

THE E-COURT SYSTEM IN MALAYSIA

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Abstract. Based on the concept of 'green court' with less usage of papers, two high courts in Kuala Lumpur were used as pilot projects in 2004. The complete E-Court system in Malaysia began in March 2011. Four types of mechanism that form the E-Court are Video Conferencing System, Case Management System, Community and Advocate Portal System, and Court Recording and Transcription System. In addition, e-filing has also been recently introduced to complement the E-Court system. As the system discussed here is fairly new, the writing of this paper adopts the exploratory approach.

Key words: E-Courts, Malaysia, Judiciary, Technology

1. Introduction

The court system in Malaysia has been frequently criticised because of its dilatoriness in resolving disputes and resulted in back-log of cases. As a result, a new system known as the E-Court has been introduced. The electronic based court system emphasised on the use of mechanism which is much faster and efficient. They are basically five types of e-court mechanism which are currently in practice in Malaysia, as discussed below.

2. Video Conferencing System (VCS).

The Department of Justice in Sarawak and Sabah, Malaysia has led the Justice Department in Peninsular Malaysia in implementing the e-court system. The use of VCS is important to Sabah and Sarawak as the two-states are among the largest states in Malaysia; they have the appearance of large land and lack of transport (air transport is the main means of communication but expensive); thus the use of VCS is the best option. In a normal system, many advocates in Sabah and Sarawak have to spend time travelling to courts that take a few days while the trial is only about 30 minutes in some cases. This problem has been solved by the video conference system which not only saves time but also save costs. It is estimated that RM2, 945.00 from each trial can be saved using this system. The savings can be made in terms of savings in transport fares, accommodation and related allowances. Except for this purpose, video conferencing is also used for protected witnesses in the case of rape or cases involving children under the age of 18. The witness would be placed in another room.

3. Case Management System (CMS).

CMS is a case management system developed specifically to improve service efficiency in handling cases in court. Before the system was introduced, the courts dealt with cases using manual system. With this system, management of court cases is more systematic and protected. This system can be accessed by court staff, officers and judges. There is a sub-module in the CMS which are the 'e-filing' and 'e-registration'. In addition, the QMS system (Queue Management System) or better known as the Waiting Queue System is also a sub in the CMS model. The QMS is the most basic systems used in the CMS system that involves the courts and the parties to the dispute (usually involving the solicitors of both parties in a dispute in such cases

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as a reference case, an ex parte and others). This system is fair and systematic (as the case was called by the registration of complete attendance and the presence of the parties involved) and may discipline the lawyers to comply with the time.

There is also a sub module called "Personalized My Page" designed to manage all the courts cases in a more systematic manner in that each judge has a personal web page that contains data and information relating to all cases. For example, the number and status of pending cases, decisions yet to be decided, the number of trials completed / not completed, decisions by Court of Appeal not yet obtained, statistical reports and cases that have been completed and archived.

In addition, this system also features a "planner" that can be accessed by all staff, court officers and judges. The planner is used to manage cases with reference to the application for a full trial and the date of the cases. The planner incorporates information such as dates and names of operating officers of the court or judges. It is therefore very easy and helpful for the officers of the court to set dates for trial of cases or to view the table of officers and judges depending on their free times. If the officer or the judge involved in a case or cases has emergency matters on the date of trial, then the case can be easily transferred to other officers or judges. In practice, CMS is widely used in case management of cases before trial as a reference case and the application for a full trial. Citing the Commerce Court Complex in Jalan Duta as an example, such cases are handled now before the court officials or the Senior Assistant Registrar (SAR) which were before conducted before a judge. This process has accelerated the process before the trial and is more time saving. These cases were handled only by court officials and lawyers involved in the dispute will only have to appear in a special made cubicle. In this process, most of the times the SAR will first examine the files involved so that when the trial begins, it will save the judges' time and will be easier for the judge to handle the trial. There are eight (8) simple methods used during the process before the trial as managed by the SAR handling the case:

- Review the Planner (check the number of cases that existed at that date);
- Check the QMS system (to see the presence of the parties involved);
- If the parties were present, they will be called by pressing the "calling" button in the QMS system and after they have entered the room, the "end" button will be pressed;
- It continues with the pressing of the "start" button in the QMS system;
- The CMS system will subsequently be used in this process beginning with the "updates today minutes";
- The names of the parties who are presence will be asked. If the party in attendance to present the case was the same as before , their name already exists in the existing system and the court officials will "key in" by just clicking it, and if the party is new the officer will "key in" the particulars manually;
- The case then proceeded as usual;
- Upon completion of the case, the SAR will enter the minute i.e the details of the case on that day (sometimes the SAR will straight away enter the minute during the application process, however some SAR record the minute after the completion of the case).

