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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
  
Plaintiff,  
  
v.  
  
LEON MAX, INC., a corporation, also  
doing business as Max Studio,  
3100 New York Drive  
Pasadena, CA 91107  
  
Defendant.

Civil Action No. 1:13-cv-00003

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COMPLAINT FOR CIVIL PENALTIES,

JURISDICTION AND VENUE

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1 delicious racer back tank cut from eco-wonderful bamboo and cotton jersey. Besides  
2 its earth-friendly nature, the beauty of bamboo is that it is luxuriously soft, and its  
3 absorbent properties are just right for sweating it out at yoga, Pilates or on the run”  
4 (emphasis added). In the fabric description of the same product, Defendant has stated  
5 that the tank is “50% BAMBOO, 50% COTTON.”

6 b. Similarly, in the product description for the “Silk & Bamboo Broadcloth  
7 Shirred Shell,” Defendant has claimed, “Soft shirring on a delicate and friendly  
8 bamboo and silk fabric lends this top its ethereal feel,” while the fabric description for  
9 the product has stated that it is “65% BAMBOO, 35% SILK.” (emphasis added).

10 9. In addition, on its www.maxstudio.com website, Defendant has sold textile fiber  
11 products labeled as “bamboo.”

12 10. For example, on March 17, 2010, the Commission purchased a “Football Tee”  
13 and a “Bamboo Seersucker Stripe Scoop Yoke Dress” from the www.maxstudio.com website.  
14 Both items were purchased directly from, and shipped by, Defendant. The label on the plastic  
15 packaging containing the “Football Tee” stated that the fabric composition was “50% Bamboo  
16 50% Cotton.” The fiber content label sewn into the shirt stated that the fiber content was  
17 “50% Bamboo 50% Cotton.” A hangtag attached to the shirt stated that it was “Bamboo” and  
18 that “Bamboo is a wonderful new fiber that is strong, absorbent and also has anti-bacterial  
19 properties.” Similarly, the fiber content label sewn into the “Bamboo Seersucker Stripe Scoop  
20 Yoke Dress” stated that the fiber content of the shell was “99% Bamboo 1% Spandex” and the  
21 lining was “100% Cotton.” The dress also had the same “Bamboo” hangtag as the shirt.

22 11. Textile fiber products marketed and sold by Defendant as bamboo, including  
23 those described in Paragraphs 8 through 10 above, are rayon and not actual bamboo fiber woven  
24 into fabric.

25 12. Rayon is the generic name for a type of regenerated or manufactured fiber made  
26 from cellulose. Rayon is manufactured by taking purified cellulose from a plant source, also  
27 called a cellulose precursor, and converting it to a viscous solution by dissolving it in one or

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1 19. Enclosed with the Warning Letter was a synopsis of previous litigated decisions  
2 issued by the Commission, as well as instructions to contact Commission staff or to visit the  
3 Commission's website at <http://www.ftc.gov/bambo> to obtain complete copies of the Textile  
4 Act, Textile Rules, and the Commission's Final Orders and Opinions in the proceedings  
5 described in the synopsis.

6 20. As detailed in the synopsis enclosed in a Warning Letter, in a series of litigated  
7 decisions, the Commission determined, among other things, that:

8 a. both manufacturers and sellers of textile products must comply with  
9 the Textile Act and the Textile Rules, see *H. Myerson Sons, et al.*, 78 F.T.C. 464 (1971);  
10 *Taylor- Friedsam Co., et al.* 69 F.T.C. 483 (1966); *Transair, Inc., et al.* 60 F.T.C. 694  
11 (1962); and

12 b. it is an unfair or deceptive act or practice to falsely or deceptively stamp,  
13 tag, label, invoice, advertise, or otherwise identify any textile product regarding the  
14 name or amount of constituent fibers contained therein, see *Verrazzano Trading Corp., et*  
15 *al.*, 91 F.T.C. 888 (1978); *H. Myerson Sons, et al.*, 78 F.T.C. 464 (1971); *Taylor-*  
16 *Friedsam Co., et al.*, 69 F.T.C. 483 (1966); *Transair, Inc., et al.* 60 F.T.C. 694 (1962).

17 21. The Warning Letter also notified Defendant of its potential liability for civil  
18 penalties under Section 5(m)(B) of the FTC Act, 15 U.S.C. § 45(m)(1)(B), for knowingly  
19 engaging in acts or practices determined by the Commission to be unfair or deceptive and  
20 unlawful, as described in Paragraph 20 of this Complaint.

21 22. Even after receiving the Warning Letter, Defendant continued to market and sell  
22 rayon textile fiber products advertised and labeled as "bamboo." As a result, on April 13, 2010,  
23 the Commission issued a civil investigative demand ("CID") to Defendant, seeking documents  
24 and information relating to its advertising, labeling and sales of such textile products, including  
25 samples of any such products that Defendant marketed were composed of actual bamboo fiber  
26 and not of rayon. Defendant produced no such samples and has not otherwise asserted that any  
27 of the textile fiber products it sells are "bamboo."

