

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

MIDWEST ENERGY EMISSIONS)
CORP. and MES INC.,)
)
Plaintiffs,)
)
v.)
)
ARTHUR J. GALLAGHER & CO., et al.,)
)
Defendants.)

Civil Action No. 19-1334-CJB

ORDER

At Wilmington, Delaware this **6th day of February, 2024**.

WHEREAS, on October 16, 2023, the Court issued a Memorandum Opinion (the “MO”) regarding Defendants’ motion for summary judgment No. 1: non-infringement based on licensed use of process, (D.I. 586);

WHEREAS, the Court released the MO under seal in recognition that it may contain confidential information, pending review by the parties to allow them to submit a single, jointly proposed, redacted version (if necessary) of the MO, (*id.* at 11);

WHEREAS, on October 19, 2023, Plaintiffs Midwest Energy Emissions Corp. and MES Inc. (collectively, “Plaintiffs”) filed a Motion to Redact the MO, submitting that the redactions (relating to specific provisions of license agreements with third parties) are necessary because disclosure of the information reflected in the proposed redacted text would cause harm to Plaintiffs and the third parties at issue, (D.I. 592 at 1);

WHEREAS, Defendants do not oppose Plaintiffs’ redactions, (*id.* at 3);

WHEREAS, the proposed redactions are limited in scope, totaling less than a page of the 11-page MO, (*id.*, ex. A);

WHEREAS, although the redacted material does have a bearing on the Court's ultimate decision, sufficient context is provided by the remainder of the opinion to allow the reader to understand the Court's decision-making rationale;

WHEREAS, the redacted material relates to specific provisions of recently negotiated, confidential licenses between Plaintiffs and two third parties, (D.I. 592 at 2);

WHEREAS, and considering the question as to this Motion only, the Court finds that the presumption of public access with respect to the redacted material has been rebutted, in that Plaintiffs have demonstrated that the material is the kind of information that courts will protect and that disclosure of it will work a "clearly defined and serious injury[,]" *see In re Avandia Mktg., Sales Pracs. & Prods. Liab. Litig.*, 924 F.3d 662, 672 (3d. Cir. 2019) (internal quotation marks and citation omitted);

THEREFORE, it is HEREBY ORDERED that:

1. Plaintiffs' unopposed Motion is GRANTED.
2. Any and all publicly-available copies of the MO, including but not limited to copies that are or will be available by remote electronic access, shall be redacted as delineated in Exhibit A of the Motion, (D.I. 592, ex. A).



Christopher J. Burke
UNITED STATES MAGISTRATE JUDGE