



Legal IT 4.0 – Electronic Signatures
Monday, April 26, 2010

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About Silanis



Experience

Shaping the industry since 1992

Long standing relationships

Leading Insurance, Financial Services and Government customer base

Industry leader

Enterprise class E-Signature Process Management Solutions

Product innovation and deployment

Excellent go-live track record

Strong growth and performance

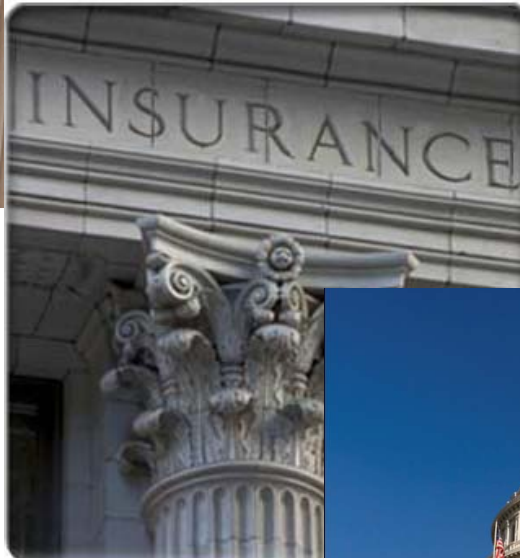
Financial stability

E-Signature Adoption



BANKING

- **Consumer:** applications, disclosures, and loan agreements
- **Auto and Equipment:** lease, lease return and loan agreements
- **Mortgage:** loan application, loan disclosures, closing documents (note, deed) and loan modification agreements (servicing)



INSURANCE

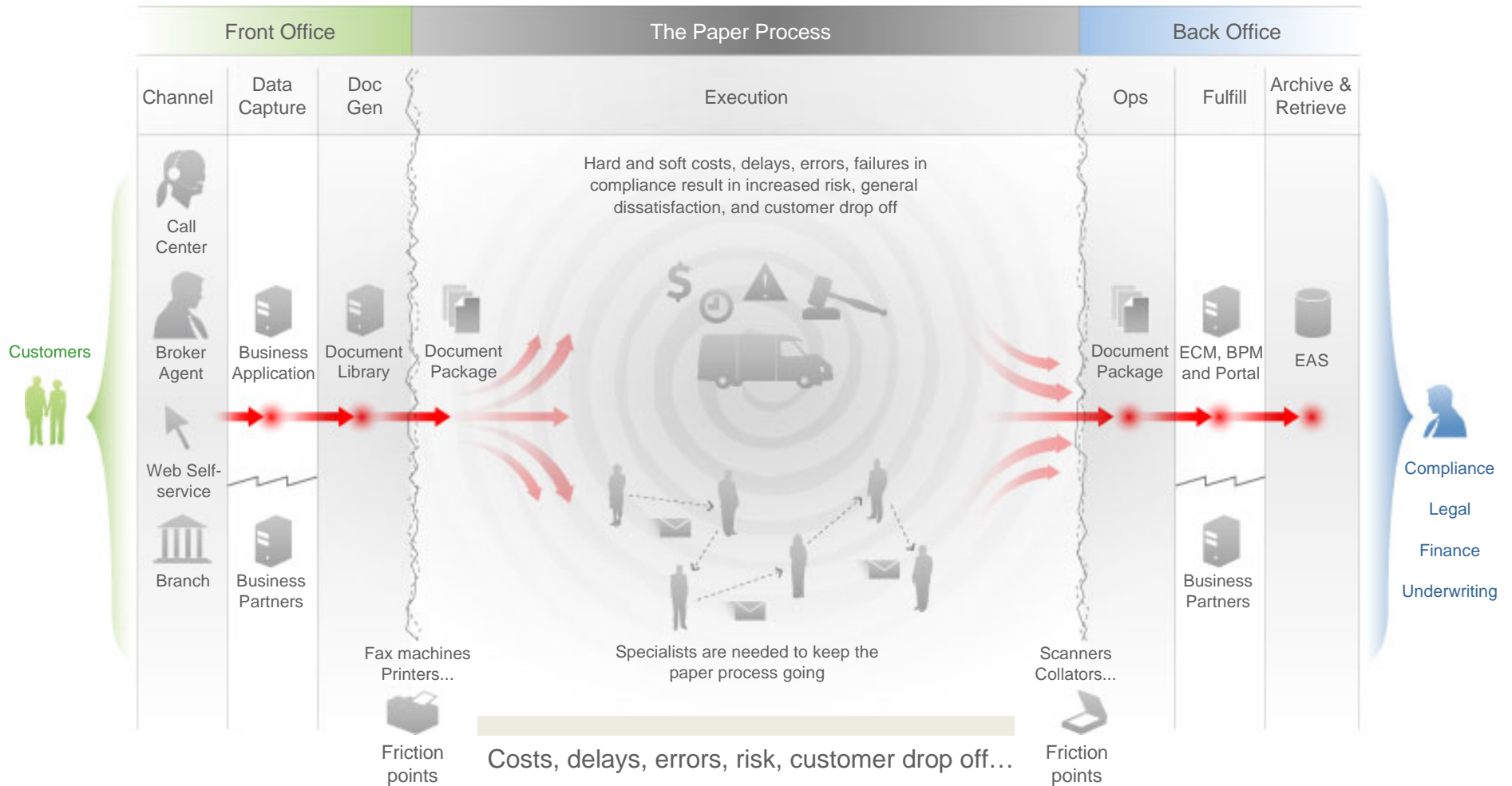
- **Client Acquisition:** new business applications
- **Customer service** - changes to existing policies
- **Claims:** claim filing and proof of loss



