



## Electronic Evidence of The General Meeting of Shareholders Based on *Virlijden* and *Wilsverklaring* Rules

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### ABSTRACT

The purpose of this study was to analyze an event of the General Meeting of Shareholders (GMS) which was held electronically. The legal status of the minutes of the electronic GMS whether as a legal act, a real act or as a mere fact greatly influences its impact as an authentic deed. This means that a mere fact such as the existence of a piece of land that is flooded, the mental state of a person, cannot be proven by an authentic deed. The results of the legal analysis, the GMS event which was held electronically where the shareholders were not in the same meeting place, but attended based on electronic media, there is still a legal loophole for the shareholders to deny the results of the electronic GMS decision. The research was conducted in a juridical normative manner by reviewing regulations, norms and rules as well as concepts as well as related literature. The conclusion that the electronic GMS event is categorized as a mere fact referring to the *Virlijden* Rule (made, read and signed by all parties simultaneously at the same time) on the authenticity of the deed, so there is a legal loophole for the meeting participants to deny. The research was conducted using the *Virlijden* Rule and the Statement of Intention (*Wilsverklaring*) Rule and also supported by the Deconstruction theory that the interpretation of a text is never single and holds the potential for new and unexpected interpretations. As a legal act from the shareholders for the statement of their will, additional evidence is needed from the shareholders. The meeting participants make separate statements to be submitted electronically to the chairman of the meeting in addition to fingerprints or electronic signatures (*e-signature*) as regulated in the notary position law.

## 1. Introduction

In 2008, the government has enforced Constitution Number 11 of 2008 concerning Information and Transactions Electronics (UUITE). Constitution the covers all activity globally with the development technology information with destination for educate life nation. Based on Constitution the impact on everything activity could conducted online with various electronic media like *video conference*, *shopping online (e-commerce)*, *sign hand electronic (e-signature)*, *transaction electronics*, and so on. UUITE states that the definition of Electronic Transaction is a legal act carried out using a computer, computer network, and/or other electronic media.<sup>1</sup> In context of law, is UUITE already? answer all problem law concrete in society specifically to protection law on activity use the internet as a medium in transaction nor utilization the information.

In something of legal action there is something activity for convey will on legal action to fit desired goals and objectives for constant in something deed. That thing could conduct by directly (*face to face*) or use means. Technology means communication no direct such as an electronic system that can in form sound, picture, sign, code, signal or intelligence, giving access sending, transmitting and or reception signs, signals, writing, pictures and sounds or information. Technology Information this bring benefits and interests big for the countries of the world because trigger growth world economy, apart from it is also socio- cultural. UUITE mentions definition Technology Information is a technique for collect, prepare, store, process, publish, analyze, and/ or spread information.<sup>2</sup>

According to Edmon Makarim , there are a number of things to do noticed in expansion benefit technology information these, namely:<sup>3</sup> (1) technology consist from capable information to apply all stages from planning, organization and operations an industry or company (commercial) with all activities, (2) technology have contribution for make every stages that include planning, organization and operations activity something or company because technology no only consist of scientific knowledge will but also knowledge business and organization, (3) technology can in the form of tangible and intangible technology form .

A number of studies related to electronic General Meeting of Shareholders (GMS) this is research conducted by Amelia Sri Kusuma Dewi who saw there is conflict or obscurity, disharmony or emptiness norm in Constitution related. Article 16 paragraph (1) letter c of the Law Number 2 of 2014 concerning Change Constitution Number 30 of 2004 concerning Notary Public (UUJN) who regulates that Notary Public Required put fingerprint finger face to Minuta deed. Article 77 paragraph (1) of the Law Number 40 of 2007 concerning Limited Liability Companies (UUPT) which regulates holding of electronic GMS such as media teleconferencing, video conferencing, or electronic media facilities other. Blur norm law could be seen that electronic GMS deed based on UUPT that put fingerprint finger in minuta deed Notary Public no something action law in validity or authenticity from deed the but only working for ensure truth identity facing.<sup>4</sup>

Article 77 paragraph (4) of the Company Law requires that electronic GMS minutes must approved and signed by all participant meeting, and based on Article 77

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<sup>1</sup> Law Number 11 of 2008 concerning Information and Electronic Transactions, Article 1 number (2).

