

**Jumpsport, Inc.**

**Trampolines**

Challenger: Vuly Trampolines Pty. Ltd.  
Product Type: Sports/Sports Equipment  
Issues: Disparagement Claims; Superiority Claims  
Disposition: Modified/Discontinued

- **Advertisers are required to identify a message as advertising when it appears in a context that consumers may reasonably understand to be editorial content.**
- **Safety-related claims should be supported by competent and reliable evidence, typically in the form of controlled testing yielding results that directly relate to the performance claimed in the advertising.**
- **A claim that contains a quantifiable, objectively provable attribute is not puffery and must be substantiated by competent and reliable evidence.**

**Basis of Inquiry:** Claims made by JumpSport, Inc. (“JumpSport” or “the advertiser”) for its trampolines on the advertiser’s website and on a product review site were challenged by Vuly Trampolines Pty. Ltd. (“Vuly” or “the challenger”), maker of competing trampolines. The following claims served as the basis for the inquiry:

Disparagement Claims:

*“Overlapping entry is good, but hard for teenagers and adults to get in or out of.”*

*“Installation was very strenuous.”*

*“The leaf springs provide a harsh jump near the edge, which can be hard on your joints.”*

*“Some of the leaf springs became permanently deformed on our first round of bouncing.”*

*“The Vuly Trampoline rates . . . Low in ease of installation.”*

*“These springs are heavy, and therefore are expensive to ship.”*

*“You’ll need to replace the net and mat together since they are sewn together, this also gives it a high annual maintenance cost.”*

*“Weaknesses: High annual cost to own; Smaller jump surface; Leaf springs broke; Difficulty and Time to set up”*

*“Rating in price category: #3 of 3 – In High Price Category”*

*“Rating among all trampolines tested: #6 of 19 – Overall Rating”*

Superiority Claims:

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*“The World’s Safest Trampolines!”*

*“We offer the safest highest quality trampoline available at every budget”*

*“First in Safety”*

*“Consumer rated number one for safety, performance & play value”*

#### **With respect to JumpSport’s AlleyOOP DoubleBounce Trampoline:**

*“This product consistently receives the highest ratings for Safety, Quality and Performance.”*

*“High quality throughout, especially springs”*

*“Rating in price category: #1 – Best in Category”*

*“Rating among all trampolines tested: #1 – Best Overall”*

#### **With respect to JumpSport’s Elite Trampoline:**

*“The JumpSport Elite Trampoline earned our highest safety rating and features strong net connections that hold the top of the net better than any other model we tested.”*

*“This product is second in overall rating to the AlleyOOP DoubleBounce but is much easier to assemble.”*

*“Rating in price category: #1 of 2 – Best in Upper Mid Price Category”*

*“Rating among all trampolines tested: #2 – Overall”*

#### **With respect to JumpSport’s Staged Bounce 14 foot Trampoline:**

*“The JumpSport Staged Bounce is the safest trampoline for the price.”*

*“High quality everything”*

*“Rating in price category: #1 of 6 in Lower Mid Price Category”*

*“Rating among all trampolines tested: #3 of 19 Overall rating”*

#### **Challenger’s Position:**

The challenger contended that JumpSport is engaged in false and misleading advertising through claims made on two websites. First, the challenger took issue with claims made on the website [www.TrampolineSafety.com](http://www.TrampolineSafety.com) (“the Review Website”). The website includes reviews of various trampoline products, including those sold and marketed by both the advertiser and challenger. The challenger explained that the website is owned and operated by the advertiser and argued

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that JumpSport failed to disclose its material connection to the Review Website. It also challenged claims on the Review Website that disparage the challenger's Thunder Large trampoline. Second, the challenger contended the website, [www.JumpSport.com](http://www.JumpSport.com) ("the JumpSport Website") makes superior product performance and safety claims about the advertiser's trampolines that are false and unsubstantiated.

#### **I. The Review Website, [www.TrampolineSafety.com](http://www.TrampolineSafety.com)**

The challenger argued that the Review Website masquerades as an unbiased, independent resource for consumers to obtain safety testing and reviews for trampoline products, but is in fact a fake review website that is owned, controlled, and operated by JumpSport and its founder, Mark Publicover. The challenger contended that the advertiser's failure to disclose this material connection violates various federal and state laws.<sup>1</sup>

According to the challenger, consumers can be misled when they visit the Review Website because they view it under the assumption that it provides objective reviews and information about trampoline performance and safety. Specifically, the website states that its mission is "to help every parent buy the safest trampoline they can afford at the lowest real price" and "Our goal is to become the best place for parents to find straight-forward testing, clear analysis, and transparent ratings on all the major trampoline brands."<sup>2</sup> Similarly, the challenger contended that the domain name of the website itself – "TrampolineSafety" – is intended to convey an authoritative air and lack of affiliation. However, the Review Website is actually an advertisement for JumpSport's products.

To the extent the Review Website discloses the material connection to JumpSport, the challenger maintained that the disclosures were insufficient. First, although there is a disclosure on the Review Website's home page, the challenger argued that it is not placed in close proximity to the claims being made, appears at the bottom of the screen and thus is neither clear nor prominent. The disclosure also fails to specify that the Review Website's content is actually comparative advertising. Second, statements made in a video featuring Mr. Publicover at the top of the Review Website's home page do not sufficiently disclose the commercial nature of the site because JumpSport's affiliation is only mentioned after 30 seconds and the video never states that the reviews on the site are comparative advertising. Further, audio disclosures, such as the one in the video, are not sufficient in the context of an advertisement's written claims. Finally, the challenger argued that information on the "About Us" page of the Review Website (which contains more explicit information about JumpSport's material connection to the Review

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<sup>1</sup> Specifically, the challenger contended that the advertiser's failure to disclose its material connection to the Review Website violates Section 43(a) of the Lanham Act, Section 5 of the Federal Trade Commission ("FTC") Act, the FTC's Guides for the Use of Endorsements and Testimonials in Advertising, and various state laws including California's Unfair Competition Law § 17200 and False Advertising Law § 17500.

<sup>2</sup> According to the challenger, the Review Website contains other similar statements intended to present an unbiased and independent image. These include: "Let Us Help Find The Safest Trampoline for Your Budget," "You'll only buy one trampoline, so we conduct 40+ tests for the safety of your kids," and "TrampolineSafety's testing and 40+ measurements show that low-price trampolines quickly become unsafe and actually cost more per year to maintain safe use or replace compared to top rated models."

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Website) was unlikely to be seen by consumers who would only reach the information if they clicked through from the home page.

