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Case Note

EMOJIS AND CONTRACT FORMATION

South West Terminal Ltd v Achter Land & Cattle Ltd [2023] SKKB 116

This case note analyses the decision in the Canadian case of *South West Terminal Ltd v Achter Land & Cattle Ltd* [2023] SKKB 116 and considers how Singapore law would be applied to a situation where emojis are used in the course of negotiations leading up to the formation of a contract.

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I. Introduction

1 Consider the following scenario: A and B negotiate a contract over a phone call. A prepares a draft contract based on what they had discussed, takes a picture of it, and sends it to B for his approval. B's only reply is: 👍. Is there a binding contract? Such a scenario would not be out of place in a law school exam hypothetical – but this was the exact scenario presented before the judge in the recent Canadian decision of *South West Terminal Ltd v Achter Land & Cattle Ltd*[2] ("*South West Terminal*"). This note analyses the decision and considers how a similar case would have been dealt with under Singapore law.

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1 This case note is written in the author's personal capacity. The opinions expressed herein are entirely the author's own views and do not reflect the views or positions of the entities the author belongs to. The author is grateful to the anonymous reviewers for their comments on earlier drafts of this case note, as well as Mr Jonathan Cheah for his excellent copy-editing. All errors are the author's alone.

2 [2023] SKKB 116. See also the unreported decision in *Lightstone RE LLC v Zinntex LLC* (2022) NY Slip Op 32931 which concerned an application by the plaintiff for summary judgment on the basis that the text messages sent between the parties created a binding contract to which the defendant had no defence. The court ruled that a "thumbs up" emoji sent by the defendant could not amount to acceptance of the offer given that just nine minutes before, the defendant had categorically asserted that he would not sign any document. The case thus could not be summarily decided on this basis. There were questions of fact as to whether the defendant had ever intended to be "bound by a written text message in the form of a thumbs up emoji".

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II. Facts and decision in *South West Terminal Ltd v Achter Land & Cattle Ltd*

2 *South West Terminal* concerned an application brought by the plaintiff for summary judgment. The plaintiff's case was that the parties had entered into a deferred delivery purchase contract on 26 March 2021. Pursuant to the contract, the plaintiff had agreed to buy, and the defendant agreed to deliver, 87 metric tonnes of flax at $669.26 per ton. Delivery of the flax was scheduled between 1 November 2021 and 30 November 2021. No flax, however, was delivered. The plaintiff brought a suit for breach of contract and damages to the tune of $82,200.21 plus interest and costs.

3 The defendant's case was that it had not entered into the contract, and that the contract failed for certainty of terms. The defendant also argued, further and in the alternative, relying on the statutory defence contained in s 6(1) of the Sale of Goods Act[3] ("SGA"), that even if there was a contract, it was unenforceable because there was no note or memorandum of the contract made or signed by the parties.

4 This was how the contract had been negotiated. One Mr Kent Mickleborough ("Kent"), who was the farm marketing representative with the plaintiff, negotiated the contract for the purchase of flax on its behalf with the defendant's representative, Mr Chris Achter ("Chris"). After a phone call with Chris, Kent had a contract prepared for the defendant to sell to the plaintiff 86 metric tons of flax at a price of $17 per bushel, with the delivery period being listed as "Nov". Kent appended his signature to the contract, took a picture of it with his cell phone, and sent that picture to Chris with the text message: "Please confirm flax contract". Chris replied with: "👍".

5 Keene J, who heard the case, ruled that there was, based on the affidavit evidence, a binding contract between the parties. In arriving at this conclusion, Keene J noted that the 👍 emoji was used to, based on the definition from Dictionary.com, "express assent, approval or encouragement in digital communications especially in western cultures", and that this definition comported with his understanding from his own personal experience.[4] But beyond taking judicial notice of what the 👍 emoji meant, Keene J also rejected the defendant's assertion as to the meaning of the 👍 emoji. Chris had deposed that the 👍 emoji was meant to mean that he had received the contract, but not that he had approved it. Keene J took a dim view of this explanation, noting that it

3 RSS 1978, c S-1 (Canada).
4 *South West Terminal Ltd v Achter Land & Cattle Ltd* [2023] SKKB 116 at [31].

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appeared to be "somewhat self-serving".[5] And even if one were to accept Chris's explanation – that the 👍 emoji meant that he had received the contract – it was curious that Chris never contacted Kent or any other representative of the plaintiff to discuss the flax contract further, apart from a brief discussion about a possible crop failure in September 2021. Finally, given that the contract was concluded amidst the crop growing season, Chris's explanation made little sense – as Keene J put it: "Chris would have the court believe that during the crop growing season he believed that there was no [contract] with [the plaintiff]."[6] Keene J also found that the manner in which the flax contract had been concluded was similar, in many respects, to the contracts which Kent and Chris had previously negotiated and concluded, except that in the present case, Chris had conveyed his acceptance using the 👍 emoji.