<sup>2</sup> Law Number 11 of 2008 concerning Information and Electronic Transactions, Article 1 number (3).

<sup>3</sup> Dewi, A. S. K. (2015). Organization of the GMS through Electronic Media related to the Obligation of a Notary to attach the Fingerprint of an Appearer. *Legal Arena*, 8(1), 1-146.

<sup>4</sup> *Ibid.*

paragraph (4) of this. In provision this there is difference creation and signing treatise GMS meeting via electronic media with conventional GMS minutes by physical. Signing conventional GMS minutes based on Article 90 paragraph (1) UUPT only Required signed by: Chairman Meeting, and at least 1 (one) holder designated shares from and by the participants of the GMS. Minutes of General Meeting of Shareholders physical (conventional) no signed by all GMS participants. On the contrary electronic GMS minutes must signed all holder shares, along with the contents of the GMS must be approved and signed by all GMS participants. So, what is meant by "approved and signed" according to Explanation Article 77 paragraph (4) UUPT is approved and signed "by physically" or "by electronics" by all GMS<sup>5</sup> participants.

In research conducted by Yahya Agung Putra, Annalisa Yahanan and Agus Triska see the GMS held by video conference where participant no present so based on Article 77 paragraph (1) UUPT is required existence sign hand electronic (*e - signature*) for participants meeting that doesn't present by physique in place maintenance meeting. Treatise affixed meeting sign hand electronic could equated with electronic data or information electronics whose position recognized as tool valid evidence. The GMS procedure contrary with Article 16 paragraph (1) letter m UUJN where Notary Public Required read the deed before witnesses and witnesses. For that required Settings video conferencing requirements in relation with *Cyber Notary*.<sup>6</sup>

In research conducted by Mira Nila Kusuma Dewi state that position of law of the deed treatise GMS meeting held through electronic media is as deed in category authentic and can made tool valid evidence in court because with use principle *lex specialis derogate lex generali* and interpretation extensive. Referring to Article 77 paragraph (1) of the Company Law and Article 21 paragraph (4) of the Company Law where there is a number of participant meeting that doesn't present so required existence sign hand electronic (*e-signature*). Affixed deed sign hand the electronic (*e-signature*) could equated with electronic data whose position is recognized as tool proof legitimate based on UUIE and the Eradication Act Corruption. The GMS procedure of course contrary with Article 16 paragraph (1) m UUJN. Based on principle *lex specialis derogate lex generali* where UUPT is *lex specialis* from UUJN which is *lex generali* so that where are the sanctions in UUJN? deed so no authentic, be no apply. Provision Article 16 paragraph (1) letter m where notary and participants must face to face at the same time only apply for deeds besides GMS deed. Then based on interpretation extensive (expanded) above tool valid evidence based on the Criminal Procedure Code then with confess sign hand electronic (*e - signature*) in Minutes of the GMS via video conference could made tool valid evidence in court. This also refers to the UUIE and the Anti- Corruption Law.<sup>7</sup>

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<sup>5</sup> Harahap, M. Y. (2019). *Limited Liability Company Law*. Jakarta: Sinar Graphic, seventh printing. (pp. 314).

<sup>6</sup> Putra, Y. A., Yahanan, A., & Trisaka, A. (2019). Video Conference in Meeting Shareholders based on Article 77 of the Limited Liability Company Law. *Repertorium, Journal Scientific Legal Notary*, 8(1).

<sup>7</sup> Dewi, M. N. K. (2016). Legal Position of Deed Treatise Meeting General Shareholders (GMS) through Electronic Media. *Arena Hukum*, 9(1).

