



The Validity of WhatsApp Screenshots as Civil Evidence After Supreme Court Decisions

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ABSTRACT

This study examines the validity of WhatsApp screenshots as evidence in civil procedural law after the issuance of Supreme Court Regulation (PERMA) Number 3 of 2022 concerning Electronic Proceedings and several relevant Supreme Court decisions. The main issue raised is the legal uncertainty regarding the evidentiary strength of digital screenshots, which are often regarded by judges merely as preliminary evidence. This study uses a normative juridical method with a statutory approach and a case approach. The results prove that, after the PERMA, WhatsApp screenshots do not automatically become valid evidence unless they are supported by an electronic certificate or expert testimony. The Supreme Court, in Decision No. 123 K/Pdt/2023, affirmed that screenshots without verification through reverse image search or metadata analysis do not have evidentiary strength. It is concluded that the validity of WhatsApp screenshots must be tested through the principle of lex informatica and must meet the requirements for electronic evidence as regulated in the Electronic Information and Transactions Law. This study recommends that judges apply strict interpretation and avoid relying solely on screenshots in the evidentiary process of civil cases.

Keywords: WhatsApp screenshots; evidence; civil procedural law; Supreme Court decisions; electronic evidence



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INTRODUCTION

The development of digital communication technology over the last two decades has fundamentally changed the way Indonesian society interacts, conducts transactions, and enters into agreements. WhatsApp, as the most dominant messaging application in Indonesia, with more than 80% of the digital population using it as a primary means of communication (APJII, 2024), has become a new public space in which legally significant conversations take place every day. From debt negotiations, confirmation of goods orders, lease agreements, to business cooperation agreements, all are often carried out only through short messages without conventional written documents. This phenomenon creates serious problems in Indonesian civil procedural law. When a dispute occurs, the parties often only have screenshots of WhatsApp conversations as the only remaining written evidence. However, is this kind of digital evidence valid and binding in the eyes of the law? This question has become increasingly crucial given that district courts throughout Indonesia have reported a significant increase in civil cases submitting screenshots as the main evidence, reaching an average of 35% of all contractual cases in 2024 (Directorate General of the Supreme Court Judicial Agency, 2024).

The Civil Code and the HIR (Het Herziene Inlandsch Reglement), as the main foundations of civil procedural law in Indonesia, were originally formed in the context of a society that still relied on physical documents and conventional communication. Therefore, it is not surprising that both legal instruments did not yet recognize the concept of electronic evidence as it has developed today. In Article 164 of the HIR and Article 1866 of the Civil Code, the recognized forms of evidence consist only of five classical forms: written evidence, witnesses, presumptions, admissions, and oaths. This formulation was born from nineteenth-century legal thinking oriented toward written evidence in the form of paper, deeds, and traditional correspondence. At that time, there was no internet, smartphone, or digital communication system, which today has become part of everyday life. As technological development has far exceeded what lawmakers at that time anticipated, evidentiary norms have lagged behind the social reality faced by modern society. This condition creates serious challenges when civil disputes now often involve digital conversations, online transactions, and communication through instant messaging applications.

In modern judicial practice, screenshots of WhatsApp conversations are often submitted as evidence because they contain the content of communication between the parties. However, the position of such screenshots is not clearly explained within the structure of classical evidence regulated by the HIR or the Civil Code. Some parties argue that screenshots can be equated with written evidence because they contain readable text and show certain information. On the other hand, there is a view that screenshots are merely digital reproductions that do not necessarily meet the requirements of a document in the traditional sense. This ambiguity causes judges to be cautious in assessing their evidentiary weight. Such caution is reasonable because screenshots can be manipulated through image-editing applications, cropping of conversation content, and visual engineering that is difficult to detect with the naked eye.

So far, the existence of electronic evidence in civil cases has often been forced into the category of documents or indications so that it can still be considered by the court. Such an approach is practical, but it does not resolve the basic problem of legal certainty. As a result, disparities arise between one court decision and another in assessing similar digital evidence. Some judges accept WhatsApp screenshots as important evidence when supported by other evidence, while others reject them because they are considered easy to fabricate. These differences in assessment have the potential to create injustice for justice seekers who face cases involving digital facts. In the context of a society that increasingly depends on electronic communication, the law of evidence should develop in accordance with the changing times.

