

**A COMPARATIVE STUDY ON DIGITAL EVIDENCE BETWEEN
MALAYSIA, UNITED STATES AND UNITED KINGDOM**

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Submitted in Partial Fulfillment of the Requirements

for the Bachelor in Legal Studies (Hons)

Universiti Teknologi MARA

Faculty of Law

December 2012

The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

ACKNOWLEDGEMENT

First and foremost, we would like to give our thanks to Allah as He had given us His blessings, the time and good health for us to finish this project paper without any hardship.

We also feel indebted by the commitment, guidance and spirit given by our advisor for this project paper, Sir Mohd Yunus Abu Samah. Our utmost appreciation and thankfulness is reserved for him because without his guidance, this research paper is impossible to be done.

Nonetheless, without the cooperation and hard work given by the members of this group, this research paper will not become a reality. Special thanks to Hakim (the group leader), Hishamuddin and Syazwan for their collaborative effort in preparing this research paper.

Not to forget, our beloved family who had supported us from afar in their respective hometown, no words can describe our thankfulness for them.

Last but not least, we would like to thank our friends who had given their help directly or indirectly in completing this research paper. Thank you very much.

ABSTRACT

The admissibility of the digital evidence into the court is one of the most hotly debated topics nowadays. The digital evidence, which is an evidence tendered by a computer may raise a several issue. One of the main issues is in respect to its validity and originality of the evidence submitted itself. In this era of the technology, such computer generated evidence such as photograph may be easily altered. Henceforth, the purpose of this research paper is to study the comparison and to looks for any difference between the approach taken by the bench in Malaysia, United States, and United Kingdom.

This research paper will also cover on the acceptance of the court towards the opinion of an expert, who is the person who has a credibility to become an expert, and how does the judges weight the evidence in term of it probative value and prejudicial effect. Our group have given a more focus on the issue of the digital evidence itself by discussing it in the main topic as the credibility of the digital evidence is one of the most issue which may be raised the court. Henceforth, our group had decided to make a comparative study of the approach taken by the bench in respect to the digital evidence in Malaysia's, United States' and United Kingdom's court and to further study how does the judges will address this issue.

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CHAPTER ONE

INTRODUCTION

1.0 Introduction

This study will focus on admissibility of digital evidence in Malaysian as well as United States of America and United Kingdom's court, procedure for tendering such evidence as well as the approach taken by the bench in admitting such evidence and the factor of approval in terms of its probative value and prejudicial effect. This study will also focus on the comparison on the approach adopted by the Bench in United States and Malaysia in approaching the admissibility of digital evidence. In United States, the admissibility of the evidence is governed by Federal Rule of Evidence¹. In Malaysia, the admissibility of digital evidence is governed by Section 90A of Evidence Act where Section 90A. (1) states that "in any criminal or civil proceeding a document produced by a computer, or a statement contained in such document , shall be admissible as evidence of facts. Section 90A. (2) states the procedure for authenticating such evidence where the document produced by a computer may be prove its authenticity by producing certificate by the person (the officer who was in charge of the computer) who tender the evidence from such computer².

This research will be composed by 4 main chapters. The chapter was listed down in order below;

1. Introduction to the rule of admitting the digital evidence.
2. The position of admissibility of digital evidence in Malaysia.
3. The position of admissibility of digital evidence in United States and United Kingdom.

¹ Rule 901, Federal Rule Of Evidence of United States

² Evidence Act of Malaysia 1950. Under Evidence Act, digital evidence
Is governed by Section 90A 90B and 90C