

## Digital Evidence and Its Applications in Commercial Records: A Comparative Study Under the Saudi Evidence Law

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### ABSTRACT

This Article highlights the importance of electronic commercial records in modern trade, especially with the rise of blockchain technology in accounting. It addresses legal challenges like legislative delays and data security concerns, particularly in light of the Fourth Industrial Revolution's digital advancements and the emergence of blockchain, raising questions about its regulation and use in accounting data. The study aims to evaluate the acceptance and legal validity of electronic records as evidence in Saudi courts, along with necessary legal safeguards for their protection. This is achieved through a descriptive-analytical approach, examining relevant legal texts on digital evidence and their implications for commercial records. According to the Article, the new Commercial Transactions Law should incorporate legislation pertaining to electronic ledgers, provide electronic data protection procedures, and combine electronic commercial records into a single legal framework. It suggests electronic certification by a third-party agency for reliability and validity. According to the report, a uniform legal framework should be achieved by incorporating all commercial record issues into the future Saudi Commercial Transactions System.

**Keywords:** Commercial Records, Digital Evidence, Legal Validity of Commercial Records, Evidence Law, Electronic Commercial Records.

### INTRODUCTION

The Saudi Evidence System (1443 AH) officially recognized digital evidence as legal proof, provided records are maintained accurately. This builds on the Commercial Courts Law (1441 AH), which already allowed electronic proof, giving electronic commercial records the same legal weight as traditional ones (Al-Salehi 2022). The procedures for handling this evidence are detailed by Angel et al. (2024), highlighting its importance in criminal cases. This legal development aligns with a significant global shift in the law of evidence, where the adoption of Distributed Ledger Technology (DLT) is moving the standard of authenticity away from traditional human-based processes toward a new standard of immutability and verifiable integrity based on cryptographic principles (UNCITRAL, A/CN.9/1222, 2025). This is particularly relevant given that blockchain technology is revolutionizing accounting by providing a decentralized, immutable digital ledger (Al-Qanbari 2020), which aligns with the Saudi Evidence System's recognition of electronic commercial records. These records offer significant advantages over traditional records for financial management and legal proceedings (Jamal 2021, Jamea 2021). Furthermore, the field of blockchain and its legal implications has become an autonomous area of legal teaching and research that deals with the impact of this technology on legal systems and institutions (Coutinho et al. 2024). There's a gap between digital progress and legal frameworks, requiring certainty in the application of electronic

records, which are vulnerable to risks like hacking and data loss (Al-Sharq Newspaper, July 19, 2024). This research examines the legal recognition of electronic commercial records in disputes, their impact on judicial rulings, and the necessary legal protections to prevent data manipulation. This study is unique because it focuses on the intersection of digital evidence and commercial records within Saudi law, incorporating recent legal and technological changes. Unlike previous studies that either predated these advancements (Al-Sharif 2014), focused on traditional books and Islamic jurisprudence (Shabib & Al Saud 2023), or were limited to specific legislation (Jamal 2021), this research provides a comprehensive analysis of the latest amendments and protective measures for digital data. This research studies the legal value of electronic commercial records in Saudi Arabia by analyzing the Saudi Law of Evidence and other relevant regulations. It aims to consolidate these rules to improve their practical use, recognizing that commercial records are vital for business and have significant legal weight in court (Dwikat 2022). The study also examines how modern technologies like blockchain, and digital security measures can protect the integrity of these records, providing a comprehensive understanding of digital evidence's role in Saudi commercial law.

## **METHODS**

### **The Role of Commercial Records in Evidence**

Commercial records are crucial for traders as they provide a clear view of their financial position, rights, obligations, and transactions. They help identify weaknesses and deficiencies, aid in avoiding future issues, and guide commercial activities. They also help identify the causes of bankruptcy and serve as evidence for transactions with other traders. The nature of commercial records and their legal validity are discussed in two parts. Overall, well-organized commercial records are essential for traders to maintain a strong financial foundation.

