



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Division of Enforcement  
Bureau of Consumer Protection

December 8, 2008

Michael H. Bai, Esq.  
Littleton Joyce Ughetta Park & Kelly LLP  
39 Broadway, 34th Floor  
New York, NY 10006

Dear Mr. Bai:

Thank you for your letter to the Commission, dated October 10, 2008, requesting our advice and interpretation concerning use of the term "Lyocell" on tires pursuant to 16 C.F.R. § 303. As you requested during a telephone conversation with my staff on December 3, 2008, we are treating your letter as a request for a staff advisory opinion. This letter is a formal response to your request, memorializing the email response provided by Steve Ecklund on November 12, 2008.

Tires are not subject to the Textile Fiber Products Identification Act and, therefore, the FTC list of generic fiber names set forth at 16 C.F.R. § 303.7 does not apply. However, any marketing is still subject to Section 5 of the FTC Act, 15 U.S.C. § 45, which forbids deceptive and unfair practices in or affecting commerce. I suggest that you carefully review the following two Policy Statements in this regard:

-- <http://www.ftc.gov/bcp/policystmt/ad-decept.htm>

-- <http://www.ftc.gov/bcp/guides/ad3subst.htm>

If a company makes a claim about its product (such as that it contains Lyocell), the claim should not be "deceptive" and the company should have reasonable "substantiation" for that claim. We are not textile chemists and we do not test products for their fiber content unless we do so as part of an official law enforcement action - and then we would contract with a private lab to conduct the actual testing.<sup>1</sup> Therefore, we decline to render an opinion regarding whether a representation that your tires contain Lyocell would comply with Section 5 of the FTC Act.

In accordance with Section 1.3(c) of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 1.3(c), this informal staff opinion has not been reviewed or approved by the

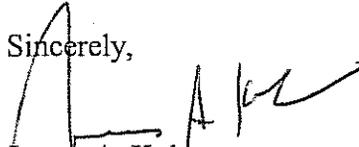
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<sup>1</sup> In accordance with Section 1.1 of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 1.1, we do not ordinarily provide an opinion if an informed opinion cannot be made or could be made only after extensive investigation, clinical study, testing, or collateral inquiry.

Commission or by an individual Commissioner, and is given without prejudice to the right of the Commission later to rescind the advice and, where appropriate, to commence a law enforcement action. In addition, this office retains the right to reconsider its advice, and with notice to the requesting party, rescind or revoke its opinion if the response is used for improper purposes, or if it would be in the public interest to do so.

Pursuant to Section 1.4 of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 1.4, this response along with your request for advice will be placed on the public record, subject to any limitations on public disclosure arising from statutory restrictions, the Commission's rules, and the public interest. Hopefully, the preceding has been helpful.

Sincerely,

A handwritten signature in black ink, appearing to read 'James A. Kohm', written over a horizontal line.

James A. Kohm  
Associate Director  
Division of Enforcement

LITTLETON JOYCE  
UGHETTA PARK & KELLY LLP  
NEW YORK CITY | PURCHASE, NY | RED BANK, NJ

39 Broadway  
34th Floor  
New York, NY 10006  
Tel (212) 404-5777  
Fax (212) 232-0088  
[www.littletonjoyce.com](http://www.littletonjoyce.com)

Direct Dial: (212) 404-5775  
E-Mail: [michael.bai@littletonjoyce.com](mailto:michael.bai@littletonjoyce.com)

October 10, 2008

**VIA FEDERAL EXPRESS**

Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Attention: Secretary of the Commission

**Re: Use of the Term "Lyocell" on Tires Pursuant to 16 CFR §303.7(d)**

Dear Secretary of the Commission:

The undersigned has been retained by Hyosung Corporation ("Hyosung") to obtain the Federal Trade Commission's ("FTC") advice/interpretation concerning whether, pursuant to 16 CFR §303.7(d), Hyosung and its customers, specifically Kumho Tire Co., Inc. ("Kumho Tire"), may use the term "Lyocell" on the tire's sidewall to describe the fibers in the tire's cord materials.

We have received the attached letter (Exhibit "A") from the Chief Counsel for the National Highway Traffic Safety Administration ("NHTSA") in response to our request for interpretation on behalf of Kumho Tire Co., Inc. (Exhibit "B"). NHTSA's Chief Counsel states that pursuant to 49 CFR § 571.139 paragraph S5.5(e), Kumho Tire may use the FTC-established generic term "Lyocell" on the tire's sidewall to describe the fibers in the tire's cord materials. However, NHTSA's Chief Counsel informed us that its answer was conditioned upon FTC concurrence that the generic name "Lyocell" is properly applicable to Kumho Tire's tire fiber cord material.

We have attached Hyosung's formula for the "Lyocell" material that is in the tire's cord material (Exhibit "C"). Since the formula meets the definition for "Lyocell" pursuant to 16 CFR §303.7(d), please confirm that Hyosung's customers, namely Kumho Tire, may use the term "Lyocell" on the tire's sidewall in tires that use "Lyocell" cord material.