Finally, the challenger contended that, regarding any proposed additional disclosures, the challenger contended that they must specify that the Review Website constitutes “comparative advertising.”

#### II. The Advertiser’s Claims About the Challenger’s Products on the Review Website

The challenger also took issue with reviews of its products that appear on the Review Website. According to the challenger, the reviews falsely disparage Vuly’s Thunder Large trampoline. Specifically, the Review Website gave the Vuly Thunder the lowest possible rating in the “High Price” category and a mediocre overall rating. It also claimed that the trampoline is “hard for teenagers and adults to get in or out of,” that “installation was very strenuous,” and the trampoline’s “leaf springs became permanently deformed on [their] first round of bouncing.” The Review Website also contained several negative claims regarding the quality and cost of Vuly’s springs.

According to the challenger, although the Review Website states that it conducts 40+ tests to support its reviews and ratings system, these tests are insufficient support for the website’s claims. It argued that the safety and performance claims about the Vuly Thunder trampoline require competent and reliable scientific evidence as support, a standard the testing falls short of. First, the challenger stated that the advertiser failed to provide an objective and clear test protocol that was based on generally accepted standards. It argued that without a protocol or description of the procedure followed to attain any of the 49 data points used in the advertiser’s test results, the tests cannot be sufficient substantiation. Further, many of the data points appear to be based on anecdotal user or tester opinion (e.g., answers to the question “Did it break?”). The challenger also took issue with the fact that the advertiser tested only one trampoline for each model reviewed and, therefore, it is impossible to determine whether the results were caused by improper installation, improper jump technique, one-off manufacturing error, or any other variable. Thus, according to the challenger, none of the advertiser’s data is reliable or sufficiently robust to achieve statistical significance. Additionally, the challenger contended that the advertiser tested an outdated model of the Vuly Thunder, rendering the testing irrelevant.

Second, the challenger argued that the advertiser’s testing does not appear to be consistently executed on each product being compared. It noted that there is no step-by-step documentation as to how the test engineers conducted the tests and no information about who conducted the tests, their training or their level of expertise. Further, to the extent the advertiser relies on video footage of testing provided on the Review Website, the challenger contended these are heavily edited, short promotional clips and are unreliable as substantiation for advertising claims.

Finally, the challenger argued that the advertiser has not conducted sufficient data analysis or shown how the data is relevant to the specific safety claims being made. For instance, the advertiser’s claim that Vuly’s Thunder trampoline carries a high annual cost of ownership seems to be a groundless calculation based largely on the Vuly Thunder trampoline’s short weighted average warranty. The challenger disputed whether such a calculation is even possible since a

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term of ownership is inherently variable. For instance, the calculation assumes that a component part will last exactly as long as the warranty period and does not take other factors into consideration, such as the net's tensile strength, the composition and quality of its fibers, the UV treatment of the netting, and key design elements. Similarly, the challenger disputed the advertiser's claim regarding the high shipping cost for Vuly's Thunder trampoline. The advertiser's representative UPS shipping cost relies on certain "one size fits all" assumptions that are flawed.<sup>3</sup>

### III. The Advertiser's Superiority Claims

#### A. Claims on the Review Website

Regarding the Review Website, the challenger explained that three of the advertiser's trampolines received the highest possible ratings in certain categories. The challenger contended that the advertiser's superiority claims about its own trampoline products are false and unsubstantiated for various reasons. First, the advertiser's 49 data points and test methodology are not competent and reliable scientific evidence to support the high ratings or positive reviews given to JumpSport's trampoline models. Second, given that the claims appear in the context of a website owned by the advertiser, the claims are inherently misleading. And, third, consumer comments from a third party site, Amazon.com, cannot substitute for reliable, substantive evidence to support the advertiser's claim that its product receives the "highest ratings"; instead, the consumer testimonials themselves must be substantiated.

#### B. Claims on the JumpSport Website

Further, the challenger took issue with certain superior safety claims made on the advertiser's JumpSport Website. Specifically, it claims that JumpSport is "The World's Safest Trampolines!," that it offers "the safest highest quality trampoline available at every budget," is "First in Safety," and is "Consumer rated number one for safety, performance & play value." The challenger argued that these claims are not puffery and must be supported by competent and reliable scientific evidence comparing the relative safety of JumpSport trampolines to those of the advertiser's competitors. According to the challenger, the advertiser cannot support these unqualified claims. It argued that a single test conducted almost three years ago in one location and with one product does not suffice. Further, to the extent the advertiser relies on its patent for a safety enclosure to support its "First in Safety" claim, the challenger argued that possession of a patent alone is sufficient substantiation.

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<sup>3</sup> Specifically, the advertiser's calculation does not consider that: Vuly has its own negotiated shipping rates; the advertiser relies on only one shipper (UPS); two cities were selected at random; the advertiser created a hypothetical box size for Vuly's Thunder trampoline; and the extent to which shipping charges are already built into Vuly's prices.

**Advertiser's Position:**

I. The Review Website, [www.TrampolineSafety.com](http://www.TrampolineSafety.com)

The advertiser argued that the Review Website does not mislead consumers about the objectiveness of the Review Website, the tests or reviews. Indeed, the Review Website clearly, conspicuously and prominently discloses JumpSport's ownership, sponsorship and control of the site. First, it noted that the Review Website contains a video at the top of its homepage that provides this information. The video features Mark Publicover and immediately identifies him as JumpSport's CEO, states that "we created a battery of over 40 tests at JumpSport," and that "...in 2007, we created TrampolineSafety.com." Second, the advertiser stated that the Review Website contains a disclosure statement at the bottom of the homepage stating that Mr. Publicover "created TrampolineSafety.com," that JumpSport "sponsors and owns this website," and that all testing "is conducted by JumpSport." The advertiser argued that this disclosure appears in largely the same style, color and size as the other text on the homepage. Further, the disclosure statement is not limited to the homepage and instead appears on every page of the Review Website that contains either review, comparative, or product-related information. Third, the advertiser argued that it fully discloses JumpSport's connection to the Review Website on the "About Us" page. The advertiser thus contended that it provides multiple sufficient disclosures, in different locations, and in different formats. It asserted that a consumer visiting the Review Website would therefore be able to see, read, and understand the disclosure.

Although it believes the current disclosures are adequate, the advertiser informed NAD that it would also commit to making certain modifications on the Review Website. Specifically, the advertiser stated that it would modify the static photo and the "play" arrow to make the video more visible and encourage consumers to watch it, as well as include a written caption over the static image stating, "See How We Crash-Test Trampolines / by Mark Publicover, the Father of Trampoline Safety." The advertiser also explained that it would add an additional disclosure statement to the header of all pages on the Review Website stating, "Trampoline Tests and Reviews are Sponsored by JumpSport, Inc., and Mark Publicover – Inventor of the Trampoline Safety Enclosure."

