

EXHIBIT A

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

3M COMPANY,

Plaintiff,

v.

Case No: 6:20-cv-648-Orl-41GJK

GEFTICO, LLC,

Defendant.

_____ /

ORDER

THIS CAUSE is before the Court on Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction (Doc. 11). As set forth below, a temporary restraining order ("TRO") will be granted, and ruling on the preliminary injunction will be deferred.

I. BACKGROUND

Plaintiff produces, among other things, medical devices and personal protective equipment ("PPE") including their 3M-brand N95 respirators. (Compl., Doc 1, ¶ 4; Crist Decl., Doc 13, at 2–3). Plaintiff has invested hundreds of millions of dollars in advertising and promoting its 3M-brand products under the standard character mark "3M." (Doc. 1 ¶ 24; Doc. 13 at 3). Plaintiff has also obtained numerous federal trademark registrations for its 3M Marks that are valid, in effect, and incontestable. (Doc. 1 ¶¶ 28–30; Doc. 13 at 3–4; U.S. Trademark Registration No. 3,398,329 ("329 Registration"), Doc. 13-4, at 2–3; '329 Registration Notice of Acceptance and Acknowledgment, Doc. 13-5, at 2); U.S. Trademark Registration No. 2,793,534 ("534 Registration"), Doc. 13-6, at 2–3; '534 Registration Notice of Acceptance and Acknowledgment, Doc. 13-7, at 2; U.S. Trademark Registration No. 5,469,903 ("903 Registration"), Doc. 13-8, at

2–3). At issue here, is the unauthorized use of Plaintiff’s 3M Marks in connection with Plaintiff’s product, the N95 respirator mask. (*See generally* Doc. 1).

Plaintiff alleges that Defendant, during the current COVID-19 global pandemic,¹ has unlawfully and in violation of Plaintiff’s Marks attempted to sell to the Center for Disease Control (“CDC”) 3M-brand N95 respirator masks that either do not exist or are fraudulently made and that Defendant is doing so at elevated prices, constituting price gouging. (*Id.* ¶¶ 40–50). In Defendant’s attempt to sell masks to the CDC, “Defendant sent a PowerPoint presentation titled *masks*” to the CDC, which offered to sell to the CDC 3M-brand N95 masks and which contained the Technical Data Sheet for the 3M-brand masks with Plaintiff’s 3M Mark and slogan. (Doc. 1 ¶ 40; Doc. 13 at 5–6; *see generally* Mar. 31, 2020 Email and Presentation from Def. to CDC, Doc. 12-7). Defendants also sent several emails falsely claiming to have 3M masks for sale and that 3M had changed its prices. (Doc. 12-7 at 1; Apr. 6, 2020 Email from Def. to CDC, Doc. 12-8, at 2–3; Apr. 8, 2020 Email from Def. to CDC, Doc. 12-11, at 2; *see* Stobbie Decl., Doc. 12, ¶ 4 (stating “3M has **not** increased the prices” of the 3M N95 respirator masks during this pandemic) (emphasis in original)). Plaintiff alleges that it has no relationship with Defendant nor is Defendant an authorized distributor or vendor of Plaintiff’s products. (Doc. 1 ¶ 43; Doc. 13 at 6). Thus, Plaintiff alleges that Defendant is not only violating its trademarks unlawfully but is also attempting to defraud the CDC as well as the American public. (Doc. 11 at 8–9, 21). Plaintiff alleges that this conduct harms Plaintiff’s goodwill in the midst of this global pandemic and is a threat to public

¹ “Coronavirus disease 2019 (COVID-19) is a respiratory illness that can spread from person to person.” Centers for Disease Control and Prevention, CS 314937-A, *What you need to know about coronavirus disease 2019 (COVID-19)*, <https://www.cdc.gov/coronavirus/2019-ncov/communication/factsheets.html> (Mar. 20, 2020). *See also* *In re: Coronavirus Public Emergency*, No. 6:20-cv-17 (M.D. Fla. Mar. 18, 2020) (citing COVID-19 and outlining response procedures for Court proceedings in the Middle District of Florida); Orlando Division Protocol for Proceedings During COVID-19 Directives (M.D. Fla. Mar. 18, 2020) (same).

health agencies should they, or anyone else, purchase a product that may be counterfeit and below quality control standards. (Doc. 1 ¶ 54; Doc. 11 at 9; Doc. 13 at 9).

