

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

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

	)	
<b>In the Matter of</b>	)	
	)	<b>DOCKET NO.</b>
<b>BRAIN-PAD, INC.,</b>	)	
<b>a corporation, and</b>	)	
	)	
<b>JOSEPH MANZO,</b>	)	
<b>individually and as an officer of</b>	)	
<b>Brain-Pad, Inc.</b>	)	
	)	

**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.

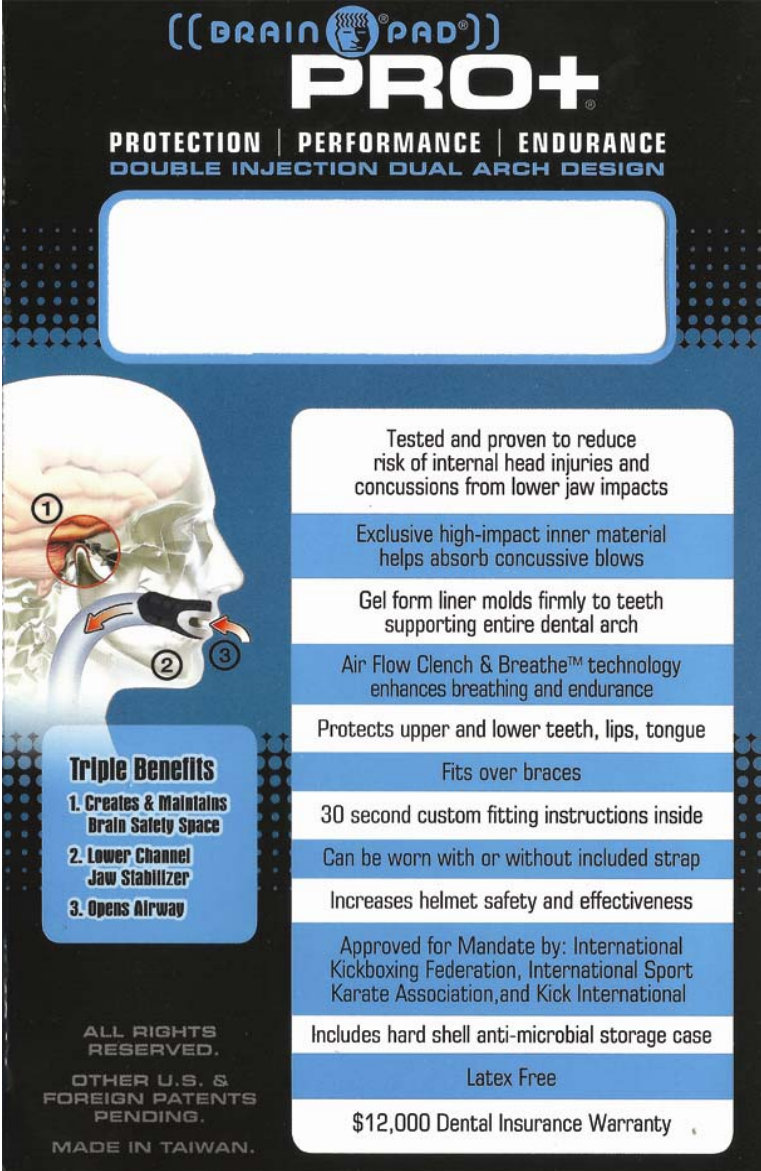
5. Respondents have disseminated or caused to be disseminated advertisements for Brain-Pad mouth guards, including, but not limited to, the attached Exhibits A through F. These advertisements contain the following statements and depictions, among others:

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

(front of package)



Brain-Pad Pro+ (back of package)