6 Keene J further held that the 👍 emoji could be used to express acceptance of a contractual offer, referring to s 18 of the Electronic Information and Documents Act, 2000[7] which stated that the acceptance of an offer may be expressed by "communicating electronically in a manner that is intended to express the … acceptance".[8]

7 Keene J also rejected the defendant's argument that the contract failed because the terms were uncertain. Here, the defendant had argued that Kent did not text a photograph of the "General Terms and Conditions" to Chris, and the delivery period was stated as "Nov" which was impermissibly vague. Given the parties' long-standing business relationship, Chris would have known what the terms and conditions of the flax contract were, and that delivery was to take place in November 2021.[9] In addition, even if the "General Terms and Conditions" were not part of the flax contract, the essential terms (*ie*, the parties, the goods being transacted and the price) were contained in the first page of the contract that was texted to Chris, and to which Chris had confirmed. The flax contract was therefore not void for uncertainty.

8 The defendant's final argument – that the flax contract was unenforceable pursuant to s 6(1) of the SGA – also found no weight with Keene J. Section 6(1) provided, *inter alia*, that a contract for the sale of goods with a value greater than $50 shall not be enforceable by action unless "some note or memorandum in writing of the contract is made

5 *South West Terminal Ltd v Achter Land & Cattle Ltd* [2023] SKKB 116 at [32].
6 *South West Terminal Ltd v Achter Land & Cattle Ltd* [2023] SKKB 116 at [33].
7 SS 200, c E-7.22 (Canada).
8 *South West Terminal Ltd v Achter Land & Cattle Ltd* [2023] SKKB 116 at [37].
9 *South West Terminal Ltd v Achter Land & Cattle Ltd* [2023] SKKB 116 at [48] and [50].

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and signed by the party to be charged".[10] The question in this case was whether Chris's 👍 emoji constituted a signature, and Keene J reasoned that it did. Although a 👍 emoji was a non-traditional way of signing a document, it was, in the circumstances, a valid way of conveying the two purposes of a signature (*ie*, identifying the signator and to convey the defendant's acceptance of the flax contract). This was because the 👍 emoji had originated from Chris and his cell phone, which was used to receive the flax contract that had been sent by Kent, and there were no issues as to the authenticity of the text message.[11]

9 Keene J thus allowed the application for summary judgment and awarded the plaintiff damages in the sum of $82,200.21.[12]

III. Observations

10 In the context of Singapore,[13] it is hornbook law that the objective approach applies in assessing whether a contract had indeed been formed.[14] The court will examine the history of negotiations and discussions between the parties in assessing whether a contract had been formed – assuming that evidence to that effect is available.[15] In addition, the subsequent conduct of the parties may also be taken into consideration when assessing whether a contract had been formed[16] (although the question of whether the subsequent conduct of the parties may be used in contract interpretation is unclear[17]).

