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FEDERAL TRADE COMMISSION

HEARING: FUR NAME GUIDE REVIEW

DECEMBER 6, 2011

Federal Trade Commission  
601 New Jersey Avenue, N. W., Conference Center  
Washington, DC

FEDERAL TRADE COMMISSION

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**INTRODUCTORY REMARKS**

1  
2 MR. WILSHIRE: Okay, we're ready to get  
3 started. Good morning, everybody. I think I've  
4 introduced myself to most of you, but just in case I  
5 haven't, my name is Matt Wilshire. I'm a staff attorney  
6 at the Federal Trade Commission. And this is the public  
7 hearing on the Fur Names Guide Review.

8 A couple -- I want to just give you a couple --  
9 run through a couple preliminary things, and then as you  
10 can see on the agenda, we're going to get into the  
11 substance in about 10 minutes.

12 First off, because this is a public hearing, we  
13 have a court reporter, so it's important that everybody  
14 speak clearly and into the microphone, as you see me  
15 doing somewhat awkwardly. Get as close as you can. It  
16 will be much better for the court reporter. We want to  
17 make sure we get an accurate recording of everything  
18 that's going on. Also, we are audio recording this  
19 hearing, so, again, it's important that people speak into  
20 the microphone so everything gets taken down clearly.

21 Let's see, second thing, as you can see in the  
22 agenda, we're trying to devote enough time to discuss all  
23 of the issues that were -- all of the major issues raised  
24 in the comments regarding the Guide, so it's really -- to  
25 make sure we have time to fully discuss every issue, it's

1 really critical that we start on time and end on time for  
2 each session.

3 You'll see we built in a break, a 10-minute  
4 break at 9:50. I know sometimes 10-minute breaks turn  
5 into 15-minute breaks, 20-minute breaks. That's not how  
6 we run things here, and so I just want to assure that we  
7 will start without you if you're not back. It's not the  
8 end of the world if you don't come from the break, we  
9 won't lock the doors, but we're going to start right back  
10 on issue -- right back on issue three at 11:00. Okay?  
11 So, and I think I said 9:50 for the break, that was  
12 actually 10:50. I apologize.

13 Let's see. We are also welcoming questions and  
14 comments from the audience. We'll have time for that at  
15 the end of each session. If you'd like to -- if you have  
16 a question or a comment, please just raise your hand,  
17 we'll have somebody bring a microphone to you. I think  
18 one of our paralegals will be in the room shortly to do  
19 that. And that will also be part of the record.

20 If you're an audience member, I'd really  
21 appreciate it if you could spell your name before your  
22 comment or question for the benefit of the court reporter  
23 and identify anything else about yourself if you're  
24 representing an organization or a group.

25 Let's see. Most important, the restrooms,

1 everybody probably wants to know, if you go out of the  
2 conference center and then towards the guards' desk and  
3 then just to the left of the guards' desk but not near  
4 the -- but don't try to go through the gated area.  
5 You'll see there's a place for ID badges, that won't  
6 work. But there's a hallway between that and the guards'  
7 desk, and there's a little sign that says "restrooms this  
8 way." Just follow those signs and you'll find the  
9 restrooms, men's and women's. You already know about the  
10 water outside.

11 And then, finally, I have to give you a  
12 security briefing. This is important stuff just in case  
13 an emergency or something like that happens. So, first  
14 off, anyone that goes outside the building without an FTC  
15 badge, which is basically all of us, will be required to  
16 go through the magnetometer, an x-ray machine, prior to  
17 reentering the conference center.

18 Two, in the event of fire or evacuation of the  
19 building, please leave the building in an orderly  
20 fashion. Once outside the building, you need to orient  
21 yourself to New Jersey Avenue. Across from the FTC is  
22 Georgetown Law Center. Look to the right, front  
23 sidewalk. That's our rallying point. Everyone will  
24 rally by floors. You need to check in with the person  
25 accounting for everyone, that'll be me, in the conference

1 center. In the event that it is safer to remain inside,  
2 you will be told where to go inside the building.

3 Four, if you spot suspicious activity, please  
4 alert security. And, finally, this event is open to the  
5 public and may be photographed or videotaped, webcast or  
6 otherwise recorded. By participating in this event, you  
7 are agreeing that your image and anything you say or  
8 submit may be posted indefinitely at [ftc.gov](http://ftc.gov) or one of  
9 the Commission's publicly available social media sites.

10 Okay? So, with that out of the way, what I'd  
11 like to do before we get started is to have everybody at  
12 the table go around and introduce themselves and tell us  
13 where you're from and who you're representing.

14 MS. GRYMES: Christie Grymes from Kelley, Drye,  
15 on behalf of the Fur Information Council of America.

16 MS. BERNSTEIN: Jodie Bernstein of Kelley, Drye  
17 with the same organization.

18 MR. ROSS: Charlie Ross from Finnish Fur Sales  
19 and Fur Information Council of America.

20 MR. LASOFF: Larry Lasoff from Kelley, Drye,  
21 and I'm counsel to the Fur Information Council of  
22 America.

23 DR. GARDNER: Alfred Gardner, USGS. I'm  
24 curator of North American Mammals at the National Museum,  
25 Smithsonian.

1 MS. LYNN: Sharon Lynn with the U.S. Fish and  
2 Wildlife Service Office of Law Enforcement.

3 MR. WILSHIRE: Once again, I'm Matthew Wilshire  
4 from the Federal Trade Commission.

5 MS. KIM: Laura Kim, also with the Federal  
6 Trade Commission.

7 DR. BUTLER: Tracye Butler with United States  
8 Department of Agriculture, Animal/Plant Health Inspection  
9 Service.

10 MR. AUTOR: Eric Autor, International Trade  
11 Council of the National Retail Federation.

12 MR. HENRY: Ralph Henry, Sr., Attorney with the  
13 Humane Society of the United States.

14 MR. GRZYBOWSKI: Pierre Grzybowski. I'm the  
15 Research and Enforcement Manager for the Humane Society  
16 of the United States.

17 MR. WILSHIRE: Thank you. Now, before we  
18 begin, I also wanted to let you know how we're going to  
19 proceed. We'll start with a topic that's listed out in  
20 the agenda, and we'll ask for views on these questions,  
21 and we'll start -- we'll alternate as to who goes first.  
22 We'll go around the table the first time, getting  
23 people's views. If you don't -- it's okay if you don't  
24 have anything to contribute. You can just decline to  
25 state anything at that time.





1                   MR. HENRY: Sure, this is Ralph Henry. The  
2 integrated taxonomic identification system is a result of  
3 a partnership of Federal Government agencies formed to  
4 satisfy the need for scientifically credible taxonomic  
5 information. The primary purpose of the Fur Products  
6 Labeling Act is to provide a uniform and accurate  
7 labeling system for fur products so that consumers are  
8 presented with consistent and accurate representations  
9 about the source of the fur included in these products.  
10 Accuracy and uniformity should thus be paramount, and  
11 using ITIS would satisfy this goal.

12                   Among the Government agencies formed as  
13 partners in the ITIS system include organizations that  
14 are represented here today: the Fish and Wildlife  
15 Service, Smithsonian Institution, United States  
16 Geological Survey, among others. ITIS partners are  
17 neutral on the issue of how a particular industry,  
18 including the fur industry, identifies its products.  
19 They have no specific interest in the use of any  
20 particular common or scientific name. Their only  
21 interest is accuracy and uniformity.

22                   Clearly, updating the Name Guide once every 50  
23 years is insufficient. Several of the entries in the  
24 Name Guide are no longer the accepted common name, appear  
25 never to have been accepted common names, appear to be

1 trade names, and would not properly inform consumers.  
2 So, ITIS forms a great jumping off point for the agency  
3 to review and update the Name Guide on a more regular  
4 basis than once every half-century.

5 By using ITIS as a basis for its Name Guide,  
6 there would be much less burden on the Federal Trade  
7 Commission in updating the Name Guide. An ITIS website  
8 is a good resource for fur retailers, manufacturers,  
9 designers, and the consuming public to get accurate  
10 information about what fur products contain.

11 Lastly, this whole exercise, this hearing,  
12 these written comments, are exactly what the FPLA seeks  
13 to avoid; that is, names being chosen based on special  
14 interests, interests of the fur industry or anyone else,  
15 rather than the interest of providing accurate  
16 information to consumers. The FPLA requires that the  
17 true English name of each species be used and, again,  
18 that the paramount concern of consumer information be  
19 met. ITIS meets these two requirements. Thank you.

20 MR. WILSHIRE: I'd like to ask a follow-up  
21 question before we move to any other commenters. In  
22 terms of assisting consumers with their purchasing  
23 decisions, how would using the ITIS names assist them in  
24 understanding what they're purchasing and helping them  
25 make those decisions?

1 MR. HENRY: Sure. In the initial hearings  
2 leading up to the legislation, passing of FPLA, and in  
3 the hearings leading up to the passage of the first Name  
4 Guide, it was clear that the fur industry was using all  
5 kinds of various made-up, fictitious names to up sell its  
6 products to the industry. Consumers need one place to go  
7 to find the names that they need to reference, but if  
8 that place is the Name Guide only and it's stagnant and  
9 it's buried in the Code of Federal Regulations, it can be  
10 difficult for consumers to access that information and  
11 trust that it is updated and accurate.

12 The ITIS website is regularly accessible to  
13 consumers across the country, is easily accessed, is  
14 updated on a regular basis. And, so, this is something  
15 where consumers, if they learn about a particular species  
16 of animal through a fur advertisement, by visiting a  
17 zoological institution, through educational textbooks or  
18 government websites, can go to this website and see what  
19 the name of that particular species would be for purposes  
20 of fur products purchasing.

21 MR. WILSHIRE: Okay, thank you. And for the  
22 record, FPLA, you're referring to Fur Products Labeling  
23 Act.

24 MR. HENRY: Yes. Excuse me.

25 MR. WILSHIRE: That's all right.

1                   Okay, I'd like to move to the National Retail  
2 Federation, if they have any comments or views?

3                   MR. AUTOR: Well, I think any comments that I  
4 have on this would probably more appropriately fall under  
5 issue two, but --

6                   MR. WILSHIRE: Okay, well, why don't we hold  
7 those until then, if that's okay.

8                   MR. AUTOR: Okay.

9                   MR. WILSHIRE: Dr. Butler, do you have any  
10 views on this issue about the appropriateness of using  
11 the ITIS system for the purpose of fur labeling?

12                   DR. BUTLER: I feel -- I think that with regard  
13 to USDA, if there is a particular animal species that is  
14 being requested to be imported, I work with  
15 import/export, if there is one place where a person can  
16 find the actual scientific name of the species, then it  
17 avoids confusion that we might have, so that's about the  
18 only comment I have.

19                   MR. WILSHIRE: Okay, thank you.

20                   Let's see, Ms. Lynn, I wanted to ask you the  
21 same question we asked Dr. Butler about if you have views  
22 on the appropriateness of using ITIS as a mechanism for  
23 fur product names.

24                   MS. LYNN: Well, the Fish and Wildlife Services  
25 views ITIS as a good resource; however, it is has no

1 legal binding for regulation, so, those scientific names  
2 are put in regulation and statute, and that's what we  
3 would go by, not a common name. When animals or products  
4 are imported and exported, they are required to give us a  
5 scientific name, not a common name.

6 MR. WILSHIRE: Let me ask a follow-up question,  
7 then. Does ITIS reflect, in your view, a scientific  
8 consensus about common names for a specific species?

9 MS. LYNN: From my experience, no. Also, ITIS  
10 does not agree with other -- like the Convention on  
11 International Trade of Endangered Species, they don't  
12 have -- they're not matched up. And then also the names  
13 under the Endangered Species Act are different. And if  
14 there is a time where ITIS gets -- or whatever they  
15 decide to do to match up the names, the next Convention  
16 on the International Trade of Endangered Species, the  
17 conference of parties for that, if they change  
18 nomenclature, then that changes it again. So, there's  
19 always going to be some disconnect with the names.

20 MR. WILSHIRE: Okay, thank you.

21 Dr. Gardner, do you have any views on that  
22 topic?

23 DR. GARDNER: As a supposed expert on ITIS,  
24 since I have been consulted about many of the names, I'd  
25 like to point out that when scientists are consulted

1 about their names, their primary focus is on the  
2 scientific name, not on the common name.

3 MR. WILSHIRE: Okay.

4 DR. GARDNER: And their use of common names  
5 outside of wildlife, the wildlife management field, is  
6 not very consistent.

7 MR. WILSHIRE: Okay, thank you very much.

8 Move over to the Fur -- representatives of the  
9 Fur Information Council and Finnish Fur.

10 MR. LASOFF: I'll speak.

11 MR. WILSHIRE: Sure, okay.

12 MR. LASOFF: Larry Lasoff from Kelley, Drye. I  
13 think it's important to put into the record the  
14 disclaimer that's written, you know, under the ITIS  
15 website, the ITIS taxonomy is based on the latest  
16 scientific consensus available --

17 MR. WILSHIRE: I'm sorry, Mr. Lasoff, could you  
18 speak just a little bit closer to the microphone.

19 Also, can people in the back hear? Good, okay.

20 Thank you very much.

21 MR. LASOFF: ITIS taxonomy -- okay, as I said,  
22 there is a disclaimer that's set forth in the ITIS  
23 website: ITIS taxonomy is based on the latest scientific  
24 consensus available and provided as a general reference  
25 source for interested party; however, it is not a legal

1 authority for statutory or regulatory purposes. That's  
2 already been said. While every effort has been made to  
3 provide the most reliable and up-to-date information  
4 available, ultimate legal requirements with respect to  
5 species that are contained in provisions of treaties of  
6 which the United States is a party, wildlife statutes,  
7 regulations, and any applicable notices that have been  
8 published in the Federal Register.

9 ITIS is a tool used internally within the  
10 government by scientists involved in wildlife regulatory  
11 issue. It is not intended to regulate the sale of fur in  
12 the retail marketplace, as is required by the Fur  
13 Products Labeling Act. Moreover, if the use of a term  
14 can cause confusion, as has the term that is being really  
15 the source of the hearing today, this is the obligation  
16 of the FTC to evaluate this under the context of its own  
17 statute and what is deceptive, what is not deceptive, how  
18 the product is being marketed.

19 The bottom line is regardless what certain  
20 scientists say is a common name, and we've heard, you  
21 know, already from representatives who serve on these  
22 committees, that there is often very little -- there is  
23 not consensus on what constitutes a common name. And  
24 it's really the role of the FTC to evaluate what is to be  
25 said in the marketplace and what term best serves the

1 consumer.

2 MR. WILSHIRE: Let me ask a follow-up question.  
3 Regardless of what the intent of ITIS is, would it  
4 nonetheless assist consumers in its purchasing decisions  
5 or would at least some of the names provided in ITIS  
6 assist consumers in those purchasing decision?

7 MR. LASOFF: It may occur in some of these  
8 names. I guess certainly the name that's been at issue  
9 in the hearing today and as a focal point, it would not  
10 assist consumers because the terminology that is being  
11 proposed today by the Humane Society is terminology that  
12 certainly the industry believe is deceptive in the  
13 marketplace; that is, influences the marketplace, and it  
14 could have adverse effects on the marketplace, and it  
15 could confuse consumers, as well.

