspective of legal discovery theory (*rechtsvinding*), judges have an active role in interpreting and developing the law, but this freedom must remain within the bounds of rationality and objectivity. When technical understanding becomes the dominant factor, the quality of decisions becomes dependent on the judge's individual capacity. This has the potential to lead to unjustifiable disparities in decisions within a legal system that upholds the principle of justice. Therefore, standardization of understanding in assessing electronic evidence is necessary.

The primary factor contributing to the disparity in decisions in judicial practice is the lack of comprehensive technical guidelines regarding electronic evidence. Current civil procedure law does not provide clear operational guidance on how to assess, test, and admit electronic evidence in court.³³ Furthermore, the lack of training and education regarding information technology for law enforcement officers exacerbates the situation. From the perspective of Lawrence M. Friedman's legal systems theory, this weakness lies in the legal structure and culture, which are not yet ready to accommodate technological developments.³⁴ Without clear guidelines, judges will tend to use a subjective approach when assessing electronic evidence. This situation highlights the urgent need to strengthen the institutional framework within the justice system.

The legal constraints in proving electronic signatures primarily lie in the limitations of civil procedural regulations, which are still oriented towards conventional evidence. The HIR/RBg and the Civil Code do not explicitly regulate electronic evidence, creating a legal vacuum in practice. Although provisions exist in the Electronic Information and Transactions Law, these provisions have not been systematically integrated with civil procedural law. From the perspective of the *lex certa* principle, every legal norm must be clearly formulated to be effectively implemented. This lack of clarity makes it difficult for law enforcement officials to apply existing norms. As a result, proving using electronic signatures is less than optimal.

In addition to legal constraints, there are also significant practical obstacles, namely the lack of digital literacy among law enforcement officials. Limited understanding of information technology makes it difficult to assess the validity and reliability of electronic signatures. In this context, technology, which should be a

³³ Khatimah, H., Khairani, S. W., Ardiansyah, D., Lubis, F., Zibron, Y., & Alamsyah, H. (2025). Analisis Hukum Bukti Elektronik Sebagai Alat Bukti Dalam Pemeriksaan Hukum Acara Perdata. *JURNAL HUKUM AL ADL HARAPAN*, 5.

³⁴ Willis, R. P., & Hanifah, M. (2026). TINJAUAN KOMPREHENSIF TERHADAP PERKEMBANGAN SISTEM HUKUM DI DUNIA. *Journal Orchestration*, 1(1). <https://istilahhukum17.com/jih/index.php/journalorchestration/article/view/17>

tool, instead becomes a source of uncertainty. The risk of misuse and forgery of electronic signatures is also a concern often cited as a reason to reject their use. However, these concerns should be addressed by strengthening security systems, not by rejecting the technology itself. Therefore, improving human resource capacity is key to overcoming these practical obstacles.

From the perspective of the principle of legal certainty, the current situation indicates significant uncertainty in the use of electronic signatures as evidence. Unclear norms and inconsistent decisions leave parties without clear guidelines for using electronic evidence. This contradicts the legal objective of providing certainty and protection for the public. From the perspective of the principle of justice, this situation also has the potential to harm parties who have used technology legally and in accordance with applicable regulations. Injustice arises when evidence that is normatively recognized is rejected in practice. Therefore, serious efforts are needed to ensure that the law provides fair protection for all parties.

The principle of legal utility is also an important consideration when evaluating the use of electronic signatures for evidence. Information technology offers efficiency, speed, and ease of transactions, which should be supported by an adaptive legal system.³⁵ However, unclear regulations and resistance in practice actually hinder the use of this technology. From a utilitarian perspective, the law should provide the greatest benefit to society. Therefore, rejection of electronic signatures without a strong basis can be seen as a form of obstruction to progress. This situation demonstrates the need for legal reform that can optimally accommodate technological developments.

The urgency of reformulating civil evidence law is becoming increasingly apparent in the face of rapid developments in information technology. Harmonizing the Electronic Information and Transactions Law

with civil procedural law is a necessary first step to address the normative disharmony. Furthermore, the establishment of clear technical guidelines regarding electronic evidence in court is an urgent need. Strengthening the capacity of judges through education and training in information technology must also be a priority. Within the theoretical framework of legal reform, this reform must be carried out comprehensively and sustainably. Without systematic reformulation, existing problems will continue to recur.

The ideal structure for the position of electronic signatures in the civil evidence system must place them as evidence equal to conventional written evidence. This recognition must be explicitly stated in legislation to avoid diverse interpretations. Furthermore, there needs to be a clear definition of the evidentiary standards that electronic signatures must meet to be admissible in court. The integration of electronic signatures into electronic justice systems, such as e-courts and e-litigation, is also a strategic step in the modernization of the judiciary. From a progressive legal perspective, this step represents a form of legal adaptation to technological developments. Thus, the legal system can provide certainty, justice, and benefit in a balanced manner.

CONCLUSION

The validity of electronic signatures in civil case evidence has essentially gained strong normative legitimacy through regulations in the positive legal regime, particularly in the Electronic Information and Transactions Law and its implementing regulations, which recognize electronic signatures as a valid means of legitimacy as long as they meet the requirements of authentication, integrity, and non-repudiation. However, from the perspective of civil evidence law, their evidentiary power has not yet been fully established due to the ambiguity of norms and the lack of synchronization between material and formal law, especially within the

³⁵ Febrianto, R., Agustiani, S., & Yanuariska, Z. (2025). OPTIMALISASI SISTEM PEMBAYARAN DIGITAL YANG MUDAH DAN

AMAN DALAM E-COMMERCE: TINJAUAN HUKUM BISNIS. *Letterlijk*, 2(2), 34-44. <https://doi.org/10.25134/letterlijk.v2i2.1018>

framework of the HIR/RBg and the Civil Code, which are still oriented towards conventional evidence. This condition creates inconsistencies in judicial practice, where the acceptance of electronic signatures is highly dependent on the interpretation and conviction of judges, thus potentially disrupting the principles of legal certainty, justice, and utility. Conceptually, through the functional equivalence approach and the theory of evidence law, electronic signatures have an equal standing with manual signatures in proving the will of the parties, so they should be recognized as written evidence in the broad sense with evidentiary power that depends on the quality of the system and its verification mechanism. Therefore, a comprehensive reformulation of civil evidence law is needed through regulatory harmonization, affirmation of evidentiary standards, and strengthening the capacity of law enforcement officials so that electronic signatures can be recognized and applied consistently in judicial practice, thereby ensuring legal certainty, justice, and benefit in the digital era.

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