

MGA Ruling Guides On Time Limits For Trade Secret Claims

By **Stephen Moses** (November 18, 2019, 4:37 PM EST)

On Oct. 29, the California Court of Appeal's Second Appellate District, Division Eight, issued an opinion in *MGA Entertainment Inc. v. Mattel Inc.*, upholding the trial court's dismissal of MGA's trade secret misappropriation claims against Mattel over the irreverent Bratz dolls made by MGA.[1] MGA appealed the judgment of Superior Court Judge Carolyn B. Kuhl, who granted Mattel's motion for summary judgment on the grounds that MGA filed its state court lawsuit for trade secret misappropriation under the California Uniform Trade Secrets Act[2] after the three-year statute of limitations had expired.



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This latest ruling in a case that has been litigated over the course of the last 15 years, resulting in no fewer than three published appellate opinions, addresses what constitutes notice of a trade secret claim sufficient to trigger the statute of limitations. MGA must have thought victory was assured when it filed its trade secret misappropriation case in superior court, having successfully tried the case once before in the U.S. District Court for the Central District of California.

But, in affirming the trial court's decision, the court of appeal determined that once MGA had a reason to suspect an injury and some wrongful cause, the statute of limitations began to run. "[The] same suspicions that allowed MGA to request discovery and plead the unclean hands defense in federal court in 2007 were sufficient to trigger the statute of limitations." [3]

The main lesson of the most recent state court of appeal decision is that claims uncovered in the course of discovery trigger the statute of limitations for the new claims. The fact that the parties are engaged in litigation does not toll the statutory period or result in new claims relating back to the date the complaint was filed.

Even a party hiding the ball or dragging its feet in discovery is not sufficient to toll the statute on newly suspected claim, if a party is on notice of such claim. In order to address such issues, practitioners should be prepared to move to compel discovery or to extend the date or scope of discovery, and move to amend the pleadings.

It is important to note that the trade secret misappropriation claims brought by both MGA and Mattel were based on the California UTSA, not the federal Defend Trade Secrets Act[4], which was not yet law. The DTSA borrows the statute of limitations from state law, so the result would not have been any