16 But I was, again, most struck by the comments  
17 by those who participate in this process that, yes, it is  
18 -- you know, it is -- serves well the purposes of coming  
19 up with scientific consensus. We're concerned that if  
20 this process and reliance on scientists alone to  
21 determine common name, the implications of that, I think,  
22 are very significant, because it suggests that any  
23 manufacturer of a consumer product essentially has to get  
24 scientific confirmation on how to market that product.

25 And I don't think our consumer marketplace



1 would be governed essentially by what scientists alone  
2 say should be the common name. I think, obviously, the  
3 market, the manner of market are much more important  
4 than, you know, with all due respect to the  
5 representatives who serve on the ITIS, in terms of what  
6 should be utilized in the marketplace.

7 MR. WILSHIRE: Okay, thank you very much.

8 I wanted to direct a question to --

9 MR. LASOFF: Can Mr. Ross make one comment?

10 MR. WILSHIRE: Certainly.

11 MR. ROSS: I would just say that in the luxury  
12 market the consumer buying this product, I don't think  
13 they are or would be familiar with ITIS, so it would  
14 create confusion to the consumer. The consumer would and  
15 possibly go to a website such as the Federal Trade  
16 Commission to research the name.

17 MR. WILSHIRE: Okay, thank you very much.

18 I'd like to direct a question to the Humane  
19 Society representatives. Would using the ITIS names  
20 require information on a label that's too detailed to be  
21 helpful to consumers? One example I saw is chipmunk,  
22 which is currently required, versus, say, Hopi chipmunk,  
23 or there are several derivations there, but is it the  
24 Humane Society's view that it would be helpful to  
25 consumers to have this additional information?

1           MR. HENRY: It is our view that it would be  
2 helpful for consumers to have the most accurate  
3 information and uniform information. One thing is clear,  
4 I think we all can agree that we need some form of  
5 confirmation. I just heard the fur industry say that we  
6 do need some form of confirmation, but unfortunately, fur  
7 industry sources do not arrive at uniform confirmation  
8 easily. In fact, we have even a conflict here in the  
9 written comments that were submitted on this rule with  
10 respect to the existing name for one species primarily at  
11 issue here, raccoon dog, within the Name Guide.

12           Fur industry interests from various parts of  
13 the globe don't agree on what name should be used because  
14 they each want to sell their product under a different  
15 name. So, we clearly need some form of confirmation.

16           With respect to your question about the  
17 complexity of the ITIS system, you'll notice that I  
18 mentioned before that ITIS would be a good jumping off  
19 point for the Federal Trade Commission. I don't think  
20 that the Name Guide should be adopted wholesale as the  
21 new Name Guide for a products Name Guide; rather, the FTC  
22 needs to update this Name Guide more often than every 50  
23 years. It's clearly not comprehensive enough. And, so,  
24 the FTC needs to use that as a basis, a jumping off point  
25 because, you know, we need some uniformity with respect

1 to what consumers can expect.

2 So, again, the Fur industry will be guided by  
3 the Name Guide primarily, but the FTC could use it as a  
4 jumping off point and so could consumers in looking at  
5 what those species names mean.

6 MR. WILSHIRE: Thank you.

7 Mr. Grzybowski?

8 MR. GRZYBOWSKI: Yeah, if I could just add  
9 something briefly to that. I think it's always a good  
10 thing for a consumer to have the most accurate  
11 information about a product. And those names that were  
12 broken down as an example in our attachment, each of  
13 those were distinct species. I think it's important for  
14 consumers to know what species they're looking at,  
15 because obviously you're going to have different concerns  
16 with different species.

17 Different animals experience different sorts of  
18 welfare problems in fur production. And, you know,  
19 there's different species that may have a similar name,  
20 but the species are going to be different. So, it's  
21 important for a consumer that wants to research their  
22 product to be able to know exactly which animal it is  
23 that they're talking about.

24 MR. WILSHIRE: Mr. Henry, you have your name  
25 card up. Did you have something further to add?

1           MR. HENRY: It was just to respond to your  
2 prior comments, first to just add to what Mr. Grzybowski  
3 said, an additional concern of many consumers is the  
4 vulnerability of these species with respect to their  
5 conservation status. And the Fur Products Name Guide,  
6 you know, does not discriminate between those. But when  
7 you're looking at the ITIS system, at the species level,  
8 you can make those decisions.

9           And those -- the listing status, whether it's a  
10 worldwide listing status or within the United States that  
11 these species changes for the species, you know, often on  
12 a regular basis. And, so, consumers who do not want to  
13 buy products from animals that are imperiled can do so if  
14 -- only if very specific information is provided to the  
15 consumer.

16           We saw an example two years ago, maybe less, of  
17 a pair of boots being advertised as ocelot, despite the  
18 fact that that animal was not permitted to be sold in the  
19 United States under other Federal laws. And, so, again,  
20 use of the ITIS system will allow discrimination by  
21 consumers between products that they wouldn't want to buy  
22 for many different reasons.

23           In response to a few other comments, Ms. Lynn  
24 from the Fish and Wildlife Service and others noted that  
25 ITIS has no legal basis. But the Fish and Wildlife

1 Service and other ITIS partners use the same names that  
2 are included in the ITIS data base when they make  
3 determinations with respect to species covered under  
4 their legal mandates. For instance, with respect to  
5 raccoon dog, the Fish and Wildlife Service called this  
6 animal raccoon dog when adding it to Title 18 and its  
7 list of injurious species, which is a legal mandate. And  
8 it is referred to as raccoon dog by the Fish and Wildlife  
9 Service in that legal capacity.

10 So, I think the comments that this is a tool  
11 frequently used by the Government are on point. This is  
12 a tool that the FTC can use in order to inform its  
13 decisions under its legal mandates under the Fur Products  
14 Labeling Act.

15 MR. WILSHIRE: Okay, and we're beginning to run  
16 short on time, so if there's anything else, could you  
17 state it succinctly? We've got a couple of --

18 MR. HENRY: Sure. I would just note that fur  
19 industry historically and even in recent testimony,  
20 written comments on this rule, and testimony on various  
21 Federal legislation relating to fur products, the Fur  
22 Products Labeling Act, has referenced sources such as  
23 Wikipedia, the Animal Diversity Web from Michigan State  
24 University. There can be no doubt that ITIS is the most  
25 thorough and comprehensive reference for species names

1 available, at least more so than any identified by the  
2 fur industry to this point.

3 MR. WILSHIRE: Okay, thank you.

4 I'd like to ask Mr. Ross a quick follow-up  
5 question. And I know Mr. Autor has been patiently  
6 waiting. Sorry, we'll get back to you in one second.

7 Mr. Ross, earlier you stated that the consumer  
8 of a luxury fur would have no familiarity with the ITIS  
9 names. Why do you say that?

10 MR. ROSS: Because they research their  
11 information in -- not on scientific or government  
12 websites. They look on consumer websites; they look in  
13 fashion websites. But ITIS would not come within their  
14 realm of research.

15 MR. WILSHIRE: And do you have any evidentiary  
16 basis for that? Are you familiar with any studies or  
17 anything that you could point to in the record?

18 MR. ROSS: Based on my area of expertise, which  
19 is retailing. I've worked with consumers for over 20  
20 years, and based upon my in-depth knowledge of them, I  
21 have a pretty clear indication of where they do their  
22 research.

23 MR. WILSHIRE: Okay, thank you.

24 All right, Mr. Autor, you had your name plate  
25 up for a while. What would you like to discuss?

1 MR. AUTOR: Thanks. I just wanted to respond  
2 to some of the points.

3 MR. WILSHIRE: And, again, if you could do so  
4 succinctly.

5 MR. AUTOR: I'm sorry. Clearly, you know, the  
6 task here is to identify a term that will best inform the  
7 consumer. I think we need to start with recognizing the  
8 fact that probably 99.99 percent of the American  
9 population would have no idea what this animal is if you  
10 showed them a picture of it or if you asked them what a  
11 raccoon dog or an Asiatic raccoon is. So, the -- and we  
12 have the additional challenge of trying to identify an  
13 animal that really is neither a racoon nor a dog. And,  
14 you know, the concern is that we currently have a law on  
15 the books that prohibits the trade in dog and cat fur.  
16 So, if we have --

17 MR. WILSHIRE: Mr. Autor, I'm sorry, I'm going  
18 to need to just interrupt here a little bit, because  
19 we're running short on time on this session. I think  
20 we're going to get into the raccoon dog specifically in  
21 the next --

22 MR. AUTOR: Well, if this is more appropriate  
23 for the next --

24 MR. WILSHIRE: I think it is.

25 MR. AUTOR: I just want to make those points.

1 So, we have to -- those are the challenges, and I think  
2 the risk of misinforming the public, given those  
3 realities, is fairly high if we -- if we, I think, choose  
4 a name that's going to really lead to misperceptions  
5 about what this animal is.

6 MR. WILSHIRE: Certainly, and I'll invite you  
7 to discuss that a little more -- in a little more length  
8 in just a few minutes.

9 Right now we're almost -- we've got about 10  
10 minutes left. Sorry, we've got 20 minutes left in this  
11 session, and I wanted to make sure we had comments, that  
12 people in the audience, if they had comments or  
13 questions, that they had an opportunity to ask them or to  
14 submit their views. Is there anyone? Feel free to just  
15 raise your hand. You don't have to. It's okay.

16 All right, and if something comes to you in the  
17 next few minutes, feel free to raise your hand.  
18 Otherwise, we'll -- I'm just going to ask, is there  
19 anybody here up at the panel who has anything further to  
20 say about the ITIS system. But we are going to move on  
21 to raccoon dog, I promise, I know that's where the  
22 fireworks are. But I wanted to make sure we got a full  
23 discussion of the ITIS names.

24 MR. LASOFF: I would like to make one last  
25 comment, and that is we seem to be focusing almost to a



1 large extent by looking at a system like ITIS and would  
2 we benefit -- would the Commission benefit by relying on  
3 ITIS as a basis for establishing common names. I mean,  
4 to some degree, this whole discussion reflects really the  
5 lack of flexibility that has existed in this area, as  
6 markets have evolved and even in Mr. Henry's comments,  
7 that we're waiting 50 years to address the Name Guide.

8 And I think it's important moving forward to  
9 not only consider and address the issue that's present  
10 here, but is this the best mechanism. Now, you've raised  
11 some of these issues in your original Federal Register  
12 notice, you know, is this the best mechanism to  
13 essentially say there is one common name here, we have to  
14 use it, it's based here.

15 As you know, this is a global marketplace.  
16 And, yes, the marketing strategies of some of the players  
17 in this industry, if they are, in fact, accurately  
18 portraying these products, are different. And I think  
19 that there's a concern that we have that is reliance on  
20 the Name Guide, particularly with respect to common  
21 names, I think we could agree that the species, you know,  
22 that's a different story, but with common names, what are  
23 the common names, how is the product marketed, you know,  
24 how it's listed on an ITIS, you know, how it's referred  
25 -- you know, which gets the most hits on Google. These

1 are all issues that I think the Commission needs to  
2 address in greater detail going forward.

3 MR. WILSHIRE: Okay, thank you.

4 Dr. Gardner, you had a further comment?

5 DR. GARDNER: The primary function of ITIS is  
6 to keep abreast of the changes in scientific names,  
7 considering the dynamism in modern taxonomy. And it is  
8 not the intent to establish common names. There have  
9 been attempts to develop official common names as there  
10 are in birds, but those attempts are still in the early  
11 stages.

12 MR. WILSHIRE: Thank you.

13 I wanted to ask Mr. Lasoff a follow-up  
14 question, or anyone representing FICA of Finnish Fur.  
15 Why couldn't the consumer use the ITIS system as I  
16 believe the Humane Society suggested to determine, you  
17 know, what is this species if I see this common name on  
18 the label, I can easily look up the information through  
19 the ITIS system and find out exactly what species they  
20 are purchasing, and why wouldn't that inform them, why  
21 wouldn't that help them make an informed purchasing  
22 decision?

23 MR. LASOFF: A consumer certainly has the right  
24 to go into a website and if they're going to research, I  
25 think Mr. Ross would say that this isn't typically how

1 they buy the product, but that's -- that's really not the  
2 issue here. The issue here is, you know, how to develop  
3 a common name for purposes of the Commission's function.  
4 And that is, you know, what is -- you know, what is going  
5 to inform the consumer, what is not going to deceive the  
6 consumer, what is going to enable the consumer.

7 And of course there's also the function that  
8 these regulations, and Mr. Autor and myself both would  
9 look at it this way, what should the retailer do in this  
10 situation, as well, because the retailer is the one who  
11 is going to be regulated. Yes, the purpose is to inform  
12 the consumer, but the retailer, as well, needs to comply  
13 with these regulations. And, again, creating these  
14 scientific, you know, going to a scientific site, which  
15 is, as Dr. Gardner has said, intended to keep up with  
16 taxonomy developments, that is not the principal basis  
17 upon which the Commission should be regulating and  
18 developing this Name Guide.

19 MR. WILSHIRE: Okay, but if we're not using  
20 ITIS, then what is that principal basis? In other words,  
21 on what should the Commission be basing its determination  
22 of an animal's common name?

23 MR. LASOFF: I think this is something that --  
24 I'm sorry, do you want to address that?

25 Well, certainly the marketplace and what are

1 the interests of the consumers. What do the consumers  
2 need to know about a particular product, what will enable  
3 them to know that, you know, what this product is. And  
4 that's a common name. And in the instance of what we're  
5 talking about here, we've had 60 years, 50 years of a  
6 particular product being regulated a particular way. You  
7 just can't ignore that and suddenly adopt new terminology  
8 that would essentially eliminate the product for a  
9 marketplace, because, as Mr. Autor said, the product  
10 itself, dog, is illegal. And once you see the name dog  
11 in there --

12 MR. WILSHIRE: Again, I want to try to table  
13 that just for a second.

14 MR. LASOFF: Okay.

15 MR. WILSHIRE: And we're almost there.

16 MR. AUTOR: I have something to add to that  
17 point, though.

18 MR. WILSHIRE: Sure. Go ahead.

19 MR. AUTOR: Sorry. It strikes me that how a  
20 product is marketed ought to be a critical factor in  
21 deciding how -- what a common name for a product is. And  
22 I'll give a good example. The fruit that was formerly  
23 known as the Chinese gooseberry became marketed as kiwi  
24 fruit, and that is the common popular name by which that  
25 fruit is recognized. If you ask people today what is a

1 Chinese gooseberry, they would have no idea. So, it was  
2 the marketing of that product that determined what its  
3 common name -- English name currently is. And I think  
4 that that's a critical consideration for the FTC in  
5 deciding how to deal with this particular issue.

6 MR. WILSHIRE: Okay, thank you.

7 Mr. Grzybowski.

8 MR. GRZYBOWSKI: Yeah, I just -- I was struck  
9 by how similar what we're hearing today is to the  
10 original FPLA hearings in '48 and '49, '51, and then the  
11 Name Guide hearing, as well. Basically, at the time the  
12 law was passed, the marketplace was absolutely rife with  
13 fake names, everything from electric beaver to all sorts  
14 of like three-part names, coney was a big one.

15 And, in fact, what you just heard, I think, is  
16 very similar to the arguments that were being made by the  
17 coney industry, the Hudson Bay seal industry, and then  
18 also from aspects of the sheep fur industry. And you may  
19 wonder what's a coney and what's a Hudson Bay seal.  
20 Well, it's because those aren't real animals. The coney  
21 was the rabbit, and the coney industry argued up and down  
22 that being forced to change the name after it had been  
23 used for so many years would cause confusion in the  
24 marketplace and actually hurt the consumer because they  
25 wanted to be able to tell their friends that they had

1 coney and not rabbit.

2 So, I think what you're hearing is very similar  
3 to that. People who have an interest in the marketing of  
4 a name obviously want to keep it that way, but when that  
5 name is not the accurate name, and the consumer does not  
6 have the ability to make an informed decision based on  
7 the best information available in the marketplace, then I  
8 think everyone suffers from that.

9 MR. WILSHIRE: Thank you.

10 I think I want to go to Mr. Ross and then Mr.  
11 Lasoff and then Mr. Autor.

12 MR. ROSS: It is very hard for me to comment  
13 what happened in 1948, but in considering what the  
14 marketing name should be, I think we should look at the  
15 people who breed this animal. This is a farm-raised  
16 animal, and the Finnish fur breeders call it a  
17 Finn raccoon. We should look at the people that marketed  
18 99 percent of the global market, and that's Finnish Fur  
19 Sales, and they call it a Finn raccoon. So, I think, you  
20 know, in staying with the proper name, if we're looking  
21 for a source to truly identify the name of the article,  
22 we should look to the people that produce it.

23 MR. WILSHIRE: Okay, thank you.

24 Mr. Lasoff?

25 MR. LASOFF: I would just simply add, I would

1 be wary of a situation where the Commission in advance is  
2 essentially predetermining how products are being  
3 marketed here. And I think to some degree you're being  
4 asked to do that in this particular situation. As has  
5 been said, how the product is marketed is critical to  
6 making a determination as to what the common name of it  
7 should be, but -- and the Commission's function is to  
8 make a determination in the marketplace if, in fact, a  
9 name is deceptive, we welcome that degree of regulation.

10 We welcome the Commission to come down on a  
11 retailer who attempts, as occurred in 1949, you know, to  
12 market a weasel coat as mink and get a premium for that.  
13 Yes, I mean, these are what led to this legislation. But  
14 I think the situation here is you're being asked now to  
15 determine how a product should be marketed on the basis  
16 of what you put on that Name Guide.

17 And in this particular situation, as what we're  
18 dealing with today, you're being asked to select a name  
19 that would, as I've noted, end the product. So, be very,  
20 very wary of being asked in advance, you know, to  
21 determine and not take into account how the product is  
22 being marketed and, as Mr. Ross says, the folks who breed  
23 this product, develop this product, ultimately market it.  
24 And, again, if the Commission believes that this is  
25 deceptive, you have all the authority in your tools to

1 deal with that.

2 MR. WILSHIRE: Okay, thank you.

3 Let's see, Mr. Autor, I see you took your name  
4 plate down. Does that mean you would not -- okay.

5 All right. I'm going to ask Mr. Henry, does  
6 this relate to ITIS or --

7 MR. HENRY: Just briefly.

8 MR. WILSHIRE: Okay, sure.

9 MR. HENRY: And with respect to using ITIS in  
10 relation to the FPLA, the Commission's duty under the  
11 FPLA and the purpose of the Name Guide is to be proactive  
12 and to prevent consumer misinformation. It does no good  
13 to protect consumers to be responsive to deceptive names  
14 in the advertising industry. The fact of the matter is  
15 the Finn raccoon has only been a term that's been used in  
16 fairly recent history.

17 The HSUS represents a large segment of  
18 consumers in this country. We are seeing Finn raccoon  
19 being used more and more, despite the fact that it is not  
20 the approved name under the current Name Guide, and yet  
21 you have not received any request to change that Name  
22 Guide name to Finn raccoon until the Truth in Fur  
23 Labeling Act was passed and this hearing was mandated.  
24 So, the fact of the matter is that the ITIS system is a  
25 good way for the FTC to stay ahead of the curve and to



1 present misrepresentation to the consumers in the future.  
2 Consumers want to know is this fur going to be from this  
3 animal.

4 And if the marketplace continually stays ahead  
5 of consumers and changes the name, consumers can't do  
6 that. There needs to be a name that's consistent and  
7 that -- there needs to be some basis for it, and why we  
8 point to these scientific sources like ITIS is because  
9 they have a common English name associated with them, but  
10 there is some uniformity, some accuracy associated with  
11 it, rather than being directed by the whims of the  
12 marketplace.

13 MR. WILSHIRE: Okay, thank you very much.

14 MR. LASOFF: Make one last closing? Thirty  
15 seconds?

16 MR. WILSHIRE: Well, actually, we've got a few  
17 minutes here, and I was going to give the audience maybe  
18 one more chance, so go ahead.

19 MR. LASOFF: Just agin, pointing out the --  
20 sort of the structure here and why it's not working  
21 today. It's correct, the Finn raccoon has been a  
22 relatively recent product relative to others, but at the  
23 same time, we came to the Commission and requested  
24 specifically that kind of change. And, you know, we were  
25 told this would require, you know, statutory change or it

1 would require a full-scale process, which the Commission  
2 does not do with respect to its various textile statutes  
3 except maybe every five years, but in this case it's  
4 been, I think, 10 years since that was done.

5 We did make a proposal to the Commission. It  
6 was accepted by the staff that we take the term Asiatic  
7 raccoon as required by the Fur Product Name Guide, and in  
8 order to distinguish the Finnish product, under the  
9 regulations, we would be permitted to use a geographic  
10 indicator, Finnish Asiatic raccoon, in order to comply  
11 with the Name Guide. And that was -- that was approved  
12 by the Commission staff.

13 Again, we're not happy with a term that in and  
14 of itself has two geographic indicators in it, but I want  
15 to respond to the fact that we've ignored this. We have,  
16 in fact, come to the Commission on that.

17 MR. WILSHIRE: Thank you. We understand. And  
18 that is one of the topics up for discussion today is  
19 appropriateness of a Finn raccoon or how to deal with  
20 Asiatic raccoons/raccoon dog from Finland.

21 Okay, so, we're coming up at the end of the  
22 session, and I have no problem ending it a little bit  
23 early. I just want to give everybody in the audience or  
24 anyone else here at the panel a chance to comment,  
25 questions.

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**ISSUE 2**

MR. WILSHIRE: Okay, I think we're going to move on to issue two, and if we begin that one a little bit early, we might be able to take a slightly longer break, so just giving everybody incentive to be efficient.

Issue two is whether the name Asiatic raccoon accurately describes the source, quality, and characteristics of *nyctereutes procyonidos*. Thank you. I've been assured that's the correct pronunciation. And if not, and this is a second issue, and I think I want to start with views on the first, and we'll come back to that second question, but this is going to be also a very important question, if that's not the right name, then what is the correct alternate name that will help consumers in their purchasing decisions.

I'd like to start with the National Retail Federation on this one.

MR. AUTOR: Thank you. Again, just to reiterate what I said before, we have the challenge here of accurately identifying an animal that is neither really, strictly speaking, a raccoon or a dog. And the term Asiatic raccoon has been used for a considerable amount of time to identify generically this animal.

The concern here with changing the -- you know,

1 the -- what this animal can be identified with for  
2 marketing purposes to raccoon dog is, as I mentioned,  
3 there is a law on the books currently banning the trade  
4 in dog and cat fur. When we're dealing with an animal  
5 where the vast majority of the American public has no  
6 idea what it is and it is then identified officially as a  
7 dog, I think that creates a huge risk of misinformation  
8 because the natural assumption that's going to -- that  
9 consumers may have is that, well, if this is a dog, then  
10 why is it allowed to be marketed at all.

11 And, so --

12 MR. WILSHIRE: I want to interject real fast.

13 MR. AUTOR: Yeah.

14 MR. WILSHIRE: Is there any specific research  
15 or other evidence that would show that consumers would  
16 make that determination?

17 MR. AUTOR: None that I'm particularly aware  
18 of, but it strikes me that that is -- that is a  
19 legitimate question in this context when you look at the  
20 taxonomy of this animal, it is within the -- it is a type  
21 of canid, it's called a basal canid, but it is less  
22 closely related to a dog than foxes, jackals, wolves,  
23 coyotes, and yet none of those animals are referred to as  
24 dogs. So, I think that the risk of confusing the public  
25 by changing this name to raccoon dog is really great.

1                   And I would -- you know, in our comments we  
2 suggested just keeping the name that has been used for  
3 some time now. There are alternative names, and  
4 certainly, you know, animals can go by more than one  
5 name. You know, I think in particular a reindeer and a  
6 caribou are essentially the same animal. So, you know,  
7 the Russian name for this animal is magnut; the Japanese  
8 name is tanuki. You know, when you're dealing with an  
9 animal where the vast majority of people don't know what  
10 this is, those are possibilities to consider.

11                   MR. WILSHIRE: Is there any evidence that  
12 American consumers are familiar with either name?

13                   MR. AUTOR: Well, I don't think American  
14 consumers are familiar with raccoon dog or Asiatic  
15 raccoon or Finnish raccoon for that matter. So, I don't  
16 think it really -- that's really a central consideration  
17 here.

18                   I think that we do need to have a name that the  
19 industry can use. You know, we certainly have -- with  
20 respect to the Russian or Japanese names, we certainly  
21 have many, many examples of animals in the English  
22 language that the names have been adopted from foreign  
23 languages. Raccoon itself is an American Indian name.  
24 So, those are just some of my basic thoughts on it.

25                   MR. WILSHIRE: Thank you.

1           Dr. Butler, if you have anything to add  
2 generally, and also I was curious as to whether you would  
3 agree that this species is not particularly closely  
4 related to domestic dog.

5           DR. BUTLER: Well, my division regulates the  
6 import of animal products and byproducts in mainly  
7 livestock and birds. And, so, we really don't have any  
8 dealings with this particular animal. And, quite  
9 frankly, I'd like to see a picture of it.

10          MR. WILSHIRE: Fair enough.

11          Ms. Lynn, do you have any views, same questions  
12 really, just anything generally about this topic and in  
13 particular the relationship of *nyctereutes procyonidos* to  
14 domestic dog or other animals?

15          MS. LYNN: Well, our Division of Scientific  
16 Authority would speak better with, you know, whether to  
17 relate it closer to a raccoon than it is a dog, but in  
18 discussing this issue with some of my colleagues  
19 yesterday, the name Asiatic raccoon seems to -- even  
20 though, you know, whether or not you use the word raccoon  
21 or not, I mean, the fact that it's -- as it is listed in  
22 the Name Guide now as an Asiatic raccoon gives you an  
23 idea where the animal originated naturally. It's its  
24 natural -- that's where it was naturally found  
25 originally.

1 MR. WILSHIRE: I'm sorry, what do you mean by  
2 naturally?

3 MS. LYNN: That's where they're --

4 DR. BUTLER: Native.

5 UNIDENTIFIED SPEAKER: Indigenous.

6 MS. LYNN: -- the native habitat.

7 MR. WILSHIRE: Thank you.

8 MS. LYNN: And, so, it's been introduced into  
9 other areas, as some of the websites I was looking at,  
10 you know, in Europe. So, it would appear that the  
11 Asiatic -- the Asiatic name would be a neutral kind of  
12 describer of where it originally occurred naturally.

13 And we were talking about the fact that a  
14 Siberian tiger is still called a Siberian tiger if --  
15 even if it's born in the U.S. in a zoo. Or an African  
16 lion is still considered an African lion, regardless of  
17 where the natal origin is or where it's born. So, we  
18 don't change it to an American lion just because it was  
19 born in the U.S. So, that was just some of the comments  
20 that we had in talking about it yesterday.

21 MR. WILSHIRE: Okay, thank you.

22 Dr. Gardner, do you have any views on this  
23 issue?

24 DR. GARDNER: I also asked some of my  
25 colleagues what raccoon dog meant to them. A few of them

1 realized that it was a common name for *nyctereutes*  
2 *procyonidos*, but one of them asked, what do you mean?  
3 You have redbone, plott, bluetick. In other words, I  
4 thought it was a coondog.

5 Of all of the names available, if I had a  
6 preference it would be tanuki; however, the one that  
7 provides the least bias or political correctness issues,  
8 carries with it that kind of baggage, is Asiatic  
9 raccoon. It points out it's origin, which is Japan and  
10 adjacent Eastern Asian mainland, although it's been moved  
11 around to all of the world except the U.S. It's  
12 considered possibly an injurious species in the U.S.;  
13 therefore, live animals are prohibited from being  
14 imported.

15 So, I would consider Asiatic raccoon to be the  
16 best of the alternatives. Finn raccoon, perhaps, is a  
17 specialized trade name for those animals that are farmed  
18 in Finland.

19 MR. WILSHIRE: Okay, thank you.

20 I'd like to hear from FICA and Finnish Fur now.

21 MR. ROSS: First of all, I recently spoke to  
22 the leading breeder in Finland about the animal, asking  
23 him what it is. And according to his comments, it looks  
24 like a raccoon because it has the dark markings around  
25 the eyes. But he was adamant in his description that



1 it's not a dog. And I asked him why. And he said there  
2 are two characteristics of the animal that prove that  
3 it's not a dog, and one is that this animal does climb a  
4 tree, and he didn't know of any other dog that climb  
5 trees, and the animal does not bark.

6 MS. BERNSTEIN: Or wag its tail.

7 MR. ROSS: Yes. So, you know, from a breeder  
8 of it, he sees no identity or no similarity between the  
9 dog. As far as the difference between Asiatic raccoon  
10 and Finn raccoon, there's a little bit of confusion now  
11 according to the labeling requirements that a consumer  
12 can buy a product labeled properly in a store "Asiatic  
13 raccoon, fur origin Finland." So, it's our contention to  
14 eliminate some of the consumer confusion that we separate  
15 the species into Asiatic raccoon, fur origin China, and  
16 Finn raccoon, fur origin Finland.

17 MR. WILSHIRE: All right, thank you. And,  
18 again, I want to just emphasize that to the extent we can  
19 kind of separate the Finn raccoon issue out because we're  
20 going to address that more fully later on. I understand  
21 that it has to overlap a little bit in this session, but  
22 we do want to focus on the Asiatic raccoon, raccoon dog,  
23 and other names, tanuki and magnut have been mentioned on  
24 those issues in particular in this session.

25 Mr. Lasoff, were you going to speak?

1 MR. LASOFF: Again, if you go onto the ITIS  
2 website, you will see that the number one leading expert  
3 on this species is sitting to my right, so I think  
4 there's a great -- on this issue, I would be highly  
5 deferential to his expertise on that question.

6 The common name itself, it's been used for 50  
7 years; it accurately reflects a source, as has been  
8 noted, in Asia; and it accurately reflects its  
9 characteristics. And, obviously, again, not getting into  
10 the taxonomy, but its appearance, which was a function in  
11 developing this name, it certainly looks, if you've seen  
12 the species, it has the rings around its eyes, it clearly  
13 looks like a raccoon. So, it's a consumer -- it's a  
14 consumer name, and it was, again, developed by the  
15 Commission. The Commission utilized it in and  
16 implemented it in 1961, so, you know, we ask at this  
17 point why to change it.

18 I would note that prior to the initiation of  
19 this, I guess, initiative by the Humane Society to change  
20 this name, and this initiative began five years ago when  
21 legislation was introduced that would ban the product  
22 because it was alleged to the Congress that this product  
23 was, in fact, a dog, and therefore the dog and cat act  
24 had to be amended in order to add this product. So, you  
25 know, that was the initial element of that. The Congress

1 rejected that.

