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## Admissibility of Computer-Generated Evidence in Nigerian Court of Law: Implications for Law Libraries

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# **Admissibility of Computer-Generated Evidence in Nigerian Court of Law: Implications for Law Libraries**

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## **Abstract**

The paper reviewed the inclusion of computer generated evidence in Nigerian court of law with respect to its implication for law libraries. Attention was given more to the e-library system which generates and disseminates legal information via electronic format. It was revealed that the new Evidence Act 2011 having incorporated Admissibility of Statements in Documents Produced by Computers which was not specifically provided for in the earlier Evidence Act 2004, presents opportunities to the law library leading to expansion of its scope and integration of e-system, platform for online Alternative Dispute Resolution, face to face and virtual services, Ask-a-Librarian and Library Study and video conference rooms services. It was concluded that Admissibility of Computer Generated Evidence in Nigerian Court of Law has given law library a platform to expand its technological outfit and to expect possible inclusion of other devices rather than computers as admissible in the court of law. These possible devices may be smart phones, tablets, digital cameras etc. It is possible that social media platforms such as facebook, whatsapp, twitter, badoo, messenger, Google, Instagram, Linkedin etc. may be useful as evidence in law. It was recommended that the law libraries should be up-to-date with legal trends as to enable them make necessary adjustments or expansions in their services. Law libraries will need to train staff capable of identifying changes in judicial system to provide and assist users with services and tools that reflect those changes.

**Keyword:** Admissibility, Computer-Generated, Evidence, Nigerian, Court, Law, Law Libraries

## **Introduction**

The direction of law libraries especially those within the court or law firms is determined by the law of the country and other jurisdiction. It is important to note that a change in law will demand a law library to navigate alongside with the changes. Law library is basically where legal practitioners, judges, the magistrates, academics, students of law and legal researchers frequently visit to get themselves equipped with relevant information necessary for adjudication of justice, legal opinion, academic instructions and also contribution to knowledge through research and

publication among others. Law library ensures that resources and services needed by its patrons are available and also easily accessible. Admissibility of computer generated evidence or admissibility of statements in documents produced by computers as enshrined in section 84 of the Evidence Act 2011 generates concern for law libraries to reposition its status in such a way they can serve the immediate and future needs of users and cushion the effect of any change in law.

### **Evidence in Law**

The term “evidence” has been defined by several authors. Such definitions will help to broaden one’s knowledge and the meaning of evidence as it concerns to law. It is fair enough to start with Black’s Law Dictionary (8<sup>th</sup> ed.) which defines “evidence” as anything that has to do testimony, documents and tangible objects that tends to prove or disprove the existence of an alleged fact. Similarly, Cross (1999) defines evidence as an act which tends to prove something which may satisfy an inquirer of the facts in evidence. Evidence could be defined as anything that has element of prove to justify a fact. Phipson (2010) simply defines evidence as documentary, oral, or any tangible testimony that may be legally received in order to prove or disprove some facts in dispute.

Under our Law, section 258 (i) of the evidence Act, “real evidence” means anything other than testimony admissible hearsay or a document the contents of which are offered as evidence of a fact at a trial, which is examined by the court as a means of proof of such fact...

Judicial definition of “evidence” is imperative in this study as far as the topic is concerned with admissibility of evidence. However, the court in *Awuse Vs Odili* (2005) applied the judicial definition of evidence, when it stressed that evidence is:

*“Any species of proof, or probable matter legally, presented at the trial of an issue by the act of the parties and through the medium of witness, records, documents, exhibits, concrete objects, etc for the purpose of inducing belief in the minds of the court or jury as to their contention. Taylor V Howard III RI 527, 204, A2d 891 891”*

In *Eze Vs Okoloagu* (2010) the court also defined evidence;

*“As it is known, the term evidence is defined as, the facts; signs or objects that make you believe that something is true; or the information that is used in a court of law to try to prove something see Oxford Advance Learner’ Dictionary P. 398 while in Black’s Law Dictionary, 7th Edition, page 76 the term evidence is defined to mean something including testimony, documents and tangible objects) that tends to prove or disprove the existence of an alleged fact. Case Law authorities defined “evidence” as to the means whereby the court is informed as to the issues of facts as ascertained by the pleadings; it is the testimony, whether oral or documentary or real which is produced before a court or tribunal to some facts in dispute. See Fed. Milt Governor V Sani (No. 2) (1989) 4 NWLR (Pt 117) 624, Lawal V Union Bank of Nigeria Plc (1995) 2 NWLR (Pt 378) 407”.*

