

Orrick Wins Stunning Verdict For MGA in Bratz Retrial

Posted by Susan Beck

(Editor's note: An earlier version of this story incorrectly identified Orrick's lead trial lawyers. They were Annette Hurst and Thomas McConville. We regret the error.)

In a stunning reversal of fortune for both MGA and its lawyers at [Orrick, Herrington & Sutcliffe](#), a federal jury in Santa Ana, Calif., sided with MGA in its long-running dispute with Mattel over the rights to the Bratz dolls.

An eight-person jury in Santa Ana, Calif., found that Mattel does not own the rights to the Bratz dolls and MGA did not steal Mattel's trade secrets. Orrick's trial team was lead by Annette Hurst and Thomas McConville. MGA also was represented by Jennifer Keller of [Keller Rackauckas](#). Led by John Quinn, [Quinn, Emanuel, Urquhart & Sullivan](#) represented Mattel.

"The jury completely rejected Mattel's claims of ownership of Bratz," Hurst said. "MGA owns Bratz once and for all."

The jury found that Mattel stole MGA's trade secrets through a campaign of corporate espionage and awarded \$88.4 million in damages that may be trebled, she noted.

Almost three years ago, in the first trial of this case, a jury found that MGA's Bratz dolls infringed Mattel's copyrights and awarded the toy maker \$100 million.

Los Angeles federal district judge Stephen Larson, who was then presiding over the case, issued a crippling injunction shutting down the Bratz franchise, although that injunction was later stayed.

MGA was represented in that trial by [Skadden, Arps, Slate, Meagher & Flom](#). Quinn Emanuel has been Mattel's counsel for the life of this case, which began in 2004. (You can read a feature story about this litigation from The American Lawyer's December issue [here](#).)

Orrick then stepped in and won a huge victory for MGA when it convinced the U.S. Court of Appeal for the Ninth Circuit [to throw out the verdict and injunction](#) and order a new trial. Yet on the eve of the retrial, [MGA tried to get Orrick replaced](#), asserting in court filings that it lacked "full confidence" in the firm, and that Orrick's team lacked sufficient trial experience. MGA insisted it would be "irreparably prejudiced" if it couldn't change counsel. Santa Ana federal district court judge Judge David Carter refused to let Orrick withdraw, citing the disruption to the trial schedule.

"In many respects this was almost a completely different trial," said Hurst about the second trial, noting that the scope of claims and evidence was much broader. (Judge Larson had bifurcated the first trial.) Keller, a criminal defense specialist, was the lead trial lawyer and gave the opening statement and closing argument; Hurst and McConville shared the questioning of witnesses with Keller.

Addressing MGA's statements about Orrick before trial, Hurst said: "I think those filings were taken out of context. The client was facing a very short deadline and panicked. I'd like to put that behind me."

Still, she added: "This makes it absolutely clear that Orrick has the chops to take on anybody."

In a statement, Mattel chief executive officer Robert Eckert said Mattel was "disappointed by the verdict, but we remain committed to protecting the intellectual property that is at the heart of business success."

Mattel General Counsel Robert Normile said in a statement that the company will ask the judge to set aside the verdict.

"We remain committed to protecting the intellectual property that is the core of our business," he said. "Our commitment to doing so does not depend on the results of any single case. MGA's claims against us were simply not supported by the evidence at trial. ... Once the judge rules on our motions, we will evaluate our next steps."

Quinn Emanuel didn't respond to a request for comment