Federal Trade Commission
Office of the Secretary
Room H-113 (Annex O)
600 Pennsylvania Avenue, NW
Washington DC 20580

Comments submitted by Deckers Outdoor Corporation in re:

Fur Rules Review, Matter No. P074201

These comments are submitted by Deckers Outdoor Corporation (Deckers), parent company of UGG® Australia, a manufacturer of quality sheepskin footwear, apparel and accessories. UGG product is sold throughout the United States by retailers such as Saks Fifth Avenue, Bloomingdales, Nordstrom and the like, as well as internationally. As many of the UGG product lines incorporate sheepskin, they are regulated by the Fur Products Labeling Act (FPLA). Prior to passage of the Truth in Fur Labeling Act (TFLA), only a small percentage of UGG product required labeling under the FPLA, as most product was covered by the recently-repealed *de minimus* exemption. With the repeal of this exemption, a significant portion of UGG product is now subject to the Act and its labeling requirements.

Since acquiring all rights to the UGG business in 1995, Deckers has enjoyed double-digit sales growth for almost a decade. As a direct result of Deckers' investment in the brand, annual sales of the UGG® Australia brand have increased from $711 million in 2009 to $873 million in 2010. These numbers confirm that Deckers Outdoor Corporation is the largest seller of sheepskin products in the world. As such, we believe that Deckers understands the consumer of sheepskin products better than anyone else in the market today.

Executive Summary

Based on our firm understanding of the sheepskin consumer, we strongly suggest the following changes, more fully described below, should be made to the Fur Rules:

1. All faux fur products should need to be labeled as "Faux Fur". "Faux Sheepskin" should be permitted for faux sheepskin products.
2. The scope of information required on the label should be reduced.
3. The order of information on the label should be left to the manufacturer.
4. The size of label should be flexible to allow for labeling of smaller products.
5. Additional information that is relevant to the fur disclosure should be permitted on the label.
6. The requirement to disclose use of the sides, flanks or bellies should be removed.
7. Products sold in pairs should not require duplicate labeling.

8. The advertising requirements should apply only to point-of-sale advertising (i.e. print and internet catalogues).

We also wish to note that the sheepskin products manufactured by UGG utilize a by-product of the food industry, using what would otherwise be disposed of as waste. Thus, it is more similar to leather than what consumers typically consider to be "fur." We believe that the original intent of the Fur Products Labeling Act (FPLA) was to ensure that fur garments made from animals that are killed only for their fur are properly labeled, particularly since it is relatively easy to dye the fur of one animal to approximate the look of another animal. Sheepskin is quite different in that it is a by-product of the meat industry (like cow leather or pig skin), and it is not possible to make sheepskin look like it comes from a mink or sable, or even a cow or pig. Thus, we believe many of the FPLA requirements are unnecessary when applied to sheepskin, and not particularly enlightening for the consumer of sheepskin products.

The following is in response to the Commission's specific questions raised in this Matter.

(3) What modifications, if any, should the Commission make to the Rules to increase their benefits to consumers?

A. Require all faux fur products to be labeled "Faux Fur." The State of New York already requires all apparel products comprised of fur to be explicitly labeled as "Faux Fur" or "Real Fur." This will ensure that the consumer knows whether it is purchasing real or fake fur prior to making the purchase. Under the current Rules, the absence of any claim relating to fur could mean that the product is made of fake fur, or that the manufacturer/retailer is unaware of the FPLA requirements, and thus not in compliance. By requiring all fur products, both real and fake, to be disclosed as such, both the retailer and the consumer can have confidence that the manufacturer has properly labeled the product.

We also encourage the Commission to permit the use of the phrase "Faux Sheepskin" in lieu of "Faux Fur" when the material is intended to approximate the look like sheepskin.

