

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Oracle America, Inc. v. Procore Technologies, Inc.

Oracle v. Procore · No. 24-cv-07457-JST · Decided April 9, 2025

SUMMARY

The United States District Court for the Northern District of California denied motions by Mark Mariano to compel arbitration and dismiss, and by Procore Technologies, Inc. and Procore Payment Services, Inc. to stay or dismiss. The court held that the proprietary-information agreement’s federal-court venue provision governed Oracle’s trade-secret claims rather than the employment agreement’s arbitration provision. The court also held that Oracle sufficiently pleaded the particularity of its alleged trade secrets and misappropriation under the Defend Trade Secrets Act.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Jon S. Tigar
JURISDICTION	United States District Court for the Northern District of California
DECIDED	April 9, 2025
DOCKET	24-cv-07457-JST
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs brought claims under the Defend Trade Secrets Act, breach of contract, and unjust enrichment. Defendant Mark Mariano moved to compel arbitration and stay the action or, alternatively, dismiss the DTSA claim. Defendants Procore Technologies, Inc. and Procore Payment Services, Inc. moved to stay the action or, alternatively, dismiss the DTSA claim. The district court denied all motions.
STANDARD OF REVIEW	On a motion to compel arbitration, the court determines whether a valid arbitration agreement exists and whether it encompasses the dispute, applying the summary-judgment standard to factual disputes. Contract-formation issues are decided by the court. On a Rule 12(b)(6) motion, dismissal is proper only when the complaint lacks a cognizable legal theory or sufficient facts to support one; well-pleaded factual allegations are accepted as true and construed in the plaintiff’s favor.

TOPICS

trade secrets

arbitration

motions to dismiss

contract interpretation

civil procedure

PRACTICE AREAS

intellectual property

trade secrets

contracts

arbitration

civil procedure

commercial litigation

QUESTIONS PRESENTED

1. Whether the arbitration delegation provision in Mariano's Employment Agreement delegated to an arbitrator the question whether Oracle's claims governed by a separate Proprietary Information Agreement were arbitrable.
2. Whether Oracle's claims arose under the more specific Proprietary Information Agreement's federal-court venue provision rather than the Employment Agreement's general arbitration provision.
3. Whether Procore's motion to stay the action pending arbitration should be granted.
4. Whether Oracle pleaded its DTSA claims with sufficient particularity as to the alleged trade secrets.
5. Whether Oracle sufficiently pleaded DTSA misappropriation by Mariano.
6. Whether Oracle sufficiently pleaded Procore's vicarious liability for Mariano's alleged misappropriation.

HOLDINGS

1. A delegation provision in one agreement does not delegate to an arbitrator the arbitrability of claims governed by a separate agreement containing a federal-court venue provision when the agreements have not been merged into a single contract.
2. Claims concerning misappropriation of Oracle's proprietary information were subject to the Proprietary Information Agreement's provision authorizing suit in federal court, not the Employment Agreement's more general arbitration provision.
3. Procore was not entitled to stay the action pending arbitration because the court denied Mariano's motion to compel arbitration.
4. Oracle sufficiently pleaded the particularity of its alleged trade secrets to survive Rule 12(b)(6).
5. Oracle sufficiently pleaded DTSA misappropriation by Mariano.
6. Oracle sufficiently pleaded that Procore was vicariously liable for Mariano's alleged misappropriation.

KEY QUOTATIONS

"In short, the Court cannot conclude that the Employment Agreement's delegation of arbitrability operates to delegate to arbitration questions regarding the separate Proprietary Information Agreement." (at 6)

"Accordingly, the Court holds that the Proprietary Information Agreement's venue provision authorizes Oracle to bring claims related to misappropriation of its proprietary information in this Court rather than

arbitration.” (at 9)

“Accordingly, the Court finds Oracle has sufficiently pled its DTSA claim against Mariano and Procore.” (at 13)

FACTUAL BACKGROUND

Oracle hired Mariano in 2016 after acquiring his previous employer, and he worked on Oracle's Textura Payment Management solution and related enterprise-resource-planning integrations until October 2021. Oracle alleged that Mariano retained thousands of confidential Oracle materials and later transferred files, including source code and other trade-secret materials, from an Oracle computer to a Procore-issued laptop after joining Procore. Oracle alleged that Procore subsequently launched technology competing with Oracle's product.

PROCEDURAL HISTORY

Oracle filed the action on October 25, 2024. Mariano sought to compel arbitration based on an employment agreement and to dismiss the DTSA claim; Procore and Procore Payment Services separately sought a stay pending arbitration and dismissal of the DTSA claim. The court denied the motions to compel arbitration, to stay, and to dismiss.

