



Gemini Pro 2.5 #4

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:

A valid contract was formed between Buyer and Seller, and Buyer's subsequent telegram was a breach of that contract. Seller will succeed in an action against Buyer.

Legal Analysis of Communications

Here is a step-by-step breakdown of the legal effect of each communication between the Buyer and Seller.

- **July 1: Buyer's Telegram**

This was **not an offer**, but rather an **inquiry** or an invitation to make an offer. The language "Will you supply...?" does not express a definite willingness to be bound to a contract. Instead, it opens negotiations by soliciting an offer from the Seller.

- **July 12: Seller's Telegram**

This was a legally binding **offer**. It was a direct response to the Buyer's inquiry and contained specific, definite terms: the subject matter (carload of salt), price (\$2.40 per cwt.), delivery (immediate shipment), and payment (cash on delivery). This telegram gave the Buyer the power to form a contract by accepting its terms.

- **July 13: Buyer's Purchase Order**

This communication acted as an **acceptance** of the Seller's offer. Because this transaction involves the sale of goods, it is governed by the Uniform Commercial Code (UCC). Under UCC § 2-207 (often called the "Battle of the Forms"), a response can operate as an acceptance even if it states terms additional to or different from those offered.

The purchase order explicitly stated it "accepted Seller's offer of July 12" and matched the core terms of quantity and price. The new payment term ("30 days following delivery") was a different term, but it did not prevent contract formation. Because this new term **materially alters** the original offer (changing "cash on delivery" to a 30-day credit line is a significant shift in financial risk), it would not become part of the contract. The contract would consist of the terms on which both parties agreed, with the conflicting payment term being supplied by the UCC's "gap-filler" provisions (typically, payment is due at the time and place of delivery).

Formation of the Contract & The Mailbox Rule

A binding contract was formed on **July 13**, at the moment the Buyer dispatched the Purchase Order via Air Mail.

This is governed by the **Mailbox Rule**, a principle of contract law which states that an acceptance is legally effective at the moment it is dispatched (i.e., mailed or sent), not when it is received by the offeror. By sending the Purchase Order, which

functioned as an acceptance, Buyer created a contract based on Seller's July 12 offer.

The Attempted Rejection

Buyer's telegram on July 13 stating "Ignore purchase order... your offer of July 12 rejected" was legally ineffective as a rejection.

A rejection is only effective if it is communicated to the offeror *before* an acceptance is made. In this case, the contract was already formed earlier that day when Buyer mailed the acceptance. A communication sent after an acceptance has been dispatched cannot undo the contract. Instead of a rejection, Buyer's July 13 telegram constitutes an **anticipatory repudiation**—a clear statement that the Buyer will not perform its obligations under the newly formed contract. This repudiation is itself a **breach of contract**.

Conclusion and Result

1. **Contract Formed:** A valid contract was formed on July 13 when Buyer mailed the Purchase Order, accepting Seller's July 12 offer.
2. **Contract Terms:** The terms are for one carload of salt at \$2.40 per cwt, for immediate shipment. The payment term is "cash on delivery" as stated in Seller's original offer, since Buyer's proposed 30-day term was a material alteration and thus excluded.
3. **Breach:** Buyer's telegram on July 13, received by Seller the same day, was a repudiation of the contract, which constitutes a breach.

In Seller's action against Buyer, the Seller will win. The Seller is entitled to remedies for breach of contract under the UCC, which may include the difference between the market price at the time of the breach and the contract price, or lost profits, plus any incidental damages.