

Exhibit 1

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

3M COMPANY,

Plaintiff,

-against-

PERFORMANCE SUPPLY, LLC,

Defendant.

Case No.:

Jury Trial Demand

COMPLAINT

Plaintiff 3M Company (“Plaintiff” or “3M”), by and through its undersigned attorneys, as and for its Complaint against Defendant Performance Supply, LLC (“Defendant”), hereby alleges as follows based on knowledge of its own actions, and on information and belief as to all other matters:

NATURE OF THE ACTION

1. This lawsuit concerns Defendant’s use of Plaintiff’s famous “3M” trademarks to perpetrate a false and deceptive price-gouging scheme on unwitting consumers, including agencies of government, during the global COVID-19 pandemic.

2. Throughout its history, 3M has been providing state-of-art, industry-leading scientific and medical products to consumers throughout the world under its famous 3M marks. Based on this longstanding, continuous use, consumers associate the 3M marks uniquely with 3M. Now, more than ever, consumers are also relying on the famous 3M marks to indicate that the products offered thereunder are of the same superior quality that consumers have come to expect over the past century. This is especially true with respect to 3M’s numerous industry-leading healthcare products and personal protective equipment (“PPE”), including Plaintiff’s 3M-brand N95 respirators.

3. Healthcare professionals and other first responders are heroically placing their health and safety on the line to battle COVID-19. To assist in the battle against COVID-19, 3M is supplying healthcare workers and other first responders with 3M-brand N95 respirators. For example, in the last week of March 2020, 3M supplied healthcare workers throughout the United States with 10 million of its 3M-brand N95 respirators. 3M also recently announced that it will import 166.5 million of its 3M-brand N95 respirators into the United States in the next three months to supplement its US production, and has invested the capital and resources necessary to double its current annual global production of 1.1 billion respirators. In response to the COVID-19 outbreak and surge in need for N95 respirators, 3M has doubled its global output rate to nearly 100 million respirators per month, and it expects to produce around 50 million respirators per month in the United States by June 2020.

4. The demand for 3M-branded respirators has grown exponentially in response to the pandemic, and 3M has been committed to seeking to meet this demand while keeping its respirators priced fairly. 3M has not increased the prices that it charges for 3M respirators as a result of the COVID-19 outbreak.

5. Unfortunately, any number of wrongdoers seek to exploit the current public health emergency and prey on innocent parties through a variety of scams involving 3M N95 respirators and other products in high demand. These scams include unlawful price-gouging, fake offers, counterfeiting, and other unfair and deceptive practices—all of which undercut the integrity of the marketplace and constitute an ongoing threat to public health and safety.

6. In response to fraudulent activity, price-gouging and counterfeiting related to N95 respirator masks that has spiked in the marketplace in response to the pandemic, 3M is taking an active role in combating these activities. 3M's actions include working with law enforcement

authorities around the world, including the U.S. Attorney General, state Attorneys General and local authorities, and creating a “3M COVID-19 Fraud hotline” for the United States and Canada that end users and purchasers of 3M products can call for information to help detect fraud and avoid counterfeit products. 3M is also publishing information on its website to help inform the purchasing public about 3M’s prices and products so that they can avoid fraud. Further information about 3M’s efforts is set forth in the 3M press release and publication attached hereto as **Exhibits 1 and 2**. This Complaint is another part of these efforts.

7. Despite 3M’s extensive efforts during COVID-19, unsavory characters continue their quests to take advantage of healthcare workers, first responders, and others in a time of need and trade off the fame of the 3M brand and marks. Defendant is a prime example of this unlawful behavior.

8. On or about March 30, 2020, Defendant sent a Formal Quote to New York City’s Office of Citywide Procurement, offering to sell millions of Plaintiff’s 3M-brand N95 respirator masks at a grossly inflated aggregate price of approximately \$45 million. Defendant is not an authorized distributor of any of Plaintiff’s products and has no rights to use Plaintiff’s famous 3M marks. Nonetheless, to confuse and deceive New York City officials into believing that Defendant was an authorized distributor of Plaintiff’s products, Defendant reproduced the famous 3M marks throughout the Formal Quote, and attached to it Technical Specification Sheets that prominently feature Plaintiff’s famous 3M marks. The Formal Quote itself also sought to confuse its recipient by referring to the St. Paul, Minnesota headquarters of 3M as opposed to Defendant’s New Jersey headquarters, as well as repeatedly referring to the offer’s acceptance being at 3M’s discretion—implying, falsely, that the Formal Quote came from 3M. Defendant’s scheme worked. Indeed, as part of the Citywide Procurement Office’s quality-assurance measures, officials prepared a Bid

Evaluation Request, wherein they mistakenly identified Defendant as a “vendor” of 3M-brand N95 respirators—twice. Compounding Defendant’s bad acts, the prices at which it offered to sell 3M-brand N95 respirators to New York City’s Procurement Office were 500%-600% *above* 3M’s list price. This offer constituted extreme price-gouging by any measure, including under New York State’s statutory provision (NEW YORK GENERAL BUSINESS LAW § 396-r). Not only does such price-gouging further strain the limited resources available to combat COVID-19, but such conduct justifiably has caused public outrage, which threatens imminent and irreparable harm to 3M’s brand as Defendant and similar pandemic profiteers promote an improper association between 3M’s marks and exploitative pricing behavior.

9. 3M does not – and will not – tolerate individuals or entities deceptively trading off the fame and goodwill of the 3M brand and marks for personal gain. This is particularly true against those who seek to exploit the surge in demand for 3M-brand products during the COVID-19 global pandemic, which already has claimed tens of thousands of lives worldwide and more than 5,000 lives in New York State alone.

10. Accordingly, to further protect governmental actors and consumers from confusion and mistake, to reduce the amount of time and energy that government officials are forced to waste interacting with such schemes, as well as to forestall any further diminution to the 3M brand and marks’ reputation, fame, and goodwill, Plaintiff brings this lawsuit against Defendant for federal and state trademark infringement, unfair competition, false association, false endorsement, false designation of origin, trademark dilution, false advertising, and deceptive acts and practices. Plaintiff also seeks preliminary and permanent injunctive relief. As described below, any damages, costs, or fees recovered by Plaintiff will be donated to charitable COVID-19 relief efforts.

THE PARTIES

11. Plaintiff 3M Company is a Delaware corporation, with a principal place of business and corporate headquarters located at 3M Center, St. Paul, Minnesota 55144.

12. On information and belief, Defendant Performance Supply, LLC is a New Jersey limited liability company, with a principal place of business at 3 Westbrook Way, Manalapan, New Jersey 07726.

JURISDICTION AND VENUE

13. The claims for trademark infringement, unfair competition, false association, false endorsement, false designation of origin, trademark dilution, and false advertising, respectively, asserted in Counts I - IV, *infra*, arise under the Trademark Act of 1946 (as amended; the “Lanham Act”), namely, 15 U.S.C. §§ 1051 *et seq.* Accordingly, this Court has original and subject-matter jurisdiction over Counts I – IV pursuant to 28 U.S.C. §§ 1331, 1338(a), and 15 U.S.C § 1121(a).

14. The claims for deceptive acts and practices, false advertising, dilution, trademark infringement and unfair competition, respectively, asserted in Counts V - IX, *infra*, arise under New York statutory and common law, and are so related to the federal claims asserted in Counts I - IV, *infra*, that they form part of the same case or controversy. Accordingly, this Court has supplemental jurisdiction over Counts V - IX pursuant to 28 U.S.C. §§ 1338(b) and 1367(a).

15. Defendant has purposefully availed itself of the privilege of transacting business in this District. Defendant has also committed and intentionally directed tortious acts towards residents and governmental agencies in this District. For example, Defendant recently used Plaintiff’s famous 3M marks as part of a price-gouging scheme to deceive New York City officials located in this District into believing that Defendant was authorized by 3M to sell millions of 3M-brand N95 respirator masks for an aggregate price of roughly \$45 million—

several multiples of the 3M list price. 3M's claims arise out of and relate to Defendant's transactions of business, and tortious acts committed in this District. Based on the foregoing, this Court has long-arm jurisdiction over Defendant pursuant to CPLR NEW YORK CIVIL PRACTICE LAW AND RULES § 302(a)(1)-(2), and FED. R. CIV. P. 4(k).

16. A substantial part of the events giving rise to the claims asserted, *infra*, occurred in this District. Therefore, venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2).

17. Defendant is subject to personal jurisdiction in this District. Therefore, venue is also proper in this District pursuant to 28 U.S.C. § 1391(b)(3).

FACTS COMMON TO ALL CLAIMS FOR RELIEF

I. Plaintiff

A. 3M

18. 3M has grown from humble beginnings in 1902 as a small-scale mining venture in Northern Minnesota to what it is today, namely: an industry-leading provider of scientific, technical, and marketing innovations throughout the world. Today, 3M's portfolio includes more than 60,000 goods and services, ranging from household and school supplies, to industrial and manufacturing materials, to medical supplies and equipment.

B. The 3M Brand

19. 3M offers its vast array of goods and services throughout the world under numerous brands, including, for example: ACE; POST-IT; SCOTCH; NEXCARE; and more. 3M also uses its famous "3M Science. Applied to Life" slogan in connection with the promotion of its goods and services. Notwithstanding the widespread goodwill and resounding commercial success enjoyed by these brands, 3M's most famous and widely recognized brand is its eponymous "3M" brand.

20. The 3M brand is associated with products and materials for a wide variety of medical devices, supplies, and PPE, including, for example: respirators; stethoscopes; medical tapes; surgical gowns, blankets, and tape; bandages and other wound-care products; and more. As such, 3M-branded products are highly visible throughout hospitals, nursing homes, and other care facilities where patients, care providers, and procurement officers value and rely upon the high quality and integrity associated with the 3M brand.

C. The Famous “3M” Marks

21. Over the past century, Plaintiff has invested hundreds of millions of dollars in advertising and promoting its 3M-brand products to consumers throughout the world (including, without limitation, its 3M-brand N95 respirator) under the standard-character mark “3M” and the inset 3M design mark (together, the “3M Marks”):



22. For decades, products offered under Plaintiff’s 3M Marks have enjoyed enormous commercial success (including, without limitation, its 3M-brand N95 respirator). Indeed, in 2019, alone, sales of products offered under Plaintiff’s 3M Marks exceeded several hundred million USD.

23. Over the same period of time, products offered under Plaintiff’s 3M Marks have regularly been the subject of widespread, unsolicited media coverage and critical acclaim.

24. Based on the foregoing, consumers associate the 3M Marks uniquely with Plaintiff and recognize them as identifying Plaintiff as the exclusive source of goods and services offered under the 3M Marks. Based on the foregoing, the 3M Marks have also become famous among consumers in the United States.

25. To strengthen Plaintiff’s common-law rights in and to its famous 3M Marks, Plaintiff has obtained numerous federal trademark registrations, including, without limitation: (i) U.S. Trademark Reg. No. 3,398,329, which covers the standard-character 3M mark in Int. Classes 9 and 10 for, *inter alia*, respirators (the “‘329 Registration”); (ii) U.S. Trademark Reg. No. 2,793,534, which covers the 3M design mark in Int. Classes 1, 5, and 10 for, *inter alia*, respirators (the “‘534 Registration”); and (iii) U.S. Trademark Reg. No. 5,469,903, which covers the “3M Science. Applied to Life” slogan in a number of Int. Classes, including Int. Class 9 for facial masks and respirators (the “‘903 Registration”). *See Exhibits 3-5.*

26. The ‘329, ‘534, and ‘903 Registrations are valid, in effect, and on the Principal Trademark Register.

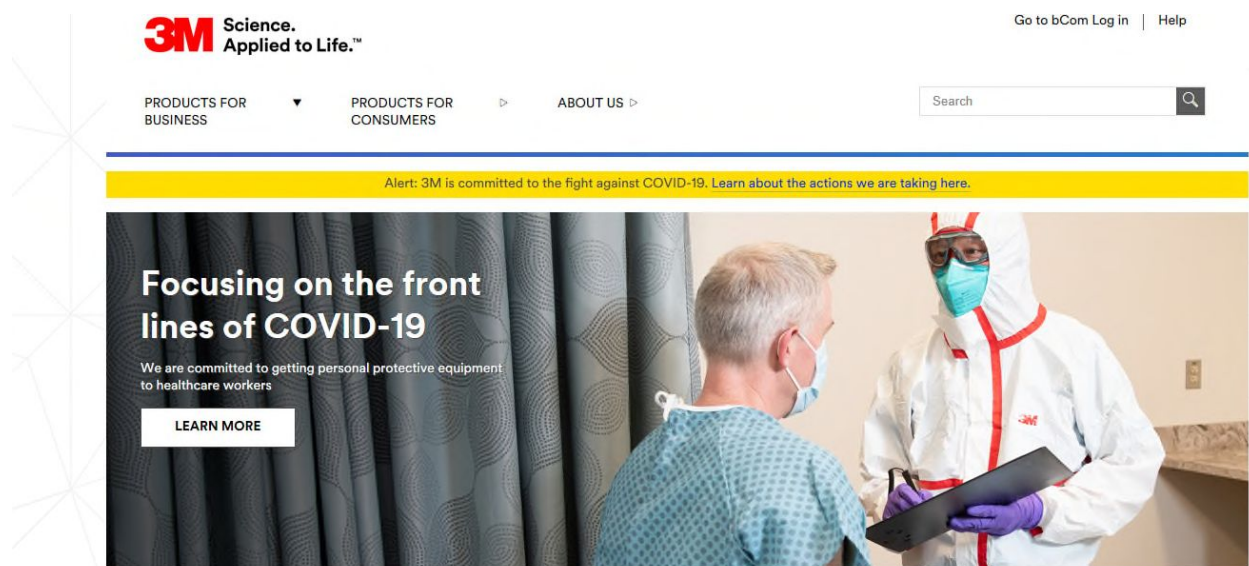
27. The ‘329 and ‘534 Registrations are “incontestable” within the meaning of 15 U.S.C. § 1065. Accordingly, the ‘329 and ‘534 Registrations constitute conclusive evidence of: (i) Plaintiff’s ownership of the 3M Marks; (ii) the validity of the 3M Marks; (iii) the validity of the registration of the 3M Marks; and (iv) Plaintiff’s exclusive right to use the 3M Marks throughout the United States for, *inter alia*, respirators. Relatedly, the ‘903 Registration constitutes *prima facie* evidence of: (i) Plaintiff’s ownership of the “3M Science. Applied to Life” slogan; (ii) the validity of the “3M Science. Applied to Life” slogan; (iii) the validity of the registration of the “3M Science. Applied to Life” slogan; and (iv) Plaintiff’s exclusive right to use the “3M Science. Applied to Life” slogan throughout the United States for, *inter alia*, respirators (the “3M Slogan”).