B. Reduce the amount of information required on the fur label. Deckers feels that some of the required information to appear on the fur label is not of interest to the consumer, and that the volume of information currently required may, in fact, obscure the information in which the consumer is really interested prior to purchasing the product. Thus, we suggest the Commission reduce the scope of required information to focus on what Deckers, as the largest seller of sheepskin product, believe is of interest to the consumer. Below is a discussion of the data elements currently required under the Fur Rules.

i. The Name of the Animal. We strongly urge the Commission to allow the term "Sheepskin" to be used in lieu of "Fur from Sheep," or "Lambskin" in lieu of "Fur from Lamb." Sheepskin is the term commonly used to describe our products. Yet, under the current Rules our

product must be labeled "Fur from Sheep." We believe that this is confusing to the consumer who is seeking to purchase a sheepskin product.

ii. Whether the fur is natural, pointed, dyed, bleached or artificially colored. The average sheepskin consumer is not concerned with the presence of any bleached, dyed or artificially colored fur as it is likely that most or all sheepskin products have undergone some type of process to alter/enhance appearance. We suspect the intent of the original Act was to ensure that furs which are colored to mimic the appearance of a different type of animal are properly labeled and not deceptively advertised. As sheepskin that has been altered in appearance still looks like sheepskin, we do not believe the consumer of sheepskin products benefits from this information.

iii. That the garment is composed of pieces. The requirement in the Rules to specifically disclose use of "sides" or "flanks" should be removed. We note that the Act requires only the disclosure of the use of paws, tails, bellies or waste fur. The Rules go further and include gills, ears, throats, heads and scrap pieces, when they comprise more than 10% of the fur. We urge the Commission to remove both "sides" and "flanks" from the list of parts to be disclosed, and also to define all terms to ensure greater clarity of what parts of the animal is covered in this section.

We suspect that this section of FPLA was intended to call out unusual sections of the animal's body so that the consumer understands these areas included in the product they are purchasing. According to our tanning expert, the term "side" is used in the industry to describe one half of an animal hide and is not a term used to describe a part of the animal. At a minimum, use of the term "side" is confusing as it has a clear meaning in the industry that does not make sense in context of the Rules. And we believe it unlikely that the Commission intends to require explicit disclosure when the "side" of the animal hide is used, as this is the most commonly used part of the animal hide. Further, our tanning expert advises that a flank is considered the same as the belly, and thus its inclusion is redundant. If the Commission relies upon a different definition of "flank" then it should include this definition in the revised Rules. In fact, to ensure that all of the pieces are properly identified, we recommend that all pieces that require disclosure be defined to eliminate any confusion as to what the Commission means when using the terms.

iv. The name or Registered Identification Number of the party responsible for the garment. This information, if found elsewhere on the garment, should not be required to be duplicated on the fur label.

v. Country of Origin of the product. As with the name or Registered Identification Number, we believe that if the Country of Origin of the product is found on another permanently-attached label then it should be unnecessary to include on the fur label as well.

3a. What evidence supports your proposed modifications?

The revised law, covering most UGG product, has only been in effect since March of 2011 so it is impossible to show any actual evidence at this time. However, Deckers is the leader in the

sheepskin industry and we know the market better than anyone else in the world. We know what the consumers would like to know when purchasing a product that it contains real fur (or in the case of our customers, real sheepskin). By limiting the scope of information to what is of interest to the consumer, it would be easier for the consumer to know what type of product they are actually purchasing.

3b. How would these modifications affect the costs and benefits of the Rules for consumers?

As stated above, the revisions we suggest would help to focus attention on the elements that are of interest to sheepskin consumers. Further, by reducing the amount of unnecessary information required on the label, businesses would save resources (see discussion below), and pass fewer costs down to the consumer.

3c. How would these modifications affect the costs and benefits of the Rules for businesses, particularly small businesses?

We can only imagine the burden the revised Rules impose on smaller businesses, which are less able to absorb costs, given that it cost Deckers Outdoor Corporation in excess of $1,000,000 to comply with the recent changes to the FPLA (elimination of the *de minimus* exemption). By reducing the scope of information required on the labels, the costs borne by all businesses – both small and large – would be reduced as well.

(5) What significant costs have the Rules imposed on consumers? What evidence supports these asserted costs?

