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Attorneys for Plaintiff 3M COMPANY

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

3M COMPANY,

Plaintiff,

V.

KM BROTHERS INC., KMJ
TRADING INC., SUPREME
SUNSHINE, INC., MAO YU, and
DOES 1 - 10,

Defendants.

Case No. 2:20-CV-05049

**COMPLAINT FOR
TRADEMARK
COUNTERFEITING,
TRADEMARK INFRINGEMENT,
UNFAIR COMPETITION,
TRADEMARK DILUTION, AND
FALSE ADVERTISING**

DEMAND FOR JURY TRIAL

25 Plaintiff 3M Company (“3M”) alleges as follows against KM Brothers, Inc.,
26 KMJ Trading Inc., Supreme Sunshine, Inc., and Mao Yu (collectively,
27 “Defendants”), as well as any presently unknown pseudonyms, affiliated entities, or
28 persons acting in concert with Defendants (“Does 1 – 10”):

I. INTRODUCTION

2 1. This lawsuit is brought to further 3M’s efforts to combat the
3 exploitation of consumers during the COVID-19 global pandemic. Defendants
4 operated an illegal scheme to advertise and sell counterfeit, damaged, deficient, or
5 otherwise altered respirators to unwitting customers. Defendants falsely advertised
6 these products with 3M’s famous trademarks, trading on 3M’s brand and reputation
7 for products that consumers around the world trust for their superior quality and
8 reliability. Defendants further engaged in price-gouging and other unfair sales
9 techniques, such as bait-and-switch tactics, in order to take advantage of consumers
10 in need of personal protection equipment (PPE) to safeguard their health.

11 2. 3M has filed suit to shut down entirely this unlawful activity, protect
12 consumers from serious harm, and protect their names and brands from being
13 associated with defendants' unlawful and unethical efforts to profiteer from the
14 pandemic. Any damages awarded in this case will be donated by 3M to charitable
15 COVID-19 relief efforts.

16 3. Throughout its history, 3M has been providing state-of-art, industry-
17 leading scientific and medical products to consumers throughout the world under its
18 famous 3M name and trademarks. Based on this longstanding, continuous use,
19 consumers associate the 3M trademarks uniquely with 3M. Now, more than ever,
20 consumers are also relying on the famous 3M name and trademarks to indicate that
21 the products offered thereunder are of the same superior quality that consumers
22 have come to expect over the past century. This is especially true with respect to
23 3M's numerous industry-leading healthcare products and PPE, including 3M-brand
24 N95 respirators.

25 4. Healthcare professionals and other first responders are heroically
26 placing their health and safety on the line to battle COVID-19. To assist in the
27 battle, 3M is working around the clock to supply healthcare workers, first
28 responders, and critical infrastructure operators with millions of 3M-brand

1 respirators. Beginning in January, 3M began increasing its production of 3M-brand
2 respirators, doubling its global output to a rate of 1.1 billion per year, or 100 million
3 per month. This includes 35 million respirators per month being manufactured and
4 distributed in the United States, or more than 1 million respirators per day produced
5 in the U.S. for use in the fight against COVID-19. 3M also is investing capital and
6 resources to enable it to double its respirator production capacity once again, to 2
7 billion globally before the end of 2020. In the United States alone, 3M plans to be
8 producing respirators at a rate of 50 million per month by June 2020, and at a rate
9 of more than 95 million per month by October 2020. And to supplement its U.S.
10 production, 3M also has announced a plan to import 166.5 million 3M-brand
11 respirators from 3M's production facilities overseas. In the United States, 90
12 percent of 3M's respirators are going to healthcare and public health users, with the
13 remaining deployed to other critical industries such as energy, food and
14 pharmaceuticals. The U.S. distribution of 3M-brand respirators is being
15 coordinated with the Federal Emergency Management Agency, which is basing
16 allocation decisions on the most urgent needs.

17 5. The demand for 3M-branded respirators has grown exponentially in
18 response to the pandemic, and 3M has been committed to seeking to meet this
19 demand while keeping its respirators priced fairly. 3M is working with customers,
20 distributors, governments, and medical officials to direct 3M supplies to the places
21 where they are needed most. Importantly, 3M has *not* increased the prices it
22 charges for 3M respirators as a result of the COVID-19 outbreak.