2 The second attempt was to change the name to  
3 compel the Commission to utilize the term raccoon dog.  
4 Again, Congress rejected that, as well. So, you have no  
5 question as to terms of where legislative intent exists  
6 with respect to this product, though our principal  
7 argument here is what are the implications with respect  
8 to the consumer market. By calling it raccoon dog, does  
9 that -- does that help the consumer? Does that deceive  
10 the consumer?

11 The Commission's own regulations state on 301.7  
12 that you shouldn't use two breeds of species in the same  
13 name. So, to adopt that name, you would be violating  
14 your own regulation. So, that's just some comments with  
15 respect to, you know, why the Asiatic raccoon name can  
16 still -- should still be maintained, and at the same time  
17 why it would be disastrous.

18 To Mr. Ross and others in the industry, this is  
19 a battle for, you know, the life of this product, because  
20 this product will no longer exist in the marketplace if  
21 the Commission makes the decision to select this name.  
22 And I don't believe -- the Commission should be  
23 protecting the consumer; I don't believe the Commission  
24 should be involved in making product choices in terms of  
25 what should be in the marketplace. That's for Congress.

1                   MR. WILSHIRE: Well, I do want to get back --  
2 we had a little bit of discussion already, and I would  
3 get back to the discussion about the proposed name of  
4 raccoon dog. But first I'd like to get the Humane  
5 Society's views on this, on just the Asiatic raccoon name  
6 and, in particular, why they think -- what basis they  
7 have for saying that the name Asiatic raccoon misleads  
8 consumers in some way, if they have any kind of evidence  
9 -- that they have that supports that.

10                  MR. HENRY: Sure. I'll respond to that  
11 question and some other comments that have been made to  
12 the effect that consumers do not know what this animal  
13 is. The fact of the matter is that there has not been a  
14 campaign by the Humane Society that began five years ago  
15 with respect to eliminating this fur. We got onto this  
16 issue because this is one of the top three selling types  
17 of fur in the world, and it is by far the most  
18 misrepresented throughout the industry.

19                  As the Commission knows, we've petitioned the  
20 Commission with respect to the false advertising and  
21 mislabeling of fur garments a few times over the past  
22 several years. There have been garments that were  
23 advertised as -- or labeled incorrectly with respect to  
24 rabbit, coyote, wolf, and even domestic dog within the  
25 last decade.

1           But by far, in several investigations, over 80  
2 percent of the misrepresentations at issue are associated  
3 with this particular species. We frequently hear from or  
4 see comments from consumers on social media websites  
5 responding to media counts frustration about the use of  
6 this term and that they can't tell whether or not they  
7 are buying an animal because of the way that the fur  
8 industry has marketed this animal.

9           Fur is sometimes unlabeled but frequently  
10 mislabeled. This fur is frequently mislabeled as Asiatic  
11 raccoon. In fact, two weeks ago we discovered someone  
12 advertising this species, it turns out, as Finn raccoon,  
13 but the same problem exists with Asiatic raccoon. And  
14 then on that website, the retailer produced information  
15 about raccoons, talking about Davy Crockett and the North  
16 American furs and the coonskin hats. Retailers can't  
17 even get it right.

18           So, when we go into stores and we see coats  
19 labeled as raccoon and it turns out that they are, in  
20 fact, raccoon dog, you know, we're frustrated, but we do  
21 -- we do see in the marketplace in response to media  
22 reports comments that we received problems with consumer  
23 information.

24           With respect to Asiatic raccoon, it is not the  
25 true English name. And the FPLA mandates that the true

1 English name be used. The Name Guide is merely  
2 regulatory, despite the fact that it has been around for  
3 50 years. It would violate the Commission's mandate to  
4 use the term Asiatic raccoon in a continuing manner  
5 because the Fur Products Labeling Act requires the use of  
6 the true English name.

7 We've produced, in response to the written  
8 comments, but there is substantial evidence that nearly  
9 all English references to this species outside of the fur  
10 industry by common name use the name raccoon dog. In its  
11 previously submitted written comments and here today, the  
12 National Retail Federation indicates that the -- that  
13 other canids are much more closely related to domestic  
14 dogs, yet neither are considered to be nor are called  
15 dogs.

16 That is patently false. There are other  
17 species, short-eared dogs, African wild dogs, bush dogs,  
18 the common names of which all include the dog identifier.  
19 They are in their own separate genera. They are not  
20 within the true canid species. And yet we hear no uproar  
21 in response to the passage of the dog and cat fur act  
22 over a decade ago about confusion with these species.  
23 And yet now we do about raccoon dog. The fact of the  
24 matter is Asiatic raccoon is an industry-coined name.  
25 That is unlawful under the FPLA.

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1           Around the same time the FPLA was being  
2           enacted, Arthur Samet (phonetic) produced a treatise on  
3           furs, candidly reporting on how the fur industry reports  
4           names. And with respect to raccoon dog, that treatise  
5           noted is this a fur -- is this fur-bearer a raccoon, a  
6           fox, a wolf, or a dog? As fur men we resent the truth of  
7           zoological study, which reveals this fur-bearer is dog,  
8           yet because of its raccoon likeness, zoologists call it  
9           the raccoon dog. Think not, however, that our Asiatic  
10          raccoons will go to the dogs. In spite of the fact that  
11          the fox and wolf and dog are all in one family of dogs,  
12          the world's fur trade will continue to recognize the name  
13          of the raccoon as the old standby.

14                 And unfortunately, as I noted with respect to  
15          the advertisement that I saw just last week, even the  
16          retail industry, when presented with a name that ends as  
17          raccoon and does not identify this is a member of the  
18          canid species, confuses this with North American  
19          raccoons, another species the fur of which is used  
20          frequently, although not as predominantly in today's age  
21          of use of fur trim in the fur industry.

22                 And I wanted to respond with respect to one  
23          other comment made by the --

24                 MR. WILSHIRE: Before you do that, I have  
25          another question, a follow-up question, which is we've

1 heard discussion earlier today about how this animal  
2 differs from dogs in its habits and perhaps in its  
3 appearance. And I'm just curious as to if a -- if a  
4 raccoon is not a name that informs consumers properly as  
5 to the type of animal, then why would dog be a better  
6 name? Why would "dog" give consumers better information?

7 MR. HENRY: Sure. Well, the root word, dog,  
8 indicates that this is a member of the canid species,  
9 just like the root word in elephant seal says it's a seal  
10 or elephant shrew or tiger shark or whale shark or  
11 kangaroo rat. Kangaroo rat is a species that's actually  
12 in the Name Guide.

13 MR. GRZYBOWSKI: So, let me clarify, canid  
14 family rather than canid species.

15 MR. HENRY: Sorry, canid family.

16 MR. WILSHIRE: Thank you.

17 MR. HENRY: But use of raccoon dog, which is  
18 widely accepted and has been since the species -- since  
19 the nominal identification of the species in the middle  
20 of the 19th Century, raccoon dog does use that  
21 descriptive term, raccoon, so you still get, as a matter  
22 of a descriptor, identification of this fur by the way  
23 that it looks, okay?

24 But when you look at the actual taxonomic  
25 evidence, the scientific evidence, the fact of the matter



1 is there's no scientific evidence to suggest that raccoon  
2 dogs are more closely related to raccoons or any member  
3 of the procyonid family, like kinkajous or coatis, than  
4 it is to every other species within the canid family.  
5 And the fact of the matter is that the species was placed  
6 there, not only because of morphological and molecular  
7 findings by scientists, but also because of behavioral  
8 findings.

9 So, while it doesn't wag its tail or climb a  
10 tree, scientists have said and we've presented evidence  
11 with our written comments that behavioral  
12 characteristics, as well, have placed this animal into  
13 the canid family. Raccoons, in fact, are more related to  
14 weasels and many other animals than they are with respect  
15 to canids.

16 The vast majority of references to this animal,  
17 and the FPLA is supposed to be about consumer  
18 information, call this raccoon dog. Members of the ITIS  
19 partnership call it raccoon dog. Fish and Wildlife  
20 Service, Smithsonian, USGS, governmental entities --

21 MR. WILSHIRE: Okay, I think we have covered  
22 that.

23 MR. HENRY: Okay, so one more -- one more in  
24 response to your question.

25 MR. WILSHIRE: You had one other -- you had a

1 rebuttal or a response? Yes, okay.

2 MR. HENRY: One more response to your question  
3 about the raccoon and identifying it as a raccoon,  
4 Asiatic raccoon clearly suggests that this is a raccoon  
5 from Asia. It is not a raccoon. The -- I heard a  
6 comment earlier about the issue of a regulation  
7 prohibiting descriptive terms with respect to the use of  
8 the names. The Fur Council argued that raccoon dog --  
9 use of raccoon dog, despite the fact that it's a true  
10 English name, would be unlawful because the word raccoon  
11 is used in a descriptive manner.

12 First, the Fur Council's written comments and  
13 the comments here today quote only a portion of 16 CFR  
14 301.7 conveniently. The regulation read in its entirety  
15 applies only to names assigned by the industry where  
16 there is no true English name provided for the species  
17 within the Name Guide itself. So, where the true English  
18 names contains a descriptor and it's placed in the Name  
19 Guide, this regulation prohibiting the use of descriptive  
20 terms does not make that unlawful. That's a non  
21 sequitur.

22 In addition, the Fur Council written comments  
23 actually suggested changes to the Name Guide and one  
24 change that they didn't suggest making was a change to  
25 kangaroo rat, a species within the Name Guide who has a

1 species name, has a descriptor.

2 DR. GARDNER: Can I please comment on that last  
3 statement?

4 MR. WILSHIRE: You can, but we're going to wait  
5 until they're finished.

6 MR. HENRY: That's fine.

7 MR. WILSHIRE: Are you -- okay.

8 MR. GRZYBOWSKI: If I could quickly follow up  
9 on that very briefly, specific to the question of Asiatic  
10 raccoon, I think that name in a general kind of -- any  
11 name like that is problematic in that it isn't a name  
12 that lines up with the rest of the information that a  
13 consumer and others who are involved in this product,  
14 including customs, manufacturers, retailers, producers,  
15 et cetera, would have available to them to do the  
16 research and make sure that the product in its various  
17 changes of hands is the -- is maintaining the correct  
18 name.

19 I think it's important that the name that is  
20 used is one that lines up with the rest of the  
21 information. And it's important that the scientific  
22 information line up with the common name, and this is the  
23 case here with raccoon dog for this animal, because in  
24 order to access from either the common name or the  
25 scientific name, you need to be able to access the other

1 half of that information in order to get a full picture.

2 And if you have something like Asiatic raccoon,  
3 you kind of dead-end on it. And doing the research  
4 myself, I dead-ended a lot trying to figure out what this  
5 animal was, because what was listed in the FTC Name  
6 Guide, and I note that it was actually not in the  
7 original Name Guide, it was added at some point in the  
8 '60s, and we're not really sure by who or why, and I'd be  
9 very interested in finding that out, but it was added at  
10 some point in the '60s, but that information kind of  
11 dead-ends.

12 So, in order for a consumer to learn about a  
13 product, they need to have a name that can then proceed  
14 into further accurate information. And I think that's  
15 why it's important that raccoon dog be used here, because  
16 that is what dovetails with the rest of the information  
17 related to the common name, as well as the Latin name.

18 MR. WILSHIRE: Thank you.

19 Dr. Gardner, you had a response? And I see  
20 that Mr. Autor also has something. We'll get to you in  
21 one second.

22 DR. GARDNER: This whole business about  
23 kangaroo rats shows that Mr. Henry has made a serious  
24 error, because the name in the guide was rat kangaroo,  
25 bettongia -- bettongia, which is an Australian animal

1 that was in the fur trade. And probably the name should  
2 be removed from the list because they're ectopated from  
3 the mainland and there's no kangaroo rat that I know of  
4 that enters the fur trade. Some of them enter the pet  
5 trade, but not the fur trade.

6 MR. WILSHIRE: Okay, thank you.

7 Let's see, Mr. Autor?

8 MR. AUTOR: I think we can stipulate right off  
9 the bat that the *procyonidos* -- *nyctereutes procyonidos*  
10 is a member of the canid family. Raccoons are a member  
11 of the *procyon* family. And *procyon* family, I might point  
12 out, in Greek means dog-like. But that's really not the  
13 question. Animals that fall within the canid family are  
14 not dogs necessarily. Dogs are specifically within the  
15 genus *canus familiaris*, that includes a number of sub-  
16 species, as well.

17 I'm not aware -- you know, foxes are a good  
18 example of a canid that is not -- has never been  
19 identified as a dog. I'm not aware that any of the  
20 animals that Mr. Henry identified as having common names,  
21 including dog, are in the fur trade. So, I'm not sure --  
22 I'm not convinced that those are really compelling  
23 examples. But the fact is is that not all -- just  
24 because an animal falls within the canid family does not  
25 mean that it is a dog.

1                   MR. WILSHIRE: Okay, thank you. I'd actually  
2 like to ask -- and I see Mr. Henry has his name card up,  
3 but I wanted to first ask representatives from the Fish  
4 and Wildlife Service and USDA if they have any views as  
5 to whether the habits of this creature are similar to  
6 dogs or raccoons or neither.

7                   Okay, I'm seeing that indication no, so I will  
8 leave it there on that. And then I'll go to Mr. Henry.

9                   MR. HENRY: Sure. I just wanted to respond  
10 very briefly. The point of the comment with respect to  
11 bush dogs, short-eared dogs, African wild dogs, other  
12 species, the accepted common name of which is dogs, was  
13 not to suggest that those animals are important to the  
14 fur industry at all. It was to suggest that animals  
15 outside of the genus canus -- excuse me, sorry -- animals  
16 outside of the genus canus are commonly referred to with  
17 the term dog. So, all of the members of the family  
18 canidae are under the sub-order caniforms. They are all  
19 dog-like creatures. They're all placed there because  
20 they have some likeness to true dogs.

21                   And as I mentioned before, scientific evidence  
22 points that both on a molecular level and behavioral, as  
23 well as morphological level, this animal is like other  
24 dogs. It makes no sense to refer to one species by a  
25 coined trade name rather than its common name just

1 because that common name includes dog when other species  
2 exist, the common names of which include dog and are not  
3 in the canus genus.

4 In addition, I wanted to point out with respect  
5 to Mr. Gardner that the point of my comment about  
6 kangaroo rat was not to suggest that the species is still  
7 important to the fur industry. And its name listed in  
8 the Name Guide is rat, kangaroo, signifying that it  
9 should be listed as kangaroo rat. The point was to  
10 suggest that the notion that raccoon would be unlawful  
11 because it contains a descriptor term is belied by the  
12 fact that the FTC has used that setup in the future.

13 And I'd just sort of echo the point Mr.  
14 Grzybowski made again, and that is consumers run into a  
15 wall when they're trying to find out information about  
16 the species when they rely on Asiatic raccoon.

17 MR. WILSHIRE: Yeah, and I had a follow-up  
18 question on that specifically, which is why -- do you  
19 have any evidence that consumers have a better  
20 understanding of the term raccoon dog, aside from what we  
21 mentioned earlier about its reference in certain  
22 scientific literature. Is there any evidence regarding  
23 what consumers -- how consumers perceive that term and  
24 what they understand it to mean?

