

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Valeo Schalter und Sensoren GmbH v. NVIDIA Corporation

Case No. 23-cv-05721-NW (VKD) (N.D. Cal. July 31, 2025) · No. 23-cv-05721-NW (VKD) · Decided July 31,
2025

OPINION

Valeo Schalter und Sensoren GmbH v. NVIDIA Corporation
PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 SAN JOSE DIVISION

7 8 VALEO SCHALTER UND SENSOREN Case No. 23-cv-05721-NW (VKD)

GMBH,

9 Plaintiff, ORDER RE NVIDIA'S MOTION TO

10 STRIKE PORTIONS OF EXPERT

v. REPORT AS UNTIMELY

11 NVIDIA CORPORATION, Re: Dkt. No. 233 12 Defendant. 13 14 Defendant NVIDIA
Corporation (“NVIDIA”) moves to strike portions of an expert report 15 disclosed by plaintiff
Valeo Schalter und Sensoren GmbH (“Valeo”), on the ground that the 16 report contains theories
of trade secret misappropriation that were not timely disclosed. Dkt. No. 17 233. Valeo opposes
the motion. Dkt. No. 243. Upon consideration of the parties’ briefing and 18 arguments made
during the hearing on this motion, the Court denies NVIDIA’s motion to strike.¹

19 I. BACKGROUND

20 On January 24, 2025, Valeo served the report of its technical expert Dr. Matthew Johnson-
Roberson. Dkt. No. 235-4; Dkt. No. 243 at 4. The report discloses Dr. Johnson-Roberson’s 22
opinions about Valeo’s trade secrets and NVIDIA’s alleged misappropriation of them, including 23
opinions regarding NVIDIA’s use of Valeo’s trade secrets and the benefits NVIDIA obtained from
24 such use. The report includes a discussion of NVIDIA’s “acquisition, possession, and use” of
25 Valeo’s Trade Secrets Nos. 4 and 10. Dkt. No. 235-4 ¶¶ 1251, 1422; id. ¶¶ 1241-1255, 1410- 26
1 Unless redacted from the public version of this order, as indicated below, the Court finds that it
27 is unnecessary to seal any other portion of this order, including references to the discussion
from 1 1426. 2 NVIDIA argues that the report includes contentions about NVIDIA’s alleged use of
3 Valeo’s Trade Secrets Nos. 4 and 10 that Valeo did not disclose during fact discovery. Dkt. No. 4
233 at 5. In particular, NVIDIA asserts that Valeo did not disclose its “use” contentions for these 5
trade secrets in response to NVIDIA’s Interrogatory No. 7. Id. at 7. NVIDIA says it has been 6

prejudiced by Valeo's untimely disclosure of its contentions regarding NVIDIA's use, and it asks 7 the Court to sanction Valeo by striking disputed portions of Dr. Johnson-Roberson's expert report. 8 Id. at 8-9.

9 Valeo responds that NVIDIA's motion to strike is untimely, considering that it was filed 10 nearly three months after Valeo served Dr. Johnson-Roberson's expert report. Dkt. No. 243 at 1, 11 6-8. In addition, Valeo argues that its contentions for Trade Secrets Nos. 4 and 10 were fully 12 disclosed during fact discovery. Id. at 8-13. In any event, Valeo argues, NVIDIA has suffered no 13 prejudice. Id. at 16-20.

