

**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)

((BRAIN PAD))
PRO+

PROTECTION | PERFORMANCE | ENDURANCE
DOUBLE INJECTION DUAL ARCH DESIGN

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

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.

B. Product Packaging: Brain Pad LoPro+

(front of package)



Brain Pad LoPro+ (back of package)



BRAIN-PAD
HEAD GEAR THAT FITS IN YOUR MOUTH

The Patented BRAIN-PAD[®] repositions & secures the lower jaw in a safety position, reducing the risk of concussions from lower jaw Impacts.

With Other Mouthguards:



Protects only the **UPPER TEETH!**

Brain Injuries!

Clench No Air

IMPACT

Jaw can Slam the TMJ & base of skull!

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

With The BRAIN-PAD[®]



Securely Locks & Cushions Teeth & Jaw!

Brain Safety!

CLENCH and BREATHE!

IMPACT

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 base of the skull to the BRAIN-PAD!

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



Use 1 strap

* NEW STRAP LANYARD or STRAPLESS attachment system!

UPPER ONLY! Mouthguards airway clones

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

2 straps included for:

Offers constant mouth breathing - Even while CLENCHING!

CUSTOM MOLDS TO ALL TEETH!

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

Patented "PROTECTION & PERFORMANCE" in 1 Package!

System Includes:

Bolling Stick, Protective Case
Warranty, Warnings, Care,
and Custom Fitting Instructions.

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



CAN UNLOCK
MUSCULAR POTENTIAL!
CUSHIONS TEETH!

LPP-05 Black/Clear JUNIOR SIZE



7 57920 80050 9

"STRAP / STRAPLES in-one" Model!


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)

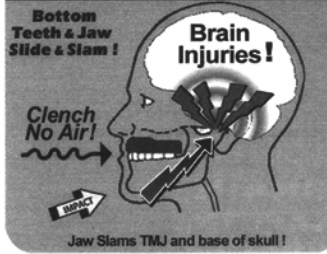


BRAIN PAD
HEAD GEAR THAT FITS IN YOUR MOUTH

The patented **BRAIN-PAD**® 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!

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

With The BRAIN-PAD®

Secures & Cushions Teeth & Jaw!




Brain Safety!

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!



Offers constant mouth breathing - Even while CLENCHING!

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

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




Manufactured exclusively by Brain-Pad, Inc., 322 Fayette St., Conshohocken, PA 19428. 610.397.0893 www.brainpads.com
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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.

D. Product Packaging: Brain-Pad LoPro Fem

(front of package)

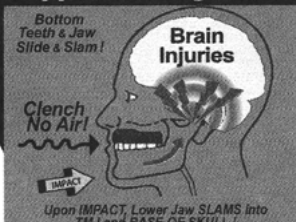


Brain-Pad LoPro Fem (back of package)



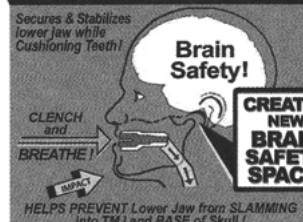
The Patented BRAIN PAD[®] repositions & secures the lower jaw in a safety position, reducing the risk of concussions from lower jaw Impacts.

Your Brain With Upper Mouthguards




Upper mouthguards can induce internal head injuries & limit breathing!

Your Brain With The BRAIN-PAD

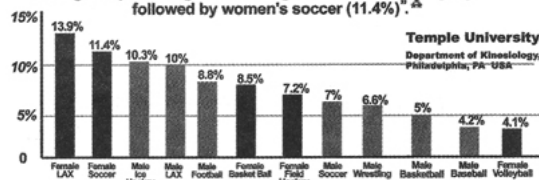


The Patented BRAIN-PAD transmits the impact energy away from the base of the skull to the BRAIN-PAD!

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%)."^{1,2}



Sport	Concussion Rate (%)
Female LAX	13.9%
Female Soccer	11.4%
Male Ice Hockey	10.3%
Male LAX	10%
Male Football	8.8%
Female Basketball	8.5%
Female Field Hockey	7.2%
Male Soccer	7%
Male Wrestling	6.6%
Male Basketball	5%
Male Baseball	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."^{1,2}

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!



7 57920 40010 5

Manufactured exclusively by Brain-Pad, Inc., 322 Fayette St., Conshohocken, PA 19428. 610.357.0693 www.brainpads.com
Copyright 2000-2006 Brain-Pad, Inc. Protected under U.S. & Foreign Patents: # 5,635,379, # D493,578S, # D500,895S, # D523,994, # D525,749, # D526,033, # D526,065, # 000468947-0002, # CA2251672.
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

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 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