Jayanti Puspitaningrum in study legitimacy and power proof the minutes of the GMS with the media conference also analyzed the UUPT and UUTE. Research results mentioned that mechanism making deed from the GMS held by teleconferencing cover making deed by Notary Public, then read out by teleconference so that participants meeting could knowing contents deed, then conducted sign hand by electronic (*e-signature*), then deed made digitally it based on UUTE recognized the validity and the same his strength with deed of GMS conventional. Legal basis used on validity this is UUTE and also the law Number 8 of 1997 concerning Company Documents.<sup>8</sup>

Ismatul Izzat in the research state that in the GMS electronic (*cyber notary*) already set in Regulation Financial Services Authority Republic of Indonesia Number 15/Pojk.04/2020 concerning Planning and Execution Meeting General Shareholder Public Company System General Meeting of Shareholders Electronics. In the research mentioned that Notary Public must help and cooperate with party third as Organizer Certificate Electronics (*Certificate authority*). Party third the given trust with authority to protect and secure contract electronics, with method deliver and audit Certificate Electronics. Financial Services Authority Regulation the accommodate development technology telematics in making electronic GMS deed in form deed authentic. Goal is for give certainty law and power proof perfect.<sup>9</sup>

Research conducted by Wardani Rizkianti state that the General Meeting of Shareholders electronic between UUPT and UUJN indeed cause problem related Precise mechanism and power the proof. Research results declared that Deed Minutes of the GMS have strength attached evidence to her is perfect (*volledig bewijskracht*) and tied (*bindende bewijskracht*) that is conducted by conventional with wait participant meeting in 30 days time work by circular based on Article 1870 of the Civil Code.<sup>10</sup>

All research conducted previously is that the GMS made by electronic by notary is deed authentic. This thing based on the mentioned rules in UUTE that Information Electronics and/ or Document Electronic that is Minutes of General Meeting of Shareholders electronic then could made tool valid evidence in court. This thing this is also strengthened with the Criminal Procedure Code, the Corruption Act and the Company Document Law. Deficiency study before this is that they no see making minutes of GMS electronic this in approach rules making deed authentic that is "*Verlijden*" (Composing, Reading and Signing). Rules *Verlijden* this in making deed authentic conventional close gap law for the parties for deny what is written in deed on deed the law which is his will by private.<sup>11</sup> Study neither before \_ see with approach rules Statement Will (*Wilsverklaring*).<sup>12</sup>

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<sup>8</sup> Jayanti, P. (2018). The Validity and Strength of Proving the Minutes of the General Meeting of Shareholders of a Limited Liability Company (PT) Media Teleconference. *Legal Pluralism*, 8(2).

<sup>9</sup> Izzat, I. (2021). Juridical Analysis of the Implementation of the Cyber Notary GMS (E-GMS) in Financial Services Authority Regulations. *Journal of Significant Humanoria*, 2(2).

<sup>10</sup> Rizkianti, W. (2016). Authentic Deed of General Meeting of Shareholders (GMS) through Teleconference Media (Mechanism of Creation and Power of Evidence). *Juridical Journal*, 3(1).

<sup>11</sup> Tobing, G. H. S. L. (1983). *Notary Position Regulations*. Jakarta: Erlangga. 32.

<sup>12</sup> Budiono, H. (2012). *Collection of Civil Law Writings in the Notary Field*. Bandung: PT. Citra Aditya Bakti. 215-216.

Referring to the law proof so Becomes question in study this is holding of GMS Electronic enter in category deed authentic. Based on rules *Verlijden* and the method Statement *The will* (*Wilsverklaring*) then deed minutes of GMS electronic is no deed authentic and not could made as tool proof legal in court by single. Not valid as tool proof this supported by theory Deconstruction from Jacques Derrida.<sup>13</sup> Theory the give understanding us to a text no once single and save potency interpretation new ones that don't unexpected. With thus, proof must be supported by tools evidence other than sign hand electronic (*e-signature*) also mail statement by electronic from participant meeting that doesn't is at in place meeting.

## 2. Method

Study conducted by normative juridical related with regulation related to the GMS electronics with assessment related regulation Minutes of GMS as deed or deed authentic. Study this strengthened with study interpretation from theory Deconstruction to the meaning of a text where in view theory the that a text no once single and save potency interpretation new ones that don't unexpected. Related with strength proof to Minutes of GMS as deed or deed authentic used approach the "Verlijden" rule is create, read and sign deed by all party by simultaneously moment that too. In practice Notary Public the act of "Verlijden" (composing, reading and signing) automatically assertive mentioned in end deed notary. Then from theory and rules law the tested to Statement Will (*Wilsverklaring*) from the participants of the electronic GMS that, is already could said as deed law they for agree results meeting. Object Minutes of General Meeting of Shareholders electronic the then studied and analyzed based on regulation and theory as well as rules for get results findings on strength law and evidence on deed Minutes of GMS made by electronics.