28. Plaintiff’s famous 3M Marks do more than identify Plaintiff as the exclusive source of goods and services offered thereunder. Indeed, the famous 3M Marks also signify to consumers that 3M-brand products offered under the 3M Marks are of the highest quality and adhere to the strictest quality-control standards. Now, more than ever, consumers rely on the famous 3M Marks’

ability to signify that products offered under the 3M Marks are of the same high quality that consumers have come to expect of the 3M brand over the past century.

D. Plaintiff's Extensive Efforts to Assist With the Battle Against COVID-19

29. Medical professionals and first responders throughout the world are donning extensive PPE as they place their health and safety on the line in the battle against COVID-19. As Plaintiff states on the homepage of its website, it is “committed to getting personal protective equipment to healthcare workers”:



30. Among the PPE that 3M is providing to the heroic individuals on the front lines of the battle against COVID-19 are Plaintiff's 3M-brand N95 respirators.

31. Inset, below, is an image of Plaintiff's 3M-brand, Model 8210 respirator:



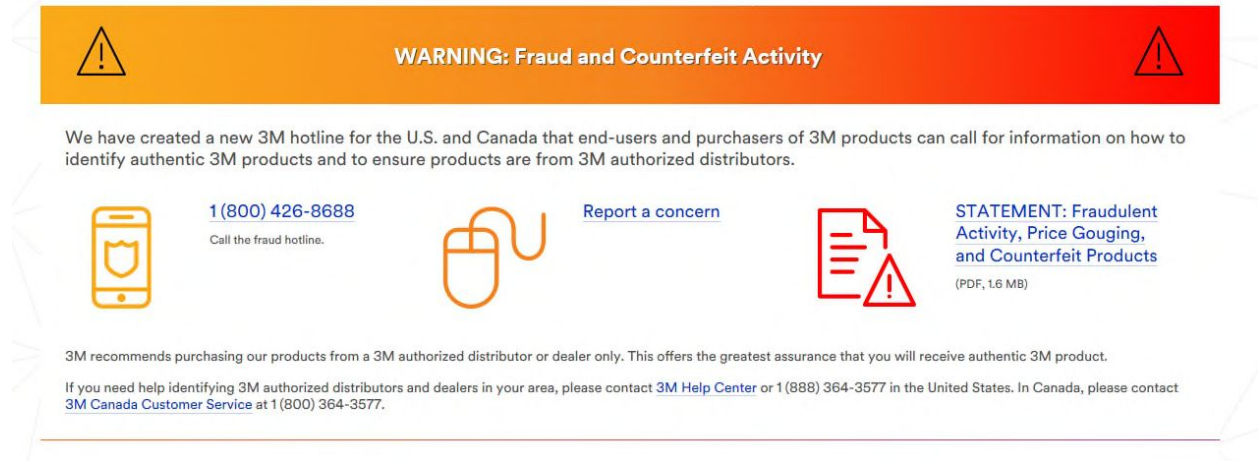
32. Authentic N95 respirators reduce exposure to airborne biological particles and liquid contamination when appropriately selected, fitted, and worn.

33. Based on the exponential increase in demand for 3M-brand N95 respirators, Plaintiff has invested the necessary capital and resources to double its global annual production of 1.1 billion 3M-brand N95 respirators. *See* Exhs. 1,2 **What 3M has *not* done, though, is increase its prices.** *See id.*

34. Unfortunately, certain third parties do not share 3M's sense of civic responsibility during this time of crisis. Indeed, opportunistic third parties are seeking to exploit the increased demand for Plaintiff's 3M-brand N95 respirators by offering to sell them for exorbitant prices, selling counterfeit versions of them, and accepting money for 3M-brand N95 respirators despite not having the product to sell and/or never intending to deliver the product to the unwitting buyer—in many instances, a public authority, such as the City of New York, which struggles to address the enormous financial and logistical challenges presented by COVID-19.

35. Accordingly, to protect consumers on the front lines of the COVID-19 battle from deception and inferior products, to reduce time wasted by governmental officials on scams, as well as to protect the widespread reputation and goodwill enjoyed by Plaintiff's carefully curated 3M brand, Plaintiff is working diligently with law enforcement, retail partners, and others to combat unethical and unlawful business practices related to 3M-brand N95 respirators. For example, in late-March 2019, 3M's Chief Executive Officer, Mike Roman, sent a letter to U.S. Attorney General, William Barr, and the President of the National Governor's Association, Larry Hogan of Maryland, to offer 3M's partnership in combatting price-gouging. As shown in the inset image, additional examples of 3M's efforts to combat price-gouging, counterfeiting, and other unlawful conduct during COVID-19 include:

- a. 3M posted on its website the list price for its 3M-brand N95 respirators so that consumers can readily identify price-gouging (*See Exhibit 6*);
- b. 3M created a form on its website that consumers can use to report suspected incidents of price-gouging and counterfeiting (*See Exhibit 7*); and
- c. 3M created a fraud “hotline” that consumers can call to report suspect incidents of price-gouging and counterfeiting:



II. Defendant’s Unlawful Conduct

36. Despite Plaintiff’s extensive measures to combat price-gouging and counterfeiting of its 3M-brand N95 respirators, these illicit activities continue. Defendant is a prime example of this unlawful behavior, which is damaging to the 3M brand and public health.

37. On or about March 30, 2020 – while New York City was reporting record numbers of COVID-19 positive tests and deaths – Defendant emailed a document, titled *Formal Quote*, to Ebony Roberson of New York City’s Office of Citywide Procurement. *See Exhibit 8*.

38. In the Formal Quote, Defendant offered to sell New York City’s Procurement Office: (i) 2 million 3M-brand, N95 Model 8210 respirators for \$6.05 each, and (ii) 5 million 3M-brand, N95 Model 1860 respirators for \$6.35 each. *See Exh. 8*.

39. In the one-page Formal Quote, Defendant reproduced Plaintiff’s famous 3M marks *nine* times. *See Exh. 8*.

40. Defendant also attached to the Formal Quote a Technical Specification Sheet for both Models of 3M-brand N95 respirators that Defendant purportedly had available for sale. *See* Exh. 8. Plaintiff's famous 3M design mark, and 3M Slogan, prominently appeared in the upper left-hand corner of both Technical Specification Sheets. *See id.* Plaintiff's famous 3M design mark also appeared in the lower left-hand corner of both Technical Specification Sheets. *See id.* Additionally, Plaintiff's famous standard-character 3M mark appeared in the Technical Specification Sheets. *See id.*

41. Defendant's rampant use of the 3M Marks throughout the Formal Quote, combined with the presence of the Plaintiff's 3M Marks and 3M Slogan in Technical Specification Sheets, caused New York City officials to mistakenly believe that Defendant was an authorized distributor of Plaintiff's products and/or otherwise had an association or affiliation with Plaintiff and its products. To be sure, after Defendant sent the Formal Quote to Ms. Roberson, New York City officials prepared an "Evaluation Request – Bid Document Review" as part of their quality-assurance measures. *See* Exh. 8. In the Evaluation Request, New York City officials identified Defendant as a "vendor" – twice – of 3M-brand, N95 Model 8210 and 1860 respirators. *See id.* However, the New York City officials were mistaken. Defendant is not, and never has been, an authorized distributor or vendor of Plaintiff's products. Defendant also does not have, and has never had, an association or affiliation with Plaintiff.

42. Defendant's Formal Quote also contained false, misleading, and/or deceptive statements. For example, in the Formal Quote, Defendant stated:

"Due to the national emergency, acceptance of the purchase order is at the full discretion of 3M and supplies are based upon availability. The N95 masks 3M can begin shipping in 2-4 weeks CIF at any of 3M [sic] plants in the USA or 3M Plants Overseas according to their manufacturing schedule. 3M choose the plant. Order may be shipped in whole or in part." *See* Exh. 8.

43. The level of specificity in the above-quoted portion of the Formal Quote, including, for example, that any purchase order is subject to 3M’s discretionary approval, that 3M allegedly ships its products CIF, and that 3M will determine the production site for the order, are all false and likely to mislead and/or deceive a reasonable consumer into believing that Defendant is an authorized distributor of 3M products and/or has an association or affiliation with 3M. Sadly, in this case, Defendant’s Formal Quote actually misled and deceived experienced buyers in the Procurement Office of one of the world’s largest cities into believing that Defendant was an authorized “vendor” of approximately \$45 million-worth of 3M-brand N95 respirators.

44. Another equally detestable element of Defendant’s unlawful conduct is price-gouging. Defendant’s quote of \$6.05 per 3M brand, N95 Model 8120 respirator is approximately 600% over 3M’s suggested list price of \$1.02-\$1.31 per respirator. *See* Exh. 3. Defendant’s quote of \$6.35 per 3M brand, N95 Model 1860 respirator is 500% increase over 3M’s list price of \$1.27 per respirator. *See* Exh. 3.

45. The mere association of 3M’s valuable brand with such shameless price-gouging harms the brand, not to mention its more serious threat to public health agencies that are under strain in the midst of a worldwide pandemic.

46. Based on the foregoing, Plaintiff seeks relief against Defendant for federal and state trademark infringement, unfair competition, false association, false endorsement, false designation of origin, trademark dilution, false advertising, and deceptive acts and business practices.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

*(Trademark Infringement Under Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1))
(Infringement of the Federally Registered 3M Marks and 3M Slogan)*

47. Plaintiff repeats and incorporates by reference the statements and allegations in paragraphs 1 - 46 of the Complaint as though set forth fully herein.

48. Count I is a claim for trademark infringement under 15 U.S.C. § 1114.

49. Plaintiff is the exclusive owner of each of the federally registered 3M Marks, and the 3M Slogan.

50. Plaintiff has the exclusive right to use each of the 3M Marks, and the 3M Slogan, in United States commerce for, *inter alia*, advertising, promoting, offering for sale, and selling Plaintiff's 3M-brand N95 respirators.

51. Plaintiff's exclusive rights in and to each of the 3M Marks, and the 3M Slogan, predate any rights that Defendant could establish in and to any mark that consists of "3M" in whole and/or in part.

52. Both of the 3M Marks, and the 3M Slogan, are fanciful and/or arbitrary when used for respirators and, therefore, are inherently distinctive.

53. Both of the 3M Marks, and the 3M Slogan, identify Plaintiff as the exclusive source of products offered under the 3M Marks (including, without limitation, 3M-brand N95 respirators) and, therefore, the 3M Marks, and the 3M Slogan, have acquired distinctiveness.

54. Defendant is using the 3M Marks, and the 3M Slogan, in commerce to advertise, promote, offer for sale, and sell 3M-brand N95 respirators, including, for example, in the Formal Quote.

55. Defendant's use of the 3M Marks, and the 3M Slogan, in commerce on, for, and/or in connection with the advertising, promotion, offering for sale, and/or sale of products, as alleged, herein, is causing, and is likely to continue causing, consumer confusion, mistake, and/or deception about whether Defendant is 3M, and/or whether Defendant is a licensee, authorized distributor, and/or affiliate of 3M and/or products that Plaintiff offers under its 3M Marks and/or 3M Slogan, including, without limitation, 3M-brand N95 respirators.