3.1 Queue Management System (QMS).

QMS is an electronic system that arranges the attendance of lawyers. The lawyers will record their presence once they arrive at the court registry. The lawyers will wait for their turn to be called. Those who register first will get the priority by been called into the office (cubicle) first. So to get a call, and the case settled early without a long wait, the parties are encouraged to arrive early to register attendance. The advantage of this system is that cases can begin once the parties record his or her attendance, and not depending on the serial number as done before manually. Court officials or judges would not have to wait too long and can proceed to the next case, whoever is ready. Therefore there will no longer be a situation where a party who has come earlier but his case is still not called. By using this system, the actual time of attendance by parties involved with the case can also be known.

To make it easier for the parties who sometimes have cases in several courts on the same date, a warning system via SMS (short messaging system) is created to remind parties involved in interlocutory

trial/applications. This system has to be subscribed and parties are charged at a lower rate. If their case is about to be called, those who subscribed to this system will receive an SMS informing the status of their turn.

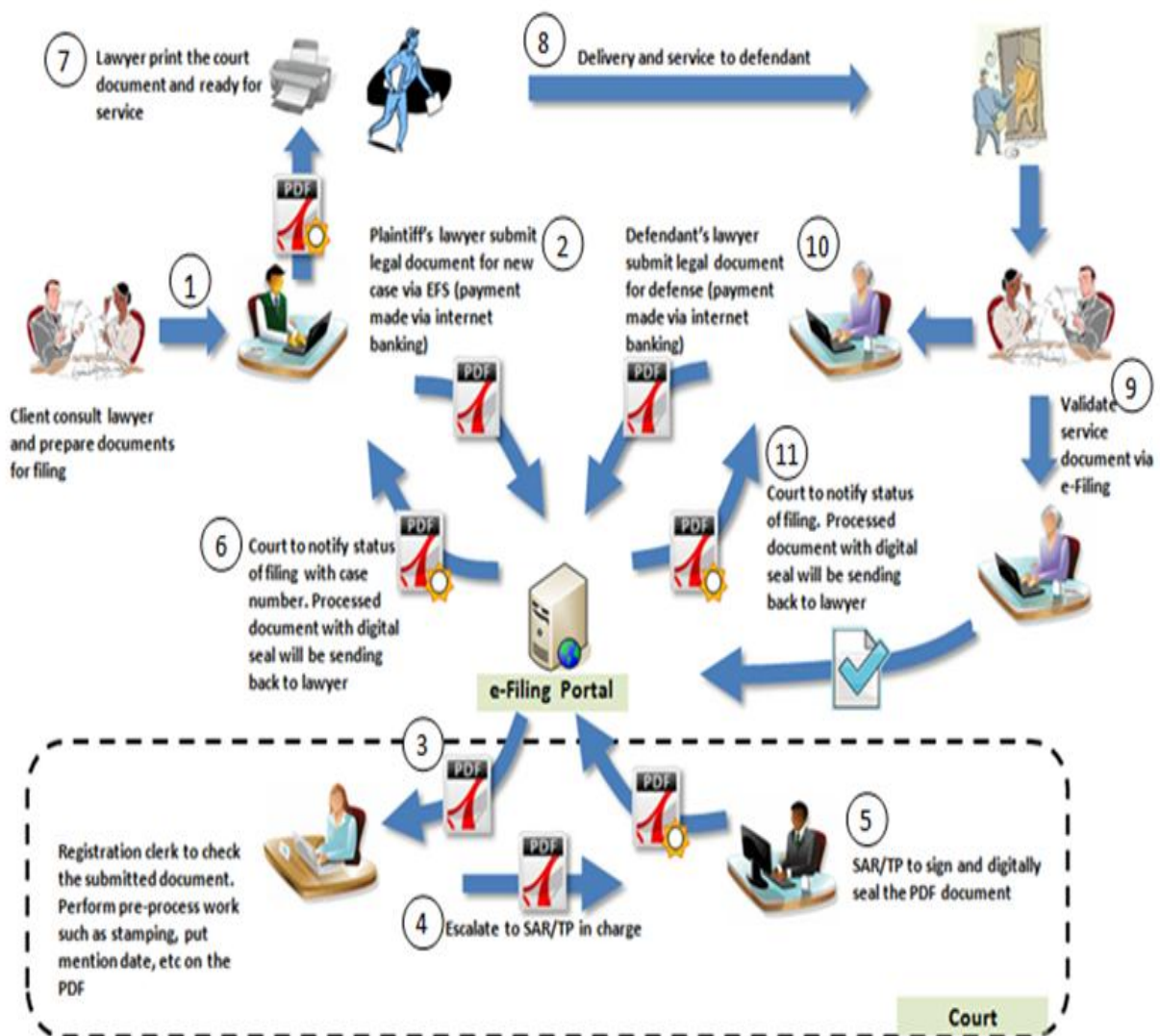
3.2 E-Filing.