### **Admissibility of Statements in Documents Produced by Computers**

The admissibility of computer generated evidence is stipulated in section 84 of the Evidence Act 2011, the word document is defined under section 258 as that which includes computer (ie any device for storing and processing information, and any reference to information being derived from other information is a reference to its being derived from it by repeal, interpretation and calculation, comparison or any other process)

Therefore section 84 of the Act provides as follows;

(1) In any proceedings, statement contained in a document produced by a computer shall be admissible, as evidence of any fact stated in it, which direct oral evidence would be admissible, if it is shown that the conditions in subsection (2) of this section are satisfied in relation to the statement and computer in question.

From the provision of section 84 (1) above, Kannike (2018) opines that, it is clear that the admissibility of the computer generated evidence can only sail through only and if the conditions spelt out in section 84 (2) of the Act is fulfilled. Therefore, the question is “what conditions do section 84 (1) of the Act mean?

“(2) The conditions referred to in subsection (i) of this section are;

(a) that the documents containing the statement was produced by a computer during a period over which the computer was used regularly to store or process information for the purpose of any activities regularly carried on over that period, whether for profit or not, by anybody, whether corporate or not, or by any individual;

(b) that over that period, there was regularly supplied to the computer in the ordinary course of those activities information of the kind contained in the statement or of the kind contained in the statement of the kind from which the information so contained is derived;

(c) that throughout the material part of that period, the computer was operating properly or if not, that in any respect in which it was not operating properly, or was out of operation, during that part of that period, was not such as to affect the production of the document or the accuracy of its contents and

(d) that the information contained in the statement reproduces or is derived from information supplied to the computer in the ordinary course of those activities.

(3) Where over a period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in subsection (2) of this section was regularly performed by computers, whether

(a) by a combination of computers operating over that period;

(b) by different computers operating in succession over that period

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more computers and one or more computers and one or more combinations of computers, all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and reference in this section to a computer shall be construed accordingly.

(4) In any proceeding where it is desired to give a statement in evidence by virtue of this section, a certificate...

(a) identifying the document containing the statement and describing the manner in which it was produced.

(b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in subsection (2) above relate, and purporting to be signed by a person occupying a responsible position in relation to the operation of the relevant device or the management of the relevant activities, as the same may be, shall be evidence of the matters stated in the certificate; and for the purposes of this subsection it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section-

a) Information shall be taken to be supplied directly to a computer if it supplied to it any appropriate form and whether it is supplied directly (with or without human intervention) by means of any appropriate equipment;

b) where, the course of activities carried on by any individual or body, information is supplied with a view to its being stored or processed for the purposes of activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

c) a document shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

### **Law Libraries' Position in the face of Constitutional Amendment**

Constitutional changes and law amendments present the law libraries with opportunity to reposition themselves as a change agent in providing access to justice by ensuring that needed legal information sources and services are available for use by the lawyers. Law libraries have long served a various legal personalities including, judges, academics, law students, legal researcher and other legal practitioners. It provides legal information to attorneys, judges, law teachers, law students, legal researchers, paralegals and other users.

Law libraries have also been well-positioned to assume wider responsibilities, with a particular focus on the adaptation to constitutional amendment and information access to meet the

changing needs of the users. Law libraries have great potential to play an important role in making the judicial system more user-friendly by making access to information possible for lawyers who may not have the opportunity to come to physical library. Moreover, there are many examples of law libraries across the country that have already embraced this role, and have experimented and innovated to make a major contribution to access to justice (Richard, 2012).

With the wave of constitutional amendments, law libraries need to fully appreciate the dramatic changes in legal landscape: there are now great numbers of amended acts to be incorporated into law libraries for use by lawyers for litigation, legal opinion, legal aid and pro bono etc. In that regard, law libraries need to prepare themselves to play a greater role in meeting those needs.