DISPOSITION

other

CASES CITED

- AT&T Mobility LLC v. Concepcion, AT&T Mobility LLC v. Concepcion, 563 U.S. 333, 339 (2011)
- Chiron Corp. v. Ortho Diagnostic Sys., Inc., 207 F.3d 1126, 1130 (9th Cir. 2000)
- Hansen v. LMB Mortg. Servs., Inc., 1 F.4th 667, 670 (9th Cir. 2021)
- First Options of Chi., Inc. v. Kaplan, 514 U.S. 938, 944 (1995)
- Suski v. Coinbase, Inc., 55 F.4th 1227, 1229, 1231 (9th Cir. 2022)
- Green Tree Fin. Corp. Ala. v. Randolph, 531 U.S. 79, 91 (2000)
- Alberto v. Cambrian Homecare, 91 Cal. App. 5th 482, 491 (2023)
- Tulare Golf Course, LLC v. Vantage Tag, Inc., 2023 WL 2587994, at *6-7 (E.D. Cal. Mar. 21, 2023)
- Mountain Air Enters., LLC v. Sundowner Towers, LLC, 3 Cal. 5th 744, 760 (2017)
- Coinbase, 602 U.S. 143, 152 (2024)
- Oracle Am., Inc. v. Myriad Grp. A.G., 724 F.3d 1069, 1074-75 (9th Cir. 2013)
- Lopes v. Oracle Am., Inc., 2022 WL 4281354, at *1, *5 n.1 (N.D. Cal. Sept. 15, 2022)
- Goodman v. Severin, 274 Cal. App. 2d 885, 895 (1969)
- Shivkov v. Artex Risk Sols., Inc., 974 F.3d 1051, 1063 (9th Cir. 2020)
- Mohamed v. Uber Techs., Inc., 848 F.3d 1201 (9th Cir. 2016)
- Hughes Air Corp. v. Pub. Utils. Comm'n, 644 F.2d 1334, 1338 (9th Cir. 1981)

- Daniel v. Ford Motor Co., 806 F.3d 1217, 1224 (9th Cir. 2015)
- Producers Dairy Delivery Co. v. Sentry Inc. Co., 41 Cal. 3d 903, 912 (1986)
- Neal v. State Farm Ins. Cos., 188 Cal. App. 2d 690, 693-94 (1961)
- Mendiondo v. Centinela Hosp. Med. Ctr., 521 F.3d 1097, 1104 (9th Cir. 2008)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- MedioStream, Inc. v. Microsoft Corp., 869 F. Supp. 2d 1095, 1113 (N.D. Cal. 2012)
- Nat'l Specialty Pharmacy, LLC v. Padhye, 734 F. Supp. 3d 922, 930 (N.D. Cal. 2024)
- Arthur J. Gallagher & Co. v. Tarantino, 498 F. Supp. 3d 1155, 1172-73 (N.D. Cal. 2020)
- TMX Funding, Inc. v. Impero Tech. Inc., 2010 WL 2509979, at *3 (N.D. Cal. June 17, 2010)
- Salesforce.com, Inc. v. GEA, Inc., 2021 WL 9860787, at *6-7 (N.D. Cal. Feb. 2, 2021)
- Cisco Sys., Inc. v. Chung, 2020 WL 4505509, at *5 (N.D. Cal. Aug. 5, 2020)
- E. & J. Gallo Winery v. Instituut Voor Landbouw—En Viserijonderzoek, 2018 WL 2463869, at *7 (E.D. Cal. June 1, 2018)
- Neutron Holdings, Inc. v. Hertz Corp., 2023 WL 3919465, at *5 (N.D. Cal. June 8, 2023)
- Brain Injury Ass'n of Cal. v. Yari, 2020 WL 3643482, at *6 (C.D. Cal. Apr. 30, 2020)

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 NORTHERN DISTRICT OF CALIFORNIA 6 7
 ORACLE AMERICA, INC., et al., Case No. 24-cv-07457-JST 8 Plaintiffs, ORDER DENYING
 MOTIONS TO 9 v. COMPEL ARBITRATION, TO STAY, AND TO DISMISS 10 PROCORE
 TECHNOLOGIES, INC., et al., Re: ECF Nos. 38, 40 Defendants. 11 12 13 Before the Court is
 Defendant Mark Mariano's motion to compel arbitration and to stay 14 proceedings or, in the
 alternative, to dismiss, ECF No. 38, and Defendants Procore Technologies, 15 Inc. and Procore
 Payment Services, Inc.'s motion to stay or, in the alternative, to dismiss, ECF No. 16 40.

The Court will deny the motions. 17 I. FACTUAL BACKGROUND 18 A. Oracle's Allegations
 19 Plaintiff Oracle hired Defendant Mariano when Oracle acquired his previous employer in 20
 2016. ECF No. 1 ¶ 49. Mariano worked for Oracle until October 29, 2021, and during that time 21
 he "had a front row seat to... Oracle's technical development of" its Textura Payment 22
 Management ("TPM") solution and related enterprise resource planning ("ERP") integrations.