GOVERNMENT

- **E-contracting** - NDA, submissions, agreements, modifications
- **Permits and Inspections:** residential, commercial and mining
- **E-procurement** - ammunitions requests, funding disbursements

The Problem with Manual Paper-Based Processes



The Bottom Line



- **Long cycle times**
 - 45 days to complete an insurance application
 - Online retirement account application 14 days
 - Mortgage closing process avg. 90 minutes



- **Unreturned paperwork** Regulated options forms must be returned
 - Policy is in effect so customers have little motivation to return paperwork
 - Outstanding UM forms represent period of exposure for carriers
 - Customer drop-off occurs when premiums are raised or policies canceled



- **Reduced legal and compliance position**
 - Unenforceable contracts
 - Non-compliance penalties
 - Legal fees when disputes continue to court



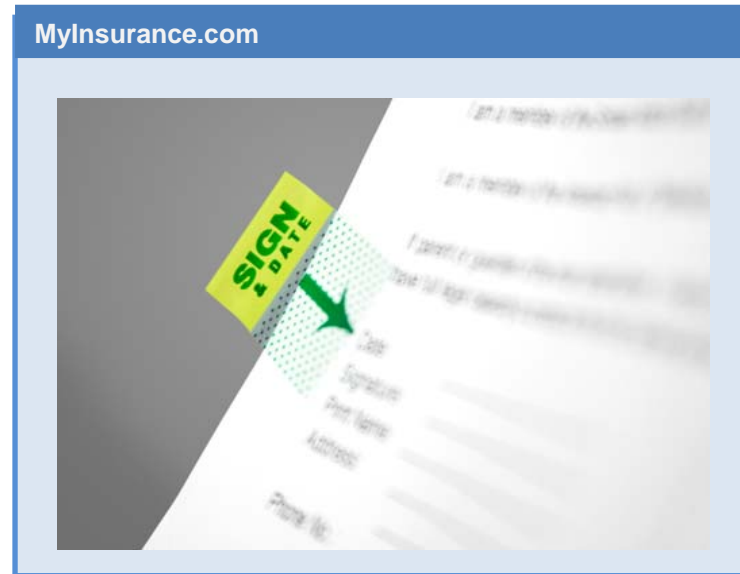
- **Inefficient use of employee or representative time**
 - Paper chase
 - Sales & customer service time lost to administrative work



- **Increased costs**
 - Paper, shipping, handling, QA, scanning, storage
 - Paper processing is 14x higher than electronic caused by errors and missing information

Going Electronic

- Is it legal?
- Is it reliable?



