

The failure to disclose such facts as may be required is an unfair trade practice violative of the Federal Trade Commission Act.

(2) Two of the most prevalent situations in which disclosures should be made are (i) when the appearance of a wall panel could mislead purchasers or potential purchasers as to its true composition, and (ii) when a representation is made in any manner which is susceptible of at least one misleading interpretation unless it is clearly qualified. Representations which cannot be qualified without the qualification amounting to a contradiction should not be used.

(c) *Manner of making disclosures on products and in advertising.* (1) Retail dealers, manufacturers, and other suppliers must all assume the affirmative responsibility to provide detailed information to the public concerning the compositions of wall panels through informative advertising, promotional materials, and properly labeled products and samples thereof.

(2) When disclosures are necessary on industry products, they should appear on each product (except when sold and used for industrial purposes and the industrial purchaser is otherwise fully informed of the material facts involved). Such disclosures should be on the product, or on a tag or label attached thereto, and be of such permanency as to remain on, or attached to, the product until consummation of sale to the ultimate purchaser. Conspicuous disclosures may appear on backs of wall panels, but in instances where such disclosures would not be readily noticeable to casual observers, such as on certain point-of-sale display panels where the backs are not easily viewed, disclosures should be made on the front or face of panels.

(3) When disclosures are necessary in advertising, they should be made in any advertisement relating to an industry product irrespective of the form or media used whenever statements, representations or depictions appear therein which, in the absence of such disclosures, could serve to create a false impression that the product, or any part thereof, is of a certain kind, size, quality or composition.

(4) In all cases, disclosures should be in immediate conjunction with any representation, depiction, illustration, simulation, or display making it necessary, and should be of sufficient clarity and conspicuousness to be noted by prospective purchasers. The number of times a disclosure should be made will depend entirely upon the context in which it appears.

(5) When disclosures are necessary to describe composition, they may be accomplished by stating the true composition (e.g., "mahogany grained hardboard", "walnut grain finish on plastic", "reproduction of wood grain on plastic overlay" or "printed vinyl overlay on plywood"), or by making a disclaimer of composition (e.g., "imitation wood surface", "simulated wood finish" or "simulated grain design"). Of course, a representation concerning the composition of a product should clearly indicate the part to which the representation is properly applicable.

NOTE: For examples of when disclosures should be made, see the following sections.

[Guide 1]

§243.2 Describing wood and wood imitations.

In connection with the sale of industry products made of wood, or which are not wood but have an appearance simulating wood, industry members should not use any display, exhibit, sample, sales method, depiction or representation which could have the capacity and tendency directly or indirectly to mislead purchasers or potential purchasers because of: A false statement; a half-truth; or the failure to disclose facts concerning composition when the appearance of a product could convey a misleading impression.¹

(a) Examples of representations considered false include:

(1) Describing an oak panel as "pecan";

(2) Describing as "solid birch" or "genuine birch" a panel made with laminations of all birch plies. Proper descriptions would include "birch plywood" or "birch plies";

(3) Describing a particleboard, flakeboard, hardwood, fiberboard,

¹See paragraphs (b) and (c) of §243.1.

chipcore or plywood panel as “solid wood”;

(4) Describing as “natural wood grain” a simulated grain design which has been printed on, attached to or simulated in any other manner on the surface of an industry product;

(5) Describing a nonlumber product, such as particleboard, hardboard, fiberboard, flakeboard, and products of similar composition, as “wood”. Although such products are composed of wood particles or wood fibers, they should not be represented without qualification as “wood” but may be described as “particleboard”, “hardboard”, “fiberboard”, “wood product”, or by any applicable nondeceptive word or term.

(b) Examples of representations considered likely to mislead because of a half-truth include:

(1) Describing as “walnut”, “in walnut”, “genuine walnut”, “walnut panel” or “walnut plywood” a panel having only a face veneer of walnut. Proper descriptions would include “walnut veneer face”, “walnut veneer surface”, “walnut veneer” or “walnut veneered plywood”.

NOTE: Unqualified terms such as “walnut”, “genuine walnut” and “in walnut” imply that the product so described is solid walnut. Unqualified terms such as “walnut plywood” imply that all of the plies are walnut.

(2) Describing as “walnut veneer” a panel having a face veneer not entirely of walnut. If a wood name is used to describe a panel having more than one kind of wood in the face veneer then all of the woods in the face veneers should be named or otherwise identified (e.g., “walnut and cherry veneers” or “walnut and other hardwood veneers”);

(3) Using unqualified phrases such as “wood-pattern” or “woodgrain finish” to describe a panel having a wood surface which has been stamped, rolled, pressed, or otherwise processed in such manner as to change the natural wood grain design. Proper descriptions would include “simulated woodgrain finish”, “imitation grain figure” or “simulated walnut grain finish on birch face veneer”;

(4) Describing as “hardwood plywood” a panel made of hardwood plywood but having a vinyl film surface simulating a wood finish. Proper de-

scriptions would include “hardwood plywood with simulated wood grain on vinyl overlay” or “simulated wood surface on plywood”.