14 II. DISCUSSION

15 The Court first addresses Valeo's argument that NVIDIA's motion is untimely, and then 16 turns to the merits of NVIDIA's motion to strike. 17 A. Valeo's Timeliness Objection 18 Valeo argues that NVIDIA's motion to strike should be denied outright because NVIDIA 19 delayed three months after receiving Dr. Johnson-Roberson's expert report on January 24, 2025 20 before filing the motion on April 7, 2025. Dkt. No. 243 at 6-8. Valeo relies on Civil Local Rule 21 7-8(c) which provides that a motion seeking sanctions "must comply with any applicable Federal 22 Rule and must be made as soon as practicable after the filing party learns of the circumstances 23 that it alleges make the motion appropriate." Id. at 6-7 (emphasis added). NVIDIA responds that 24 its motion should not be considered untimely, as the parties were conferring in an effort to resolve 25 several disputes related to Dr. Johnson-Roberson's report until March 7, 2025, and that NVIDIA 26 worked diligently to prepare its motion to strike thereafter. Dkt. No. 250 at 8-9. NVIDIA also 27 argues that Valeo is not prejudiced by any delay. Id. at 9-10. 1 motion to strike until after the parties had reached a resolution on NVIDIA's own late disclosure 2 of prior art references, suggesting NVIDIA's motion to strike reflects a lack of "parity" in the 3 parties' treatment of the same problem. Dkt. No. 277 at 11:14-13:3. Valeo further explained that 4 NVIDIA's delay in bringing its motion is prejudicial principally because it limits the options 5 available to cure any failure to disclose that the Court might find, given that expert discovery has 6 now closed and the parties have briefed both summary judgment and Daubert issues. See id. at 7 13:5-12. 8 On the record presented, the Court finds that NVIDIA did not move promptly to seek the 9 relief that it now requests. The Court is not persuaded that it would have been impractical or 10 burdensome for NVIDIA to have filed its motion before the close of expert discovery, as NVIDIA 11 contends. However, because NVIDIA argues that the prejudice it suffered could not have been 12 cured without re-opening fact discovery, the Court will proceed to consider the motion to strike on 13 its merits. 14 B. NVIDIA's Motion to Strike 15 NVIDIA asks the Court to sanction Valeo by striking portions of Dr. Johnson-Roberson's 16 expert report regarding Trade Secrets Nos. 4 and 10 on two grounds: (1) Valeo's failure to 17 supplement a response to an interrogatory under Rule 37(c), and (2) Valeo's failure to comply 18 with a discovery order under Rule 37(b).

19 Rule 37(c) authorizes a court to sanction a party by striking or excluding evidence for use

20 “on a motion, at a hearing, or at a trial,” “[i]f a party fails to provide information . . . as required by

21 Rule 26(a) or (e) . . . unless the failure was substantially justified or is harmless.” Fed. R. Civ. P.

22 37(c)(1); *Yeti by Molly, Ltd. v. Deckers Outdoor Corp.*, 259 F.3d 1101, 1106 (9th Cir. 2001).

Rule 23 26(e) provides, in relevant part, that “[a] party . . . who has responded to an interrogatory . . . must 24 supplement or correct . . . its response (A) in a timely manner if the party learns that in some 25 material respect the . . . response is incomplete or incorrect, and if the additional or corrective 26 information has not otherwise been made known to the other parties during the discovery process 27 or in writing; or (B) as ordered by the court.” Fed. R. Civ. P. 26(e). 1

including issuing an order “prohibiting the disobedient party . . . from introducing designated 2 matters in evidence.” Fed. R. Civ. P. 37(b)(2)(ii). 3 While NVIDIA’s motion challenges the contents of paragraphs 1241-1255 and 1410-1426 4 of Dr. Johnson-Roberson’s expert report, the discussion at the motion hearing focused on a 5 narrower set of disclosures that specifically concern NVIDIA’s alleged “use” of the trade secrets: 6 paragraphs 1252-1255 pertaining to Trade Secret No. 4, and paragraphs 1423-1426 pertaining to 7 Trade Secret No. 10. Dkt. No. 276 at 5:22-7:6. Indeed, as the Court observed at the hearing, the 8 other paragraphs NVIDIA initially challenged either clearly match disclosures Valeo made during 9 fact discovery, have nothing to do with use, or are generic to all purported trade secrets. See *id.* at 10 5:22-6:2. Thus, the expert disclosures at issue for purposes of this motion are: 11 Trade Secret No. 4: 12 1252. NVIDIA gained substantial benefits from misappropriating Valeo’s trade secret in several ways. 13 14 15 1253. 16 17 18 19 20 21 22 23 1254. These insights allowed NVIDIA to dramatically accelerate its development timeline and avoid costly dead-ends in research and 24 testing, representing significant competitive advantage gained through misappropriation. 25 1255. The importance of and 26 NVIDIA’s misappropriation is further evidenced by the following 27 documents showing NVIDIA’s need for and difficulty

: NVIDIA0287587 (

NVIDIA0287961 (

1

2); NVIDIA0288325 (

3);

NVIDIA0292553 (

4); NVIDIA0320934

(5);

6 NVIDIA0322813

). 7 Trade Secret No. 10: 8 1423. 9 10 11 12 13 14 15 16 17 18 1424. 19 20 . 21 1425. This information significantly accelerated development 22 23 Such knowledge allowed engineers to shortcut 24 months or years off field testing and validation work. 25 1426. 26

NVIDIA0170760

27

NVIDIA0292610 (

1

); NVIDIA0322810 (

2

); NVIDIA1012102

3 (4). 5 Dkt. No. 235-4 ¶¶ 1252-1255, 1423-1426. 6 1. Rule 37(c) – failure to supplement
interrogatory response 7 NVIDIA argues that Valeo’s contentions regarding NVIDIA’s alleged use
of Trade Secrets

