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Single Price Quote Supports \$10 Million Lost Profits Award

In *Multimatic, Inc. v. Faurecia Interior Systems USA, Inc.*, the U.S. Court of Appeals for the Sixth Circuit affirmed a jury award of nearly \$10 million in lost profits. Notably, the plaintiff's damages expert based his calculation on a single price quote by the plaintiff that had never been accepted by the defendant.

A falling out

In early 2004, Faurecia won a contract to supply the instrument panel for Chrysler's Sebring, Stratus, and Avenger vehicle lines from 2007 through 2012. Faurecia selected Multimatic to design and produce the cross-car beam used to support the panel. In connection with this arrangement, Faurecia signed a confidentiality agreement.

After Multimatic completed its design, the parties were unable to agree on a price for the product. In May 2005, Faurecia gave the job to another supplier, providing it with Multimatic's engineering documents. Multimatic sued Faurecia for breach of:

- The confidentiality agreement,
- A "pre-development letter of intent," and
- Several purchase orders for prototypes of the beam.

The jury awarded Multimatic more than \$600,000 for breach of the purchase orders and \$9,381,306 in lost profits. Among other things, Faurecia challenged the lost profits award as unduly speculative.

Expert provides the numbers

Multimatic's damages expert used publicly available automotive forecasts to estimate the number of cars Chrysler would produce during the years in question. He multiplied that number by Multimatic's estimated profits per beam, which were based on a February 2005 price quote.

The appellate court found that the expert had a "reasoned, non-speculative basis for projecting profits



through 2012." The vehicle production forecasts came from a reliable industry source that automakers themselves relied on, and witnesses testified that automakers rarely, if ever, change suppliers once production has begun.

Even though Faurecia never accepted Multimatic's price quote, the jury could reasonably conclude that, without breaching the confidentiality agreement, Faurecia would have had no choice but to accept Multimatic's terms or else risk breaching its contract with Chrysler. The confidentiality agreement obligated Faurecia to use Multimatic as its supplier if it used its design. "Multimatic's February 2005 quote," the court concluded, "gives a contemporaneous, non-speculative indication of the price term Multimatic would have imposed from its superior bargaining position."

Protecting what's yours

This case is significant for companies whose success depends on innovation and protection of their intellectual property. It confirms that these companies are entitled to compensatory damages not only for designs and other confidential information they develop, but also for the profits their intellectual property is expected to generate. **h**

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