(c) Examples of failure to disclose facts concerning composition when the appearance of industry products could convey a misleading impression include circumstances such as when a product, or part thereof, is: Wood but has the appearance of a different kind of wood; and Not wood but has an appearance simulating wood. For instance, when necessary to prevent possible deception an affirmative disclosure should be made of the facts concerning composition when an industry product, or part thereof:

(1) Has an exposed surface of plastic, metal, vinyl, hardboard, particleboard or other material not possessing a natural wood grain structure but which has an appearance simulating that of a wood grain. Depending on the composition, proper descriptions would include “simulated walnut finish on plastic face”, “vinyl surface with simulated pecan finish”, “simulated birch finish on hardboard” “mahogany grained plastic”, or other nondeceptive phrases;

(2) Has a wood surface finished by means of staining, decalcomania, printing, paper coating or other process so as to have the appearance of a different kind of wood. Depending on the composition, proper descriptions would include “mahogany finished gum plywood”, “walnut stained plywood”, “walnut finish on pecan veneer face”, or “cherry grain design on hardwood plywood”;

(3) Has an appearance which could mislead potential purchasers in any material respect.

(d) Examples of wood names to describe color, grain design, etc.:

(1) When a wood name is used in advertising or labeling to describe the grain and/or color of a stain finish or other type of simulated finish which has been applied to a surface composed of something other than solid wood of the type named, it should be made clear that the wood name used is merely descriptive of the grain design and/or color or other simulated finish.

(2) Under this section, unqualified phrases such as “walnut”, “walnut finish”, “in walnut”, “fruitwood”, “oak”, “mahogany finish”, and other terms of similar import or meaning, will not be adequate. But statements such as “walnut stain”, “maple stain finish”, “mahogany finish on gum”, “photographically reproduced pecan grain”, “printed pecan design”, “fruitwood finish on selected hardwood veneer”, “cherry grain finish on vinyl overlay” and “walnut finish on other hardwoods” (or “softwoods”, as the case may be) will satisfy this provision if such statements are factually correct and appear in contexts which are otherwise nondeceptive.² [Guide 2]

§243.3 Deceptive use of wood names.

Industry members should not use any direct or indirect representation concerning the identity of the wood in industry products that is false or likely to mislead purchasers as to the actual wood composition.

(a) *Walnut*. The unqualified term *walnut* should not be used to describe wood other than genuine solid walnut (genus *Juglans*). The term *black walnut* should be applied only to the species *Juglans nigra*.

(b) *Mahogany*. (1) The unqualified term *mahogany* should not be used to describe wood other than genuine solid mahogany (genus *Swietenia* of the *Meliaceae* family). The woods of genus *Swietenia* may be described by the term “mahogany” with or without a prefix designating the country or region of its origin, such as “Honduras mahogany”, “Costa Rican mahogany”, “Brazilian mahogany” or “Mexican mahogany”.

(2) The term “mahogany” may be used to describe solid wood of the genus *Khaya* of the *Meliaceae* family, but only when prefixed by the word “African” (e.g., “African mahogany”).

(3) In naming or designating the seven nonmahogany Philippine woods Tanguile, Red Lauan, White Lauan, Tiaong, Almon, Mayapis, and Bagtikan, the term “mahogany” may be used but only when prefixed by the word “Philippine” (e.g., “Philippine mahogany”), due to the long standing

usage of that term. Examples of improper use of the term “mahogany” include reference to Red Lauan as “Lauan mahogany” or to White Lauan as “Blond Lauan mahogany”. Such woods, however, may be described as “Red Lauan” or “Lauan” or “White Lauan”, respectively. The term “Philippine mahogany” will be accepted as a name or designation of the seven woods named above. Such term shall not be applied to any other wood, whether or not grown on the Philippine Islands.

(4) The term “mahogany”, with or without qualifications, should not be used to describe any other wood except as provided above. This applies also to any of the woods belonging to the *Meliaceae* family, other than genera *Swietenia* and *Khaya*.

(c) *Maple*. The terms *hard maple*, *rock maple*, *bird's-eye maple*, *Northern maple* or other terms of similar nature should not be used to describe woods other than those known under the lumber trade names of Black Maple (*Acer nigrum*) and Sugar Maple (*Acer saccharum*).

NOTE: Nothing in this section should be construed as prohibiting the nondeceptive use of wood names to describe the color, stain, simulated finish, or appearance of industry products; *Provided*, That appropriate qualifications are made in accordance with provisions in §243.2(d).

[Guide 3]

§243.4 Imitations of materials other than wood.

Industry members should not misrepresent the composition of any industry product, or part thereof, or fail to disclose any material fact concerning the composition of an industry product when the failure to do so has the capacity and tendency or effect of deceiving purchasers or prospective purchasers.³ For example:

(a) A hardboard panel having an imitation marble finish should not be described without qualification as “marble”, “onyx”, “travertine” or “travertine marble finish”. Proper descriptions would include “simulated marble finish”, “imitation marble-textured”,

²See paragraphs (b) and (c) of §243.1.

³See paragraphs (b) and (c) of §243.1.