We cannot show evidence at this time because we have thus far not passed on to our customers our costs of complying with the revised Fur Act since December 2010 (as noted above, approximately $1,000,000). If, however, the Rules continue as currently written, we will need to pass labeling costs onto our customers, and this will have an impact on their purchasing power. If the Rules were less onerous for the manufacturer, it would thus ultimately benefit the consumer.

(6) What modifications, if any, should be made to the Rules to reduce the costs imposed on consumers?

In addition to the revised labeling requirements, the Rules should be amended to allow labeling of just one item when sold as part of a pair (e.g. shoes, insoles, gloves, and the like). Currently the Rules require labeling of both shoes, even when the shoes are sold as a pair. This seems redundant, and does not provide any added benefit to the consumer over labeling of just one shoe. If manufacturers only had to label one shoe in a pair, it would immediately halve the

number of labels needed for UGG and other footwear manufacturers to comply with the Rules. This would greatly reduce the material costs – and manpower – required of manufacturers, both of which would translate into savings for the consumer.

6a. What evidence supports your proposed modifications?

Again, between December 2010 and March of 2011, Deckers Outdoor Corporation spent approximately $1,000,000.00 to label footwear that had already left the factory but not yet reached the retailer – much of this product was in storage at the warehouse. To comply with the new law, UGG product needed to be pulled, opened and affixed with labels, on each shoe in the pair. Our labeling costs would have been greatly reduced if only one shoe in each box needed to be labeled. While the $1 million in compliance costs were not passed onto the consumer (largely due to price commitments made in advance of the passage of the new law), in the future labeling costs may be reflected in the final cost of our product. Modifying the Rules to allow labeling of just one shoe in a pair will allow us to keep costs down, and reduce the financial burden on consumers without undermining the effectiveness of the Rules one bit.

6b. How would these modifications affect the costs and benefits of the Rules for consumers?

As stated above, this proposed revision would reduce the amount of labeling costs passed onto the consumer, and would not have any impact at all on the effectiveness of the Rules. The consumer would obtain all the information required by the Rules on just one shoe, not both. Additionally, as much of our product can only be labeled using adhesive stickers on the bottom of the shoe, this modification would mean that the consumer would spend less time and effort trying to peel the sticker off of the shoes before wearing it. To ensure that the sticker remains affixed until the consumer chooses to remove it, we must use a very strong adhesive which is not always easy to remove, particularly if the shoe has been tried on multiple times in advance of a sale. In fact, we have found there to be a very high level of annoyance for a consumer to have to peel off stickers before wearing a brand new pair of shoes that they just purchased. In fact, many customers will forget to remove the sticker and wear the shoe outside thus making it even more difficult for them to remove it later. Labeling of only one shoe would somewhat lessen the hassle experienced by our customers.

6c. How would these modifications affect the costs and benefits of the Rules for businesses, particularly small businesses?

By modifying the Rules so that any products which are sold in a pair (shoes, replacement insoles, etc.) all businesses who sell those products – and particularly small businesses – would benefit because their costs would be significantly reduced, as indicated by the UGG example provided above.

(8) What modifications, if any, should be made to the Rules to increase its benefits to businesses, and particularly to small businesses?

We urge the Commission to consider the following changes to the Rules in order to increase benefits (and reduce costs) to businesses of all sizes.

(a) Labeling Requirements.

(i) The specific order should be determined by the manufacturer, and not by regulation. As all required information must be the same size type, it is unclear why the Rules need to mandate the order of information supplied. Many footwear manufactures, including Deckers Outdoor Corporation, need the flexibility to properly design a label so that it fits a wide range of products. Further, the rules should clarify that two or more data fields are permitted to run consecutively on the same line, particularly when more than one type of fur must be disclosed.

(ii) The size of label should not be dictated by the Rules. While the label size currently mandated by the Rules may be appropriate for larger apparel items, such as coats, they are impossible to affix to smaller items such as footwear. The Rules should either exempt smaller products from the size requirements, or simply mandate that the information be no smaller than information provided on other labels found on the product (e.g. shoe size). For example, the photo on the left (below) shows the FPLA label on a pair of shoes which is simply too small to fit a label meeting the required size specifications. For a larger product, such as the shoe pictured in the photo on the right, the size of label mandated by the current Rules may be appropriate, but the size is simply too large for many products made for women and children. A smaller label is also necessary for products such as insoles and gloves. Thus, we urge the Commission to provide flexibility in sizing the label to fit the product.

(iii) Additional information relevant to the fur disclosure should be permitted on the fur label. As you may know, New York requires all apparel products comprised of fur and faux fur to be labeled as "Real Fur" or "Faux Fur." While not mandated by the FPLA or any other Federal law or regulation, this information should be located on the fur disclosure label. The Rules should

allow for the New York disclosure – as well as any other required Fur disclosures that may be mandated by other states in the future, or other information that may be relevant to the disclosure – to be included on the FPLA label as well.

(iv) The requirement to specifically disclose use of "sides" or "flanks" should be removed. We note that the Act requires only the disclosure of the use of paws, tails, bellies or waste fur. The Rules go further and include gills, ears, throats, heads and scrap pieces, when they comprise more than 10% of the fur. We suspect that this section of FPLA was intended to call out unusual sections of the animal's body so that the consumer understands these areas included in the product they are purchasing. According to our tanning expert, the term "side" is used in the industry to describe one half of an animal hide and is not a term used to describe a part of the animal. At a minimum, use of the term "side" is confusing as it has a clear meaning in the industry that does not make sense in context of the Rules. And we believe it unlikely that the Commission intends to require explicit disclosure when the "side" of the animal hide is used, as this is the most commonly used part of the animal hide. Further, our tanning expert advises that a flank is considered the same as the belly, and thus its inclusion is redundant. If the Commission relies upon a different definition of "flank" then it should include this definition in the revised Rules. In fact, to ensure that all of the pieces are properly identified, we recommend that all pieces that require disclosure be defined to eliminate any confusion as to what the Commission means when using the terms.

(v) Products sold in pairs should not require duplicate labeling. Again, as noted above, for products, such as shoes, which are sold in pairs, it should not be necessary to label both items. The Rules currently require duplicate labeling unless the products are physically attached to one another. Since shoes are always sold in pairs, it should suffice to label just one product out of the pair. This will reduce labeling costs for footwear manufacturers significantly and will have no impact at all on consumer awareness. Retailers that showcase only one shoe on the showroom floor can simply notify manufacturers which shoe (right or left) must be labeled to ensure that the consumer has access to the required information at point-of-sale.

(vi) Also as noted above, we suggest the Commission consider requiring faux fur products to be clearly labeled as "Faux Fur" or "Faux Sheepskin," as appropriate. This will assist retailers in assuring that all products are properly labeled by the manufacturer. Under the current Rules, an unmarked fur product is presumed to be "faux," but only if the product is actually marked "Faux Fur" would the retailer have any meaningful assurance that the manufacturer is aware of, and in compliance with, the FPLA. As previously noted, the state of New York already requires this for all fur apparel products.

(b) Advertising Requirements.

The Rules should be updated to clarify that unless advertising is linked to direct sale of the product, then the required FPLA labeling info is not required. For example, an advertisement in

a fashion magazine that showcases one or more fur products should not need to be labeled as the only way to purchase the showcased product would be to visit the company website, where FPLA information would be required, or to visit a retailer, where the product itself would be labeled. Only point-of-sale advertising (including internet sites and catalogs) should require FPLA disclosures, particularly since there are not similar requirements for other consumer products (i.e. we don't require imported products or products made of imported materials to disclose the origin of the product/material in general advertisements).

(9) What significant costs, including costs of compliance, have the Rules imposed on businesses, particularly small businesses? What evidence supports the asserted costs?

The cost to UGG of complying with the Truth in Fur Labeling Act was approximately $1,000,000.00. This was the cost to label those shoes that were in the warehouse or in transit prior to the enforcement date, and that were previously covered by *de minimus* exemption.

(10) What modifications, if any, should be made to the Rules to reduce the costs imposed on businesses, and particularly on small businesses?

All of the suggested modifications will result in reduced costs for businesses such as UGG. As noted above, requiring only one shoe in a pair to be labeled will significantly reduce the cost of labeling footwear. And, finally, deleting the requirement to have FPLA information on all marketing collateral will also reduce the costs imposed on businesses of every size.

