



Gemini 2.5 Pro #1

Prompt:

On July 1 Buyer sent the following telegram to Seller: "Have customers for salt and need carload immediately. Will you supply carload at \$2.40 per cwt?" Seller received the telegram the same day. On July 12 Seller sent Buyer the following telegram, which Buyer received the same day: "Accept your offer carload of salt, immediate shipment, terms cash on delivery." On July 13 Buyer sent by Air Mail its standard form "Purchase Order" to Seller. On the face of the form Buyer had written that it accepted "Seller's offer of July 12" and had written "One carload and \$2.40 per cwt." in the appropriate spaces for quantity and price. Among numerous printed provisions on the reverse of the form was the following: "Unless otherwise stated on the face hereof, payment on all purchase orders shall not be due until 30 days following delivery." There was no statement on the face of the form regarding time of payment. Later on July 13 another party offered to sell Buyer a carload of salt for \$2.30 per cwt. Buyer immediately wired Seller: "Ignore purchase order mailed earlier today; your offer of July 12 rejected." This telegram was received by Seller on the same day (July 13). Seller received Buyer's purchase order in the mail the following day (July 14). Briefly analyze each of the items of correspondence in terms of its legal effect and indicate what the result will be in Seller's action against Buyer for breach of contract.

Gemini:

Yes, a binding contract was formed. The Seller will be successful in an action against the Buyer for breach of contract because the Buyer's attempt to reject the offer came after a contract had already been created.

July 1: Buyer's Telegram

- **Legal Effect:** This is a **preliminary inquiry** or an invitation for an offer.

- **Analysis:** The Buyer's telegram uses the language, "Will you supply...?" This is a question, not a definite promise to purchase. It lacks the clear intent to be bound that is necessary to create a legal offer. It merely opens negotiations.
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July 12: Seller's Telegram

- **Legal Effect:** This is the **offer**.
 - **Analysis:** Although the Seller uses the word "accept," it cannot legally be an acceptance because the Buyer's July 1 telegram was not an offer. Instead, the Seller's telegram is a response to the inquiry that contains specific and definite terms: quantity ("carload of salt"), delivery ("immediate shipment"), and payment ("terms cash on delivery"). The price (\$2.40 per cwt) is incorporated from the Buyer's initial telegram. This communication creates a power of acceptance in the Buyer.
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July 13: Buyer's Purchase Order

- **Legal Effect:** This is the **acceptance**, which formed a contract upon dispatch.
- **Analysis:** This situation involves the sale of goods between merchants, so it is governed by the Uniform Commercial Code (UCC), specifically **UCC § 2-207** (the "battle of the forms").
 1. **Contract Formation:** Under UCC § 2-207(1), a definite expression of acceptance, like this purchase order, creates a contract even if it contains additional or different terms from the offer. The contract was formed the moment the Buyer mailed the purchase order under the "**Mailbox Rule**," which makes an acceptance effective upon dispatch.
 2. **Contract Terms:** The new term is the "30 days following delivery" payment clause on the back of the form. Under UCC § 2-207(2), this new term would only become part of the contract if it is not a **material alteration**. A change from "cash on delivery" to a 30-day credit term is a significant financial modification and is considered a **material alteration**. Therefore, this new payment term does not become part of the contract. The contract exists based on the terms where the documents agree (quantity, price) and the original offer's term for payment ("cash on delivery") controls.

July 13: Buyer's Rejection Telegram

- **Legal Effect:** This is an **ineffective rejection** but constitutes an **anticipatory repudiation** (breach) of the contract.
- **Analysis:** The contract was formed when the Buyer dispatched the Purchase Order earlier on July 13. A rejection is only effective upon receipt. Since the acceptance was effective *before* the rejection was received by the Seller, the rejection was too late to prevent contract formation. By communicating an intent not to perform its duties under the already-formed contract, the Buyer breached it.

Conclusion

A contract was formed on July 13 when the Buyer mailed the purchase order. The terms of the contract are for one carload of salt at \$2.40 per cwt, with payment due on delivery. The Buyer's later telegram on the same day was an ineffective rejection and acted as a repudiation of the contract.

Therefore, the **Seller has a valid claim for breach of contract** and can sue the Buyer for damages.