
California Superior Court Rules "Spam" Emails to be Illegal Trespass

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Spamming has become an increasingly irritating phenomenon for Internet users. A number of state legislatures have tried to address the problem, as is discussed at www.cauce.org and at www.sork.com.

Now the courts are becoming involved in the fight against spam. In a recent decision with potentially broad ramifications for electronic marketing and communications, a California Superior Court has ruled that unsolicited, mass e-mail messages sent to Intel Corporation's employees constituted an illegal trespass of Intel's propriety computer system. Sacramento County Superior Court Judge John Lewis granted Intel summary judgment and issued a permanent injunction prohibiting a former Intel engineer, Kourosh Kenneth Hamidi, from mass e-mailing current Intel employees at work.

We have posted a copy of [Intel's complaint](#) and a copy of [Judge Lewis' ruling](#). In support of its complaint for trespass, Intel submitted evidence that Hamidi, whom Intel had fired in 1996, on six different occasions from 1996-1998 had sent e-mail messages concerning Intel employment practices to over 30,000 Intel employees at their work e-mail addresses on Intel's computer system. Hamidi continued sending these messages despite Intel's repeated requests to stop, and "employed surreptitious means" to avoid Intel's attempts to filter or block his access to the company's computer network.

Judge Lewis found that as a matter of law Hamidi's actions constituted an "unauthorized interference with possession of personal property" causing Intel injury. In the decision, the Court noted that:

1. Intel's e-mail system was part of its general proprietary computer system,
2. Intel's e-mail system was dedicated for business purposes,
3. while Intel did permit its employees to have personal use of the e-mail system and access to the Internet, it subjected all uses to various restrictions and guidelines,
4. Intel's e-mail system guidelines expressly provided that employees themselves had no property interest in either the e-mail system or its use, and
5. employee e-mail addresses were not published for uses beyond company

business.

In addition, the Court found that Hamidi's messages caused Intel actual injury by diminishing employee productivity, impairing the value of Intel's e-mail system, and by causing Intel to dedicate resources to blocking the messages.

The Court expressly rejected all of Hamidi's proposed defenses. Noting that trespass may be committed through an intermediary or agency, Judge Lewis rejected the claim that Hamidi's messages were immune from trespass charges because he sent them through "an internet server". Judge Lewis also rejected Hamidi's constitutional defenses, finding that federal free speech guarantees did not apply to non-governmental, private entities like Intel. Similarly, the Court rejected the notion that Hamidi's messages were protected by the broader free speech guarantees in California's State Constitution, because Intel did not make its e-mail system into a public forum merely by connecting the private system to the broader Internet.

The Court's opinion did not consider any issues about the content of Hamidi's messages. Instead, the decision apparently leaves to the e-mail system owner the right to decide what communications will and will not be acceptable on the system. Hamidi has announced his intention to appeal the Superior Court's decision.