(12) Provide any evidence concerning whether the Commission should alter the Name Guide to include additional fur names or to eliminate certain names already listed.

We feel that the term "Sheepskin" should be included in the Name Guide. The term sheepskin is an industry recognized term. We have used the term in our marketing collateral and on our websites for years and consumers of UGG products are looking specifically for "sheepskin" products, not "fur" products. Below is an excerpt from the "Features and Benefits" section of the UGG website:

> UGG® Australia uses only the highest-grade sheepskin available. Twin-face sheepskin is used in many of our core products. A piece of twin-face sheepskin has been treated on both the fleece side, and the skin side, providing the soft comfort UGG® Australia is famous for. Grade-A sheepskin is extremely dense and soft, which provides for a more comfortable and durable material. Lesser quality material and synthetics can be coarse, scratchy, and non-breathable. Grade-A sheepskin breathes naturally, wicking away moisture, and allowing air to circulate freely. Fleece breathes, wicks moisture away, and allows air to circulate, keeping feet dry. Sheepskin is naturally thermostatic thus keeping bare feet close to your natural body temperature regardless of the temperature outside.

If you tell an average consumer that the product is made of sheepskin, they will likely understand that the product is made of the hide of a sheep. In fact, it is such a well-known term, that it is defined on Wikipedia as: "Sheepskin is the hide of a sheep, sometimes also called lambskin." Because it is such a commonly understood description, we feel that the term Sheepskin should be permanently added into the Name Guide.

(14) Are any of the Rules' requirements no longer needed? If so, explain. Please provide supporting evidence.

As suggested above, we believe that the Rules should be modified as follows:

1. The order of information on the label should be left to the manufacturer.
2. The size of label should be flexible to allow for labeling of smaller products.
3. Additional information that is relevant to the fur disclosure should be permitted on the label.
4. The requirement to disclose use of the sides or flanks should be removed, and all terms should be defined.
5. Products sold in pairs should not require duplicate labeling.
6. The advertising requirements should apply only to point-of-sale advertising (i.e. print and internet catalogues).
7. The scope of information required on the label should be reduced, as described below.

(15) What potentially unfair or deceptive practices concerning the labeling and advertising of fur products, if any, are not covered by the Rules.

We recommend that faux fur products should be clearly marked "Faux Fur" or "Faux "Sheepskin" in order to ensure that consumers are not mislead into believing that a product is real fur, and paying higher costs based on this belief.

(16) Should the Rules continue to require that fur products manufactured for use in pairs or groups be firmly attached to each other when delivered to the purchaser-consumer or be individually labeled? Why or why not? Please provide any supporting evidence.

Products that are necessarily sold in pairs, such as shoes, should not require duplicate labeling. The Rules currently require duplicate labeling unless the products are physically attached to one another. Since shoes are always sold in pairs, it should suffice to label just one in the pair. This will reduce labeling costs for footwear manufacturers significantly, and will have no impact at all on consumer awareness. Retailers that showcase only one shoe on the showroom floor can simply notify manufacturers which shoe (right or left) must be labeled to ensure that the consumer has access to the required information at point-of-sale.

(17) What modifications, if any, should be made to the Rules to account for changes in relevant technology or economic conditions?

When the FPLA was originally enacted there were not as many varied advertising options as currently exist today. Advertising was mostly limited to print media (newspapers, magazines or catalogs). These days, advertisements do not need to provide detailed information since such details can easily be accessed via the internet (company websites) and through social media avenues (Facebook and Twitter). Thus, it is unnecessary to provide all of the FPLA disclosures on most advertising, as long as the consumer has access to the information prior to purchase of the product.

Conclusion

While we acknowledge that there is value to the consumer of having access to much of the information that must be disclosed under the Act, we strongly urge the Commission to revise the Rules as outlined above in order to reduce costs of compliance. We do not believe these changes will undermine the intent of the Act, nor impact the consumer in any negative way.

Thank you for the opportunity to comment in this proceeding.

Sincerely,

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