UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FORD MOTOR COMPANY,

Plaintiff,

v.

VERSATA SOFTWARE, INC. *et al.*

Defendants.
_____/

Case No. 15-cv-10628
(*consolidated with Case No. 15-11624*)
Hon. Matthew F. Leitman

ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COUNTERCLAIMS (ECF #178)

On October 7, 2016, Plaintiff Ford Motor Company ("Ford") filed an answer to Defendants' First Amended Counterclaims. (*See* ECF #166.) With its answer, Ford included ten counterclaims that it had not previously asserted ("Ford's Counterclaims"). (*See id.*) Versata has now moved to strike or dismiss Ford's Counterclaims (the "Motion to Dismiss"). (*See* ECF #178.)

The Court held a hearing on the Motion to Dismiss on January 6, 2016. For the reasons stated on the record at the hearing, **IT IS HEREBY ORDERED** as follows:

(1) With respect to counts 1-9 of Ford's Counterclaims, which relate to claims of patent invalidity and breach of contract, the Court exercises its discretion to treat these counts as a motion for leave to amend Ford's Amended Complaint

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(ECF #6) under Federal Rule of Civil Procedure 15(a)(2). The Court **GRANTS** that motion. Ford shall file a Second Amended Complaint that includes these counts by no later than **January 20, 2017**.

(2) With respect to count 10 of Ford's Counterclaims, which relates to alleged inequitable conduct, the Motion to Dismiss is **GRANTED**. However, when Ford files its forthcoming Second Amended Complaint, it may attempt to re-plead its inequitable conduct claim by pleading additional specific facts that address the Court's concerns raised at the hearing. If Defendants believe that Ford's re-pleaded count for inequitable conduct still fails to state a claim, they may move to dismiss the claim.

(3) In all other respects, the Motion to Dismiss is **DENIED**.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: January 9, 2017

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on January 9, 2017, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
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