

STOLEN IDENTITY ELECTRONIC SIGNATURES

Published 30th August, 2023

In the last episode of the e-series, we traversed the concept of electronic signatures and their validity. If you missed the episode, [click here](#).

Many of us use images of our manuscript signatures as electronic signatures. You have probably saved it somewhere on your computer and sent a word version document to a trusted friend, colleague or business associate with that signature appended to it.

The question is: what happens when one of your people uses your signature and appends it to a document you know nothing about? They could use it to email your bankers with an instruction to cash out your savings, or something like that.

What do you do if your signature is “stolen” and appended to a random document?

A signature does not refer merely to the written characters appearing on a document, it refers to the fact of signature in relation to the contents of the document on which it appears. You will remember that in our last episode, your signature represents your association with and your approval of the contents in the document.

It turns out that, the mere fact that your signature appears upon a document does not necessarily bind you. The chief significance of a signature to a document is that it is evidence of the fact of consent by the signatory, and in order to be bound, it is necessary to establish that the signatory appended their signature with the intention of binding him/herself.

While the signature is yours, you never signed this document and never undertook the liability contained in it. It therefore does not bind you. Lip service is not enough, however. You will have to assert your rights before a court of law.

Before court, the burden of proof will be on you to prove that your signature was “stolen”. This may be a difficult task because in forgery of manuscript signatures, signature experts may be called to court to prove that a signature has been traced and retouched by patching. An electronic signature on the other hand would not have been traced or retouched. It boils down to proving your intention to be bound by the contents to which your signature is appended.

How to manage risk

- You may want to use a digital or advanced electronic signature. This way, even if you share a document with a friend or business associate, they will not be able to tamper with the document;
- Do not share a picture of your manuscript signature;
- If someone used your signature in circumstances in which you did not sanction its use and its use was fraudulent, call us!

We help you navigate the challenges endemic to the reality of e-commerce through our vast experience in contract law and understanding technology and the ever-changing business landscape.

For more information, contact [Olebile Muzila](mailto:olebile@bookbinderlaw.co.bw) on olebile@bookbinderlaw.co.bw.

