

4. Respondents manufacture, advertise, market, promote, offer to sell, sell, and distribute a line of textile fiber products called “Bamboo Comfort,” throughout the United States, using both Mad Mod’s own website, www.mad-mod.com, and other retailers.
5. Respondents price the textile fiber products that they manufacture, market, promote, distribute, and sell at a premium compared to other, similar products in the marketplace.
6. In advertisements to induce consumers to purchase their textile fiber products, Respondents make or have made various claims, on their website and elsewhere, concerning the fiber content and anti-microbial characteristics of their textile fiber products, as well as the environmentally friendly manufacturing processes used to make their products, including, but not limited to, the following:

A. **Mad Mod Website (www.mad-mod.com)**

1. bamboo comfort

Go to the Products page, then click Bamboo Comfort to see our line of 100% bamboo fiber items, including our new blankets!

(Homepage, Exhibit A at 1).

2. **Bamboo Comfort**

. . . By applying an exclusive, eco-friendly manufacturing process to the fastest growing plant on earth, Bamboo fiber offers comfort with a conscience. Bamboo Comfort, a new textile line at Mad Mod, introduces ultra-soft, 100% bamboo fiber textiles with socioeconomic and environmental benefits that aren’t found in any other textile fibers in the market today.

* * * *

Characteristics:

- Bamboo fibers possess natural anti-microbial agents

* * * *

(“Products” page, Exhibit A at 2-3).

3. **Mad Mod – Established 2003**

* * * *

We have also developed our own line of 100% bamboo textiles. Back in 2005 before being ‘green’ was even popular, Bamboo Comfort was formed. We now offer 100% bamboo fiber towels and blankets which are luxurious to the touch AND environmentally friendly.

(“About Us” page, Exhibit A at 4).

4. **100% Bamboo Bath Towel Set**

This is our best and most durable 100% bamboo fiber bath towel set yet! They have an ultra-luxurious feel with 3 to 4 times the absorbency of cotton towels.

(“Shop Here” page, Exhibit A at 5).

B. **Product Label**

bamboo comfort

100% bamboo

(Exhibit B).

C. **Product Packaging**

bamboo comfort

Bamboo fiber is a sustainable textile that is highly absorbent, naturally antibacterial and luxuriously soft.

To care for your bamboo towels, machine-wash on delicate cycle and tumble-dry on low. Bleach and fabric softeners damage the bamboo fiber and should not be used on Bamboo Comfort products.

(Exhibit C).

7. The textile fiber products manufactured, marketed, promoted, distributed, and sold by Respondents consist of rayon and not actual bamboo fibers woven into fabric.
8. Rayon is the generic name for a type of regenerated, or manufactured, fiber made from cellulose. Rayon is manufactured by taking purified cellulose from a plant source, also

called a cellulose precursor, and converting it to a viscous solution by dissolving it in one or more chemicals, such as sodium hydroxide. The chemical solution is then forced through spinnerets and into an acidic bath where it solidifies into fibers.

9. The process used to manufacture rayon from cellulose involves hazardous chemicals. *See* 40 C.F.R. Part 63 (“National Emissions Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing”).
10. “[H]azardous air pollutants (HAP) emitted from cellulose products manufacturing operations” include carbon disulfide, carbonyl sulfide, ethylene oxide, methanol, methyl chloride, propylene oxide, and toluene. 40 C.F.R. § 63.5480.
11. Many plant sources may be used as cellulose precursors for rayon fabric, including cotton linters (short cotton fibers), wood pulp, and bamboo. Regardless of the source of the cellulose used, however, the manufacturing process involves the use of hazardous chemicals and the resulting fiber is rayon and not cotton, wood, or bamboo fiber.
12. Respondents do not state that their textile fiber products are rayon, nor, assuming that bamboo is the source of the cellulose used in their textile fiber products, do Respondents state that their textile fiber products are rayon made from bamboo. Moreover, on the pages of their website stating the claims set forth in Paragraph 6, Respondents do not provide any description of the chemical process used to manufacture their textile fiber products.
13. Respondents sell or have sold their textile fiber products without including in the proper place on the product label the name of the country where each such product was processed or manufactured.
14. Respondents advertise or have advertised their textile fiber products for sale on the www.mad-mod.com website without including in the description of the product a clear and conspicuous statement that the product was either made in U.S.A., imported, or both.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

FALSE OR MISLEADING REPRESENTATIONS

15. Through the means described in Paragraph 6, Respondents represent or have represented, expressly or by implication, that:
 - a. Their textile fiber products are bamboo fiber;
 - b. Their textile fiber products are manufactured using an environmentally friendly process; and

- c. Their textile fiber products retain anti-microbial properties of the bamboo plant.
16. In truth and in fact:
- a. Respondents' textile fiber products are not bamboo fiber, but instead are rayon, a regenerated cellulose fiber;
 - b. Respondents' textile fiber products are not manufactured using an environmentally friendly process but rather a process that involves the use of toxic chemicals and results in the emission of hazardous air pollutants; and
 - c. Respondents' textile fiber products do not retain anti-microbial properties of the bamboo plant.
17. Therefore, the representations set forth in Paragraph 15 were, and are, false or misleading, and the making of such representations constitutes a deceptive act or practice, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.

