

LEGAL AND PRIVACY

## What can luxury learn from Cartier's allegations against Tiffany?

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*Cartier's lawsuit specifically relates to confidential information related to high jewelry. Image credit: Cartier*

By SARAH RAMIREZ

While French jeweler Cartier's lawsuit against rival Tiffany & Co. over the misappropriation of trade secrets will not be resolved overnight, other luxury brands should pay attention.

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On Feb. 28, the Richemont-owned brand filed a complaint in the Supreme Court of the State of New York alleging that Tiffany illegally obtained confidential business information from a former Cartier employee. The suit specifies that the information in question is specifically related to its high jewelry division, which includes pieces regularly priced between \$50,000 and \$100,000.

"Legal cases can well take years to pan out, but Cartier has asserted that it is being irreparably harmed from the alleged misconduct and seeks to prevent Tiffany from disseminating or further using Cartier's confidential information by moving for expedited discovery and a preliminary injunction," said Milton Springut, founding partner of [Springut Law](#), New York. "A possible resolution could occur in weeks instead of years."

### Cartier v. Tiffany

Cartier's lawsuit names both Tiffany & Co. and former employee Megan Marino as defendants. The plaintiff is requesting Tiffany return and refrain from using any confidential information or trade secrets, as well as unspecified damages.

The suit lays out a timeline from November 2021 to February 2022, from when Ms. Marino was first approached by Tiffany with a job offer to her eventual dismissal from the U.S. jeweler after Cartier approached her and Tiffany management with concerns about her pre-departure activities after it uncovered that she had emailed confidential information about its high jewelry department ([see story](#)).



*Cartier says its high jewelry offerings differentiate it from other luxury maisons. Image credit: Cartier*

"Most trade secret cases like this upwards of 90 percent relate to issues with former employees or contractors," Mr. Springut said. "Businesses need to have systems in place to safeguard their crown jewels and contracts that bind employees, contractors, partners, etc., from divulging information they learn while in business together.

"An unambiguous and comprehensive confidentiality agreement at the onset of a relationship is great place to start."

Although Ms. Marino was not bound by a non-compete agreement, she had previously signed non-disclosure and non-solicitation agreements at Cartier. According to the lawsuit, these agreements covered "confidential information or trade secrets" such as documents, computer files, databases and designs.

"Brands should go beyond simply requiring employees to sign NDAs and non-competes," said Rania V. Sedhom, managing partner of [Sedhom Law Group](#), New York. "They should train employees on what is and is no proprietary and what is common knowledge vs. confidential information or proprietary information.

"I typically advise clients to also explain the consequences of breaching the agreement, as the effects can be averse to both the allegedly breaching employee and the new employer."

Specifically, Cartier claims that the defendant emailed herself confidential information about its high jewelry including detailed stock lists, pricing information, merchandising activities and retail network mapping. She then allegedly referenced and used this confidential information while employed at Tiffany, in addition to soliciting current Cartier employees for more details.

"Altogether, the emailed Cartier information' constitutes, among other things, Cartier's strategy for high jewelry, including enough information to allow a sophisticated competitor to replicate key strategies and, with relative ease, to reverse engineer how Cartier allocates, merchandises and prices its high jewelry stock, and the emailed Cartier information' therefore has enormous commercial value," the complaint reads.

"The allegations by Cartier against Tiffany are not about differentiating the brands, but about what methodologies, information and other internal and non-public information they are utilizing to acquire and retain customer spend," Ms. Sedhom said.

"Did the former Cartier executive download a customer list while at Cartier and reach out to Tiffany? Did Cartier utilize any proprietary sales tools or methodologies that are now being utilized at Tiffany?" she said. "This is the type of analysis that will be undertaken."

As the legal case unfolds, the burden of proof remains on Cartier as the plaintiff.



*A necklace from The Blue Book 2021 high jewelry collection. Image credit: Tiffany & Co.*

"We should keep in mind that there are always two sides to every story," Mr. Springut said. "Cartier has presented their strongest arguments in the complaint that they filed on Monday, but we will not know how strong or shaky those arguments really are until the case pans out further and more is revealed through the process of discovery.

"One initial way Tiffany can approach their defense is to make Cartier identify with particularity what it claims are its trade secrets and confidential information that it alleges Tiffany is misusing and then for Tiffany to prove the information is not a secret, has no economic value, etc."

Both LVMH and Richemont saw strong growth in their jewelry divisions for fiscal year 2021.

#### Safeguarding secrets

Cartier's lawsuit against Tiffany also underscores the importance of cybersecurity, especially in the era of remote work.

"For cybersecurity, common methods of safeguarding confidential information include robust password protection, limiting access to only key employees with a need to know, storing the information on secure servers instead of local storage, and only conveying information via secure email or similar types of secure communication," Mr. Springut said. "If an employee loses a company device, or if they are terminated while in a remote role, the company should have protocols in place to remotely erase the information."

Virtually all business information today resides in computer systems. This means that, to maintain the trade secret protection for any such information, reasonable efforts must be made to keep it secure.

In a few cases, courts have rejected trade secret claims because the owner's cybersecurity efforts were inadequate ([see story](#)). Cartier claims that it maintains its confidential business information on password-protected computers, but Ms. Marino had no business need to access the files in question prior to joining Tiffany.

This is not the first time Cartier has pursued legal action against a former employee.

In 2014, Cartier [sued](#) a former advertising executive for attempted digital theft of trade secrets before joining Tiffany & Co. The case was eventually settled and dismissed.

"Trade secrets are different from all other intellectual property in that there is no governmental involvement at all in securing the rights," Mr. Springut said.

"Patents are issued by the Patent Office; trademarks and copyrights are registered with their respective government offices," he said. "But trade secrets are secured solely through due diligence of the business that uses them."