



Gemini Pro 2.5 #3

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:

No, a contract was not formed, and the Seller's action against the Buyer for breach of contract will fail.

Here is a brief legal analysis of each communication and the final outcome.

1. Buyer's Telegram (July 1)

- **Legal Effect:** This is a **preliminary negotiation** or an **invitation for an offer**, not an offer.

- **Analysis:** The language "Will you supply...?" is an inquiry, not a definite promise to purchase. It doesn't express a clear intent to be legally bound upon acceptance. It merely opens the door for the Seller to make an offer.
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2. Seller's Telegram (July 12)

- **Legal Effect:** This is the first legally binding **offer**.
 - **Analysis:** Although Seller uses the word "Accept," it cannot be a legal acceptance because Buyer's July 1 telegram was not an offer. Instead, Seller's telegram contains specific terms (quantity, price, shipment time, and payment method: "cash on delivery"). This communication creates the power of acceptance in the Buyer.
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3. Buyer's Purchase Order (Mailed July 13)

- **Legal Effect:** This is a **rejection** of Seller's offer and constitutes a **counteroffer**.
 - **Analysis:** Under the common law **Mirror Image Rule**, an acceptance must be the exact "mirror image" of the offer. Here, the Purchase Order changed a material term: payment. Seller's offer specified "cash on delivery," while the Buyer's form stipulated payment "30 days following delivery." Because the terms do not match, this communication is not an acceptance. It legally acts as a rejection of the Seller's July 12 offer and creates a new offer—a counteroffer—that the Seller is now free to accept or reject.
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4. Buyer's Rejection Telegram (July 13)

- **Legal Effect:** This is an **effective rejection** of Seller's July 12 offer.
 - **Analysis:** This telegram is a clear and unambiguous statement rejecting the Seller's offer. Since it was received by the Seller on the same day it was sent (July 13), it immediately terminated the Buyer's power to accept the July 12 offer.
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Conclusion: The Result

Seller's action for breach of contract will fail because no contract was ever formed.

The timeline is critical:

1. Seller made an offer on July 12.
2. On July 13, Buyer mailed a counteroffer (the purchase order) and sent a telegram explicitly rejecting the Seller's offer.
3. The Seller **received the rejection first** on July 13. This rejection immediately terminated Seller's offer.
4. The Seller then received the Buyer's purchase order (the counteroffer) on July 14. By this time, the original offer that the purchase order was attempting to respond to was already legally dead.

At the end of these communications, the only thing on the table was the Buyer's counteroffer, which the Seller never accepted. Since there was no point at which both parties agreed to the same terms, there was no "meeting of the minds" and therefore, no contract.