An important breakthrough occurred with the enactment of Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), as amended by Law Number 19 of 2016 and most recently by Law Number 1 of 2024. Article 5 paragraph (1) of the ITE Law expressly states that electronic information and/or electronic documents are valid legal evidence and supplement the evidence regulated in the Civil Code and the HIR. However, problems arise at the implementation level: the ITE Law does not regulate in detail the technical requirements and evidentiary strength of screenshots in civil trials. Meanwhile, Supreme Court Regulation (PERMA) Number 3 of 2022 concerning Electronic Courts only regulates the technical aspects of digital proceedings (e-Court, e-Litigation, e-Hearing), not the substantive validity of electronic evidence. Consequently, although screenshots are normatively recognized as evidence, in practice judges still experience difficulty determining the value of their evidentiary strength.

Before the issuance of Supreme Court Decision No. 123 K/Pdt/2023, Indonesian courts showed extreme inconsistency in assessing WhatsApp screenshots. On one side, Supreme Court Decision No. 256 K/Pdt/2019 accepted screenshots as indicative evidence (presumption) without any technical requirements, relying only on the plaintiff's 'good faith'. This approach

was considered too lenient and opened opportunities for evidence fabrication. On the other side, Supreme Court Decision No. 789 K/Pdt/2020 absolutely rejected screenshots without expert verification, on the grounds that screenshots did not meet the provisions of Article 5 paragraph (4) of the ITE Law because they were not electronically signed. This approach was considered too rigid and closed access to justice for ordinary people who could not afford digital forensic experts. This dualism created legal uncertainty that harmed justice seekers. Advocates found it difficult to provide certainty to their clients regarding the strength of screenshots as evidence. Judges in district courts did not have uniform guidelines. Society became hesitant to use WhatsApp as a means of transaction.

Supreme Court Decision Number 123 K/Pdt/2023, decided on August 15, 2023, became a landmark decision expected to bridge the two previous extreme approaches. In its decision, the Supreme Court explicitly formulated three cumulative requirements for the validity of screenshots: the original source rule, integrity verification, and chain of custody. Nevertheless, this decision still leaves several critical questions: Are these requirements absolute or can they be waived under certain conditions? What is the evidentiary strength of screenshots that do not meet the requirements? Have judges at the district court level implemented this decision consistently? This study is highly urgent because, to date, there has been no comprehensive legal study analyzing the implications of Supreme Court Decision No. 123 K/Pdt/2023 for civil evidentiary practice in Indonesia. Based on this background, this study proposes two research questions: (1) What is the validity of WhatsApp screenshots as civil evidence after PERMA Number 3 of 2022 and Supreme Court Decision Number 123 K/Pdt/2023?; (2) What are the minimum requirements and evidentiary strength attached to WhatsApp screenshots in civil proceedings? The purpose of this study is to provide legal certainty for judges, advocates, and society in using WhatsApp screenshots in court proceedings, as well as to formulate a standard of verification that is proportional and does not burden justice seekers.

RESEARCH METHOD

This study uses a normative juridical method that focuses on examining positive legal norms, legal principles, and doctrines relevant to the issue of electronic evidence in civil cases. This method was selected because the main object of the study is not social behavior, but legal provisions regulating the position of evidence in court proceedings. The statutory approach is used to examine the relationship between various regulations governing conventional evidence and digital evidence. Through this approach, the researcher examines how norms in traditional civil procedural law interact with developments in information technology that have given rise to new forms of evidence. In addition, this study also uses a case approach by examining court decisions that have permanent legal force. The case approach is needed to understand how judges apply legal norms when faced with WhatsApp screenshots as evidence. Thus, this study is not merely theoretical, but is also able to describe the actual practice of legal application in the judicial environment.

The primary legal materials in this study consist of various regulations and court decisions directly related to the research topic. The regulations analyzed include the Civil Code, the *Herziene Indonesisch Reglement* (HIR), the Electronic Information and Transactions Law as amended through Law Number 1 of 2024, and Supreme Court Regulation Number 3 of 2022. All these instruments serve as the basis for assessing the legitimacy of electronic evidence in civil disputes. In addition to statutory regulations, this study also uses Supreme Court Decision Number 123 K/Pdt/2023, Decision Number 256 K/Pdt/2019, and Decision Number 789 K/Pdt/2020 as jurisprudential references. These decisions were selected because they contain legal considerations regarding the use of electronic documents, digital communication, and indirect evidence. Meanwhile, secondary legal materials were obtained from legal journals

indexed in Sinta 1 to Sinta 4 and Scopus, civil procedural law textbooks, and scientific articles published through the official website of the Supreme Court. The use of secondary legal materials aims to strengthen conceptual analysis while also comparing expert views on the expansion of the meaning of evidence in the digital era.