Use of the Term "Lyocell" on Tires Pursuant to 16 CFR §303.7(d)  
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If you have any questions, please do not hesitate to contact me at 212-404-5775. If any additional information is necessary, please advise me. Thank you for your attention to this matter.

Very truly yours,

LITTLETON JOYCE UGHETTA PARK & KELLY LLP



Michael H. Bai

Enclosures: Exhibit "A" - August 25, 2008 Letter from NHTSA  
Exhibit "B" - April 2, 2008 Letter to NHTSA  
Exhibit "C" - Hyosung Corporation's Lyocell Formula

LITTLETON JOYCE UGHETTA PARK & KELLY LLP

AUG 25 2007



U.S. Department  
of Transportation  
**National Highway  
Traffic Safety  
Administration**

1200 New Jersey Avenue SE.  
Washington, DC 20590

Mr. Michael H. Bai  
Littleton Joyce Ughetta Park & Kelly LLP  
39 Broadway  
34<sup>th</sup> Floor  
New York, NY 10006

Dear Mr. Bai:

This responds to your letter requesting an interpretation of one of the labeling requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, New pneumatic radial tires for light vehicles. You ask whether, if your client Kumho Tires incorporates "lyocell" fibers in the cord materials for the tire's plies, it would be permissible under S5.5(e) of FMVSS No. 139 to label the tire sidewall with either "lyocell" or "rayon."

Our answer is a qualified yes. We have made a few assumptions in answering your letter. First, we assume that the cord material in question is in fact lyocell and that you simply ask if reference to "lyocell" or "rayon" may be used to describe the material. Second, you state that under Federal Trade Commission (FTC) regulations, "lyocell" and "rayon" are generic names for lyocell; for the purposes of this letter, we assume your understanding is correct. However, for a complete answer to your question, you should contact the FTC to obtain its concurrence that you have correctly understood the FTC regulation.

By way of background, the National Highway Traffic Safety Administration (NHTSA) is authorized to issue FMVSSs that set performance requirements for new motor vehicles and items of motor vehicle equipment (see 49 U.S.C. Chapter 301). NHTSA does not provide approvals of motor vehicles or motor vehicle equipment. Instead, manufacturers are required to self-certify that their products conform to all applicable safety standards that are in effect on the date of manufacture. NHTSA selects a sampling of new vehicles and equipment each year to determine their compliance with applicable FMVSSs. If our testing or examination reveals an apparent noncompliance, we may require the manufacturer to remedy the noncompliance, and may initiate an enforcement proceeding if necessary to ensure that the manufacturer takes appropriate action.



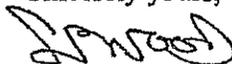
Paragraph S5.5 of FMVSS No. 139 specifies tire markings for new pneumatic radial tires for use on motor vehicles (other than motorcycles and low speed vehicles) that have a gross vehicle weight rating (GVWR) of 10,000 pounds or less. Among the information required by S5.5 to be marked on the tire sidewall, S5.5(e) requires "The generic name of each cord material used in the plies (both sidewall and tread area) of the tire." NHTSA requires this information to help tire purchasers select the characteristics they want in a given tire, because the many different cord materials that exist and their many different characteristics enable a tire to be specially geared to its anticipated use.

Your letter states that FTC regulations (16 CFR § 303.7(d)) permit the use of the generic name "lyocell" or "rayon" where the fabric used is "lyocell." NHTSA has previously favorably cited FTC-established generic names for cord materials. In a January 20, 1976 letter of interpretation, NHTSA advised that if Kevlar was used as a cord material in a tire, it must be identified by its generic name, which, NHTSA stated, the FTC established as "Aramid" pursuant to the Textile Fiber Product Identification Act.

Assuming you are correct that the FTC has established that lyocell fibers may be identified by either the generic name "lyocell" or the generic name "rayon," and because we have previously accepted FTC-established generic names for tire cord material labeling required by the FMVSSs, in our opinion using either "lyocell" or "rayon" as the generic name for lyocell tire cords would be acceptable under FMVSS No. 139. However, our answer is conditional on FTC concurrence that the generic names "lyocell" and "rayon" are properly applicable to your client's tire cord material. We suggest that you follow up with the FTC on this matter.

I hope this information is helpful. If you have any further questions, please do not hesitate to contact Rebecca Schade of my staff at (202) 366-2992.

