

# Judge OKs Trade Secrets Suit Against Google

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Google, Mountain View

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SAN FRANCISCO — A lawsuit alleging that Google Inc. stole a revolutionary idea for a building design from star architect Eli Attia appears likely to move ahead after clearing a statute of limitations hurdle.

Santa Clara Superior Court Judge Peter Kirwan, in a tentative ruling issued Thursday, denied a demurrer motion by Google's attorneys at Wilson Sonsini Goodrich & Rosati.

The ruling represents a change of course. Kirwan earlier ruled that Attia's claims for theft of trade secrets were time-barred because he filed suit more than three years after Google allegedly tried to co-opt his concept by filing patent applications with the idea in May and June of 2011. But Attia's lawyers at Dallas-based IP firm Buether Joe & Carpenter, in a second amended complaint, modified their approach—saying that the triggering event occurred in December 2011, when Attia learned that a project he had been working on with Google was continuing without him.

That timeline gets Attia in just under the wire. His suit was filed on Dec. 5, 2014.

Google's lawyers argued that shift was a reversal of a previous position and thus violated the "sham pleading" doctrine. But Kirwan disagreed in the tentative ruling and said the doctrine "does not apply to a change in legal theory as opposed to a factual allegation."

Kirwan took the matter under submission on Friday but said he was inclined to stick with his tentative decision, according to Attia's lead counsel Eric Buether, reached by phone after the hearing.

Wilson Sonsini partner Charles Graves, Google's lead attorney in the matter, did not respond to emails seeking comment.

Attia has been involved in the design of numerous buildings around the world, including the 101 California Street building, a tall cylindrical structure in the city's financial district.

The suit centers on Attia's brief term working with Google X, the company's secretive research arm that focuses on projects outside of its core internet search business. According to his complaint, Attia in 2010 began working with the company to help create software that would implement Attia's "engineered architecture" concept—billed as a way of efficiently designing buildings that are more sustainable.

Attia and Google executed a nondisclosure agreement in August 2010 to work on the project, and Google had estimated the finished product could yield \$120 billion a year, according to Attia's lawyers.

But in 2011, his lawyers claim, the company hatched a plan to squeeze Attia out, getting him to divulge his proprietary design ideas and then pretending to terminate the project. Google told Attia they had killed the project in December of that year and then went on to form a company called Flux Factory Inc. based on the technology, his attorneys allege.

Flux Factory is represented in the matter by Joshua Masur of Turner Boyd.

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