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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.)

SEARS, ROEBUCK AND CO.; KMART)
CORPORATION; and KMART.COM LLC;)
corporations, 3333 Beverly Road,)
Hoffman Estates, IL 60179)

Defendants.)

Civil Action No. 1:13-cv-00005

COMPLAINT FOR CIVIL PENALTIES, INJUNCTIVE, AND OTHER RELIEF

Plaintiff, the United States of America, acting upon the notification and authorization to the Attorney General by the Federal Trade Commission (“FTC” or “Commission”), for its complaint alleges that:

1. Plaintiff brings this action under Sections 5(a)(1), 5(m)(1)(B), 13(b), and 16(a) of the Federal Trade Commission Act as amended (“FTC Act”), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(B), 53(b), and 56(a), to obtain monetary civil penalties, injunctive, and other relief for Defendants’ violations of the Textile Fiber Products Identification Act (“Textile Act”), 15 U.S.C. § 70 *et seq.*, the Rules and Regulations Under the Textile Fiber Products Identification Act, 16 C.F.R. Part 303 (“Textile Rules”), and injunctive relief for violations of Section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1).

JURISDICTION AND VENUE

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1 11. Defendant Sears’s private label and retail textile products are displayed on
2 www.sears.com.

3 12. In advertisements for textile fiber products on its websites, Defendants make or
4 have made various claims concerning the fiber content of those textile fiber products.

5 13. On the www.sears.com and www.kmart.com websites, Defendants have claimed,
6 without qualification, that the textile fiber in numerous products is “bamboo”:

7 a. For example, in the product description for the “Pure Fiber **100%**
8 **Bamboo Sheet Set**,” Defendant Sears has claimed that the sheet set is “**100% Bamboo**”
9 (emphasis added).

10 b. Defendant Sears also sells a “Ty Pennington Style Bamboo Sheet Set,”
11 which it has claimed is comprised of “55% Bamboo/45% Cotton.” In the product description for
12 the sheet set, Defendant Sears has stated: “Get hip to the environment with these **eco-friendly**
13 **bamboo** pillowcases. **Infused with bamboo**, these pillowcases are extremely soft and crafted
14 with attention to comfort and luxury” (emphasis added).

15 c. In the product description for the “Attention Women’s Bamboo Jacquard
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1 16. Private label and retail textile fiber products marketed and sold by Defendants as
2 bamboo, including those described in paragraphs 13 through 15 above, are rayon and not actual

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1 37. Defendants' violations of the Textile Act and of the Textile Rules constitute
2 deceptive acts or practices, in or affecting commerce, in violation of Section 5(a) of the FTC Act.
3 *See* 15 U.S.C. §§ 70a and 70e.

4 **VIOLATIONS OF PRIOR COMMISSION DETERMINATIONS CONCERNING**
5 **UNFAIR OR DECEPTIVE ACTS OR PRACTICES IN COMMERCE**

6 38. Pursuant to Section 5(m)(1)(B) of the FTC Act, 15 U.S.C. § 45(m)(1)(B), if the
7 Commission has determined in a proceeding under section 5(b) of the FTC Act, 15 U.S.C.
8 § 45(b), that an act or practice is unfair or deceptive by issuing a final cease and desist order
9 other than a consent order, then a person, partnership, or corporation which engages in such act
10 or practice with actual knowledge that such act or practice is unfair or deceptive shall be liable
11 for a civil penalty of not more than \$16,000 for each violation.

12 39. In prior litigated decisions, the Commission has determined that it is an unfair or
13 deceptive act or practice to offer for sale or sell textile fiber products that are falsely or
14 deceptively labeled as to the name or amount of constituent fiber contained therein. The
15 Commission also has determined that it is an unfair or deceptive act or practice to falsely or
16 deceptively advertise textile fiber products including, but not limited to, falsely or deceptively
17 advertising the name or amount of constituent fiber contained within a textile fiber product. *See*
18 Paragraph 25.

19 **COUNT II**

20 40. As set forth in Paragraphs 23 through 26, at least since receiving the Warning
21 Letter on February 2, 2010, Defendants have had actual knowledge that offering for sale or
22 selling falsely or deceptively labeled textile products and that falsely or deceptively advertising
23 textile fiber products are unfair or deceptive acts or practices subject to civil penalties.

24 41. As set forth in Paragraphs 13 through 15, Defendants have offered for sale and
25 sold private label and retail textile products labeled as "bamboo" and have represented, directly
26 or indirectly, expressly or by implication, that certain private label and retail textile fiber
27 products they advertise and sell are "bamboo."
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1 42. In truth and in fact, as set forth in Paragraph 16, in numerous instances these
2 private label and retail textile fiber products are not bamboo fiber but instead rayon, a
3 regenerated cellulose fiber. thave engageand is t fasel an()Tj -0.0002 Tw6.52885 0Td (faiancedescr fiand i[(Parag

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