Sincerely yours,



 Anthony M. Cooke  
Chief Counsel

LITTLETON JOYCE  
UGHETTA PARK & KELLY LLP  
NEW YORK CITY | PURCHASE, NY | RED BANK, NJ

39 Broadway  
34th Floor  
New York, NY 10006  
Tel (212) 404-5777  
Fax (212) 232-0088  
[www.littletonjoyce.com](http://www.littletonjoyce.com)

Direct Dial: (212) 404-5775  
E-Mail: [michael.bai@littletonjoyce.com](mailto:michael.bai@littletonjoyce.com)

April 2, 2008

**VIA FACSIMILE AND REGULAR MAIL**

The Chief Counsel  
National Highway Traffic Safety Administration, NCC-01  
400 7th Street, SW  
Washington, D.C. 20590

**Re: Request for Interpretation of 49 CFR §571.139 Concerning the Use of the Generic Name "Lyocell" or "Rayon"**

Dear Chief Counsel:

The undersigned serves as counsel for Kumho Tire Co., Inc. ("Kumho Tires"). Pursuant to 49 CFR § 571.139 paragraph S5.5(e), if Kumho Tires incorporates "lyocell" fibers in the cord materials for the tire's plies, may Kumho Tires place either the generic name "lyocell" or "rayon" on the tire's sidewall?

Under 49 CFR § 571.139 paragraph S5.5(e), Kumho Tires must identify the generic name of each cord material used in the tire's plies on the tire's sidewall.<sup>1</sup> Pursuant to 16 CFR §303.7(d), the Federal Trade Commission ("FTC") allows for a manufacturer to use the term "lyocell" or "rayon" as a generic name for manufactured lyocell fibers.<sup>2</sup>

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<sup>1</sup> 49 CFR § 571.139; New pneumatic tires for light vehicles.

S5.5 Tire markings. Except as specified in paragraphs (a) through (i) of S5.5, each tire must be marked on each sidewall with the information specified in S5.5(a) through (d) and on one sidewall with the information specified in S5.5(e) through (i) according to the phase-in schedule specified in S7 of this standard. The markings must be placed between the maximum section width and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area that is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, those markings must appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings must be in letters and numerals not less than 0.078 inches high and raised above or sunk below the tire surface not less than 0.015 inches.

**(c) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire;**

<sup>2</sup> 16 CFR § 303.7 Generic names and definitions for manufactured fibers.

Letter to NHTSA re: Request for Interpretation of 49 CFR §571.139 Concerning the Use of the Generic Name "Lyocell" or "Rayon"

April 2, 2008

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According to the above-referenced regulations, the FTC permits the use of the generic name "lyocell" or "rayon" where the fabric used is "lyocell". However, NHTSA regulations concerning tire labeling are silent on the "generic name of each cord material" that may be used. Therefore, we request clarification and confirmation that Kumho Tires may label its tires as either "lyocell" or "rayon" as long as the tire cord materials are manufactured using "lyocell."

If NHTSA respond by requiring Kumho Tires to label the tires as "lyocell", we would appreciate it if NHTSA could provide us with the regulation supporting NHTSA's conclusion.

Thank you for your attention and assistance in this matter. Your earliest reply would be greatly appreciated. Please do not hesitate to contact the undersigned if you have questions.

Very truly yours,

LITTLETON JOYCE UGHETTA PARK & KELLY LLP



Michael H. Bai

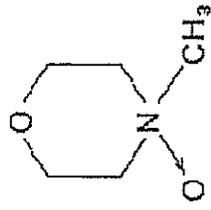
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Pursuant to the provisions of section 7(c) of the Act, the Commission hereby establishes the generic names for manufactured fibers, together with their respective definitions, set forth in this section, and the generic names for manufactured fibers, together with their respective definitions, set forth in International Organization for Standardization ISO 2076: 1999(E), "Textiles--Man-made fibres--Generic names." This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American National Standards Institute, 11 West 42nd St., 13th floor, New York, NY 10036. Copies may be inspected at the Federal Trade Commission, Room 130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/code-of-federal-regulations/ibr-locations.html>.

(d) Rayon--A manufactured fiber composed of regenerated cellulose, as well as manufactured fibers composed of regenerated cellulose in which substituents have replaced not more than 15% of the hydrogens of the hydroxyl groups. Where the fiber is composed of cellulose precipitated from an organic solution in which no substitution of the hydroxyl groups takes place and no chemical intermediates are formed, the term *lyocell* may be used as a generic description of the fiber.

LITTLETON JOYCE UGHETTA PARK & KELLY LLP

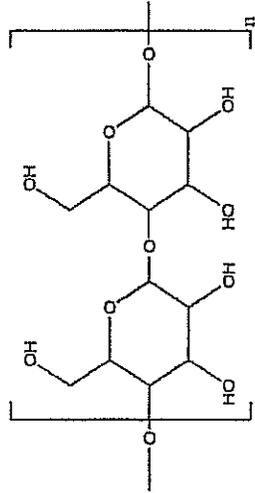
# Lyocell Formula



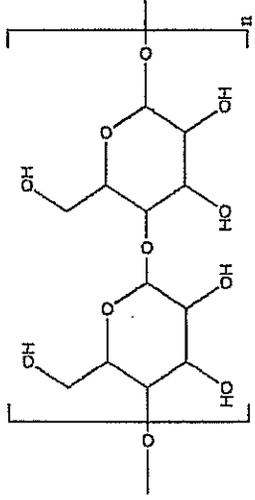
NMMO (Organic Solvent)



Dissolution



Cellulose



Lyocell