E-filing is an electronic system of filing cases online. This system was introduced on March 1, 2011. With the introduction of E-filing system, which discourages the use papers as before, the lawyers or parties involved will have to 'scan' their application papers. Under this system, lawyers will not be charged as it will be handled by the courts through the Bureau of Services until May 31, 2011. This service will be charged through the internet banking system for payment of case filing after such date. The service bureau in the courts will continue to provide service after May 31, 2011 in respect of e-filing, but the service is only available to the public who do not have a lawyer. If e-filing is used directly from a law firm, the firm must pay via e-banking to the bank to be appointed and must also pay an annual fee for the Digital Certificate from the company responsible for managing the system, starting May 31, 2011.

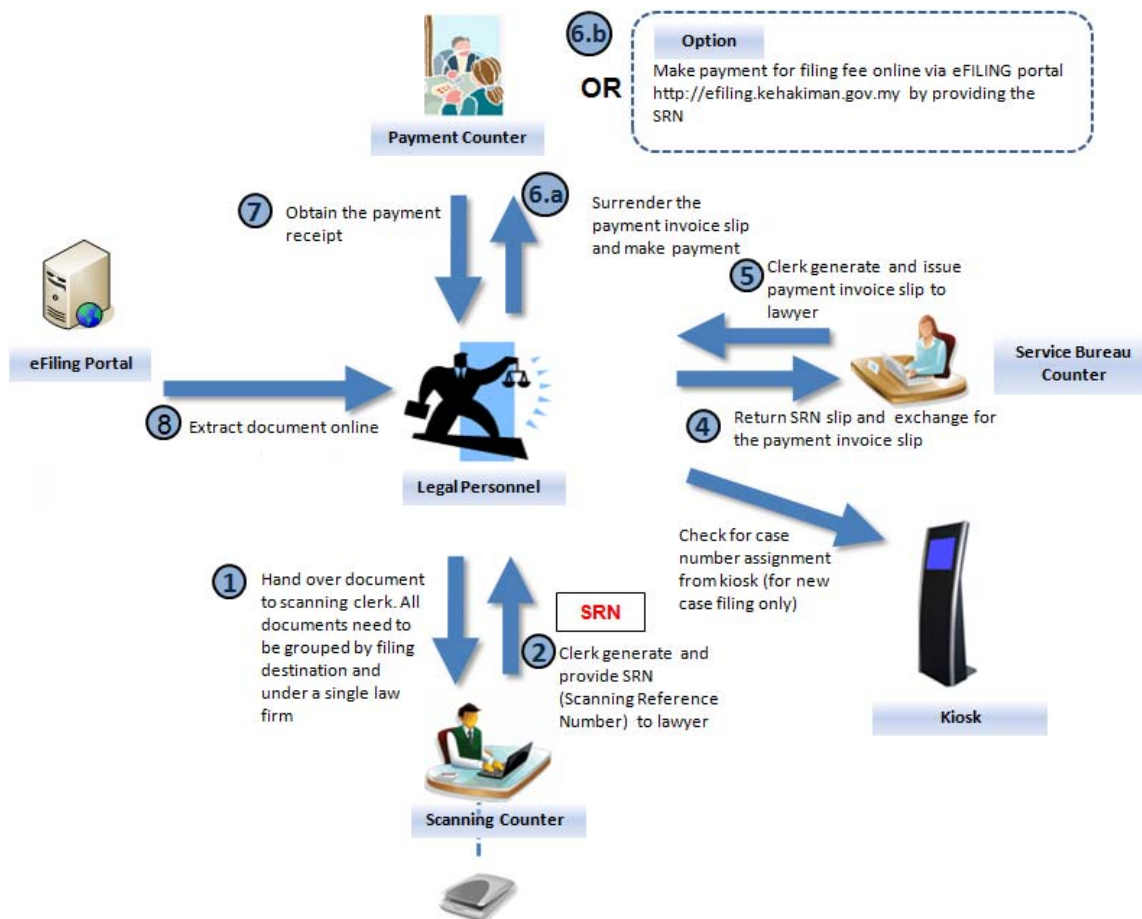
E-filing system will also be extended to more courts in Johor, Pulau Pinang, Putrajaya, Ipoh and Shah Alam . A total of 18 Bureaus of Services will be opened in (and to include) Kangar, Kota Bahru, Alor Star and Kuala Terengganu to help the lawyers and parties involved in managing and filing of documents.