Plaintiff seeks a TRO as well as a preliminary injunction that would enjoin Defendant from: (1) “using any of the 3M Marks . . . in commerce;” (2) “holding itself out to consumers and/or the public as an authorized distributor or vendor of the 3M-brand products, or holding itself out as having any affiliation, connection, or association with 3M in any way;” (3) falsely representing that 3M has increased the prices of 3M-brand N95 respirators as a result of the COVID-19 crisis or that 3M has required or authorized others to increase the prices of 3M-brand N95 respirators as a result of the COVID-19 crisis;” and (4) “offering to sell any of 3M’s products at a price and/or in a manner that would constitute a violation of § 501.160(2), Florida Statutes.” (Doc. 11 at 1).

II. LEGAL STANDARD

Pursuant to Federal Rule of Civil Procedure 65(b), a district court may issue a temporary restraining order “without written or oral notice to the adverse party” if the requesting party provides “specific facts . . . [that] clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition.” To obtain a temporary restraining order, the movant must establish: “(1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered if the relief is not granted; (3) that the threatened injury outweighs the harm the relief would inflict on the non-movant; and (4) that entry of the relief would serve the public interest.” *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1225–26 (11th Cir. 2005). Additionally, the moving party must establish that a temporary restraining order is necessary “to maintain the status quo until the requisite notice may be given and an opportunity is afforded to opposing parties to respond to the application for a preliminary

injunction.” M.D. Fla. R. 4.05(a). “[Temporary restraining] orders will be entered only in emergency cases.” *Id.*

III. ANALYSIS

Plaintiff has established that it is entitled to the entry of the requested TRO.

The Complaint brings various claims against Defendant related to Defendant’s alleged trademark infringement, false endorsement, trademark dilution, and false advertising in violation of the Lanham Act, 15 U.S.C. § 1051 *et seq.*, as well as claims for alleged violation of Florida’s Unfair and Deceptive Trade Practices Act, Fla. Stat. § 501.201 *et seq.*, dilution and trademark infringement under Florida’s Trademarks Act, Fla. Stat. § 495.001 *et seq.*, and unfair competition under Florida common law. (*See generally* Doc. 1). Based on the evidence discussed above, Plaintiff has established a likelihood of success on the merits. Also based on those filings, it is clear that irreparable injury will be suffered if Plaintiff’s goodwill is injured due to Defendant’s price gouging and sale of either fraudulent PPE that is either below industry quality standards or that does not exist. Further, the Court places specific importance on the fact that if these fraudulent masks are sold, the public—likely healthcare workers—may be given PPE that is faulty, and therefore, expose them to COVID-19 and put their lives at risk. That potential harm obviously constitutes irreparable harm to 3M’s goodwill, but especially to the public. And, keeping that possibility from occurring, at least until the Court has the opportunity to further address these issues, outweighs any potential harm to Defendant and is certainly serving the public interest.

The Court notes that it does have certain misgivings about whether Plaintiff met its burden regarding the propriety of *ex parte* relief here. The TRO’s argument regarding *ex parte* relief constitutes only one paragraph and contains no explanation as to why notice and a hearing would be impractical. M.D. Fla. R. 4.05(b)(2) (noting that to obtain such emergency, *ex parte* relief,

Plaintiff must explain why notice and a hearing would be “impractical if not impossible.”). However, in light of the COVID-19 global pandemic and the harm that could occur should fraudulent masks be introduced by Defendant into the public, the Court finds that a TRO is necessary here. Accordingly, while the Court concludes that a TRO in this case is permissible, the Court will set an expedited schedule regarding service and the preliminary injunction hearing to ensure sufficient ability for Defendant to be heard on the matter.