### **The Nature of Commercial Records**

The Saudi Commercial Records System does not provide a clear definition of commercial records<sup>1</sup>; however, the Income Tax System defines them as records that document all commercial transactions conducted by a trader<sup>2</sup>. These records are essential for organizing accounts and are given legal weight as evidence in court proceedings. Saudi law mandates that traders with capital over 100,000 riyals must keep sufficient records of their financial position, correspondence, and inventory<sup>3</sup>. The system allows for electronic record-keeping, as long as the data is accurate and secure<sup>4</sup>. For records to be legally valid, they must be free from any alterations and kept for ten years after closure<sup>5</sup>. These requirements enhance their reliability and justify why the Evidence System recognizes their value in legal proceedings<sup>6</sup>. According to Article 31 of the Saudi Evidence System, commercial records are not considered evidence against non-traders, but the information they contain can be used to support a supplementary oath in matters provable by testimony<sup>7</sup>. Regular and mandatory commercial records are evidence for a trader against another trader, but this can be refuted by opposing evidence. These records are also considered evidence against the trader themselves if an opposing party relies on them. If a trader refuses to produce their records, the court can administer a supplementary oath to the opposing party. In all cases, these records are only considered evidence if a court or the opposing party requests them<sup>8</sup>. The court can review them directly or through an expert. However, selective extraction of information from the records is prohibited, a principle that aligns with French and Egyptian law, as commercial records are treated as a complete admission by the trader. Irregularly maintained commercial records allow courts to selectively accept or reject data. Regular records, on the other hand, are treated as standard documents, making them crucial for legal utility. To achieve this, records must be in Arabic<sup>9</sup>. and adhere to formats set by the Ministry of Commerce. Key requirements include numbering and stamping pages by the Chamber of Commerce to prevent tampering and keeping records free of blank spaces, erasures, or

alterations<sup>10</sup>. For reliability, a new record cannot be started until the old one is fully certified by a licensed public accountant or the Chamber of Commerce<sup>11</sup>.

### ***The Legal Validity of Commercial Records in Evidence***

Commercial records are considered a means of evidence that can be relied upon in the event of a dispute between a trader and a third party. However, the judiciary is not obligated to accept or recognize commercial records as evidence, even if they are properly maintained. The evidentiary value of commercial records varies depending on the context. They are always binding against the trader but may also serve as evidence in favor of the trader under specific circumstances, as outlined below

#### ***Commercial Records Are Always Binding Against the Trader***

Commercial records are always binding against traders, regardless of their regularity, maintenance, or dispute type. This is because they are written acknowledgments made by the trader, either directly or under their supervision. Recognizing these records as binding against traders is an exception to general legal principles, which prohibits compelled evidence against oneself. Commercial records are considered ordinary documents signed by the trader, and the court has the discretion to determine if they rise above suspicion. If the records are well-maintained, mandatory, and consistent with other traders' records, and the trader has exercised care and precision in maintaining them, the court may accept them as evidence. If the records were handwritten by the trader, it may further reinforce their validity as evidence. Conversely, if the judge deems the records irregular or raises doubts about their attribution to the trader, the court may entirely disregard them as evidence. Article 31 of the Evidence System states that commercial records are not binding against non-traders, but they can be used to administer a suppletory oath to a party whose position is strengthened, provided it can be proven through witness testimony (Al-Zaghrad 2023). However, the text stops short of addressing the issue of fragmenting the data contained in the commercial records—i.e., allowing a party to selectively extract favorable information while disregarding contradictory entries. In contrast, Egyptian law explicitly provides that if commercial records are regularly maintained, it is prohibited for a party seeking evidence from them to fragment the data, extracting only what benefits their claim while excluding contradictory information. (Al-Sanhouri 2010)<sup>12</sup>. Implication of the Above: It is presumed that all entries recorded in a trader's records were made with their knowledge and consent, and as such, the recording of this information is considered an acknowledgment by the trader of its accuracy (a written acknowledgment). The trader's opponent may rely on these entries to prove their claim, and they serve as evidence against the trader. This represents an exception to the principle of "not compelling a person to produce evidence against themselves." Furthermore, the rule of "non-fragmentation of acknowledgment" applies, meaning the trader's opponent cannot selectively extract portions of the record that support their claim while disregarding contradictory information, provided that:

- The trader's records are properly maintained and regular.

For example, if the trader records in their journal that they purchased certain goods and paid for them, it is not permissible to accept the fact of the purchase while disregarding the payment.

However, if the records are irregular, they still serve as evidence against their owner, and the trader should not be rewarded for their negligence or failure to maintain proper records by excluding the records as evidence against them due to their irregularity. In such cases, the rule of non-fragmentation of acknowledgment does not apply.

#### **The Trader's Records Are Sometimes Evidence in Their Favor:**

If we accept that the trader's records are always evidence against them because they constitute an acknowledgment issued by the trader, then the general principle is that they are not evidence in their favor. A person cannot fabricate evidence for themselves; therefore, the information contained in the trader's records cannot generally be used as evidence in their favor since it originates from them. However, there are two exceptions to this rule:

##### **A) Commercial Disputes Between Traders:**

This applies to disputes involving commercial matters, provided that:

- The records are mandatory and regularly maintained.
- The opposing party is also a trader.
- The dispute pertains to a commercial activity.

