

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

FORD MOTOR COMPANY,

Plaintiff/Counter-Defendant,

v.

CASE NO. 15-10628-MFL-EAS
(Consolidated with
Case No. 15-11624-MFL-EAS)
Hon. Matthew F. Leitman

VERSATA SOFTWARE, INC., F/K/A
TRILOGY SOFTWARE, INC., TRILOGY
DEVELOPMENT GROUP, INC. AND
TRILOGY, INC.,

Defendants/Counter-Plaintiffs.

**DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT,
AFFIRMATIVE AND SPECIAL DEFENSES,
DEFENDANTS' COUNTERCLAIMS,
AND RELIANCE ON JURY DEMAND**

ANSWER

Defendants Versata Software, Inc., f/k/a Trilogy Software, Inc., Trilogy Development Group, Inc., and Trilogy, Inc. (collectively, “Versata”) by their attorneys, Steven J. Mitby of the Houston, Texas law firm of AHMAD, ZAVITSANOS, ANAIPAKOS, ALAVI & MENSING, P.C., and Rodger D. Young of the Farmington Hills, Michigan law firm of YOUNG & ASSOCIATES, hereby answer the Complaint of Plaintiff Ford Motor Company (“Ford”):

PRELIMINARY STATEMENT

Plaintiff Ford Motor Company Has Misappropriated Versata’s Trade Secrets and Infringed Versata’s Patents

Ford Motor Company is one of the biggest automotive companies in the world. Ford’s success depends on complex software that works behind the scenes to enable Ford to design, develop, manufacture, distribute, market, and sell vehicles on four continents. The backbone of this global system is Versata’s Automotive Configuration Management (ACM), a software program that Versata developed in Austin, Texas at a cost of hundreds of thousands of person-hours and millions of dollars.

Versata’s ACM software enables Ford to “configure” vehicles from billions of potential combinations of parts, features, and options. By solving the complex mathematical, logical, and logistical problems involved in designing and configuring vehicles, ACM ensures that every Ford vehicle consists of compatible parts and

features that Ford can manufacture. In addition, the software ensures that each Ford vehicle configuration complies with Ford's sales, marketing, and other business requirements. In short, ACM ensures that the automotive designs Ford develops are for vehicles that Ford can build, manufacture, and sell.

Ford began using Versata's automotive configuration technology in October 1998 after experimenting unsuccessfully with homegrown solutions. Ford tried, but ultimately failed, to develop software that was sophisticated, accurate, and efficient enough to meet its configuration needs. By the late 1990s, these needs had become critical because Ford had lost hundreds of millions of dollars because of configuration errors. Ford incurred these costs primarily because its existing configuration process – which depended heavily on large teams of engineers, involved extensive manual inputs, and was subject to significant risk of human error – caused multi-million dollar vehicle recalls and manufacturing delays.

Between October 1998 and January 2015, Versata became Ford's chief provider of configuration software. Ford integrated ACM throughout its business and came to depend on Versata to run its global operations. Because ACM provides the configuration models that determine the products Ford can design and build, Ford has integrated ACM with its global design, development, finance, marketing, dealer ordering, and retail website software. In short, Ford's global information technology infrastructure was totally dependent on – and could not function without

– ACM. Because of this dependence, Ford could not design, manufacture, or sell a single vehicle without Versata’s technologies.

In or before 2011, Ford management became concerned about the extent of Ford’s dependence on ACM and did not want to pay the relatively modest price increases that Versata requested as part of license renewals. Even though Ford was receiving hundreds of millions and perhaps billions of dollars in benefits from Versata software, Ford’s management decided it wanted to break ties with Versata. Ford vice president Elena Ford (who is also an influential shareholder within the company) expressed her distaste for Versata and told a colleague that Ford would not do business with Versata because Versata had allegedly “put Ford over a barrel.” But Ford did not have any software that it could use to replace ACM or reduce its need for Versata’s technologies. So, based on this pressure from upper management, Ford launched a program called “Total Configuration Management” or “TCM” to replicate the functionality of ACM and provide a complete replacement for ACM software.

Ford now claims that TCM (which Ford later renamed “Product Definition and Offer” or “PDO”) uses entirely different technologies from ACM, claiming that the company implemented a “Chinese wall” to protect Versata trade secrets and emphasizing the fact that Ford obtained a patent (U.S. Patent No. 8,812,375) on some of the technology used in this software. However, the functionality of the

TCM software and the development process Ford used to create it refutes this assertion. Even without any fact discovery, it is evident that Ford incorporated Versata's patented technologies and trade secrets into TCM and used these technologies to replace ACM.

First, far from employing a "Chinese wall," Ford used at least twenty-six people – and possibly more – who had worked on or had access to Versata's configuration technologies to develop TCM. The head of this development project was Mike Sullivan, the Ford executive who had overseen Ford's implementation and integration of ACM since at least 2000. Indeed, Sullivan had unrestricted access to ACM for more than a decade before he was assigned to lead the TCM development process and Sullivan continued to work on ACM simultaneously with TCM. The other individuals on both sides of Ford's "Chinese wall" include Bryan Goodman, Gintaras Puskorius, Kurt Reinke, Sanjay Sisale, Ram Pillarisetty, Garghi Shah, David Wierzbicki, Sunil Gajula, Manisha Tambe, Darlene Coomer, Jian Lin, Fred Wilkinson, Linda Wu, Rachel Sims, Chris Andrews, Martin Pipoly, Yakov Fradkin, Jim Beardslee, Ravi Kundoor, Ganesh Alla, Erin Jasso, Aaron Bush, Rachel Smith, Sai Viswanatha, and Colin Shury. Versata expects to identify even more individuals through discovery.

Ford's deliberate use of people who had significant knowledge of and exposure to ACM confidential information was not a coincidence: These individuals

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