L A W Y E R S

RMKB
ROPERS MAJESKI KOHN

Case ALERT

MISAPPROPRIATION OF TRADE SECRETS — PREEMPTION OF ALTERNATIVE CIVIL REMEDIES

K.C. Multimedia v. Bank of America Technology (Cal.App. 2009) 2009 DJ DAR 3150

KCMDG

v.

Bank of America

K.C. developed two prototype banking applications derived from source code which it considered a trade secret. By the time the case was ready to be tried, the operative pleading was plaintiff's fifth amended complaint which stated causes of action for trade secret misappropriation, breach of confidence, conversion, breach of contract, tortious interference with contract and unfair competition. The trial court granted Bank of America's in limine motions based on statutory preemption and dismissed plaintiff's causes of action for breach of confidence, interference with contract and unfair competition. The jury returned a verdict for the defendant and the Court of Appeal affirmed. Construing Civil Code § 3426.7, the court ruled that California's Uniform Trade Secrets Act preempts common law claims that are based on "the same nucleus of facts as the misappropriation of trade secrets claim for relief."