The rationale for this exception is the ease of verifying the accuracy of the recorded data through comparison between the records of both traders.

To rely on the information contained in their records, the dispute must arise from a commercial activity involving both parties, and the commercial records presented must be regularly maintained. This is because the transaction in question would be documented in the records of both parties, allowing verification of the validity of the recorded data through comparison of each party's record. However, the evidentiary value of the records in this case is not absolute and can be overturned by contrary evidence, which may also be derived from the other trader's regularly maintained records<sup>13</sup>.

#### **b) Claims by a Trader Against a Non-Trader:**

Generally, a trader's commercial records are not accepted as legal evidence against a non-trader because the non-trader cannot verify the entries. However, they can be used as circumstantial evidence and are often supplemented by a supplementary oath ordered by the court to the party whose position is strengthened by the information. The court can order a trader to produce their records for examination, either on its own initiative or at the request of a party. If the trader refuses, this refusal can be seen as presumptive evidence of the facts intended to be proven by those records. According to Article 31 of the Saudi Evidence System, if a trader relies on an opponent's records and the opponent refuses to produce them, the court may administer a supplementary oath to the relying party to confirm their claim. Whether the court orders the records to be produced or not is a matter of its discretion, not an absolute right for the opposing party. This aligns with legal precedent, as seen in the Egyptian system, where the court is not obligated to grant such a request<sup>14</sup>.

#### **The Impact of Digital Evidence on Commercial Records and Its Applications Introduction:**

The digital transformation has significantly impacted commercial activities, leading to the shift from paper to digital transactions. Electronic commercial records have replaced traditional paper-based records (Kasper & Laurits 2016) raising questions about their legal value and admissibility as evidence in judicial proceedings. The Saudi legal system has focused on regulating these tools and determining their evidentiary weight. This section explores the impact of digital evidence on electronic commercial records and their applications, using blockchain technology as a case study.

#### ***The Reflection of Digital Evidence in Judicial Proof on Electronic Commercial Records***

Digital evidence is electronic information—such as emails, documents, and invoices—used in legal proceedings (Al-'Abduljabbar 2022, Al-Zaghrad 2023). Electronic commercial records are a specific type of digital evidence; while every electronic commercial record is digital evidence, not all digital evidence is a commercial record (Zhou et al. 2024). The Saudi Evidence System gives legal validity to digital evidence, provided certain conditions are met. Articles 54, 55, 63, and 64 of the system stipulate that any retrievable digital data is considered digital evidence and that extracts from digital evidence have the same weight as the original. The Electronic Transactions Regulation also confirms the binding legal force of electronic transactions. Electronic commercial records are precise digital records of all financial transactions, making them a specific type of digital evidence with detailed information on purchases, sales, and supporting documents (Dwikat 2022). Article 56 of the Evidence System confirms that digital and written evidence hold equal legal weight. Ordinary digital evidence has the same status as an ordinary written document, and it can be challenged by denial<sup>15</sup>. This text highlights that electronic commercial records are crucial for legal evidence. To be valid under the Saudi Evidence System, these records must be accurate, regularly updated, and authenticated with a certified electronic signature<sup>16</sup>. The entities responsible for the records must ensure their accuracy, and a public accountant must verify compliance with regulations. The legal system governs the submission of this digital evidence<sup>17</sup>, and gives the court discretion to handle disputes over its authenticity, with potential penalties for a party that refuses to provide proof<sup>18</sup>. (Taki 2023).

#### ***Applications of Electronic Commercial Records – Blockchain Technology as a Model***

The adoption of Distributed Ledger Technology (DLT) marks a substantial movement in the law of evidence, moving away from traditional human-based authenticity to a new standard of immutability and verifiable integrity based on cryptographic principles. (UNCITRAL, A/CN.9/1222, 2025). Blockchain technology is a decentralized digital record system that enhances business efficiency and confidence through its transparent and secure nature.