Electronic transactions are more than an electronic signature

Canada E-Signature Law

Law	Enacted
Canada Uniform Electronic Commerce Act	1999
British Columbia, The Electronic Transactions Act	2001
Alberta Electronic Transactions Act	2003
Saskatchewan Electronic Information and Documents Act	2000
Manitoba Electronic Commerce and Information Act	2000
Ontario Electronic Commerce Act	2000
Quebec – Legal Framework for IT	2001
PEI Electronic Commerce Act	2001
NB Electronic Transactions Act	2002
NS Electronic Commerce Act, S.N.S. 2000, c. 26	2000
Newfoundland & Labrador Electronic Commerce Act	2001
Yukon Electronic Commerce Act	2002
Nunavut Electronic Commerce Act	2004

UECA Highlights

- Enabling legislation
- Technology neutral
- Generally applicable to communications & transactions in public and private sector

Information shall not be denied legal effect solely on the grounds that it is in the form of an electronic document.*



Uniform Electronic Commerce Act

- Electronic Signature: "information in electronic form that a person, directly or through an agent, associates with an electronic document for the purpose of establishing a connection between the electronic document and the person."
- Effect of Electronic Signature
"A requirement under [enacting jurisdiction] law for the signature of a person is satisfied by an electronic signature if:

(a) the electronic signature is reliable for the purpose of identifying the person, in the light of all the circumstances, including any relevant agreement and the time the electronic signature was made; and

(b) the association of the electronic signature to the relevant electronic document is reliable for the purpose for which the electronic document was made, in the light of all the circumstances, including any relevant agreement and the time the electronic signature was made."

Quebec Act – Bill 161

- Methods for Signing – it is possible to use a variety of methods to authenticate a person as described in the law.
- Need for linking a person to a document – a link may be created between a document and a person by use of a signature.
- Legal Value of a Document – the legal value of a technological document is dependent on its integrity
- Use of seals, signet, stamp, press or other instrument may be replaced by a technological process that meets certain aspect of the Law depending on its purpose
- Process for Linking the Document to a Person – any process may be used, including a signature as long as the identity of the person can be confirmed and it meets the requirements of Article 2827 of the Civil Code
- Identification of a person, association, partnership or the State may be accomplished by verifying a document, whose integrity is ensured, against various sources of information, or characteristics of the person, or facts the person may know.

Canada Evidence Act

2000 Amendment on Authentication of Electronic Documents

- 31.1 Any person seeking to admit an electronic document as evidence has the burden of proving its authenticity by evidence capable of supporting a finding that the electronic document is that which it is purported to be.
- 31.3 The integrity of an electronic documents system is proven:
 - a) by evidence that the computer system was operating properly;
 - b) if the electronic document was recorded or stored by a party who is adverse in interest to the party seeking to introduce it; or
 - c) if the electronic document was recorded or stored in the usual and ordinary course of business by a person who is not a party and who did not record or store it under the control of the party seeking to introduce it.

Electronic Records as Documentary Evidence

Canadian General Standards Board - CAN/CGSB-72.34-2005

- Owner of e-record needs to prove the reliability of the system used to create/maintain the record
- Reliability is shown by demonstrating use of system in normal course of business
- Compliance with the standard is not mandatory.
- Compliance with the standard is a safe harbour, not a guarantee of any legal result.
- The standard is a statement of best practices.

