

STATE OF MICHIGAN

MACOMB COUNTY CIRCUIT COURT

ROCKET ENTERPRISE, INC.

Plaintiff,

Case No. 2014-4890-CB

vs.

JERRY A. BOWERS, PENNY BOWERS,
formerly d/b/a LIBERTY FLAG SERVICE
LLC, REVOLUTION FLAG SERVICE,
CONSTANCE L. SOVIAK, and MICHAEL
SOVIAK,

Defendants.

OPINION AND ORDER

Defendants Jerry and Penny Bowers (collectively, "Bowers Defendants") have filed a motion for reconsideration of a portion of the Court's August 28, 2015 Opinion and Order denying their motion for summary disposition of Plaintiff's misappropriation of trade secrets claim.

In the interests of judicial economy the factual and procedural statements set forth in the Court's August 28, 2015 Opinion and Order are herein incorporated.

I. Standard of Review

Motions for reconsideration must be filed within 21 days of the challenged decision. MCR 2.119(F)(1). The moving party must demonstrate a palpable error by which the Court and the parties have been misled and show that a different disposition of the motion must result from correction of the error. MCR 2.119(F)(3). A motion for reconsideration which merely presents the same issue ruled upon by the Court, either

expressly or by reasonable implication, will not be granted. *Id.* The purpose of MCR 2.119(F)(3) is to allow a trial court to immediately correct any obvious mistakes it may have made in ruling on a motion, which would otherwise be subject to correction on appeal but at a much greater expense to the parties. *Bers v Bers*, 161 Mich App 457, 462; 411 NW2d 732 (1987). The grant or denial of a motion for reconsideration is a matter within the discretion of the trial court. *Cole v Ladbrooke Racing Michigan, Inc*, 241 Mich App 1, 6-7; 614 NW2d 169 (2000).

II. Arguments and Analysis

In their motion, the Bowers Defendants contend that the court erred in denying their motion for summary disposition of Plaintiff's misappropriation of trade secrets claim. In their original motion, the Bowers Defendants contended that Plaintiff's misappropriation of trade secrets claim fails a matter of law because Plaintiff's customer list is not a trade secret under MUTSA.

With respect to customer lists, the Michigan Court of Appeals has held that customer lists are subject to trade secret protection where they are not easily ascertainable and are "developed and nurtured from much investigation." *Kubik, Inc v Hull*, 56 Mich App 335, 365; 224 NW2d 80 (1974); *Schwayder Chemical Metallurgy Corp v Baum*, 45 Mich App 220, 225; 206 NW2d 484 (1973). Accordingly, customer lists may constitute trade secrets in some situations. Consequently, Plaintiff's misappropriation claim is not insufficient on its face. As a result, the Bowers Defendants' motion pursuant to MCR 2.116(C)(8) was properly denied.

III. Conclusion

For the reasons set forth above, the Bowers Defendants' motion for partial

reconsideration of the Court' August 28, 2015 Opinion and Order is DENIED. Pursuant to MCR 2.602(A)(3), the Court states this Opinion and Order neither resolves the last pending claim nor closes the case.

IT IS SO ORDERED.

Date: OCT 13 2015

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