

## US Legal Requirements

Laws state that a signature on a piece of paper has the following legal characteristics:

A legal signature is:

- The **mark** of a specific **individual** against a specific **document** at a specific **time** given with specific **intent**

Furthermore the act of providing a signature is a ceremonial process. It has been part of our culture for hundreds of years and we all learnt its significance as we grew up. The ceremony is important in demonstrating the signatory's legal undertaking.

There are 2 overlapping schemes that endorse the use of electronic signatures as legally binding signatures. Both schemes are similar to a high degree but do have some differences, generally where the law requires a signature an e-signature satisfies the requirement. E-signature laws typically exclude signature on certain types of document e.g., wills, divorce agreements, foreclosure and eviction notices, and a few others.

The 2 schemes are:

- Federal e-signature statute
- State e-signature laws

State e-signature laws

A uniform state law on e-signatures (UETA) which has been adopted in 30+ states. Any transaction covered by the UCC (Uniform commercial Code) would be exempt from UETA.

In general terms, where the law requires a signature an e-signature satisfies the requirement. The majority of e-signature laws will state that e-signatures are not acceptable on certain document types e.g. foreclosures, eviction notices, wills and divorces.

A computer record can be considered "hearsay" by some courts, including federal courts. If the record is considered hearsay, then the party seeking to introduce the record must make the record fall within an exception to the hearsay rule. Computer records are usually admitted into evidence under the business records exception to the hearsay rule.

### Authentication

The key step to laying the foundation is authenticating the record. Authenticating an electronic computer record is no different than authenticating other records. Authenticating a record means "evidence sufficient to support a finding that the matter in question is what its proponent claims."

The other party in court would challenge the authenticity of computer records on one of three general grounds by challenging the:

- Storing and retention of the stored records, and whether they were changed, manipulated, or damaged after they were created.
- Reliability of the computer program that stores and generates computer records. Is the system reliable? Does the system have flaws, programming errors or bugs?
- Identity of their author. How can it be proved that the computer records really are connected to a particular person?