8 Nos. 4 and 10 should have been disclosed in Valeo’s response to NVIDIA’s Interrogatory No. 7,
9 which asks, in relevant part: “State all facts supporting your allegation that NVIDIA has used
any 10 improperly acquired Valeo trade secret” Dkt. No. 233-6 at ECF 9. In responding to
this 11 interrogatory, Valeo stated that “NVIDIA used” several of Valeo’s alleged trade secrets and
12 described the factual bases for its assertions, but did not refer to Trade Secrets Nos. 4 and 10.
See 13 Dkt. Nos. 235-2 at ECF 23-44. For this reason, NVIDIA argues that it was not timely
apprised of 14 Valeo’s “use” contentions regarding Trade Secrets Nos. 4 and 10. 15 Valeo
concedes it has no evidence (and does not contend) that NVIDIA implemented 16 Trade Secrets
Nos. 4 and 10 in NVIDIA’s parking assistance technology. Dkt. No. 277 at 14:16- 17 23. It
emphasizes that these trade secrets concern best practices for testing and data collection, 18 and
that its contentions regarding NVIDIA’s use of Trade Secrets Nos. 4 and 10 are limited to the 19
fact that Mr. Moniruzzaman disclosed these trade secrets to NVIDIA and as a result NVIDIA 20
saved time and resources in developing its own parking assistance technology. Id. at 19:12-24. 21
Valeo argues that it fully disclosed this theory of “use” during discovery. First, in its trade secret
22 disclosure pursuant to California C.C.P. § 2019.210, Valeo explained for each of these trade 23
secrets that Valeo engaged in “considerable effort and testing” “over years” (Trade Secret No. 4)
24 and made a “substantial investment” (Trade Secret No. 10). Dkt. No. 235-1 at ECF 18, 35. 25
Second, in response to NVIDIA’s Interrogatory No. 5, which asks for “all facts supporting your 26
allegation that NVIDIA’s alleged misappropriation of Valeo’s trade secrets provided NVIDIA any
27 value,” Valeo stated, in part: Disclosure to meet its obligations under the scope of the OEM 1
Project—and in light of the significant development costs Valeo 2 expended to develop its trade
secrets, on the order of hundreds of millions of dollars in development costs over the last two
decades— 3 NVIDIA’s misappropriation allowed NVIDIA to enjoy a significant shortcut in the
development of its parking-assistance software, 4 providing NVIDIA with value in the form of at
least substantial saved development costs as well as value in being able to compete 5 with Valeo in
the market in the future by providing similar software 6 to other OEMs. 7 Dkt. No. 246-4 at ECF
6-7; Dkt. No. 243 at 9, 12. Third, in response to NVIDIA’s Interrogatory
8 No. 6, Valeo specifically identified Trade Secrets Nos. 4 and 10 as trade secrets Mr.

