

EMPLOYMENT LAW UPDATE

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Intel Corporation v. Hamidi (June 30, 2003) 2003 DJDAR 7181

The California Supreme Court Holds That Intel May Not Prevent A Former Employee From Sending Emails To Current Employees.

By Jason A. Geller

The California Supreme Court addressed the issue of whether an employer may obtain a court-ordered injunction against a former employee who breached the employer's computer security barriers to send emails to several thousand current employees. Hamidi, the former Intel employee, did not damage Intel's computer system or otherwise prevent it from functioning efficiently. However, the contents of his email caused employees to spend work time discussing its contents.

In its lawsuit, Intel relied on rules of property law in arguing that Hamidi illegally trespassed onto its "chattel", or personal property, (i.e., the computer system) by sending about six emails to 30,000 current employees.

In rejecting Intel's argument, the Court held that Intel did not prove that Hamidi caused damage to Intel's computer system by sending the emails to the employees, a requirement to prove the claim of "trespass to chattel". The Court distinguished cases involving Internet service providers ("ISP's") in which

senders of "spam" commit trespass by overburdening the ISP's own computers and actually damaging them by making the systems more difficult to use for the ISP's customers.

Importantly, the Court expressly held that its decision was limited to the particular claim of trespass to chattel and does *not* provide blanket permission for current or former employees to use an employer's email system without potential exposure to liability. The Court noted that employers may still bring other claims against employees for unlawful use of computer systems and email, such as interference with economic relations, intentional infliction of emotional distress, defamation, publication of private information or other similar claims.

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