Internet Sales Contract Harmonization Template

- 2001
- Model consumer protection law concerning Internet transactions
- Merchant must deliver a written copy or an electronic version of the contract to the consumer within fifteen days following the conclusion of the contract
- Delivery and timing of disclosures
- Adopted by Québec, Alberta, Manitoba, Nova Scotia, Ontario, Saskatchewan

Canadian E-Signature Case law

- The courts can handle some of the legal challenges on their own, as well. In *Rudder v. Microsoft Corp.*, the Ontario Superior Court upheld a click-through contract choosing to submit disputes to Washington state courts.
- A more venturesome case, *Newbridge Networks Corp., Re*, held that a corporation could send notice of a special meeting to some of the shareholders by electronic mail, although both the governing statute and the by-laws of the corporation were silent on the point.
- *Kanitz v. Rogers Cable Inc.* a class action by plaintiffs that Rogers did provide sufficient notice of a change to their agreements that provided for the arbitration of all disputes. The court accepted the proposition that terms posted on a Web site by one party that are not expressly agreed to by the other party may otherwise be found to have been agreed to by that other party by virtue of that other party's conduct where that conduct manifests acceptance.

Best Practices

E-Signature

- Clear process for capture of intent
- Is adopted by and can be attributed to signer
- Is linked to signed record

E-Record

- Single, reliable business record with evidence of signature
- Accurate presentation and review of documents
- WYSWYS – link between review and signatures
- Electronic records can be accurately reproduced at later dates
- Available and accessible to all parties

E-Transaction

- Controlled process ensures compliance with laws, regulations
- Creates secure audit trails of entire process
- Electronic evidence can be easily reproduced or played back

Best Practices for E-Signatures

Types of Electronic Signatures



Online

Click-to-sign
Typed data

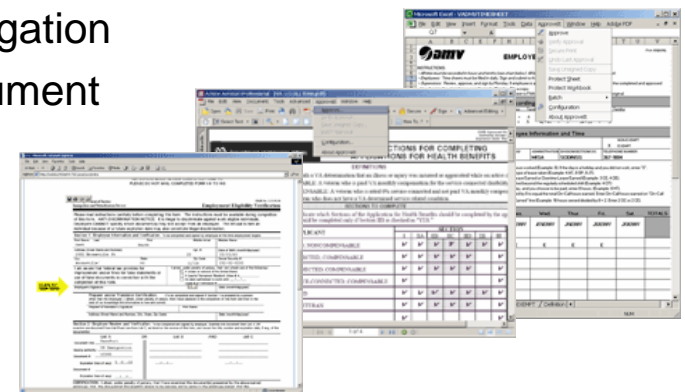


Point of Sale

Signature tablet input
Click-to-sign

Document Review Process

- ☑ Screen-based – browser vs. application
- ☑ Paper-based – LCD tablet provides alternative navigation
- ☑ Affirmative act linked to signature location and document



Best Practices for Authentication

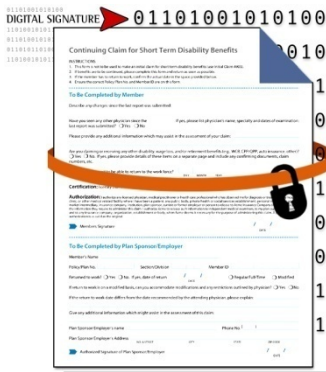


- *Online Identification*
 - Knowledge-based authentication (internal, third-party)
- *Online Signature Authentication*
 - User ID and password



- *Point of Sale (POS) Identification*
 - credential and personal data verification (driver's license, etc.)
- *POS Signature Authentication*
 - Authentication of the representative on their system
 - Signature Tablet Input - Signature image
 - Click-to-sign
 - *Physical credential data input*
 - *User ID + Password*
 - *Voice signature*
 - *SMS authentication*

