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 ON MOTION HEARING

On March 31, 2017, the Court held a hearing on three pending motions:

- Versata's motion to dismiss Ford's inequitable conduct claim (ECF #245);
- Ford's motion to dismiss Versata's counterclaims under the Digital Millennium Copyright Act (the "DMCA") (ECF #253); and
- Ford's motion to exclude Versata's new trade secret, copyright, and patent infringement contentions (ECF #259).

For the reasons stated on the record at the hearing, **IT IS HEREBY ORDERED** that:

- Versata's motion to dismiss Ford's inequitable conduct claim (ECF #245) is **GRANTED,** and Ford's inequitable conduct claim is **DISMISSED**;

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- Ford's motion to dismiss Versata's counterclaims under the DMCA (ECF #253) is **GRANTED,** and those counterclaims are **DISMISSED**. However, the Court will allow Versata to file an amended counterclaim under Section 1202 (only) of the DMCA (17 U.S.C. §1202). The amended counterclaim under Section 1202 should address the concerns that the Court expressed on the record with respect to the counterclaim as originally pleaded. Versata shall file such an amended counterclaim under Section 1202 by no later than seven (7) days from the date of this Order. Ford shall respond to the amended counterclaim within ten (10) days of its filing.
- Ford's motion to exclude Versata's new trade secret, copyright, and patent infringement contentions (ECF #259) is **DENIED**. However, the Court will extend all of the dates on the current scheduling order in order to accommodate the addition of the new contentions into this action. The Court directs the parties to meet and confer promptly in an effort to agree upon extensions of the current dates, and if an agreement is reached, the parties shall submit a proposed stipulated scheduling order to the Court. If the parties cannot agree, Ford shall file a motion to extend the dates in which Ford presents its proposed schedule and the reasons supporting that schedule, and Versata shall respond to the

motion with its proposed schedule and supporting reasons. Ford's motion, if necessary, shall be filed within thirty (30) days from the entry of this order, and Versata's response to the motion shall be filed within seven (7) days of the filing of the motion by Ford.

IT IS SO ORDERED.

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

Dated: April 3, 2017

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on April 3, 2017, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(313) 234-5113