Id. 23 "Unbeknownst to Oracle, long after he left Oracle, Mariano improperly possessed thousands
 of 24 Oracle's confidential, proprietary materials on his personal cloud accounts..., in addition to
 on 25 two Oracle computers... that he kept long after leaving Oracle." Id. ¶ 51. Oracle discovered
 this 26 27 1 For the purpose of resolving Defendants' motions to dismiss, the Court accepts as true
 the 1 fact "only after learning of Procore's rapid launch of competing technology after hiring
 Mariano." 2 Id. At that point, Oracle requested that Mariano return his Oracle devices and

conducted a 3 forensic inspection, which revealed that they contained “Oracle trade secret files such as 4 confidential Oracle source code.” Id. ¶ 52.

Oracle initiated conversations with Procore and 5 learned from those conversations that some of Oracle files “were copied over to Mariano’s 6 Procore-issued laptop.” Id. 7 Oracle filed this lawsuit against Mariano and Procore on October 25, 2024, asserting 8 claims for trade secret misappropriation under the Defend Trade Secrets Act, 18 U.S.C. 9 §§ 1836(b), 1839 et seq.; breach of contract; and unjust enrichment.

10 B. Employment Agreement and Proprietary Information Agreement 11 When Oracle offered Mariano a job, it required as a condition of his employment that he 12 sign an “Employment Agreement,” ECF No. 39-3 at 13–15, and a “Proprietary Information 13 Agreement,” ECF No. 39-3 at 9–12. Mariano signed both. ECF No. 38 at 11–12. 14 The Employment Agreement contains an arbitration provision, which states in relevant 15 part: 16 You and Oracle understand and agree that any existing or future dispute or claim arising out of or related to your Oracle employment, 17 or the termination of that employment, will be resolved by final and binding arbitration and that no other forum for dispute resolution will 18 be available to either party....

The arbitration proceedings shall be conducted pursuant to the Federal Arbitration Act, and in accordance 19 with the National Rules for the Resolution of Employment Disputes of the American Arbitration Association of the Employment 20 Arbitration Rules and Procedures adopted by Judicial Arbitration & Mediation Services (“JAMS”). 21 22 The Proprietary Information Agreement lays out Mariano’s obligations with respect to 23 “confidential, proprietary, or trade secret information” he “develop[ed], receive[d], or otherwise 24 ha[d] access to” while employed by Oracle.

ECF No. 39-3 at 9. It contains a venue provision, 25 which provides: 26 I agree that any legal action or proceeding involving Oracle which is in any way connected with this agreement may be instituted in federal 27 court in San Francisco or San Jose, California or state court in San courts in any such legal action or proceeding. 1 Id. at 12. 2 3 C. Procedural Background 4 Mariano moved to compel arbitration of Oracle’s claims against him and moved, in the 5 alternative, to dismiss Oracle’s DTSA claim under Rule 12(b).

ECF No. 38. Oracle opposed the 6 motion, ECF No. 53, and Mariano replied, ECF No. 54. Separately, Procore moved to stay the 7 action pending resolution of Mariano’s and Oracle’s arbitration and moved, in the alternative, to 8 dismiss Oracle’s DTSA claim under Rule 12(b). ECF No. 40. Oracle opposed the motion, ECF 9 No. 51, and Procore replied, ECF No. 55. 10 II.

JURISDICTION 11 The Court has jurisdiction under 28 U.S.C. §§ 1331, 1367. 12 III. LEGAL STANDARD 13 A. Motion to Compel Arbitration 14 The Federal Arbitration Act (“FAA”) applies to written contracts “evidencing a transaction 15 involving commerce.” 9 U.S.C. § 2.

Under the FAA, arbitration agreements “shall be valid, 16 irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation 17 of any contract.” 9 U.S.C. § 2. This provision reflects “both a liberal federal policy favoring 18 arbitration, and the fundamental principle that arbitration is a matter of contract.” *AT&T Mobility 19 LLC v. Concepcion*, 563 U.S. 333, 339 (2011) (quotation marks and citations omitted).

20 On a motion to compel arbitration, the Court’s role under the FAA is “limited to 21 determining (1) whether a valid agreement to arbitrate exists and, if it does, (2) whether the 22 agreement encompasses the dispute at issue.” *Chiron Corp. v. Ortho Diagnostic Sys., Inc.*, 207 23 F.3d 1126, 1130 (9th Cir. 2000). If the court is “satisfied that the making of the agreement for 24 arbitration or the failure to comply therewith is not in issue, the court shall make an order directing 25 the parties to proceed to arbitration in accordance with the terms of the agreement.” 9 U.S.C. § 4.

