

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CONSUMER ELECTRONICS ASSOCIATION,
INFORMATION TECHNOLOGY INDUSTRY
COUNCIL, and ITAC SYSTEMS, INC.,

09 Civ. 6583 (WHP)

Plaintiffs,

v.

CITY OF NEW YORK, MICHAEL R.
BLOOMBERG, in his official capacity as Mayor
of the City of New York, NEW YORK CITY
DEPARTMENT OF SANITATION, JOHN J.
DOHERTY, in his official capacity as the
Commissioner of the Department of Sanitation,
and ROBERT LANGE, in his official capacity as
Director of Waste Prevention, Reuse and
Recycling of the Department of Sanitation,

**DECLARATION OF
STACEY HODGE**

Defendants.

DECLARATION OF STACEY HODGE,
NEW YORK CITY DEPARTMENT OF TRANSPORTATION

1. I am the Director of Office of Freight Mobility for the New York City Department of Transportation ("NYCDOT") and have been in this position since October of 2007. I am responsible for managing a freight mobility program, which develops engineering and planning studies, educational tools and truck route enforcement aids to help improve the City's truck management framework while mitigating the impact of truck traffic on local communities. Before this position I was the Deputy Director, Policy Technology and Management Analysis for NYCDOT and before coming to NYCDOT, I was Transportation Planner for AECOM, a global provider of professional technical and management support services. I have a M.S. in Civil Engineering from Purdue University and a B.S. in Civil Engineering from Florida Institute of Technology.

2. I submit this declaration in Opposition to the Plaintiffs' motion for a preliminary injunction in the above captioned matter. In this declaration I will provide relevant information on the transportation infrastructure in New York City and refute certain claims Plaintiffs assert about that infrastructure. I base this declaration on personal knowledge, published reports, books and records of the City of New York, and conversations with City employees.

New York City's Transportation Infrastructure

3. New York City has a robust multi-modal transportation infrastructure to move people and goods around the City. People travel around the City via mass-transit, taxis, private cars, and commercial vehicles. Goods arrive in the region via ship, rail, air or truck, and travel within the City mostly via truck.

4. While nationally 90% of households own one or more vehicles, in New York only 44% of households own a car. New York City, Mobility Needs Assessment 2007-2030 7, available at http://www.nyc.gov/html/planyc2030/downloads/pdf/tech_report_transportation.pdf. In Manhattan, only 33% of households own a vehicle. 2000 U.S. Census New York City Vehicle Ownership, http://www.rightofway.org/research/2000_5boro_census_revised.html (last visited September 29, 2009). In the Bronx and Brooklyn the percentage of households with a car is 40% and 46%, respectively. *Id.* Only 33% of trips made in New York City are made by private automobile. New York City, Mobility Needs Assessment 2007-2030 7, available at http://www.nyc.gov/html/planyc2030/downloads/pdf/tech_report_transportation.pdf. The rest of the trips are made by ferry, rail, subway, bus, bicycle and walking. In fact, over one-third of trips in the City are made by walking. *Id.*

5. In my position, I oversee the Truck Route System that dedicates truck trips to specific routes to reduce community impact and improve safety. With nearly 1,000 miles of

designated roadway, New York City has one of the most complex truck route systems in the nation. The New York City Truck Route Network is comprised of a series of roadway segments designated in Section 4-13 of the New York City Traffic Rules. These regulations establish the permissible routes for truck trips made on New York City arterials. All vehicles defined as a truck (two axles and six tires, or three or more axles) are required to follow the Truck Route Network.

6. Upon information and belief the overwhelming majority of goods are delivered within the City, to residences as well as to commercial, industrial, and institutional establishments, via truck. While I tend to work more closely with stakeholders who are delivering goods to commercial establishments, I am familiar with the overall truck delivery network. In my experience, goods are delivered via sophisticated truck networks that utilize GPS and computer mapping to efficiently track and dispatch trucks as needed. Some companies form operating agreements or share networks where geographically and economically efficient.