25 MR. HENRY: I'll let Mr. Grzybowski answer, as

1 well. I don't have any evidence of consumer -- frequent  
2 consumer use, apart from references to comments, you  
3 know, to media stories and that kind of thing, where  
4 raccoon dog is frequently used, but so is the term  
5 Asiatic raccoon because they're frequently in response to  
6 stories about the species being mislabeled and  
7 misidentified.

8 But the fact of the matter is that the evidence  
9 presented to consumers across the board, when you go to a  
10 zoological institution, the IUCN, International Union of  
11 Conservation and Nature, the AZA, American Zoological  
12 Association, the WAZA, World Fish and Wildlife Service,  
13 so all these governmental agencies, zoos, textbooks,  
14 refer to the term raccoon dog, not Asiatic raccoon. So,  
15 consumers are left only to find the term Asiatic raccoon  
16 from industry.

17 MR. WILSHIRE: Okay. Mr. Grzybowski, do you  
18 have anything to add to that? I see your --

19 MR. GRZYBOWSKI: Yeah, just a brief follow-up  
20 to that. Let me just echo what Mr. Henry said. And I  
21 think it's -- and what a couple other people said -- I  
22 think this is an animal that is fairly new to a lot of  
23 people in the U.S., though certainly not the fur trade  
24 when it found out that it could not raise them for their  
25 fur on factory farms because it was determined to be an



1 injurious species during the '80s, I believe.

2 But I think the -- I think when you have the  
3 name, and even though the knowledge of this species may  
4 be lower than an animal like a fox or an animal that is  
5 indigenous to this area and a lot of people interact  
6 with, like a raccoon that may get into their trash can or  
7 something, I think that it's quite obvious that raccoon  
8 dog is the term that they will come across from any  
9 reputable source. So, if they're researching it, if  
10 they're looking on government sites, they will be  
11 introduced to the raccoon dog. So, what knowledge that's  
12 out there, that there is out there, that they come across  
13 will be raccoon dog.

14 And Asiatic raccoon as far as I could tell, its  
15 use was really only in recent -- in the modern history of  
16 kind of this law, only really in use by the FTC once it  
17 adopted it during the '60s. I can't find much other  
18 reference to it, which would --

19 MR. WILSHIRE: And is that your -- is this lack  
20 of reference, is that what -- is that your basis for  
21 asserting that this is an industry trade name rather than  
22 a common name?

23 MR. GRZYBOWSKI: I'm not really sure -- to be  
24 honest, I'm not sure how Asiatic raccoon was determined  
25 to be added to this list. Looking at sources, both much

1 prior to -- very prior to, during, and after the adoption  
2 of that name, raccoon dog was always the common name used  
3 by reputable sources, scientific sources, and others, for  
4 this animal. So, how Asiatic raccoon was determined, I  
5 can't say, but I think it's not too late for the FTC to  
6 protect consumers by changing it.

7 MR. WILSHIRE: I think I got it. Thank you.

8 Okay, Mr. Ross, you had some comments.

9 MR. ROSS: Just a couple of points of  
10 clarification. First, we've been selling this product  
11 since the mid '80s under the name Finn raccoon or Asiatic  
12 raccoon. I agree with one comment that the Humane  
13 Society said is that we should look at the supply chain  
14 to determine what the common name is. And the common  
15 name from the breeders, from the auction company, from  
16 the manufacturers, from the designers, and the retailers  
17 are all currently Asiatic raccoon. The only person  
18 asking for raccoon dog now seems to be the Humane  
19 Society.

20 This, although an important fur article, is  
21 barely in the top ten list of fur articles ever used  
22 globally. It's not number three. It's not close to  
23 that.

24 MR. WILSHIRE: Well, let me follow up on that,  
25 because I'm hearing some contradiction. Is that --

1           you're talking about global. Was the top three assertion  
2           based on the domestic market?

3                   MR. HENRY: I believe that's correct, and also  
4           with respect to use of it in trim, not just fur pieces is  
5           what it says, trim and scraps.

6                   MR. WILSHIRE: Is that --

7                   MR. ROSS: And that would be incorrect.

8                   MR. WILSHIRE: You think that's incorrect?

9                   MR. ROSS: That is 100 percent incorrect.

10                   MR. WILSHIRE: Do you know what the -- where --  
11           do you have information about the domestic status?

12                   MR. ROSS: The more popular in more domestic  
13           sales for both trim and garments would be mink, fox,  
14           rabbit, lamb, coyote, beaver, and American raccoon.

15                   MR. WILSHIRE: All right.

16                   MR. ROSS: Placing the Asiatic raccoon probably  
17           number nine on the list.

18                   MR. WILSHIRE: Okay, thank you.

19                   MR. ROSS: By calling it the raccoon dog, which  
20           nobody in the supply chain wants to do, other than the  
21           Humane Society here, would basically ban the sale of this  
22           product. As the Retail Federation has commented since  
23           2000, it is illegal to trade or sell dog products. So,  
24           by calling it a raccoon dog, the consumer nor the  
25           retailer would handle the product.

1           A good example of this has been the loss of  
2 sales since this campaign has started. We have specific  
3 instances in this country, stores like the Federated  
4 Department Stores can no longer handle Asiatic raccoon  
5 because of the concern and the confusion at the consumer  
6 level. We have Lord & Taylors no longer handling the  
7 article because of the consumer level.

8           MR. WILSHIRE: Just to be more specific, I take  
9 it what you mean is that -- when you say the confusion  
10 you mean that the understanding is that the consumers are  
11 seeing this now as raccoon dog and therefore are not  
12 buying it? Is that what you're referring to?

13           MR. ROSS: No, the retailer is not handling it  
14 because there are outside influences on their buying  
15 teams to confuse the name from the legitimate name listed  
16 as Asiatic raccoon to raccoon dog. So, rather than a  
17 store to continue to sell this product, it's much easier  
18 to move to another fur product to substitute.

19           The media campaign has also had negative  
20 effects on the retailers. There's been a lot of comments  
21 that why would you wear a Fido around your neck. So, a  
22 very successful Humane Society media program has confused  
23 the consumer that maybe it is Fido. When we visited  
24 Congress, that was a very strong bullet point of there's,  
25 that raccoon dog, Asiatic raccoon was your household pet.

1 We had to deal with that in the halls of Congress.

2 The -- you know, to ban a fairly traded article  
3 based upon a name that nobody in the trade from the  
4 producer to the retailer is using would eliminate the  
5 sale of this product for no reason other than reputation.

6 MR. WILSHIRE: You assert that based on what  
7 you just -- your evidence is what you described, your  
8 experience in the retail marketplace?

9 MR. ROSS: And in the wholesale marketplace. I  
10 am recently returning from Europe where a designer -- a  
11 global designer stopped using this product recently  
12 because of the European Humane Society's program. They  
13 created confusion about the reputation of the name  
14 Asiatic raccoon, so that has been stopped.

15 MR. WILSHIRE: Right. Have there been any  
16 consumer perception studies done of the name?

17 MR. ROSS: Not to my knowledge.

18 MR. WILSHIRE: Okay, and finally one more  
19 follow-up is would it be possible for the industry to  
20 undertake its own education campaign? Has it made any  
21 efforts and has it had any success -- those efforts had  
22 any success?

23 MR. ROSS: Can you repeat the question?

24 MR. WILSHIRE: I'm sorry, let me try to be a  
25 bit clearer. Has the industry undertaken its own

1 efforts, marketing campaigns, educational campaigns to  
2 explain what the animal is and have those had any  
3 success?

4 MR. ROSS: Well, it's a small article in the  
5 overall global sales sort of product, and we rely on our  
6 experts at the retail and manufacturing to provide us the  
7 information.

8 MR. WILSHIRE: Okay, so you don't know --

9 MR. ROSS: We haven't, nor have we budgeted.

10 MR. WILSHIRE: Thank you. But, let's see, I  
11 think we owe -- we need to get back to the Humane Society  
12 in a second, but let me finish up quick. Mr. Lasoff, and  
13 I also noticed Ms. Grymes wants to say something.

14 MS. BERNSTEIN: No, no, go ahead, I'll wait.

15 MS. GRYMES: I was just going to follow up in  
16 response to your question about consumer confusion to Mr.  
17 Henry's point earlier about the deception he believes he  
18 had seen or confusion about use of raccoon and the  
19 references to Davy Crockett. Assuming that is true,  
20 obviously we don't like that there is confusion on that  
21 front, but assuming that it is, it seemed like that would  
22 be a natural, if you took that confusion about raccoon  
23 and you used the name raccoon dog, it would certainly be  
24 understandable to have confusion about dog and for  
25 consumers or the retailer selling the product to think

1 that it is dog because that second name is dog, in the  
2 same way that there is at least one incident he has  
3 reported of confusion about raccoon when using the name  
4 Asiatic raccoon.

5 MR. WILSHIRE: Thank you. Does it matter?  
6 Both Mr. Grzybowski and Mr. Henry have their name plates  
7 up. You would like to start?

8 MR. GRZYBOWSKI: Yeah, just let me start by  
9 pointing out -- let me start by pointing out that these  
10 same arguments for being in favor of a name, a trade name  
11 in this case, both Asiatic raccoon and Finn raccoon are  
12 trade names, so it's not quite clear where Asiatic  
13 raccoon derived from. The fact that it isn't listed  
14 anywhere reputable or scientific as being an accepted  
15 common name, I have to assume that some interest pushed  
16 it onto the list at some point.

17 And from the past review of these name  
18 hearings, the interests have always been those who would  
19 profit from the sale of an animal by a certain name.  
20 And, again, I've got to point out that these same  
21 arguments were heard by the FTC and Congress around the  
22 terms coney and Hudson Bay seal, which were the two kind  
23 of largest, most profitable industries operating under  
24 fictitious names, names that weren't accurate, for the  
25 species they were selling.

1                   If I could just -- here's a quote from David  
2 Kaplan, talking about Hudson Bay seal --

3                   MR. WILSHIRE: And for the record, can you  
4 identify who David Kaplan is?

5                   MR. GRZYBOWSKI: He's the author of this book.  
6 David Kaplan --

7                   MR. WILSHIRE: I'm sorry, is this in our  
8 comment record? I apologize if it is, okay.

9                   MR. GRZYBOWSKI: I'm not sure if David Kaplan  
10 is. Yeah, I'm not sure. This is David Kaplan, World of  
11 Furs from the FTC library, August 1975. "One of the  
12 industry's largest fur producers -- excuse me -- one of  
13 the industry's largest fur skin producers in the 1920s,  
14 A. Hollander and Sons, had a big plant in Newark, New  
15 Jersey, employing several hundred workers. Many large  
16 manufacturing firms specialize in this item. Hudson seal  
17 gradually lost favor, even before the advent of labeling  
18 regulations, although embittered furriers ascribe its  
19 total demise to this latter blow."

20                   And the same information is presented on behalf  
21 of the word coney by those who would make a profit from  
22 it. And at that time, the FTC did what it was mandated  
23 to do, and rightfully so, which was point out that you  
24 can't -- you can't call a muskrat Hudson seal because  
25 it's not a Hudson seal, it's a muskrat. And you can't



1 call coney -- you can't call rabbit a coney because it's  
2 actually a rabbit.

3 So, I think that's what we need to do here.  
4 The mandate of the FTC is to use the true English name.  
5 It's got to be the name that accurately represents the  
6 animal. And I think it's very clear that it's raccoon  
7 dog and other attempts to do otherwise are not -- are not  
8 in the interests of consumers.

9 MR. WILSHIRE: Are you aware of any consumer  
10 perception studies done on the name raccoon dog?

11 MR. GRZYBOWSKI: I don't think so.

12 MR. WILSHIRE: Thank you.

13 MR. GRZYBOWSKI: No, I'm not aware.

14 MR. WILSHIRE: Okay, thank you.

15 Mr. Henry, do you have anything to add?

16 MR. HENRY: Sure. With respect -- just to  
17 finish the comment that Mr. Grzybowski just made, from a  
18 legal perspective, the FPLA also does not require that  
19 this decision be made based on increasing the sales of  
20 the fur industry or preserving certain levels of sales of  
21 the fur industry. The preeminent concern is about  
22 information to consumers and using the correct and true  
23 English name. Those are the legal mandates of the  
24 agency.

25 And as Mr. Grzybowski pointed out, the prior

1 Fur Name Guide hearings also contained similar arguments  
2 saying we're going to lose the sale of Hudson Bay seal  
3 fur if we're not able to use that term for muskrat or  
4 marten or whatever it was and that we would lose the sale  
5 of rabbit fur if weren't able to use the term coney. As  
6 Mr. Ross has recently pointed out, the sale of rabbit fur  
7 persists in this country, despite the fact that the FTC  
8 did what it was supposed to do and did the true English  
9 name.

10 I wanted to comment very briefly specifically  
11 on a comment Mr. Ross made that the breeders and the  
12 supply chain use the terms Asiatic raccoon or Finn  
13 raccoon. The fact of the matter, and I mentioned it  
14 before, is that Finnish fur interests and the Finnish  
15 Government have only recently started using the name Finn  
16 raccoon to refer to its products in response to consumers  
17 learning about what happens to these animals when they  
18 are sourced from Asia.

19 I pulled off of the Ministry of Forestry and  
20 Agriculture from Finland, an entity that submitted  
21 written comments on this rule, yesterday's website,  
22 several official documents referring to the species as  
23 raccoon dog repeatedly. The species is listed as raccoon  
24 dog by the Ministry of Agriculture and Forestry with  
25 respect to the names of game species that can be taken

1       pursuant to that country's hunting act and with respect  
2       to it being named as an invasive species regulated by  
3       that country's Nature Conservation Act.

4               In 2007, the Ministry of Forestry and  
5       Agriculture from Finland announced that it was  
6       cooperating with other EU member states and Russia in an  
7       effort to combat the spread of rabies and announced that  
8       raccoon dog were among the primary species among wild  
9       carnivores in Finland, and the fact is is that the  
10      species is not just farm-raised, it's now found in the  
11      wild, it's treated as an invasive species, that they are  
12      potential vectors for this disease in surrounding areas.

13              Not only that --

14              MR. WILSHIRE: Okay, can we wrap this up real  
15      quickly, because I want to move on to another question.

16              MR. HENRY: Very -- it will be very quick  
17      because I want to comment on the supply chain, and that  
18      is that we have cached web pages from the Finnish Fur  
19      Breeders Association from their website that referred to  
20      this species and had a whole page on it listing fur  
21      animals, a specific page on *nyctereutes procyonidos*,  
22      calling to raccoon dog throughout the page. That was  
23      only a few years ago, and just today or yesterday, we  
24      pulled up that exact same page.

25              All of the references to -- the same

1 information is listed verbatim except the references to  
2 raccoon dog are now changed to Finn raccoon, except in  
3 one spot, they missed it, they still include raccoon dogs  
4 on the Finnish Fur Breeders Association web page,  
5 apparently clerical error in failure to change it over to  
6 the new trade name.

7 MR. WILSHIRE: Okay. I see we got -- Mr. Ross  
8 wants to comment, and I just want to -- if we could keep  
9 this short, I'd really appreciate it, because we've got  
10 one other question I want to address, plus we want to  
11 leave time for comments and questions from the audience.

