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Employer's Attempt To Stop Ex-Employee's Spam Fails

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Intel Corporation ("Intel") failed to prove that a former employee trespassed against its computer system when he delivered thousands of e-mails to the Intel workforce that severely criticized the computer giant. The California Supreme Court recently held that Intel failed to show that the e-mails damaged its computer system. The case is [Intel Corporation v. Hamidi](#).

The Facts

Kourosh Kenneth Hamidi, a former Intel employee, helped form an organization designed to publicly criticize Intel's human resources policies. During a 21-month period, Mr. Hamidi sent six mass e-mails to Intel employees at their work e-mail addresses. The messages criticized Intel, urged employees to consider changing jobs, and solicited participation in the anti-Intel organization. Mr. Hamidi obtained the Intel addresses (as many as 35,000) through an anonymous source. The e-mails disrupted the productivity of Intel employees.

Intel sued Mr. Hamidi under the theory of *trespass to chattels*. A chattel is a piece of personal property, such as a bicycle. In this case, the chattel was Intel's

computer system. Under this theory, no one may use another's personal property without permission. Intel argued that Mr. Hamidi used its computer system to deliver thousands of unauthorized messages to its employees.

What the Court Said

The California Supreme Court held that Intel had to prove that it was damaged when Mr. Hamidi's used its computer system to deliver his messages. The Court found that Intel failed to do so. Mr. Hamidi's e-mails, while annoying, did not affect the operation of the computer system, and the Court held that the theory of trespass only would address actual or physical interference with the system – not the objectionable content of the messages themselves.

What Employers Should Do

This recent decision is less significant than many media outlets indicate. First, the decision only binds employers in California. Second, the Court did not vindicate SPAM, but rather held that Intel failed to show how it was *physically* damaged. Employers, however, should consider the following:

First, each employer should review its Internet and e-mail

policies, which should be separate from the employee handbook, and signed by each employee. Second, employers need to have privacy policies that establish that employee and customer addresses, including e-mail addresses are the property of the business and may only be used for business purposes.

If you have any questions, please contact us.

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