



Thompson Coburn LLP  
Attorneys at Law

One US Bank Plaza  
St. Louis, Missouri 63101  
314-552-6000  
FAX 314-552-7000  
www.thompsoncoburn.com

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Mark Sableman  
314-552-6103  
FAX 314-552-7103  
EMAIL msableman@  
thompsoncoburn.com

**VIA UPS**

Federal Trade Commission  
Office of the Secretary  
Room H-135 (Annex L)  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Re: Guides for Select Leather and Imitation Leather Products, Matter No. P078008

Dear Sir or Madam:

The following comments are submitted in response to the Federal Trade Commission's request for public comments regarding the above-referenced guides, and are submitted on behalf of The Sponge & Chamois Institute. The Sponge and Chamois Institute is a New York not-for-profit corporation. Its members are producers and distributors of sponges and chamois products in the United States. One of its purposes is to reform abuses relative to genuine chamois leather including false statements and improper use of nomenclature.

For the reasons discussed below, the term "chamois" should be defined in the FTC leather guides, using its long-standing definition recognized in FTC Advisory Opinion No. 1, so as to prevent any further misrepresentation arising out of the use of this term.

**A. Background of the Term "Chamois"**

The word "chamois" has its origins in the common name of an Alpine antelope whose skin was made into a soft, pliable leather used in the manufacture of gloves, and for the polishing of such articles as glass, jewelry, fine metals and wood. *See* Federal Trade Commission Advisory Opinion No. 1, 66 F.T.C. 1593 (1964) (hereinafter "FTC Advisory Opinion No. 1"). The chamois antelope became virtually extinct for commercial purposes about 1890, however, and since that time, the word has come to refer to oil-tanned leather made from split sheepskin fleshers, which display the same special characteristics as chamois antelope leather. *Id.* (In the chamois manufacturing process, a sheepskin is first split so as to

separate the outer skin layer from the inside ("flesher") layer. Then the flesher layer is tanned using a special oil, namely, fish oil.)

Chamois is most often used to dry and shine polished surfaces, glass and car bodywork. It is preferred because of its unique properties of water absorption, shine and ease of drying. This occurs because the fish oil tannage forms soaps within the open fibre structure of the sheepskin. Chamois is the least abrasive drying material for any auto surface. It is hardwearing and retains its performance even after frequent use. If not exposed to harsh chemicals and treated correctly, a chamois will give its user years of enjoyment.

#### **B. Long-Time Consumer Association of "Chamois" With the Genuine Product**

For many decades, the term "chamois" has been limited to use to describe the unique split sheepskin product described above. As in other situations where a particular product is especially valued in the marketplace for its unique properties and qualities, unscrupulous sellers have from time to time sought to misrepresent inferior products by using the "chamois" label on them. However, through a combination of diligent and consistent private and FTC enforcement, such misrepresentations have been kept at bay and minimized.

Enforcement against such misrepresentations goes back to at least 1935, if not earlier. See *In Re Scientific Shamey Co.*, 21 F.T.C. 268 (1935); *In Re Joseph H. Seld, trading as Seld Leather Co.*, 24 F.T.C. 1237 (1937); *In Re Harry Neivert, trading as Pigno Chamois Company*, 25 F.T.C. 929 (1937); *In Re Canadian Chamois & Leather Corporation*, 28 F.T.C. 1457 (1939); *In Re Atlantic Sponge & Chamois Corporation et al.*, 52 F.T.C. 500 (1955); *In Re Glove City Chamois Co.*, 53 F.T.C. 112 (1956). By 1964, after the enforcement history had provided multiple examples of deceptive use of the word "chamois," the Federal Trade Commission found it appropriate to issue an advisory opinion warning producers of imitation chamois products not to so mislabel their goods. The opinion was "Advisory Opinion No. 1."

Since 1964, FTC Advisory Opinion No. 1 has informed producers and consumers alike that "chamois" products are limited to those made "(a) from the skin of the Alpine antelope, commonly known and referred to as Chamois, or (b) from the sheepskin fleshers which have been oil-tanned after removal of the grain layer." Federal Trade Commission Advisory Opinion No. 1, 66 F.T.C. 1593 (1964).