UNSUBSTANTIATED REPRESENTATIONS

18. Through the means described in Paragraph 6, Respondents represent or have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 15, at the time the representations were made.
19. In truth and in fact, Respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 15, at the time the representations were made.
20. Therefore, the representation set forth in Paragraph 18 was, and is, false or misleading, and the making of such representation constitutes a deceptive act or practice, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.

TEXTILE FIBER PRODUCTS IDENTIFICATION ACT and RULES AND REGULATIONS

21. The Textile Fiber Products Identification Act, 15 U.S.C. § 70, *et seq.* ("Textile Act"), governs, *inter alia*, the labeling and advertising of textile fiber products introduced, manufactured for introduction, delivered for introduction, sold, advertised, or offered for sale in commerce. *See* 15 U.S.C. § 70a.
22. Under the Textile Act, a textile fiber product is "misbranded if it is falsely or deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein." 15 U.S.C. § 70b(a).

23. Pursuant to the Textile Act, 15 U.S.C. § 70e(c), the Federal Trade Commission has promulgated Rules and Regulations for its administration and enforcement (“Textile Rules and Regulations”). *See* 16 C.F.R. Part 303. The Textile Rules and Regulations state:
- A. All textile fiber products must carry permanent, affixed labels stating the recognized generic names of the constituent fibers, as well as indicating, among other things, the “percentages by weight of the constituent fibers present in the textile fiber product, excluding permissive ornamentation, in amounts of 5 percent or more,” as well as the “name of the country where such product was processed or manufactured.” 16 C.F.R. § 303.16(a)(1), (a)(3); *see also* 16 C.F.R. §§ 303.6, 303.15 and 303.33;
 - B. In advertising textile fiber products in promotional materials disseminated to ultimate consumers in print or by electronic means, other than by broadcast, where the consumer is solicited to purchase such textile products without examining the actual product purchased, the description of the product must contain a clear and conspicuous statement that the product was either made in U.S.A., imported, or both. 16 C.F.R. § 303.34;
 - C. In advertising and labeling textile fiber products, no generic name for a manufactured fiber may be used until such generic name has been “established or otherwise recognized by the Commission,” 16 C.F.R. § 303.8, and such generic names must be used when identifying the fiber content in the information required in such labels and advertisements, 16 C.F.R. § 303.6;
 - D. The only generic terms for fibers manufactured from regenerated cellulose that have been established or otherwise recognized by the FTC are rayon, viscose, modal, cupro, and lyocell. *See* 16 C.F.R. § 303.7(d);
 - E. “Words, coined words, symbols or depictions, (a) which constitute or imply the name or designation of a fiber which is not present in the product, (b) which are phonetically similar to the name or designation of such a fiber, or (c) which are only a slight variation of spelling from the name or designation of such a fiber shall not be used in such a manner as to represent or imply that such fiber is present in the product.” 16 C.F.R. § 303.18. Any term used in advertising, including internet advertising, that constitutes or connotes the name or presence of a textile fiber is deemed to be an implication of fiber content. 16 C.F.R. § 303.40; and
 - F. Any information or representations included in advertising or labeling of a textile fiber product that is not required under the Textile Act or the Textile Rules and Regulations “shall in no way be false, deceptive, or misleading as to fiber content and shall not include any names, terms, or representations prohibited by the [Textile] Act and regulations. Such non-required information or representations

shall not be set forth or so used as to interfere with, minimize, or detract from the required information.” 16 C.F.R. § 303.42(b); 16 C.F.R. § 303.41(d); *see also* 16 C.F.R. § 303.17.

24. A violation either of the Textile Act or of the Textile Rules and Regulations constitutes an unfair and deceptive act or practice in violation of the Federal Trade Commission Act. *See* 15 U.S.C. §§ 70a and 70e.

**VIOLATIONS OF THE TEXTILE ACT
AND THE TEXTILE RULES AND REGULATIONS**

25. As set forth in Paragraph 6, Respondents have:
- a. labeled their textile fiber products as consisting of bamboo; and
 - b. advertised the fiber content of their textile fiber products using the terms “bamboo” and “bamboo fiber.”
26. In truth and in fact, Respondents’ textile fiber products are not bamboo fiber but are rayon, a regenerated cellulose fiber.
27. As set forth in Paragraphs 13 and 14, Respondents have:
- a. failed to include in the proper place on the labels of their textile fiber products the name of the country where the products were processed or manufactured; and
 - b. advertised and sold their textile fiber products on the www.mad-mod.com website without including in the description of each product a clear and conspicuous statement that the product was either made in U.S.A., imported, or both.
28. Through the means described in Paragraphs 6, 13, and 14, Respondents have manufactured for introduction, introduced, advertised, offered for sale, or sold textile fiber products that are misbranded or falsely or deceptively advertised, as prohibited by Sections 70a and 70b of the Textile Act, 15 U.S.C. § 70, *et seq.*, and in violation of Sections 303.6, 303.8, 303.16, 303.17, 303.18, 303.33, 303.34, 303.40, 303.41, and 303.42 of the Textile Rules and Regulations, 16 C.F.R. Part 303.
29. Respondents’ violations of the Textile Act and of the Textile Rules and Regulations constitute deceptive acts or practices, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission, this ____ day of _____, 2009, has issued this complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary