

Understanding Legally Binding Electronic Signatures

An Introduction to
Electronic Signature
Capture Technology



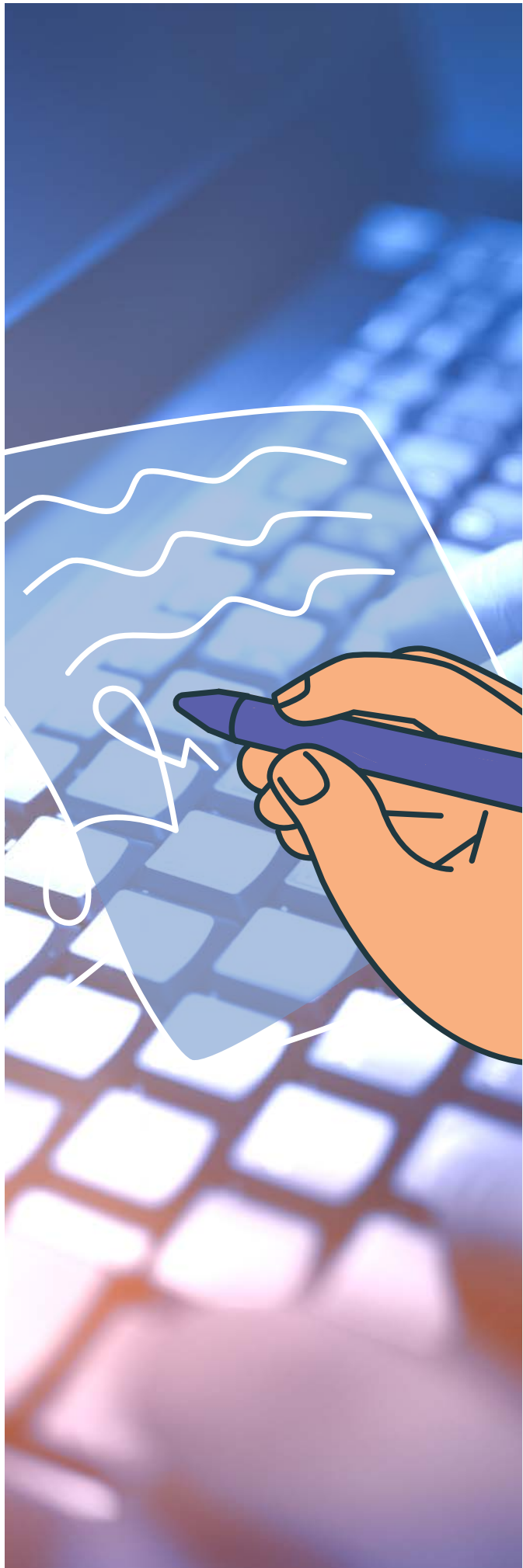
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The Legal Standard

In 1996, the United Nations Commission on International Trade Law (UNCITRAL) published the **UNCITRAL Model Law on Electronic Commerce** with a Guide to Enactment. A need for uniformity in the laws governing electronic alternatives to paper-based signatures, forms, communication, and storage quickly emerged. Five years later, the **UNCITRAL Model Law on Electronic Signatures** with a Guide to Enactment was published in 2001, recommending all states consider both models when they enact or revise laws on electronic signatures. These two models provide the framework for laws on e-commerce and electronic signatures throughout the world.

In the United States, an electronic signature is defined as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record. To encourage the transition to e-commerce and other electronic business transactions, laws enacted at both the federal and state levels are carefully worded to provide assurance to organizations, businesses and consumers that electronic signatures are valid and legally binding.



The Electronic Signatures in Global and National Commerce Act (ESIGN)

Enacted by the United States Congress in June 2000, the **Electronic Signatures in Global and National Commerce Act** (Public Law 106-229) is the federal law that eliminates legal barriers to the use of electronic technology to form and sign contracts, send and receive notices and disclosures, and collect and store documents. The provision facilitates e-commerce and the use of electronic records and signatures while enhancing consumer confidence.

