

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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AUTODATA SOLUTIONS, INC.,  
Plaintiff-Appellant,

UNPUBLISHED  
May 29, 2012

v

VERSATA SOFTWARE, INC., and VERSATA  
DEVELOPMENT GROUP, INC.,

No. 302098  
Oakland Circuit Court  
LC No. 2010-113183-CB

Defendants-Appellees.

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Before: BORRELLO, P.J., and BECKERING and GLEICHER, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order granting defendants' motions for summary disposition pursuant to MCR 2.116(C)(1), MCR 2.116(C)(4), and MCR 2.116(C)(6). For the reasons set forth in this opinion, we affirm.

Plaintiff and defendants both provide software technology to original equipment manufacturers (OEMs) including Ford Motor Company. The software technology ultimately enables buyers and sellers to configure parts, features, and options on a vehicle. In 1997 and 1998, the parties collaborated on a project for Ford (Ford Project). Over the course of the project, the parties executed a Master Services Agreement (MSA) wherein they agreed to share technical information. Shortly thereafter, the parties were involved in litigation and eventually entered into a settlement agreement in 2001.

In 2008, defendants filed a complaint in the United States District Court for the Eastern District of Texas, Marshall Division (Federal Action) against plaintiff and other parties. In the complaint, defendants alleged that plaintiff had infringed on several of its patents related to configuration software. Plaintiff filed a counterclaim and alleged that defendants misappropriated certain "confidential information" that it had disclosed to defendants. Plaintiff alleged, in part, that defendants used the information to obtain patents. One day later, with the Federal Action pending, plaintiff commenced this case and alleged that defendants misappropriated certain trade secrets that plaintiff had disclosed during the course of the Ford Project.

Defendants moved for summary disposition and the trial court granted defendants' motions pursuant to MCR 2.116(C)(1) for lack of personal jurisdiction, MCR 2.116(C)(4) for

lack of subject-matter jurisdiction, and MCR 2.116(C)(6) on grounds that plaintiff's claims were the same or substantially similar to its counterclaims pending in the Federal Action.

On appeal, plaintiff contends that the trial court erred in granting summary disposition pursuant to MCR 2.116(C)(6). We review de novo a trial court's decision whether to grant summary disposition pursuant to MCR 2.116(C)(6). *Valeo Switches & Detection Sys, Inc v EMCom, Inc*, 272 Mich App 309, 311; 725 NW2d 364 (2006). In reviewing a motion brought under MCR 2.116(C)(6), we consider the affidavits, pleadings, depositions, admissions and other documentary evidence submitted by the parties in the lower court. MCR 2.116(G)(5).

Summary disposition is proper under MCR 2.116(C)(6) where “[a]nother action has been initiated between the same parties involving the same claim.” This rule applies regardless of whether the other action was brought in state or federal court, *Valeo*, 272 Mich App at 319, and it “does not require that all the parties and all the issues be identical.” *JD Candler Roofing Co, Inc, v Dickson*, 149 Mich App 593, 598; 386 NW2d 605 (1986). Rather, summary disposition is appropriate where two suits are “based on the same or substantially the same cause of action.” *Id.* (quotation omitted). In determining whether two suits involve the same or substantially the same cause of action, it is proper to consider the similarity of the facts and issues to be litigated in each proceeding. *Id.* at 600-601.

In this case, we find that the trial court properly granted summary disposition pursuant to MCR 2.116(C)(6) because the Federal Action was pending and it involved the same parties and the same or substantially the same cause of action. *Id.* Additionally, both cases involve a patent dispute that involves the same facts, allegations of wrongdoing, requests for relief, and legal issues.

Our review of the record in this matter leads us to conclude that the matter before us involves the same factual dispute as in the Federal Action relative to all aspects of the technical components that underlie configuration software. Configuration software incorporates multiple components. In both the Federal Action and in this case, plaintiff alleged that defendants' misappropriated information related to such components. In the Federal Action, plaintiff alleged that defendants misappropriated certain “confidential information” that it had disclosed pursuant to the MSA and MSA Schedule B during the course of the Ford Project. Plaintiff broadly described such information to include technology used for “pricing, configuring and comparing vehicles.” In an interrogatory, plaintiff further explained that such information included “all” of its “existing products, service descriptions and methodologies, and the technology underlying these products and services” disclosed pursuant to the MSA and MSA Schedules A and B.

Similarly, in this case, plaintiff alleged that defendants misappropriated certain “trade secrets” and “licensed works” that it obtained from plaintiff during the Ford Project. Plaintiff broadly described such trade secrets and “licensed works” to include technology related to “data models and extraction rules for customer facing applications for automobile manufacturers.” Similar to the Federal Action, in this case plaintiff stated that it disclosed the information pursuant to the MSA and MSA Schedule B during the course of the Ford Project. Thus, in the Federal Action and in this case, plaintiff alleged that defendants misappropriated certain confidential information related to the technical components that work together to form configuration software. While there may be minor nuances between the descriptions of the

technology in the counterclaim as compared to the complaint, we find that, both cases involve a patent dispute that concerns technical components which function together and underlie configuration software.

We also conclude that both cases involve the same alleged wrongful conduct. In the Federal Action, plaintiff alleged that defendants misappropriated proprietary information to obtain patents and used the information to interfere with plaintiff's business relationships. In this case, while plaintiff made no mention of patents, it alleged that defendants misappropriated and exploited its trade secrets to further their own interests. In short, both cases involve allegations that defendants improperly used plaintiff's proprietary technology.

We additionally find that both cases involve the same or substantially similar requests for relief. In the Federal Action, plaintiff sought, *inter alia*, damages arising from the alleged misuse of its confidential information, an order quieting title to its confidential information, and an order declaring defendants' patents unenforceable. In this case, plaintiff requested, in part, damages arising from defendants' misappropriation of its trade secrets and the return of its trade secret information.

Lastly we conclude that both cases require resolution of the same or substantially similar legal issues. In both cases, plaintiff alleges that defendants misappropriated its proprietary technology. In the Federal Action, defendants maintain that plaintiff infringed on its patents. Thus, resolution of the claims and counterclaims in the Federal Action necessarily requires a determination of whether defendants are the rightful owner of the technology underlying their patents. Hence, resolution of the claims in the Federal Action necessarily involves a determination of whether defendants misappropriated plaintiff's proprietary technology to wrongfully obtain the patents at issue in that case. Likewise, resolution of plaintiff's claims in this matter turns on a finding of whether defendants misappropriated plaintiff's proprietary technology.

Plaintiff argues that its claims in this case are distinct from the counterclaims it raised in the Federal Action. Plaintiff maintains that the Federal Action involves technology related to pricing, configuration, and comparison of vehicles while this case involves certain "back office" "content and data management technology." However, given plaintiff's broad description of the technology in its pleadings, and considering that all of the technical components ultimately function together as a whole, we reject plaintiff's argument that this case involves technical components that are not at issue in the Federal Action.

In conclusion, we find that both this case and the Federal Action involve the same or substantially same cause of action. Therefore, the trial court did not err in granting summary disposition pursuant to MCR 2.116(C)(6).<sup>1</sup> *JD Candler Roofing*, 149 Mich App at 598, 600-601.

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<sup>1</sup> Given our resolution of this issue, we decline to address the other issues plaintiff raises on appeal with respect to personal and subject-matter jurisdiction.

Affirmed. Defendant having prevailed is entitled to costs. MCR 7.219.

/s/ Stephen L. Borrello  
/s/ Jane M. Beckering  
/s/ Elizabeth L. Gleicher