Flow Chart of E-Filing Process (High Court). (Source: www.efiling.kehakiman.gov.my) (For cases registered on March 1, 2011 and thereafter.

Online submission:



Service bureau



4. Community and Advocate Portal System (CAP).

CAP is a portal system created to enable easy communication between the courts and the public. Short Messaging System (SMS) is established under the CAP. One aim of this system is to notify any change of trial scheduled to lawyers and judges. The system is easy to access and user-friendly.

5. Case Recording and Transcribing (CRT).

The system of recording evidence of this case was first introduced through a pilot project in September 2004 in two selected courts of the High Court (Civil 1) at Wisma Denmark and the High Court (Commercial 1) at the Sultan Abdul Samad Building. However, this system started in courts all over Malaysia on March 2011 which was launched by Tun Zaki Tun Azmi, the Chief Judge, and costing up to RM100 million. By using this system, judges/magistrates do not have to write the details of the trial because the electronic gadgets record the trial; and it saves time and court processes. A transcriber will take note and this takes over the duties of the judge/magistrate in recording the proceeding. The judge/ magistrate may refer the transcript typed by the transcribers on the computer screen and the benefit is that the judge/magistrate can focus and observe the proceeding better. Parties such as lawyers and prosecutors can get a copy of the recordings in compact disc free of charge for reference purposes. Evidence will be recorded and stored to avoid the risk of loss. This is because the evidence would be referred primarily for appeal cases. In practice, by taking the example of the Court at Jalan Duta Court Complex, in most cases, a total of four cameras are installed in the courts, i.e. for judges, witnesses, the plaintiff and the defendant. However, for special cases or high-profile cases, for example the case of Datuk Seri Anwar Ibrahim and the Teoh Boon Hock case, as many as six cameras were installed.

With regard to the transcription method, the management of the CRT system operated by court staff is directed through the direction of the judge or magistrate. In this system, there are three computers used: two computers used for court staff, a major computer operated by the staff of the court (usually a court interpreter

or clerk when the court is in session) and another computer acting as "backup" if the main computer has a problem, and third computers used by judges in the handling of the case during the court process. Recording for the transcription is made in the form of video over three minutes until the completion of the trial. It is easy to make a more detailed transcription with the three-minute recording method. The three-minute recording is only for transcription purpose only. Judges may give instructions to control the content of the recordings. The judge may give directions to the staff who operate this system to make such recordings as 'public' or 'private', to the extent desired. In this situation, if there are any recordings made in the 'private' mode, copy of the recordings that will be given to the parties involved in the case will only in regards to 'public' mode only; to get copy of the "private" mode, the party should apply it from the judge and if allowed, then the copy will be given.

In addition, there is the Technology Court which is provided and installed with high-tech systems used in cases involving high technology, for example in the case of submitting evidence related to modern technology. For example, evidence involving high-tech software systems engineering, high-tech audio and visual technology, forensics and others in which the ordinary courts are not able to provide the technology, the technology Court is then used for such purpose.

6. Acknowledgement

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