



Ninth Circuit: Unlike CUTSA, DTSA Does Not Require a Plaintiff to Identify Their Trade Secrets With Particularity from the Start

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The Ninth Circuit recently reversed a district court's decision to strike a plaintiff's trade secret claims under the Defend Trade Secrets Act (DTSA) at the discovery stage. In doing so, the Ninth Circuit made clear that under the DTSA, whether a party defined their trade secret with sufficient particularity is a question of fact that generally does not lend itself to resolution in the absence of at least some discovery. This ruling contrasts with the California Uniform Trade Secrets Act (CUTSA), which requires a party to define their trade secrets with reasonable particularity **before commencing discovery**.

Here, plaintiff Quintara alleged that defendant Ruifeng misappropriated its trade secrets under the DTSA. Although the case was brought in California, Quintara did not raise any allegations under the CUTSA. Early in the discovery period, Ruifeng moved for a protective order, seeking to halt discovery until Quintara identified its alleged trade secrets with greater particularity. The district court, citing disclosure standards in the CUTSA, ordered Quintara to, among other things, identify each precise claimed trade secret with a list of their elements. Quintara responded by filing a more detailed trade secret disclosure, but again Ruifeng challenged its sufficiency, and at the recommendation of the district court, moved to strike the disclosure. The district court granted Ruifeng's motion as to nine of the 11 trade secrets, finding that the disclosure failed to satisfy the particularity requirements of the CUTSA. After a jury returned a verdict in Ruifeng's favor on the one remaining trade secret that Quintara chose to try, Quintara appealed the district court's decision on the motion to strike.

On appeal, the Ninth Circuit held that the district court abused its discretion by striking, and functionally dismissing, Quintara's trade secrets without sufficient discovery. The court first noted the "delicate problem" of conducting a trade secret case: trade secrets "derive their value from nondisclosure," but proving possession of a trade secret necessarily requires disclosure. In other words, defendants have the right to know what they are being accused of and to get the evidence needed to defend themselves, but both sides may reasonably be cautious about unnecessarily providing a rival with overly precise details of their proprietary information. Because of this, trade secret discovery is often an "iterative process" where trade secret disclosures are refined as discovery proceeds.

After recognizing the general difficulties that arise in every trade secret case, the Ninth Circuit turned to the specifics of this case. In particular, the court held the district court erred when it attempted to apply the rules that govern CUTSA claims in a case where only DTSA claims were alleged. Although the CUTSA requires that a plaintiff identify a trade secret with "reasonable particularity" **before discovery**, the DTSA contains no such express timing requirements. Additionally, unlike the CUTSA's reasonable particularity requirement, the sufficient particularity requirement of the DTSA is a question of fact. In early-stage discovery, "a DTSA trade-secret claim will rarely be dismissible as a discovery sanction." Rather, the issue of whether a trade secret has been adequately defined under the DTSA is more appropriate at the summary judgment or trial stage. The court further explained that while the CUTSA's "reasonable particularity" rule has been applied in cases having both DTSA and CUTSA claims, here, Quintara brought claims under **only** the DTSA. Thus, it was an abuse of discretion to apply the CUTSA standard and strike the trade secrets at such an early stage of the case.

The court additionally held that the Federal Rules of Civil Procedure did not authorize the district court to strike Quintara's claims as a sanction for failure to comply with its discovery requirements. Under Rule 12(f), a court may "strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Even when treating the trade secret disclosure as a "pleading" to which Rule 12(f) would apply, the Ninth Circuit held that the disclosures were not an "insufficient defense," or any other category of strikable material.

Rules 16, 26 and 37 give district courts broad discretion over pretrial matters. Nevertheless, dismissals based on a failure to comply with a pretrial order are a harsh penalty to be given only in "extreme circumstances." Here, the short delay in discovery, lack of prejudice to Ruifeng, public policy favoring disposition of the case on its merits rather than through functional dismissal, and the district court's lack of consideration of alternatives all weighed

against dismissal. The court therefore reversed the district court's order striking Quintara's trade secrets and remanded the case.

Practice Tip: In cases where trade secrets may be alleged under multiple statutes, parties should be aware of the differing disclosure requirements and the implications they may have for early dismissal of a suit. The DTSA may provide a more favorable framework to obtain discovery early in a suit where there are concerns regarding disclosure of trade secrets.

Quintara Biosciences, Inc. v. Ruifeng Biztech, Inc., No. 23-16093 (9th Cir. Aug. 12, 2025) (Johnstone, J.)

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