

Is Your Trade Secret Complaint Sufficiently Plead, Or Is It a Blueprint for Your Adversary?

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Trade secret litigation is a high-stakes arena where a company's most valuable assets may be subjected to intense public scrutiny. Yet, the defining feature of a trade secret is secrecy—and once secrecy is lost, the damage is irreparable.

This creates a recurring dilemma for companies and their legal teams: when, and with what level of detail, must trade secrets be disclosed in the course of a lawsuit? Plaintiffs face a delicate balance.

To move the lawsuit forward, they must disclose sensitive information in court filings and discovery in sufficient detail for the defendants to respond to the claims, and the court to evaluate them.

If they disclose too little, their claims may be dismissed as insufficiently plead. But, if they disclose too much, they risk losing the very secrecy that makes the information valuable.

Accordingly, courts recognize that balancing the timing and specificity of trade secret identification is a central and persistent challenge in trade secret litigation. As the court in *Quintara Biosciences, Inc. v. Ruifeng Biztech, Inc.*, 2025 WL 2315671, *4 (9th Cir. Aug. 12, 2025), explained “[b]ecause trade secrets derive their value from nondisclosure, discovery involving trade secrets presents a ‘delicate problem.’”

For both in-house and outside counsel, the question of when and with what level of detail to disclose trade secrets demands careful, early attention.

Due diligence before litigation should be regarded as an upfront investment towards not only meeting the pleading standards, but also setting litigation strategy, including as to forum and whether to sue under both state and federal law.

And to be in a strong position to make these important assessments at the outset of the case, in-house counsel should treat trade secret inventory and identification as a corporate governance priority.

Divergent Standards Across Jurisdictions

Disclosure obligations vary across jurisdictions. Several states, including California and Massachusetts, codify a requirement that plaintiffs identify their trade secrets with “reasonable particularity” *before* discovery begins.

This rule is designed to prevent fishing expeditions and narrow the scope of discovery. But it may also force plaintiffs to reveal more information about their trade secrets than they otherwise would at the outset of litigation.

By contrast other states, like Maryland, do not impose this pre-discovery requirement. The federal Defend Trade Secrets Act (DTSA) does not impose such a requirement either. Federal courts typically apply a “sufficient particularity” standard, and many allow plaintiffs to refine their trade secret descriptions as discovery unfolds.

New York has no trade secret statute, but New York courts have required plaintiffs early in a case to identify their secrets with reasonable particularity. *See MSCI Inc. v. Jacob*, 36 Misc. 3d 211, 213 (Sup. Ct. N.Y. Cty. 2012).

Thus, companies considering trade secret litigation need to carefully consider these differing disclosure obligations in deciding where to bring their claims, what claims to assert, and how such decisions will impact their pre-discovery, trade secret disclosure obligations.

Lessons from ‘Terran and Quintara’

Two recent decisions from the federal courts illustrate the stakes. In *Terran Biosciences, Inc. v. Compass Pathfinder Ltd.*, 2025 WL 1582195 (D. Md. June 3, 2025), the dispute related to alleged misappropriation of trade secrets of a non-hallucinogenic psilocybin therapy following failed collaboration discussions between biotechnology parties.

The Maryland federal court acknowledged that while neither the DTSA nor the Federal Rules of Civil Procedure mandate a particularity requirement before commencing discovery, courts retain discretion to require a sufficient level of detail to put the defendant on notice and to manage discovery effectively.

The court held that, during the initial phases of litigation, an identification of a claimed trade secret that is less detailed yet contextually adequate may be sufficient, as long as it reasonably appraises the defendant of the nature of the alleged trade secrets. Plaintiff’s general identification sufficed to move forward.

In *Quintara*, a DNA-sequencing company alleged a competitor misappropriated multiple business and technical trade secrets after a business relationship ended.

The district court struck most of the plaintiff’s trade secret claims for failing to meet a “reasonable particularity” standard borrowed from the California Uniform Trade Secrets Act. *Cal. Civ. Proc. Code* §2019.210.

The Ninth Circuit reversed, emphasizing that federal courts applying the DTSA do not require plaintiffs to identify their trade secrets with “reasonable particularity” at the outset of litigation (as required by and rejecting the importation of California’s heightened standard).

Instead, the Ninth Circuit recognized trade secret identification as an iterative process requiring identification with “sufficient particularity,” allowing for refinement as discovery progresses and cautioning against premature dismissal for lack of specificity.

The two cases, decided just months apart, demonstrate how different courts can be: one allowed a broad, general disclosure to suffice; another nearly derailed a case until the appellate court intervened.

The Costs of Getting It Wrong

The consequences of mishandling disclosure can be highly consequential. If a plaintiff's disclosure is too vague, a court may strike or dismiss claims, limit discovery, or impose other sanctions.

If a plaintiff discloses too much, it risks irreparably compromising proprietary information, effectively losing the very competitive advantage it is seeking to protect.

Counsel must therefore understand that a disclosure strategy is not a procedural afterthought. It is a threshold issue that can determine whether a case survives and whether trade secrets remain protectable at all.

Why Pre-Litigation Due Diligence Matters

Given these risks, counsel must recognize the sufficiency of trade secret identification as a critical step on the litigation roadmap, not a mere formality. Critical steps to getting this right include:

- **Complying with forum rules.** If a trade secret claim is being pursued in a New York or California state court, a plaintiff should be prepared to make detailed disclosure of the trade secret up front. In the same states, the federal courts will likely take a more flexible approach and allow iterative disclosures.
- **Claim structuring.** In forums that require early, detailed trade secret disclosure, plaintiffs who are not prepared to provide such specificity before discovery should consider limiting their claims to those under DTSA. However, this approach requires careful consideration of the potential loss of any advantages or remedies available under state law.
- **Internal readiness.** Companies and in-house counsel can assist by conducting periodic internal audits to identify and categorize their trade secrets well before any dispute arises, and preparing flexible descriptions that can be tailored to the demands of different forums—such as concise, high-level summaries for federal proceedings and more granular detail where state law requires.
- **Protective measures.** Counsel should consider seeking in camera review, iterative disclosures, or protective orders under federal Rule 16 to mitigate the risk of over-disclosure.

Conclusion

Disclosure strategy is a key element to trade secret litigation. The standards vary across state and federal courts. That means the decision of when, where, and how to litigate requires careful thought and advance planning.

Robust pre-litigation due diligence on forum selection, claim structuring, and protective mechanisms can help avoid missteps on disclosure strategy while preserving a company's competitive advantage.

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