26 On a motion to compel arbitration, “courts rely on the summary judgment standard of Rule 27 56 of the Federal Rules of Civil Procedure.” *Hansen v. LMB Mortg. Servs., Inc.*, 1 F.4th 667, 670 1 other documents filed with the court.” *Burger v. Northrop Grumman Sys. Corp.*, No. 21-cv- 2 06761-ABM-RWX, 2021 WL 8322270, at *4 (C.D. Cal. Oct. 27, 2021).

Under Rule 56, “[a]n 3 affidavit or declaration used to support or oppose a motion must be made on personal knowledge, 4 set out facts that would be admissible in evidence, and how that the affiant or declarant is 5 competent to testify on the matters stated.” Fed. R. Civ. P. 56(c)(4). 6 When deciding whether a valid arbitration agreement exists, federal courts generally 7 should “apply ordinary state-law principles that govern the formation of contracts.” *First Options 8 of Chi., Inc. v. Kaplan*, 514 U.S. 938, 944 (1995). “Issues of contract formation may not be 9 delegated to an arbitrator” and must be decided by the court.

Suski v. Coinbase, Inc., 55 F.4th 10 1227, 1229 (9th Cir. 2022). “[T]he party resisting arbitration bears the burden of proving that the 11 claims at issue are unsuitable for arbitration.” *Green Tree Fin. Corp. Ala. v. Randolph*, 531 U.S. 12 79, 91 (2000). 13 Where the claims alleged in a complaint are subject to arbitration, the Court may stay the 14 action pending arbitration.

9 U.S.C. § 3. 15 B. Rule 12(b)(6) Motion to Dismiss 16 Dismissal under [Federal Rule of Civil Procedure] 12(b)(6) is appropriate only where the 17 complaint lacks a cognizable legal theory or sufficient facts to support a cognizable legal theory.” 18 *Mendiondo v. Centinela Hosp. Med. Ctr.*, 521 F.3d 1097, 1104 (9th Cir. 2008). A complaint must 19 contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” 20 Fed.

R. Civ. P. 8(a)(2). Facts pleaded by a plaintiff “must be enough to raise a right to relief 21 above the speculative level.” *Bell Atl. Corp. v. Twombly*, 558 U.S. 544, 555 (2007). “To survive a 22 motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a 23 claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)

(quoting 24 Twombly, 550 U.S. at 570)). “A claim has facial plausibility when the plaintiff pleads factual 25 content that allows the court to draw the reasonable inference that the defendant is liable for the 26 misconduct alleged.” Id. In determining whether a plaintiff has met this plausibility standard, the 27 Court must “accept all factual allegations in the complaint as true and construe the pleadings in the 1 2005).

2 IV. DISCUSSION 3 A. Mariano’s Motion to Compel Arbitration 4 Mariano moves to compel arbitration. He argues that the parties delegated issues of 5 arbitrability to the arbitrator, and that even if the Court finds that it must decide arbitrability, the 6 Employment Agreement requires arbitration of Oracle’s claims. 7 1. Delegation of Arbitrability 8 The parties agree that the Employment Agreement incorporates the rules of the Judicial 9 Arbitration & Mediation Services (“JAMS”) and American Arbitration Association (“AAA”), 10 both of which delegate questions of arbitrability to the arbitrator.

ECF No. 38 at 13–14; ECF No. 11 53 a 53. But Oracle contends that the claims at issue are governed not by the Employment 12 Agreement’s arbitration provision but rather by the Proprietary Information Agreement’s venue 13 provision. ECF No. 53 at 18–26. Mariano responds that the Employment Agreement and the 14 Proprietary Information Agreement ought to be read as “one contract” because they are “part of 15 the same employment package.” ECF No. 54.

16 California contract law principles do not support Mariano’s argument. It is true that 17 “[s]everal contracts relating to the same matters, between the same parties, and made as parts of 18 substantially one transaction, are to be taken together.” Cal. Civ. Code § 1642. But courts draw a 19 line between interpreting multiple contracts as one transaction and merging them together as one 20 contract.

See, e.g., *Alberto v. Cambrian Homecare*, 91 Cal. App. 5th 482, 491 (2023) 21 (“Construing different instruments together pursuant to Civil Code section 1642 is not the same 22 thing as incorporating them into one instrument”); *Tulare Golf Course, LLC v. Vantage Tag, Inc.*, 23 No. 1:21-cv-00505-JLT-SKO, 2023 WL 2587994, at *6 (E.D. Cal. Mar. 21, 2023) (“construing 24 two agreements ‘in light of one another’ does not ‘merge them into a single written contract’”) 25 (quoting *Mountain Air Enters., LLC, v. Sundowner Towers, LLC*, 3 Cal. 5th 744, 760 (2017)).

26 Mariano cites no authority holding that several written agreements presented as “part of the same 27 employment package” merge together to form “one contract.” 1 602 U.S. 143 (2024) controls here. See ECF No. 53 at 17.