23 6. In the midst of these efforts by 3M and the global health community to
24 respond to the pandemic, certain bad actors have sought to exploit the crisis and
25 prey on innocent parties through a variety of scams involving 3M N95 respirators
26 and other health-related products in high demand. These scams include the sale of
27 counterfeit, damaged, deficient, or otherwise altered products, unlawful price-
28 gouging, fake offers, bait-and-switch tactics, and other unfair and deceptive

1 practices—all of which undercut the integrity of the marketplace and constitute an
 2 ongoing threat to public health and safety.

3 7. In response to the spike in fraudulent activity, price gouging and
 4 counterfeiting related to 3M N95 respirators in the marketplace during the
 5 pandemic, 3M is taking an active role to combat these activities. 3M's actions
 6 include working with law enforcement authorities around the world, including the
 7 Department of Justice, state Attorneys General, the Federal Bureau of Investigation,
 8 U.S. Attorney General, state attorneys general, and local authorities to combat
 9 price-gouging and other unlawful activities. 3M has established a dedicated point
 10 of contact for federal and state procurement officials to promptly validate third-
 11 party offers and quotes. In doing so, 3M has already helped prevent dozens of
 12 potentially fraudulent transactions with federal agencies, state governments,
 13 municipal governments, private enterprises and other organizations. Every U.S.
 14 Governor has been briefed on 3M's efforts, and 3M is in regular contact with
 15 numerous governors and state attorneys general regarding these efforts to prevent
 16 and combat fraud. The Department of Justice has publicly thanked 3M for the
 17 assistance it has provided in investigations that have led to arrests. *See Press*
 18 *Release: New Jersey Man Arrested For \$45 Million Scheme To Defraud And Price*
 19 *Gouge New York City During COVID-19 Pandemic, available at*
 20 [https://www.justice.gov/usao-sdny/pr/new-jersey-man-arrested-45-million-scheme-
 21 defraud-and-price-gouge-new-york-city-during](https://www.justice.gov/usao-sdny/pr/new-jersey-man-arrested-45-million-scheme-defraud-and-price-gouge-new-york-city-during) (May 26, 2020).

22 8. 3M has also created a website where people can report potential price-
 23 gouging, and a “3M COVID-19 Fraud hotline” where end-users and purchasers of
 24 3M products in the United States and Canada can call for information and help
 25 detect fraud and avoid counterfeit products. 3M is also publishing information
 26 about its anti-price-gouging and counterfeiting efforts on the 3M website, including
 27 disclosure of 3M's list prices for its N95 respirators so that customers can identify
 28 and avoid inflated prices, and the web address and phone numbers that can be used

1 to identify 3M authorized distributors and dealers in the United States and Canada.
 2 Further information about 3M's efforts are set forth in the 3M press release and
 3 publication attached hereto as **Exhibits 1 and 2**.

4 9. A key component of 3M's efforts to combat fraud, price gouging, and
 5 counterfeiting has been the removal of bad actors through policing their activity on
 6 the internet. 3M has successfully secured the removal of more than 3,000 websites
 7 and sales offers with fraudulent or counterfeit product offerings from online
 8 marketplaces around the world, more than 4,000 false or deceptive social media
 9 posts, and more than 100 deceptive internet addresses.

10 10. Including this action, 3M has filed twelve lawsuits in federal courts
 11 across the country in its fight against fraud, price gouging, and counterfeiting. 3M
 12 has won five temporary restraining orders and three preliminary injunction orders
 13 from courts across the country that put a stop to other defendants' unlawful and
 14 unethical profiteering from the pandemic.

15 11. This action involves Defendants' wrongful acts as third-party sellers
 16 operating on Amazon.com ("Amazon"), and 3M's efforts to take action against
 17 those who attempt to sell counterfeit products and those who engage in price-
 18 gouging on Amazon. During this historic health crisis, 3M has sought to
 19 aggressively protect customers from bad actors seeking to exploit the global
 20 pandemic for their own gain.

21 12. Despite these extensive efforts during the COVID-19 crisis, pandemic
 22 profiteers continue to prey on and deceive consumers, including front-line
 23 healthcare workers and first responders, trading on the fame of the 3M names and
 24 trademarks, and falsely associating themselves with 3M and its reputation for
 25 providing the highest quality PPE at fair prices. Defendants' scheme to illegally
 26 enrich themselves during the current global health crisis exemplifies pandemic
 27 profiteering.

28 13. 3M does not—and will not—condone bad actors deceptively trading

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