Finally, to the extent the challenger argues that the Review Website should contain the phrase "comparative advertising," the advertiser rejected that as unnecessary under either NAD or FTC guidance.<sup>4</sup>

II. The Advertiser's Claims About the Challenger's Products on the Review Website

The advertiser defended the claims it made as part of its trampoline reviews on the Review Website. As an initial matter, the advertiser admitted that, while it did not use industry standards when formulating its methodology for testing, the methodology it did utilize was based on its

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<sup>4</sup> The advertiser also rejected the challenger's argument that, given JumpSport's connection, the Review Website is "fake" and is not intended to assist consumers in evaluating trampolines regarding safety or any other factor. Indeed, JumpSport actually purchased the products, evaluated each trampoline system, established review criteria, and applied the same process to all products. Thus, the information and reviews on the Review Website are real.

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years of experience as an inventor and innovator in the trampoline industry and a leader in trampoline safety.<sup>5</sup> According to the advertiser, industry standard tests for trampolines, as embodied in ASTM standards, are valuable but they do not produce information that is readily usable or understandable to most consumers. Further, the advertiser rejected the idea that comparative advertising for trampolines should be held to the “competent and reliable scientific evidence” standard, which it contended is more appropriate to pharmaceutical advertising. Indeed, the advertiser posited that the FTC’s .Com Disclosures guidance makes it clear that there is no one-size-fits-all approach to claim substantiation. Thus, the advertiser contended that its claims are sufficiently substantiated by the advertiser’s extensive real world testing and evaluation of each product.

Regarding the test methodology it used to support claims on the Review Website, the advertiser explained that it uses 49 data points to evaluate the safety, quality, performance and customer service/warranty support for each trampoline model tested.<sup>6</sup> The advertiser submitted its testing materials confidentially under NAD’s procedural rules. According to the advertiser, its testing was highly objective. It stated that 42 of the data points come from test results and 7 are non-test factors. Of the 42 test data points, the advertiser explained that 90 percent constitute objective criteria, based on factors such as measurements, weights, counts, verified observation of physical characteristics during or immediately after testing (e.g., did a part break or permanently deform during impact or use?), or materials published by the manufacturer itself (e.g., warranties). Further, when considering the entire 49 data points, 88 percent are based on objective criteria. To the extent its testing relies on subjective criteria, the advertiser explained that the criteria were disclosed and given little or no weight.

Further, the advertiser explained that the tests were conducted to simulate commonly-observed, real world patterns for backyard trampolines and enclosures. Specifically, each trampoline was tested for various jump types, including: (1) jumping in the center of the trampoline to measure the highest bounce possible; (2) jumping from the center out toward and onto the outer edge of the jumping surface; and (3) random or free jumping at various places on the jumping surface. The trampolines were also tested for ease of entering and exiting the product and for effectiveness of the safety enclosure. The advertiser also explained that it used trained, certified engineers to develop, oversee, and conduct the tests and review process.

The advertiser also explained that it provides a general video overview on the Review Website of the process of assembly and real-world field testing. The video also states that the testing is focused on three main areas: the need for a strong safety net enclosure; the importance of quality springs large enough to create shock-absorbing bounces; and durable components. In addition to the general video, the advertiser explained that the Review Website also provides individual

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<sup>5</sup> For instance, the advertiser offered evidence that, since 1998, it has had a representative serve on the ASTM Subcommittee on Trampolines and Related Equipment to actively participate in discussions and developments in trampoline safety standards. The advertiser also explained that most of the original draft of the ASTM test protocols for safety enclosures was derived from JumpSport’s own test methodologies and documentation.

<sup>6</sup> The advertiser also provided a description of each test and its methodology, the test results and data collected, the values or relative weight assigned to each data point during the testing and review process, manufacturers’ published warranty data, and the advertiser’s calculations of cost of ownership for each trampoline tested.

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videos for each product reviewed. The videos show the trampolines being assembled and tested. Video footage is taken from multiple camera angles. The advertiser contended that each trampoline is placed in relatively the same position to the main cameras and use the same test equipment and testing personnel through the process. Tests were done in as consistent a manner as possible given the differences between products tested. The advertiser also stated that specific and accurate tools were used in all measurements, such as industry-standard calipers to measure thickness.

Further, the advertiser asserted that it tested a substantial portion of competitive products in the trampoline market. Specifically, it tested at least 20 models of trampolines representing at least 11 manufacturers. Although it tested only one Vuly Thunder, the advertiser argued that this was sufficient and “statistical significance” should not be required for the types of trampoline advertising claims made here. Further, the products tested were substantially similar to and representative of other products offered by those same manufacturers, or other manufacturers in the market whose products were not tested. The advertiser explained that any differences in the trampolines were primarily in size and color.

Regarding each specific claim made on the Review Website about Vuly’s Thunder trampoline, the advertiser offered the following explanations as substantiating evidence:

*“Overlapping entry is good, but hard for teenagers and adults to get in or out of”*: The advertiser contended that the individual video review of the Vuly Thunder trampoline clearly shows how difficult it is for someone to crawl into or out of the enclosure. The advertiser pointed to the trampoline’s overlapping fabric flap, which is sewn top and bottom to the netting material and, thus, requires consumers to crouch or crawl through the entryway. Further, the trampoline’s enclosure poles keep the netting and overlapping section taut, making the opening more difficult to pass through.

*“Installation was very strenuous”* and *“The Vuly Trampoline rates . . . Low in ease of installation”*: The advertiser maintained that these claims are truthful and not misleading because they reflected the actual experience of the advertiser’s test engineers during the test installation of Vuly’s Thunder trampoline. Specifically, given the heavy weight and large size of the trampoline’s components parts, installers observed that it took considerable physical exertion and effort to install the parts, especially the leaf springs. The advertiser also offered a calculation purporting to show the greater amount of energy per leaf spring required for an installer working on the Vuly Thunder trampoline.<sup>7</sup> Further, the installers also observed that a special lever tool provided by Vuly was awkward to use and connecting the leaf springs to the hooks on the jumping surface was difficult.