ESIGN promotes the use of electronic contract formation, electronic signature capture, and record-keeping by establishing the legal equivalence between contracts written on paper and those in electronic form. ESIGN effectively makes electronic signatures equivalent to pen-and-ink signatures and provides that no contract, signature, or record shall be denied legal effect solely because it is in electronic form. Congress intended ESIGN to have a positive effect on the continued growth of e-commerce and consumer confidence. As public awareness increases and confidence grows, the number of organizations transitioning to electronic methods of signature capture is significantly increasing. If the parties to a contract choose to utilize electronic signatures and records, ESIGN grants those signatures and records legal recognition by federal law.

The Uniform Electronic Transactions Act (UETA)

The **Uniform Electronic Transaction Act** (UETA) was released by the National Conference of Commissioners on Uniform State Laws in 1999. Since its release, electronic signatures have become legally valid in all 50 states.

New York, Washington and Illinois enacted their own statutes for electronic signatures; however, 47 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands enacted UETA. Essentially a state version of ESIGN and designed to enhance electronically conducted business, UETA provides the definition and legal recognition of electronic signatures, records, and contracts in accordance with state law.

Electronic Signature Capture in Organizations and Industries

BANKING

Electronic signatures are already used in lending and new accounts to efficiently process documents for delivery. In April of 2011, the **E-Signature Summit for Banking Executives** was held at the New York Stock Exchange. The purpose of the summit was to help executives of financial services companies transition to electronic signatures to improve customer service, prevent errors, and reduce risk. Banking executives had the opportunity to meet and consult with David Whitaker, a legal expert who helped draft ESIGN.

Mr. Whitaker provided his expertise to assist banks in the transition to electronic transactions, records and signatures. Participants in the summit were also presented a case study by David S. Miller and John Fraser, on how U.S. Bank streamlined exception processing by incorporating electronic signatures into its consumer and business loan processing system. The system is deployed in more than 30,000 bank branches.

HEALTHCARE

Electronic signature pads are commonly used in medical and dental offices, hospitals, and pharmacies. Pharmacies use electronic signatures to deliver prescription medication and verify consultations. Medical offices and hospitals use electronic signatures to obtain informed consent, carry out doctors orders and provide medical care. In June of 2011, the Centers for Medicare & Medicaid Services (CMS) addressed the use of electronic signatures. Chapter 3 of the CMS Medicare Program Integrity Manual requires doctors to authenticate orders by handwritten or electronic signatures; stamped signatures are no longer acceptable for any service provided or ordered.

REAL ESTATE

On April 10, 2010, the U.S. Department of Housing and Urban Development announced the Federal Housing Administration's use of electronic signatures for third party documents, including sales contracts and mortgage insurance endorsement. The policy is effective for forward mortgages as well as home equity conversion mortgages. In accordance with both ESIGN and UETA, the FHA must employ the same level of care and due diligence with electronically signed documents that they would for signatures on paper documents. To download a copy of the announcement please [click here](#).

RETAIL

One of the first industries to adopt the use of electronic signatures was the retail industry. Businesses and consumers now rely on the convenience and efficiency of electronic signatures for transactions requiring credit card signatures. Behind the scenes, electronic signatures reduce the time it takes to gain management approval and execute purchase orders.

SALES AGENTS

The Aberdeen Group provides research to identify processes, procedures, methodologies, and technology for best practices in specific sectors of industry. A 2010 study titled Optimizing Lead-To-Win: Shrinking the Sales Cycle and Focusing on Sealing More Deals targeted the sales industry.

Study findings indicate that automating the sales processes is a key component of a successful business and identifies electronic signature capturing tools as a significant component of the process. According to the research, sales teams that utilize electronic signature technology conduct more business at a faster rate. The study also found that best-in-class sales organizations employ automated sales processes far more frequently than average companies. To download the study conducted by the Aberdeen Group, please [click here](#).

Green Office Practices and the Benefits of Electronic Signature Pads

As consumer demand for green solutions increases, electronic signatures provide convenient and efficient transactions and eliminate the need for costly paper products and printing requirements. According to a report by the [Hurriyet Daily News](#) in Ankara, Turkey, 2.6 million electronic signatures in 54,214 transactions for warranty and after-sale service agreements. In 2008, electronic signatures saved 9.4 tons of paper, eight square kilometers of forest, and prevented 3,382 tons of greenhouse gases from being released into the atmosphere. Electronic signature pads reduce the cost of paper, printing, shipping, and storage in a package that won't easily wear and tear.



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