

General Ideas Protectable as Trade Secrets in California

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Clarifying case law that distinguished the protection available under patent law from that available under trade secret law, the California Court of Appeal held that general ideas, including combinations of ideas, are protectable as trade secrets. *Altavion, Inc. v. Konica Minolta Systems Laboratory Inc.*, Case Nos. A134343, A135831 (Cal. Ct. App., May 8, 2014) (Simons, J.)

Altavion developed “digital stamping technology” (DST), which enables the self-authentication of digital and paper documents by encoding the content of an original document in a barcode stamped on the document itself. A DST system uses the barcode to determine whether the document had been altered. Altavion also solved problems with the reliability of barcodes through the unique use of “color reference cells” that aided reconstruction of the encoded data.

Konica Minolta Systems Laboratory (K-M) was interested in DST for authentication of scanned paper documents, and signed a nondisclosure agreement with Altavion during negotiations aimed at incorporating DST into its line of multifunction printers. Altavion disclosed general design concepts underlying DST and provided K-M with demonstration software, but not the particular algorithms or source code. Ultimately, the parties did not come to an agreement on the use of DST. However, even during the negotiation period, K-M filed 24 patent applications on Altavion’s DST technology, from which eight patents issued.

Altavion sued K-M for misappropriation of its trade secrets, among other claims. The California trial court ruled in favor of Altavion on its claim of trade secret misappropriation, awarding \$1.5 million in damages and \$3.2 million in attorneys’ fees. K-M appealed the judgment of trade secret misappropriation as well as the damages award.

The principal issue for the Court of Appeal was whether general ideas are protectable as trade secrets. K-M relied on *Silvaco Data Systems v. Intel Corp.* for the proposition that, while patent law protects ideas, “trade secret law does not protect ideas as such.” K-M argued that the general ideas and concepts of DST, as opposed to the undisclosed algorithms and code, did not constitute protectable subject matter.

The appellate court disagreed, noting an overlap in the protection afforded by patent law and trade secret law. While an inventor may obtain a patent for novel technology and control the use of the idea, trade secret law protects the inventor’s right to control the dissemination of valuable information, that is, the idea itself. If a patentable idea is kept secret, the idea itself can constitute

information protectable by trade secret law.

The Court of Appeal divided Altavion's DST information into three tiers. The least specific and least protectable tier included the general idea about self-authenticating barcode technology. This idea was disclosed publicly without a non-disclosure agreement (NDA) and was therefore not protectable. The most specific and secret tier included Altavion's algorithms and source code. Such information, the Court of Appeal explained, is clearly protectable trade secret information, but was not disclosed to K-M. The middle tier comprised the design concepts underlying DST, which were disclosed only to K-M and only pursuant to the NDA. The evidence showed that K-M had not independently developed the DST concepts prior to learning about them from Altavion, and that the later-patented design concepts had independent economic value. Thus, the DST design concepts were held to be protectable trade secrets.

Accordingly, the Court of Appeal upheld the trial court's judgment, including the award of damages and attorneys' fees.

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