56. Defendant's use of the 3M Marks, and the 3M Slogan, in commerce on, for, and/or in connection with the advertising, promotion, offering for sale, and/or sale of products, as alleged, herein, is causing, and is likely to continue causing, consumer confusion, mistake, and/or deception about whether Defendant and/or Defendant's products are affiliated, connected, and/or associated with 3M and/or products that Plaintiff offers under its 3M Marks and/or 3M Slogan, including, without limitation, 3M-brand N95 respirators.

57. Defendant's use of the 3M Marks, and the 3M Slogan, in commerce on, for, and/or in connection with the advertising, promotion, offering for sale, and/or sale of products, as alleged, herein is causing, and is likely to continue causing, consumer confusion, mistake, and/or deception about whether Defendant and/or Defendant's products originate with, and/or are sponsored or approved by, and/or offered under a license from, 3M or vice versa.

58. Plaintiff has not consented to the use of its famous 3M Marks, or 3M Slogan, by Defendant.

59. Based on Plaintiff's longstanding and continuous use of its 3M Marks, and 3M Slogan, in United States commerce, as well as the federal registration of Plaintiff's 3M Marks, and 3M Slogan, Defendant had actual and constructive knowledge of Plaintiff's superior rights in and to the 3M Marks, and the 3M Slogan, when Defendant began using the 3M Marks, and the 3M Slogan, as part of its bad-faith scheme to confuse and deceive consumers, as alleged, herein.

60. Upon information and belief, Defendant adopted and uses the 3M Marks, and the 3M Slogan, in furtherance of Defendant's willful, deliberate, and bad-faith scheme of exploiting the extensive consumer goodwill, reputation, fame, and commercial success of products that Plaintiff offers under its 3M Marks, and its 3M Slogan, including, without limitation, 3M-brand N95 respirators.

61. Upon information and belief, Defendant has made, and will continue to make, substantial profits and gain from its unauthorized use of Plaintiff's 3M Marks, and 3M Slogan, to which Defendant is not entitled at law or in equity.

62. Upon information and belief, Defendant's acts and conduct complained of herein constitute trademark infringement in violation of 15 U.S.C. § 1114(a).

63. Plaintiff has suffered, and will continue to suffer, irreparable harm from Defendant's acts and conduct complained of herein, unless restrained by law. The damage suffered by Plaintiff is exacerbated by the fact that Defendant is advertising and offering for sale 3M-branded N95 respirator masks at exorbitantly inflated prices during a global pandemic when Plaintiff's products are necessary to protect public health. Such conduct has inspired intense public criticism of the manner in which Plaintiff's respirator masks are being distributed and sold during the COVID-19 pandemic and significant confusion about Plaintiff's role in the marketplace for masks that are essential to safeguarding public health. Whereas Plaintiff's corporate values and brand image center around the application of science to improve lives, Defendant's conduct imminently and irreparably harms Plaintiff's 3M brand.

64. Plaintiff has no adequate remedy at law.

SECOND CLAIM FOR RELIEF

*(Unfair Competition, False Endorsement, False Association, and False Designation of Origin
Under Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A))
(Use of the 3M Marks and 3M Slogan)*

65. Plaintiff repeats and incorporates by reference the statements and allegations in paragraphs 1 - 64 of the Complaint as set forth fully herein.

66. Count II is a claim for federal unfair competition, false endorsement, false association, and false designation of origin under 15 U.S.C. § 1125(a)(1)(A).

67. Upon information and belief, Defendant's acts and conduct complained of herein constitute unfair competition, false endorsement, false association, and/or false designation of origin in violation of 15 U.S.C. § 1125(a)(1)(A).

68. Upon information and belief, Defendant's use of Plaintiff's famous 3M Marks, and 3M Slogan, to advertise, market, offer for sale, and/or sell purported 3M-brand N95 respirators to consumers at exorbitant prices, in general, and during a global pandemic such as COVID-19, specifically, also constitutes unfair competition in violation of 15 U.S.C. § 1125(a)(1)(A).

69. Defendant has also falsely held itself out to be an agent of and/or authorized by Plaintiff to sell and/or distribute 3M-branded products, when this is not the case.

70. Plaintiff has suffered, and will continue to suffer, irreparable harm from Defendant's acts and conduct complained of herein, unless restrained by law.

71. Plaintiff has no adequate remedy at law.

THIRD CLAIM FOR RELIEF

(Trademark Dilution Under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c))
(Dilution of the Famous 3M Marks)

72. Plaintiff repeats and incorporates by reference the statements and allegations in paragraphs 1 - 71 of the Complaint as though set forth fully herein.

73. Count III is a claim for federal trademark dilution under 15 U.S.C. § 1125(c).

74. Plaintiff's 3M Marks were famous before and at the time Defendant began using the 3M Marks in commerce on, for, and/or in connection with the advertising, promotion, offering for sale, and/or sale of products (including, without limitation, 3M-brand N95 respirators).

75. Defendant's use of Plaintiff's famous 3M Marks in commerce on, for, and/or in connection with the advertising, promotion, offering for sale, and/or sale of products (including, without limitation, 3M-brand N95 respirators) is likely to dilute the distinctive quality of the

famous 3M Marks, such that famous 3M Marks' established selling power and value will be whittled away.

76. Defendant's use of Plaintiff's famous 3M Marks in commerce on, for, and/or in connection with the advertising, promotion, offering for sale, and/or sale of products (including, without limitation, 3M-brand N95 respirators) is likely to dilute the distinctive quality of the famous 3M Marks, such that famous 3M Marks' ability to identify Plaintiff as the exclusive source of products offered under the 3M Marks (including, without limitation, Plaintiff's 3M-brand N95 respirators) will be whittled away.

77. Defendant's use of Plaintiff's famous 3M Marks in commerce on, for, and/or in connection with the advertising, promotion, offering for sale, and/or sale of products (including, without limitation, 3M-brand N95 respirators) at exorbitant prices, in general, and during a global pandemic such as COVID-19, specifically, is likely to dilute the reputation of the famous 3M Marks, such that famous 3M Marks' established ability to indicate the superior quality of Products offered under such Marks (including, without limitation, Plaintiff's 3M-brand N95 respirators), will be whittled away.

78. Upon information and belief, Defendant's acts and conduct complained of herein constitute trademark dilution in violation of 15 U.S.C. § 1125(c).

79. Plaintiff has suffered, and will continue to suffer, irreparable harm from Defendant's acts and conduct complained of herein, unless restrained by law. The damage suffered by Plaintiff is exacerbated by the fact that Defendant is advertising and offering for sale 3M-branded N95 respirators at exorbitantly inflated prices during a global pandemic when Plaintiff's products are necessary to protect public health. Such conduct has inspired intense public criticism of the manner in which Plaintiff's respirators are being distributed and sold during the COVID-19

pandemic and significant confusion about Plaintiff's role in the marketplace for respirators that are essential to safeguarding public health. Whereas Plaintiff's corporate values and brand image center around the application of science to improve lives, Defendant's conduct imminently and irreparably harms Plaintiff's 3M brand.

80. Plaintiff has no adequate remedy at law.

FOURTH CLAIM FOR RELIEF

(False Advertising Under Section 43(a)(1)(B) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B))
(Defendant's Formal Quote)

81. Plaintiff repeats and incorporates by reference the statements and allegations in paragraphs 1 - 80 of the Complaint as though set forth fully herein.

82. Count IV is a claim for false and deceptive advertising under 15 U.S.C. § 1125(a)(1)(B).

83. The statements that Defendant made in its Formal Quote constitute commercial advertising and/or commercial promotion.

84. The statements that Defendant made in its Formal Quote contained false, misleading, and/or deceptive statements about the nature, characteristics, qualities, and/or geographic origin of Defendant and/or the products that Defendant allegedly had available for sale.

85. The statements that Defendant made in its Formal Quote contained false, misleading, and/or deceptive statements about the nature, characteristics, qualities, and/or geographic origin of Plaintiff and Plaintiff's 3M-brand products, including, without limitation, Plaintiff's 3M-brand N95 respirators.

86. The false, misleading, and/or deceptive statements in Defendant's Formal Quote were material to New York City's purchasing decisions, including, without limitation, its preparation of the aforementioned Evaluation Request, wherein officials mistakenly identified Defendant as a "vendor" of 3M-brand N95 respirators, twice.

87. Defendant placed its Formal Quote into interstate commerce by, *inter alia*, sending it to at least one New York City official's email account, namely, Ms. Roberson.

88. Defendant's Formal Quote directly and/or proximately caused and/or is likely to cause Plaintiff to suffer harm in the form of lost sales (including, without limitation, lost sales of Plaintiff's 3M-brand N95 respirators), as well as irreparable diminution to the 3M brand and 3M Marks' reputation, fame, and goodwill.

89. Upon information and belief, Defendant's acts and conduct complained of herein constitute false advertising in violation of 15 U.S.C. § 1125(a)(1)(B).

90. Plaintiff has suffered, and will continue to suffer, irreparable harm from Defendant's acts and conduct complained of herein, unless restrained by law. The damage suffered by Plaintiff is exacerbated by the fact that Defendant is advertising and offering for sale 3M-branded N95 respirator masks at exorbitantly inflated prices during a global pandemic when Plaintiff's products are necessary to protect public health. Such conduct has inspired intense public criticism of the manner in which Plaintiff's respirator masks are being distributed and sold during the COVID-19 pandemic and significant confusion about Plaintiff's role in the marketplace for masks that are essential to safeguarding public health. Whereas Plaintiff's corporate values and brand image center around the application of science to improve lives, Defendant's conduct imminently and irreparably harms Plaintiff's 3M brand.

91. Plaintiff has no adequate remedy at law.

FIFTH CLAIM FOR RELIEF

*(Deceptive Acts and Practices Under NEW YORK GENERAL BUSINESS LAW § 349)
(Use of the 3M Brand, Famous 3M Marks, and 3M Slogan; Defendant's Formal Quote)*

92. Plaintiff repeats and incorporates by reference the statements and allegations in paragraphs 1 - 91 of the Complaint as though set forth fully herein.

93. Count V is a claim for deceptive acts and practices under NEW YORK GENERAL BUSINESS LAW (“GBL”) § 349.

94. By using Plaintiff’s 3M Marks, and 3M Slogan, to confuse consumers during a global pandemic, such as COVID-19, about the source, price, availability, quality, and/or origin of 3M-brand N95 respirators, Defendant’s conduct poses a direct and/or proximate threat to the health and safety of the general public, including consumers within this District. For example, because of Defendant’s use of Plaintiff’s famous 3M Marks, and 3M Slogan, throughout the Formal Quote, New York City officials mistakenly believed that Defendant was an authorized vendor of 3M-brand N95 respirators. Based on the mistaken belief that Defendant was an authorized distributor of 3M-brand N95 respirators, New York City officials took steps to commit approximately \$45 million-worth of critical resources during the height of COVID-19 to purchasing products from Defendant (including, for example, preparing the Evaluation Request). Accordingly, Defendant’s acts and conduct complained of herein go above and beyond ordinary trademark infringement.

95. Upon information and belief, Defendant’s acts and conduct complained of herein constitute deceptive acts and practices in violation of GBL § 349.

96. Plaintiff has suffered, and will continue to suffer, irreparable harm from Defendant’s acts and conduct complained of herein, unless restrained by law.

97. Plaintiff has no adequate remedy at law.

SIXTH CLAIM FOR RELIEF
(False Advertising Under NEW YORK GENERAL BUSINESS LAW § 350)
(Defendant’s Formal Quote)

98. Plaintiff repeats and incorporates by reference the statements and allegations in paragraphs 1 - 97 of the Complaint as though set forth fully herein.

99. Count VI is a claim for false advertising under GBL § 350.

100. By creating the false, misleading, and/or deceptive impression that Defendant was an authorized distributor of 3M-brand N95 respirators during the height of COVID-19, Defendant's conduct poses a direct and/or proximate threat to the health and safety of the general public, including consumers within this District. For example, the false, misleading, and/or deceptive statements in Defendant's Formal Quote misled and deceived New York City officials into believing that Defendant was an authorized distributor of 3M-brand N95 respirators. Based on the mistaken belief that Defendant was an authorized distributor of 3M-brand N95 respirators, New York City official took steps to commit approximately \$45 million-worth of critical resources during the height of COVID-19 to purchasing products from Defendants (including, for example, preparing the Evaluation Request). Accordingly, Defendant's acts and conduct complained of herein go above and beyond ordinary false advertising.

101. Upon information and belief, Defendant's acts and conduct complained of herein constitute false advertising in violation of NEW YORK GENERAL BUSINESS LAW § 350.

102. Plaintiff has suffered, and will continue to suffer, irreparable harm from Defendant's acts and conduct complained of herein, unless restrained by law.

Plaintiff has no adequate remedy at law.