Secure E-Signed Records



Signed Document

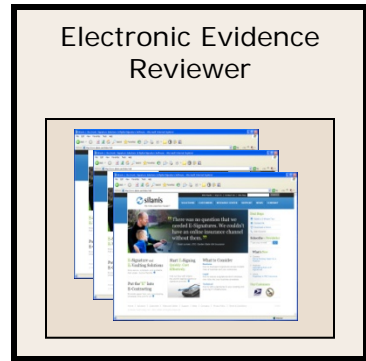
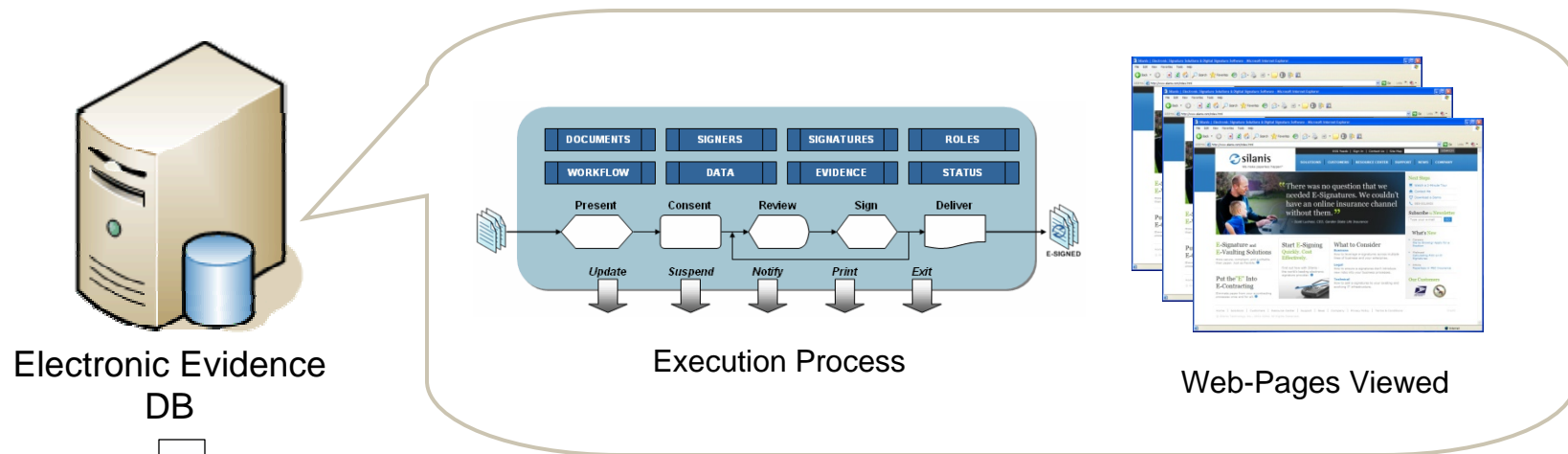



Audit trail info must be securely embedded in the document




Document must be accessible and tamper-evident

Electronic Evidence for Web E-Signing

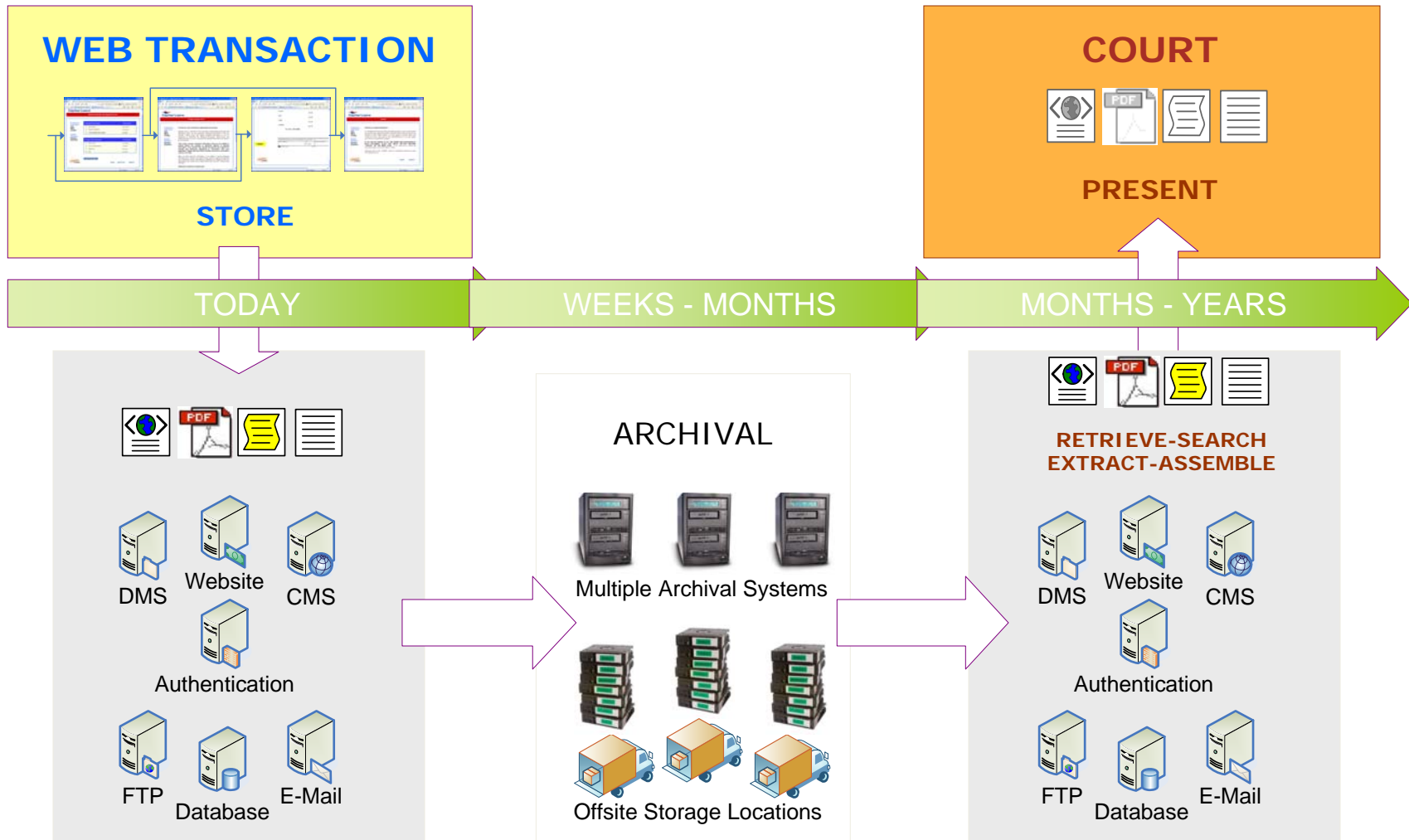


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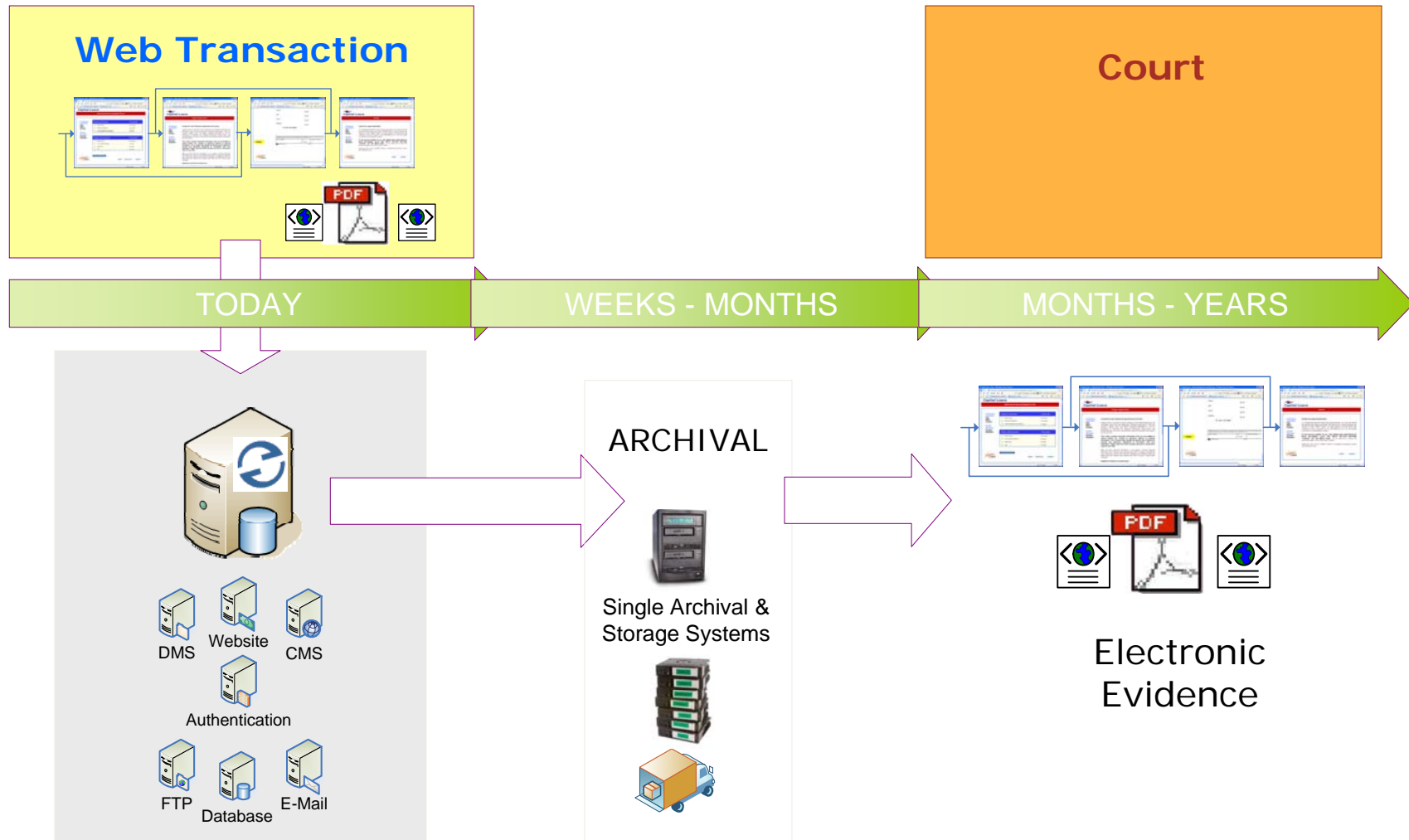
Electronic evidence captures and stores actual web pages viewed, process and actions of signer
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Evidence must be secure, tamper-evident and linked back to signed document

E-Discovery for Electronically Stored Information



Electronic Evidence for Web Transactions



Using Electronic Evidence



Audience

- ☞ Legal, Compliance, Audit

Paper-based Presentation

- ☞ Print-out electronic records, verification, audit trails,
- ☞ Print-out Web-based process playback

Electronic Presentation

- ☞ Electronic records, verifiability, audit trails
- ☞ Web-based process playback

Witnesses, Affidavits, Documentation

- ☞ Authenticate records, document processes & procedures



Presentation must be clear, organized and easy to understand

Electronic Signature Delivery Options

Licensed, On-Premise/Cloud	Service on LotusLive (SaaS)
High-volume, enterprise processes	Ad-hoc E-Sign with clients & associates
Flexible configuration & deployment	Fastest time-to-market
Greater control	No software to install or manage
Requires additional resources to configure, deploy and manage	Low cost of entry/ No investment up front
Up front license purchase	Pay-per-transaction available

Questions