10 *South West Terminal Ltd v Achter Land & Cattle Ltd* [2023] SKKB 116 at [52].
11 *South West Terminal Ltd v Achter Land & Cattle Ltd* [2023] SKKB 116 at [62]–[63].
12 *South West Terminal Ltd v Achter Land & Cattle Ltd* [2023] SKKB 116 at [69].
13 The principles of assessing whether a contract had been formed, as a matter of Singapore law, do not appear to be different from that in Canada. See *South West Terminal Ltd v Achter Land & Cattle Ltd* [2023] SKKB 116 at [18].
14 *Midlink Development Pte Ltd v The Stansfield Group Pte Ltd* [2004] 4 SLR(R) 258 at [48] and [52]; *The Luna* [2021] 2 SLR 1054 at [36]–[37].
15 *Midlink Development Pte Ltd v The Stansfield Group Pte Ltd* [2004] 4 SLR(R) 258 at [48]. See also *The Law of Contract in Singapore* (Andrew Phang Boon Leong gen ed) (Academy Publishing, 2nd Ed, 2022) ch 3, at paras 03.195–03.199.
16 *Simpson Marine (SEA) Pte Ltd v Jiacipto Jiaravanon* [2019] 1 SLR 696 at [78] citing Goh Yihan, "Towards a Consistent Use of Subsequent Conduct in Singapore Contract Law" [2017] JBL 387.
17 See *Lim Siau Hing v Compass Consulting Pte Ltd* [2023] SGCA 39 at [8] and [96]; *Bhoomatidevi d/o Kishinchand Chugani Mrs Kavita Gope Mirwani v Nantakumar s/o V Ramachandra* [2023] 4 SLR 1644 at [31]–[40] citing *MCH International Pte Ltd v YG Group Pte Ltd* [2019] 2 SLR 837; *Simpson Marine (SEA) Pte Ltd v Jiacipto Jiaravanon* [2019] 1 SLR 696; *Ngee Ann Development Pte Ltd v Takashimaya Singapore Ltd* [2017] 2 SLR 627; and *Centre for Laser and Aesthetic Medicine Pte Ltd v GPK Clinic (Orchard) Pte Ltd* [2018] 1 SLR 180.

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11 Evidence of subsequent conduct may well prove to be important, especially since ascertaining the *meaning* of an emoji (a point which this case note will deal with below) can prove to be difficult. That being said, one should not overstate the role subsequent conduct has to play in the analysis – that a party had subsequently acted in a particular manner, is not, by itself, the smoking gun pointing to the irresistible conclusion that a contract had been formed. After all, relationships between humans are complex and "conduct can be explained by a number of reasons which does not only have one explanation or there may be various degrees of weight pointing to one conclusion".[18] Indeed, in *South West Terminal*, Keene J did not reach the conclusion that a contract was formed, *solely* on the subsequent conduct of the parties. It was the fact that Chris, who was acting on behalf of the defendant, never followed up with further discussions on the flax contract, viewed against the backdrop that it would be highly improbable for the defendant to not have a contract in place to sell its crops during farming season, that supported the conclusion that a contract had indeed been formed between the parties.

12 Apart from subsequent conduct, Keene J had also relied on similar fact evidence. In particular, Kent and Chris had a long-standing business relationship of dealing with each other on behalf of the plaintiff and defendant respectively. Based on the evidence, a clear pattern of how the parties concluded their contracts emerged. Kent would discuss the terms of the contract with Chris. Thereafter, he would prepare a contract, sign it, take a picture of it and send it to Chris who would usually reply in the affirmative.[19] Keene J reasoned, in light of this pattern of concluding contracts, that Chris had, on this occasion, approved the contract just as he had on previous occasions, except that he used the 👍 emoji. One could, of course, object to the relevance of such evidence in the analysis of whether there was a contract; namely, that it is irrelevant to the objective ascertainment of the parties' intentions where the focus is on the history of negotiations and discussions between the parties.[20] But it is, in this author's view, perhaps more important to raise an objection on grounds of admissibility of such evidence. Excluding such evidence would mean that the parties do not have to spend time dealing with it at trial, or in written submissions. This would not only save time and costs, but also allow the parties to focus on the important issues at hand.

18 *Ramo Industries Pte Ltd v DLE Solutions Pte Ltd* [2020] SGHC 4 at [117] where the court, citing *ARS v ART* [2015] SGHC 78 at [90], reasoned that "undue weight should not be placed on evidence of the parties' subsequent conduct to ascertain their intentions at the time of contract formation".

19 *South West Terminal Ltd v Achter Land & Cattle Ltd* [2023] SKKB 116 at [21] and [36].

20 See above at para 10.

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13 In so far as the admissibility of such evidence is concerned, that is governed by the Evidence Act 1893[21] ("EA"). The relevant provision in this case would be s 14 of the EA which states:

> **Facts showing existence of state of mind or of body or bodily feeling**
>
> **14.** Facts showing the existence of any state of mind, such as intention, knowledge, good faith, negligence, rashness, ill will or goodwill towards any particular person, or showing the existence of any state of body or bodily feeling, are relevant when the existence of any such state of mind or body or bodily feeling is in issue or relevant.