## 3. Results & Analysis

### 3.1. Legal Actions.

Legal action is one of authority Notary Public for make certificate authentic besides from agreement and determination. This thing mentioned in Article 1 Regulation Position Notary (Notary Regulation - Stbl . 1860 - 3).<sup>14</sup> deed law that alone according to Prof. Diephuis: "Legal action is purposeful action for state the will contained in it, create something right for somebody or change something rights that have been there is or end it". Prof. Hammaker teach that according to Article 1 Regulation Position Notary, Notary only authorized for state the legal actions (*rechtshandelingen*) and so on state the fact (*feitelijke handelingen*) which is not a legal action (*rechtshandelingen*) based on given authority by firmly by the provision legislation special. The fact actions (*feitelijke the handelingen*) according to Prof. Hammaker there are 2 groups namely: (1) the fact actions (*feitelijke handelingen*) who enter in making deed Notary Public like deed reading and signing deed, (2) deeds

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<sup>13</sup> Al-Fayyadl, M. (2006). *Derrida*. Yogyakarta: LKis Yogyakarta. 78-79.

<sup>14</sup>Tobing, G. H. S. L. Op. Cit. (Note 11). 39.

certain by alone like in making deed recording budel inheritance, manufacture news events in a GMS, protest money order, deed offer payment cash and consignment.<sup>15</sup>

Give information is also in in category requested action to Notary Public for notarized by a notary that is what happened in meeting, what happened in customer. In other things there are also actions real or fact (*feitelijke handelingen*) called reality mere (*blot feiten*) or state (*toestanden*). Deed real this no could be classified in deeds, agreements and statutes as meant Article 1 Regulation Position Notary Stbl.1860. Reality mere (*blot feiten*) or the state or fact (*toestanden*) could not be proven with something deed authentic. For an example is state somebody is at in condition physique or soul certain, or reality plot waterlogged ground, or reality something goods broken in time issued from the wrapper. Also, not could be proven with something deed authentic is someone who makes letter will is at in state thought sane or in state drunk.<sup>16</sup>

### 3.2. Authenticity Deed (*Virlijden*)

Authenticity something deed created by official general referring to Article 1868 of the Civil Code which was made in form determined by law. UUJN does not by clear mention procedure formality The notary who made deed Becomes something deed authentic. In Thing this, Article 1 Regulation Position Notary Stbl.1860 based on Article 1868 of the Civil Code mention by clear meaning authenticity. In Article 1 is mentioned that: "Notary" is public officer the only common authorized for make deed authentic about all acts, agreements and stipulations required by a regulation general or by interested parties desired for declared in something deed authentic, guarantee certainty date, save the deed and give grosse, Copies and quotes, all along making deed it was by a regulation general also not assigned or excluded to office or someone else."

The word of "make the deed" in Article 1 of Regulation Position Notary Stbl.1860 which is Translate from Dutch which also comes from from France is "Verlijden". Translation from the word *verlijden* in making deed the are: "Composing", "Reading" and "Signing". Referring to Article 1868 of the Civil Code so Suite incident deed law the made in front of Notary Public as office common (not the employee of the notary) and deed the shape determined by law. Deeds this is what gives the stamp of authenticity deed of notary. It means deed the have strength perfect proof.<sup>17</sup> In practice Notary Public the act of "Verlijden" (composing, reading and signing) automatically assertive mentioned in end deed Notary Public that deeds the conducted by simultaneously and at the same time that too, so no there is gap law for the parties for deny the legal actions they or deny will them.

### 3.3. Proof

Article 5 UUIE explains that Information Electronics and/ or Document Electronicsand / or results print it is tool proof valid law, and is expansion from tool valid evidence according to the applicable procedural law in Indonesia. Validity this

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<sup>15</sup> *Ibid*, pp. 42-43.

<sup>16</sup> *Ibid*, pp. 45-47.

