



Problems and Countermeasures of Admitting Electronic Data Evidence in Civil Litigation—The Chat Record of WeChat as a Perspective

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Abstract

With the continuous progress and development of society, WeChat plays an increasingly important role in people's communication process. More and more cases involve WeChat chat logs as evidence. However, in the use of WeChat chat evidence and the adoption process, some problems arise. These include determining the authenticity and relevance of WeChat evidence, as well as establishing the standard of proof for related issues. WeChat evidence, as electronic data evidence, needs to adhere to relevant evidence standards and meet specific requirements. In the process of using such evidence, it is essential to demonstrate its source reliability through relevant technical means. Only then can it be utilized as evidence to support the relevant facts of the case, in conjunction with legal knowledge. Reserves and professionals in the field of law need to make use of evidence with the complexity of judicial practice. The application of specialized technology requires further efforts and integration. Further efforts and integration are needed to analyze these problems and propose relevant suggestions, aiming to offer new ideas for the utilization of electronic evidence.

Keywords

WeChat electronic evidence, authenticity, relevance, judgment standard

1. The related problems of WeChat electronic evidence

1.1 The authenticity of WeChat electronic evidence

Whether the sender and receiver of WeChat is the person himself, the chat records in WeChat as electronic evidence, need to meet the requirements of the evidence, and authenticity is its necessary element (Li Guixia et al., 2022).

On the one hand, what needs to be confirmed is the identity of the actual owner of the WeChat account. WeChat chat is mostly through the WeChat name, bound cell phone number, and avatar to confirm the identity of the other party. However, the WeChat number can currently be changed once a year; the cell phone number also belongs to the voluntary binding option, and you can choose not to bind the cell phone number or choose to bind someone else's cell phone number; the avatar can also be changed arbitrarily, which is not enough to confirm the real identity of the WeChat account owner. On the other hand, what needs to be confirmed is whether the two parties in the WeChat chat are the same as the actual owner of the WeChat account (Shen Yuyu et al., 2020).

There are three main forms of WeChat login channels, the first is to log in by entering the account number and password, the second is to log in by receiving the verification code through the cell phone number, and the third is to log in on the computer side through the authorization of the code scanning of the WeChat APP in the cell phone. Therefore, there is a possibility that a third person can log in to WeChat and chat with WeChat friends in these three

login methods.

1.2 Relevance

The relevance of the two parties is difficult to determine, WeChat chat records as electronic evidence, also need to meet the standards of evidence on relevance (Zhao Yishan et al., 2020).

On the one hand, China's WeChat software does not mandatory real-name authentication. A registered WeChat account is not limited to the number of people who can register more than one WeChat account, a WeChat account can also be provided for the use of many people, so a WeChat account and the parties are not one-to-one correspondence. For WeChat chat records as electronic evidence, there are difficult to determine the two sides of the parties with the chat records of the two sides. The problem of relevance. On the other hand, it is necessary to prove that the parties are the owners or users of the WeChat account. It is essential to demonstrate whether the parties use the account to send relevant information and whether the account and information provided by the parties are consistent. It is also necessary to exclude the possibility of sharing the account with others or providing it to others for use. If this cannot be excluded and a reasonable explanation cannot be provided for logging in from another location or other anomalies, the evidence may not meet the requirements of electronic evidence relevance (Xu Yujia et al., 2022).

1.3 The size of the proof

At present, China's judges have a high degree of free evidence, there is no uniform standard of judgment. Weibo evidence belongs to a kind of electronic evidence, due to its own specificity. The judge's legal expertise reserves are relatively rich, the face of the review of electronic evidence is mainly based on their own experience. Weibo chat records serve as electronic evidence, but there is no uniform standard for referencing them. Therefore, in practice, the standard of proof is not consistent (Huang Zhixiong et al., 2016).

Generally speaking, the effectiveness of evidence is higher after notarization compared to unnotarized evidence. However, WeChat chat records as electronic evidence have their own particularities. Notarization by a notary public often only involves a superficial presentation of the WeChat chat records, making it challenging to determine if the parties personally sent the messages or if the content has been altered. As a result, notarized WeChat chat evidence may not reach the same level of strength of proof as traditional notarized evidence (Liu Hongli et al., 2022).

On the one hand, chatting on Weibo is more casual and involves more content. The facts of the case may be scattered throughout the chat record over different time periods. The parties intercepting the chat record may rely on their own interpretation for selection, especially when the time interval is longer. In such cases, screenshot evidence may not conclusively prove whether the two parties consulted on the matter again and reached a consensus. Judicial practice, when faced with controversial evidence, adopts a more cautious approach, leaning towards the principle of giving the defendant the benefit of the doubt. Chat records are considered relatively weak as evidence.

