

A Lender's Dilemma in the Digital Age: What Lenders Should be Doing to Access Electronic Books and Records

WRITTEN BY

[Richard M. Pollak](#)

Richard Pollak and Peyton Holahan* of Troutman Pepper discuss the law governing secured transactions between lenders and borrowers and the difficulties lenders face when negotiating credit agreements in the digital world.

The digitization of information and technological advancements within companies, in addition to the new realities of remote work, have permanently changed the landscape for doing business. In legal and commercial businesses, facilitating loan transactions and credit agreements between lenders and borrowers has become more complex in the digital age.

Lenders and borrowers, alike, still rely on provisions in credit agreements that no longer reflect the realities of virtual business practices. Lenders and borrowers may also share feelings of uncertainty and doubt as to each party's rights and remedies upon default, including how and when a lender can access a borrower's digital books and records.

However, both lenders and borrowers can work together to incorporate explicit, unambiguous terms and remedies into their agreements to prevent confusion and delay when a borrower defaults and a lender needs to access the books and records of the borrower.

This article will look at the terminology that some lenders are beginning to use in credit agreements to access digital books and records more easily. This article will also propose some solutions and suggestions to the broader struggles of doing business and negotiating credit agreements in an increasingly digital world.

[Read the full article in Thomson Reuters Westlaw Today.](#)

**Peyton Holahan is a 2022 summer associate with Troutman Pepper and is not admitted to practice law in any jurisdiction.*

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