12 MR. ROSS: I can't comment on what you found on  
13 the Finnish Fur Breeders web site, but I can comment that  
14 three weeks ago I sat with the Finnish Fur Breeders in  
15 Helsinki to discuss what they call the name, and they  
16 were very clear that they call it Finn raccoon or Asiatic  
17 raccoon.

18 I would just like to try to address this  
19 question of Hudson seal, although I don't know what it  
20 means to this panel. Hudson seal was a color. It was a  
21 dye process done by A. Hollander & Son, who was one of 25  
22 fur dyers in New York in the '40s and '50s. And it was  
23 simply taking a muskrat, dying it black and sheering it.  
24 So, I don't see how that has any bearing on this hearing  
25 at all.

1 MR. WILSHIRE: Okay, thank you.

2 I want to ask quickly, and maybe I want to  
3 start with the National Retail Federation, because they  
4 specifically raised this issue, which is an alternate  
5 name beyond raccoon dog. I know we've had some  
6 discussion about this before, but I want to just revisit  
7 it quickly.

8 Mr. Autor, do you have a -- what's your  
9 specific basis for suggesting tanuki or magnut, and why  
10 do you think these names would help consumers making a  
11 purchasing decision?

12 MR. AUTOR: Well, first of all, I should state  
13 off the bat that we don't see any reason to change the  
14 current designation of Asiatic raccoon, but we do  
15 recognize that the animal that we're talking about is  
16 neither a dog nor a raccoon, strictly speaking, in  
17 looking at its taxonomy. So, if the FTC is considering  
18 alternative names, those two that I suggested, magnut and  
19 tanuki, would be obvious choices because those are also  
20 designations that have been used for this animal,  
21 apparently fairly commonly.

22 MR. WILSHIRE: You say they've been used fairly  
23 commonly. Are they in use in the United States fairly  
24 commonly?

25 MR. AUTOR: I can -- I only say that based upon

1 web searches that I've done, so I don't -- if you're  
2 asking whether we've actually done any consumers studies  
3 on that particular question, the answer is no.

4 MR. WILSHIRE: Okay.

5 MR. AUTOR: But given the general lack of  
6 information in the American public as a whole regarding  
7 this animal and because of the risk of confusion, you  
8 know, it's not unprecedented that other alternative names  
9 like what are used for this animal where it is  
10 indigenous, which is in the Russian far east and Japan  
11 and other parts of Asia, would be -- should be considered  
12 as alternatives for this animal.

13 You know, as I mentioned with respect to other  
14 examples, the public does rapidly adopt to changes in  
15 names when -- you know, based upon marketing, so, yeah, I  
16 think that if the FTC is considering alternative names  
17 that -- if there is a concern that both alternatives  
18 would create undue confusion, the Russian and the  
19 Japanese terms for this animal are out there as  
20 alternatives.

21 MR. WILSHIRE: All right, and just to clarify,  
22 is there a general lack of understanding about Asiatic  
23 raccoon in terms of -- in terms of consumer perception?  
24 Is that your view?

25 MR. AUTOR: Well, as I said in the beginning of

1 my comments, I think the vast majority of people have no  
2 idea what this animal is, period. And it's pretty clear  
3 that even people who are, you know, fairly knowledgeable  
4 in zoology don't necessarily know what this animal is.

5 MR. WILSHIRE: Well, why don't we ask the  
6 people who are fairly knowledgeable in zoology. We have  
7 -- I'd just like to invite the people from the  
8 Smithsonian, Fish and Wildlife Service, and USDA, does  
9 anyone here have a comment about the proposed tanuki or  
10 magnut names or any other name that might -- aside from  
11 Asiatic raccoon or raccoon dog -- that might accurately  
12 describe this animal and help consumers with their  
13 purchasing decisions?

14 Okay, great.

15 DR. GARDNER: Tanuki.

16 MR. WILSHIRE: Dr. Gardner, if you want to  
17 speak into the microphone.

18 DR. GARDNER: The Japanese common name tanuki,  
19 single word, some people like exotic names, it doesn't  
20 carry any baggage. It's -- the only problem with it it's  
21 not nearly as familiar as Asiatic raccoon or raccoon dog  
22 or Finn raccoon, but I want to just take a second. If  
23 indeed Mr. Henry was talking about kangaroo rats --

24 MR. WILSHIRE: I'm sorry, but we're sort of  
25 running short on time and I want to table the kangaroo

1 rat discussion for now. I would be curious, though, you  
2 voiced some support for tanuki. Do you have a particular  
3 basis for why you would support that name as opposed to,  
4 say, magnut?

5 DR. GARDNER: Why -- well, magnus is just not  
6 used. I mean, if you key it into a web search, yes, it  
7 will come up, but in the searches I've done, it doesn't  
8 automatically come up with tanuki or with Asiatic raccoon  
9 or raccoon dog.

10 MR. WILSHIRE: Okay, thank you.

11 DR. GARDNER: Or Finn raccoon for that matter.

12 MR. WILSHIRE: Okay. I'd like to ask  
13 representatives from FICA and Finnish Fur if they have  
14 any views on the alternative names tanuki, magnut, or  
15 anything else.

16 MS. BERNSTEIN: May I? This is not  
17 particularly specific to your question, but it is  
18 related, and that is because there were a number of  
19 references here earlier about events at the Commission in  
20 the '60s and '50s even. I was not there in the '50s or  
21 the '60s, but I was there in the '70s when the Commission  
22 for the first time in many years began to enforce the Fur  
23 Act, and I was a part of that.

24 And it was -- I think the point I would like to  
25 make about that experience is that in the names and in



1 the review of the fur market the Commission recognized  
2 that consumers get their information and make decisions  
3 about furs not solely from the name but rather from  
4 fashion magazines, from -- but most particularly from the  
5 person from whom they're buying, from the retailer whom  
6 they've come to rely upon who provides the basic and the  
7 most pertinent information for the consumer and not  
8 solely by the name that's on the label, which tends to be  
9 one that they may never have heard of. I think that  
10 probably still continues, from what we have learned about  
11 the market. That is the way people make decisions.

12 MR. WILSHIRE: Thank you very much.

13 We've got about 15 minutes left. I'm sorry,  
14 one second.

15 I'm sorry, right before we turn to audience  
16 questions, I just want to ask a quick follow-up, whether  
17 you think that continues to be true, even as the market  
18 is evolving into greater use of fur trim products.

19 MS. BERNSTEIN: I believe it continues to be  
20 true because consumers continue on a pathway of finding  
21 information from various sources. I don't have to point  
22 out to you that there are even newer sources for consumer  
23 information through the social media and so forth than  
24 they had before, but they do not -- the point being that  
25 they do not solely rely on one specific name.

1 MR. WILSHIRE: Okay.

2 MR. BERNSTEIN: Now, you may want to add  
3 something.

4 MR. WILSHIRE: Oh, yeah, Mr. Ross.

5 MR. ROSS: I would have to agree that in this  
6 global economy and global fashion community that the  
7 consumer relies much more on fashion magazines and  
8 fashion websites for their clarification and information  
9 about products.

10 MR. WILSHIRE: And is that -- and you're basing  
11 that on your understanding of the marketplace and your  
12 experience?

13 MR. ROSS: Exactly.

14 MR. WILSHIRE: Okay.

15 MR. BERNSTEIN: And history, because it's been  
16 true for 30 years.

17 MR. ROSS: Yeah.

18 MR. WILSHIRE: Were there particular findings  
19 by the Commission in that regard in prior cases?

20 MS. BERNSTEIN: Probably in my files somewhere,  
21 but I'd hate to have to go into them. There were in  
22 connection with decisions that were being made about the  
23 relationship between the care labeling and whether they  
24 would be pertinent to furs, et cetera, in that context, I  
25 know. But I really couldn't cite to a specific finding.

1 MR. WILSHIRE: Okay, thank you.

2 At this point, we've got about 12 or 13 minutes  
3 left, so I want to definitely give anybody in the  
4 audience a chance to comment.

5 Yes? Sure, actually, if you could stay seated.

6 Laura, if you could grab the microphone? And  
7 I'll save Jim the trouble of identifying himself. This  
8 is Jim Kohm, K O H M, Associate Director of the Division  
9 of Enforcement in the Bureau of Consumer Protection at  
10 the Federal Trade Commission.

11 MR. KOHM: I was wondering, the gentleman from  
12 the National Retail Federation, I believe said that it  
13 was a lack of information as a whole in the marketplace  
14 about what you call this animal, and essentially that  
15 nobody knew any of these names. Is there any basis --  
16 what's the basis for that and if anybody else has any  
17 comment on whether that's true.

18 MR. AUTOR: Well, I think that this is based  
19 upon anecdotal evidence, not on actual consumer studies.  
20 But first of all, the vast majority of the American  
21 public does not buy fur for whatever reason, so we're  
22 talking about a fairly small consumer base to begin with,  
23 those that buy fur. And of those that buy fur, as Mr.  
24 Ross pointed out, this animal ranks number nine in terms  
25 of the popularity of fur products in a limited consuming

1 public. So, I think it's safe to say, given those  
2 observations, that if you were to go to the man on the  
3 street and ask them what is this animal or what is a  
4 raccoon dog or what is a Asiatic raccoon, they would have  
5 no idea.

6 MR. KOHM: Just can I follow up with one  
7 question? So, what is this fur generally used for? Is  
8 it -- do you find coats made out of it? Is it trim?  
9 What's the primary use of the fur?

10 MR. ROSS: I think I better answer it.

11 MR. KOHM: This is for anybody.

12 MR. ROSS: This is primarily used as trim on  
13 textile coats.

14 MR. WILSHIRE: So, before we go on, is that --  
15 okay.

16 MR. GRZYBOWSKI: Yeah, that's been our finding.

17 MR. WILSHIRE: Okay, thank you.

18 MS. BERNSTEIN: And previously it would have  
19 been under the previous exemption, which is no longer the  
20 case, it would have fallen -- the trim, because of what  
21 they cost, would have fallen under the exemption.

22 MS. GRYMES: So consumers wouldn't have had  
23 exposure.

24 MS. BERNSTEIN: And therefore nobody would know  
25 very much about them.

1 MR. KOHM: That was my next question, and  
2 obviously that's why Jodie was my boss.

3 MR. WILSHIRE: Okay, I think -- it seems like  
4 Mr. Henry -- I think Mr. Henry wanted to add something  
5 here.

6 MR. KOHM: Yeah, thank you.

7 MR. HENRY: The comment that it would be under  
8 the exemption is presumably based simply on the fact that  
9 it was used as trim. The fact of the matter is the de  
10 minimus value exemption of \$150 only apply where no  
11 representations to the fur were made. Once  
12 representations were made, they had to be accurate.

13 And, so, as the Commission is aware, we've  
14 petitioned the Commission, as I mentioned before, a few  
15 times in the past years, finding dozens of jackets that  
16 had raccoon dog trim on them that were falsely labeled,  
17 falsely advertised in violation of the FPLA, despite the  
18 fact that they may or may not have been subject to the  
19 \$150 fur exemption because representations as to the  
20 accuracy of the trim were made.

21 MR. KOHM: Okay, just so I can follow up for a  
22 second. So, you're saying that it was called something  
23 different?

24 MR. HENRY: Yes.

25 MR. KOHM: The trim itself was called something

1 other than Asiatic raccoon.

2 MR. HENRY: Correct.

3 MR. GRZYBOWSKI: Our finding has been that  
4 raccoon dog has been called many different names. We  
5 found it continually over the years being represented as  
6 faux fur. I mention here -- and when I say this I mean  
7 either in ads, which are covered by the FPLA, or on the  
8 labels or both, either one or both. We've seen it called  
9 faux, coyote. Probably one of the most common ones is  
10 just straight raccoon, just the term raccoon has been  
11 very, very common.

12 MR. WILSHIRE: Thank you.

13 MR. KOHM: Okay, but so what you're saying is  
14 that -- what I'm trying to get a handle on is how often  
15 has this name been used in the marketplace, and what I'm  
16 hearing, and comment on this, is either because it was  
17 misnamed or because it was less than \$150, that it wasn't  
18 used much in the marketplace. Is that correct?

19 MR. HENRY: My response is that, yeah, it's  
20 used frequently, but no more frequently than we find it  
21 misused. And, so, there is -- it's sporadic use, at  
22 best.

23 MR. KOHM: So, what is the basis for saying  
24 it's frequently used correctly?

25 MR. HENRY: Not frequently used correctly.

1 Frequent -- in other words, the name Asiatic raccoon or  
2 -- is used fairly often. We've seen it on several  
3 labels. Our basis --

4 MR. KOHM: Okay, that's what I'm asking is --

5 MR. HENRY: -- is the fact that we've gone out  
6 and done undercover investigations, fur buys, and talked  
7 to consumers who have bought coats. And, so, we've  
8 discovered -- you know, we've seen the use of the term.  
9 The problem is is that we've seen, you know, in equal  
10 amounts use of other terms.

11 MR. WILSHIRE: Go ahead.

12 MR. LASOFF: I'll let Mr. Ross respond to  
13 the --

14 MR. ROSS: Just to answer your question, I  
15 would say the majority of the use of the trim is over the  
16 \$150 and always has been over the exemption.

17 MR. WILSHIRE: I'm sorry, I misunderstood you.  
18 Did you just say that the use of the trim -- the majority  
19 has been over the --

20 MR. ROSS: Over the \$150.

21 MR. WILSHIRE: Okay.

22 MR. ROSS: I think it's fallen under that  
23 category just recently, as has been the fashion of the  
24 puffer jacket or the down jacket. And then new retail  
25 stores have gone into the fur business and have

1 incorporated Asiatic raccoon trims on the garments. If I  
2 had to guess, I would say there are approximately close  
3 to 100,000 fur-trimmed garments using Asiatic raccoon  
4 sold in this country on an annual basis. So, if we've  
5 only found 12 violations after in-depth research, I think  
6 that's --

7 MR. WILSHIRE: Well, I don't know if we really  
8 -- we're running short on time here. I don't know if we  
9 want to have a back-and-forth about the violation rate.  
10 We're -- this is focusing on what we should do in our  
11 regulations.

12 I also want to make sure we have an opportunity  
13 for anybody else to ask questions or comments. So, it  
14 looks like -- is there anybody else from the audience?

15 Okay, sounds like that's it. I see several  
16 people who want to have comments. We've got six minutes.  
17 So, why don't -- I think Mr. Lasoff has been waiting the  
18 longest. If you could state your comment very  
19 succinctly.

20 MR. LASOFF: Just again in respond to Mr.  
21 Kohm's comments with respect to the regulatory  
22 environment, yes, as Mr. Ross has said, that the bulk of  
23 the garments this far until, you know, the passage of the  
24 Truth in Fur Labeling Act were above 150, and now we have  
25 this vast, you know, new market developing. The



1 regulatory environment right now for that is we are in a  
2 transition phase. The Commission itself has  
3 grandfathered the use of the de minimis exception with up  
4 until March of 2012.

5 So, in that regard, I think this is a new issue  
6 specifically, as well, and so, you know, how we come to,  
7 you know, a decision on this thing is going to have  
8 significant implications to a broader base of retailers,  
9 in particular smaller retailers who were using small  
10 amounts of this trim that would previously have fallen  
11 under the \$150 exemption, and these are retailers who  
12 previously have probably never had any experience with  
13 the Fur Product Labeling Act and are going to be brought  
14 into this possibly for the first time, into this  
15 regulatory regime.