7. For example, the wardrobe cleaning company, Slate NYC, partners with Federal Express for their pick-ups and drop-offs. Cleaned clothes are delivered in custom-designed, recyclable corrugated boxes using Federal Expresses fleet of hybrid delivery vehicles. Under the arrangement, customers can have their clothing picked up and delivered by FedEx, or they can pick up and drop off their orders at any of the more than 500 FedEx/Kinko's and FedEx shipping centers in the area. *See* <http://www.americandrycleaner.com/article.cfm?articleID=17717#>, downloaded October 6, 2009.

8. Another pertinent example is the utilization of UPS's existing logistics system by Peapod, Inc., a fast-growing internet grocer. Peapod provides grocery deliveries to households in over 1,500 ZIP codes in the Chicago area and along the U.S. eastern seaboard. Customers

submit their orders online and chose a two-hour time window for delivery. As Peapod has no standing orders, their route planning systems are extremely dynamic. Peapod uses UPS Logistics Technologies' Roadnet and Roadnet Transportation Suite Web Services to provide routing and proof of delivery for each location. See <http://www.upslogisticstech.com/pub/case-studies/Peapod-Delivers-Express-Line-Service-Through-Superior-Routing> (describing Peapod's utilization of UPS services). It is my understanding that many companies outsource this aspect of their operations. Accordingly, companies do not have to build this system themselves but instead can utilize existing services and customize those services to their needs.

9. Other companies make other types of pick-up and delivery arrangements. For instance, Brown Drugs, a manufacturing company, pays a premium to carriers to make deliveries into New York City; they do not participate directly in the delivery process. Linen 'N Things, a retail company, contracts deliveries to trucking companies and Shott Glass, a glass manufacturer that delivers to both residential and industrial areas, uses an external trucking company to make deliveries.

Plaintiffs' Claims

10. Plaintiffs claim that the E-Waste Program will require them to build "an unprecedented waste management infrastructure." Complaint ¶ 5; *see also* Declaration of Eric Williams ¶ 12. Plaintiffs' declarations assume that each manufacturer will have to set up its own collection and processing system. *See e.g.*, Declaration of Mark Small ¶ 14; Declaration of Mohan Rao ¶ 11-12. Plaintiffs claim that the direct collection requirement in the rules will result in a significant increase in truck traffic. *See* Complaint ¶ 91, 92.

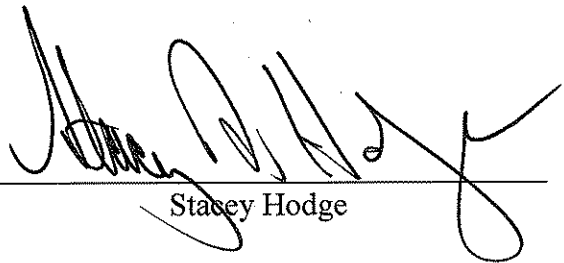
11. These claims do not comport with my knowledge of the City's existing transportation networks and available logistics software options or my experience with the

industry. The existing delivery networks that allow for efficient delivery of goods to businesses and residences within the City can be utilized to collect covered electronic equipment. Thus, manufacturers may be able to make use of existing delivery systems, with relatively simple modifications to accommodate collection of electronic waste.

12. Moreover, I do not see any basis for plaintiffs' assumption that each manufacturer would have to build its own, independent collection infrastructure from the ground up. The expectation underlying the City's E-Waste Program that manufacturers could collaborate seems reasonable. *See* Local Law 13, Declaration of Legislative Findings and Intent ("Manufacturers of electronic equipment, in working to achieve the goals and objectives of this chapter, should have the flexibility to act in partnership with each other, the city and businesses that provide collection and handling services to develop, implement and promote a safe and effective electronics recycling system"; Final Rules, 16 RCNY § 17-03(d) ("A manufacturer may elect to submit an individual or a group plan, whereby one or more manufacturers participate in a collective plan for the collection, handling, recycling and reuse of covered electronic equipment").

I declare under penalty of perjury that the foregoing is true and correct.

Executed October 8, 2009, New York, New York.



Stacey Hodge