UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman
J. Thomas Rosch
Edith Ramirez
Julie Brill
Maureen K. Ohlhausen

In the Matter of
DOCKET NO. C-4375
BRAIN-PAD, INC.,
a corporation, and

JOSEPH MANZO,
individually and as an officer of
Brain-Pad, Inc.

COMPLAINT

The Federal Trade Commission, having reason to believe that Brain-Pad, Inc., a corporation, and Joseph Manzo, an individual ("Respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Brain-Pad, Inc. ("BPI") is a Pennsylvania corporation with its principal office or place of business at 322 Fayette Street, Conshohocken, Pennsylvania 19428.

2. Respondent Joseph Manzo is the President of BPI. Individually or in concert with others, he formulates, directs, controls, or participates in the policies, acts, or practices of BPI, including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of BPI.

3. Respondents have labeled, advertised, promoted, offered for sale, sold, and distributed, throughout the United States, "Brain-Pad"-branded mouth guards ("Brain-Pad mouth guards") to consumers. Brain-Pad mouth guards are "devices" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

4. The acts and practices of Respondents, as alleged herein, have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.
5. Respondents have disseminated or caused to be disseminated advertisements for Brain-Pad mouth guards, including, but not limited to, the attached Exhibits A through F. These advertisements contain the following statements and depictions, among others:

A. **Product Packaging:** Brain-Pad Pro+

(front of package)
Brain-Pad Pro+ (back of package)
B. **Product Packaging:** Brain Pad LoPro+

(front of package)
Brain Pad LoPro+ (back of package)
C. **Product Packaging:** Brain-Pad Pro-Plus Junior

(front of package)
Brain-Pad Pro-Plus Junior (back of package)
D. **Product Packaging:** Brain-Pad LoPro Fem

(front of package)
E. **Product Packaging:** Brain-Pad Double mouth guard

(front of package)
F. Internet Website: www.brainpads.com

VIDEO: (Brain-Pad Commercial featuring Joseph Manzo) (Transcript at Exhibit A)

ON SCREEN: BRAIN PAD

Protective & Performance Solutions

BIOMECHANICALLY TESTED

REDUCES RISK OF CONCUSSIONS!

For All CONTACT SPORTS

(Exhibit A at 3).

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MALE ANNOUNCER: So much attention is now being paid to concussions, literally a contusion to the brain.

ON SCREEN: THE IMPORTANCE OF JAW POSITION

MALE ANNOUNCER: And Brain Pad may be on the verge of a huge breakthrough in prevention after 15 years of hard work and belief.

(Exhibit A at 4).

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JOSEPH MANZO: Every time we got a school involved with it, at the end of the year, they would say, wow, man, our concussions went from nine to zero or nine to one. You know, it was just this constant feedback. My head -- we don’t play with the headaches anymore.

(Exhibit A at 5).
G. **Print Advertisement** (Exhibit B) (BP00075)

(depiction of MMA fighter and Brain-Pad mouth guard)

MMA ORGANIZATIONS
FIGHT CONCUSSIONS
with BRAIN-PAD!

H. **Print Advertisement** (Exhibit C) (BP00157)

‘Creates and retains’
a TMJ/Brain Safety
Space protecting
the TMJ AND Base
of Skull & Brain

Helping Coaches . . .
REDUCE
CONCUSSION
RISK

* * *

“BIO-MECHANICALLY TESTED & PROVEN”

REDUCES THE RISK OF CONCUSSIONS
FROM: FACEMASK IMPACTS, CHIN CUP
FORCES & DIRECT LOWER JAW IMPACTS!

I. **Print Advertisement** (Exhibit D) (BP00131)

PROTECTION & PERFORMANCE!
Protects TMJ & Brain from Jaw Impacts
• Reduces the risk of Concussion

Only ‘Jaw Joint Protectors’ Reduce the Risk of
Concussions & Internal Head Injuries.

J. **Email Advertisement** (Exhibit E) (BP00254 – 55)

(Headline) Athletes Turn to Brain-Pad Mouth Guards for Concussion Protection

* * *
As Congress prepares to examine the issue of concussions in the NFL, NCAA, and high school sports for the second time on January 4, a Pennsylvania company has been successfully marketing a mouth guard device designed to protect players from the probability of a concussion caused by lower jaw impact.

* * *

“We have said for years that concussions are serious injuries and should be avoided at all costs,” says Joe Manzo, President of Brain-Pad. “The devastating effects of concussions can have a lasting impact on athletes and their families. . . . When used properly, there is a 40 percent reduction of impact energy to the base of the skull, these forces can cause a concussion or knock out as boxers call it. Athletes from the NFL to the MMA and at every level from professional to local youth leagues are recognizing the significant health benefits of our Brain-Pad mouth guards to offer protection against these dangerous injuries.”

K. **Point of Purchase Display** (Exhibit F) (BP00308)

**BRAIN PAD**

**BIOMECHANICALLY TESTED:**

**REDUCES RISK OF CONCUSSIONS!**

6. Through the means described in Paragraph 5, including the statements and depictions contained in the advertisements attached as Exhibits A through F, among others, Respondents have represented, expressly or by implication, that:

   a. Brain-Pad mouth guards reduce the risk of concussions; and
   b. Brain-Pad mouth guards reduce the risk of concussions from lower jaw impacts.

7. Through the means described in Paragraph 5, Respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 6, at the time the representations were made.

8. In truth and in fact, Respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 6, at the time the representations were made. Therefore, the representation set forth in Paragraph 7 was, and is, false or misleading.

9. Through the means described in Paragraph 5, including the statements and depictions contained in the advertisements attached as Exhibits A through F, among others, Respondents have represented that:

   a. scientific studies prove that Brain-Pad mouth guards reduce the risk of concussions; and
b. scientific studies prove that Brain-Pad mouth guards reduce the risk of concussions from lower jaw impacts.

10. In truth and in fact, scientific studies do not prove that Brain-Pad mouth guards reduce the risk of concussions or reduce the risk of concussions from lower jaw impacts. Therefore, the representations set forth in Paragraph 9 were, and are, false or misleading.

11. The acts and practices of Respondents as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

**THEREFORE**, the Federal Trade Commission, this fifteenth day of November, 2012, has issued this complaint against Respondents

By the Commission, Commissioner Rosch dissenting.

Donald S. Clark
Secretary