

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**WIRTGEN AMERICA, INC.,**

*Plaintiff,*

v.

**CATERPILLAR, INC.,**

*Defendant.*

**Case No. 1:17-cv-00770-JDW-MPT**

**ORDER**

**AND NOW**, this 30th day of June, 2022, following a Zoom status conference with counsel for the Parties, it is **ORDERED** as follows:

1. In light of other filings, Wirtgen America, Inc.'s Motion To Dismiss Defendant/Counterclaim-Plaintiff Caterpillar Inc.'s Third And Fourth Counterclaims For Failure To State A Claim Upon Which Relief Can Be Granted (D.I. 54) is **DENIED AS MOOT**;

2. On or before July 15, 2022, the Parties shall meet and confer to set aside dates to hold open for depositions before the close of discovery. The Parties shall submit a letter to the Court, via email to [Chambers\\_of\\_Judge\\_Wolson@paed.uscourts.gov](mailto:Chambers_of_Judge_Wolson@paed.uscourts.gov), that identifies the dates that will be set aside for these depositions;

3. On or before December 16, 2022, the parties shall provide the Court a tutorial on the technology at issue. In that regard, the parties may separately or jointly submit a video of not more than thirty (30) minutes. The video may be sent on a DVD, memory stick, hard drive, or other commonly used digital media. The tutorial should focus on the technology in issue and should not be used for argument. Each party may comment, in writing (in no more than five (5) pages) on the opposing party's tutorial. Any such comment shall be filed no later than seven days

after submission of the tech tutorial. As to the format selected, the parties should confirm the Court's technical abilities to access the information contained in the tutorial;

4. The Court's prior Protective Orders (D.I. 53 and D.I. 61) are each **AMENDED** as follows:

**Paragraph VII.B:**

Filing under Seal. Any Protected Information submitted to the Court in connection with a motion, pleading, notice, or other filing shall be filed under seal. If a party intends to file any Protected Information with the Court, then the filing party shall seek leave to file such material under seal, in accordance with the Court's procedures and governing legal standards. In connection with the foregoing, the filing Party, shall publicly file a redacted version of said motion, pleading, notice, or other filing, along with a redacted version of any supporting papers (as applicable). The filing party must file a motion to seal to support any proposed redactions.

It is **FURTHER ORDERED** that Paragraph 9 of the Court's prior Scheduling Order (D.I. 28) is **AMENDED** and the Claim Construction hearing will take place at 9:30 a.m. EST on January 24, 2023, in Courtroom 3B, at the James A. Byrne U.S. Courthouse, 601Market Street, Philadelphia, PA 19106.

**BY THE COURT:**

/s/ Joshua D. Wolson  
JOSHUA D. WOLSON, J.