16 MR. WILSHIRE: Yeah, and, again, I think we  
17 just want to keep it to the names here. I know there  
18 were comments along the lines of mechanics of labeling.  
19 That's not what this hearing is going to be focused on.

20 Mr. Autor?

21 MR. AUTOR: Just quickly, the names guide has  
22 identified this animal as the Asiatic raccoon for a  
23 considerable amount of time. To the extent, my  
24 understanding that the fur industry and retailers are --  
25 have labeled this because it didn't meet the de minimis

1 exemption. It has followed that -- the names guide.

2 I fail to see how the fact that there may have  
3 been instances where this fur was mislabeled is an  
4 argument for changing the name entirely to raccoon dog.  
5 I just don't follow that logic.

6 MR. WILSHIRE: Okay.

7 All right, Mr. Grzybowski and Mr. Henry? And,  
8 again, I really don't want to get too much further into  
9 compliance.

10 MR. HENRY: No, first I want to comment on the  
11 names. I think the HSUS is the only panelists that  
12 hasn't commented on tanuki or magnut yet.

13 MR. WILSHIRE: Oh, yeah. Sure, please do.

14 MR. HENRY: So, tanuki and magnut are foreign  
15 language words. Point of fact, the FPLA regulations --  
16 or the FPLA itself, the statute, requires use of the true  
17 English name. There's no getting around that. That's  
18 the statutory obligation of the agency. The agency  
19 cannot use tanuki and magnut.

20 We've done our own research, Googling and  
21 otherwise on websites. Tanuki comes up much, much more  
22 infrequently in any context than either raccoon dog or  
23 even Asiatic raccoon. And magnut is -- there are very  
24 few references to that in the public domain at all.

25 MR. WILSHIRE: I'm sorry, did you say -- I'm

1 not sure I heard. Did you say tanuki comes up much more  
2 frequently?

3 MR. HENRY: No, much less frequently.

4 MR. WILSHIRE: Much less frequently.

5 MR. HENRY: I may have misspoke. And I just  
6 wanted to note that the IUCN's canid specialist group,  
7 that's a 75-member scientific experts on the canid  
8 family, you know, not only calls this raccoon dog, as  
9 I've mentioned before, but also has a list of other names  
10 in other languages. Tanuki is not mentioned as an  
11 English name; of course it's mentioned as the Japanese  
12 name. Magnut is not mentioned anywhere. In fact,  
13 another name is given in Russian for the species, but  
14 it's not magnut. Magnut is not mentioned among the dozen  
15 or so other names mentioned for the species.

16 And, so, I think that those two terms would be  
17 impermissible under the act and not helpful to consumers.  
18 Actually, there has also been compiled in February 2001 a  
19 scientific bibliography for the species by Midori Saeki  
20 that's available online. It contains over 300 references  
21 to scientific articles, encyclopedic treatises, and the  
22 like mentioning the species. And I've gone through  
23 several of them, as many as I can, and raccoon dog is by  
24 far the most used. There are a few references to tanuki;  
25 there are none that I could find with respect to magnut.

1                   And I think the point about the mislabeling is  
2 as follows: when we run into, and we're the closest  
3 thing to consumers on this panel, because the HSUS has  
4 been the only person out there policing this issue, not  
5 the retailers and not the agency. When we run into this  
6 issue, acting as consumers looking at advertisements,  
7 labels, and buying issues, when we see something like the  
8 advertisement that I mentioned before that sells this as  
9 Finn raccoon, suggesting this is a raccoon from Finland,  
10 and the retailer includes information for consumers on  
11 American raccoon fur best known in its use in classic  
12 Davy Crockett hats, I think that speaks to the fact that  
13 the use of an industry-coined name or the existence of it  
14 in the Name Guide for 50 years is not a reason for the  
15 FTC to fall back on maintaining a name that is unlawful  
16 because it's an industry-coined name, unlawful because  
17 it's not the true English name.

18                   The fact is that -- the suggestion is that  
19 because it's been on the books for 50 years it should be  
20 maintained, but our point is that in pattern and  
21 practice, it has not been -- it has not been maintained.  
22 And I think that's the argument. It's been on the books  
23 for 50 years despite the fact that it's an industry-  
24 coined name, but in pattern and practice, we find it  
25 sporadically -- the species sporadically referenced by a

1 number of different names.

2 MR. WILSHIRE: Okay, thank you.

3 We are really almost out of time here. I  
4 think, Mr. Autor, you still have your name -- if you can  
5 -- you've got 60 seconds, go.

6 MR. AUTOR: And I'll use 60 seconds. By the  
7 logic that Mr. Henry has raised, we have many, many  
8 examples of animals that are -- whose names have been  
9 adopted from foreign languages. Nutria is a good  
10 example. Nutria is a Spanish word. By his logic, we  
11 should not be calling that animal a nutria because it's a  
12 foreign name.

13 MR. WILSHIRE: Okay. Well, we've got 25  
14 seconds.

15 MR. HENRY: The response is that many of our  
16 names in the English language and in the United States of  
17 America have been adopted from other languages and  
18 they've arrived at one common true English name. Tanuki  
19 and magnut are not terms that have been adopted into the  
20 English language from other languages like nutria has.

21 MR. WILSHIRE: Mr. Autor, do you know if tanuki  
22 or magnut is in the English dictionary?

23 MR. AUTOR: I don't know.

24 MR. WILSHIRE: Okay.

25 MR. HENRY: Oh, I should also point out that

1 we've looked up tanuki several times and you find it  
2 spelled many different ways, which is another thing that  
3 the FTC should consider with respect to the claim that it  
4 should be used.

5 MR. WILSHIRE: Thank you. All right, we are  
6 out of time on this. Thank you very much for a lively  
7 discussion and lots of great comments. We have 10  
8 minutes to the break. As I mentioned before at the  
9 outset, we will start without you if you're not back in  
10 10 minutes. So, restrooms back that way. Everybody, you  
11 know, be quick, relax, make a phone or call or two, but  
12 get back here on time. Thank you very much.

13 **(Whereupon, a brief recess was taken.)**

14 **ISSUE 3**

15 MS. KIM: All right, so for the next 30  
16 minutes, we're going to be focusing on issue number  
17 three, which is whether the guide should allow Finn  
18 raccoon as a name for *nyctereutes procyonidos* raised in  
19 Finland. And the first question I wanted to start out  
20 with today is what evidence is there that consumers  
21 believe that Asiatic raccoon only refers to fur  
22 originating in Asia. And I thought I would start with  
23 Fur Information Council and Finnish Fur on that one.

24 MR. ROSS: Okay, could you just repeat the  
25 question on -- what are you looking for?

1 MS. KIM: The specific question I'm interested  
2 in is what evidence you have that consumers believe that  
3 Asiatic raccoon only refers to fur originating in Asia.

4 MR. ROSS: Strictly the name Asiatic, you know,  
5 signifying an Asian-based product, the majority of the  
6 product probably represented in lower-end department  
7 stores does say fur origin China.

8 MS. KIM: And is it also true that if the fur  
9 originates in Finland that it would have -- the label  
10 would indicate that it originates in Finland?

11 MR. ROSS: It would indicate -- it would say  
12 fur origin Finland. And what that means to the consumer  
13 and the clarification on that is the animal welfare and  
14 the farming standards. All Finn raccoons come from the  
15 EU, and all the farms raising this animal are in  
16 compliance with the EU recommendations.

17 In addition, the farming of Finn raccoon is a  
18 closely monitored article. And in 2013, all farms  
19 producing this product will be certified. So, this will  
20 be the only fur type that comes exclusively from a  
21 certified farm in Finland. What this means in  
22 certification is that these farms have invested  
23 additional infrastructure in the farming and they're  
24 monitored by outside monitors. So, the finest farms in  
25 the EU are producing this article. So, that's for the

1 clarification of a product coming from Finland as  
2 compared to something coming from China. Now, I'm not  
3 prepared to report or comment on fur farming in China.  
4 That's not my area of expertise. I can only comment on  
5 the certified farms in Finland.

6 MS. KIM: Okay. Is there anyone else who would  
7 like to speak to the issue of any evidence there is that  
8 consumers believe that Asiatic raccoon refers to fur  
9 originating in Asia?

10 MR. HENRY: I would echo the sentiments of Mr.  
11 Ross. I think the only evidence is really the fact that  
12 the name suggests that it's a raccoon from Asia and that  
13 you see garments of this -- containing fur from this  
14 species labeled as coming from China very frequently.  
15 So, I think as with the Finnish Fur interests, the Humane  
16 Society also thinks that names should not be -- contain  
17 terms that indicate that the species either comes from a  
18 species or a geographic region that they do not come  
19 from.

20 MS. KIM: Did you want to follow up?

21 MR. GRZYBOWSKI: Yeah, I just wanted to quickly  
22 respond to the idea of welfare differences that was  
23 raised, just to point out that raccoon dogs raised in  
24 Finland for their furs are raised in very small cages.  
25 They're still associated with a number of conditions that



1 many consumers consider to be inhumane.

2 And I think like with any animal, a consumer  
3 should be able to decide what they want to buy based on  
4 their ability to research how that animal is produced, if  
5 they're okay with fur. Maybe it would be okay with  
6 certain species, but there certainly are still very  
7 substantial welfare problems with raccoon dog production  
8 in Finland. So, I just want to make that clear that  
9 there isn't some sort of a utopia for raccoon dogs in  
10 Finland. In reality, it's a battery-cage factory  
11 operation like you see throughout the world with confined  
12 fur operations.

13 MS. KIM: Is there anyone else who wants to  
14 comment on evidence of confusion about the origin of a  
15 fur that is labeled Asiatic raccoon, the geographical  
16 origin?

17 I had a question for the panel, which is how  
18 would calling Asiatic raccoon, even for fur products that  
19 where the fur originates from other countries besides  
20 Asia, how is that different from calling something like a  
21 Bengal tiger born in the U.S. an American tiger?

22 MR. ROSS: Well, tiger is illegal to trade in  
23 the fur industry, so I don't know how it has bearing on  
24 this panel.

25 MS. KIM: Apart from the fur industry, but just

1 the concept.

2 MR. ROSS: Okay. You know, mink raised in  
3 North America is called the mink, and if the same species  
4 is raised in Europe, it's called the mink, so it has one  
5 common name.

6 MS. KIM: Would either -- would any of the  
7 Government representatives like to speak to that issue?

8 If the Commission were to retain the name  
9 Asiatic raccoon -- oh, did you have a response  
10 specifically on that point?

11 MR. HENRY: Yes.

12 MS. KIM: Okay.

13 MR. HENRY: I think the point here is to  
14 distinguish between what is a generally accepted common  
15 name for a species, a species name. And if that has a  
16 geographic origin, as Ms. Lynn said before, that denotes  
17 where the species has historically come from or something  
18 like that, that could be the species name.

19 Here, we have what appears to be an industry-  
20 coined name at issue. And, so, there's no reason to  
21 require or adopt a new name that has a geographic origin  
22 associated with it, where we now know that in practice  
23 the species is killed for its fur from a number of  
24 different regions. So, I think where you've got African  
25 lion, no one is suggesting that an African lion in a U.S.

1 zoo or if it was permitted to be sold for its fur in the  
2 United States should be called United States lion. What  
3 it should be called is African lion because that's the  
4 species name. And then the country of origin  
5 requirements of the FPLA would say that it's from the  
6 United States, so it would be African lion from the  
7 United States.

8 And this goes to the point of Finn raccoon and  
9 Asiatic raccoon, both of which suggest that the fur is  
10 coming from a species of a particular geographic region  
11 when that may not be the case. The true English common  
12 name, raccoon dog, does not suffer from any geographic  
13 origin problem, and, so, raccoon dog from Finland would  
14 be raccoon dog, country of origin, Finland. And raccoon  
15 dog from Asia would be raccoon dog from country of  
16 origin, say, China.

17 MR. GRZYBOWSKI: Yeah, I just want to underline  
18 that point and how important it is that the key  
19 difference here is there is an accepted, common, true  
20 English name, and that is raccoon dog. There is no  
21 reason to add confusion to a name that's already there by  
22 adding something that could suggest some sort of  
23 geographic reference, especially when the Fur Products  
24 Labeling Act requires that fur origin already be given.

25 So, and now with the closing of the loophole,

1 that's mandated for everything and it should be the only  
2 thing on the marketplace in about a year, with the  
3 exception of some very bad retailers that are known for  
4 never flushing out their inventory. But I think with the  
5 fur origin, the country of origin mandated and with it  
6 already a very clearly accepted common English name of  
7 raccoon dog, a discussion about some sort of geographic  
8 suggestion to an animal like Asiatic raccoon is just  
9 debating something that really shouldn't even be there.

10 I think what it may do is a consumer will not  
11 see that there is such an animal called an Asiatic  
12 raccoon dog, and this may conjure in their mind the idea  
13 that this is actually some sort of geographic reference  
14 for them for -- for the raccoon. They may think the  
15 animal is raccoon, which is an actual name for an animal,  
16 the *procyon lotor*, and they may think the Asiatic is a  
17 reference. So, I think it just adds confusion where  
18 there need be none.

19 MS. KIM: And do you have any specific basis  
20 for your belief that this may add to the confusion?

21 MR. GRZYBOWSKI: No, I think it's heaps and  
22 heaps and heaps of anecdotal evidence and going  
23 undercover posing as consumers at numerous retailers.

24 MS. KIM: Mr. Ross, did you have a response?

25 MR. ROSS: First in the consumer market,

1 raccoon dog does not appear. So, if we're looking to  
2 remove confusion with the consumer, this article has  
3 always been called Asiatic raccoon or Finn raccoon.

4 The reason for the geographical description is  
5 based upon our belief about animal welfare. If bringing  
6 the most amount of information to the consumer and  
7 allowing them to base their purchases based upon all the  
8 information available by calling it Finn raccoon, that  
9 signifies that it comes from Finland, that it is produced  
10 in the EU according to the regulations, and 2013 will be  
11 coming from a certified farm. So, I think that that's  
12 information that a consumer would like.

13 As far as the size of the cages, that was an  
14 earlier comment, in 2011, all farms in Finland were put  
15 into compliance with new EU regulations, so there are no  
16 small farms, nor were there ever small farms. And, in  
17 fact, my company has a zero tolerance policy for any farm  
18 not in compliance with the law.

19 MS. KIM: Dr. Gardner, did you have a response  
20 to that?

21 DR. GARDNER: I have a question of why raccoon  
22 dog is preferable when it's neither a dog nor a raccoon.

23 MS. KIM: I'll allow a very short response on  
24 that, but we're really focused right now on the question  
25 of whether the guide should allow the name Finn raccoon.

1 MR. HENRY: I think the response has been  
2 stated before, and that is that, you know, it's the true  
3 English common name, it's been accepted by scientists and  
4 is widely used by the AZA, by zoos, by educational  
5 institutions, by governmental entities, including those  
6 here, including the United States Zoological Survey, its  
7 participation in ITIS. And I think that calling it a dog  
8 does the same thing as calling a short-eared dog a dog.  
9 A short-eared dog is not in the genus canus, and that  
10 seems to be the basis for which these statements that we  
11 keep hearing, this is not a dog, seem to be based solely  
12 on the notion that it is not in the genus canus.