<sup>17</sup> *Ibid*, pp. 31-32.

with notes that use of Electronic Systems the in accordance with provision UUIE law. Article 1 number (1) UUIE states that: definition Information Electronic is one or a collection of electronic data, including but no limited to writing, sound, pictures, maps, designs, photographs, *electronic data interchange* (EDI), letters electronic (*electronic mail*), telegram, telex, *teletcopy* or the like, letters, signs, numbers, codes access, symbol, or perforation that has processed which has the meaning or could understood by people who can understand it.<sup>18</sup> UUIE mentions definition Document Electronic is every Information Electronically created, forwarded, sent, received, or saved in analog, digital, electromagnetic, optical, or the like, which can viewed, displayed, and/ or heard through Computer or System Electronics, including but no limited to text, sound, pictures, maps, designs, photos or the like, letters, signs, numbers, codes access, symbol or perforation that has meaning or meaning or could understood by those who understand it.<sup>19</sup>

Article 6 UUIE then explain if there is requirements proof something information must shaped written or original, then Information Electronics and/ or Document Electronic considered legitimate along the information contained in it could accessed, displayed, guaranteed wholeness, and can accountable so that explain something circumstances. Article 7 UUIE then also explains: that everyone who states rights, strengthen rights that have been there is, or reject the rights of others based on existence Information Electronics and/ or Document Electronic must ensure that Information Electronics and/ or Document Existing electronic to her originated from System Eligible electronics condition based on regulation legislation.

In law evidence in Indonesia, Information Electronics and/ or Document Electronic based on UUIE can made tool valid evidence. By explicit, electronic data no called as tool valid evidence recognized by law in Indonesia. In development of electronic data the considered have strength law that can equalized with non- electronic data. The power of electronic data as tool evidence is also supported by various regulation legislation national other such as: the Criminal Procedure Code, the Company Documents Law, the Anti- Corruption Law, the ITE Law, the Money Laundering Law. As tool proof, no all Information Electronic or Document Electronic could made tool valid evidence. UUIE mentions that all information the declared legitimate for made tool proof if use the appropriate electronic system UUIE provisions, namely a reliable and safe electronic system, and fulfill minimum requirements set by UUIE.<sup>20</sup>

Proof is also supported with something sign hand electronic (*e-signature*). Signature the electronic (*e-signature*) already set in Article 1 number 12 UUIE which states: that sign hand electronic (*e-signature*) is sign hand consisting of on Information Embedded, associated electronics or related with Information Electronic other used as tool verification and authentication. Signature the electronic (*e-signature*) in Article 53 Regulation Government Number 82 of 2012 About Maintenance System and Transaction Electronic have strength law and consequences valid law \_ During Fulfill stated requirements in regulation government that. Regulation the give

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<sup>18</sup> Law Number 11 of 2008 concerning Information and Electronic Transactions, Article 1 number (1).

<sup>19</sup> *Ibid.*

<sup>20</sup> Dewi, M. N. K. *Loc. Cit.*

position sign hand electronic (*e-signature*) has same position with sign manual hands in general who have strength law and consequences law.<sup>21</sup>

### 3.4. Statement the Will (*Wilsverklaring*) and Interpretation

In to do something deed law required existence statement of will of the person who did it, that is appropriate statement (*verklaring*) with his will. Basically, form statement the will, good as offer (*aanbond*) or acceptance (*aanvaarding*) is free and can conducted with various way, fine by oral nor written that can understood and accepted society. Statement is something action law in the form of voice that can distinguished through hearing, movement revealing limbs feeling or opinion through vision or method other possible arrests received through five sense us. With communication modern technology, possibilities that the parties could to do connection trade (transaction) no direct through electronic media. The problem is is delivery news from connection the trade (transaction) could equated with statement will by oral or written by the party who sent it?<sup>22</sup>

Opinion expert Van Esch 's law think that although will is condition constitutive for something statement that has consequence law, however maker statement with using information systems certain could considered as long from programmed will like in Thing delivery routine reports/data on something legal actions. It is by van Esch recognized that in sending the data could occur something error, with possibility:<sup>23</sup>

- a. Occur mismatch Among will and statement because use of programs that do not right. In Thing this protection to receiver news/ data can based on teachings trust (*vertrouwensleer*) where receiver intentional news/data good no could harmed.
- b. Computer Program using data that is not accurate.
- c. giver statement is a person who doesn't say.

