

STATE OF MICHIGAN

MACOMB COUNTY CIRCUIT COURT

JVIS-USA, LLC, a Michigan limited liability company and JVIS MANUFACTURING, LLC, a Michigan limited liability company, d/b/a, JVIS USA MANUFACTURING, LLC,

Plaintiffs,

vs.

Case No. 2013-2742-CB

NARTRON CORPORATION, n/k/a GEN X MICROSYSTEMS and a/k/a OLDNAR CORPORATION, a Michigan corporation and UUSI, LLC, d/b/a NARTRON, a Michigan limited liability company,

Defendants,

and

UUSI, LLC, d/b/a NARTON, a Michigan limited liability company,

Defendant/Counter and Third-Party Plaintiff

vs.

JVIS-USA, LLC, a Michigan limited liability company and JVIS MANUFACTURING, LLC, a Michigan limited liability company, d/b/a, JVIS USA MANUFACTURING, LLC

Counter-Defendants,

and

FUTABA CORPORATION OF AMERICA, a foreign corporation, THOMAS J. GRONSKI, RANDY GRIFFIN, and GINA TERRY,

Third-Party Defendants.

OPINION AND ORDER

Defendants have filed a motion to compel discovery from Third-Party Defendant Futaba Corporation of America, Inc. ("Futaba") and non-parties R.O. Whitesell ("Whitesell") and Mayco International ("Mayco"). Futaba, Whitesell and Mayco (collectively, "Respondents") have each filed a response and request that the motion be denied.

I. Standard of Review

A motion to compel discovery is a matter within the trial court's discretion, and the court's decision to grant or deny a discovery motion will be reversed only if there has been an abuse of that discretion. *Linebaugh v Sheraton Michigan Corp*, 198 Mich App 335, 343-346; 497 NW2d 585 (1993). Generally, parties may obtain discovery regarding any matter not privileged that is relevant to the subject matter involved in the pending action. *Id.*; MCR 2.302(B)(1). MCR 2.313(A)(2)(a) permits the Court to enter an order compelling discovery if a deponent fails to answer a question made during a deposition. It is well settled that Michigan follows an open, broad discovery policy that permits liberal discovery of any matter, not privileged, that is relevant to the subject matter involved in the pending case. MCR 2.302(B)(1); *Domako v Rowe*, 438 Mich 347, 353, 359, 475 NW2d 30 (1991); *In re Hammond Estate*, 215 Mich App 379, 386, 547 NW2d 36 (1996). Although broad discovery is encouraged, a party opposing discovery must not be subject to "excessive, abusive, irrelevant or unduly burdensome discovery requests." *Hamed v Wayne County*, 271 Mich App 106, 110; 719 NW2d 612 (2006) (internal citation omitted). As such, a court may issue "any order that justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense." MCR 2.302(C). Furthermore, discovery should not be extended

merely to allow a "fishing expedition." *VanVorous v Burmeister*, 262 Mich App 467, 477; 687 NW2d 132 (2004).

II. Arguments and Analysis

In their motion, Defendants/Counter-Plaintiffs/Third-Party Plaintiffs request an order requiring Respondents to produce un-redacted documents that are responsive to their previous document requests, and ordering Respondents to produce documents regarding their involvement in the design, development, and manufacture of printed circuit boards ("PCBs") used in the integrated center stack ("ICS") of the Dodge Challenger ("LD"), Dodge Charger ("LA") and Chrysler 300 ("LX") projects.

In this case, Defendants alleges that Plaintiffs and Third-Party Defendants misappropriated their trade secrets, converted their property and/or were unjustly enriched by utilizing the PCBs and other materials Defendants developed in connection with the WK/WD projects to reverse engineer the PCBs so that they would not have to further utilize Defendants' services.

In their Counter/Third-Party Complaint, Defendants allege that they entered into a contract with JVIS under which they would develop and produce PCBs for the WK and WD projects. Further, Defendants allege that after they begin producing and delivering the PCBs, JVIS gave samples of the PCBs to Futaba and hired one of Defendants' former employees in an effort to reverse-engineer the PCBs so that it would not have to purchase them from Defendants. JVIS and Futaba were allegedly ultimately successful in reverse engineering the PCBs for the WK and WD projects.

The underlying basis for Defendants' claims is their assertion that JVIS and the Third-Party Defendants wrongfully obtained property owned by Defendants and used it to Defendants' detriment. The discovery Defendants now seek is based on their

assertion that JVIS and the Third-Party Defendants have, after using the property at issue to reverse engineer the WK and WD PCBs, utilized the property to develop PCBs for the LA, LD and LX projects. Accordingly, in order for the sought discovery to be relevant Defendants would first need to present some evidence that their underlying claims involving the WK and WD project PCBs have merit. While Defendants have presented evidence that the materials and information from the W projects were also utilized for the L projects, Defendants have not established that their claims with respect to the W projects have merit.¹ While the Court is satisfied that the expanded discovery Defendants seek may become appropriate if they are able to establish that JVIS and/or the Third-Party Defendants engaged in wrongful conduct with respect to the W projects, it is not persuaded that expanding discovery is appropriate at this time. As a result, Defendants' motion to compel is denied without prejudice.

III. Conclusion

For the reasons discussed above, Defendants' motion to compel is DENIED, WITHOUT PREJUDICE. Pursuant to MCR 2.602(A)(3), the Court states this Opinion and Order neither resolves the last claim nor closes the case.

IT IS SO ORDERED.

Date: NOV 25 2015

Kathryn A. Viviano
Hon. Kathryn A. Viviano, Circuit Court Judge

¹ The parties have recently filed motions for summary disposition related to these claims which the Court has taken under advisement. Supplemental briefs are due in accordance with the Court's order dated November 4, 2015.