In *Coinbase*, the United States 2 Supreme Court held that “where parties have agreed to two contracts—one sending arbitrability 3 disputes to arbitration, and the other explicitly or implicitly sending arbitrability disputes to the 4 courts—a court must decide which contract governs.” *Coinbase*, 602 U.S. at 152. That is the 5 situation presented here, where the Employment

Agreement delegates arbitrability questions to an arbitrator but the Proprietary Information Agreement provides that “any legal action or proceeding 7... may be instituted in federal court.” ECF No. 39-3 at 12.

8 Mariano points to several cases in which courts have found that “similar Oracle arbitration 9 agreements” delegated questions of arbitrability to an arbitrator, ECF No. 38 at 19–20, but none of 10 these cases held that Oracle’s arbitration agreement delegated questions of arbitrability of another, 11 separate agreement—in this case, the Proprietary Information Agreement—to an arbitrator.

12 Oracle Am., Inc. v. Myriad Grp. A.G., 724 F.3d 1069, 1074–75 (9th Cir. 2013) (incorporation of 13 United Nations Commission on International Trade Law rules evinced delegation of arbitrability 14 with respect to the same contract); Lopes v. Oracle Am., Inc., No. 22-cv-01815-BLF, 2022 WL 15 4281354, at *1, at *5 n.1 (N.D. Cal. Sept. 15, 2022) (same regarding American Arbitration 16 Association rules).² Thus, these authorities provide no reason to deviate from Coinbase.

17 In short, the Court cannot conclude that the Employment Agreement’s delegation of 18 arbitrability operates to delegate to arbitration questions regarding the separate Proprietary 19 Information Agreement. Accordingly, the Court must decide the arbitrability of Oracle’s claims. 20 2. Scope of Arbitration Provision 21 Mariano contends that, if the Court reaches the issue of arbitrability, it should find that 22 Oracle’s claims fall within the scope of the Employment Agreement’s arbitration provision.

ECF 23 No. 38 at 20–25. Oracle responds that, as a matter of contract interpretation, Mariano’s proposed 24 reading would vitiate the Proprietary Information Agreement’s venue provision. ECF No. 53 at 25 26 2 On reply, Mariano argues that “California law on incorporation also supports treating the agreements as one.” ECF No. 54 at 10 (citing *Shaw v. Regents of Univ. of Cal.*, 58 Cal. App.

4th 27 44, 54 (1997)). Because a “district court need not consider arguments raised for the first time in a 1 20–26. 2 The Court begins by finding that the Employment Agreement and the Proprietary 3 Information Agreement are “interdependent instruments, together designed to attain one 4 preconceived objective, and should be construed together.” 3 *Tulare Golf Course*, 2023 WL 5 257994, at *7; see also *Goodman v. Severin*, 274 Cal. App.

2d 885, 895 (1969). But “construing 6 two agreements together pursuant to § 1642 functions as an interpretive aide, and the Court must 7 nonetheless consider traditional principles of contract interpretation to determine whether the 8 terms of one agreement apply to the other.” *Tulare Golf Course*, 2023 WL 257994, at *6. 9 “It is a standard rule of contract interpretation that specific

terms control over general 10 ones.” *Shivkov v. Artex Risk Sols., Inc.*, 974 F.3d 1051, 1063 (9th Cir.

2020) (internal quotations 11 omitted). Mariano signed an Employment Agreement that governed the rights and obligations of 12 the parties with respect to Mariano’s employment. ECF No. 39-2 at 13. That Employment 13 Agreement directed that Mariano “also must sign the Proprietary Information Agreement,” ECF 14 No. 39-3 at 13, which Mariano did.

The Proprietary Information Agreement sets forth the rights 15 and obligations of the parties with respect to confidential, proprietary, or trade secret 16 information—which is the subject of the claims in this action.

The Proprietary Information 17 Agreement does not provide for arbitration of claims arising from or related to proprietary 18 information; to the contrary, it provides that “legal action[s] or proceeding[s]... in any way 19 connected with this agreement may be instituted in federal court.” ECF No. 39-3 at 12. Taking 20 these agreements together, see Cal. Civ.

Code § 1642, the most natural reading is that claims that 21 arise under the more specific terms of the Proprietary Information Agreement are subject to that 22 agreement’s venue provision rather than the more general Employment Agreement’s arbitration 23 provision. 24 Mariano argues that the Employment Agreement’s arbitration provision “supersedes” and 25 “governs over” the Proprietary Information Agreement’s venue provision.⁴ ECF No. 38 at 13.

