

NC Supreme Court Reinforces Need for Precision in Trade Secret Misappropriation Claims

05.21.2018

Bringing a trade secret misappropriation claim in North Carolina may not be as easy as you think.

In *Krawiec v. Manly*, the North Carolina Supreme Court recently made clear that any company seeking to protect its trade secrets through litigation must be specific in its pleadings as to what trade secret is being misappropriated, and cannot rely on vague generalities. The *Krawiec* decision shows that both the company and its attorneys must readily comprehend, with particularity, what is being protected.

The plaintiffs in *Krawiec* were the owners and operators of a dance studio. The plaintiffs assisted two foreign dancers to come and work at their dance studio. The dancers entered into written contracts with the dance studio and agreed not to work for any other company that offered dance instruction or competed against the plaintiffs' studio for one year after ending employment with the plaintiffs. Despite these contractual restrictions, while they were working for the plaintiff, the dancers began working as dance instructors for a competitor dance studio.

The plaintiffs brought a number of claims against the dancers, the competitor studio and its owners, including a claim that those defendants misappropriated the plaintiff's trade secrets, in violation of North Carolina law.

Critically, the plaintiffs broadly described the trade secrets that were allegedly misappropriated as the plaintiffs'

"ideas and concepts for dance productions, marketing strategies and tactics, as well as . . . customer lists [containing] contact information."

The Supreme Court in *Krawiec* held that this broad, unspecific allegation "failed to allege the existence of a trade secret" and affirmed the dismissal of the trade secret misappropriation claims by the lower courts.

In reaching this conclusion, the Supreme Court adopted a standard that had long been applied in the lower courts. To that end, the Supreme Court held:

NC Supreme Court Reinforces Need for Precision in Trade Secret Misappropriation Claims

“To plead misappropriation of trade secrets, a plaintiff must identify a trade secret with sufficient particularity so as to enable a defendant to delineate that which he is accused of misappropriating and a court to determine whether misappropriation has or is threatened to occur.”

Turning to the plaintiffs’ specific allegations, the Supreme Court noted that the plaintiffs baldly described their trade secrets only as their “original ideas and concepts for dance productions, marketing strategies and tactics, as well as student, client and customer lists and their contact information.” Other than these labels and descriptions, however, Plaintiffs provided no further detail about these ideas, concepts, strategies, and tactics sufficient to put defendants on notice as to the precise information allegedly misappropriated. These labels and descriptions, bereft of any supporting facts *showing* why the ideas and the like were trade secrets under the law, were insufficient to support a trade secret claim.

The takeaway

We offer the following observations based on the *Krawiec* case.

First, the standard adopted by the North Carolina Supreme Court in *Krawiec* should help reduce non-serious, frivolous trade secret claims while still allowing claims about provable trade secrets. This balance makes sense for most companies.

Second, *Krawiec* demonstrates that analyzing and alleging violations of the North Carolina trade secret statutes can be a technical and complex endeavor. Lawyers need to fully understand their clients’ businesses and the particular nature of the trade secrets involved if they want to effectively protect those trade secrets through litigation.

PEOPLE

David W. Sar

SERVICES

Intellectual Property