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<sup>7</sup> The advertiser’s calculation compared Vuly’s Thunder trampoline to JumpSport’s AlleyOOP DoubleBounce trampoline. According to the advertiser, since the Thunder trampoline uses 56 springs, each spring is required to carry 1/56, or 1.79%, of the total trampoline load. Each of the 128 springs in the AlleyOOP DoubleBounce only requires 1/128, or 0.78%, of the total load. Therefore, the Vuly Thunder leaf spring requires an installer to exert over 129% more energy per spring during installation than one of the advertiser’s trampoline. The advertiser displayed this calculation as follows:  $[(1.79\%/0.78\%)-1 = 129.5\%]$ .



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*“The leaf springs provide a hard jump near the edge, which can be hard on your joints”*: Although the advertiser argued that this statement is substantiated by observations made by test jumpers, the advertiser advised NAD that it would modify the language to state instead that *“The leaf springs provide a much less forgiving bounce near the edge, which increases the compressive stresses on the jumper’s body.”*

*“Some of the leaf springs became permanently deformed on our first round of bouncing”*: The advertiser contended that this claim is based on actual observations of test engineers upon completion of the testing process. Specifically, the test engineers observed that a number of the steel leaf springs for Vuly’s Thunder trampoline had deformed into a bend or curved shape and did not return to their original shape when disconnected from the jumping surface.

*“These springs are heavy, and therefore are expensive to ship”*: The advertiser argued that both parts of this claim are truthful and not misleading. First, the advertiser explained that the nature and weight of the Thunder trampoline’s spring leafs are unique within the trampoline industry. Typically, trampolines use steel coil springs between 5 and 10 inches in length and between 101 to 341 grams in weight. However, the Thunder trampoline has flat steel leaf springs, which were about 33.5 inches long and each weighed 1170 grams. According to the advertiser, given that there are 56 such springs, the total weight of the packaged trampoline would be over 144 pounds. Second, the advertiser argued that the weight of Vuly’s Thunder trampoline requires higher shipping costs. Specifically, the advertiser obtained comparative shipping quotes from UPS using the advertiser’s own negotiated rates, comparing the cost of shipping Vuly’s Thunder trampoline to shipping the advertiser’s AlleyOOP DoubleBounce trampoline. The cost to ship the Thunder trampoline was more than \$20 higher than to ship the AlleyOOP DoubleBounce trampoline.<sup>8</sup> Thus, the advertiser maintained that this claim is substantiated.

*“You’ll need to replace the net and mat together since they are sewn together” and “. . . this also gives it a high annual maintenance cost”*: The advertiser contended that these claims are based on observational data and are not misleading. The net and mat are, in fact, sewn together. According to the advertiser, this design creates maintenance problems and increased costs if either the net or mat were damaged since both would need to be replaced. Further, the advertiser explained that, in evaluating the annual maintenance cost for Vuly’s Thunder trampoline, it considered: (1) Vuly’s own 1-year warranty for the net and mat as an indicator of how long a consumer can expect a product to last, and (2) various data points based on testing of the net (with the thinnest point on the enclosure’s net fabric considered more important than other data points).

*“Weakness: High annual cost to own; Smaller jump surface; Leaf springs broke; Difficulty and Time to set up”*: First, the advertiser provided evidence regarding its calculation of cost of ownership for Vuly’s Thunder trampoline as \$265 based largely on the trampoline’s short overall

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<sup>8</sup> For purpose of its UPS shipping quotes, the advertiser assumed shipping from San Jose, CA to a reseller location in Chicago, IL. According to the advertiser, the AlleyOOP DoubleBounce weighs 95.9 pounds and is shipped in a box with dimensions of 12 inches wide x 22 inches long x 10 inches deep. Based on the weight of Vuly’s Thunder trampoline, the advertiser assumed a hypothetical nominal sized shipping box with dimensions 5 inches wide x 34 inches long x 5 inches deep.

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weighted average warranty of 3.16 years. Second, regarding the “smaller jump surface” claim, the advertiser admitted that this was an erroneous statement as it was unaware at the time the claim was made that Vuly offered a different trampoline with a comparable jumping surface to JumpSport’s AlleyOOP DoubleBounce. The advertiser explained that it would correct this misstatement on the Thunder trampoline review video. However, the advertiser maintained that smaller jump surfaces present less safe conditions for consumers. Third, regarding the “Leaf springs broke” statement, the advertiser explained that it would modify the phrase to state, “Leaf spring permanently bent,” and add a new claim to state, “Enclosure pole permanently bent.” Finally, as to the “Difficulty and Time to set up” statement, the advertiser relied on its arguments regarding ease of installation to argue that this statement is truthful and not misleading.

*“Rating in price category: #3 of 3 – in High Price Category” and “Rating among all trampolines tested: #6 of 19 – Overall Rating”*: The advertiser maintained that these statements are truthful and not misleading given that they simply state the actual ratings based on JumpSport’s review and evaluation process, its calculations, and the ample disclosure statements about JumpSport’s connection to the Review Website.<sup>9</sup>

### III. The Advertiser’s Superiority Claims

#### A. Claims on the Review Website

Regarding the positive and superior safety reviews and ratings on the Review Website for three of the advertiser’s products – JumpSport’s Elite, AlleyOOP DoubleBounce, and Staged Bounce 14 trampolines – the advertiser argued that those claims are substantiated by detailed product testing and the review process containing the 49 data points.

Further, regarding its AlleyOOP DoubleBounce trampoline, the advertiser claims on the Review Website that this product “consistently receives the highest ratings for Safety, Quality and Performance.” The advertiser explained that this claim is based on independent, third-party consumer reviews on Amazon.com and is, therefore, correct, not misleading, and substantiated.

#### B. Claims on the JumpSport Website

Regarding the superiority claims on the JumpSport Website – “The World’s Safest Trampolines!,” “We offer the safest, highest quality trampolines available at every budget,” and “First in Safety” – the advertiser contended that these statements constitute puffery because they are solely promotional-type opinion statements and are not meant to be taken literally. Further, the “First in Safety” claim simply refers to the fact that JumpSport’s founder and CEO, Mark Publicover, was the inventor and patent holder of the trampoline safety enclosure technologies that are commonly used today in virtually all trampolines. Finally, the advertiser stated that it

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<sup>9</sup> To the extent the challenger argued that the Vuly Thunder that was tested has been replaced by a newer model, the advertiser contended that Vuly Thunder was not sold in the U.S. prior to 2014 and testing was done that same year. Even if the model tested is now outdated, however, the advertiser maintained that consumers who purchased the older model would find the Review Website’s critique and ratings of the older model relevant and informative.

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would permanently discontinue the claim, “Consumer rated number one for safety, performance & play value.”