26 3 The parties appear to agree on this. ECF No. 38 at 17; ECF No. 53 at 15. 27 4 Mariano argues that the Employment Agreement “supersedes” the Proprietary Information 1 But a “basic rule of statutory construction is that one provision should not be interpreted in a way 2 which is internally contradictory or that renders other provisions of the same statute inconsistent 3 or meaningless.” *Hughes Air Corp. v. Pub.*

Utils. Comm’n, 644 F.2d 1334, 1338 (9th Cir. 1981); 4 see also Cal. Civ. Code § 1641 (“The whole of a contract is to be taken together, so as to give 5 effect to every part, if reasonably practicable, each clause helping to interpret the other.”). 6 Mariano argues that the arbitration provision and the venue provision can be “harmonized” 7 because the arbitration provision uses broader language (“dispute or claim”) than the venue 8 provision (“legal action or proceeding”).

ECF No. 38 at 22. It is true that other courts have 9 “harmonized” similar provisions this way. See *id.* (citing *Roma Mikha, Inc. v. S. Glazer’s Wine & 10 Spirits, LLC*, 2023 WL 3150076, at *6 (C.D. Cal. Mar. 30, 2023); *Mohamed v. Uber Techs., Inc.*, 11 848 F.3d 1201 (9th Cir. 2016)). But those cases concerned the interpretation of one contract rather 12 than two taken together.

In *Suski v. Coinbase, Inc.*, when the Ninth Circuit was presented with 13 two contracts in which one contained an arbitration provision and the other a forum selection 14 clause sending disputes

to the courts, the Ninth Circuit distinguished its earlier decision in *15 Mohamed* precisely because “there, the arbitration clause and the forum selection clause were 16 included in the same contract.” 55 F.4th 1227, 1231 (9th Cir.

2022). 17 Finally, Mariano argues that “any ambiguities in or questions about the agreements and 18 whether arbitration is required here must be interpreted against Plaintiffs.” ECF No. 38 at 25; see 19 Cal. Civ. Code § 1654 (“In cases of uncertainty not removed by the preceding rules, the language 20 of a contract should be interpreted most strongly against the party who caused the uncertainty to 21 exist.”) But a contract provision is only “ambiguous when it is capable of two or more 22 constructions, both of which are reasonable.” *Daniel v. Ford Motor Co.*, 806 F.3d 1217, 1224 (9th 23 Cir.

2015) (quoting *Producers Dairy Delivery Co. v. Sentry Inc. Co.*, 41 Cal. 3d 903, 912 (1986)). 24 In this case, neither provision is ambiguous. Mariano’s proposed construction would render one 25 26 Information Agreement is “7/5/16.” *Id.* at 12. Oracle contends that this discrepancy was a mistake because Oracle’s records show Mariano returned both agreements on July 5, 2016.

ECF 27 No. 53 at 24. In any event, the Court does not read the Employment Agreement to “supersede” 1 of the contract’s provisions superfluous, and such an approach violates basic principles of contract 2 interpretation.

Accordingly, there are no ambiguities to interpret in Mariano’s favor. See *Daniel 3 v. Ford Motor Co.*, 806 F.3d at 1224 (“Where a contract provision is ‘clear and unambiguous,’ it 4 is not subject to questions of construction or interpretation.”) (quoting *Neal v. State Farm Ins. 5 Cos.*, 188 Cal. App. 2d 690, 693–94 (1961) (internal quotation marks omitted)).

6 Accordingly, the Court holds that the Proprietary Information Agreement’s venue 7 provision authorizes Oracle to bring claims related to misappropriation of its proprietary 8 information in this Court rather than arbitration.

The Court will deny Mariano’s motion to compel 9 arbitration. 10 B. Procore’s Motion to Stay 11 Procore moves to stay the entire action pending resolution of arbitration between Oracle 12 and Mariano. Because the Court denies Mariano’s motion to compel arbitration, it also denies 13 Procore’s motion to stay. 14 C. Mariano’s and Procore’s Motions to Dismiss DTSA Claim 15 Finally, Mariano and Procore argue that Oracle fails to state a DTSA claim.

ECF No. 38 at 16 25–33; ECF No. 40 at 17–26. Under the DTSA, trade secrets are defined as information which 17 must (1) derive independent economic value, actual or potential, from not being generally known 18 in the public or to other persons who can obtain economic value from its disclosure or use; and (2) 19 is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

18 20 U.S.C. § 1839(3). To prevail on a claim under the DTSA, “a plaintiff must prove: (1) that the 21 plaintiff possessed a trade secret[;] (2) that the defendant misappropriated the trade secret; and (3) 22 that the misappropriation caused or threatened damage to the plaintiff.” *InteliClear, LLC v. ETC 23 Glob. Holdings, Inc.*, 978 F.3d at 657–58 (citing 18 U.S.C. § 1839(5)).

24 Both Mariano and Procore argue that Oracle fails to plead sufficient particularity of the 25 trade secrets. Moreover, Mariano argues that Oracle fails to plead misappropriation as to him, and 26 Procore argues that Oracle fails to plead misappropriation as to it. 27 1. Particularity of Trade Secrets 1 with sufficient particularity to give defendants reasonable notice of the issues which must be met 2 at the time of trial and to provide reasonable guidance in ascertaining the scope of appropriate 3 discovery.” *MedioStream, Inc. v. Microsoft Corp.*, 869 F. Supp. 2d 1095, 1113 (N.D.