The image shows the back of the Brain-Pad Pro+ packaging. At the top, the logo features a stylized brain icon with the text '(( BRAIN PAD ))' and 'PRO+' below it. Underneath the logo, the words 'PROTECTION | PERFORMANCE | ENDURANCE' are written in a bold, sans-serif font, followed by 'DOUBLE INJECTION DUAL ARCH DESIGN' in a smaller font. A large, empty white rectangular box is positioned below the text. On the left side, there is a diagram of a human head in profile, showing the brain and jaw. Three numbered circles (1, 2, 3) are placed around the head: circle 1 is near the brain, circle 2 is near the jaw joint, and circle 3 is near the mouth. Below the diagram is a blue box with the heading 'Triple Benefits' and three numbered points: '1. Creates & Maintains Brain Safety Space', '2. Lower Channel Jaw Stabilizer', and '3. Opens Airway'. At the bottom left, there is a small block of text: 'ALL RIGHTS RESERVED.', 'OTHER U.S. & FOREIGN PATENTS PENDING.', and 'MADE IN TAIWAN.'. On the right side, there is a vertical list of features and benefits, each in a white box with a blue border. The features include: 'Tested and proven to reduce risk of internal head injuries and concussions from lower jaw impacts', 'Exclusive high-impact inner material helps absorb concussive blows', 'Gel form liner molds firmly to teeth supporting entire dental arch', 'Air Flow Clench & Breathe™ technology enhances breathing and endurance', 'Protects upper and lower teeth, lips, tongue', 'Fits over braces', '30 second custom fitting instructions inside', 'Can be worn with or without included strap', 'Increases helmet safety and effectiveness', 'Approved for Mandate by: International Kickboxing Federation, International Sport Karate Association, and Kick International', 'Includes hard shell anti-microbial storage case', 'Latex Free', and '\$12,000 Dental Insurance Warranty'.

**Brain-Pad Pro+**  
PROTECTION | PERFORMANCE | ENDURANCE  
DOUBLE INJECTION DUAL ARCH DESIGN

**Triple Benefits**

1. Creates & Maintains Brain Safety Space
2. Lower Channel Jaw Stabilizer
3. Opens Airway

ALL RIGHTS RESERVED.  
OTHER U.S. & FOREIGN PATENTS PENDING.  
MADE IN TAIWAN.

Tested and proven to reduce risk of internal head injuries and concussions from lower jaw impacts

Exclusive high-impact inner material helps absorb concussive blows

Gel form liner molds firmly to teeth supporting entire dental arch

Air Flow Clench & Breathe™ technology enhances breathing and endurance

Protects upper and lower teeth, lips, tongue

Fits over braces

30 second custom fitting instructions inside

Can be worn with or without included strap

Increases helmet safety and effectiveness

Approved for Mandate by: International Kickboxing Federation, International Sport Karate Association, and Kick International

Includes hard shell anti-microbial storage case

Latex Free

\$12,000 Dental Insurance Warranty

B. Product Packaging: Brain Pad LoPro+

(front of package)



Brain Pad LoPro+ (back of package)



The Patented **BRAIN-PAD**<sup>®</sup> repositions & secures the lower jaw in a safety position, reducing the risk of concussions from lower jaw Impacts.

With Other Mouthguards:	With The <b>BRAIN-PAD</b> <sup>®</sup>
<p>Protects only the <b>UPPER TEETH!</b></p>  <p><b>Brain Injuries!</b></p> <p>Jaw can Slam the TMJ &amp; base of skull!</p>	<p>Securely Locks &amp; Cushions Teeth &amp; Jaw!</p>  <p><b>Brain Safety!</b></p> <p><b>CREATES NEW BRAIN SAFETY SPACE!</b></p> <p>Helps Prevent Jaw from Slamming TMJ &amp; base of the Skull!</p>
<p>Upon Impact, the Lower Jaw can <b>SLAM</b> into the TMJ &amp; the Base of the Skull!</p>	<p>The Patented <b>BRAIN-PAD</b> transmits the impact energy away from the base of the skull to the <b>BRAIN-PAD</b>!</p>

**New 'streamline design' Secures & Cushions lower jaw while protecting ALL teeth!**



Offers constant mouth breathing - Even while **CLENCHING!**

Patented inner injection process creates a shock absorber that helps reduce lower jaw impact concussions!

