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3M Innovative Properties Company  
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12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA  
14 WESTERN DIVISION

15 AVERY DENNISON CORPORATION,

16 Plaintiff,

17 v.

18 3M COMPANY and 3M INNOVATIVE  
PROPERTIES COMPANY,

19 Defendants.  
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CASE NO. CV 10-7931 MRP (RZx)

**DECLARATION OF GERALD L.  
KAREL IN SUPPORT OF  
DEFENDANTS' MOTION TO  
TRANSFER PURSUANT TO 28 U.S.C.  
§ 1404(a)**

[Notice of Motion and Motion to Transfer  
Pursuant to 28 U.S.C. § 1404(a);  
Memorandum of Points and Authorities in  
support; Declarations of Mary Jo Abler  
and Daniel S. Floyd in support; Notice of  
Request and Request for Judicial Notice;  
and [Proposed] Order filed concurrently  
herewith]

Hon. Mariana R. Pfaelzer

Hearing Date: February 7, 2011  
Hearing Time: 11:00 a.m.  
Hearing Place: Courtroom 12

Trial Date: Not Set  
Complaint Filed: October 21, 2010

**DECLARATION OF GERALD L. KAREL**

I, Gerald L. Karel, declare as follows:

1. I am currently the Technical Director of the Traffic Safety Systems (“TSS”) Division for 3M Company (“3M”). I submit this declaration in support of Defendants’ Motion To Transfer Pursuant To 28 U.S.C. § 1404(a). I understand this declaration will be used in the above-captioned matter. I have personal knowledge of the matters set forth herein, except where stated otherwise, and if called to testify I could and would competently testify thereto.

2. I am familiar with 3M’s participation in the ASTM International (“ASTM”) standard-setting organization in connection with the recent addition of the Type XI classification to ASTM Specification No. D4956 – 09 (“D4956 Specification”), entitled “Standard Specification for Retroreflective Sheeting for Traffic Control.”

3. I have been employed by 3M since 1985. I have held the position of Technical Director of the TSS Division for approximately seven years. In this capacity, I supervise research and development for the Division. The TSS Division, including my office, is based at 3M’s corporate headquarters in St. Paul, Minnesota.

4. ASTM International (“ASTM”), formerly known as the American Society for Testing and Materials, is an international private standard setting organization responsible for developing standards for materials, products, systems and methods used in a variety of construction, manufacturing and transportation applications, including retroreflective sheeting.

5. I am currently a member of the ASTM committee on “Road and Paving Materials,” also known as the Main Committee D04 (“Main Committee”). The Main Committee includes several subcommittees, including the D04.38 Subcommittee (“Subcommittee”), of which I am a participant. I am not 3M’s voting member in the Main Committee or the Subcommittee.

1           6.     In approximately December 2004, a new Type XI classification was  
2 proposed to the Subcommittee. The Subcommittee members passed the Type XI  
3 classification proposed in 2004 through a formal ballot in late 2006. Shortly thereafter,  
4 the Main Committee rejected the Type XI classification approved by the  
5 Subcommittee.

6           7.     Though I was not an ASTM member when the Subcommittee voted upon  
7 the proposed Type XI classification that was rejected in 2006, as part of my  
8 responsibilities I was generally aware of the Subcommittee's proceedings in  
9 connection with the proposed classification. At the time the Subcommittee voted on  
10 the proposed classification, Tom Bliss was 3M's voting member on the  
11 Subcommittee.

12          8.     Mr. Bliss and others reported back on the Subcommittee's proceedings,  
13 and I periodically had discussions with Mr. Bliss regarding these proceedings. Mr.  
14 Bliss, during this time period, was a 3M Company employee and worked in the  
15 Minneapolis/St. Paul area. It is my understanding that Mr. Bliss has knowledge of the  
16 events referenced in Paragraph 6, including 3M's proposal to the Subcommittee, the  
17 ASTM's consideration of that proposal, and the voting process involved.

18          9.     I later became a member of the Subcommittee and was personally  
19 involved in the Subcommittee's consideration of the Type XI classification that was  
20 ultimately approved in August 2009. The Type XI classification first proposed in  
21 approximately December 2004 and ultimately rejected in late 2006 differed from the  
22 Type XI classification that was ultimately approved in 2009. In 2008 and 2009, Tom  
23 Bliss, Fuat Aktan and I were actively involved in the proceedings of the  
24 Subcommittee. Mr. Aktan is currently a 3M Company employee residing and working  
25 in Turkey. In connection with my involvement with the Subcommittee in 2008-2009, I  
26 familiarized myself with the Subcommittee's proceedings, ending in December 2006,  
27 relating to the first Type XI proposal.

1           10. I have attended two Subcommittee meetings, one in June 2008 in Denver  
2 and another in December 2008 in Miami. On one of those occasions, I recall having a  
3 conversation with Jason Davis, the Subcommittee Chair, regarding 3M's significant  
4 investment in its "full cube" retroreflective sheeting technology. Mr. Davis is  
5 employed by the Louisiana Department of Transportation.

6           11. During one of the Subcommittee proceedings that I attended, Paul Carlson  
7 of the Texas Transportation Institute presented a study comparing different types of  
8 reflective traffic sign sheeting and evaluating the visibility and legibility of highway  
9 signage by nighttime drivers. It is my understanding that Professor Carlson is a  
10 researcher at Texas A&M University based in College Station, Texas.

11           12. Mark Kleinschmit of Avery Dennison Corporation was involved with the  
12 Subcommittee proceedings, and was involved in the development of the mathematical  
13 approach used for the Type XI specification adopted in August 2009. It is my  
14 understanding that Mr. Kleinschmit is based in Chicago.

15           13. Carl Anderson of the Turner-Fairbank Highway Research Center was the  
16 task group chair for the D4956 Specification proceedings. It is my understanding that  
17 Mr. Anderson works at the Turner-Fairbank Highway Research Center, a federally  
18 owned and operated research facility in McLean, Virginia, which is the headquarters of  
19 the Federal Highway Administration's ("FHWA") Office of Research, Development,  
20 and Technology.

21           14. There were many other individuals who attended or were otherwise  
22 involved with the Subcommittee proceedings referenced above. I do not recall any  
23 individual directly involved with the Subcommittee proceedings or the Type XI  
24 standard-setting process who is a resident of California.

25           15. After taking a formal ballot of its members in mid-2009, the  
26 Subcommittee approved the addition of a new classification for retroreflective sheeting  
27 for use in highway construction and maintenance. Shortly thereafter, the new  
28 classification was approved by the D04 Main Committee. The new classification is

1 known as "Type XI." The D4956 Specification states that the addition of the Type XI  
2 classification was approved on August 1, 2009.

3 16. The Type XI specification that was ultimately passed in 2009 was not  
4 solely 3M's proposal—it was a compromise of proposals submitted by multiple  
5 participants including 3M representatives, Avery representatives, and Mr. Anderson of  
6 the Turner-Fairbank Highway Research Center.

7 I declare under penalty of perjury under the laws of the United States of  
8 America that the foregoing is true and correct.

9 Executed this 10<sup>th</sup> day of December, 2010 in St. Paul, Minnesota.

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