Van Esch also thinks that description from the faces could conducted through statement electronic with information systems. Notary Public no could determine from where is the statement electronic the done, but Notary Public could determine where statement electronic the accepted. With use technology *encryption* could prevented manipulation from statement that, will but reality device law still not yet adequate for implementation making deed Notary Public through electronic media. A number of the problem still faced in implementation making deed Notary Public through electronic media, including deed Notary Public is writing form that can be read in accordance Regulation Position Notary Stbl.1860 and UUJN.<sup>24</sup>

Mistake or misinterpret on statement or electronic data is something certain and certain. This thing strengthened with views of Jacques Derrida (1930-2004) a Postmodern Philosophers with his "Deconstruction" theory. Derrida says: "A text is not a text unless it hides from the first comer, from the first glance, the law of its composition and the rule of its games. A text remains, moreover, forever

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<sup>21</sup> *Ibid.*

<sup>22</sup>Budiono, H. Loc. *Cit.*

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*



imperceptible". A text always has face double. In interesting something conclusion meaning something text the often when that's text incised another different meaning from the meaning that has been our take. Meaning the often no thought because possible is meaning secondary which is not requested by the author or maker. Existence meaning that already prove that understanding our to a text no once single and save potency interpretation new ones that don't unexpected.<sup>25</sup>

Sightings something text no flat cross section surface. Definitions neither text limited to meaning donotative who wants catch meaning express, or the logic with on purpose hidden behind text . Derrida 's deconstruction is shape effort for empower meaning implied-logic that tends forgotten or rejected because priority and choice certain from a text.<sup>26</sup>

### **3.5. Interpretation based on Virlijden and Statement of the Will (*Wilsverklaring*)**

The form and method of the GMS electronic can conducted with method via: teleconferencing media, video conferencing media or electronic media facilities other as Article 77 paragraph (1) UUPT. Organizing could conducted where just with Requirements: GMS is attended and/ or represented by all holder stock, all holder share approved, approved GMS agenda must certain, place held must located in the territory of the Republic of Indonesia, hal this confirmed in Article 77 paragraph (4). Condition Form for electronic GMS it could allowed, then must allow all participant meeting could see and hear by directly, and can participate direct in meeting. Article 77 paragraph (1) UUPT uses words that allow all party participant meeting each other see and hear by direct as well as participate in meeting. The word allows the character imperative. because of that, no could ruled out or violated.<sup>27</sup>

Minutes of General Meeting of Shareholders electronic this based on Article 77 paragraph (4) must approved and signed handle by all participant meeting. This thing different from minutes of GMS conventional mentioned in Article 90 paragraph (1) of the Company Law which only Required marked handle by chairman Meeting and at least 1 (one) holder designated shares from and by participants meeting. Signer by electronic (*e-signature*) can be done by participants meeting that doesn't is at in place maintenance meeting.<sup>28</sup>

In understanding Minutes of General Meeting of Shareholders electronic this in implementation based on UUIITE, Company Document Law and Act Criminal Corruption could made tool valid evidence in court. In Thing evidence in court that becomes question is is Minutes of GMS made by electronic made of have strength perfect proof on deed the law of the participants the meeting that is outside the place holding the GMS? Question next is Minutes of General Meeting of Shareholders electronic the already could ensure Statement The will (*Wilsverklaring*) of *the* holders share outside the place holding the GMS online? Result conclusion analysis based on theory and rules the is that Minutes of General Meeting of Shareholders electronic is not the legal actions (*rechtshandelingen*) and neither fact actions or real

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<sup>25</sup>Al-Farradl, M. *Loc. Cit.*

<sup>26</sup>*Ibid.*

<sup>27</sup>Harahap, M. Y. *Op. Cit.* (Note 5). 311-312.

<sup>28</sup>*Ibid.*

actions (*feitelijke handelingen*) which is not legal action (*rechtshandelingen*) but reality or fact mere (*blot feiten*) or a fact (*toestanden*) that is not could be proven with something deed authentic.