14 This provision was recently considered by the General Division of the High Court in *Bhoomatidevi d/o Kishinchand Chugani Mrs Kavita Gope Mirwani v Nantakumar s/o V Ramachandra*.[22] The plaintiff in that case had made a loan to the second defendant, Benshaw Commodities Pte Ltd. The loan and interest owed was never repaid, and so the plaintiff sued both the second defendant as well as its director for the sums owed. One issue in that case concerned the identity of the parties to the contract. The plaintiff had attempted to rely on similar fact evidence to show that it was the defendant director who was the proper party to the contract. Specifically, the plaintiff had pointed to a previous occasion, in which the defendant director had concluded a similar transaction with another party ("Samy"). In that case, the defendant director had defaulted on the loan, and when sued, contended in his affidavit that he was not the proper party to the agreement. Lee Seiu Kin J, who heard the case, ruled that s 14 of the EA governed the admissibility of the evidence which the plaintiff sought to rely on given that what was important, in determining the proper party to the agreement, was the intention of the parties at the time of contract formation.[23] The evidence was, in Lee J's view, inadmissible.[24] The circumstances surrounding the formation of the contract between the defendant director and Samy had to go towards showing the defendant director's state of mind when entering into the contract with the plaintiff. The evidence which the plaintiff sought to rely on thus did not shed light on the objective intentions of the parties at the time of contract formation.

15 In addition, Lee J had also cited the Malaysian case of *Nai Yau Juu v Pasdec Corp Sdn Bhd*[25] ("*Nai Yau Juu*"), where the court had dealt

21 (2020) Rev Ed.
22 [2023] 4 SLR 1644.
23 *Bhoomatidevi d/o Kishinchand Chugani Mrs Kavita Gope Mirwani v Nantakumar s/o V Ramachandra* [2023] 4 SLR 1644 at [53].
24 *Bhoomatidevi d/o Kishinchand Chugani Mrs Kavita Gope Mirwani v Nantakumar s/o V Ramachandra* [2023] 4 SLR 1644 at [57].
25 [2005] 3 MLJ 431.

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with a similar issue concerning s 14 of the Malaysian Evidence Act 1950[26] which was *in pari materia* with s 14 of the EA. In *Nai Yau Juu*, counsel had attempted to argue, relying on similar fact evidence, that an offer had been accepted by the issuance of a receipt. The similar fact evidence in question pertained to a similar, previous transaction, where the offer had been accepted by the payment of a sum and completed with the issuance of a receipt. The court rejected this argument on the basis that there was "nothing additional to prove that the conduct … of issuing the receipt to another party constituted an intention to manifest something binding".[27]

16 To sum up, the rationale for not admitting such evidence under s 14 of the EA is this: just because the parties, or at least one of the parties, to the contract (the existence of which is the crux of the dispute) had concluded similar or identical contracts on previous occasions, does not necessarily mean that they had intended to do the same in the present case, nor does it necessarily shed light on whether the parties may have, objectively, intended to form a contract.

17 Apart from these issues concerning the use of subsequent conduct and similar fact evidence, one other noteworthy aspect of the decision in *South West Terminal* involved the attempt, by the parties, to flesh out what the 👍 emoji meant. Keene J quipped that the parties had embarked on a "far flung search for the equivalent of the Rosetta Stone" with cases from Israel, New York and some tribunals in Canada being cited as to what the 👍 emoji meant.[28] These cases were, in Keene J's view, distinguishable on their facts and context, and thus not entirely useful. Instead, Keene J chose to cut the Gordian Knot by referencing the definition provided by *Dictionary.com*, which stated that the 👍 emoji was used to "express assent, approval or encouragement in digital communications, especially in western cultures" – and while it was unclear how authoritative this definition was, Keene J expressed the view that it comported with his understanding from everyday use.[29]

18 Given how the use of emojis has become common in everyday communications, it is perhaps unsurprising that an increasing number of disputes will centre on, or involve, the interpretation of emojis.[30] The question then, is how such emojis should be interpreted. Here, it bears noting that emojis are not exactly the same as natural language

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26 Act 56.
27 *South West Terminal Ltd v Achter Land & Cattle Ltd* [2023] SKKB 116 at [24].
28 *South West Terminal Ltd v Achter Land & Cattle Ltd* [2023] SKKB 116 at [30].
29 *South West Terminal Ltd v Achter Land & Cattle Ltd* [2023] SKKB 116 at [31].
30 See *Burrows v Houda* [2020] NSWDC 485 at [27]. It is also worth noting that defamation cases may also involve the interpretation of emojis: see *Nationwide News Pty Ltd v Rush* (2020) 380 ALR 432.