Additionally, given the short timeframe that the TRO will be in place before the Defendant is able to be heard, the Court will only require a \$10,000.00 bond at this time.

IV. CONCLUSION

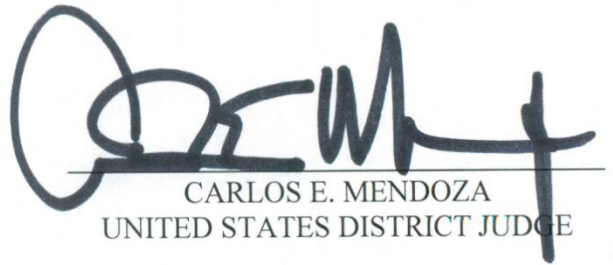
Therefore, it is **ORDERED** and **ADJUDGED** as follows:

1. Plaintiff’s Motion for Temporary Restraining Order and Preliminary Injunction (Doc. 11) is **GRANTED in part** and **DEFERRED in part**. To the Extent that Plaintiff seeks a Temporary Restraining Order, the Motion is granted; the Court defers ruling on the request for preliminary injunction.
2. Defendant and all persons acting on behalf of Defendant are hereby **IMMEDIATELY ENJOINED** from using any of the 3M Marks in commerce.
3. Defendant and all persons acting on behalf of Defendant are hereby **IMMEDIATELY ENJOINED** from holding themselves out to consumers and/or the public as authorized distributors or vendors of 3M-brand products, or holding themselves out as having any affiliation, connection, or association with 3M in any way.
4. Defendant and all persons acting on behalf of Defendant are hereby **IMMEDIATELY ENJOINED** from falsely representing that 3M has increased

the prices of 3M-brand N95 respirators as a result of the COVID-19 crisis or that 3M has required or authorized others to increase the prices of 3M-brand N95 respirators as a result of the COVID-19 crisis.

5. Defendant and all persons acting on behalf of Defendant are hereby **IMMEDIATELY ENJOINED** from offering to sell any of 3M's products at a price and/or in an unfair or deceptive manner.
6. **On or before May 4, 2020**, Plaintiff shall serve Defendants with the Complaint, the Motion for Temporary Restraining Order and Preliminary Injunction, and this Order.
7. Plaintiff and Defendant shall appear for an evidentiary hearing on the Motion for Preliminary Injunction on **May 7, 2020, at 1:30 p.m.** in Courtroom 5B, George C. Young United States Courthouse Annex, 401 W. Central Boulevard, Orlando, Florida before the Honorable Carlos E Mendoza. Defendant need not file a written response to the Motion and may rely on oral argument. **Defendant is on notice that failure to appear at the hearing may result in the imposition of a preliminary injunction without further notice.**
8. This Order is conditioned on the posting by Plaintiffs of a surety bond in the sum of \$10,000.00, **on or before 2 PM, Monday, May 4, 2020.**
9. This Order shall remain in effect for fourteen days unless dissolved or extended for good cause by this Court.

DONE and ORDERED in Orlando, Florida on April 30, 2020.



CARLOS E. MENDOZA
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record

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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

3M COMPANY,

Plaintiff,

-against-

PERFORMANCE SUPPLY, LLC,
Defendant.

Case No.: 1:20-cv-02949 (LAP)(KNF)

Jury Trial Demand

**[PROPOSED] ORDER
TO SHOW CAUSE FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION AGAINST PERFORMANCE SUPPLY, LLC**

WHEREAS, the Court, having considered Plaintiff 3M Company's ("3M") Memorandum of Law Support in Support of its Application for a Temporary Restraining Order and Preliminary Injunction (the "Application") against Defendant Performance Supply, LLC ("Defendant"), together with the supporting Declarations of Charles Stobbie, David A. Crist, and A. John P. Mancini (collectively, the "Declarations"), as well as the record and proceedings to date in the above-captioned action.

