CLIENT ALERTS & INSIGHTS

Versata v. Ford: Federal Circuit Reinstates $82M Award and Opens Door to Even Greater Damages

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Featured Practices: Trade Secrets, Restrictive Covenants & Unfair Competition, Trade Secrets Litigation, Intellectual Property Litigation, Commercial Litigation & Disputes

Key Takeaways:

- The Federal Circuit reinstated a $82.3 million award against Ford for breaching a software licensing agreement with Versata, ruling that Versata can seek even greater damages for trade secret misappropriation-including unjust enrichment-in a new trial.
- This decision broadens the potential financial exposure for companies accused of trade secret theft, as courts cannot limit plaintiffs to only reasonable royalty damages when unjust enrichment is also available under federal and state law.
- What's next: Businesses should review their software licensing and trade secret protection strategies, ensure compliance with agreements and be prepared for expanded damages claims in litigation.

Recently, the Federal Circuit affirmed the Eastern District of Michigan's ruling that Ford Motor Company ("Ford") misappropriated Versata Software Inc.'s ("Versata") trade secrets and breached a software licensing agreement. The three-judge panel ordered a new trial on trade secret damages, finding that the lower court improperly limited available damages theories, and reinstated the jury's $82.3 million award from Ford's breach of the software licensing agreement.

This appeal stems from Versata and Ford's software licensing relationship dating back to 2004. From 2004 to 2014, Versata provided vehicle configuration tools to Ford for use in its automobiles. When the agreement expired in 2014 and the parties could not agree on extension terms, Ford released its own manufacturing configuration software. Versata accused Ford of misappropriating its trade secrets and violating the software licensing agreement by using and reverse-engineering its software.

Prior to trial, Versata presented two trade secret damages theories: (1) a reasonable royalty tied solely to the parties' licensing history and (2) unjust enrichment. The trial court, however, precluded Versata from pursuing unjust enrichment damages, confining Versata to its reasonable royalty theory, reasoning that unjust enrichment damages are an alternate damages measurement that is only appropriate when trade secret damages are not subject to exact measurement.

After trial in 2022, the jury found Ford liable for breach of the software licensing agreement and trade secret misappropriation, awarding Versata $104.6 million in damages. The district court then reduced the award to just $3 for contract damages and eliminated the $22.4 million in reasonable royalty trade secret damages, finding that the jury lacked a reliable basis to determine how long Ford would have taken to develop the technology independently.

The Federal Circuit, however, disagreed with the district court's damages decisions. The panel reinstated the full $82.3 million in contract damages, holding that the award was neither beyond the range supported by proof nor so excessive as to shock the conscience. The Federal Circuit also ordered a new trial on trade secret damages finding that the district court judge erred in barring Versata from pursuing unjust enrichment damages. In its precedential decision, the Federal Circuit confirmed that both the Defend Trade Secrets Act ("DTSA") and the Michigan Uniform Trade Secrets Act ("MUTSA") expressly permit plaintiffs to pursue unjust enrichment damages for trade secret misappropriation and a district court may not foreclose that remedy simply because licensing history exists between the parties. The ruling reopens the scope of Versata's damages available on retrial and allows the company to seek damages beyond a reasonable royalty theory.

As reinforced by the Federal Circuit, a trade secret plaintiff has a statutory right to pursue unjust enrichment damages, and a court may not categorically force a plaintiff into a reasonable royalty-only damages framework. The panel's decision regarding permissible damages theories for a trade secret plaintiff has broad implications as the statutory language at issue is found in both the DTSA and many uniform trade secrets acts adopted by the vast majority of states, such as the MUTSA.

Benesch attorneys continue to track developments in trade secret remedies nationwide and are prepared to advise clients on which damages theories to pursue to maximize recovery.