As most producers have continued to properly use the term "chamois" consistent with its long-time well-understood meaning, and as new lawful producers have tailored their conduct to comply with the FTC definition, the word "chamois" has continued to identify the unique split-sheepskin product.

#### **C. Misuse of "Chamois" and Modern Enforcement Actions**

The purpose of the FTC definition of "chamois" is to protect consumers by ensuring that they are not misled to purchase inferior products, believing them to have the special and

unique properties of the split sheepskin product. Although most producers and sellers do respect this need, from time to time some producers have been found misrepresenting their products, passing off inferior synthetic or goatskin products as if they were genuine chamois. Members of the law-abiding chamois industry, and the industry trade association, The Sponge & Chamois Institute, Inc., have continued to take action against such misrepresentations, and have been successful in doing so.

Several court cases against parties that have misrepresented non-chamois products as "chamois" have been resolved with the decrees prohibiting such practices. *See, e.g., S. M. Arnold, Inc. v. Union Carbide Corp.*, No. 78-1143-C (1) (E.D. Mo. Stipulated Judgment September 3, 1980); *Schroeder & Tremayne, Inc. v. Max Rittenbaum, Inc.*, No. 88-0698-C-A (E.D. Mo. Consent Judgment December 16, 1988); *Sponge and Chamois Institute, Inc. v. Bloch/New England, Inc.*, No. 98 CV 1426 (CBA)(RML) (E.D.N.Y. Final Order June 29, 1999); *Sponge & Chamois Institute v. Nation/Ruskin, Inc.* No. 00-348 GPM (S.D. Ill. Consent Judgment October 6, 2000). Additionally, several actions in the National Advertising Division of the U.S. Council of Better Business Bureaus have been resolved with users of the word "chamois" or its equivalent for non-genuine chamois products voluntarily discontinued such use. *In Re E.I. DuPont Nemours and Co.* (NAD Feb. 20, 1998); *In Re Plaid Enterprises, Inc.* (NAD July 26, 2000).

Unfortunately, administrative regulation housekeeping actions by the FTC, though not intended to suggest substantive legal changes, may have had the unintended effect of suggesting to some renegade sellers, including importers of inexpensive and poor-quality Chinese goods, that the FTC condones "chamois" misrepresentation. Specifically, the key proscriptive portion of FTC Advisory Opinion No. 1 was published in the Code of Federal Regulations ("CFR") between 1965 and 1989. *See* Former 16 CFR § 15.1, originally published at 30 Fed. Register 14201. In 1989, this section was removed from the published CFR volumes for space reasons, although the FTC made clear at the time that the action did not mean that the section was revoked or rescinded. *See* 54 Fed. Register 26187 (1989).

In recent years, some manufacturers and distributors have apparently interpreted the FTC definition as a suggestion, and not a requirement, perhaps because of the removal of the FTC definition of "chamois" from the Code of Federal Regulations. Thus, there has been an apparent recent increase in manufacturers and distributors labeling their products as "chamois" even though their products do not meet the definition set forth in FTC Advisory Opinion No. 1 or other industry standards. For example, some importers of Chinese products have used goat skin instead of sheepskin, and dyed their products so that they more closely resemble the distinctive beige or yellow color of a genuine chamois. As a result, some consumers have been deceived into purchasing fake chamois products that not only lack the desirable qualities of genuine chamois, but actually damage their automobiles.

**D. Need for Continued Protection; Consumer Harm From Mischaracterization of Fake Chamois Products**

Chamois leather displays many valuable qualities. It is a soft, durable and highly absorbent material – an almost-miraculous material with a unique set of desirable qualities. It absorbs water readily and, when dry, returns to its original state of softness and pliability. Federal Trade Commission Advisory Opinion No. 1, 66 F.T.C. 1593 (1964). For these reasons, it has long been used and valued for washing, drying and shining automobiles. Imitation chamois products (such as those that are dyed and/or chemically tanned and/or goatskin) lack some of the most essential functional characteristics of a genuine chamois.

