

# A Rare Bird? TriZetto Collects \$14.5M in Attorneys' Fees but No Trade Secret Damages

A photograph of a modern building with a curved glass facade, showing multiple floors and windows, set against a light blue sky.

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A claimant's recovery of attorneys' fees in a trade secret action ordinarily reflects an overwhelming success at trial. The claimant would have necessarily proved (at least under federal law) that its trade secret had been willfully or maliciously misappropriated. Moreover, trade secret laws generally permit the claimant to recover its actual loss, unjust enrichment damages, or a reasonable royalty for the misappropriation. Therefore, one could reasonably assume that recovering \$14.5M in attorneys' fees would be the icing on the litigation cake. Not so in *TriZetto Group, Inc. v. Syntel Sterling Best Shores Mauritius Limited*.

As I previously wrote, TriZetto proved at trial that Syntel misappropriated its trade secrets, obtained a jury award of \$285 million in avoided R&D costs damages, and secured an injunction against Syntel's use of the trade secrets. Last year, the U.S. Court of Appeals for the Second Circuit vacated the damages award and remanded for further consideration of a \$142 million reasonable royalty (i.e., 50% of the alleged avoided R&D costs) awarded under New York law for trade secret misappropriation. On remand, the District Court vacated the reasonable royalty award because it lacked "any relation to the injury TriZetto suffered from Syntel's relatively limited infringing use" and bore "no reasonable relation to the actual harm TriZetto suffered." Thus, the compensatory damages awarded by the jury stand vacated at this time pending a likely appeal.

However, the District Court awarded TriZetto \$14.5M in attorneys' fees in view of the jury's findings and Syntel's "reprehensible" conduct. This is a hefty, if not jaw-dropping, award. It reflects: (i) representation by a firm having a specialty in IP law; (ii) hourly rates of \$585 for junior attorneys to \$1,746 for senior attorneys; (iii) a complex case comprising a six-day trial, 1,110 court filings, and an expansive record, and (iv) a "reasonable number of hours billed" (i.e., 21,000 hours by 29 attorneys). The "reasonableness" of this attorneys' fees award rests in the eye of the beholder.

As it stands, TriZetto established the willful or malicious misappropriation of its trade secrets, obtained an injunction against Syntel, and recovered enough to cover some - but not all of - its attorneys' fees. This is assumedly not the result TriZetto had in mind when it brought this case back in 2015.

What are the takeaways? Complex trade secret litigation may carry a hefty price tag for each party. Defendants should understand that aggressively defending a "willful and malicious" misappropriation creates a risk of running up recoverable attorneys' fees. In addition, trade secret owners should focus early in a trade secret case on available remedies and alternative theories. Damages moon shots can and often do fail. Here, TriZetto suffered \$8.5M in alleged lost profits. It chose to aim higher and seek Syntel's purported avoided R&D costs. The availability of such compensatory damages under the Defend Trade Secrets Act has been and somewhat remains in flux. Armed with the benefit of hindsight, could TriZetto have adduced evidence at trial that offered stronger support for a substantial reasonable royalty?

1. *Syntel Sterling Best Shores Mauritius Limited v. The Trizetto Group, Inc. et al.*, No. 15-cv-00211 (S.D.N.Y. Mar. 13, 2024).

**After hearing all of the evidence at trial, the jury spoke, awarding TriZetto the largest amount of compensatory damages offered by TriZetto's expert, plus substantial punitive damages. These awards expressed the jury's clear view about the harm to TriZetto and the maliciousness of Syntel's conduct. Vacating the entirety of the jury's compensatory damages, which is where this case now stands, is in stark contrast to the jury's verdict.**

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