IT IS HEREBY ORDERED that 3M's Application is **GRANTED** in its entirety. It is hereby further **ORDERED** that:

1. Defendant appear before The Honorable Loretta A. Preska
District Judge, United States District Court for the Southern District of New York, on May 4
2020, at 11:00 am/pm, by telephone at a dial-in number to be provided
in the United States Courthouse, 500 Pearl Street/40 Foley Square, New
York, New York 10013, and show cause (the "Show Cause Hearing") as to why the Court should
not enter an Order, pursuant to FED. R. CIV. P. 65(a), that:

a. Preliminarily enjoins Defendant, its agents, servants, employees, officers and all
persons and entities in active concert and participation with them from using the "3M" trademarks

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(the "3M Marks"), the slogan "3M. Science Applied to Life" (the "3M Slogan"), and any other word, name, symbol, device, or combination thereof that is confusingly similar to the 3M Marks and/or the 3M Slogan, for, on, and/or in connection with the manufacture, distribution, advertising, promoting, offering for sale, and/or sale of any goods or services, including, without limitation, Plaintiff's 3M-brand N95 respirators, during the pendency of this action, and

b. Preliminarily enjoins Defendant, its agents, servants, employees, officers and all persons and entities in active concert and participation with them from engaging in any false, misleading, and/or deceptive conduct in connection with 3M and its products, including, without limitation, representing itself as being an authorized distributor, vendor, agent, representative, retailer, and/or licensee of 3M and/or any of 3M's products (including, without limitation, 3M-brand N95 respirators); falsely representing to have an association or affiliation with, sponsorship by, and/or connection with, 3M and/or any of 3M's products; falsely representing that 3M has increased the price(s) of its 3M-brand N95 respirators; and offering to sell any of 3M's products at a price and/or in a manner that would constitute a violation of NEW YORK GENERAL BUSINESS LAW § 369-R, during the pendency of this action.

2. Sufficient reason having been shown therefor, from the date of this Order, through and including the date of the Show Cause Hearing, Defendant, its agents, servants, employees, officers and all persons and entities in active concert and participation with them, are hereby temporarily restrained, pursuant to FED. R. CIV. P. 65(b), from engaging in any of the acts and/or conduct described in Paragraphs 1(a) and 1(b) of this Order.

because of its financial situation
3. Pursuant to this Court's equitable powers and discretion, 3M need not post a bond.

4. 3M and/or its authorized representative(s) must serve a copy of this Order, together with 3M's Memorandum of Law, and the Declarations, in Support of 3M's Application, on

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Defendant and/or Defendant's registered agent via personal service and/or ~~First Class Mail~~ ^{overnight courier or mail} at 3
Westbrook Way, Manalapan, New Jersey 07726, on or before April ^{delivered 5:00pm} 25, 2020 at ~~5:00pm~~

The foregoing shall constitute proper service and notice of this Order.

5. This Court shall retain jurisdiction to hear and determine all matters arising out of, relating to, and/or otherwise concerning the interpretation and/or enforcement of this Order.

SO ORDERED this 24th day of April, 2020. at 11:45 am

Sherry A. Presley
United States District Judge

6. Opposition papers shall be filed no later than noon on April 30; reply papers, if any, shall be filed no later than noon on May 2.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

3M COMPANY,

Plaintiff,

v.

RX2LIVE, LLC, and RX2LIVE, INC.,

Defendants.

No. 1:20-cv-0523-NONE-SAB

ORDER GRANTING MOTION FOR
TEMPORARY RESTRAINING ORDER;
AND ORDERING DEFENDANTS TO SHOW
CAUSE RE PRELIMINARY INJUNCTION

(Doc. No. 14)

On April 10, 2020, plaintiff 3M Company (“3M”) filed a complaint against defendant RX2Live, LLC. (Doc. No. 1.) On April 19, 2020, plaintiff filed an amended complaint, adding RX2Live, Inc. as a defendant. (Doc. No. 8.) On April 27, 2020, plaintiff filed a motion for a temporary restraining order (“TRO”) and preliminary injunction as to its federal and state claims for trademark infringement and dilution, unfair competition, false endorsement, false association, false designation of origin, and unlawful, unfair, and fraudulent business acts and practices. (Doc. No. 14-1.) 3M seeks temporary injunctive and preliminary relief to prevent defendants RX2Live, LLC and RX2Live, Inc. from using 3M’s trademarks in connection with defendants’ promotion of goods or services, including plaintiff’s 3M-brand N95 respirators. (*Id.*) As of the date and time of entry of this order, no defendant has filed an opposition to the pending motion or

1 otherwise attempted to communicate with the court.¹ Having reviewed the record and the
2 relevant authorities, the court grants the motion for a TRO and orders defendants to show cause
3 why a preliminary injunction should not issue.