SEVENTH CLAIM FOR RELIEF

*(Dilution and Injury to Business Reputation Under NEW YORK GENERAL BUSINESS LAW § 360-l)
(Dilution of, Injury to the 3M Brand, Famous 3M Marks, and 3M Slogan)*

103. Plaintiff repeats and incorporates by reference the statements and allegations in paragraphs 1 - 102 of the Complaint as though set forth fully herein.

104. Count VII is a claim for dilution under GBL § 360-l.

105. Upon information and belief, Defendant's acts and conduct complained of herein constitute dilution and injury to business reputation in violation of GBL § 360-l.

106. Plaintiff has suffered, and will continue to suffer, irreparable harm from Defendant's acts and conduct complained of herein, unless restrained by law.

107. Plaintiff has no adequate remedy at law.

EIGHTH CLAIM FOR RELIEF

(Trademark Infringement Under New York Common Law)
(Infringement of the 3M Marks and 3M Slogan)

108. Plaintiffs repeat and incorporate by reference the statements and allegations in paragraphs 1 - 107 of the Complaint as though set forth fully herein.

109. Count XIII is a claim for trademark infringement under New York common law.

110. Upon information and belief, Defendant's acts and conduct complained of herein constitute trademark infringement in violation of New York common law.

111. Plaintiff has suffered, and will continue to suffer, irreparable harm from Defendant's acts and conduct complained of herein, unless restrained by law.

112. Plaintiff has no adequate remedy at law.

NINTH CLAIM FOR RELIEF

(Unfair Competition and Passing Off Under New York Common Law)
(Use of the 3M Marks and 3M Slogan)

113. Plaintiff repeats and incorporates by reference the statements and allegations in paragraphs 1 - 112 of the Complaint as though set forth fully herein.

114. Count IX is a claim for unfair competition under New York common law.

115. Upon information and belief, Defendant's acts and conduct complained of herein constitute unfair competition and passing off in violation of New York common law.

116. Plaintiff has suffered, and will continue to suffer, irreparable harm from Defendant's acts and conduct complained of herein, unless restrained by law.

117. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, based on Defendant's conduct complained of, herein, Plaintiff asks that this Court:

A. To enter an Order, finding in Plaintiff's favor on each Claim for Relief asserted herein;

B. Pursuant to 15 U.S.C. § 1116:

1. Preliminarily and permanently enjoining Defendant, its agents, servants, employees, officers and all persons and entities in active concert and participation with them from using the 3M Marks (or any other mark(s) confusingly similar thereto) 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 respirator Marks;

2. Preliminarily and permanently enjoining Defendant, its agents, servants, employees, officers and all persons and entities in active concert and participation with them from falsely representing itself as being a distributor, authorized retailer, and/or licensee of Plaintiff and/or any of Plaintiff's products (including, without limitation, Plaintiff's 3M-brand N95 respirator) and/or otherwise falsely representing to have an association or affiliation with, sponsorship by, and/or connection with, Plaintiff and/or any of Plaintiff's products; and

3. Ordering Defendant to file with the Court and serve upon Plaintiff's counsel, within 30 days after service of the order of injunction, a report in writing under oath setting forth in detail the manner and form in which Defendant has complied with the injunction;

C. Pursuant to 15 U.S.C. § 1117:

1. Order Defendant to provide Plaintiff with a full accounting of all manufacture, distribution and sale of products under the 3M Marks (including, without limitation, Plaintiff's 3M-brand N95 respirators), as well as all profits derived therefrom;

2. Order Defendant to pay to Plaintiff—so as to be donated charitably pursuant to subpart G, *infra*—all of Defendant's profits derived from the sale of infringing goods offered under the 3M Marks (including, without limitation, Plaintiff's 3M-brand N95 respirators);

3. Award Plaintiff treble actual damages—so as to be donated charitably pursuant to subpart G, *infra*—in connection with Defendant's infringement of the 3M Marks;

4. Find that Defendant's acts and conduct complained of herein render this case "exceptional"; and

5. Award Plaintiff—so as to be donated charitably pursuant to subpart G, *infra*—its costs and reasonable attorneys' fees incurred in this matter;

D. Pursuant to 15 U.S.C. § 1118, order the destruction of all unauthorized goods and materials within the possession, custody, and control of Defendant and Defendant's client that bear, feature, and/or contain any copy or colorable imitation of Plaintiff's 3M Marks;

E. Award Plaintiff pre-judgment and post-judgment interest against Defendant;

F. Award Plaintiff such other relief that the Court deems just and equitable; and

G. Requiring that all monetary payments awarded to Plaintiff be donated to a COVID-19 charitable organization(s)/cause(s) of Plaintiff's choosing.

DEMAND FOR JURY TRIAL

Plaintiff requests a trial by jury for all issues so triable pursuant to FED. R. CIV. P. 38(b) and 38(c).

Dated: April 10, 2020
New York, New York

MAYER BROWN LLP

/s/ A. John P. Mancini

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Kristine M. Young (to apply *pro hac vice*)
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Attorneys for Plaintiff 3M Company

EXHIBIT 1



Published on 3M News | United States (<https://news.3m.com>) on 4/6/20 6:01 pm CDT

3M and Trump administration announce plan to import 166.5 million additional respirators into the United States over the next three months

Terms:

[3M Stories](#)

Today 3M and the Trump Administration are announcing a plan to import 166.5 million respirators over the next three months to support healthcare workers in the United States. 3M and the Administration worked together to ensure that this plan does not create further humanitarian implications for countries currently fighting the COVID-19 outbreak, and committed to further collaborate to fight price gouging and counterfeiting.

"I want to thank President Trump and the Administration for their leadership and collaboration," said 3M chairman and CEO Mike Roman. "We share the same goals of providing much-needed respirators to Americans across our country and combating criminals who seek to take advantage of the current crisis. These imports will supplement the 35 million N95 respirators we currently produce per month in the United States."

"Given the reality that demand for respirators outpaces supply, we are working around the clock to further expand our capacity, while prioritizing and redirecting our supplies to serve the most critical areas," Roman continued. "We'll continue to do all we can to protect our heroic healthcare workers and first responders, and I want to thank our 96,000 3Mers for your tireless efforts – including those in our plants and distribution centers around the world."

3M will import 166.5 million respirators over the next three months primarily from its manufacturing facility in China, starting in April. The Administration is committed to working to address and remove export and regulatory restrictions to enable this plan. The plan will also enable 3M to continue sending U.S. produced respirators to Canada and Latin America, where 3M is the primary source of supply.

As a global company, 3M has manufacturing operations around the world to serve local and regional markets. As the pandemic unfolds in different stages around the world, 3M will continue to work with governments to direct respirators and other supplies to serve areas most in need.

Beginning in January, 3M ramped up production of N95 respirators and doubled its global output to 1.1 billion per year – including the 35 million a month in the United States. 3M has already put into motion additional investments and actions that will enable it to double its capacity again to 2 billion globally within 12 months, with additional capacity to begin coming online in the next 60 to 90 days. In the United States, for example, 3M expects to be producing N95 respirators at a rate of 50 million per month in June, a 40 percent increase from current levels.

Last week 3M announced additional actions to address [price gouging and counterfeit activity](#) related to its respirators. 3M has not changed the prices it charges for respirators, and will take decisive action against those seeking to take illegal and unethical advantage of the COVID-19 outbreak.

Multimedia

All Other Multimedia:

[3m-building.jpg](#) (53.94 KB)

Language:

English

Show recent blog posts

Source URL: <https://news.3m.com/blog/3m-stories/3m-and-trump-administration-announce-plan-import-1665-million-additional-respirators>

EXHIBIT 2



PRODUCTS FOR
BUSINESS ▼

PRODUCTS FOR
CONSUMERS ▷

ABOUT US ▷

[3M United States](#) > Coronavirus



Helping the world respond to COVID-19

3M is committed to doing everything we can to fight
COVID-19 and support healthcare workers globally

The COVID-19 pandemic continues to affect all of us, and 3M is working around-the-clock to help provide critical tools for the fight. Our current focus: supporting healthcare and front-line workers around the world by manufacturing products they need to help protect their lives as they treat others.



Increasing output of N95 respirators

Doubled our global output rate to nearly 100 million respirators per month; expect to produce about 50 million respirators per month in the U.S. by June 2020.

Anticipate doubling our global capacity to almost 2 billion respirators in the next 12 months.

We have not increased the [prices we charge for 3M respirators](#) in this crisis.



Partnering with others to supply more

Working with governments to investigate alternate manufacturing scenarios and exploring coalitions with other companies to increase capacity further.

Partnering with Ford Motor Company to increase production of 3M Powered Air Purifying Respirators.

Secured authorization from the Chinese government to import about 10 million masks to the US from our manufacturing facility in China.



Getting product to those who need it most

In the last seven days of March 2020, we sent 10 million N95 respirators to healthcare facilities across the U.S.

In the US, 90% of our N95 respirators designated for healthcare workers; remainder for critical industries including: food, energy and pharmaceutical.

Maximizing production of other important products, including hand sanitizers and disinfectants.



Combatting price-gouging, fraud and counterfeiting

Working with law enforcement, retail partners and others to identify unethical, illegal counterfeiters and price-gougers related to 3M's respirators, remove them from e-commerce partner sites, and refer them to the appropriate law enforcement authorities.

Inviting those with concerns of potentially fraudulent activity, price gouging, or counterfeit 3M products [to report their concerns at 3M's website](#) so we can take action.



WARNING: Fraud and Counterfeit Activity

We have created a new 3M hotline for the U.S. and Canada that end-users and purchasers of 3M products can call for information on how to identify authentic 3M products and to ensure products are from 3M authorized distributors.



[1 \(800\) 426-8688](tel:18004268688)

Call the fraud hotline.



[Report a concern](#)



[STATEMENT: Fraudulent Activity, Price Gouging, and Counterfeit Products](#)

(PDF, 1.6 MB)

3M recommends purchasing our products from a 3M authorized distributor or dealer only. This offers the greatest assurance that you will receive authentic 3M product.

If you need help identifying 3M authorized distributors and dealers in your area, please contact [3M Help Center](#) or 1 (888) 364-3577 in the United States. In Canada, please contact [3M Canada Customer Service](#) at 1 (800) 364-3577.

Learn about critical 3M products and
access helpful resources



Personal Protective Equipment (PPE)

Proper selection and use are key to utilizing respirators to help reduce exposure to airborne contaminants. Find Technical Bulletins, How to Videos, Fit Testing Resources and more information to help you protect your employees and yourself.

[Learn more about personal protective equipment](#)



Commercial Cleaning Solutions

Get information and application tips on 3M cleaning and disinfectant products for use by facility managers, building service contractors and all who clean public spaces.

[Learn more about commercial cleaning solutions](#)



Supporting Health Care Providers

Every day, health care workers on the front lines put themselves at risk to ensure others are cared for. 3M Medical offers resources and information to help protect providers and patients, especially during this challenging time.

[Learn more about health care provider resources](#)

Stay up to date with 3M's response to COVID-19



April 01, 2020

Putting healthcare workers first during the coronavirus outbreak



March 31, 2020





[READ MORE IN THE 3M NEWS CENTER](#)

Stay up-to-date on the science of COVID-19

If you have questions about the virus and how to best protect yourself, please consult the sources below for the most current guidelines and recommended precautions.



Center for Disease Control and Prevention

- [2020 Situation Summary](#)
- [What You Need to Know](#)
- [Interim Infection Prevention and Control Recommendations for Patients with Suspected or Confirmed Coronavirus Disease 2019 \(COVID-19\) in Healthcare Settings](#)

World Health Organization

- [Coronavirus](#)
- [Infection prevention and control during health care when novel coronavirus \(nCoV\) infection is suspected](#)

Contact Media Relations

Media inquiries regarding 3M's response to the coronavirus situation should be referred to 3M Media Relations.