NEW - LANYARD style "NON-HELMETED" or HELMETED USE!

**Patented "PROTECTION & PERFORMANCE" in 1 Package!**

<p><b>System Includes:</b></p> <p>Bolling Stick, Protective Case Warranty, Warnings, Care, and Custom Fitting Instructions.</p>	 <p><b>CAN UNLOCK MUSCULAR POTENTIAL! CUSHIONS TEETH!</b></p>	<p>LPP-05 Black/Clear JUNIOR SIZE</p>  <p><small>"STRAP / STRAPLES in-one" Model!</small></p>
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Manufactured exclusively by Brain-Pad, Inc., 322 Fayette St., Conshohocken, PA 19428, 610.397.0693 www.brainpads.com  
 Copyright 2000-2007 Brain-Pad, Inc.  
 Protected under U.S. & Foreign Patents: # 5,636,379, # D493,578S, # D500,896S, # D523,994, # D525,749, # D526,093,  
 # D526,095, # D527,848, # D530,863, # D532,559, #D537,966S, #D537,967S, # 000468947-0001, # 000468947-0002, # CA2251672,  
 All Rights Reserved. Other U.S. & Foreign Patents pending. Made in Taiwan. LPPY 0615 07

C. **Product Packaging:** Brain-Pad Pro-Plus Junior

(front of package)



Brain-Pad Pro-Plus Junior (back of package)



The patented **BRAIN-PAD**<sup>®</sup> Positions, Secures & Cushions the lower jaw in a Safety Position, reducing the risk of concussions from the lower jaw slamming into the TMJ, base of the skull and brain.

**With Other Mouthguards**

Bottom Teeth & Jaw Slide & Slam!

**Brain Injuries!**



Clench No Air!


Jaw Slams TMJ and base of skull!

Upon Impact, the Lower Jaw can SLAM into the TMJ & the Base of the Skull!

**With The BRAIN-PAD**<sup>®</sup>

Secures & Cushions Teeth & Jaw!

**Brain Safety!**



CLENCH and BREATHE!

Helps Prevent Jaw from Slamming TMJ & base of the Skull!

**CREATES NEW BRAIN SAFETY SPACE!**

The Patented BRAIN-PAD transmits the impact energy away from the brain to the BRAIN-PAD!


**! MAXIMUM BREATHING !**



Increased airway space WITH THE BRAIN-PAD!

\*UPPER ONLY\* Mouthguards - airway closes

Only upper & lower channels can secure & stabilize Jaw Position while protecting the upper AND lower teeth!



Use 1 strap

\* NEW: STRAP, LANYARD or STRAPLESS attachment system!

Offers constant mouth breathing - Even while CLENCHING!

Patented inner injection process creates a shock absorber that protects against lower jaw impact concussions!

30 sec. BOIL-N-BITE CUSTOM FIT

- OR -


2 STRAPS included for:

NEW - LANYARD style "NON-HELMETED" or HELMETED USE!

**Patented "PROTECTION & PERFORMANCE" in 1 Package!**


**System Includes:**  
 PRO+PLUS, 2 Optional Straps, Storage Case, Warranty, Warnings, Care & Custom Fitting Instructions.

\* Meets & exceeds all youth, high school & Collegiate Regulations



CAN UNLOCK MUSCULAR POTENTIAL!  
 CUSHIONS TEETH!