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(*ie*, English). In interpreting what the parties had said in the course of negotiations, one has recourse to well-established semantic rules in objectively ascertaining the parties' intentions. While language has been described as "open-textured",[31] any text does have a core meaning which remains unaffected by context, and a peripheral meaning that is context dependent.[32] It is this particular feature of language that allows the court to ascertain the parties' objective intentions from the text of the contract and all the relevant circumstances. Emojis, however, appear to be quite different from natural language, and the jury is out as to whether emojis can even be considered a language at all.[33]

19 In this vein, one other point worth noting is that while one might think that emojis are universal – after all, a 😊 emoji would mean a happy face in most, if not all cultures – this is not, strictly speaking, the case.[34] Culture does affect the meaning ascribed to emojis – for example, gestures may have different meanings in different cultures.[35] For example, a study demonstrated that Americans were more likely to use the 👍 emoji to signal confirmation, but Chinese participants were more likely to use the "static OK" sign.[36] In fact, the 👍 emoji is actually "hideously offensive in parts of the Middle East, West Africa, Russia and South America" – it is, culturally, the equivalent of "flipping the bird" in the Western world.[37] If for example, the defendant in *South West Terminal* had been an immigrant from the Middle East, by sending the 👍 emoji, that could well indicate, instead, a rejection of the offer that had been made.

20 The upshot of this is that there must be sensitivity to how culture influences the meaning accorded to an emoji. One cannot simply assume

31 HLA Hart, *The Concept of Law* (Oxford University Press, 3rd Ed, 2012) at pp 124–154.
32 HLA Hart, *The Concept of Law* (Oxford University Press, 3rd Ed, 2012) at pp 124–154.
33 See Vanessa Leonardi, "Communication Challenges and Transformations in the Digital Era: Emoji Language and Emoji Translation" (2022) 9(3) *Language Semiotic Studies* 22 – the author takes the view that emojis cannot be considered a language. *Cf*, Huiyue Wu *et al*, "Influence of Cultural Factors on Freehand Gesture Design" (2020) 143 *International Journal of Human-Computer Studies* 1 at 7 where the authors' review of the literature suggests that emojis do have a semantic function.
34 Vanessa Leonardi, "Communication Challenges and Transformations in the Digital Era: Emoji Language and Emoji Translation" (2022) 9(3) *Language Semiotic Studies* 22.
35 Vanessa Leonardi, "Communication Challenges and Transformations in the Digital Era: Emoji Language and Emoji Translation" (2022) 9(3) *Language Semiotic Studies* 22 at 28; Qiyu Bai *et al*, "A Systematic Review of Emoji: Current Research and Future Perspectives" (2019) 10 *Frontiers in Psychology* 1 at 5–6.
36 Huiyue Wu *et al*, "Influence of Cultural Factors on Freehand Gesture Design" (2020) 143 *International Journal of Human-Computer Studies* 1 at 8.
37 Marcel Danesi, *The Semiotics of Emoji, The Rise of Visual Language in the Age of the Internet* (Bloomsbury, 2017) at p 31.

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that emojis have a universal meaning.[38] Practically speaking, in such a situation, where the meaning of an emoji may be in doubt because of cultural influences, expert evidence could play a useful role.[39]

21 Considering whether the 👍 emoji could amount to assent of an offer was only one half of the problem which Keene J had to grapple with – he also had to consider whether the 👍 emoji could also amount to a signature.[40] It is to this latter question that we now turn. There is, in the local context, a fair amount of case law on what constitutes a signature and, as will be apparent from the discussion below, the meaning of a signature for the purposes of a particular statute turns on the interpretation of the statute in question. Examples can be found in the following two cases. In *SM Integrated Transware Pte Ltd v Schenker Singapore (Pte) Ltd*[41] ("*SM Integrated*"), Judith Prakash J ruled that the inscription of Mr Tan, who was the defendant's General Manager, next to his email address, was sufficient to satisfy the signature requirement under s 6(*d*) of the Civil Law Act[42] ("CLA"). In the more recent decision of *Metupalle Vasanthan v Loganathan Ravishankar*[43] ("*Metupalle Vasanthan*") the court reached the opposite conclusion. One issue which Philip Jeyaretnam JC had to consider in that suit, was whether an email sent by the second plaintiff ("Mr Laszlo") could be considered as a statutory assignment. To qualify as a statutory assignment, s 4(8) of the CLA required, amongst other things, the signature of the assignor, who in this case, was Mr Laszlo. Jeyaretnam JC ruled that the signature requirement was not made out. The only identification of Mr Laszlo in the email was his nickname "Thomas", which appeared in both the email address as well as the generic label for the email address. Mr Laszlo could have, but did not, key in his full name below the message. Given that "Thomas" was not part of Mr Laszlo's name, or any part of it, there was no sufficiently objective indication of Mr Laszlo's intention to apply his signature to a legal assignment.[44]