[Contact Us](#)

EXHIBIT 3

Int. Cls.: 9 and 10

Prior U.S. Cls.: 21, 23, 26, 36, 38, 39 and 44

Reg. No. 3,398,329

United States Patent and Trademark Office

Registered Mar. 18, 2008

**TRADEMARK
PRINCIPAL REGISTER**

3M

3M COMPANY (DELAWARE CORPORATION)
3M CENTER, 220-9E-01
2501 HUDSON ROAD
ST. PAUL, MN 55144

FOR: FULL LINE OF PARTICULATE, OZONE, GAS, VAPOR, CHEMICAL, BIOHAZARD AND OTHER RESPIRATORS, INCLUDING FILTERING FACE-PIECE RESPIRATORS AND ELASTOMERIC FACE-PIECE RESPIRATORS, OTHER THAN FOR ARTIFICIAL RESPIRATION; FULL LINE OF SELF-RESCUE AND PROTECTION APPARATUS, NAMELY, OXYGEN BREATHING UNITS, SUPPLIED-AIR RESPIRATORS, AND POWERED AIR-PURIFYING SYSTEMS (PAPRS) RESPIRATORS; CARTRIDGES, FILTERS, AIR TANKS AND OTHER COMPONENT PARTS FOR RESPIRATORS AND BREATHING UNITS; DUST MASKS; FULL LINE OF PROTECTIVE EYEWEAR, NAMELY, SAFETY GOGGLES, EYEGLASSES AND EYE SHIELDS; FACE-PROTECTION SHIELDS; EAR PLUGS AND EAR MUFFS TO ATTENUATE SOUND AND PROTECT HEARING; HARD HATS AND OTHER PROTECTIVE HELMETS; WELDING HELMETS; AIR MONITORING DEVICES AND SENSORS FOR MEASURING GASES AND VAPOR CONCENTRATION LEVELS; GAS DETECTORS FOR DETECTING THE PRESENCE OF CARBON MONOXIDE AND OTHER GASES; THERMAL-IMAGING CAMERAS FOR USE BY FIREFIGHTERS AND FOR SEARCH AND RESCUE; ENVIRONMENTAL SAMPLING AND TESTING INSTRUMENTS AND EQUIPMENT, NAMELY, ELECTRONIC LUMINOMETERS, AND RELATED SOFTWARE, DOCKING STATIONS AND BATTERIES, FOR DETECTING, MEASURING AND ANALYZING CHEMICALS, BIOLOGICAL SUBSTANCES, FOOD RESIDUES AND MICROBES; MICROBIOLOGICAL AND CONTAMINANT-TESTING INSTRUMENTS AND EQUIPMENT, AND SOFTWARE RELATED THERETO, FOR DETECTING, MEASURING AND ANALYZING BACTERIA, INCLUDING PATHOGENS SUCH SALMONELLA AND LISTERIA, ALLERGENS, TOXINS, VITAMINS,

ANTIBIOTICS, AND OTHER ORGANISMS AND SUBSTANCES; DIAGNOSTIC APPARATUS FOR TESTING FOOD; LABORATORY EQUIPMENT AND SUPPLIES, NAMELY, TEST TUBES, TEST TUBE CAPS, DIP STICKS, RACKS, MICROTITRE PLATES AND TRAYS; SECURITY SCANNERS AND READERS FOR USE IN READING PASSPORTS AND OTHER FORMS OF IDENTIFICATION; ANTI-THEFT AND LIBRARY MATERIAL CHECK-OUT SECURITY SYSTEMS; RADIO FREQUENCY IDENTIFICATION (RFID) TAGS AND READERS; COMPUTER SOFTWARE FOR SUPPLY CHAIN MANAGEMENT FROM SOURCE TO CONSUMPTION, NAMELY, FOR COLLECTING, STORING AND MANAGING DATA, AND REPORTING, EXECUTING AND TRACKING, IN CONNECTION WITH ENTERPRISE RESOURCE PLANNING, SUPPLIER ENABLEMENT, MANUFACTURING, INVENTORY CONTROL AND WAREHOUSING, ORDER FULFILLMENT, SHIPPING, TRANSPORTATION AND DELIVERY; COMPUTER SOFTWARE FOR USE IN THE MEDICAL AND HEALTH CARE FIELDS FOR PROCESSING CLAIMS FOR REIMBURSEMENT, MAINTAINING PATIENT AND MEDICAL RECORDS, CODING AND GROUPING DATA USED FOR MEDICAL AND HEALTH CARE RESEARCH, AND FOR REPORTING HEALTH TRENDS AND OTHER MEDICAL DATA; AND MEDICAL IMAGING SCANNERS AND RELATED SOFTWARE FOR CAPTURING IMAGES OF THE MOUTH AND TEETH FOR USE IN DENTISTRY, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 0-0-1960; IN COMMERCE 0-0-1960.

FOR: FULL LINE OF SURGICAL AND MEDICAL MASKS, RESPIRATORS AND FACE AND EYE SHIELDS FOR MEDICAL AND HEALTH-CARE RELATED PERSONNEL; FULL LINE OF ORTHOPEDIC CASTINGS TAPES, SPLINTS, REINFORCING STRIPS, ELASTIC BANDAGES, AND SUPPORT BANDAGES AND COMPRESSION WRAPS; COMPOSITE FABRICS CONTAINING FIBERGLASS

AND RESINS FOR USE IN MAKING CASTS; PADDING FOR ORTHOPEDIC CASTS; ORTHOPEDIC CASTING TOOLS; FULL LINE OF STETHOSCOPES; FULL LINE OF SURGICAL MASKS, FACE SHIELDS, AND RESPIRATORY MASKS FOR MEDICAL PURPOSES; FULL LINE OF SURGICAL AND MEDICAL PROCEDURE DRAPES AND SHEETS; PATIENT ISOLATION DRAPES; MEDICAL-EQUIPMENT ISOLATION DRAPES; NON-ADHERENT SHEETING FOR BEDS, STRETCHERS AND EXAM TABLES; SURGICAL GOWNS; COMPRESSION BANDAGES; SURGICAL COMPRESSES; MEDICAL THERMOMETERS; FULL LINE OF MEDICAL ELECTRODES WITH OR WITHOUT CHEMICAL CONDUCTORS AND WET GELS FOR USE IN CARDIAC, ELECTROCARDIOGRAPH, ELECTROENCEPHALOGRAPH AND OTHER TYPES OF PATIENT MONITORING; LEADS AND CONNECTORS FOR USE WITH MEDICAL ELECTRODES; DEFIBRILLATION PADS; ELECTROSURGICAL PADS, PLATES AND ADAPTERS TO REMOVE RF CURRENT FROM A PATIENT'S BODY DURING ELECTROSURGERY; THERMAL COLD AND HOT PACKS FOR FIRST AID AND THERAPEUTIC PURPOSES; EYE PATCHES FOR MEDICAL USE; PADDING FOR USE BETWEEN MEDICAL EQUIPMENT AND PATIENTS OR FOR ELEVATING OR POSITIONING LIMBS; POUCHES FOR HOLDING SURGICAL AND MEDICAL INSTRUMENTS; ISOLATION POUCHES AND BAGS FOR STORING ORGANS, TISSUE AND OTHER BODY PARTS FOR TRANSPLANTS AND LABORATORY TESTING; FULL LINE OF STERILIZED AND NON-STERILIZED FASTENING AND COMPRESSION SURGICAL WRAPS; AUTOCLAVES FOR MEDICAL USE;

ORTHODONTIC APPLIANCES; DENTAL APPARATUS, NAMELY, INTRA-ORAL LIGHT SYSTEMS FOR CURING DENTAL MATERIALS, CERAMIC USED IN MAKING DENTAL CROWNS, BRIDGES AND OTHER RESTORATIVES; DENTAL INSTRUMENTS AND KITS COMPRISED OF SUCH INSTRUMENTS, NAMELY, MANDRELS, BURS, DISCS, CUPS, WHEELS, POINTS, BRUSHES AND ABRASIVE STRIPS USED TO GRIND, POLISH OR FINISH DENTAL RESTORATIVES; DENTAL INSTRUMENTS, NAMELY, SCISSORS, CRIMPING PLIERS, CONTOURING PLIERS AND IMPRESSION TRAYS; ELECTRONIC MIXERS FOR DENTAL COMPOUNDS; APPLICATORS AND DISPENSERS FOR DENTAL PRIMERS, CEMENTS, ADHESIVES, IMPRESSION MATERIALS AND RESTORATIVE MATERIALS; GLASS-FIBER POSTS USED IN DENTAL RESTORATIVE PROCEDURES; AND DENTAL PROPHYLAXIS ANGLES AND DENTAL PROPHYLAXIS CUPS FOR USE IN CLEANING TEETH AND DENTAL HYGIENE PROCEDURES, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

FIRST USE 0-0-1960; IN COMMERCE 0-0-1960.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,237,168, 2,793,534 AND OTHERS.

SER. NO. 77-257,496, FILED 8-16-2007.

TARAH HARDY, EXAMINING ATTORNEY

EXHIBIT 4

Int. Cls.: 1, 3, 5, 9, 10 and 28

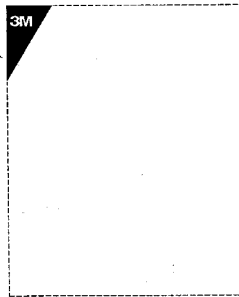
**Prior U.S. Cls.: 1, 4, 5, 6, 10, 18, 21, 22, 23, 26, 36, 38,
39, 44, 46, 50, 51 and 52**

Reg. No. 2,793,534

United States Patent and Trademark Office

Registered Dec. 16, 2003

**TRADEMARK
PRINCIPAL REGISTER**



3M COMPANY (DELAWARE CORPORATION)
2501 HUDSON ROAD

3M CENTER

ST. PAUL, MN 55144 , BY MERGER, BY CHANGE
OF NAME MINNESOTA MINING AND MANU-
FACTURING COMPANY (DELAWARE COR-
PORATION) ST. PAUL, MN 55144

FOR: ETHYLENE OXIDE FOR USE IN THE
STERILIZATION OF MEDICAL, LABORATORY
AND FOOD HANDLING INSTRUMENTS AND
EQUIPMENT; CHEMICAL AND STEAM INDICA-
TOR STRIPS AND TAPE FOR USE WITH AUTO-
CLAVES AND FOR TESTING THE STERILITY OF
MEDICAL INSTRUMENTS AND EQUIPMENT; IN-
DICATOR STRIPS FOR TESTING GLUTARALDE-
HYDE, ETHYLENE OXIDE AND OTHER
CHEMICAL SOLUTIONS AND GASES; INDICATOR
STRIPS FOR TESTING FOR BIOLOGICAL CONDI-
TIONS FOR USE IN SAFETY-MONITORING; INDI-
CATOR STRIPS FOR INDICATING
TEMPERATURES FOR USE IN THE STERILIZA-
TION AND SAFETY-MONITORING; ASSAY AND
REAGENT TEST KITS AND COUNT PLATES FOR
FIELD AND LABORATORY TESTING FOR E COLI,
COLIFORM, AND OTHER BACTERIA OR CON-
TAMINANTS IN MEAT, DAIRY PRODUCTS AND
OTHER TYPES OF FOOD, AND FOR TESTING TO
DETECT YEAST AND MOLD; AND STERILIZA-
TION MONITOR TESTING KITS CONTAINING
INDICATOR STRIPS OR TAPE, REAGENTS AND
RECORD KEEPING CARDS OR BINDERS FOR
TESTING THE STERILITY OF SURGICAL AND
MEDICAL INSTRUMENTS, EQUIPMENT, AND

SUPPLIES , IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26
AND 46).

FIRST USE 11-0-1990; IN COMMERCE 11-0-1990.

FOR: NON-MEDICATED SKIN CARE PRO-
DUCTS, NAMELY, CLEANSERS, CREAMS, LO-
TIONS, MOISTURIZERS, BARRIER CREAMS AND
EMOLLIENTS, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51
AND 52).

FIRST USE 1-0-1996; IN COMMERCE 1-0-1996.

FOR: FULL LINE OF BANDAGES, DRESSINGS
AND MEDICAL TAPES, NAMELY, ADHESIVE
BANDAGES, BANDAGES FOR SKIN WOUNDS,
SURGICAL BANDAGES, WOUND DRESSINGS,
NON-STICK PADS FOR USE AS MEDICAL DRES-
SINGS, MEDICATED COMPRESSES, TRANSPAR-
ENT MEDICAL DRESSINGS, HYDROCOLLOID
DRESSINGS, COLOSTOMY DRESSINGS, ULCER
DRESSINGS, MEDICAL ADHESIVE TAPES, SURGI-
CAL TAPES, AND WOUND AND SKIN CLOSURE
ADHESIVE STRIPS WITH OR WITHOUT ANTIMI-
CROBIAL SOLUTIONS; GAUZE; WOUND HEAL-
ING FILLERS WITH OR WITHOUT GAUZE;
MEDICATED SKIN CARE PREPARATIONS; SUR-
GICAL DISINFECTANTS AND PREPPING SOLU-
TIONS; MEDICATED ANTISEPTIC HAND WASHES;
AND CULTURE MEDIA, BACTERIOLOGICAL
MEDIA AND DIAGNOSTIC PREPARATIONS FOR
CLINICAL OR MEDICAL LABORATORY USE, IN
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 2-0-1991; IN COMMERCE 2-0-1991.

FOR: COMPUTER SOFTWARE FOR USE IN THE MEDICAL AND HEALTH CARE FIELDS FOR PROCESSING CLAIMS FOR REIMBURSEMENT, MAINTAINING PATIENT RECORDS, CODING AND GROUPING DATA USED FOR MEDICAL AND HEALTH CARE RESEARCH, AND FOR REPORTING HEALTH TRENDS AND OTHER MEDICAL DATA; AND FULL LINE OF RESPIRATORY FACE MASKS FOR FILTERING OUT GERMS, DUST AND POLLEN, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 5-0-1992; IN COMMERCE 5-0-1992.