WPRY-2004 JUNIOR SIZE BLACK/GRAY



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 # D526,095, # D527,848, # D530,863, # D532,559, # D548,403, # 000468947-0001, # 000468947-0002,  
 # CA2251672. All Rights Reserved. Other U.S. & Foreign Patents pending. Made in Taiwan. PRO+PLUS 08/02/07


D. Product Packaging: Brain-Pad LoPro Fem

(front of package)



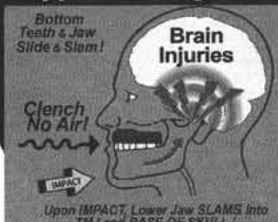


Brain-Pad LoPro Fem (back of package)



**Your Brain With Upper Mouthguards**

Bottom Teeth & Jaw Slide & Slam!

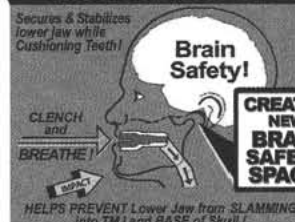


**Brain Injuries**

Upper mouthguards can induce internal head injuries & limit breathing!

**Your Brain With The BRAIN-PAD**

Secures & Stabilizes lower jaw while Cushioning Teeth!




**Brain Safety!**

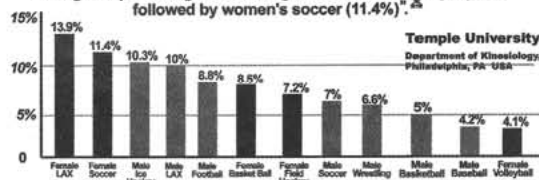
HELPS PREVENT Lower Jaw from SLAMMING into TMJ and BASE of Skull!

The Patented BRAIN-PAD transmits the impact energy away from the base of the skull to the BRAIN-PAD!

**GET MORE AIR!**



**“Of all the reported injuries, women lacrosse players (13.9%), reported the highest percentage of suffering a concussion during a game followed by women’s soccer (11.4%).”<sup>⚡</sup>**



Sport	Concussion Rate (%)
Female LAX	13.9%
Female Soccer	11.4%
Male Lacrosse	10.3%
Male Football	10%
Male Basketball	8.8%
Female Field Hockey	8.5%
Male Soccer	7.2%
Male Wrestling	7%
Male Basketball	6.6%
Male Baseball	5%
Female Volleyball	4.2%
Female Volleyball	4.1%


**“Female athletes were found to be at a greater risk for suffering concussions during games compared to male athletes.”<sup>⚡</sup>**

**System Includes: Boiling Stick, Storage Pouch, Warranty, Warnings, Care, & Custom Fitting Instructions.**


\* Frank Hillary, Ph.D., Kessler Med. Rehab. Research and Educ. Corp. Colleen Mann, Philip Schatz Ph.D. Saint Joseph's University, Dept. of Psychology, Philadelphia PA.

\*\* 'Total Participants' - SGMA INTERNATIONAL 200 CastleWood Dr., North Palm Beach, FL 33408-5696 - 382 concussion ratio per 1000 AES (estimated 35 AES per participant).

⚡ Epidemiological considerations of concussions among intercollegiate athletes. - Covassin T, Swanik CB, Sachs ML. Appl Neuropsychol 2003; 10(1): 12-22 Correspondence: Tracey Covassin, Department of Kinesiology, Temple University, Philadelphia, Pennsylvania, USA, (email, tracey.covassin@temple.edu), (Copyright © 2003, Lawrence Erlbaum Associates).



**UNLOCKS CARDIOVASCULAR & MUSCULAR POTENTIAL! CUSHIONS TEETH!**



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Manufactured exclusively by Brain-Pad, Inc., 322 Fayette St., Conshohocken, PA 19428, (610) 357-0693, www.brainpads.com  
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 All Rights Reserved. Other U.S. & Foreign Patents pending. Made in Taiwan.

LoPro Female 06 15 06

E. **Product Packaging:** Brain-Pad Double mouth guard

(front of package)



**F. Internet Website: [www.brainpads.com](http://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).

\* \* \*

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).

\* \* \*

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 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 \_\_\_\_ day of \_\_\_\_\_, 2012, has issued this complaint against Respondents

By the Commission.

Donald S. Clark  
Secretary