38 This may result in emojis being a point of contention in disputes. See Dana Wilson-Kovacs *et al*, "Digital Evidence in Defence Practice: Prevalence, Challenges and Expertise" (2023) 27(3) *International Journal of Evidence and Proof* 235 at 249.

39 See O 12 of the Rules of Court 2021 which stipulates that leave of the court must be obtained before expert evidence may be adduced.

40 *South West Terminal Ltd v Achter Land & Cattle Ltd* [2023] SKKB 116 at [54]–[64]. Signatures in the realm of contract can also give rise to disputes over who the proper party to the contract is. See Soh Kian Peng & Jeremy Chai, "Identities of Parties to a Contract" (2022) LMCLQ 24.

41 [2005] 2 SLR(R) 651 (cited with approval by the Court of Appeal in *Joseph Mathew v Singh Chiranjeev* [2010] 1 SLR 338 at [39]–[40]).

42 Cap 43, 1994 Rev Ed.

43 [2021] SGHC 238.

44 [2021] SGHC 238 at [64].

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22 *SM Integrated* and *Metupalle Vasanthan* thus illustrate that a signature must be capable of: (a) identifying the signator; and (b) indicating the signator's intention in relation to the legal instrument being executed. This is reflected in s 8 of the Electronic Transactions Act 2010[45] which provides that the signature requirement is satisfied by a method "used to identify the person and to indicate that person's intention in respect of the information contained in the electronic record". In so far as the 👍 emoji is concerned, it would appear that half the battle is already lost – as argued above, it is doubtful that this emoji can, on its own, indicate the signator's intention to assent to the contract.

23 It is also quite clear that the 👍 emoji does not serve to identify a person. There are no unique and distinguishing features of this particular emoji that would link it to any particular person. One might be tempted to rely on Keene J's ruling in *South West Terminal* where he reasoned that the 👍 emoji was a signature as it originated from Chris and his unique cell phone, and taken together, this identified the signator. The difficulty with this reasoning is that, taken *ad absurdum*, every message originating from a person's phone would qualify as a signature. The point of a signature is that it serves as the person's calling card – in other words, when one looks at a signature, they must be able to identify the person behind it. The 👍 emoji, taken on its own, without considering the technical details of the messaging application which allow the sender to be identified, cannot fulfil this role.

24 While the 👍 emoji may not qualify as a signature, this does not necessarily apply to *all* emojis. To give an example, the popular messaging application, Telegram, allows one to create their own emojis (*ie*, what is known on the Telegram application as a "sticker pack"). One could well create an emoji, using their own face, or a picture of their own hand-written signature. Such emojis could, arguably, qualify as a signature, in that they identify the signator, though one will have to grapple with the issue of whether they could *also* be construed as an assent to an offer made.

IV. Conclusion

25 While the rules which comprise the law of contract are relatively well-settled, the challenge which continues to confront the modern lawyer is how these rules may be applied to account for the changing

45 See *The Law of Contract in Singapore* (Andrew Phang Boon Leong gen ed) (Academy Publishing, 2nd Ed, 2022) ch 3, at paras 03.322–03.343 for a discussion of the impact of the Electronic Transactions Act 2010 on the law of contract.

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ways in which contracts are negotiated and concluded. As we have seen from the analysis above, a deceptively simple issue, as to whether a 👍 emoji constitutes valid acceptance of a contract implicates, amongst other things, a host of other issues such as the use of subsequent conduct, similar fact evidence, and, on a more fundamental level, how the meaning of an emoji should be assessed in the realm of contract law.

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