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Course Title: Law of Torts.

Question: The tort of trespass to Chattel in is made of: Trespass to Chattels, Conversion and Detinue Discuss the above and support with case law. Students may consider the following: define and explain each tort State the elements of Trespass to Chattel, conversion and detinue Explain the concepts of innocent delivery or receipt, lost property rule and give examples of conversion Give examples of persons qualified to sue for Trespass to Charttel Discuss the remedies and defence to Trespass to Charttel, conversion and detinue Differences between conversion and Detinue

 **Definition of the term Trespass to Chattel**:

Trespass to chattels is a tort whereby the infringing party has intentionally or negligently interfered with another person’s lawful possession of a chattel (movable personal property). A chattel refers to any personal property, moving or unmoving. Trespass to chattels does not apply to real property or any interest in land. In order to prove trespass to chattels, you are required to prove the following elements:

1. Intention to Trespass: An intention to trespass by the defendant, it is not necessary to prove that he intended to harm the defendant specifically. He would be held to be liable for the tort of trespass to Chattel. For example, Bimpe and Emmanuel go to a café and they have the exact make and color of the Iphone 11 pro, and Bimpe picks up Emmanuel’s phone instead of hers, she would trespass to chattel, because even though she didn’t intend to trespass to his property specifically, she intended to pick the phone, which proves intention to trespass his chattel.
2. Lack of Owner’s Consent:  There must be an unauthorized, unlawful interference, which means the person interfered with or dispossessed the chattel without the owner's permission.
3. Interference of chattels: A person commits a trespass to chattel by (1) dispossessing another of the chattel, (2) using or intermeddling with a chattel in the possession of another, or (3) damaging the chattel. Interference does include dispossession of a chattel, but it must be something short of [conversion](https://dictionary.findlaw.com/definition/conversion.html).

In the case of Intel Corporation v Kourosh Kenneth Hamidi ntel Corporation (Intel) maintains an electronic mail system, connected to the Internet, through which messages between employees and those outside the company can be sent and received, and permits its employees to make reasonable nonbusiness use of this system. On six occasions over almost two years, Kourosh Kenneth Hamidi, a former Intel employee, sent e-mails criticizing Intel's employment practices to numerous current employees on Intel's electronic mail system. Hamidi breached no computer security barriers in order to communicate with Intel employees. He offered to, and did, remove from his mailing list any recipient who so wished. Hamidi's communications to individual Intel employees caused neither physical damage nor functional disruption to the company's computers, nor did they at any time deprive Intel of the use of its computers. The contents of the messages, however, caused discussion among employees and managers.

On these facts, Intel brought suit, claiming that by communicating with its employees over the company's e-mail system Hamidi committed the tort of trespass to chattels. The trial court granted Intel's motion for summary judgment and enjoined Hamidi from any further mailings. A divided Court of Appeal affirmed.

After reviewing the decisions analyzing unauthorized electronic contact with computer systems as potential trespasses to chattels, we conclude that under California law the tort does not encompass, and should not be extended to encompass, an electronic communication that neither damages the recipient computer system nor impairs its functioning. Such an electronic communication does not constitute an actionable trespass to personal property, i.e., the computer system, because it does not interfere with the possessor's use or possession of, or any other legally protected interest in, the personal property itself.

**What is Conversion?**

Conversion is an intentional tort which consists of taking, with the intent of exercising over the chattel an ownership inconsistent with the real owners right to possession. In Wales and England, it is a strict liability tort. It is also the deprivation of another’s right to use or possess personal property. Note that the property at issue is not **"real property”** which, in turn, is usually defined as land and attached improvements on land. All other property is generally considered “personal property” or “chattels.” Rights to creative property and artistic creations involves protection of “intellectual property” and is discussed in our articles on **copyright**. Conversion is often defined as other interference of a person’s right to property without the owner’s consent and without lawful justification. In the case of Russel Vaughn Ford V Rousse, the plaintiff filed suit for conversion on grounds that defendant converted his car when they refused to return his keys to him. Jury found for plaintiff and trial court denied defendant's motion for new trial. Defendant appealed. Defendant argued that there were insufficient facts alleged for conversion claim, and even if conversion occurred, it would be only for car keys and not the car. Defendant further argued that plaintiff should have contacted wife at home to have her bring another set of keys. The Court affirmed award and trial court's denial of new trial. The court held that the plaintiff was under no duty to take other steps to regain property and refuted defendant's argument that keys and not car had been converted. Case law supported conversion where the property was entrusted to a party and was not returned when asked for. The withholding from the plaintiff after demand of the keys to his automobile, without which he could not move it, amounted to a conversion of the automobile. The elements that must be fulfilled to prove the tort of conversion include:

1. intentionally dispossessing the lawful possessor of the chattel,
2. intentionally using a chattel in his possession without authority so to use it,
3. receiving a chattel pursuant to an unauthorized sale with intent to acquire for himself or for another a proprietary interest in it,
4. disposing of a chattel by an unauthorized sale with intent to transfer a proprietary interest in it, or
5. refusing to surrender a chattel on demand to a person entitled to lawful possession.

**What is Detinue?** Itsaform of action in tort, now defunct, that allowed a bailorto sue a bailee or a person entitled to possess a thing to sue a person in actual possession of it, giving the plaintiff the right to recover the thing or, in the event of a failure, to be able to return it through lack of care by the defendant, its value. The same right of action now exists as a form of conversion, which is itself a form of wrongful interference with goods.

 **Remedies**

**Injunction**: A common remedy for tort infringements include injunctions, an injunction is an action gotten from a court restricting the defendant from carrying, out an infringing action on the plaintiffs right. And if the plaintiff is guilty to conversion, detinue or trespass to chattel, he would be liable for damages, compensable to the plaintiff**.**

**Damages**: Damages, awarded in respect of a tort. The general aim of an award of damages in tort is to put the injured party in the same position as he would have been in if the tort had not occurred. Damages in tort aim to restore the claimant to his pre-incident position.

DEFENCES

**Consent**: If, a plaintiff, consents to his property being converted, the defendant has a valid defense, and the court would not hold such defendant liable for any damage

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