4 **IT IS HEREBY ORDERED** that 3M's Motion for a TRO is **GRANTED** in its entirety.
5 It is hereby further **ORDERED** that:

6 1. Defendants appear before The Honorable Dale A. Drozd, District Judge, United
7 States District Court for the Eastern District of California, on **Tuesday, May 12, 2020, at 10:00**
8 **a.m. (Pacific Time)**, via telephone conference pursuant to General Order No. 612 issued on
9 March 16, 2020, and show cause (the "Show Cause Hearing") as to why the court should not
10 enter an Order, pursuant to Federal Rule of Civil Procedure 65(a), that:

11 a. Preliminarily enjoins defendants, their agents, servants, employees, officers and all
12 persons and entities in active concert and participation with them from using the "3M" trademarks
13 (the "3M Marks") and any other word, name, symbol, device, or combination thereof that is
14 confusingly similar to the 3M Marks, for, on, and/or in connection with the manufacture,
15 distribution, advertising, promoting, offering for sale, and/or sale of any goods or services,
16 including, without limitation, plaintiff's 3M-brand N95 respirators, during the pendency of this
17 action, and

18 b. Preliminarily enjoins defendants, their agents, servants, employees, officers and all
19 persons and entities in active concert and participation with them from engaging in any false,
20 misleading, and/or deceptive conduct in connection with 3M and its products, including, without
21 limitation, representing themselves as being authorized distributors, vendors, agents,

22 ¹ The court finds that plaintiff has made reasonable attempts to provide defendant notice of its
23 motion for a TRO and this court's April 28, 2020 minute order via telephone, e-mail, and
24 overnight delivery. (Doc. No. 14-2 at 2-3; Doc. No. 14-3 at 2; Doc. Nos. 16, 17.) Plaintiff
25 indicates that all relevant documents were delivered on April 27 and April 29, 2020 to the home
26 of defendants' CEO Brian Hazelgren in Mesa, Arizona (Doc. No. 14-2; Doc. No. 14-41; Doc. No.
27 17), the same address where plaintiff personally served its Complaint, First Amended Complaint,
28 and summons upon defendant. (Doc. No. 15.) The court notes that defendants did not retain
attorney Joe Lipari of The Sultz Law Group as counsel and that plaintiff has been diligent in
attempting to determine whether defendants have retained counsel and whether defendants would
stipulate to a resolution of plaintiff's motions. (Doc. No. 17.)

1 representatives, retailers, and/or licensees of 3M and/or any of 3M's products (including, without
2 limitation, 3M-brand N95 respirators); falsely representing to have an association or affiliation
3 with, sponsorship by, and/or connection with, 3M and/or any of 3M's products; falsely
4 representing that 3M has increased the price(s) of its 3M-brand N95 respirators; and offering to
5 sell any of 3M's products at a price and/or in a manner that would constitute a violation
6 California Penal Code § 396 and/or California Business and Professions Code §§ 17200 *et seq.*,
7 during the pendency of this action.

8 2. Sufficient reason having been shown therefor, from the date of this Order, through
9 and including the date of the Show Cause Hearing, Defendants, their agents, servants, employees,
10 officers and all persons and entities in active concert and participation with them, are hereby
11 temporarily restrained, pursuant to Federal Rule of Civil Procedure 65(b), from engaging in any
12 of the acts and/or conduct described in Paragraphs 1(a) and 1(b) of this Order.

13 3. Pursuant to this court's equitable powers and discretion, 3M need not post a bond.