However, law libraries will need to re-strategize their mission to play an active role in enhancing access to justice for all, a critical component in a legitimate democratic society. It plays this role by providing legal information and tools to those engaged with the justice system, including litigants and those facing legal issues, attorneys, court staff, the judiciary and other governmental organizations, regardless of where they are physically. In order to do so, it partners broadly with courts, bar associations, access to justice organizations, community organizations, and government. The law library recognizes that the information needed to assist differing constituencies will depend on their needs and in fulfillment of its mission the law library will pay continued attention to these varying and changing needs, and assist in identifying, developing, and deploying the information, tools, educational programs and resources that will best meet these access needs. In order to carry out this or a similar mission, law libraries will need to move towards providing a broader range of services, including assisting individuals to diagnose their legal problems; generating and providing legal information appropriate to a wide range of legal needs with varied education and literacy levels; providing tools that assist litigants prepare and present their cases to the courts; and information and assistance designed to help with longer term legal planning (Richard, 2012).

Adequate training and retraining of library staff will help in grappling with changing needs of lawyers. Law libraries will need to train staff capable of identifying changes in judicial system to provide and assist users with services and tools that reflect those changes in law.

Technological innovations in law libraries will also make it easier to discover and deliver library services representing amended laws with saving costs.

*“Without Information Communication technology, it would be largely impossible to deploy this vision. Technology makes low marginal cost access to resources possible, and facilitates tools that allow expertise to be provided to patrons even when staff are generalists (such as: online diagnosis and document assembly). However, often-needed technology is not yet available, and access-oriented law libraries will need to play an increasing role in ensuring that it is both developed and appropriate for their target audiences. Such an ambitious agenda cannot be met by law libraries on their own. Courts, legal aid organizations, the bar, access to justice commissions, and public libraries can provide needed expertise, technology, informational resources, access points, and political support. Many are already doing so (Richard, 2012).”*

Reflecting judicial changes in law library resources and services will be one built by experienced librarians who can establish broad collaborations with strong commitment to assessment and evaluation. Law libraries will need to set goals, establish metrics, and obtain input and perspective from a wide variety of users to examine whether they are meeting the needs of all of their patrons. Additionally, law libraries will need to be vibrant and keep strong relationship with the lawyers to know when repeal has taking place in any given Act or Status.

### **Integration of E-Law System**

E-law system is an electronic law system that is used to administer justice virtually or electronically without having to show up physically. It is a legal delivery system that provides access to justice. It helps law firms to improve the quality of their practice, attract public attention, get more users involved and promote the universal image of the firm. The e-law system is widely used around the world for various activities that include exchange of court documents, Online Dispute Resolution, E-libraries/access to online resources, court cases in different jurisdictions, law news and video reports and other assistance. In order to fully grasp



The process of implementing e-law system requires understanding of the mode of delivery of its contents. Certain e-law systems are hosted and operated locally within a firm or legal entity and the contents are limited to only users within that firm or entity. The kind of e-law system that would be substantially beneficial to the growth and development of a Law firm would be a system whereby users can have limited or unlimited access from around the world depending on what content is being accessed.

### **Alternative Dispute Resolution in E-Law System**

Drastic changes and advancement in technology, the application of innovative techniques to an e-law system in addition to the sophistication of hosting one online is now possible; techniques such as Online Alternative Dispute Resolution (ADR). With primary focus on video conferencing for dispute resolution, the e-law facility should be set up in a way that permits users and potential clients to sign up for a dispute resolution service that can be rendered on a live stream online or over a secured video conversation, as long as every concerned party approves of this service; in arrangements like this, the parties involved can control the entire process or the third party (mediator or arbitrator) can control the entire process and outcome; it largely depends on what agreement(s) have been made when signing up for the service. Alternative Dispute Resolution (ADR) in e-law-system can provide lawyers opportunities for the following activities:

- a. E-filing (exchange and initial filing of documents).
- b. Neutral appointments.
- c. Evidentiary processes.
- d. Oral hearings.
- e. Video Conferencing.
- f. Rendering of binding settlements.

### **E-System Opportunities in Law libraries**

Innovational changes that brought about Integrated System Technologies have become one major breakthrough to tap from by the law library system. Computer generated evidence in the court of law will require law libraries to plan to adopt the technology that works for them to

cushion the changes in law. The law libraries must be sure before adopting Integrated System that the hardware technology is as user-friendly as possible; the software (tools) is as accessible as possible with respect to language structure, commands, navigation, simple to use by the user; ensure that provision of library's access tools for its own collections through Online Public Catalogs, indexes, abstracts, bibliographies and websites, are easy to use by the users; making sure that there are always staff to assist users and guide them on finding resources or information; conduct information to improve library-use-skills of lawyers; and finally, ensuring that necessary materials are available for use.