2. Cause analysis

2.1 Authenticity analysis

WeChat evidence as a kind of evidence, must meet the requirements of electronic evidence can be used as electronic evidence, so it must meet the requirements of authenticity.

WeChat electronic evidence, due to its specificity, requires proof that the WeChat account belongs to the relevant civil subject (Liu Yaling et al., 2022). But I also need to prove that it is my own WeChat account that I logged into, and there is no impersonation of another person or being impersonated by another person. Otherwise, it will affect the authenticity of the evidence. On the other hand, WeChat electronic evidence also needs to prove that it accurately reflects its true meaning, without any deletions or tampering, and that the content truly originated from the WeChat account, rather than being altered by other software or manipulated in any way.

2.2 Relevance analysis

WeChat evidence as a kind of evidence, must meet the requirements of electronic evidence can be used as electronic evidence, so it must also meet the requirements of relevance. Considering the special nature of Weibo evidence itself, Weibo evidence needs to meet the two parties to determine the relevance of the two parties and the relevance of the two parties to determine the behavior (Guo Pengfei et al., 2020).

On the one hand, there is no limit to the number of WeChat account registrations, WeChat account login can also choose the password login and cell phone number verification code login and computer terminal scanning code login, so the WeChat account and the parties are not a one-to-one form, so it needs to be clear that the WeChat account does not belong to the common with others, it is exclusively their own. On the other hand, when communicating with the parties to the case, both parties are clear about the content of the communication, there is no misunderstanding of the situation, and the text message, as well as the voice message of the communication process, is consistent with the true meaning of the parties.

2.3 The Proof of Analysis

WeChat evidence belongs to a kind of electronic evidence, but WeChat evidence in the process of court admissibility is not a unified standard, so the evidence of the proof is not consistent, and the judge's degree of free evidence is higher.

On the one hand, the judge's legal expertise reserves are relatively rich, but the face of the review of electronic evidence is mainly based on their own experience, so in practice, there are inconsistent standards of proof. On the other hand, a part of the court argues that the WeChat evidence is relatively weak. The WeChat evidence is extracted and submitted by both parties for evidence extraction. If there is no other supporting evidence, it is difficult to prove the authenticity and reliability of the submitted evidence of origin, as well as its ability to establish the facts of the case. Therefore, when faced with this type of evidence, some courts consider it to have less probative value compared to traditional evidence (Li Xingxin et al, 2020).

3. The relevant countermeasures

3.1 Authenticity

The authenticity of identity information can be verified with the help of real-name authentication and the power of third-party software (Li Meng et al., 2019).

On the one hand, WeChat registration must be bound to a cell phone number, and changing the cell phone number within 60 seconds to fill in the verification code received into the WeChat registration field to be able to register successfully. If there is a dispute over identity information, the identity information can be narrowed down by virtue of the cell phone number. On the other hand, the WeChat account owner's identity information can be confirmed by making a video call and common friends to assist in the identification of WeChat as a social software, not only text chat but also video or voice calls. Disputes can be the WeChat account video call to confirm the identity of the WeChat account, WeChat friends of the civil disputes between the majority of familiar people, and most of them will have a common friend. If you have any questions, please feel free to contact us, we can confirm your identity by asking a certain number of common friends for confirmation.

3.2 Relevance

In the face of WeChat chat evidence subject relevance is difficult to determine the problem, so you can establish a cooperative mechanism with the WeChat platform.

On the one hand, weibo as a third-party platform, compared to the parties in a relatively neutral state, and provide information than the parties to provide more comprehensive information, but also more persuasive, can establish a cooperative mechanism to obtain more information, as the parties to the auxiliary information, for the parties to solve the problem of correlation is difficult to identify the ideas. On the other hand, reference to the "logic tree" theory (Wang Congguang et al., 2021). With the help of the Weibo app, it is possible to clarify the two parties involved in the chat account, including the address and login device. Simultaneously, one can verify the information provided by the parties and gather witness testimony or other supporting evidence. The focus is on resolving the dispute between the parties, summarizing all relevant information that can be collected, and ensuring that the Weibo chat records meet the requirements for electronic evidence in terms of relevance. If the submitted WeChat chat log evidence can be mutually corroborated with other evidence and can demonstrate the reliability of the source, the evidential strength is higher compared to just providing screenshots. This increases the likelihood of its admission.

3.3 The Power of Proof

The court, when faced with Weibo chat evidence, aims to standardize judgment criteria. It may seek assistance from

electronic evidence professionals. Discrepancies in standards could be attributed to regional disparities or economic variations. However, within the same region, judgments should be consistent. Judges need clear and specific standards for evaluating evidence freely. It is advisable to strive for consensus within a region (city or province) and work towards establishing a unified standard for judgment. It is favorable to establish a unified standard of judgment (Chen Ruchao et al., 2022).

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