

## Alert | Trade Secrets



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### Virginia Supreme Court Orders New Trial in \$2 Billion Trade Secrets Case

On Jan. 8, 2026, the Supreme Court of Virginia upheld a decision to overturn a \$2 billion jury verdict in the *Appian v. Pegasystems* trade secrets dispute, where a unanimous jury found that Pega violated the Virginia Computer Crimes Act and misappropriated Appian’s trade secrets, awarding Appian \$2.036 billion, which we discussed in a [prior GT Alert](#). The Virginia Supreme Court ordered a new trial, affirming the Virginia Court of Appeals, on the basis that the circuit court made several legal and evidentiary errors during the jury trial that impacted the presentation of evidence and the burden of the parties related to damages.

#### The Supreme Court’s Holding

After the verdict from the trial court, Pega appealed to the Virginia Court of Appeals, which the Virginia Supreme Court then affirmed, upholding both the sufficiency of the evidence and the finding of reversible trial errors requiring a new trial.

- 1. Improper Jury Instruction on Damages** — The trial judge told the jury to calculate Pegasystems’ damages based on total sales revenue after misappropriation, then shifted the burden to Pegasystems to prove what portion of those sales the alleged misconduct did not cause. That effectively relieved Appian from proving that the misappropriation caused the claimed financial benefits. Under Virginia trade secrets law, Appian must prove that the misappropriation directly caused its damages, but the court did not instruct the jury to require that causal link.

- 2. Wrongly Excluding Software Evidence** — The circuit court refused to let Pegasystems authenticate and introduce copies of its own software because the company had stored it on a laptop different from the one identified in discovery. This prevented Pegasystems from showing that its software did not incorporate Appian’s alleged trade secrets, which was a key part of its defense.
- 3. Barring Relevant Evidence About Access to Appian’s Information** — The judge excluded evidence showing how many people had access to Appian’s software and instructed the jury that it was “not relevant.” Pegasystems wanted to show that thousands of users, including through free trials and forum access, had access to the information Appian called secret. The Court of Appeals said that evidence could be relevant to whether the information qualified as a trade secret and should not have been barred.
- 4. Limiting Damages Defense Evidence** — The trial court limited Pegasystems’ ability to present evidence about its sales outside of competitive areas with Appian. The initial court allowed Appian to use total company sales as a proxy for unjust enrichment but prevented Pegasystems from showing how much of those sales did not relate to Appian’s business — further skewing the damages.

The case now returns to the Fairfax Circuit Court for a new trial, where a judge must give the jury instructions that correctly explain how to prove causation of damages. Pegasystems can present its previously excluded evidence, including software and user access data. The jury will re-evaluate both liability and damages under proper legal standards. Until that retrial happens, the \$2 billion verdict will not be collected or paid. The decision may establish legal precedent in Virginia litigation and may clarify the burden each party carries, including that trade secret plaintiffs must prove damages directly resulting from misappropriation.

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