Cal. 2012). 4 “Plaintiffs must clearly refer to tangible trade secret material instead of referring to a system 5 which potentially qualifies for trade secret protection. Plaintiffs may not simply reply upon 6 ‘catchall’ phrases or identify categories of trade secrets.” *Nat’l Specialty Pharmacy, LLC v. 7 Padhye*, 734 F. Supp. 3d 922, 930 (N.D. Cal. 2024) (quoting *InteliClear*, 978 F.3d at 657–58).

8 “[T]he basic test is (1) whether something beyond general knowledge is being claimed and (2) 9 whether there is enough specificity to put the defendant on notice of what the theft is about.” 10 *Arthur J. Gallagher & Co. v. Tarantino*, 498 F. Supp. 3d 1155, 1172 (N. D. Cal. 2020). 11 Defendants argue that Oracle alleges only “broad categories and vague descriptions” of the 12 trade secrets at issue, that Oracle does not distinguish its claimed trade secrets from “matters of 13 general knowledge,” and that Oracle fails to plead the economic value of the trade secrets.

ECF 14 No. 38 at 27–31; ECF No. 40 at 18–22. Oracle responds that it identified its trade secrets not as 15 “broad catchall categories” but “as particular files,” that it sufficiently pleads that the alleged trade 16 secrets are not “generally known,” and that its allegations regarding its investments in the alleged 17 trade secret materials and their impact on Oracle’s success in the market are sufficient to plead 18 economic value.

ECF No. 53 at 28–31; ECF No. 51 at 20–29. 19 Oracle’s cited cases are closer to the mark than Defendants’. *Arthur J. Gallagher & Co.*, 20 498 F. Supp. 3d 1155, is particularly instructive. There, as here, a plaintiff alleged theft of 21 particular categories of documents and then provided “examples of specific documents (which the 22 defendant former employee] emailed to her personal email account).” *Id.* at 1172.

The court held 23 that the plaintiff’s description made it “plausible that something other than general knowledge is at 24 issue,” and the plaintiff’s identification of “nine specific documents that it claimed contained its 25 trade secrets” left “little doubt here that Defendant have been put on adequate notice.” *Id.* at 26 1172–73.

The same is true here. Oracle identifies specific categories of alleged trade secret materials: documents relating to Oracle's TPM and ERP integrations (the process of connection to a client's enterprise resource software), such as: (1) confidential and proprietary source code computer files, including python source code files and SQL database files related to specific ERP adapters developed by Oracle engineers; (2) confidential test plans, project plans, and implementation plans developed by Oracle engineers associated with integrations with various ERPs for specific Oracle client implementations; (3) confidential files reflecting Oracle client information, revenue projections, and other internal strategy documents related to Oracle's TPM and ERP integrations; and (4) confidential internal Oracle documents and presentations detailing the design and implementation of various Oracle ERP integrations.

ECF No. 1 ¶ 37. The complaint then lists specific documents and describes the alleged trade secret nature of their contents: For example, those files include specific.zip files entitled 'TexturaCloud.zip' and 'TexturaSPs.zip,' which include over 50 proprietary and confidential Oracle SQL source code files (together with log files) developed by Oracle engineers and related to implementing Oracle's TPM Viewpoint Adapter.

These confidential Oracle code files are confidentially deployed at a customer-site to enable integration with Oracle TPM, and only pursuant to non-disclosure agreements with those at the customer to whom disclosure is necessary. These confidential code files, developed through substantial effort of Oracle engineers, are critical to Oracle's success in the marketplace, including as a result of their secret and proprietary nature....

Id. ¶ 53; see, e.g., id. ¶¶ 54–57. As in *Arthur J. Gallagher & Co.*, Oracle's allegations leave "little doubt... that Defendants have been put on adequate notice" of what it is that Oracle claims is trade secret. 498 F. Supp. 3d at 1172; see also *TMX Funding, Inc. v. Impero Tech. Inc.*, No. C 10-00202 JF (PVT), 2010 WL 2509979, at *3 (N.D. Cal. June 17, 2010) (trade secret allegations were sufficient where plaintiff alleged nine broad categories of trade secret information, including, among other things, "[i]ts software, source codes, data, formulas, and other technical information developed as proprietary and confidential products and services").

Moreover, Oracle's allegations that the materials were "confidentially deployed... and only pursuant to non-disclosure agreements" are sufficient to plead that they are materials beyond general knowledge. See *Salesforce.com, Inc. v. GEA, Inc.*, No. 19-cv-01710-JST, 2021 WL 9860787, at *6–7 (N.D. Cal. Feb. 2, 2021) (allegations are sufficient to raise inference that information is protectable as a trade secret).