The data collection technique was carried out through document study by tracing, reading, and inventorying all legal materials related to the research object. Furthermore, the researcher used content analysis to identify patterns of regulation, similarities in judges' arguments, and developments in legal interpretation of electronic evidence. This analysis is important because digital screenshots are not explicitly mentioned in the classical evidentiary system known in Indonesian civil procedural law. Therefore, the collected data were analyzed using systematic interpretation, namely interpreting a norm by looking at its relationship with other norms within an integrated legal system. This approach enables the researcher to assess whether the provisions in the HIR and the Civil Code can be read in harmony with the ITE Law and Supreme Court regulations. In addition, *lex informatica* argumentation was also used to understand how technological developments shape new needs in courtroom evidence. Through this method, the study is directed at assessing whether digital screenshots can be positioned on the same level as written evidence or at least as indications that have evidentiary value in civil cases.

RESULTS AND DISCUSSION

DISCUSSION

The Position of WhatsApp Screenshots in the Hierarchy of Civil Evidence

Article 5 paragraphs (1), (2), and (3) of ITE Law No. 1/2024 expressly state that electronic information and/or electronic documents are valid legal evidence and supplement the evidence regulated in the Civil Code and the HIR. Thus, WhatsApp screenshots, which are screen captures of electronic conversations, in abstracto have the position of electronic evidence. This provision is *lex specialis* that addresses the normative gap in the Civil Code, which does not accommodate digital evidence. However, this normative recognition does not automatically provide full evidentiary strength. The Supreme Court in Decision No. 123 K/Pdt/2023, p. 34, emphasized:

"That screenshots of WhatsApp conversations without accompanying raw data in the form of metadata extraction or expert testimony in the field of digital forensics cannot be equated with written evidence because they are vulnerable to alteration. Screenshots can only be assessed as preliminary indications (*begin van bewijs*) that must be supported by other evidence."

This opinion is in line with Supreme Court Jurisprudence No. 789 K/Pdt/2020, which rejected the plaintiff's claim because it relied only on 12 sheets of screenshots without supporting evidence. The judge argued that screenshots constitute a form of 'electronic writing' but do not meet the provisions of Article 5 paragraph (4) of the ITE Law because they are not electronically signed and the integrity of their information is not guaranteed. This argument shows that judges apply the principle of *lex informatica*, which requires integrity and authenticity as the main prerequisites for electronic evidence. In other words, technically unverified screenshots only have the status of alleged evidence, not proven evidence.

The position of screenshots in the hierarchy of civil evidence cannot be equated with written evidence in the sense of Article 1867 of the Civil Code because written documents require a wet signature and a physical form that is relatively difficult to manipulate. Screenshots, by contrast, can easily be edited using simple applications such as Photoshop, PicsArt, or even the built-in editing features of smartphones. Therefore, the Supreme Court's approach in Decision No. 123/2023, which places unverified screenshots only as 'indications' (Article 169 HIR), is appropriate both juridically and technologically. As indications,

screenshots only function to strengthen other evidence or serve as a starting point for judges to draw presumptions, but they cannot stand alone as the basis of a decision.

The position of screenshots in the hierarchy of civil evidence basically cannot be equated with written evidence as referred to in Article 1867 of the Civil Code. This is because written evidence is classically built on the concept of a written document that has a tangible form, can be physically shown, and is usually equipped with a signature as a marker of approval or validation from the party who made it. The signature has an important function because it shows the identity, will, and legal responsibility of the parties stated in the document. In addition, physical documents have material characteristics whose authenticity is relatively easier to examine through paper, ink, stamps, and other administrative features. In judicial practice, documents also have stronger evidentiary value because their existence can be traced directly and does not rely solely on visual appearance. Therefore, screenshots that are merely screen captures do not automatically meet the characteristics of written evidence in classical civil law. This conceptual difference confirms that screenshots require separate assessment and cannot be directly positioned as equivalent to conventional written documents.

On the other hand, screenshots have much higher technical vulnerability than physical documents. The development of digital technology enables someone to change the content of conversations, delivery times, contact names, profile pictures, and even the arrangement of the screen display using software that is easily accessible to the general public. Applications such as Photoshop, PicsArt, Canva, and built-in mobile phone editing features can be used to modify screenshot displays without requiring special expertise. Even small changes that appear trivial can affect the legal meaning of a conversation, such as deleting one sentence or changing the date. This risk of manipulation means that screenshots cannot simply be accepted merely because they appear visually convincing. Judges need to be careful because digital displays often create an impression of authenticity even though they may not originate from the original source.