14 4. 3M and/or its authorized representative(s) shall serve defendants with copies of
15 this Order and all pleadings and other papers in support of the Order on or before **Monday, May**
16 **4, 2020**, by overnight courier service with verification of receipt.

17 5. Defendants shall file an Opposition, if any, to the Order to Show Cause on or
18 before **Thursday, May 7, 2020**. Defendants are forewarned that failure to timely file an
19 opposition waives any right to be heard in opposition at the hearing on the pending motion for
20 preliminary injunction and may result in the hearing being vacated and the matter submitted for
21 decision on the papers. *See* Local Rule 230(c); *see also Goldberg v. Barreca*, 720 F. App'x 877,
22 878 (9th Cir. 2018) (holding district court did not abuse its discretion by failing to hold
23 evidentiary hearing when initially ruling on preliminary injunction motion because it did not need
24 to resolve any factual disputes).²

25 6. Plaintiff shall file and serve its reply to defendant's opposition, if any, on or before
26 **Friday, May 8, 2020**.

27 ² Citation to this unpublished Ninth Circuit opinion is appropriate pursuant to Ninth Circuit Rule
28 36-3(b).

7. Defendants are further notified of their right to apply to the court for modification or dissolution of this Temporary Restraining Order on two (2) days' notice or such shorter notice as the court may allow. *See* Fed. R. Civ. P. 65(b) and Local Rule 231(c)(8).

This court shall retain jurisdiction to hear and determine all matters arising out of, relating to, and/or otherwise concerning the interpretation and/or enforcement of this Order.

IT IS SO ORDERED.

Dated: **April 30, 2020**

Dale A. Inge
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

3M COMPANY,

Plaintiff,

-against-

PERFORMANCE SUPPLY, LLC,

Defendant.

Case No.: 1:20-cv-02949 (LAP)(KNF)

**ORDER ON PLAINTIFF 3M COMPANY'S
APPLICATION FOR A PRELIMINARY INJUNCTION
AGAINST DEFENDANT PERFORMANCE SUPPLY, LLC**

WHEREAS, the Court, having considered Plaintiff 3M Company's ("3M") Memorandum of Law Support in Support of its Application for a Temporary Restraining Order and Preliminary Injunction (Dkt. No. 13) against Defendant Performance Supply, LLC ("Defendant"), together with the supporting Declarations of Charles Stobbie (Dkt. No. 14), David A. Crist (Dkt. No. 15), and A. John P. Mancini (Dkt. No. 16), as well as the record and proceedings to date in the above-captioned action, hereby finds as follows:

1. Defendant is not an authorized distributor, vendor, agent, or representative of 3M. Defendant also is not authorized to solicit orders of any size for 3M's N95 respirators (or any other goods or services). Nonetheless, on or about March 30, 2020, Defendant sent a Formal Quote to New York City's Office of Citywide Procurement, offering to sell seven million of 3M's N95 respirators for 500% more than 3M's list price. To deceive New York City's procurement officers into believing that Defendant was authorized to solicit orders on 3M's behalf, Defendant, *inter alia*, reproduced the standard-character "3M" mark and 3M design mark **3M** (the "3M Marks"), and the slogan "3M Science. Applied to Life" (the "3M Slogan"), throughout the Formal Quote.

2. 3M cannot control the quality of the products that Defendant is purporting to sell under the 3M Marks or 3M Slogan. Additionally, the harm to 3M's reputation and the 3M brand of being associated with price-gouging and/or raising the prices of its N95 respirators during the global COVID-19 pandemic is immeasurable.

3. Based on the foregoing, 3M is likely to suffer irreparable harm in the absence of a preliminary injunction.

4. 3M owns incontestable federal trademark registrations for its 3M Marks, as well as a federal trademark registration for its 3M Slogan. Accordingly, 3M is likely to establish the validity of its 3M Marks and 3M Slogan.