## **E –Library System**

E-Library in judicial environment is an electronic library that provides legal information services in a electronic format other than traditional format. It provides information resources that could be found in printed format in electronic form. E-library maintains collection of hundreds of thousands including textbooks, journals, scholarly articles and other law resources link to several legal databases; engages supplemental digital content and access to online resources or virtual means. Certain content(s) of the e-library will have to be restricted to certain users and some other users can be granted unlimited access as the case may be; some law databases and directories charge a certain fee just for a one time access or grant unlimited access based on subscription or membership.

Legal databases are electronic resources that facilitate legal research, either inform of providing primary or secondary sources of law or both. Some legal databases provide insights on the legal trends or discovered new grounds; provide practice notes and agreements templates and so on. There are numerous legal databases of both foreign and local jurisdiction. Anyim (2019) summarizes legal information resources provided by e – law library system as follows: Constitution, Acts or Status, official gazettes, Case laws or law reports, treaties, encyclopedias, dictionaries, legal directories, law digest, annotated law report, periodicals, loose –leaf, treatises or textbooks, legal databases (law pavilion, legalpedia, westlaw, practical law, heinonline, LexisNexis, Bloomberg law etc.)

Law library provides remote access to the legal content or link to online resources via the Internet. The speedy and wide access to current and retrospective information contents like case

laws, law reviews, law journal, legal textbooks, legislations, court forms and other law resources makes virtual law libraries a global legal laboratory for information access and research by legal practitioners (Anyim, 2019).

Virtual libraries offer opportunities for remote learning that are not possible in their physical in the physical environment. Whereas physical libraries operate with designated hours, virtual libraries are available anytime and anywhere there is an Internet connection. Virtual libraries provide immediate and faster access to a range of resources not available in physical collections. Information provided by virtual libraries is seemingly up-to-date compare to information from physical collections.

Information sources via virtual libraries can be searched more efficiently than those in physical libraries, and the information they contain can be updated more frequently. Well-designed virtual library collections are organised and managed to increase the productivity and efficiency of the user believed that virtual libraries complement other virtual learning environments such as those provided in distance education and courses offered online. Many students who are accustomed to using the Internet as a source of information expect schools to make quality online resources available to them in order for them to complete school assignments (Bassey, 2018).

### **Integration of Face to Face and Virtual Services**

Integration of face-to-face and virtual services creates a substantial balance in the era of technological revolution. It is also a key to cost-effective expansion of services.

*“As more and more of the information and tools needed by both lawyers and the self-represented move online, the face-to-face task of the library and its staff transitions to help people find, understand, and use those tools. Those skills are not so different from the traditional ones used to assist lawyers, including finding applicable law and resources, making them accessible, and organizing them (Richard, 2012).”*

### **Integration of Ask-a-Librarian**

The need for law libraries to create “Ask-a-Librarian” platform is paramount. This will provide lawyers the opportunity to seek assistance from the librarians. In addition to in-person

and telephone reference services, law libraries should provide online reference services. This will enable lawyers to tender any question or enquiry as clear and precise as possible of their information needs. For extensive research, they can come to the library and discuss their needs with a librarian. There is also a situation where librarians may be required by a lawyer from the court to forward particular cases from certain law reports or a particular section of the constitution to be used in legal proceedings. In whichever case, Ask-a-Librarian service has an important role to play in the era of technological changes.

### **Integration of Library Study and Video Conference Rooms**

Law library needs to provide attorneys, judges, litigants etc. with reservable study and conference rooms for meetings and small group study. These collaborative work spaces can seat a number of lawyers who can use these spaces for specific hours on a first-come, first-serve basis by contacting the circulation desk either in person or on the telephone. With this platform, a live stream online or secured video conversation between lawyers and their clients can take place which may be used as evidence in the court of law.

### **Conclusion and Recommendations**

Admissibility of Computer Generated Evidence in Nigerian Court of Law has given law libraries a platform to expand its technological outfit and to expect possible inclusion of other devices rather than computers as admissible in the court of law. These possible devices may be smart phones, tablets, digital cameras etc. It is possible that social media platforms such as facebook, whatsapp, twitter, badoo, messenger, Google, Instagram, Linkedin etc. may be useful as evidence. However, the law libraries should be up-to-date with legal trends as to enable them make necessary adjustments or expansions in their services. Law libraries will need to train staff capable of identifying changes in judicial system to provide and assist users with services and tools that reflect those changes.

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