9 Moniruzzaman had disclosed to NVIDIA, together with the documents it contends evidence that
10 disclosure. See Dkt. No. 235-2 at ECF 18-19. In addition, Valeo stated, in part: 11 While Valeo
had been developing software for the processing of raw data from ultrasonic sensors for more than
two decades, NVIDIA did 12 not have the experience required to complete the OEM Project and
13 did not know how to process raw data from ultrasonic sensors for use in parking assistance
functionalities. 14 15 Id. at ECF 13. Finally, Valeo points out that, in its third supplemental
response to Interrogatory
16 No. 7, it “incorporate[d] by reference its response to [NVIDIA’s] Interrogatory No. 6, including
17 any supplements thereto,” which Valeo contends put NVIDIA on notice of Valeo’s contention
that 18 the improper “uses” responsive to Interrogatory No. 7 include the improper disclosures to
19 NVIDIA described in Valeo’s responses to Interrogatory No. 6. See id. at ECF 27; Dkt. No. 243
20 at 15. 21 The Court has carefully reviewed Valeo’s disclosures during fact discovery,
summarized 22 above, and compared those disclosures to the disputed portions of Dr. Johnson-
Roberson’s expert 23 report. While Valeo did not expressly disclose a “use” theory corresponding
to Trade Secrets Nos. 24 4 and 10 in response to Interrogatory No. 7, Valeo did disclose the
precise “use” theory that forms 25 the basis for Dr. Johnson-Roberson’s expert disclosures in its
responses to other discovery 26 requests, including specifically in its responses to Interrogatories
Nos. 5 and 6. Valeo also 27 previously disclosed all documents it contends reflect NVIDIA’s use
of Trade Secrets Nos. 4 and 1 surprised by a late-breaking “use” theory. Moreover, to the extent
NVIDIA objects that it was not 2 previously informed of Dr. Johnson-Roberson’s opinions about
the extent of the advantages 3 NVIDIA allegedly enjoyed—whether in time saved, costs avoided,
or other benefits—it is not 4 clear to the Court that those opinions are properly the subject of fact
discovery, rather than expert 5 discovery. In any event, NVIDIA had ample opportunity to explore
Dr. Johnson-Roberson’s 6 opinions on these matters and the factual bases for his opinions during
its deposition of him, even 7 if it elected not to ask him those questions. See Dkt. No. 277 at 3:17-
7:19. 8 For these reasons, the Court concludes that Valeo did not fail to provide information 9
required to be disclosed in discovery regarding NVIDIA’s alleged use of Trade Secrets Nos. 4 and
10 10, and that any deficiency in its particular response to Interrogatory No. 7 was harmless. 11 2.
Rule 37(b) – failure to obey a discovery order 12 NVIDIA also argues that Valeo violated the
Court’s October 18, 2024 discovery order 13 (Dkt. No. 139), which required Valeo to “timely
supplement its interrogatory answers,” including 14 its answer to NVIDIA’s Interrogatory No. 7.
Dkt. No. 233 at 2-3, 5. Valeo responds that it did 15 supplement its answer to Interrogatory No. 7,
as well as other interrogatories, as ordered. Dkt. No. 16 243 at 4. 17 The October 18, 2024 order
addressed several discovery disputes. With respect to 18 Interrogatory No. 7, the discovery dispute
principally concerned NVIDIA’s demand that Valeo 19 state where and how NVIDIA had
implemented Valeo’s trade secrets in NVIDIA’s source code or 20 otherwise, or alternatively, that
Valeo be precluded from making any of those amendments in the 21 future. The portion of the
order resolving this dispute states: 22 Interrogatory No. 7 asks Valeo to state all facts supporting

Valeo’s allegation that NVIDIA has used any “improperly acquired” Valeo 23 trade secrets. . . . NVIDIA advises that Valeo provided substantive 24 answers as to some, but not all, of Valeo’s 20 alleged trade secrets. NVIDIA argues that, at a minimum, Valeo should be required to 25 commit that it will make no further amendments to its answers to Interrogator[y] No[.]. 7 based on references to NVIDIA’s source 26 code. Valeo responds that it has answered both interrogatories, and that its answers are current as of the date of its most recent 27 responses. Valeo argues that it should not be prevented from 1 references, as it obtains additional discovery from NVIDIA, some of which may lead Valeo to re-examine source code and other 2 documentation that has already been produced. 3 The Court is not persuaded that the preclusion order NVIDIA seeks would be fair to Valeo, given that NVIDIA has not yet completed its 4 production of documents or other information relating to access to 5 and use of the trade secrets at issue by Mr. Moniruzzaman and others at NVIDIA. Valeo has an obligation to timely supplement its 6 interrogatory answers, pursuant to Rule 26(e), and it must continue to comply with that requirement. 4 g || Dkt. No. 139 at 1-2 (citations omitted). Contrary to NVIDIA’s suggestion, the October 18, 2024 9 order did not specifically direct Valeo to supplement its answer to Interrogatory No. 7. As 19 || teflected in the excerpt quoted above, the Court denied NVIDIA’s request for a preclusion order, 11 and reminded Valeo of its obligation under Rule 26(e) to timely supplement its responses if it

12. || obtains new information.

5 13 In view of the discussion above with respect to Rule 37(c), the Court finds that Valeo 14 adequately disclosed during discovery its theory of misappropriation, including use by NVIDIA, 8 45 of Trade Secrets Nos. 4 and 10, and that the October 18, 2024 order did not impose a distinct 16 || obligation that Valeo failed to obey. In any event, the Court is not persuaded that striking the 3 17_ || disputed portions of Dr. Johnson-Roberson’s expert report is an appropriate remedy for any failure 18 to expressly disclose in response to Interrogatory No. 7 the information Valeo did disclose in 19 || tesponse to other discovery requests. See Fed. R. Civ. P. 37(b)(d) (orders a court “may” issue).

990 || I. CONCLUSION

The Court denies NVIDIA’s motion to strike paragraphs 1241-1255 and 1410-1426 of Dr. 92 || Johnson-Roberson’s expert report. 23 IT IS SO ORDERED. 24 Dated: July 31, 2025 25 26 UnigiinK, Li □□□□□□ YA Virgitfa K. DeMarchi 27 United States Magistrate Judge 28