#### **Decision:**

The parties manufacture trampolines primarily for residential backyard use. They are part of the high end of the trampoline market, offering innovative and revolutionary trampoline designs. Unsurprisingly, both parties described safety as the most important factor consumers consider when they purchase a trampoline. NAD appreciates JumpSport’s participation in establishing ASTM trampoline-related industry safety standards over the last 20 years and recognizes that JumpSport has extensive experience in the trampoline industry, including product design, engineering and patented innovation.

As the advertising industry’s self-regulatory body, NAD seeks to protect the rights of advertisers to disseminate truthful information about innovative technology, safety and protective features. NAD also recognizes the importance of ensuring that health and safety claims (particularly with respect to products like trampolines, which have a troubling safety record) are supported by competent and reliable evidence and avoid overstatement or false disparagement regarding competing products. With these principles in mind, NAD evaluated the claims at issue in this challenge.

#### **I. The Review Website, [www.TrampolineSafety.com](http://www.TrampolineSafety.com)**

##### **A. Website Format is Inherently Misleading Advertising**

NAD noted at the outset that “independent” product reviews have a powerful affect on consumer purchasing decisions. Consumers often rely on and trust third party reviews for accurate information and unbiased opinions. Product safety reviews are particularly influential and NAD carefully evaluates the supporting evidence for such claims to ensure that it is competent and reliable. It is very important that consumers know who created the content and the reason it was created as such information may shape the prism through which consumers view the content.<sup>10</sup> Thus, NAD precedent requires that product reviews generated by the advertiser be clearly identified and not in a format that makes them appear to be independent editorial content.

In general, advertisers have an obligation to inform consumers that what they are seeing is an advertisement. This principle is derived from Section 5 of the FTC Act which defines an act or practice as deceptive (1) if there is a representation or omission of information that is likely to mislead the consumer acting reasonably under the circumstances; and (2) if that representation or omission is material – defined as an act or practice likely to affect the consumer’s conduct or decision with regard to a product or service.<sup>11</sup> In reliance on this guidance, NAD has consistently held that advertising that appears in editorial-like formats can mislead consumers by disguising the fact that the information is actually advertising.

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<sup>10</sup> See, e.g., Qualcomm, Inc. (Snapdragon Processors), Case #5633, *NAD/CARU Case Reports* (September 2013).

<sup>11</sup> 15 U.S.C. § 45.

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The website at issue here, [www.TrampolineSafety.com](http://www.TrampolineSafety.com), although it appears to be operated by an independent third party, is in fact owned, operated, and controlled by the advertiser. All testing is conducted in-house by the advertiser. The reviews and ratings are established by the advertiser. And, not surprisingly, the top three ranked trampolines belong to the advertiser. The rankings chart that appears on the Review Website's homepage contains a blank row that is directly beneath the top three trampolines (i.e., the advertiser's trampolines), essentially dividing and highlighting those trampolines from the rest of the tested trampolines. Further, while the advertiser's trampolines all received green circles under the categories of "Overall Rating," "Safety Rating," and "Performance Rating," thereby indicating a positive review, the other trampolines have almost all red or yellow circles, indicating less positive reviews. Some red circles even have exclamation points next to them to indicate that the product "broke or permanently bent during testing when impacted by a jumper far below the manufacturer weight rating." This is not an independent website and obscuring that fact is a significant material omission.

Consumers viewing the content on the Review Website could quite reasonably believe that the content was independently generated editorial content, rather than content created by JumpSport. A consumer who visits the Review Website will be taken to a homepage that, for all intents and purposes, appears to be an independent third party product safety review site. Indeed, the URL for the Review Website – [www.TrampolineSafety.com](http://www.TrampolineSafety.com) – is unbranded and clearly conveys the message that it is run by an independent unbiased party. At the very center of the homepage is a video that contains the caption, "See How We Crash-Test Trampolines, by Mark Publicover, the Father of Trampoline Safety." Immediately beneath the video is a product review chart, purporting to rank 19 different trampolines based on product review testing. A consumer scrolling down will then see information about the types of tests conducted on each trampoline. There is nothing to alert a consumer to the fact that this is an advertisement or that the Review Website is owned and operated by JumpSport or that the testing was devised and conducted by the company that produces the three trampolines that achieved, far and away, the best results. The images, words, and seemingly objective layout of the Review Website convey an air of independence that simply does not exist. For all of these reasons, NAD determined that this advertising format is inherently misleading to consumers.

#### B. Advertiser's Disclosures Do Not Cure False and Misleading Impression

The FTC has cautioned that "advertising and promotional messages that are not identifiable as advertising to consumers are deceptive if they mislead consumers into believing they are independent, impartial, or not from the sponsoring advertiser itself. Knowing the source of an advertisement or promotional message typically affects the weight or credibility consumers give it. Such knowledge also may influence whether and to what extent consumers choose to interact with content containing a promotional message."<sup>12</sup> Such disclosures must be clear and conspicuous, which means "displayed in a manner that is readily noticeable, readable and/or

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<sup>12</sup> FTC Enforcement Policy Statement on Deceptively Formatted Advertisements, at 1 (Dec. 22, 2015). NAD has also determined that product reviews invoke the requirement that any material connection be disclosed. *See, e.g., General Mills, Inc. (Yoplait Blended Greek Yogurt)*, Case #5715, *NAD/CARU Case Reports* (May 2014); *eSalon (Custom Formulated Hair Color)*, Case #5645, *NAD/CARU Case Reports* (October 2013).

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audible, and understandable to the audience to whom it is directed” and which considers “the size of the font, the duration that the super appears on screen, the extent to which it contrasts with the background, as well as surrounding visuals and sounds that may distract a viewer’s attention away from the super.”<sup>13</sup>

NAD considered but was not persuaded by the advertiser’s argument that its disclosures cure the false impression created by the Review Website’s format. Disclosures cannot contradict the main message of the advertisement (i.e., that the listed trampolines have been tested and rated by independent experts). Moreover, even if a disclosure could cure this false impression, the advertiser’s disclosures were not clear and conspicuous. For example, the disclosures at the bottom of the homepage and the About Us page require a consumer to scroll almost all the way down in order to actually see it.<sup>14</sup> Similarly, the disclosure at the top right of each page was overshadowed by large, brightly colored headings, numerous videos or other vibrant imagery. The video on the homepage does not disclose that the Review Website is owned, controlled, or operated by JumpSport, or that the testing described in the website’s chart was devised and conducted by JumpSport. In sum, the disclosures were not easy for consumers to notice, read and understand.

