

# EXHIBIT E

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

3M COMPANY and	)	
3M INNOVATIVE	)	
PROPERTIES COMPANY,	)	
	)	
Plaintiffs,	)	CIVIL ACTION FILE
	)	
	)	NO. 0:10-cv-02630-MJD-FLN
v.	)	
	)	
AVERY DENNISON	)	
CORPORATION,	)	
	)	
Defendant.	)	
_____	)	

**MOTION FOR PRELIMINARY INJUNCTION**

NOW COME Plaintiffs 3M Company and 3M Innovative Properties Company (collectively, “3M”) and move this Court, pursuant to Rule 65 of the Federal Rules of Civil Procedure, for a preliminary injunction preserving the *status quo* and enjoining Avery Dennison Corporation (“Avery” or “Defendant”) from completing its plans to launch a retroreflective sheeting product that infringes 3M’s patents during the pendency of this action.

Full scale launch and distribution of Avery’s new retroreflective sheeting product is imminent. Unless the Court takes quick action to preserve the *status quo* in this highly regulated and unique market, Avery’s product will flow through the complex distribution channels supporting state and local highway projects. Multiyear contracts will be put in place and roadway projects started by government agencies and private construction

contractors relying on the availability of Avery's infringing OmniCube T-11500 product, and Avery could use its infringing product to procure the release of federal funds for these projects under the incorrect assumption that Avery's product will remain available for use. In the absence of a preliminary injunction, when 3M ultimately prevails in this suit, it will be left with an injunction it cannot as a practical matter enforce without creating chaos and disruption in this marketplace.

3M has filed concurrently herewith a Memorandum Of Law In Support Of 3M's Motion For Preliminary Injunction as well as the Declaration of Mary Jo Abler, the Declaration of Kenneth L. Smith, the Declaration of Barry Sullivan, and the Declaration of Terry L. Yeager.

In support of this Motion, 3M respectfully shows the Court as follows:

1. This is a patent infringement case in which 3M is seeking to stop Avery, 3M's primary competitor in the market for retroreflective sheeting, from making, using, selling, and offering to sell a new retroreflective sheeting product that infringes multiple 3M patents. Retroreflective sheeting is used on products such as road signs to allow light from the headlights of a passing vehicle to be reflected off the sign and back towards the driver. 3M has spent decades and tens of millions of dollars pioneering the retroreflective sheeting market. Indeed, 3M was the first to offer the highest level of sheeting available today -- referred to in the industry as "Type XI" -- and for several years has been the only company to offer a Type XI sheeting product.

2. Avery has not yet meaningfully launched its Type XI retroreflective sheeting product, called OmniCube T-11500 series. Just this month, 3M for the first time

became aware of Avery making an offer to sell its OmniCube T-11500 series sheeting. Based on this, statements made by Avery, and feedback from the field, it appears that a full scale launch of Avery's OmniCube T-11500 product is imminent.

3. While 3M has asserted thirteen patents that Avery is infringing in this case, 3M has focused on two patents for purposes of this Motion. In its Memorandum of Law in Support of 3M's Motion for Preliminary Injunction, 3M presents a substantial likelihood that it will succeed on the merits of proving that Avery is infringing the 3M Patents. Moreover, the evidence 3M presents is overwhelming on each of the remaining three factors needed to entitle 3M to a preliminary injunction – (1) irreparable harm is a certainty given the complex, highly-regulated market for 3M's patented and Avery's infringing products; (2) the balance of hardships tips decidedly in favor of 3M, which has devoted years and millions of dollars to the development of its patented products, in contrast to Avery, which has just begun its launch of infringing products that free-ride on 3M's technology and the demand for Type XI retroreflective sheeting 3M has created; and (3) the public interest favors an injunction to preserve the status quo, as opposed to the chaos that will result once 3M prevails, if Avery is allowed to infringe during the pendency of this action

4. 3M is amenable to an expedited schedule for trial of this action. But in the meantime, 3M asks the Court to preserve the *status quo* -- which in this case means maintaining the current position before Avery has meaningfully launched its OmniCube T-11500 series products.

5. To streamline the issues that must be resolved at this juncture, 3M is only moving for a preliminary injunction based on two of the thirteen patents-in-suit. 3M respectfully requests an evidentiary hearing and oral argument on this Motion as soon as the Court's schedule will permit. While 3M believes this case is straightforward, 3M does not know Avery's positions and therefore reserves the right to produce additional evidence, including without limitation testimony from one or more experts. 3M will work with Avery to reach agreement, if possible, on procedures for limited, focused expedited discovery to the extent discovery is necessary prior to an evidentiary hearing and oral argument.

WHEREFORE, 3M respectfully requests that the Court enter a preliminary injunction substantially in the form of the proposed Order attached hereto as Exhibit A ordering:

(1) That Avery, its officers, agents and servants, employees, attorneys, and all others in active concert or participation with it who receive actual notice of the Order are preliminarily enjoined during the pendency of this action from making, using, selling, or offering to sell Avery's OmniCube T-11500 series products, or any other products not more than colorably different or that otherwise infringe U.S. Patent No. 7,556,386 and/or U.S. Patent No. 7,152,983.

(2) Such other and further relief as the Court deems just and proper.

Respectfully submitted this 28th day of July 2010.

s/ Ann N. Cathcart Chaplin

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