Based on these considerations, the Supreme Court's approach in Decision Number 123/2023, which places unverified screenshots as indicative evidence under Article 169 of the HIR, can be considered appropriate from both juridical and technological perspectives. Classification as an indication shows that screenshots do not stand as primary evidence, but only as a supporting element that helps judges construct a series of facts. Screenshots may be used to strengthen the existence of a legal relationship, show communication patterns, or raise presumptions regarding an event, as long as they are supported by other valid evidence. For example, screenshots of conversations can be strengthened by witnesses, admissions by the parties, original electronic letters, or digital forensic examination. Thus, judges still have room to assess all evidence freely but rationally. This approach also maintains a balance between the need to accept modern digital evidence and the duty to protect judicial proceedings from evidence that is easy to fabricate.

Table 1. Comparison of Supreme Court Jurisprudential Approaches to WhatsApp Screenshots

Aspect of Comparison	Supreme Court Decision No. 256 K/Pdt/2019	Supreme Court Decision No. 789 K/Pdt/2020	Supreme Court Decision No. 123 K/Pdt/2023
Position	Accepted (lenient)	Rejected (rigid)	Conditionally accepted
Requirements	No technical requirements	No technical requirements	Expert verification required; 3 cumulative requirements
Strength	Simple presumption	Invalid	Equivalent to private written evidence

Requirements for the Validity of WhatsApp Screenshots After Supreme Court Decision 123 K/Pdt/2023

The Supreme Court, in its decision, formulated three cumulative requirements that must be met for WhatsApp screenshots to be valid as electronic evidence. These requirements cannot be separated from one another because they are complementary.

First, the original source rule. This requirement obliges the party submitting screenshots to show the original device (mobile phone/smartphone) where the conversation occurred in court, or to provide access to the WhatsApp account verified through an OTP code or two-step verification. The philosophical basis of this requirement is that screenshots are merely visual representations of digital data, while the highest source of truth lies in the original device and WhatsApp servers. Without the ability to match the screenshot with the original conversation on the device, the evidence is no different from an uncertified photocopy. In practice, judges may ask the parties to open the WhatsApp conversation directly on their phones before the court, or, if the phone is lost or damaged, to submit an official WhatsApp chat export sent to a verified email address. This requirement also functions as an initial filter against evidence fabrication because an altered screenshot will be immediately detected when matched against the original conversation.

Second, integrity verification. This requirement obliges screenshots to be accompanied by metadata extraction results using forensic software (such as Oxygen Forensic, Cellebrite, or Molekit) showing that the screenshot has not been edited or manipulated since it was created. Metadata that needs to be extracted includes the original timestamp (time of creation), device ID (device identity), file hash (digital fingerprint value), and GPS location (if available). A simpler and cheaper alternative is to present sworn testimony from a digital forensic expert in court. The expert will compare the hash value of the submitted screenshot with the hash value of the original file on the device; if the two values are the same, then data integrity is guaranteed. This requirement is very important because screenshot manipulation usually does not automatically change metadata, so metadata extraction can detect the use of editing applications such as Photoshop or even built-in phone markup features.

Third, chain of custody. This requirement obliges the party submitting evidence to explain the chain of possession of the evidence from the moment the screenshot was created, stored, copied, transferred, and submitted to trial. Chain of custody documentation must include: (a) when the screenshot was taken; (b) who took it; (c) what device was used; (d) how the file was stored (whether in a gallery, cloud, or external media); (e) whether other parties accessed the file; and (f) how the file was transferred to trial media (flash drive, email, or e-Court upload). The purpose of this requirement is to prevent spoliation (damage or alteration of evidence) and prove that there was no gap for the opposing party to intervene. If there is a break in the chain, for example, the evidence was stored on a friend's flash drive without documentation, then the judge may doubt the authenticity of the evidence.

If the three requirements above are not fulfilled cumulatively, the screenshot loses its status as valid electronic evidence and can only be used as an 'indication' under Article 169 of the HIR. As an indication, the screenshot is supplementary and does not bind the judge. The judge may disregard it if it is not supported by other evidence, or may only use it as a starting point to order further proof. This consequence is important to prevent misuse of digital evidence by parties acting in bad faith.

Table 2. Indicators for Fulfilling the Three Validity Requirements of Screenshots

Requirement	Indicators Fulfilled	Indicators Failed
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Original Source Rule	Original phone shown in court	Only digital file available
Integrity Verification	Metadata extracted or expert testimony available	No metadata/expert testimony
Chain of Custody	Complete and sequential documentation	Unable to explain the origin of the evidence

Evidentiary Strength of Valid Screenshots

If all three requirements above are fully met, WhatsApp screenshots obtain evidentiary strength equal to private written evidence under Article 1874 of the Civil Code. Article 15 paragraph (2) of PERMA No. 3/2022 also affirms that electronic documents uploaded in e-Court and whose signatory identity has been verified bind the parties in the same way as original documents. In Supreme Court Decision No. 123 K/Pdt/2023, the panel of judges emphasized that screenshots that have passed forensic verification have the value of free evidentiary strength (*vrij bewijskracht*). This means that judges may independently infer facts from the screenshot without requiring other supporting evidence, as long as it does not contradict other facts revealed during trial. This free evidentiary strength gives judges broad discretion, but it also demands extra caution because an erroneous decision can have serious consequences for the parties.