This is particularly troubling given the Review Website’s stated purpose of helping consumers “find the safest trampoline” and being “the best place for parents to find straight-forward testing, clear analysis, and transparent ratings.” This language conveys the message that the sole purpose of the website is providing consumers with independent, reliable safety information when in fact its true purpose is to sell the advertiser’s trampolines and disparage competing products.<sup>15</sup>

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<sup>13</sup> Expedia, Inc. (Sale Prices on Hotels), Case #4993, *NAD/CARU Case Reports* (April 2009); ReckittBenckiser (Spray ‘N Wash Laundry Stain Remover), Case #3929, *NAD/CARU Case Reports* (August 2002).

<sup>14</sup> That disclosure states the following: “The inventor of the Trampoline Safety Net that protects millions of happy kids around the world, Mark Publicover, created TrampolineSafety.com to encourage the companies using his many trampoline inventions to build longer lasting safety components. JumpSport, the family owned business founded by Mark in 1997, sponsors and owns this website. We are completely transparent about how we gather over 40 data points and measurements for the product ratings. All testing is conducted by JumpSport using its state-of-the-art equipment and facilities.” The same disclosure appears at the bottom of certain other pages of the Review Website. NAD has recognized in prior decisions that consumers are unlikely to see disclosures displayed in such a manner. See, e.g., New WinCup Holdings, Inc. (Vio Cups), Case #5902, *NAD/CARU Case Reports* (October 2015); Rexall Sundown, Inc. (Osteo Bi-Flex Dietary Supplement), Case #4692, *NAD/CARU Case Reports* (July 2007). Further, the FTC’s .Com Disclosure guidelines make it clear that an online disclosure that requires scrolling is not clear and conspicuous. See .com Disclosures (March 2013), <https://www.ftc.gov/system/files/documents/plain-language/bus41-dot-com-disclosures-information-about-online-advertising.pdf> (advertisers should “assume that consumers don’t read an entire website or online screen, just as they don’t read every word on a printed page. Disclosures should be placed as close as possible to the claim they qualify. Advertisers should keep in mind that having to scroll increases the risk that consumers will miss a disclosure. . . . Requiring consumers to scroll in order to view a disclosure may be problematic, however, because consumers who don’t scroll enough (and in the right direction) may miss important qualifying information and be misled. When advertisers are putting disclosures in a place where consumers might have to scroll in order to view them, they should use text or visual cues to encourage consumers to scroll and avoid formats that discourage scrolling.”). Finally, NAD was also concerned that the About Us heading did not adequately convey the importance of the information on that page.

<sup>15</sup> In prior decisions, NAD has reminded advertisers of their obligation to inform consumers when they are advertising to them. In NourishLife, LLC (Speech Nutrients Speak), Case #5620, *NAD/CARU Case Reports* (August 2013), the advertiser of a children’s dietary supplement for speech and language development failed to

For all of these reasons, NAD recommended that the Review Website format be discontinued.

II. The Advertiser's Claims on the Review Website

Having determined that the entire [www.TrampolineSafety.com](http://www.TrampolineSafety.com) website is advertising and that the inherently misleading format be discontinued, NAD next considered whether the advertiser's evidence was sufficient to support its trampoline safety and performance claims should they be clearly formatted as advertising. In order to produce meaningful results for the purpose of claim support, product testing should be conducted under consumer relevant conditions, using accepted methodologies and protocols, and should relate directly to the advertising claims.<sup>16</sup> In addition, NAD has routinely held that claims that expressly or implicitly disparage a competing product must be truthful, accurate and narrowly drawn.<sup>17</sup>

A. Test Methodology and 49 Data Points Do Not Support Advertiser's Claims

NAD determined that the advertiser's testing methodology and 49 data points did not provide a reasonable basis for its review and ratings claims about its own or competing trampolines, including Vuly's Thunder trampoline. NAD appreciated that the advertiser's goal was to conduct tests that were in line with how consumers actually use trampolines rather than according to industry standards. However, the testing must still be reliable and reproducible.

NAD determined that the advertiser's testing was materially flawed for several reasons. First, and perhaps most importantly, the advertiser tested only one sample of each trampoline. Further, the testing was conducted internally, which introduces the strong potential for bias. Each trampoline was assembled by the advertiser's own employees. NAD was particularly troubled by the fact that one of the test jumpers and the person who oversaw the field testing of Vuly's Thunder trampoline was the son of JumpSport's founder. Additionally, there was no evidence that the testing was blinded.

Moreover, the test methodology did not include protocols consistent with reliable testing methodologies. There was no evidence in the record about the conditions under which the testing was conducted. It was not clear where and when each trampoline was tested, or whether any tests were affected by weather or other outdoor conditions. Similarly, there was a lack of evidence on how many jumps were allowed on each trampoline, the total jump time for each trampoline, or any measurements for the jumps completed on each trampoline, in terms of height, rate and impact. There was also no evidence in the record about the test engineers or

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disclose its material connection to a website purporting to provide research and other scientific information relating to the treatment of apraxia" when, in reality, the advertiser was the owner, developer, and operator of the website. Similarly, in Herbal Groups, Inc. (Prostalex Plus), Case #5005, *NAD/CARU Case Reports* (July 2009), NAD determined that a prostate health blog, which featured resources and postings about prostate health, was deceptive and misleading because it appeared to be an authentic blog, but was in fact advertising for the advertiser.

<sup>16</sup> S.C. Johnson & Son, Inc. (Scrubbing Bubbles® Heavy Duty Cleaner with fantastik® & Scrubbing Bubbles® Bleach 5-in-1 All Purpose Cleaner with fantastik®), Case #5779, *NAD/CARU Case Reports* (October 2014); Gtech USA, Inc. (AirRAM Cordless Stick Vacuum), Case #5704, *NAD/CARU Case Reports* (April 2014).

<sup>17</sup> 3M Company (EARfit), Case #5925, *NAD/CARU Case Reports* (February 2016); Reckitt Benckiser, Inc. (Mucinex Fast Max®), Case #5921, *NAD/CARU Case Reports* (February 2016).

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jumpers – for instance, the number of people used as test jumpers for each trampoline or their level of expertise. Without this information, NAD could not determine if there was any uniformity or consistency in terms of the testers' weight, age, gender, or physical ability. Likewise, it was not clear that the testing was performed by trained professionals, that the testers were given clear instructions or were properly qualified to conduct the tests.

Similarly, NAD questioned the relevance and reliability of the 49 data points used by the advertiser to determine the reviews and ratings for each trampoline. Although the advertiser provided a brief description for each data point, the descriptions did not sufficiently explain what standards were being applied. By way of example, one data point is listed as "Connections holding bottom of net." There was no evidence in the record about what that data point actually meant, other than the tester's own opinion. Similarly, some of the 49 data points were anecdotal in nature (i.e., "Are Pole Pad Covers Included"), which NAD deemed unreliable evidence for the advertiser's rating claims.