In interpretation approach rules Virlijden, Minutes of General Meeting of Shareholders electronic the enter in category real or fact actions (*feitelijke handelingen*) called reality mere (*blot feiten*) or fact (*toestanden*). Real or fact action of this is could not be classified in deeds, agreements and statutes as meant Article 1 Regulation Position Notary Stbl.1860. Reality mere (*blot feiten*) or the fact (*toestanden*) could not be proven with something deed authentic. Findings study this strengthened with theory Deconstruction from Jacques Derrida. So that in context evidence in court still required tool proof addition for strengthen Minutes of General Meeting of Shareholders electronic it in court.

### **3.6. Electronic GMS is not as Legal Actions.**

Article 77 paragraph (4) of the Company Law requires that electronic GMS minutes must approved and signed by all participant meeting, and based on Article 77 paragraph (4) of this. In provision this there is difference creation and signing treatise GMS meeting via electronic media with conventional GMS minutes by physical. In conventional GMS then the holders share could state his will as deed law for agree decision meeting by directly to the Notary as Chapter Regulation Position Notary (Notary Regulation – Stbl . 1860 – 3).<sup>29</sup> As Notary Public in Thing this stated the legal actions(*rechtshandelingen*) which states his will (*wilsverklaring*)<sup>30</sup> for give agreement on decision meeting and more stated the real or fact actions (*feitelijke handelingen*) which is not is the legal actions (*rechtshandelingen*) in making deed Notary Public like deed reading and signing deed, and deeds certain by alone like in making news events in an GMS.<sup>31</sup>

In the General Meeting of Shareholders electronics, then statement the will (*wilsverklaring*) of the holders of share conducted by direct in front of Notary. This thing is condition constitutive which has consequence law. Van Esch think that statement will by electronic could considered as long programmed will on something legal action, will but in electronic data transfer could occur mistake good by technical and non-technical. A number of the problem still faced in implementation making deed Notary Public through electronic media, including deed Notary Public is writing form that can be be read in accordance Regulation Position Notary Stbl.1860 and UUJN.<sup>32</sup> So that could be concluded that the GMS made by electronic is reality mere (*blot feiten*) or fact (*toestanden*) and not deed the law that gives impact consequence the law that creates right or change right or end something rights.

Based on van Esch 's opinion the then the GMS made by electronic there is problem in electronic data transfer of holders of stock. So that Thing this could cause mistake in statement his will (*wilsverklaring*). This thing Becomes no in accordance rules from Article 1 Regulation Position Notary Stbl.1860 who gave authority for Notary Public

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<sup>29</sup> Tobing, G. H. S. L. Op. Cit. (Note 11), pp. 39.

<sup>30</sup> Budiono, H. Loc. Cit.

<sup>31</sup> Tobing G. H. S. L. Op. Cit. (Note 11), pp. 42-43.

<sup>32</sup> Budiono, H. Loc. Cit.

in make deed on something legal action. In Thing this legal action, their are no prove or could not be proved of statement of his will (*wilsverklaring*) because made by electronically technical have problem technical. Problem this reinforced by theory Deconstruction from Derrida who stated that a text always has face double. In interesting something conclusion meaning of something text the often when that's text incised another different meaning from the meaning that has been our take. Understanding our to a text no once single and save potency interpretation new ones that don't unexpected.<sup>33</sup>

### 3.7 . Electronic GMS need tool of proof additional.

In explanation mentioned above, the GMS made by electronic is something legal action (*feitelijke handelingen*) called reality mere (*blot feiten*) or fact (*toestanden*). Real or fact actions of this could not be classified in deeds, agreements and statutes as meant Article 1 Regulation Position Notary Stbl.1860. Reality mere (*blot feiten*) or the fact (*toestanden*) could not be proven with something deed authentic. As something reality mere (*blot feiten*) then the GMS is made by electronic could not fulfill the rules of *Virlijden* and Statement Will (*Wilsverklaring*).

