



## U.S. Court of Appeals Affirms \$10 Million Verdict in Landmark Breach of Confidentiality Case

SOUTHFIELD, Mich., Dec. 30 /PRNewswire/ -- The United States Court of Appeals for the Sixth Circuit has affirmed a \$10 million jury award in a U.S. District Court's landmark breach of confidentiality case. In that case, Markham, Ontario-based Multimatic, Inc. prevailed over French-based Faurecia Interior Systems USA, Inc. for the breach of a confidentiality agreement -- the second-largest verdict awarded in Michigan that year.

Steven Susser, shareholder with Southfield, Mich.-based Young & Susser and Multimatic's attorney, regards this as a critical decision with wide-reaching implications for any company working under a confidentiality agreement. "This decision is a multi-million-dollar reminder about the perils of stealing valuable intellectual property. The court has affirmed that theft is theft, whether it be a \$10 million Picasso or a \$10 million idea," he said.

The context of the lawsuit was the supply of cross-car beams for the Chrysler Stratus and Sebring models. Chrysler awarded Faurecia the supply of the instrument panel and Faurecia asked Multimatic to design the panel's cross-car beam -- essentially, the skeleton under the panel. On the understanding that it would be the production source, Multimatic designed and developed an innovative cross-car beam that exceeded expectations.

Before disclosing its proprietary design for the cross-car beam, however, Multimatic demanded that Faurecia sign a confidentiality agreement to protect the intellectual property and technology inherent in that design. Faurecia signed the agreement in February 2004 but in April 2005 secretly took the proprietary design to market for a bid from Multimatic's competitors, thereby violating the terms of the agreement. After receiving quotes from Multimatic's competitors, Faurecia demanded that Multimatic lower its price to produce the cross-car beam and asked Multimatic for a \$200,000 "entry ticket" in order to do business with Faurecia. When Multimatic refused, Faurecia gave the protected product design to Multimatic's competitor and awarded that competitor the production purchase order for the Sebring/Stratus program. It was this act -- and Multimatic's resulting loss of profits on the production purchase order -- that the jury punished.

Young & Susser tried the case before a jury in September 2007 and asked for \$9,981,821 for Multimatic's lost profits as the result of the breach of confidentiality agreement by Faurecia. (The court had previously prevented Multimatic from alleging to the jury nearly \$30 million in damages for lost goodwill.) After about only one hour, the jury awarded Multimatic the full \$9,981,821. During deliberations, the jury asked whether it could award more than Multimatic had requested.

Susser remarked that, "In an era in which technology and intellectual property are increasingly treated as commodities, the verdict was a vindication for those companies that value innovation and the right to protect one's competitive advantage. Multimatic's chief competitive advantage is its innovation and

intellectual property, and the jury agreed that it was not to be sold or bartered to the lowest bidder."

On December 22, 2009, a three-judge panel on the U.S. Court of Appeals affirmed the verdict, noting that, "...the district court properly granted summary judgment on liability [and] the jury's verdict is supported by sufficient and properly admitted evidence." The Appeals Court also affirmed that Multimatic was entitled to not only damages for the work that it actually performed, but also for the loss of profits that Multimatic would have earned had it been awarded the Sebring/Stratus production purchase order.

Susser added, "This decision provides a weapon to those companies that thrive on innovation by allowing them to assert their confidentiality agreements to protect not just their confidential information but also -- and critically -- the 'fruit' of that information. When another company steals your protected information, you may be entitled to the value of any future contracts that were made possible by that protected information."

Susser concluded, "Multimatic is thrilled with the court's decision, which vindicates Multimatic's long-standing policy of protecting its innovation."

*A litigation boutique specializing in complex commercial disputes, Southfield, Michigan-based Young & Susser, P.C. has earned a national reputation for superior representation. With a virtually unbroken string of successful verdicts to the firm's credit, Young & Susser emphasizes an efficient, lean and aggressive litigation style. The firm represents both local and national clients, and focuses on disputes involving shareholders/partners, contracts, antitrust, patents, trade secrets and manufacturer representatives. Young & Susser has offices in Southfield and New York.*

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