Moreover, the advertiser provided no evidence demonstrating that its system of assigning value or weight to each data point in its rating system was appropriate. According to the advertiser's evidence, each of the 49 data points was assigned a value to indicate its relative importance. Although NAD cannot discuss the particulars (as the testing was submitted to NAD confidentially), it was unclear why or how the advertiser valued each data point the way that it did. Given that the advertiser's own trampolines attained far higher ratings than any of its competitors using this system, such weighting could have introduced significant bias to the test results. Absent any evidence in the record explaining how these values were calculated or determined, NAD found that the weighting system was not reliable.

In any event, most of the data points are not directly related to the advertiser's safety claims. Of the 49 data points, only 7 are categorized by the advertiser as safety-related. The remaining data points fall into categories of Quality, Performance, or Customer Service/Warranty. Regardless of categorization, many of the advertiser's data points do not appear to be related to safety. For instance, one data point is listed as "Total Weight." Another is listed as "Were All Parts Included in Box?"

For all of these reasons, NAD determined that the advertiser's testing and methodology were not sufficiently reliable to support its comparative safety and performance claims, or its ratings of Vuly's Thunder trampoline, its own trampolines (JumpSport's AlleyOOP DoubleBounce, Elite, and Staged Bounce 14 foot trampolines), or – for that matter – any of the other trampolines tested. Consequently, NAD recommended that these claims be discontinued.

#### **B. The Advertiser's Anecdotal Reviews of Vuly's Thunder Trampoline**

The advertiser also makes several disparaging claims about Vuly's Thunder trampoline based on the anecdotal reports and opinions of its in-house testers. While it may be the honest assessment of the individual, a subjective observation from an inherently biased tester, jumping on one

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sample of a trampoline, is wholly inadequate to support an advertising claim.<sup>18</sup> For these reasons, NAD recommended that the following claims, which the advertiser supported only with anecdotal evidence, be discontinued:

*“Overlapping entry is good, but hard for teenagers and adults to get in or out of”;*

*“Installation was very strenuous”;*

*“The Vuly Trampoline rates . . . Low in ease of installation”;*<sup>19</sup>

*“The leaf springs provide a hard jump near the edge, which can be hard on your joints”;*<sup>20</sup> and

*“Some of the leaf springs became permanently deformed on our first round of bouncing.”*<sup>21</sup>

Regarding the remaining challenged claims about Vuly’s Thunder trampoline, NAD found as follows:

*“These springs are heavy, and therefore are expensive to ship”*: The advertiser based this claim on the weight of Vuly’s Thunder trampoline and a UPS estimated shipping quote. NAD observed that, although it is reasonable to assume that a product’s weight might translate into a higher shipping cost, this is not always the case. Other factors, such as the product’s shape and shipment route, are also important to consider. Further, the advertiser selected San Jose, CA as the package origination and Chicago, IL as the package destination. There was no evidence in the record about the representativeness of those selections.

*“You’ll need to replace the net and mat together since they are sewn together”* and *“. . . this also gives it a high annual maintenance cost”*: There was no evidence in the record to demonstrate the reliability of the advertiser’s calculation of total annual maintenance cost. The annual maintenance cost claim appeared to be based on Vuly’s warranty but did not account for other factors relating to how long a product will last, including how often the trampoline is used, how it is taken care of, and under what conditions it is stored or displayed. In any event, a company’s

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<sup>18</sup> NAD has routinely rejected anecdotal opinion as evidence for claim substantiation because there is no way to account for all of the variables that may impact the product’s performance in an uncontrolled setting (such as the outdoor locations of the installed product). See, e.g., Cambridge Pavers, Inc. (Concrete Pavingstones), Case #5127, *NAD/CARU Case Reports* (December 2009).

<sup>19</sup> NAD was concerned about the reliability of the advertiser’s calculation purporting to show that a leaf spring from Vuly’s Thunder trampoline required over 129% more energy per spring to install than the AlleyOOP DoubleBounce. The connection, if any, between the number of leaf springs in each trampoline and the amount of energy required for installation was not clear from the record.

<sup>20</sup> The advertiser also offered to modify the claim to state, “The leaf springs provide a much less forgiving bounce near the edge, which increases the compressive stresses on the jumpers’ body.” While NAD appreciated the advertiser’s attempt to modify the claim, there was similarly no objective reliable evidence in the record to support the claim in its modified form.

<sup>21</sup> Further, NAD notes that the advertiser tested only one model of the Vuly Thunder trampoline. NAD was concerned that this did not provide accurate data on which to base such a disparaging claim.



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business choice for setting the timetable for its warranty is not an adequate basis on which to assess the actual expected life of the challenger's product or parts.

*“Weakness: High annual cost to own; Smaller jump surface; Leaf springs broke; Difficulty and Time to set up”*: The advertiser based its high annual cost of ownership claim largely on the Vuly Thunder trampoline's short weighted average warranty. The advertiser assigned a multiplier to warranties based on the length of the warranty. For example, Vuly's warranty for its frame is 10 years. The advertiser assigned a multiplier of 1 for warranties longer than two years. This translated to an assumption that the frame for Vuly's Thunder trampoline would have to be replaced in 10 years. Similarly, the warranty for the Thunder trampoline's leaf springs, mat, enclosure net, and enclosure poles is one year. Based on that length, the advertiser assigned a multiplier of 1.5, which translated to an assumption that those component parts would need to be replaced in 1.5 years. Other than tying its assessment to warranty length, the advertiser did not explain how or why the specific warranty multiplier was chosen over some other multiplier. Further, NAD was concerned that the claim did not take into consideration other factors relevant to annual cost of ownership.

Regarding the “smaller jump surface” claim, NAD appreciated the advertiser's commitment to modify this claim to accurately reflect the size of the Vuly Thunder Large trampoline. However, there is no evidence in the record demonstrating that the jump surface is a “Weakness” as it is characterized on the Review Website.

Regarding the “leaf springs broke” claim, the advertiser based this claim on one test jumper's observations and also offered to modify the claim to state “Leaf spring permanently bent,” and to add a new claim to state, “Enclosure pole permanently bent.” Although it may be literally true that a leaf spring did break when the jumper was jumping on the trampoline, there was no evidence in the record demonstrating that this experience is in any way representative of what consumers would typically experience or of the actual durability or reliability of Vuly's springs.<sup>22</sup>

For all of these reasons, NAD recommended that these unsupported and disparaging claims about Vuly's Thunder trampoline be discontinued.