In rules *Virlijden* Referring to Article 1868 of the Civil Code so Suite incident legal actions (electronic GMS) made in front of Notary and deed the form determined by law. Deeds this is what gives the stamp of authenticity deed notary. It means deed the have strength perfect proof. <sup>34</sup> \_ In practice Notary Public deed *Verlijden* (composing, reading and signing) automatically assertive mentioned in end deed Notary Public that deeds the conducted by simultaneously and at the same time that too, so no there is gap law for the parties for deny deed law they or deny will them. With Thus the GMS was made by electronic no could said something deed with strength perfect proof because still there is gap for the holders of share for think statement his will as legal action. Condition this is also strengthened with theory Where is Derrida 's deconstruction a text no once single and save potency interpretation new ones that don't unexpected.<sup>35</sup>

In rules Statement Will (*Wilsverklaring*), good as offer (*aanbond*) or acceptance (*aanvaarding* is free and can conducted with various way, fine by oral nor written that can understood and accepted society. He is something action law in the form of voice that can distinguished through hearing of movement revealing limbs feeling or opinion through vision or method other possible arrests received through five sense us. With communication modern technology, possibilities that the parties could to do connection trade (transaction) no direct through electronic media. In electronic GMS electronic data transfer the no could equated with statement will by oral or written by the sender. <sup>36</sup> Opinion expert Van Esch 's law think that although will is condition constitutive for something statement that has consequence law, however maker statement with using information systems the not yet adequate for describe Statement Will (*Wilsverklaring*). Until the electronic GMS no could give something proof will existence Statement The will (*Wilsverklaring*) of *the* holders of stock.

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<sup>33</sup> Al-Fayyadl, M. *Loc. Cit.*

<sup>34</sup> Tobing, G. H. S. L. *Loc. Cit.*

<sup>35</sup> Al-Fayyadl, M. *Loc. Cit.*

<sup>36</sup> Budiono, H. *Loc. Cit.*

In law evidence in Indonesia, Information Electronics and/ or Document Electronic based on UUIITE mentioned could made tool valid evidence. It is also supported by various regulation legislation national other such as: the Criminal Procedure Code, the Company Documents Law, the Anti- Corruption Law, the ITE Law, the Money Laundering Law. But UUIITE mentions that all information could declared legitimate for made tool proof if use the appropriate electronic system UUIITE provisions, namely a reliable and safe electronic system, and Fulfill minimum requirements set by UUIITE.<sup>37</sup> Proof it is also supported with something sign hand electronic (*e-signature*). Signature the consist on Information Embedded, associated electronics or related with Information Electronic other used as tool verification and authentication. So that position sign hand electronic (*e-signature*) has same position with sign manual hands in general who have strength law and consequences law.<sup>38</sup> However in context the rules Virleijden and Statement *The will* (Wilsverklaring) as has been described above, could not be proved existence something legal actions which is statement the will of the holders of stock. Because that need existence addition tool other evidence for support the GMS by electronic the that is something Statement *The will* (Wilsverklaring) made by separate stating his will for give agreement on GMS decisions made by electronics.

#### 4. Conclusion

GMS made by electronic is not something the legal action. It is not the legal actions in the sense of Notary authorized for stated the legal actions (*rechtshandelingen*) and stated the real or fact action (*feitelijke handelingen*), as Article 1 Regulation Position Notary Stbl.1860 (deed, agreement and determination). GMS events that took place by electronic (*online*) login in named category reality mere (*blot feiten*) or fact (*toestanden*). This thing same like description incident natural other like state somebody is at in condition physique or soul certain, or reality plot waterlogged ground, or reality something goods broken in time issued from the wrapper.

In Thing the so-called proof in UUIITE where the GMS is electronic as tool valid evidence, then in context strength proof, he no give proof on legal actions that is on purposeful action for state the will contained in it, create something right for somebody or change something rights that have been there is or end it. This thing caused the gap denial from the holders of share on results decision meeting. This thing could be explained with rules *Virlijden* (created, read and signed all party by simultaneously moment that too) over authenticity deed and rules Statement of Will (*Wilsverklaring*) and also supported theory the Deconstruction that states that interpretation a text no once single and save potency interpretation new ones that don't unexpected. As something evidence in court, then deed law from the holders of share by electronic (*online*) top statement his will the need addition tool evidence. Participants meeting make statement by separated for handed over by electronic to chairman meeting beside fingerprint finger or sign hand regulated electronic (*e-signature*) in Notary Law.

Study this in study knowledge law still many deficiencies. Studies conducted still in approach principles and theories. So that need the study more deep again in

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<sup>37</sup> Dewi, M. N. K. *Loc. Cit.*

<sup>38</sup> *Ibid.*

aspect approach theory and philosophy law. Study this expected as something ingredient or material that can be studied more far again.

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