

# Legal brief

Law



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Legal Brief A case between Craig E. Kleffman and Vonage holding was held on June 21, at the supreme court of California. This case was cited as Kleffman V. Vonage Holdings Corp., 232 P. 3d 625, where 232 represent the volume, 3d represent the third series and 625 represents the page number. In the case, Craig E. Kleffman was the plaintiff while Vonage holding corp., was the defendant. This case is a litigation civil case under section 17529. 5, section (a) (2) of the company and Professions Code which states that, it is against the law to advertise via commercial emails, also known as spam, whose content are untrue, misrepresented, or copied header information. The verdict in this case, is to determine whether it is illegal to advertise through commercial emails using multiple domain names to avoid spam filter (Supreme Court of California).

Internet is global networkings in computers, which enable millions of world populace to communicate and access information. Referring to a case on Reno v. civil liberties union (1997) 521 U. S. 844 for internet to operate, each connected entity must have a unique identity called IPA. However, because it is a bit difficult to recall IP addresses, internet community came up with domain names system to serve the same purpose. The domain names directly identify the individual or the organization (Supreme Court of California).

In 2007, Craig E. kleffman filed a suit against Vonage holdings corp. in the District Court under section 17529. 5 of Professions Code only to loss to Vonage (Supreme Court of California). Kleffman claimed that Vonage holdings had sent him eleven emails on the same subject from different domain names tracing back to Vonage marketing agent. By doing this, Vonage managed to trick the spam filter and internet service provider that <https://assignbuster.com/legal-brief/>

was responsible for monitoring the number of sent emails from individual domain name. He concluded that Vonage deliberately created multiple domain names to reduce the number of emails from each domain name and at the same time tricked the internet service providers that the emails originated from different senders. Vonage use of several domain names is misleading and untrue because it does not identify the right sender. However, the case was dismissed because Kleffman did not give any occurrence of misleading or false information in the content of any of the emails.

Kleffman however, appealed to the court of appeals, which under the California rule of court 8. 548 the ninth Circuit, asked them to decide. “ In accordance to section 17529. 5(A) (2), does using several domain names to sending un-called-for advertisement emails to avoid spam make them untrue, misrepresented, or copied?” This rule also provides that the court of appeals may request the Supreme Court to answer the question. The Supreme Court approached the dispute by first focusing on the issues that the both sides agree on. The first one was that both the plaintiff and defendant acknowledged the domain names as part of the emails. The second one was that information on the domain name was correct, accurate and fully related to Vonage marketing agent. Finally, both do not find the material or the content in the email or accompanying the email untrue or misrepresented as per subdivision 17529. 5 (a) (2) (Supreme Court of California).

Vonage based its answer about the question asked in the court, by defining the phrase “ header information” as per legislature’s definition in subdivision 17529. 5 (a) (2). Vonage argued that sending multiple emails did not violate <https://assignbuster.com/legal-brief/>

subdivision 17529. 5 (a) (2) as long as the information was correct. Kleffman on the other hand based his argued on two points. One of them was that, defining misrepresentation would be properly done by incorporation of section 17200 and 17500 from Business and Professional code. The second argument was that, using a word such as “ misleading” was appropriate in defining misrepresentation. Kleffman concluded that sending emails from varied, garbled, random and nonsensical multiple domain names was misrepresentation.

This case lay down a general ruling that, as per subdivision 17529. 5(a) (2), sending advertising emails from several domain names was not illegal. The court ruling found kleffman’s argument to hold no waters as per section 17529. 5 (a) (2). This is because from his first argument to use subdivision 17200 and 17500, the court found out that the two sections were drafted to help in coming up with section 17529. 5(a) (3) but not 17529. 5 (a) (2). From his second argument, the court argued that in this context the word misrepresentation drove its meaning from the word “ falsified” found in section 17529. 5 (a) (2). Also from his reasoning that random, varied, garbled and nonsensical multiple domain names was a misrepresentation, it was not workable because he failed to define garbled, varied, random and nonsensical (Supreme Court of California)

In conclusion, the case concurs with the opinion that it is legal to send emails using several domain names, in order avoid spam filters as per section 17529. 5 (a) (2). This action is only advantageous to advertising professional while the recipients continue receiving unnecessary emails.

There were a number of legal terminologies used. The first one was legislature which means a body empowered by the court to pass, repeal or

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amend laws. The second was plaintiff which refers to the party that files a suit in the court of law also known as the complainant. The third one was defendant which means the accused party or the party answerable to a legal suit in a court of law. Finally, the term Court ruling is defined as an official statement, by a judge or a panel of judges, that gives the court's legal decision to a hearing.

#### Work cited

n. a. Supreme Court of California. [http://scholar.google.com/scholar\\_case?case=12406036530592040470&hl=en&as\\_sdt=2&as\\_vis=1&oi=scholar](http://scholar.google.com/scholar_case?case=12406036530592040470&hl=en&as_sdt=2&as_vis=1&oi=scholar). 2010.