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 RESOLVING PLAINTIFF'S MOTION TO COMPEL IDENTITY OF ASSERTED COMBINATION TRADE SECRETS (ECF No. 775)

On March 3, 2021, Plaintiff Ford Motor Company filed a motion to compel Defendant Versata Software, Inc., to identify the elements of its asserted combination trade secrets. (*See* Mot., ECF No. 775.) Ford also sought leave to file two additional rebuttal expert reports. (*See id.*) The Court held a video hearing on the motion on September 28, 2021. For the reasons explained during the motion hearing, Ford's motion is **RESOLVED** as follows:

- With respect to Versata's misappropriation of trade secret claim, the four trade secrets at issue that will be presented to the jury are: (1) The Grid, (2) Buildability, (3) Workspaces, and (4) MCA.
- The elements of the Grid trade secret are: (1) The Dynamic Grid, (2) Error Resolution Workflow, (3) Rule Splaying and Overlap Prevention, (4) Local

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Summary Codes, and (5) Grid Templates. The content of each of these elements of the Grid trade secret shall be determined solely with reference to the corresponding section(s) of Dr. Sam Malek's expert report describing that element. (*See* Dr. Malek Rpt., ECF No. 430-3.) More specifically, the content of the Dynamic Grid element of the Grid trade secret shall be determined solely with reference to sections 6.2.1 – 6.2.3 of Dr. Malek's report.[1] (*See id.*, PageID.29499-29508.) The content of the Error Resolution Workflow element of the Grid trade secret shall be determined solely with reference to section 6.3.1 of Dr. Malek's report. (*See id.*, PageID.29521-29522.) The content of the Rule Splaying and Overlap Prevention element of the Grid trade secret shall be determined solely with reference to section 6.4.1 of Dr. Malek's report. (*See id.*, PageID.29528-29531.) The content of the Local Summary Codes element of the Grid trade secret shall be determined solely with reference to section 6.5.1 of Dr. Malek's report. (*See id.*, PageID.29534.)

[1] The table of contents to Dr. Malek's expert report contains a numbering error. In the table of contents, Dr. Malek identifies section 5 of his report as the section that discusses the Grid trade secret. (*See* Dr. Malek Rpt., ECF No. 430-3, PageID.29466.) In fact, the section of Dr. Malek's report that discusses the Grid is section 6. Likewise, Dr. Malek's table of contents identifies section 6 as discussing Buildability, section 7 as discussing Workspaces, and section 8 as discussing MCA. (*See id.*, PageID.29467-29468.) But those sections are actually found in the body of Dr. Malek's report at sections 7, 8, and 9 respectively. To avoid any confusion, in this order, the Court will refer to the actual section numbers Dr. Malek used in the body of his report, and not the misnumbered sections referenced in Dr. Malek's table of contents.

Finally, the content of the Grid Templates element of the Grid trade secret shall be determined solely with reference to section 6.7.1 of Dr. Malek's report. (*See id.*, PageID.29552-29553.)

- The elements of the Buildability trade secret are: (1) Buildability Using Minimized Tries, (2) Directed Acyclic Graph (DAG), (3) Filtering Non-Buildable Rules, (4) Retiming, (5) Rule Layers and Manipulation, and (6) Use of Polar Sets to Represent Modeler Intent. The content of each of these elements of the Buildability trade secret shall be determined solely with reference to the corresponding section of Dr. Malek's expert report describing that element. More specifically, the content of the Buildability Using Minimized Tries element of the Buildability trade secret shall be determined solely with reference to section 7.2.1 of Dr. Malek's report. (*See id.*, PageID.29557-29560.) The content of the Directed Acyclic Graph (DAG) element of the Buildability trade secret shall be determined solely with reference to section 7.3.1 of Dr. Malek's report. (*See id.*, PageID.29567-29571.) The content of the Filtering Non-Buildable Rules element of the Buildability trade secret shall be determined solely with reference to section 7.4.1 of Dr. Malek's report. (*See id.*, PageID.29580-29582.) The content of the Retiming element of the Buildability trade secret shall be determined solely with reference to section 7.5.1 of Dr. Malek's report. (*See id.*,

PageID.29587-29591.) The content of the Rule Layers and Manipulation element of the Buildability trade secret shall be determined solely with reference to section 7.6.1 of Dr. Malek's report. (*See id.*, PageID.29595-29601.) Finally, the content of the Use of Polar Sets to Represent Modeler Intent element of the Buildability trade secret shall be determined solely with reference to section 7.7.1 of Dr. Malek's report. (*See id.*, PageID.29605-29612.)

- The elements of the Workspaces trade secret are: (1) Workspaces, (2) Engineering/Marketing Views and Flowthrough, and (3) Modeling Process. The content of each of these elements of the Workspaces trade secret shall be determined solely with reference to the corresponding section of Dr. Malek's expert report describing that element. More specifically, the content of the Workspaces element of the Workspaces trade secret shall be determined solely with reference to section 8.2.1 of Dr. Malek's report. (*See id.*, PageID.29622-29630.) The content of the Engineering/Marketing Views and Flowthrough element of the Workspaces trade secret shall be determined solely with reference to section 8.3.1 of Dr. Malek's report. (*See id.*, PageID.29635-29639.) Finally, the content of the Modelling Process element of the Workspaces trade secret shall be determined solely with reference to section 8.4.1 of Dr. Malek's report. (*See id.*, PageID.29643-29645.)

- The elements of the MCA trade secret are: (1) Automatic Generation of Accurate and Augmented Configurations (*i.e*. Feature Strings) as Baselines for Parts and Materials Forecasting, (2) Use of Feature Optionalities in Feature String Generation to Isolate Parts Cost, and (3) Inclusion of Dynamic Effectivity for Feature Strings. The content of each of these elements of the MCA trade secret shall be determined solely with reference to the corresponding section of Dr. Malek's expert report describing that element. More specifically, the content of the Automatic Generation of Accurate and Augmented Configurations (*i.e*. Feature Strings) as Baselines for Parts and Materials Forecasting element of the MCA trade secret shall be determined solely with reference to section 9.2.1 of Dr. Malek's report. (*See id.*, PageID.29649-29651.) The content of the Automatic Generation of Accurate and Augmented Configurations (*i.e*. Feature Strings) as Baselines for Parts and Materials Forecasting element of the MCA trade secret shall be determined solely with reference to section 9.2.2 of Dr. Malek's report. (*See id.*, PageID.29651-29653.) Finally, the content of the Inclusion of Dynamic Effectivity for Feature Strings element of the MCA trade secret shall be determined solely with reference to section 9.2.3 of Dr. Malek's report. (*See id.*, PageID.29653.)

- Ford may serve on Versata the "technical" rebuttal expert report and the "damages" rebuttal expert report identified in its motion by no later than **November 12, 2021**.

IT IS SO ORDERED.

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

Dated: September 28, 2021

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on September 28, 2021, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(810) 341-9764