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1 23. Despite the Commission's public announcements and the Warning Letter,  
2 Defendant continued to engage in practices, such as those discussed in Paragraphs 8 through 10  
3 above.

4 24. The practices described in Paragraphs 8 through 10 above are violations of the  
5 Textile Act and the Textile Rules and are deceptive acts or practices in violation of Section  
6 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1).

7 VIOLETIONS OF THE TEXTILE ACT AND THE TEXTILE RULES

8 25. The Textile Act governs, inter alia, the labeling and advertising of textile fiber  
9 products manufactured, sold, advertised, or offered for sale in commerce. 15 U.S.C. § 70a.

10 26. Under the Textile Act, a textile fiber product is "misbranded if it is falsely or  
11 deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name  
12 or amount of constituent fibers contained therein." 15 U.S.C. § 70b(a).

13 27. Pursuant to section 70e of the Textile Act, 15 U.S.C. § 70e(c), the Commission  
14 promulgated the Textile Rules, which state:

15 a. all textile fiber products must carry affixed labels stating the recognized  
16 generic names of the constituent fibers, 16 C.F.R. §§ 303.15; 303.16(a)(1);

17 b. no generic name for a manufactured fiber may be used until such generic  
18 name has been "established or otherwise recognized by the Commission," 16 C.F.R.  
19 § 303.8;

20 c. "[w]ords, coined words, symbols or depictions, (a) which constitute or  
21 imply the name or designation of a fiber which is not present in the product . . . [may] not  
22 be used in such a manner as to represent or imply that such fiber is present in the  
23 product." 16 C.F.R. § 303.18. Any terms used in advertising, including internet  
24 advertising, that constitutes or connotes the name or presence of a textile fiber is deemed  
25 to be an implication of fiber content, 16 C.F.R. § 303.40; and

26 d. any information or representation included in advertising or labeling of a  
27 textile fiber product that is not required under the Textile Act or the Textile Rules "shall  
28 in no way be false, deceptive, or misleading as to fiber content and shall not include any

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1 34. In prior litigated decisions, the Commission has determined that it is an unfair or  
2 deceptive act or practice to offer for sale ~~sell~~ textile fiber products that are falsely or  
3 deceptively labeled as to the name or amount of constituent fiber contained therein. The  
4 Commission also has determined that it is an unfair or deceptive act or practice to falsely or  
5 deceptively advertise textile fiber products ~~with~~, but not limited to, falsely or deceptively  
6 advertising the name or amount of constituent ~~fiber~~ contained within a textile fiber product. ~~See~~  
7 Paragraph 20.

8 COUNT II

9 35. As set forth in Paragraphs 17 through ~~20~~, at least since ~~receiving~~ the Warning  
10 Letter on February 2, 2010, Defendant has had actual knowledge that offering for sale or ~~selling~~  
11 falsely or deceptively labeled textile products and that falsely or deceptively advertising textile  
12 fiber products are unfair or deceptive acts or practices subject to civil penalties.

13 36. As set forth in Paragraphs 8 through 10, ~~Defendant~~ has offered for sale and sold  
14 textile products labeled as “bamboo” and has ~~reported~~, directly or ~~indirectly~~, expressly or by  
15 implication, that certain ~~textile~~ fiber products it ~~advertises~~ and sells are “bamboo.”

16 37. In truth and in fact, as set forth ~~Paragraph 11~~, in numerous instances these  
17 textile fiber products are not ~~bamboo~~ fiber but instead rayon, ~~regenerated~~ cellulose fiber.

18 38. Defendant has engaged in the acts and ~~practices~~ described ~~in~~ Paragraphs 36 and  
19 37 with the actual knowledge, as ~~set forth~~ in Paragraph 35, that such ~~acts~~ and practices have been  
20 determined by the Commission in a final cease and ~~desist~~ order, other than a consent order, to be  
21 unfair and deceptive under Section 5(a) of the FTC Act. Defendant, therefore, has violated  
22 Section 5(m)(1)(B) of the FTC Act. 15 U.S.C. § 45(m)(1)(B).

23 CONSUMER INJURY

24 39. Consumers have suffered and will continue to suffer substantial injury as a result  
25 of Defendant’s violations. In addition, Defendant ~~has~~ been unjustly enriched as a result of its  
26 unlawful acts or practices. Absent ~~injunctive~~ relief by this Court, Defendant is likely to continue  
27 to injure consumers, reap unjust ~~enrichment~~, and harm the public interest.

28 //



Complaint

1           4.     Award Plaintiff the costs of bringing this action, as well as such other and  
2 additional relief as the Court may determine to be just and proper.

3  
4 DATED: January 3, 2013

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Respectfully submitted,  
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