

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

WIRTGEN AMERICA, INC.	)	
	)	
Plaintiff/Counterclaim-Defendant,	)	
	)	
v.	)	C.A. No. 17-770-RGA
	)	
CATERPILLAR INC.	)	
	)	JURY TRIAL DEMANDED
	)	
Defendant/Counterclaim-Plaintiff.	)	

**PLAINTIFF/COUNTERCLAIM-DEFENDANT WIRTGEN AMERICA, INC.’S
MOTION TO SEVER AND TRANSFER DEFENDANT/COUNTERCLAIM-PLAINTIFF
CATERPILLAR INC.’S PERMISSIVE COUNTERCLAIMS FOR PATENT
INFRINGEMENT**

Pursuant to Federal Rule of Civil Procedure 21 and 28 U.S.C. § 1404, Plaintiff/Counterclaim-Defendant Wirtgen America, Inc. (“Wirtgen America”), by its undersigned counsel, hereby moves this Court to sever and transfer Defendant/Counterclaim-Plaintiff Caterpillar Inc.’s (“Caterpillar”) permissive counterclaims for patent infringement (“Counterclaims I-III”) asserted in its Answer to Amended Complaint and Counterclaims. *See* D.I. 43. Accompanying this motion, and contemporaneously filed herewith, are: (i) a proposed order granting the relief sought in this motion; and (ii) an opening brief in support of this motion.

Dated: November 4, 2021

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