FOR: FULL LINE OF ORTHOPEDIC CASTINGS TAPES, SPLINTS, REINFORCING STRIPS, ELASTIC BANDAGES, AND SUPPORT BANDAGES AND COMPRESSION WRAPS; COMPOSITE FABRICS CONTAINING FIBERGLASS AND RESINS FOR USE IN MAKING CASTS; PADDING FOR ORTHOPEDIC CASTS; ORTHOPEDIC CASTING TOOLS; FULL LINE OF STETHOSCOPES; FULL LINE OF SURGICAL MASKS, FACE SHIELDS, AND RESPIRATORY MASKS FOR MEDICAL PURPOSES; FULL LINE OF SURGICAL AND MEDICAL PROCEDURE DRAPES AND SHEETS; PATIENT ISOLATION DRAPES; MEDICAL-EQUIPMENT ISOLATION DRAPES; NON-ADHERENT SHEETING FOR BEDS, STRETCHERS AND EXAM TABLES; SURGICAL GOWNS; COMPRESSION BANDAGES; SURGICAL COMPRESSES; MEDICAL THERMOMETERS; FULL LINE OF MEDICAL ELECTRODES WITH OR WITHOUT CHEMICAL CONDUCTORS AND WET GELS FOR USE IN CARDIAC, ELECTROCARDIOGRAPH, ELECTROENCEPHALOGRAPH AND OTHER TYPES OF PATIENT MONITORING; LEADS AND CONNECTORS FOR USE WITH MEDICAL ELECTRODES; DEFIBRILLATION PADS; ELECTROSURGICAL PADS,

PLATES AND ADAPTERS TO REMOVE RF CURRENT FROM A PATIENT'S BODY DURING ELECTROSURGERY; THERMAL COLD AND HOT PACKS FOR FIRST AID AND THERAPEUTIC PURPOSES; EYE PATCHES FOR MEDICAL USE; PADDING FOR USE BETWEEN MEDICAL EQUIPMENT AND PATIENTS OR FOR ELEVATING OR POSITIONING LIMBS; POUCHES FOR HOLDING SURGICAL AND MEDICAL INSTRUMENTS; ISOLATION POUCHES AND BAGS FOR STORING ORGANS, TISSUE AND OTHER BODY PARTS FOR TRANSPLANTS AND LABORATORY TESTING; AND FULL LINE OF STERILIZED AND NON-STERILIZED FASTENING AND COMPRESSION SURGICAL WRAPS, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

FIRST USE 6-0-1990; IN COMMERCE 6-0-1990.

FOR: ATHLETIC TAPE AND ATHLETIC SUPPORT AND COMPRESSION WRAPS FOR KNEES, WRISTS, ANKLES, ELBOWS, LEGS AND ARMS, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 0-0-1993; IN COMMERCE 0-0-1993.

OWNER OF U.S. REG. NOS. 1,181,981, 1,234,260 AND OTHERS.

THE MATTER SHOWN IN BROKEN LINES INDICATES THE RELATIVE PLACEMENT OF THE MARK ON A TYPICAL PACKAGE FOR THE GOODS AND IS NOT CLAIMED AS A FEATURE OF THE MARK.

SER. NO. 76-138,263, FILED 9-29-2000.

ALICIA COLLINS, EXAMINING ATTORNEY

EXHIBIT 5

United States of America

United States Patent and Trademark Office

3M SCIENCE. APPLIED TO
LIFE.

Reg. No. 5,469,903

Registered May 15, 2018

**Int. Cl.: 1, 2, 3, 4, 7, 8, 9,
11, 16, 17, 21**

Trademark

Principal Register

3M Company (DELAWARE CORPORATION)
220-9e-01

3m Center, 2501 Hudson Road
St. Paul, MINNESOTA 55144

CLASS 1: Adhesives for industrial use; body fillers for autobody use

FIRST USE 2-23-2018; IN COMMERCE 2-23-2018

CLASS 2: Coatings for protecting surfaces against moisture, corrosion, contaminants and other conditions

FIRST USE 2-23-2018; IN COMMERCE 2-23-2018

CLASS 3: Cleaning, polishing, scouring and abrasive preparations and substances; abrasives for industrial and domestic use; preparations for cleaning, polishing, glazing, waxing, restoring or preserving finished surfaces of motorized vehicles

FIRST USE 2-23-2018; IN COMMERCE 2-23-2018

CLASS 4: Industrial lubricants

FIRST USE 2-23-2018; IN COMMERCE 2-23-2018

CLASS 7: Abrasive belts, discs, pads, sheets and wheels for power-operated sanders and grinders

FIRST USE 2-23-2018; IN COMMERCE 2-23-2018

CLASS 8: Sanding blocks

FIRST USE 2-23-2018; IN COMMERCE 2-23-2018

CLASS 9: protective safety facial masks, respirators other than for artificial respiration for domestic and industrial use

FIRST USE 2-23-2018; IN COMMERCE 2-23-2018

CLASS 11: Filtering devices, namely, filters for commercial use for use in the purification of air

FIRST USE 2-23-2018; IN COMMERCE 2-23-2018

CLASS 16: Stationery notes containing adhesive on one side for attachment to surfaces; tape flags; adhesive tape dispensers for household, office or stationery use



Andrei Iancu

Director of the United States
Patent and Trademark Office

FIRST USE 2-23-2018; IN COMMERCE 2-23-2018

CLASS 17: Adhesives tapes and adhesive tape dispensers for industrial or commercial use; duct tapes; electrical tapes; masking tapes; mounting tapes for household and commercial use; adhesive foam tapes, double sided adhesive tapes, all for industrial purposes; adhesive backed plastic films for industrial and commercial use

FIRST USE 2-23-2018; IN COMMERCE 2-23-2018

CLASS 21: Scouring, cleaning and scrubbing sponges, and pads

FIRST USE 2-23-2018; IN COMMERCE 2-23-2018

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

OWNER OF U.S. REG. NO. 3241340, 0561157, 0405413

SER. NO. 86-344,821, FILED 07-22-2014

EXHIBIT 6

Fraudulent Activity, Price Gouging, and Counterfeit Products

At 3M, we are committed to doing all we can to help combat the fraudulent, price gouging, and counterfeit activity that is unfortunately occurring in connection with COVID-19. Examples include people fraudulently representing themselves as being affiliated with 3M and having authentic 3M product to sell, selling (or offering to sell) 3M products at grossly inflated prices, selling counterfeit products falsely claimed to be from 3M, and falsely claiming to manufacture 3M products. In many cases, these scammers will try and secure funds in advance and then disappear once the money is received.

3M will not tolerate any such activity by 3M authorized channel partners and we will aggressively pursue third-parties that seek to take advantage of this crisis. We are working with law enforcement authorities around the world – including, in the U.S., the U.S. Attorney General, state Attorneys General, and local authorities.

We have also created a new **3M COVID-19 Fraud hotline** for the U.S. and Canada that end-users and purchasers of 3M products can call for information to help detect fraud and avoid counterfeit products. **You can reach this hotline by calling: 1 (800) 426-8688.**

In addition to the hotline, you can report a concern at www.go.3m.com/covidfraud.

3M recommends purchasing our products only from a 3M authorized distributor or dealer, as that offers the greatest assurance that you will receive authentic 3M products.

If you need help identifying 3M authorized distributors and dealers in your area, please contact **3M Help Center** at www.3m.com/3M/en_US/company-us/help-center or 1 (888) 364-3577 in the United States. In Canada, please contact **3M Canada Customer Service** at 1 (800) 364-3577.

With regard to 3M respirators specifically, we are providing the following additional information to help stop price gouging and sales of counterfeit products:

- 3M has not changed the prices we charge for 3M respirators as a result of the COVID-19 outbreak.
- We are actively working to eliminate price gouging, including making referrals to law enforcement where appropriate.
- To help customers identify and avoid inflated prices, we are now publishing current single-case list prices for many of the most common 3M N95 respirator models sold in the U.S.
- List prices for these models sold in Canada are similar on a currency-adjusted basis.

	Model #	List Price (USD)
Surgical N95 Respirators	1804	\$0.68
	1804S	\$0.68
	1860	\$1.27
	1860S	\$1.27
	1870+	\$1.78
Standard N95 Respirators	8210	\$1.02 - \$1.31
	8210Plus	\$1.18 - \$1.50
	8210V	\$1.48 - \$1.88
	8110S	\$1.08 - \$1.37
	8200	\$0.63 - \$0.80
	8511	\$2.45 - \$3.11
	9105	\$0.64 - \$0.81
	9105S	\$0.64 - \$0.81
	9210+	\$1.40 - \$1.78
	9211+	\$2.68 - \$3.40

- These list prices are per respirator.
- Actual prices may be lower than these list prices, as negotiated between you and your chosen reseller.
- 3M has also worked to further accelerate delivery of respirators to critical end-users – both by utilizing our existing network of healthcare distributors and, where it makes sense to do so, shipping directly to end-user locations. Effective the week of March 23, the small volume of 3M filtering facepiece respirators being made available to critical industrial infrastructure is shipping directly to the specified end-user.
- 3M respirators should be sold only in 3M packaging, with model-specific user instructions accompanying the product.
- 3M respirators should not be sold individually or without packaging (including User Instructions).
- 3M has strict quality standards, and therefore products that have missing straps, strange odors, blocked valves, misspelled words, etc. are likely not authentic 3M respirators.

Finally, 3M personal protective equipment (PPE) is intended, labeled, packaged, and certified to meet the requirements of the countries in which 3M sells it. Those requirements differ around the world, including as it relates to, for example, respirator performance, local language, and local certification and approval for sale and use. As a result, 3M PPE imported from other countries may not meet local requirements. Please confirm such PPE meets all applicable requirements prior to use.

For technical assistance regarding the selection and use of 3M respirators, please contact your local 3M Technical Service team. In the U.S., you can call 1 (800) 243-4630. In Canada, you can call 1 (800) 364-3577.

For more information, contact the 3M Help Center at 1 (888) 364-3577 in the United States. In Canada, please contact 3M Canada Customer Service at 1 (800) 364-3577.

EXHIBIT 7



3M COVID-19 Anti-Fraud, Anti-Price Gouging, and Anti-Counterfeiting Reporting

Have a concern to report related to Fraud, Price Gouging or Counterfeit product? Fill out form below

At 3M, we are committed to doing all we can to help combat the fraudulent, price gouging, and counterfeit activity that is unfortunately occurring in connection with COVID-19. 3M will not tolerate any such activity by 3M authorized channel partners and we will aggressively pursue third-parties that seek to take advantage of this crisis. We are working with law enforcement authorities around the world – including, in the U.S., the U.S. Attorney General, State Attorneys General, and local authorities.

COVID-19 Fraud

Please complete as much of the information requested below as possible. Fields marked with an asterisk are required. Once you submit this report, you will receive an email notification that 3M has received the report. We request that you reply to that email and attach any copies of invoices, contracts, pictures of product and any other relevant documentation that can help us to investigate the situation.

Requestor Information

First Name*

Last Name*

Company Name

Email/Business Email Address*

Phone/Business Phone Number*

Government Agency Name (if applicable)

Country/Region*

United States

Account Type*

Select One

Alleged Solicitor/Seller Information

Please provide as much information as possible.

Seller First Name

Seller Last Name

Seller Company

Seller Email

Seller Phone

Seller's Website

Fraud Product Details

Product 1*

Select One

Product 1 Price

Product 1 3M SKU

Product 1 Quantity

Product 2

Select One

Product 2 Price

Product 2 3M SKU

Product 2 Quantity

Product 3

Select One

Product 3 Price

Product 3 3M SKU

Product 3 Quantity

How did the interaction take place?*

Select One

Interaction URL

Product Fraud Details*

Provide as much detail about the interaction as possible including how you first contacted the seller and what information did the seller provide you regarding the product

3M respects your right to privacy. 3M will collect, use, and disclose the personal information you provide in accordance with our [Privacy Policy](#). In order to investigate and prosecute fraud, price gouging and fraudulent activity, 3M may voluntarily share information with law enforcement agencies around the world. If 3M elects to share personal information with law enforcement agencies, 3M will have no control over that personal information.

Please be aware that the information you supply about yourself, or any aspect of 3M's operations may result in actions or decisions that may affect others. We ask you to provide only information that, to the best of your knowledge, is correct. You will not be sanctioned for submitting information in good faith, even if it turns out to be inaccurate. However, if you knowingly provide false or misleading information, it may result in disciplinary or judicial action.

[Submit](#)

The brands listed above are trademarks of 3M.