5. 3M also is likely to establish that Defendant's use of the 3M Marks and 3M Slogan creates a likelihood of confusion about the source and/or quality of the products that Defendant is offering to sell, and/or whether Defendant has an association or affiliation with 3M. 3M has been using its 3M Marks and 3M Slogan for decades. During this period, 3M has invested hundreds of millions of dollars into advertising and promoting a vast array of goods and services under its 3M Marks and 3M Slogan, including its N95 respirators. Defendant is trading off the widespread commercial recognition and goodwill of the 3M Marks and 3M Slogan in connection with offering to sell products that 3M is widely known for manufacturing and selling, namely, N95 respirators. Accordingly, it is no surprise that Defendant actually confused New York City procurement officials into believing that Defendant was an authorized vendor of 3M-brand N95 respirators.

6. Based on the foregoing, 3M is likely to succeed on the merits of its claims for federal trademark infringement, unfair competition, false association, false endorsement, and

false designation of origin under Sections 32 and 43(a)(1)(A) of the Lanham Act, as well as its claims for trademark infringement, and unfair competition, under New York common law.

7. Defendant cannot be heard to complain about having to refrain from engaging in trademark infringement, unfair competition, and price-gouging. 3M, on the other hand, faces irreparable harm if Defendant's conduct continues.

8. Based on the foregoing, the balance of hardships favors 3M.

9. The public has an interest in avoiding confusion about the source and quality of goods and services. This is especially true during the global COVID-19 pandemic, when consumers, including experienced governmental procurement officials, are relying on the 3M Marks and 3M Slogan to indicate that goods and services offered thereunder originate from 3M, and are of the same quality that consumers have come to expect of the 3M brand.

10. Based on the foregoing, the issuance of a preliminary injunction would benefit the public.

BASED ON THE FOREGOING, the Court hereby **GRANTS** 3M's Application for a preliminary injunction against Defendant in its entirety, and **ORDERS** as follows:

1. Pursuant to FED. R. CIV. P. 65(a):

a. Defendant, its agents, servants, employees, officers and all persons and entities in active concert and participation with them, are enjoined during the pendency of this action from using the 3M Marks and 3M Slogan, and any other word, name, symbol, device, or combination thereof that is confusingly similar to the 3M Marks and/or the 3M Slogan, for, on, and/or in connection with the manufacture, distribution, advertising, promoting, offering for sale, and/or sale of any goods or services, including, without limitation, Plaintiff's 3M-brand N95 respirators, and

b. Defendant, its agents, servants, employees, officers and all persons and entities in active concert and participation with them, are also enjoined during the pendency of this action from engaging in any false, misleading, and/or deceptive conduct in connection with 3M and its products, including, without limitation, representing itself as being an authorized distributor, vendor, agent, representative, retailer, and/or licensee of 3M and/or any of 3M's products (including, without limitation, 3M-brand N95 respirators); falsely representing to have an association or affiliation with, sponsorship by, and/or connection with, 3M and/or any of 3M's products; falsely representing that 3M has increased the price(s) of its 3M-brand N95 respirators; and offering to sell any of 3M's products at a price and/or in a manner that would constitute a violation of NEW YORK GENERAL BUSINESS LAW § 369-R.

2. Pursuant to this Court's equitable powers and discretion, because of 3M's financial situation, it need not post a bond.

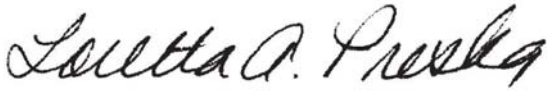
3. 3M and/or its authorized representative(s) must serve a copy of this Order on Defendant and/or Defendant's registered agent via overnight mail or courier and/or personal service at 3 Westbrook Way, Manalapan, New Jersey 07726, delivered on or before 5:00 pm on May 6, 2020. The foregoing shall constitute proper service and notice of this Order.

4. This Court shall retain jurisdiction to hear and determine all matters arising out of, relating to, and/or otherwise concerning the interpretation and/or enforcement of this Order.

5. The Temporary Restraining Order entered against Defendant in this action on April 24, 2020 (Dkt. No. 17) is vacated and superseded by this Order.

6. Counsel shall inform the Court by letter no later than June 4, 2020 of the status of the action.

SO ORDERED this 4 day of May, 2020.



The Honorable Loretta A. Preska
United States District Judge