And its allegations that the materials were "developed through substantial effort of Oracle engineers" and "are critical to Oracle's success in the marketplace" show independent economic value. See *Cisco Sys., Inc. v. Chung*, No. 19-cv-07562-PJH, 2020 WL 4505509, at *5 (N.D. Cal.

Aug. 5, 2020) 5 (“alleged effort and sales advantage” sufficient to plead independent economic value).

6 Accordingly, the Court finds that Oracle has sufficiently pled the particularity of the trade secrets 7 alleged. 8 2. Misappropriation by Mariano 9 Under the DTSA, “misappropriation” means either the “(1) [a]cquisition of a trade secret 10 by another person who knows or has reason to know that the trade secret was acquired by 11 improper means;” or the “(2) [d]isclosure or use of a trade secret of another without express or 12 implied consent.” 18 U.S.C. § 1839(5).

13 Mariano argues that Oracle fails to plead misappropriation by him. ECF No. 38 at 32–33. 14 Mariano claims that Oracle pleads only “incidental possession” and relies improperly on the 15 inevitable disclosure doctrine. ECF No. 38 at 32–33. 16 But Oracle pleads far more than that Mariano merely “failed to return lawfully required 17 information,” ECF No. 38 at 32, including that Mariano transferred those files from his Oracle 18 laptop to his Procore laptop “nearly two years after Mariano started working on competing 19 products at Procore, in furtherance of his job responsibilities and within the scope of his 20 employment.” ECF No. 1 at ¶ 20.

Courts have allowed trade secret misappropriation with similar 21 even fewer indicia of misappropriation. See, e.g., *E. & J. Gallo Winery v. Instituut Voor 22 Landbouw—En Viserijonderzoek*, No. 1:17-cv-00808-DAD-EPG, 2018 WL 2463869, at *7 (E.D. 23 Cal. June 1, 2018) (allegations of similarity of products accompanied by allegations of exactly 24 how defendants improperly obtained the alleged trade secrets were sufficient to plead 25 misappropriation).

Mariano’s citation to cases in which courts dismissed claims alleging solely 26 that an employee immediately began working for a competitor or that a competitor developed a 27 product in “record time” is unavailing, because, as explained above, Oracle pleads more here. 1 3. Misappropriation by Procore 2 Finally, Procore argues that Oracle fails to plead misappropriation as to Procore because 3 Oracle “cannot merely impute [its] allegations against Mr. Mariano to Procore” and Oracle fails to 4 plead Procore’s knowledge that it acquired trade secrets.

ECF No. 40 at 24–26. 5 Oracle responds first that it pled that Procore is vicariously liable for Mariano’s conduct. 6 ECF No. 51 at 34. “Whether an employer is vicariously liable for an employee’s misappropriation 7 turns on whether the employee’s trade secret misappropriation ‘was committed within the scope of 8 employment.’” *Neutron Holdings, Inc. v. Hertz Corp.*, No. 23-cv-00934-JSC, 2023 WL 3919465, 9 at *5 (N.D.

Cal. June 8, 2023) (quoting *Brain Injury Ass’n of Cal. v. Yari*, No. 19-CV-5912, 2020 10 WL 3643482, at *6 (C.D. Cal. Apr. 30, 2020)). Procore argues on reply that Oracle does not plead 11 facts sufficient to establish that Mariano’s misappropriation occurred “within the scope.” ECF 12 No. 55 at 21.

The Court is not persuaded: Oracle pleads that Mariano’s “misappropriation... 13 occurred, and is occurring, during the course and within the scope of his employment at 14 Procore... including transferring Oracle’s trade secret information to Procore’s equipment, and 15 using such Oracle information in his competitive role at Procore.” ECF No. 1 ¶ 84. Oracle further 16 pleads that Mariano transferred Oracle files to Procore devices after starting at Procore, and that 17 Procore subsequently released a product similar to the Oracle product to which the transferred files 18 were related.

This is sufficient to allege vicarious liability. See *Neutron Holdings, Inc.*, 2023 WL 19 3919465, at *5 (vicarious liability attached where plaintiff’s former employee allegedly took 20 algorithms related to a particular product feature, and defendant then released a product with a 21 similar feature). 22 Accordingly, the Court finds Oracle has sufficiently pled its DTSA claim against Mariano 23 and Procore.

24 /// 25 /// 26 /// 27 /// 1 CONCLUSION 2 For the foregoing reasons, Defendants’ motions to compel arbitration, to stay, and to 3 || dismiss are denied. 4 IT IS SO ORDERED. 5 Dated: April 9, 2025 6 JON S. TIGA! 7 United States District Judge 8 9 10 11 a 12 15 16 it 4 18 19 20 21 22 23 24 25 26 27 28