EXHIBIT 8

PERFORMANCE SUPPLY LLC

FORMAL QUOTE

TO: Ms. Ebony P. Roberson
Buyer
Office of Citywide Procurement
Telephone: +1 (212) 386-0466
ERoberson@dcas.nyc.gov

1. 3M Particulate Respirator 8210, N95 160 EA/Case

Product Specification: : https://www.3m.com/3M/en_US/company-us/all-3m-products/~3M-Particulate-Respirator-8210-N95-160-EA-Case/?N=5002385+3294780268&rt=rud

2. 3M Health Care Particulate Respirator 1860, N95 120 EA/Case

Product Specification: https://www.3m.com/3M/en_US/company-us/all-3m-products/~3M-Health-Care-Particulate-Respirator-and-Surgical-Mask-1860-N95-120-EA-Case/?N=5002385+3294795990&rt=rud

3. Country of Origin: TBD

4. Headquarters: St. Paul, Minnesota, USA

5. Quantity: 8210 – 2 Million
1860 – 5 Million

6. Price: 8210 – \$6.05/mask
1860 – \$6.35/mask

7. Payment Terms: No upfront deposits are required. Instead, Buyer sends Purchase Order first -- *and once that is accepted by the factory* – financial closing terms will be mutually agreed. Payment in full must be made upon receipt of Each shipment Net 15 days.
8. Shipping: Due to the national emergency, acceptance of the purchase order is at the full discretion of 3M and supplies are based upon availability. The N95 masks 3M can begin shipping in 2-4 weeks CIF at any of 3M plants in the USA or 3M Plants Overseas according to their manufacturing schedule. 3M chooses the plant. Order may be shipped in whole or in part.
9. Buyer will not terminate or reject delivery for 3M Masks after Quality Assurance inspection and products are authenticated, verified and meet 3M specifications which are indicated and agreed by the formal quote and purchase order.

10. Please address Purchase Order to:

Mr. Ron Romano, President
Performance Supply, LLC
P.O. Box 672
Englishtown, NJ 07726
Via 3BP, Inc

POST OFFICE BOX 672
ENGLISHTOWN, NJ 07726
Telephone: +1 (732) 685-6403



Technical Specification Sheet

3M™ Particulate Respirator 8210, N95

Key Features

- NIOSH approved N95 rating
- Adjustable nose clip
- Nose foam
- Ultrasonically welded headbands

Material Composition

- Straps – Thermoplastic Elastomer
- Nose Clip – Aluminum
- Nose foam - Polyurethane
- Filter – Polypropylene
- Shell – Polyester
- Coverweb - Polyester
- This respirator contains no components made from natural rubber latex
- Approximate weight of product: 0.35 oz.

Country of Origin

Made in the USA with globally sourced materials

Use For

- Use for solid particulates and liquid mists in concentrations not exceeding 10X PEL/OEL
- Always follow *User Instructions* and use in manners as indicated



Do Not Use For

- DO NOT use for gases and vapors, oil aerosols, asbestos, arsenic, cadmium, lead, 4,4-methylene dianiline (MDA), or abrasive blasting
- DO NOT use for particulate concentrations exceeding 10X PEL/OEL
- DO NOT use in any manner not indicated in the *User Instructions*

Approvals and Standards

- NIOSH approved N95 particulate respirator
- Meets NIOSH 42 CFR 84 N95 requirements for a minimum 95% filtration efficiency against solid and liquid aerosols that do not contain oil.
- NIOSH approval number: TC-84A-0007
- Assigned Protection Factor (APF 10) per US OSHA and Canada CSA

Ordering Information					
Description	UPC	ID #	Respirators/ Box	Boxes/Case	Each/Case
Particulate Respirator 8210	50051138464573	70-0706-1439-4	20	8	160

Time Use Limitation

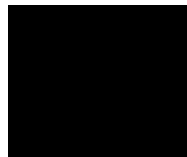
Replace the respirator when it becomes dirty, damaged, or difficult to breathe through.

Shelf Life and Storage

- 5 years from the date of manufacture
- Use By date on box in MM/YYYY format
- Store respirators in the original packaging, away from contaminated areas, dust, sunlight, extreme temperatures, excessive moisture, and damaging chemicals
- Store in temperatures between -4°F (-20°C) and +86°F (+30°C) and not exceeding 80% RH

WARNING!

This respirator helps reduce exposures to certain airborne contaminants. Before use, the wearer must read and understand the *User Instructions* provided as a part of the product packaging. Follow all local regulations. In the U.S., a written respiratory protection program must be implemented meeting all the requirements of OSHA 1910.134, including training, fit testing and medical evaluation. In Canada, CSA standard Z94.4 requirements must be met and/or requirements of the applicable jurisdiction, as appropriate. **Misuse may result in sickness or death.** For correct use, consult supervisor and the *User Instructions* or call 3M PSD Technical Service in USA at 1-800-243-4630 and in Canada at 1-800-267-4414.



Acceptable Fit Test Protocols

Fit Test Protocol*		Acceptable with this product?
Qualitative Protocols	Saccharin	☒
	Bitrex™	☒
	Irritant Smoke	☐
	Isoamyl Acetate	☐
Quantitative Protocols		☒

*Refer to OSHA 1910.134



Personal Safety Division

3M Center, Building 0235-2W-70
St. Paul, MN 55144-1000
3M.com/workersafety

3M PSD products are occupational use only.

For More Information

Technical Assistance 1-800-243-4630
Hours of Operation: M-Th 8am - 6pm, Fri 8am - 4:30 pm CST
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Technical Specification Sheet

3M™ Health Care Particulate Respirator and Surgical Mask, 1860, N95

Key Features

- NIOSH approved N95 rating
- FDA cleared for use as a surgical mask
- Fluid Resistant 120 mmHg
- Flammability Rating Class I
- Adjustable nose clip
- Braided and stapled headbands

Material Composition

- Straps – Braided Polyisoprene
- Staples - Steel
- Nose Clip – Aluminum
- Nose Foam – Polyurethane Foam
- Filter – Polypropylene
- Shell – Polyester
- Coverweb - Polypropylene
- Not made with natural rubber latex
- Approximate weight of product: 0.40 oz.

Country of Origin

Made in the USA with globally sourced materials

Use For

- Intended to be worn by operating room personnel during surgical procedures to help protect both the surgical patient and the operating room personnel from transfer of microorganisms, body fluids, and particulate material.
- Always follow *User Instructions* and use in manners as indicated



Do Not Use For

- DO NOT use in industrial settings
- DO NOT use for gases or vapors (i.e. anesthetic gases such as isoflurane or vapors from sterilants such as glutaraldehyde.)
- DO NOT use in any manner not indicated in the *User Instructions*

Approvals and Standards

- NIOSH approved N95 respirator
- Meets NIOSH 42 CFR 84 N95 requirements for a minimum 95% filtration efficiency against solid and liquid aerosols that do not contain oil.
- NIOSH approval number: TC-84A-0006
- FDA cleared for use as a surgical mask
- Health Canada Class I medical device
- Bacterial Filtration Efficiency F2101 >99% BFE
- Assigned Protection Factor (APF 10) per US OSHA and Canada CSA

Ordering Information

Description	UPC	ID #	Respirators/Box	Boxes/Case	Each/Case
Health Care Particulate Respirator, 1860	50707387419429	70-0706-1236-4	20	6	120

Time Use Limitation

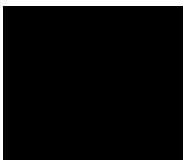
Respirator may be used until damaged, breathing becomes difficult or contaminated with blood or body fluids. Discard after every use when used for surgical procedures. Follow national, state, local, and facility infection control guidance and policies.

Shelf Life and Storage

- 5 years from the date of manufacture
- Use By date on box in YYYY-MM-DD format
- Store respirators in the original packaging, away from contaminated areas, dust, sunlight, extreme temperatures, excessive moisture, and damaging chemicals
- Store in temperatures between -4°F (-20°C) and +86°F (+30°C) and not exceeding 80% RH

WARNING!

This respirator helps protect against certain particulate contaminants but does not eliminate exposure to or the risk of contracting any disease or infection. Before use, the wearer must read and understand the *User Instructions* provided as a part of the product packaging. Follow all local regulations. In the U.S., a written respiratory protection program must be implemented meeting all the requirements of OSHA 1910.134, including training, fit testing and medical evaluation. In Canada, CSA standard Z94.4 requirements must be met and/or requirements of the applicable jurisdiction, as appropriate. **Misuse may result in sickness or death.** For correct use, consult supervisor and the *User Instructions*, or call 3M Health Care in USA at 1-800-228-3957 and in Canada at 1-800-267-4414.



Acceptable Fit Test Protocols

Fit Test Protocol*		Acceptable with this product?
Qualitative Protocols	Saccharin	☒
	Bitrex™	☒
	Irritant Smoke	☐
	Isoamyl Acetate	☐
Quantitative Protocols		☒

*Refer to OSHA 1910.134



Infection Prevention Division 3M Health Care

2510 Conway Avenue
St. Paul, MN 55144-1000

1-800-228-3957
3M.com/medical

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The National Personal Protective Technology Laboratory (NPPTL)

NIOSH-Approved N95 Particulate Filtering Facepiece Respirators



For information about Coronavirus Disease 2019, visit <https://www.cdc.gov/coronavirus/2019-ncov/index.html>.

Manufacturers Listed Alphabetically – 3M

The N95 respirator is the most common of the seven types of particulate filtering facepiece respirators. This product filters at least 95% of airborne particles but is not resistant to oil.

This web page provides a table of NIOSH-approved N95 respirators, listed alphabetically by manufacturer. You can select a particular manufacturer by clicking on the first letter of their name on the index below.

There are some products that are approved by NIOSH as an N95 respirator and also cleared by the Food and Drug Administration (FDA) as a surgical mask. These products are referred to as **Surgical N95 Respirators**. [View a definition of Surgical N95 Respirators](#). For your convenience the Surgical N95 Respirators are indicated with the **Model Number/Product Line in bold text followed by (FDA)**. If you have a product you believe is NIOSH-approved and FDA-cleared that does not appear on this list, you will need to check with the FDA Center for Devices and Radiological Health at 1-800-638-2041 for validation of clearance. [View a comprehensive table of Surgical N95 Respirators](#).

Disclaimer: The links in this section go to websites outside of CDC/NIOSH and should not be considered as an endorsement of their content, or as a statement of NIOSH policy. The donning procedure and/or user instruction, either on the websites or the PDF version, should not be considered an official endorsement of their content, or as a statement of NIOSH policy.

Index: [3M](#) [A](#) [B](#) [C](#) [D](#) [E](#) [F](#) [G](#) [H](#) [I](#) [J](#) [K](#) [L](#) [M](#) [N](#) [O](#) [P](#) [Q](#) [R](#) [S](#) [T](#) [U](#) [V](#) [W](#) [X](#) [Y](#) [Z](#) [Notes](#)

Supplier/Manufacturer and Contact Information	Model Number/Product Line	Approval Number	Valve Yes/No	Manufacturer's Donning Procedure User Instructions
3M Company 888-3M HELPS or web form (Distribution Availability)	1860 (FDA) 1860S (FDA)	84A-0006	No	1860, 1860S [PDF – 72 KB]
3M Company 888-3M HELPS or web form (Distribution availability for all products listed for 3M)	8110S 8210 8210 Plus 8216 8217 7048	84A-0007	No	8210 [PDF – 103 KB] 8110S, 8210, 7048 [PDF – 187 KB]

3M**3044**

page 1 of 2

Particulate Respirators 8210 and 8110S, N95

Issue Date 01/01/04

The 3M™ Particulate Respirator 8210, N95 is designed to help provide quality, reliable worker protection against certain non-oil based particles. The 3M™ Particulate Respirator 8110S, N95 offers the same protection for those workers with smaller faces. The 8210 and the 8110S offer a number of benefits to you and your workers.

NIOSH approved N95

- At least 95% filtration efficiency against solid and liquid aerosols that do not contain oil.* TC-84A-0007

Advanced Electret Media

- Advanced electrostatically charged microfibers make breathing easier and cooler.

Helps provide worker protection

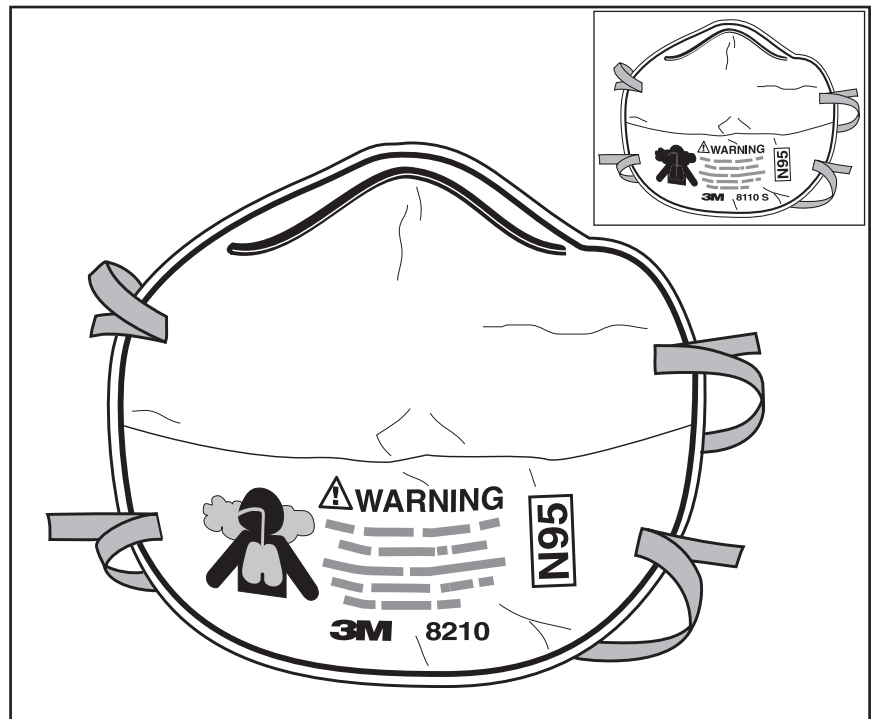
- Because they are comfortable to wear and easy to use, workers are quick to accept and use maintenance-free respirators, like the 8210 and 8110S. Studies have shown they can provide protection equivalent to a rubber facepiece respirator...at much lower cost and greater convenience.