The products most often falsely labeled as “chamois” – synthetic products, and products made from goatskin or other non-sheepskin flesher leather – do not substitute for genuine chamois. While some of the fake products have water-absorbency properties similar to genuine chamois, all of them have significant harmful side properties as well.

i. Dyed products may discolor rather than clean. Genuine chamois is a natural product that contains no dye. Its coloration is due entirely to the natural leather and the effect of the fish-oil tanning. Genuine chamois does not give off dye or any other impurities. Indeed, the opposite is true; because of the open fiber nature of the sheepskin, and the soft and highly absorbent nature of the fish-oil-tanned fibers, a chamois will absorb and hold dirt and dust particles, and prevent them from scraping or effecting the surface that is being cleaned. Dyed products are functionally quite different. Having been dyed, once it is rewetted, the moisture releases the dye, and that dye will gradually leach out of the product. In normal use in cleaning and drying an automobile, this means that the dye will leach out onto the surface of the automobile, leaving specks, streaks or other deposits of dye on the automobile surface that the consumer sought to clean. Indeed, in connection with drying a car, the dye released from the chamois could even become permanently affixed to the car finish, thus permanently marring the automobile surface that the consumer sought to clean. Similarly, when a chamois is used for application or removal of cosmetics, the dye may interfere with the consumer’s purpose of using a chamois. In all of these ways, dyed products are functionally dissimilar to a genuine chamois.

ii. Products made of synthetics or tough goatskin rather than open-weave sheepskin may scratch surfaces rather than absorb dirt. Sheepskin and goatskin have significantly different characteristics. Sheepskin is soft and features an open weave pattern, one particularly well suited to the chamois functionality of absorbing dirt and grime without causing scratching on a surface being cleaned. Goatskin, but contrast, is by nature tough and tightly woven. Accordingly, even if goatskin were tanned in the manner of a chamois, one would not expect it to have similar properties, particularly with respect to absorbancy, smoothness, and ability to absorb dirt and grime particles without scratching the surface being cleaned. Because of its natural toughness and tightly woven structure, goatskin will not perform in the same manner as a chamois, even with respect to an inner split that is tanned in the manner of a chamois. Similarly, synthetic products that are designed with for high water absorbency properties have

surface areas much different from naturally occurring sheepskin fleshers, making them far more likely than genuine chamois to scratch and damage smooth surfaces.

iii. Other issues. Recent analysis of Chinese goatskin products which have been labeled as "chamois" has revealed a very high formaldehyde content in the products. (Genuine chamois standards prohibit use of formaldehyde in the tanning process.) It is likely that the Chinese products were tanned with formaldehyde and thus do not comply with standard U.S. standards, which specifies a tannage of marine or fish oil. Formaldehyde which is a noxious molecule and which may be carcinogenic to humans. Many responsible companies have imposed threshold values for Formaldehyde content in leather -- e.g., Nike 75 ppm; Adidas 150 ppm; Puma 300 ppm and the EU Ecolabel for footwear, 150 ppm. The Netherlands maintains a statutory limit of 120 ppm and in Japan one of 75 ppm. Through analysis of samples of Chinese origin alleged "chamois" by an independent laboratory, the Sponge and Chamois Institute has found, formaldehyde content ranging from 570 ppm to 942 ppm. Consumers accustomed to genuine chamois products will not expect such high-formaldehyde content in products labeled as "chamois."

For these reasons, misleading use of the term "chamois" can significantly deceive consumers and result in damage to their automobiles and other personal property.

#### F. Conclusion

For almost a century, the law has recognized the meaning of "chamois" as referring to the fish-oil-tanned split-sheepskin product with many unique properties, and has protected consumers from the deception inherent in labeling inferior products with the word "chamois." The continuation of a codified definition of the term "chamois" will help avoid consumer deception. As the FTC stated in Advisory Opinion No. 1, a purchaser is "entitled to believe that the particular product sold under that name is in fact a chamois as it is understood in the industry." The de-codification of Advisory Opinion No. 1 has saved the Government Printing Office a few pennies in ink cost, but has created unnecessary uncertainty in the industry. The longstanding and well supported definition of Advisory Opinion No. 1 should be incorporated into the revised Leather Guides to avoid future misunderstandings.

Very truly yours,  
THOMPSON COBURN, LLP

By  
Mark Sableman

MS/jav  
cc: Mr. James Cantonis  
Mr. Douglas Brinker  
Mr. Jules Schwimmer