It functions as a chain of cryptographically linked blocks, making transactions immutable and nearly impossible to alter or delete retroactively (Maulana et al. 2024; Porras 2022). All network participants hold identical copies of the ledger, ensuring data integrity and continuity. Blockchain offers significant advantages over traditional records, including operational efficiency and risk reduction from physical damage or loss. These benefits have prompted regulators to establish legal frameworks for electronic records (Al-Mosraawi 2020). For instance, Saudi Arabia's Electronic Transactions Law No. 18/1428H, particularly Article Five, affirms the legal validity and enforceability of electronic transactions, records, and signatures, stipulating technical controls to ensure their integrity and security (Al-Salehi 2022)<sup>19</sup>. The Communications and Information Technology Commission (CITC) is the sole authority in Saudi Arabia responsible for issuing and managing electronic certification credentials. These credentials are used to verify the identities of digital contract signatories and are exclusively for use within the Kingdom. Electronic transaction data is legally valid and enforceable as long as its details are accessible within the originator's electronic system and the method of access is clearly specified. Digital commercial records are an evolution of traditional records, offering enhanced digital storage and processing capabilities that speed up business operations and reduce costs. The use of blockchain technology in these records is a prime example of how electronic transaction systems are applied in commerce. According to Porras (2022), blockchain is a revolutionary technology impacting various industries, including auditing, financial reporting, and supply chain management. It eliminates intermediaries, accelerates processes, and increases accountability. Professionals in these fields, especially auditors, are encouraged to adopt blockchain as a tool and acquire the necessary skills. The legal validity of these records in judicial proceedings depends on compliance with the requirements of Saudi Arabia's Electronic Transactions Law, which include having a certified electronic signature, verifiable data authenticity, and proof of no unauthorized alterations.

### **Key Features of Blockchain and Its Significance for Electronic Commercial Records:**

Blockchain technology is extremely important for electronic commercial records because of several crucial characteristics: security, transparency, efficiency, and dependability. These elements are crucial to the new legal standards being developed for electronic transactions. According to the UNCITRAL's comment on legal concerns associated with DLT, this technology represents a significant shift in the law of evidence. It shifts the foundation for verifying authenticity from traditional human-based approaches to a new standard of immutability and verifiable integrity founded on cryptographic concepts (UNCITRAL, A/CN.9/1222, 2025, para. 117). The technology's decentralized and encrypted nature makes it nearly impossible to alter or delete transactions, which shifts the focus of auditing to new risks like fraud (Porras 2022). All participants can access the ledger, fostering trust and ensuring data continuity even if one party becomes inactive<sup>20</sup>. Ultimately, blockchain provides a strong and reliable basis for commercial transactions, strengthening their legal admissibility as evidence.

## **DISCUSSION**

The research emphasizes the significance of electronic commercial records in Saudi Arabia's commercial and legal landscape, enhancing their evidentiary value and establishing legal certainty in the digital realm. This approach aligns directly with Saudi Vision 2030's strategic objectives of economic diversification and investment attractiveness. The study reveals that Saudi Arabia's Law of Evidence, which grants legal probative force to digital evidence, has significantly improved the legal foundation for digital transactions. This legislative development is crucial for attracting Foreign Direct Investment (FDI) by mitigating risks related to electronic evidence authenticity and providing a stable legal environment. Such a stable legal framework is a key factor that influences international investors' decisions. However, the evidentiary value of electronic records is still subject to the discretion of the judge, which highlights the ongoing need for the standardization of technical and legal criteria for evaluating such evidence. Striking a balance between judicial flexibility and legal certainty is crucial for building an effective and predictable legal system. The adoption of Distributed Ledger Technology (DLT) is a significant shift in the law of evidence, moving away from traditional human-based authenticity to a new standard of immutability and verifiable integrity based on cryptographic principles. However, implementing DLT raises legal and judicial questions, such as whether current legislative frameworks are equipped to handle decentralized, cryptographically secured evidence, and whether courts and judges possess the necessary technical literacy to evaluate and admit such evidence. A robust legal framework is needed to strike a balance between evidentiary integrity and personal rights.

## CONCLUSIONS

Electronic commercial records are crucial for Saudi Arabia's digital transformation and achieving Saudi Vision 2030. They form the foundation of the Kingdom's digital transactions ecosystem and are linked to the Digital Evidence Law and Electronic Transactions Law. They facilitate e-commerce, protect contracting parties' rights, and enhance transparency and efficiency. They can play a greater role in accelerating economic development by leveraging global advancements in Distributed Ledger Technology (DLT) and Blockchain, which enhance the security and transparency of commercial transactions. These technologies provide an immutable digital ledger for all transactions.

## RECOMMENDATIONS

Based on the research findings and a comparative analysis of international legal trends, the following recommendations are presented:

The research suggests adopting a decentralized authentication mechanism for electronic commercial records using Distributed Ledger Technology (DLT). This approach would enhance their credibility and legal evidentiary value by eliminating the need for a centralized certification authority, thereby ensuring greater security and transparency. Integrating Modern Technologies into Commercial Law:

The Saudi Commercial Transactions Law should integrate comprehensive legal provisions for both traditional and electronic commercial records. It is essential to incorporate legal rules for future technologies, such as DLT and smart contracts. This integration will consolidate merchants' obligations and operational mechanisms within a unified legal framework, making the Saudi legal system more attractive for digital investments

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