Lightweight construction

- Promotes greater worker comfort.
- Contributes to increased wear time.

Adjustable noseclip

- Helps provide a custom fit and secure seal.
- Reduces the potential for eyewear fogging.



3M™ Particulate Respirator 8210, N95
(Inset photo: 3M™ Particulate Respirator 8110S, N95)

Suggested Applications



- Grinding
- Sanding
- Sweeping
- Bagging
- Other dusty operations
- Woodworking
- Foundries



WARNING

These respirators help reduce exposure to certain particles. **Misuse may result in sickness or death.** Before use, the wearer must read and understand **User Instructions** provided as a part of product packaging. Time use limitations may apply. For proper use, see package instructions, supervisor or call 3M OH&ESD Technical Service in U.S.A., 1-800-243-4630. In Canada, call 1-800-267-4414.

*Tested against particles approximately 0.3 micron in size (mass median aerodynamic diameter) per 42 CFR 84.

3M™ Particulate Respirators 8210 and 8110S, N95

3044
page 2 of 2

Respirators Per Box 8210 & 8110S	Respirators Per Case
20	160

Use For:

- Solids such as those from processing minerals, coal, iron ore, flour, and certain other substances.
- Liquid or non-oil based particles from sprays that do not also emit harmful vapors.

Do Not Use For:

Gases and vapors, including those present in paint spray operations, asbestos, arsenic, cadmium, lead, 4,4'-methylenedianiline (MDA) or sandblasting. Aerosol concentrations that exceed 10 times the OSHA PEL, or applicable exposure limits, whichever is lower. This respirator does not supply oxygen.

Important

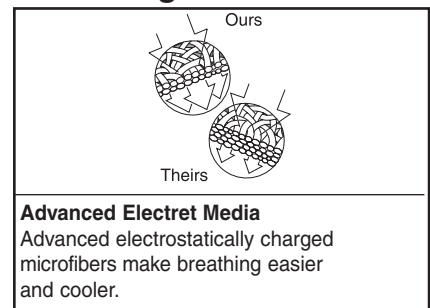
Before using these respirators, you must determine the following:

1. The type of contaminant(s) for which the respirator is being selected.
2. The concentration level of contaminant(s).
3. Whether the respirator can be properly fitted on the wearer's face. Do not use with beards, on other facial hair, or other conditions that prevent a good seal between the face and the faceseal of the respirator.
4. Before use of these respirators, a written respiratory protection program must be implemented, meeting all the requirements of OSHA 29 CFR 1910.134, including training, medical evaluation and fit testing.

Time Use Limitation

If respirator becomes damaged, soiled, or breathing becomes difficult, leave the contaminated area immediately and dispose of the respirator.

Technologies



Additional Information

This respirator contains no components made from natural rubber latex.

For more information, please contact:

3M Occupational Health and Environmental Safety Division (OH&ESD)

In the U.S., contact:

Sales Assistance

1-800-896-4223

Technical Assistance

1-800-243-4630

Fax On Demand

1-800-646-1655

Internet

<http://www.3M.com/occsafety>

For other 3M products

1-800-3M HELPS

In Canada, contact:

3M Canada Company, OH&ESD

P.O. Box 5757

London, Ontario N6A 4T1

Sales Assistance

1-800-265-1840, ext. 6137

Technical Assistance (Canada only)

1-800-267-4414

Fax On Demand

1-800-646-1655

Internet

<http://www.3M.com/CA/occsafety>

Technical Assistance In Mexico

01-800-712-0646

5270-2255, 5270-2119 (Mexico City only)

Technical Assistance In Brazil

0800-132333

Fax On Demand O.U.S. Locations

1-651-732-6530

3M Occupational Health and Environmental Safety Division

3M Center, Building 235-2W-70

St. Paul, MN 55144-1000



User Instructions
(Keep these instructions for reference)

Meets CDC guidelines for *Mycobacterium tuberculosis* exposure control.

1860/1860S

⚠ WARNING

This respirator helps protect against certain particulate contaminants but does not eliminate exposure to or the risk of contracting any disease or infection. **Misuse may result in sickness or death.** For proper use, see supervisor, or *User Instructions*, or call 3M in U.S.A., 1-800-247-3941. In Canada, call Technical Service at 1-800-267-4414.

IMPORTANT

Before use, the wearer must read and understand these *User Instructions*. Keep these instructions for reference.

DESCRIPTION

The 3M™ 1860 Health Care Particulate Respirator and Surgical Mask is designed to help provide respiratory protection for the wearer. This product has a filter efficiency level of 95% or greater against particulate aerosols free of oil¹. It is fluid resistant, disposable and may be worn in surgery. It can fit a wide range of face sizes.

This product contains no components made from natural rubber latex.

INTENDED USE: This product meets CDC guidelines for *Mycobacterium tuberculosis* exposure control. As a respirator, it is intended to reduce wearer exposure to certain airborne particles in a size range of 0.1 to >10.0 microns, including those generated by electrocautery, laser surgery, and other powered medical instruments. As a surgical mask, it is designed to be fluid resistant to splash and spatter of blood and other infectious materials; when worn properly and in combination with protective eyewear, it complies with the OSHA Bloodborne Pathogens Standard. It also provides >99% BFE² against wearer generated micro-organisms.

CONTRAINDICATIONS: Not for industrial use. Not for use with beards or other facial hair that prevents direct contact between the face and the sealing surface of the respirator. OSHA has not set a permissible exposure level for airborne biohazards.

USE INSTRUCTIONS:

1. Before use for respiratory protection, a written respiratory protection program must be implemented meeting all requirements of OSHA 29 CFR 1910.139 and/or 1910.134 such as medical evaluation, training and fit testing. In Canada, CSA standard Z94.4 requirements must be met. The 3M saccharin (sweet) or Bitrix™ (bitter) qualitative fit test is recommended for this respirator. When used only as a surgical mask, fit testing is not required.
2. Respirator may be used until damaged, breathing becomes difficult, or contaminated with blood or body fluids. Otherwise, it may be stored and reused according to the facility's infection control policy.
3. Filtering facepieces are to be inspected prior to each use to assure there are no holes in the breathing zone other than the punctures around staples and no damage has occurred. Enlarged holes resulting from ripped or torn filter material around staple punctures are considered damage. Immediately replace respirator if damaged. Staple perforations do not affect NIOSH approval.
4. Discard after every use when used for surgical procedures.

¹ Tested against a 0.3 micron particle (count median diameter) per 42 CFR 84.

² Bacterial Filtration Efficiency (BFE) determined by the modified Greene and Vesley test method.

Fitting Instructions (Must be followed each time respirator is worn)



Fig. 1



Fig. 2



Fig. 3



Fig. 4

1. Cup the respirator in your hand, with the nosepiece at your fingertips, allowing the headbands to hang freely below your hand.
2. Position the respirator under your chin with the nosepiece up. Pull the top strap over your head resting it high at the top back of your head. Pull the bottom strap over your head and position it around the neck below the ears.
3. Place your fingertips from both hands at the top of the metal nosepiece. Using two hands, mold the nose area to the shape of your nose by pushing inward while moving your fingertips down both sides of the nosepiece.

! Pinching the nosepiece using one hand may result in improper fit and less effective respirator performance. Use two hands.

4. Perform a User Seal Check prior to each wearing. To check the respirator-to-face seal, place both hands completely over the respirator and exhale. Be careful not to disturb the position of the respirator. If air leaks around nose, readjust the nosepiece as described in step 3. If air leaks at the respirator edges, work the straps back along the sides of your head.

If you CANNOT achieve proper seal, DO NOT enter the isolation or treatment area. See your supervisor.

Removal Instructions

See step 2 of *Fitting Instructions* and cup respirator in hand to maintain position on face. Pull bottom strap over head. Still holding respirator in position, pull top strap over head and remove respirator.

NIOSH Approved: N95

At least 95% filtration efficiency against solid and liquid aerosols that do not contain oil.



3M
ST. PAUL, MN, USA
1-800-243-4630



THIS RESPIRATOR IS APPROVED ONLY IN THE FOLLOWING CONFIGURATION:

TC ¹	Protection ¹	Respirator		Cautions and Limitations ²
		1860	1860S	
84A-0006	N95	X	X	ABCJMNOP

1. PROTECTION

N95 - Particulate Filter (95% filter efficiency level) effective against particulate aerosols free of oil; time use restrictions may apply

2. CAUTIONS AND LIMITATIONS

- A - Not for use in atmospheres containing less than 19.5 percent oxygen.
- B - Not for use in atmospheres immediately dangerous to life or health.
- C - Do not exceed maximum use concentrations established by regulatory standards.
- J - Failure to properly use and maintain this product could result in injury or death.
- M - All approved respirators shall be selected, fitted, used, and maintained in accordance with MSHA, OSHA, and other applicable regulations.
- N - Never substitute, modify, add, or omit parts. Use only exact replacement parts in the configuration as specified by the manufacturer.
- O - Refer to user's instructions, and/or maintenance manuals for information on use and maintenance of these respirators.
- P - NIOSH does not evaluate respirators for use as surgical masks.

This respirator contains no components made from natural rubber latex.

FOR MORE INFORMATION and assistance on 3M occupational health and environmental safety products, contact your local 3M representative or call 3M OH&ESD Technical Service toll free in U.S.A., 1-800-243-4630. In Canada, call Technical Service at 1-800-267-4414.

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3M Occupational Health and Environmental

Safety Division

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St. Paul, MN 55133-3010

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Evaluation Request- Bid Document Review

Technical Services/Quality Assurance

EBONY P ROBERSON

212-386-0466

3/30/2020

Procurement Analyst

(EROBERSON@dcas.nyc.gov)

Tel.**Date**

RASHAD LE MONIER

Purchase Director

Description of Document for Review:

Bid #: COVID-19 RELATED PURCHASE (M3 Masks – 8210 and 1860)

Title:

Specific Concerns:

To ensure that the specifications provided by the vendor adhere to all applicable standards (FDA, CDC,NIOSH etc.) Thank you.

The vendor Performance Supply, LLC is offering the COVID-19 related purchase (M3 Masks – 8210 and 1860)

FDA creates regulatory Exemptions for Masks and respirator in response to the COVID-19 and critical PPE shortages: On March 25, 2020, the Food and Drug Administration (FDA) issued a temporary policy relating to enforcement of regulatory requirements for face masks and respirators during the COVID-19 crisis. Since the public health emergency began, the United States has experienced a shortage of masks, respirators, and other personal protective equipment (PPE) which are critically needed for health care workers caring for COVID-19 patients in all states. FDA previously created emergency use authorizations for NIOSH-approved disposable respirators for use in health care setting and imported non-NIOSH-approved disposable respirators, but the temporary enforcement policy represents an attempt to open the manufacturing, importation, and distribution flood gates to make more masks and respirators available as quickly as possible.

The policy is limited to face mask and respirator products classified under 21 C.F.R. §§878.4040, 880.6260 (product code FXX,OXZ,OUK,MSH,ONT,ORW, and NZJ), and FDA divides these products into three main categories: (1) face masks and N95 respirators not intended for a medical purpose; (2) face masks intended for a medical purpose but not to provide liquid barrier protection; and (3) surgical masks intended to provide liquid barrier protection. [Wwwmintz.com](http://www.mintz.com)

Analysis revealed that both items: 3M Masks 1860 and 3M Masks 8210 provide necessary protection for front line medical and non-medical personnel. Since, it is not scientifically proven against the COVID-19; it is important to recognize that the optimal way to prevent airborne transmission is to use a combination of interventions from across the hierarchy of controls, not just PPE alone. Therefore, these submitted disposable 3M Masks 1860 and 8210 specifications are substantially in compliance with the NYC Specification.

Please - Identify commodity concerns
- Include pertinent user agency concerns and requirements

Daniel Ortega (Quality Assurance Analyst)

Date 3-31-2020