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## **High Court scuttles Medtech injunction against Valentia**



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Valentia Technologies CEO Ahmad Javad [Image: Supplied]

**A High Court decision has thrown out Medtech's application for an interim injunction to prevent Valentia Technologies (NZ) from extracting data from Medtech's software without approval.**

It is the latest development in the ongoing legal battle between the two most prominent players in New Zealand's practice management system market.

At the heart of the case is Valentia's SEHR (shared electronic health record) Hook software system, which enables organisations such as after-hours medical centres, general practices, community pharmacies, paramedics and hospitals to access patient data.

But Medtech alleges Valentia has used the system to access information in the Medtech PMS that is either confidential or subject to copyright and has copied the company's data sets, database structures, codes and other proprietary material.

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In a decision released on Friday, Justice Jane Anderson said the primary reason she rejected Medtech's interim injunction application was her concern at the effect on medical practices and the public if the injunction were granted.

“Those effects seem to me to be significantly more tangible and likely to occur than the postulated risks to the public of the status quo.”

## **Medtech concedes defeat on injunction**

In a statement, Medtech CEO Geoffrey Sayer says that while the company failed to gain the interim injunction it sought, the decision highlights that there is still a case for Valentia to answer for breach of copyright and misuse of confidential information.

“Medtech remains concerned that the approach Valentia takes to SEHR [the Shared Electronic Health Record] and migration is not proper and has significant data security and privacy risks,” Dr Sayer says.

“Given the findings in the judgement, Medtech considers that the PHOs who use the Valentia’s SEHR Hook for the creation of shared electronic health records have a duty to ensure that the extraction is operating as intended and protects the privacy of patients and practices while maintaining the highest levels of patient safety.

“These concerns about data security and privacy risks are sufficient that Medtech will be continuing with the litigation against Valentia regarding its use of the SEHR Hook, breach of Medtech’s intellectual property and breach of previous undertakings.”

Dr Sayer also claims Valentia has yet to comply with the order made on 20 June for it to provide discovery of elements of its software, despite what he says are repeated requests from Medtech. The company now intends to return to court to seek a ruling to compel Valentia to comply with the court’s directions on discovery, he says.

Justice Anderson’s latest decision gives Medtech and Valentia time to apply for costs in relation to the preservation order and the interim injunction decisions.

*New Zealand Doctor Rata Aotearoa* approached Valentia Technologies for a comment for this article.

## **Previous decision**

Valentia and Medtech attended a court hearing on 29-30 May to consider an application from Valentia, which developed the Indici PMS, to either discharge or change a preservation order obtained by Medtech in December last year.

The order required the company to preserve all source code, databases and content relating to the software it uses to manage and extract data from patients' medical records and would allow an investigation to be undertaken into Medtech's allegations of copyright infringement and data breaches.

The order was to ensure Valentia could not cover its tracks if it were, in fact, contravening Medtech's intellectual property rights.

## **Preservation order struck out**

But, in a High Court decision released last month, Justice Anderson threw out the preservation order after Valentia argued it would require extensive planning and resources and come at a substantial cost to the company.

“Such an undertaking is very different than the implementation of orders I was assuming in December 2023, in which the Court understood that the orders could be complied with readily ‘over the course of a few hours’,” Justice Anderson said. “I do not consider that there is any basis for maintaining a preservation order which goes no further than the undertakings already given.”

However, she called on both parties to disclose documents, data and information relating to the ongoing case, with a further decision expected on Medtech’s application for an interim injunction.

National Enrolment Service figures from February this year show Medtech is the dominant player in the PMS market, with 71.5 per cent of general practices using its systems.

But it faces growing competition from Valentia and Indici, which has 17.4 per cent of the market.

MyPractice is the third-biggest player with 8.4 per cent.

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