

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

MIDWEST ENERGY EMISSIONS CORP.)
and MES Inc.,)
)
Plaintiffs,)
) Civil Action No. 19-1334-CJB
v.)
)
ARTHUR J. GALLAGHER & CO., *et al.*,)
)
Defendants.)

PRELIMINARY JURY INSTRUCTIONS

I. INTRODUCTION

Members of the jury: Now that you have been sworn in, I have the following preliminary instructions for guidance on your role as jurors in this case.

These instructions will give you some general rules and guidance that might apply to any civil case. Also, because this is a patent trial, I will also give you some additional preliminary instructions regarding patents to assist you in discharging your duties as jurors.

II. THE PARTIES AND THEIR CONTENTIONS

This is a patent case. The Plaintiffs in this case are Midwest Energy Emissions Corp. and MES Inc., which I may refer to as “ME2C” or “Plaintiff.” The Defendants and/or Counterclaim-Plaintiffs, who I’ll refer to as “Defendants” for now, in this case are:

- CERT Operations II LLC
- CERT Operations IV LLC
- CERT Operations V LLC
- CERT Operations RCB LLC

I may refer to these four Defendants as the “CERT Operations Defendants.” And:

- Senescence Energy Products LLC
- Bascobert (A) Holdings LLC
- Buffington Partners LLC
- Larkwood Energy LLC
- Rutledge Products LLC
- Cottbus Associates LLC
- Springhill Resources LLC
- Marquis Industrial Company LLC

I may refer to these eight Defendants as the “CERT RC Defendants.”

ME2C is the owner of the two patents being litigated in this case. These are United States Patent Nos. 10,343,114 and 10,596,517. Collectively, these patents may be referred to as “the patents-in-suit” or “the asserted patents.” Individually, patents are often referred to by their last three digits. For example, U.S. Patent No. 10,343,114 may be referred to as the ’114 patent, and U.S. Patent No. 10,596,517 may be referred to as the ’517 patent. A copy of each of the patents has been given to you along with these preliminary instructions.

ME2C contends that each Defendant infringes certain claims of each of the patents-in-suit, and that Defendants’ infringement of the patents-in-suit has been willful. The specific claims that ME2C contends are infringed may be referred to collectively as “the asserted claims.” ME2C also

seeks damages for the infringement. Defendants deny that they infringe the patents-in-suit, and contend that the patents-in-suit are invalid.

III. DUTIES OF THE JURY

Let me now turn to the general rules that will govern the discharge of your duties as jurors in this case.

It will be your duty to find what the facts are from the evidence as presented at the trial. You and you alone will be the judges of the facts. You will have to apply those facts to the law as I will instruct you at the close of the evidence. You must follow that law whether you agree with it or not.

In addition to instructing you about the law, at the close of the evidence, I will provide you with instructions as to what the claims of the patents mean. Again, of course, you are bound by your oath as jurors to follow these and all the instructions that I give you, even if you personally disagree with them. All the instructions are important, and you should consider them together as a whole.

Perform these duties fairly. Do not let any bias, sympathy, or prejudice that you may feel toward one side or the other influence your decision in any way. Also, do not let anything I say or do during the course of the trial influence you. Nothing I say or do is intended to indicate, or should be taken by you as indicating, what your verdict should be.

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