### **III. The Advertiser's Consumer Testimonial**

NAD next considered the truthfulness and accuracy of the advertiser's claim on the Review Website that its AlleyOOP DoubleBounce trampoline “consistently receives the highest ratings for Safety, Quality and Performance.” This claim was based on third-party reviews on Amazon.com. NAD has routinely recognized that an advertiser may not make claims through consumer testimonials that could not be substantiated if made directly by the advertiser. Further, testimonials cannot be used to substantiate advertising claims in the absence of competent and reliable evidence. Consequently, even if the statements are the heartfelt opinion

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<sup>22</sup> NAD also noted that the intensity or type of jumping conducted on each trampoline by the advertiser's own staff could, even unintentionally, differ on the challenger's trampoline, and may not be representative of the typical wear a consumer may expect on his or her own trampoline springs.

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of the authors, absent independent competent and reliable supporting evidence, they are insufficient to support the advertiser's claim. In light of NAD's finding that the advertiser's evidence was insufficient to support its superior safety and performance claims, NAD recommended that the advertiser discontinue its use of testimonials that attest to the trampoline's safety, quality or performance.

#### **IV. The Advertiser's Superiority Claims on the JumpSport Website**

During the pendency of this proceeding, the advertiser advised NAD in writing that it had elected to permanently discontinue the claim, "Consumer rated number one for safety, performance & play value." In reliance on the advertiser's representation that this claim has been permanently discontinued, NAD did not review the claim on its merit. The voluntarily discontinued claim will be treated, for compliance purposes, as though NAD recommended its discontinuance and the advertiser agreed to comply.

Lastly, with respect to the claims, "The World's Safest Trampolines!", "the safest highest quality trampoline available at every budget", and "First in Safety," NAD considered the advertiser's argument that these claims are puffery and, therefore, do not require substantiation.

NAD has consistently noted that defining puffery is more an art than a science. Whether a specific claim falls within puffery's protective reach is largely dependent on what messages are communicated by the advertising (i.e., what, if any, consumer expectations are created). NAD has stated that:

Obvious hyperbole, exaggerated displays of a manufacturer's pride in its product and other non-provable claims, the truth and accuracy of which cannot be determined, have been found to constitute puffery. Generally speaking, statements of puffery are claims for which reasonable consumers will not expect substantiation. Conversely, where an objective representation is made (i.e., termed in fact rather than opinion) regarding the performance or other tangible attributes of a product that is sufficiently specific and material enough to create expectations in consumers, then substantiation for the claim is required.<sup>23</sup>

Where a claim includes a superlative that is vague and fanciful and suggests no objective measure of superiority, then the claim is likely to be puffery. If, on the other hand, the superlative is accompanied by specific attributes which are likely to suggest that the product is comparatively better in some recognizable or measurable way, the defense of puffery is unlikely to prevail.

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<sup>23</sup> Thunderworks, LLC (ThunderShirt), Case # 5806, NAD/CARU Case Reports (February 2015); Johnson & Johnson Vision Care, Inc. (1-DAY Acuvue® Moist® Contact Lenses), Case #5962, NAD/CARU Case Reports (February 2014).

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Here, NAD determined that consumers could reasonably understand the claims, “The World’s Safest Trampolines!” and “the safest, highest quality trampolines available at every budget,” to be objectively provable claims for which the advertiser had support. In the context of trampolines, a safety claim suggests to a consumer that there are fewer injuries associated with a particular trampoline, through superior design or other factors. Given that there is no evidence in the record demonstrating that JumpSport trampolines are the “safest” compared to all or a substantial portion of the competitive market, NAD recommended that these claims be discontinued.

Similarly, NAD determined that the advertiser’s “First in Safety” claim is not puffery. The claim communicates a comparative superiority message that JumpSport is the leader in trampoline safety by some measurable attribute (e.g., having the highest overall number of trampolines rated for safety; having a specific trampoline that is the highest-rated for safety). Although the advertiser explained that this claim refers to JumpSport’s founder having the first patent for a trampoline safety enclosure, NAD notes that possession of a patent simply indicates that a product possesses something different than another product, not that it is better. For these reasons, NAD recommended the advertiser discontinue this claim.

In closing, NAD notes its appreciation for the advertiser’s commitment to innovation and advancing technology. To the extent the advertiser wishes to tout its founder’s patent in trampoline safety technology, it can certainly do so.

### **Conclusion:**

Regarding the advertiser’s [www.TrampolineSafety.com](http://www.TrampolineSafety.com) website, NAD recommended that the editorial format be discontinued as it is inherently misleading given that the website is unbranded, owned and operated by the advertiser, and does not effectively disclose JumpSport’s material connection. NAD further determined that the advertiser’s test methodology, 49 data points and anecdotal evidence were insufficiently reliable to support the performance and ratings claims for the tested trampolines and thus recommended those claims be discontinued. Finally, NAD recommended that the advertiser discontinue its use of unsubstantiated testimonials regarding its trampoline’s safety, quality or performance.

Regarding the JumpSport website, NAD appreciated the advertiser’s voluntary permanent discontinuance of the “Consumer rated number one for safety, performance & play value” claim. The voluntarily discontinued claim will be treated, for compliance purposes, as though NAD recommended their discontinuance and the advertiser agreed to comply. Lastly, NAD determined that the advertiser’s “World’s Safest Trampolines,” “the safest, highest quality trampolines available at every budget,” and “First in Safety” claims were not puffery and, given the absence of any reliable substantiation, should be discontinued. The advertiser may, however, advertise its patent in trampoline safety technology.

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### **Advertiser's Statement:**

JumpSport is grateful for NAD's work, supports the self-regulatory process, and will abide by NAD's recommendations. We thank NAD for acknowledging JumpSport's contributions and 20-year commitment to improving trampoline safety. Our founder and CEO, Mark Publicover, invented the trampoline safety enclosure that has become the worldwide standard, and also designed and developed the impact test and other test methods that were adopted by the ASTM for enclosures. Because our extensive experience in the trampoline industry (as noted by NAD) and our demonstrated engineering expertise has taught us what works in the real world, we are disappointed with some of NAD's conclusions regarding our test methodologies and dismissal of the objective test data we submitted. JumpSport will continue its founding commitment to help protect children from needless injuries on trampolines due to low quality, or poorly designed or engineered products, and to educate parents about the highest safety standards for trampolines. **(#5970 LLB, closed 07/11/2016)**