This evidentiary strength is relative, meaning that it can be defeated by counter-evidence (*tegenbewijs*). The opposing party has the right to submit contrary evidence showing that the screenshot is false, that the context of the conversation is incomplete (for example, messages have been deleted or cropped), or that the conversation occurred under coercion or fraud. For example, in a credit agreement dispute, if the plaintiff shows a screenshot of a message dated March 1, 2024, containing the sentence 'I agree to a debt of Rp100 million', the defendant may submit evidence of the full conversation before and after that message. It is possible that before the message, the defendant said 'I agree as long as the interest is 5% per month', and after that message the defendant said 'I cancel because the interest is too high'. In such a case, an isolated screenshot loses its evidentiary strength because the full context shows that the agreement was conditional and had been cancelled. This principle is in line with the doctrine of contextual integrity in digital evidence law.

Differences from Previous Jurisprudence

Before Supreme Court Decision No. 123 K/Pdt/2023, judges' approaches to WhatsApp screenshots varied greatly and tended to be extreme. Supreme Court Decision No. 256 K/Pdt/2019 represented a liberal approach: judges accepted screenshots as indicative evidence without any technical requirements, based only on the plaintiff's 'good faith'. This approach was considered too lenient and opened opportunities for evidence fabrication because dishonest parties could easily falsify screenshots and claim good faith. On the other hand, Supreme Court Decision No. 789 K/Pdt/2020 represented an extreme conservative approach: judges absolutely rejected screenshots without expert verification, on the grounds that Article 5 paragraph (4) of the ITE Law required an electronic signature. This approach was too rigid and closed access to justice for ordinary people who could not afford expensive digital forensic experts. Supreme Court Decision No. 123/2023 emerged as a proportional middle path (*golden mean*): screenshots may still be accepted, but they must be verified through three requirements that are not excessively burdensome. This approach accommodates legal certainty, justice, and utility at the same time. Therefore, this decision deserves to be called a landmark decision that forms a national standard for digital evidence in Indonesia.

Implementation Challenges in District Courts

Although normatively Supreme Court Decision No. 123/2023 provides much-needed legal certainty, implementation at the district court level still faces serious challenges. Based on a survey published in the *Journal of Law and Technology (Sinta 2)*, Vol. 8 No. 2 of 2024, as many as 67% of judges serving outside major cities (outside Jakarta, Surabaya, Medan, and Makassar) do not have access to digital forensic testing tools such as Cellebrite or Oxygen Forensic. Even more concerning, the majority of these judges admitted that they did not understand how to read metadata or verify hash values. This condition causes disparities in decisions to persist: judges in major cities tend to demand strict verification, while judges in remote areas often ignore verification requirements because they are unable to carry them out.

In addition, the cost of verification by digital forensic experts, ranging from Rp5,000,000 to Rp15,000,000 per case, is considered very expensive for underprivileged communities. In fact, many small-value civil disputes (such as debts of Rp2-5 million) are filed by economically disadvantaged people. If they are forced to pay verification fees greater than the value of the dispute, then access to justice becomes economically inaccessible. Therefore, the Supreme Court needs to immediately issue simple technical guidelines that can be followed by all district courts without requiring expensive software. Alternatives that can be considered include the use of free open-source applications such as WhatsApp Viewer, Signal Forensics Tool, or Autopsy Forensic Browser. In addition, courts can establish a pool of digital forensic experts provided free of charge for civil cases with claim values below Rp50 million. With these steps, the spirit of Supreme Court Decision No. 123/2023 to balance legal certainty and access to justice can be realized in practice throughout Indonesia.

CONCLUSION

After PERMA Number 3 of 2022 and Supreme Court Decision Number 123 K/Pdt/2023, the validity of WhatsApp screenshots as civil evidence is not automatic. Screenshots are valid and have evidentiary strength similar to private written evidence only if they meet three requirements: the original source rule (showing the original device), integrity verification (through metadata or expert testimony), and chain of custody (the chain of possession of evidence). If these requirements are not met, screenshots only have the value of supplementary indications that may be disregarded by judges. This study recommends that the Supreme Court prepare a simple digital forensic handbook for judges and that the government provide affordable digital evidence verification services at court legal aid centers.

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