The California Supreme Court ruled yesterday that a former employee of Intel was free to send e-mail messages to current company employees, overturning a lower court's injunction. The court rejected Intel's argument that the messages represented illegal trespassing to its computer systems.

That argument is increasingly used by companies and Internet service providers in the fight against spam, or unsolicited commercial e-mail.

"Everyone is trying to figure out ways to solve the spam problem, and this ruling doesn't help," said Jeffrey D. Neuburger, a technology lawyer with Brown Raysman Millstein Felder & Steiner in New York. "This is going to require lawyers to come up with other ways to deal with the issue."

The case also attracted the attention of those interested in free-speech rights of current and former corporate employees. But the California court ultimately ruled only on the trespass issue.

The case involved Kenneth Hamidi, a former Intel engineer, who had been fired after a dispute related to workers' compensation. He sent six e-mail messages from 1996 to 1998 to a list of Intel employees, criticizing the company and encouraging the employees to visit a Web site he created (faceintel.com) with information critical of Intel.

In 1998, Intel received an injunction barring Mr. Hamidi, who now works for the State of California, from sending more messages to Intel employees. The injunction was upheld by an appeals court in 2001. Intel's argument rests on a little used doctrine of common law called trespass to chattels, which allows someone to sue for damages resulting from the inappropriate use of personal property, as distinct from the more common case of trespass to real estate. The doctrine was applied to e-mail messages in a landmark federal ruling in 1977, CompuServe Inc. v. Cyber Promotions, which held that spam could be considered trespass because it misappropriated the company's computer system.

In a 4-to-3 ruling, the California Supreme Court said that doctrine did not apply to Mr. Hamidi's e-mail messages because they did not damage its computers or impose a significant cost on the company.

Mr. Hamidi "no more invaded Intel's property than does a protester holding a sign or
shouting through a bullhorn outside corporate headquarters, posting a letter through the mail, or telephoning to complain of a corporate practice," wrote Justice Kathryn Mickle Werdegar, in the majority opinion.

In a dissent, Justice Janice Rogers Brown wrote that "Intel suffered not merely an affront to its dignitary interest in ownership but tangible economic loss," especially to its employees' time. "Even if it takes little time to determine the author of a message and then delete it, this process, multiplied hundreds of thousands of times, amounts to a substantial loss of employee time," she wrote.

William M. McSwain, a lawyer in the Philadelphia office of Dechert, who argued on behalf of Mr. Hamidi, said the case did not impede the fight against spam.

"Spam needs a legislative approach," he said. "And Congress and half the state legislatures are hard at work finding one. What spam doesn't need is to have the courts create a new tort doctrine in a way that has unintended consequences."

But the ruling does preserve what he called an important right of one person to send an unsolicited e-mail message to another person.

"It reaffirms the principle that an unsolicited message, sent by a business or an individual, is not presumptively a trespass simply because the recipient doesn't want to receive the message," he said.

Because the California court did not address the constitutional free speech issues that had been raised, the case is not likely to be appealed into the federal courts.

Chuck Mulloy, an Intel spokesman, said the company was "evaluating the ruling to determine what steps we will take should Mr. Hamidi start spamming again."

Mr. McSwain said he did not know whether Mr. Hamidi intended to send more e-mail messages to Intel employees. Mr. Hamidi's site remains active.