

# CARLTON FIELDS

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## TELECOMMUNICATIONS LITIGATION PRACTICE GROUP

### JULY 2003 TELECOM LITIGATION UPDATE

#### **California Court Overturns Injunction Barring Disruptive E-Mail Messages** ***Intel Corp. v. Hamidi*, 2003 WL 21388209 (Cal. June 30, 2003)**

Intel Corp. sued a disgruntled former employee, Kourosh Hamidi under a trespass to chattel theory for disseminating abusive e-mails *en masse* to current employees. The Supreme Court overturned a trial court injunction by finding that Intel's claim based on trespass to chattel on Intel's computer system, because the e-mails did not cause physical damage or functional disruption to the system. The court implied that several other legal theories might have afforded Intel relief.

Hamidi broadcast six separate e-mails to as many as 35,000 Intel employees per broadcast over a period of 21 months. The e-mails were critical of Intel and its policies. Intel sued Hamidi for "trespass" on its computer system, seeking an injunction against future e-mail messages.

The California Supreme Court overturned the trial court's injunction. The Supreme Court found current California law required actual physical injury or harm to the thing being trespassed upon. Intel argued the e-mails affected productivity and that its employees were distracted by the content of the e-mails. The court found that the e-mails caused no actual physical harm. The court while sympathetic to Intel, dismissed various amicus and academic arguments declining to extend California law to characterize computer servers as real property in order to facilitate a holding favorable to Intel.

Comments: The court suggested that other tort or statutory claims are still available for unwanted e-mails. As with other forms of communication, e-mail may be actionable for interference with business relationships, intentional infliction of emotional distress, defamation and publication of private facts. The court also noted that its decision was distinguishable from cases providing remedies for internet service providers (ISP's) against senders of unsolicited commercial bulk e-mail (UCE), also known as spam.

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