13 MS. KIM: Okay.

14 MR. HENRY: Well, neither is short-eared dog,  
15 and no one's complaining about that reference.

16 MR. ROSS: If I could make a very quick --

17 MS. KIM: No, I'd really like to stay on the  
18 topic of, you know, whether we should consider the name  
19 Finn raccoon. And the question that I wanted to pose as  
20 a follow-up is whether this creature raised in Finland is  
21 actually a different animal than that which is raised in  
22 other countries.

23 MR. ROSS: To my knowledge, there's no DNA  
24 testing that has been presented to me that shows that  
25 there's a difference. There's a difference in color,

1 quality, and size of the animal, but from -- you know,  
2 from a scientific point of view, I don't know if there is  
3 a difference between Finnish and Asiatic.

4 MR. HENRY: Excuse me?

5 MS. KIM: Yeah, any response on that? Yes.

6 MR. HENRY: Very briefly.

7 MS. KIM: Humane Society.

8 MR. HENRY: There is some scientific evidence  
9 to suggest that what's been previously referred to as  
10 tanuki has also been referred to as Jap dog, Japanese  
11 Asiatic raccoon, that may be not necessarily a different  
12 sub-species, but may be from -- on a molecular basis  
13 different than the raccoon dogs that we talk about from  
14 China. But the raccoon dogs that we see in the Caucasus  
15 and in Eastern Europe, those are all introduced, so they  
16 are the same as raccoon dogs that are found in Asia  
17 generally because they were introduced.

18 MR. GRZYBOWSKI: And if I could comment about  
19 Finn raccoon specifically, I think it's very clear, I  
20 mean, with country of origin already mandated, there is  
21 simply no reason to put something else into the name and  
22 create a fake name that would -- in the hopes of  
23 designating some sort of geographic reference when it's  
24 already there, country of origin, Finland. If a industry  
25 that is selling a product out of Finland wishes that to

1 be known to consumers, that mechanism is already  
2 available to them. It's called the country of origin  
3 requirement. Simply put, raccoon dog, country of origin,  
4 Finland, and if they think that their product from a  
5 certain geographic area is a superior product, then they  
6 can make that case to consumers within the law, then so  
7 be it.

8 MS. KIM: Mr. Ross?

9 MR. ROSS: Finn raccoon is not a fake name or a  
10 made-up name. In fact, it's the name used for labeling  
11 in the other European countries in the fur business,  
12 which is Italy, France, the U.K., and Spain. So, the  
13 common name in both advertising and labeling in the  
14 stores in those countries is Finn raccoon.

15 MS. KIM: Do you have any evidence that  
16 consumers in the United States understand Finn raccoon  
17 differently than they understand the name Asiatic  
18 raccoon?

19 MR. ROSS: They understand the fur origin. I  
20 think by allowing the Finnish product to be called the  
21 same as they would find in Europe I think will end  
22 confusion. So, a customer that buys a Finn raccoon in  
23 Prada in Milan will not have the concern when she comes  
24 back to the States and sees the same garment in the Prada  
25 store here called Asiatic raccoon. So, I think it brings



1 clarification to the consumer if we adopt the name that's  
2 used globally.

3 MS. KIM: But do you have evidence of  
4 misperception of the term Finn raccoon here in the United  
5 States?

6 MR. ROSS: Not consumer evidence, just trade  
7 evidence, you know, the people that are designing it,  
8 making it, and selling it would all -- would all like the  
9 separation of the product.

10 MR. BERNSTEIN: Because they understand that's  
11 it -- where it originates.

12 MR. ROSS: Right.

13 MS. KIM: Oh, did you have a response? Sure.

14 MR. HENRY: I find it interesting that the  
15 argument from the Finnish fur interests against Asiatic  
16 raccoon with respect specifically to the question of  
17 consumer perception was that inherent in the name is a  
18 problem based on the geographic identifier Asiatic, and  
19 that the only reason to believe that consumers would be  
20 misled, according to the testimony here today, was  
21 because of that name and because we see that the species  
22 is sold with fur origin from China. The same logic  
23 necessarily applies to Finn raccoon.

24 And, so, in the absence of any other evidence,  
25 apart from the suggestion that breeders and those in the

1 supply chain know, and again I'll point to the fact that  
2 the -- from Finnish Breeders Association's website, until  
3 very recently, referred to the species as raccoon dog.  
4 There is simply no evidence that Finn raccoon is any more  
5 clear to consumers than Asiatic raccoon which the Finnish  
6 Fur interests oppose.

7 MS. KIM: Is there any evidence that using the  
8 term Finnish Asiatic raccoon would not accurately  
9 identify the source and quality and characteristics of  
10 that product as well as the term Finn raccoon?

11 MR. ROSS: It's just reducing some possible  
12 consumer confusion by having a three-name description of  
13 the product and fur origin, Finland. So, I think the  
14 consumer would find it easier to understand Finn raccoon,  
15 fur origin, Finland, rather than Finnish Asiatic raccoon,  
16 fur origin, Finland.

17 MS. KIM: What would -- what about where you  
18 have an Asiatic -- a product labeled as Asiatic raccoon  
19 that is produced in another country outside of Asia but  
20 not Finland?

21 MR. ROSS: There are no examples of that that I  
22 know of. It's either --

23 MS. KIM: There are no examples.

24 MR. ROSS: -- produced in China or in Finland.

25 MS. KIM: Mr. Autor?

1           MR. AUTOR: Right, I just wanted to clarify a  
2 point that Mr. Henry made. He suggested that -- well, he  
3 said a couple of times that there are animals that are  
4 not -- that are canids that are not in the genus canus  
5 that are referred to as dogs and suggested that our  
6 arguments were that anything that could be referred to as  
7 a dog needs to fall -- needs necessarily to fall into the  
8 genus canis. Well, foxes are more closely related to  
9 canis familiaris than are Asiatic raccoons, and they are  
10 in the family vulpes, and they are not referred to as  
11 dogs. So, I just wanted to clarify our point, which I  
12 think Mr. Henry mischaracterized.

13           MS. KIM: Did you have a response? Both of  
14 you.

15           MR. HENRY: Yes. It's very easy. It's not a  
16 mischaracterization. We understand that raccoon dogs are  
17 not in the genus canis, and we understand that foxes are  
18 not in the genus canis, and we understand that,  
19 therefore, raccoon dogs are not more closely related to  
20 domestic dogs than other species within the genus canis.

21           However, my point is that species for which the  
22 common name undisputed contains the word dog are not also  
23 in the genus canis, are not in the genus vulpes like fox,  
24 and, so, are also not closely related to dogs, which is  
25 the argument being made against the use of the term

1 raccoon dog. Even though there are several other species  
2 within the family canidae that contain common names, for  
3 which the term dog is used, and those species are in  
4 their genera. So, that's the point. And then obviously,  
5 ultimately, this species and every other species named  
6 dog, fox, jackal, or wolf, is more closely related to  
7 each other as -- then they are to raccoons.

8 MS. KIM: Okay, if you have a response -- I'd  
9 like to focus the discussion on Finn raccoon.

10 MR. GRZYBOWSKI: Yeah, it's very quickly.  
11 Yeah, this is Finn raccoon. Just in response to the  
12 number of countries that are raising it, I don't want to  
13 misrepresent the group. It was a fur trade -- a fur  
14 trade association, and I believe I saw it references  
15 yesterday that Poland is also producing some raccoon dog,  
16 so -- and of course there is the opportunity for any  
17 country where it's legal, where it certainly is not in  
18 the U.S., to start producing it.

19 And I think, once again, to introduce, when  
20 there is no need to, a suggestion of geographic origin  
21 will only lead to further confusion, be it Asiatic or  
22 Finnish, because you could certainly have something  
23 raised in Poland and then what do you call that. Is it  
24 Finnish Asiatic raccoon from Poland? Well, what do the  
25 Finnish and the Asiatic terms signify? They contain no

1 meaning.

2 For the consumer, they need the animal and the  
3 country of origin. When you add these geographic  
4 references at the beginning that aren't part of the  
5 common name, it just makes a situation that's already  
6 very bad much worse.

7 MS. KIM: Mr. Ross, I wanted to go back to you  
8 for a clarification. What is your basis for asserting  
9 that there are no other producers of this species right  
10 now besides Finland and China?

11 MR. ROSS: Based upon what we sell in Finland  
12 and our certification program, we're not selling any  
13 other product. And we sell 99 percent of the Finnish  
14 Asiatic raccoon. So, if there are other countries --

15 MS. KIM: But are there other countries that  
16 are selling or producing Asiatic raccoon?

17 MR. ROSS: If there's a small production on a  
18 small family farm in another country, it's possible, but  
19 not to my knowledge.

20 MS. KIM: Mr. Henry?

21 MR. HENRY: Just one quick point, and that is  
22 where Finnish Fur interests are producing this species  
23 under the name Finn raccoon, when that's the case, then  
24 that pelt or that product comes to the United States, and  
25 it can go to additional manufacturers, it can go to

1           retailers, and there is additional room for there to be  
2           problems with labeling and advertising.

3                       We've seen it. We've been out there. We've  
4           seen, as I mentioned before, just an example, Finn  
5           raccoon from Finland being sold but then with information  
6           being presented about real raccoon. Finnish Fur  
7           interests can't control that, and so the term Finn  
8           raccoon suffers from these problems regardless of whether  
9           or not every single person in the supply chain in Finland  
10          refers to this as Finn raccoon. The fact of the matter  
11          is retailers, because of the inherent problems with the  
12          name, can end up communicating errant information to  
13          consumers, such as the source of the fur, whether or not  
14          it's from a raccoon. And, so, I think that that's a  
15          problem.

16                      And then, again, just because the suppliers  
17          refer to it and amongst themselves as Finn raccoon does  
18          not mean that that's the information that the consumers  
19          are going to get. Consumers are going to get this  
20          information from fashion press, from information on the  
21          labels and websites, point-of-purchase advertisements,  
22          media reports, as well as websites of the Finnish Fur  
23          Breeders Association, which still refer to it as raccoon  
24          dog.

25                      MS. KIM: Okay, Mr. Henry, okay, I'd like to

1 throw this out to the audience at this point and see if  
2 there are comments or questions from the audience on this  
3 question of whether the guide should allow the name Finn  
4 raccoon.

5 And could you please identify yourself and your  
6 affiliation.

7 MS. VANAMO: Thank you, Madam Chair, my name is  
8 Sannamaaria Vanamo, and I come from the Embassy of  
9 Finland. And I'd like to thank for the opportunity to be  
10 here and for all the experts' comments and views that we  
11 have got, and I will certainly report this back to my  
12 authorities in Finland.

13 And just shortly I'd like to refer to the  
14 written comments by our Ministry of Agriculture and  
15 Ministry of Foreign Affairs and draw your attention to  
16 the fact that this is important for Finland and for our  
17 fur industry. We would certainly support adding Finn  
18 raccoon in the Fur Products Name Guide, and we think that  
19 this would best inform the consumers. And this is also  
20 -- we've had many terms commonly used in Europe in  
21 international fur markets, and be -- is the more accurate  
22 term.

23 I'd also like to underline the high animal  
24 welfare standards and legislations that are followed in  
25 Finland of the European Union and also that our

1 agriculture and fur farming works in an ethically  
2 responsible way. Thanks.

3 MR. HENRY: I have a quick comment in response.

4 MS. KIM: Sure.

5 MR. HENRY: I appreciate the reference of the  
6 public comment or two, the written comments submitted by  
7 the Ministry and note that at the beginning of those  
8 comments the industry specifically refers to Finn raccoon  
9 as being established as a trade name practice. I  
10 understand that the Finnish fur industry is concerned  
11 about the use of the real -- the true English name  
12 affecting their fur sales, but the FPLA makes no room for  
13 this. The FPLA is about the accurate and true English  
14 name and about providing accurate information to  
15 consumers. And the identification within the comments of  
16 this as an established trade practice indicates that the  
17 adoption of this term would be unlawful under the FPLA --  
18 or the regulations, excuse me.

19 MS. KIM: Okay, we have just a few minutes left  
20 for this panel, so I wanted to go back to the Fur  
21 Information Council and Finnish Fur for a final statement  
22 on this subject.

23 MR. LASOFF: There seems to be -- there seems  
24 to be a presumption underlying every comment made that a  
25 name -- a trade name, a name that has been developed,



1 marketed, supported by an industry can't become a common  
2 name. And I think historically we could go back to all  
3 of the laws that are enforced by the Commission. Names  
4 are established. Names are established by -- by  
5 industry, and they become common, they become accepted in  
6 the marketplace. And the Commission has a role, you  
7 know, under its authorizing statutes to determine if, in  
8 fact, there is confusion caused by those names. That's  
9 the function of the Commission; however, to accept the  
10 presumption that something is a trade name and therefore  
11 is precluded from being a common name as defined by the  
12 statute is just incorrect.

13 MS. KIM: Well, let me ask you a follow-up  
14 question. What is the evidence that you have that Finn  
15 raccoon is a true English name that consumers understand  
16 to signify *nyctereutes procyonidos* raised in Finland?

17 MR. ROSS: We've been marketing that name  
18 globally since the mid '80s or selling it both in the  
19 U.S., Russia, Europe, and Asia. So, we've made a huge  
20 investment, the trade name, and that name has been  
21 adopted in all countries other than the U.S., where we  
22 still call it, you know, Asiatic raccoon. Finn raccoon  
23 is a trade name -- a global trade name for the product  
24 coming from Finland.

25 MS. BERNSTEIN: And it's obviously widely

1 advertised with that name --

2 MR. ROSS: Right.

3 MS. BERNSTEIN: -- which would be another  
4 source for consumers to become very familiar with the  
5 name and what it means.

6 MR. LASOFF: And therefore it falls within the  
7 Fur Product Labeling Act, as well, to the extent that  
8 you're also regulating the nomenclature that's used in  
9 advertising.

10 MS. KIM: Any other comments on this subject?

11 MR. GRZYBOWSKI: If I could just make one very  
12 briefly, and that's there simply is no room for trade  
13 names in the Fur Products Labeling Act. And, in fact,  
14 one of the core reasons it was passed was to ban trade  
15 names, because the industry was so rotten with trade  
16 names for up selling species, cross selling species, all  
17 sorts of misrepresentation that it would just fly in the  
18 face of the original intent to allow a trade name back  
19 into the act and the regulations when Congress and  
20 President Truman who signed it and everyone else who  
21 worked on it worked so hard to actually help consumers.

22 And it's not just consumers. It's to help  
23 create a fair marketplace for other people selling fur.  
24 So, if you have one interest selling an animal as one  
25 thing and one selling it as another, the marketplace

1 suffers both for those -- the seller, who is trying to  
2 stick to the truthful name, and the one who would sell by  
3 a trade name, as well as the consumers.

4 And, again, we've said it before, but raccoon  
5 dog is used by many in the Finnish industry, including  
6 the Finnish Fur Breeders Association. There's a  
7 reference in a Finnish online news source here calling it  
8 raccoon dog. You saw the Ministry of Forestry and  
9 Agriculture referencing it as raccoon dog.

10 So, I think it's very clear. We've heard that  
11 it's a trade name, and because there is already a common  
12 English name, there simply can be no room for this trade  
13 name to even be considered.

14 MR. LASOFF: And I would submit --

15 MS. KIM: Okay, one very, very brief response.

16 MR. LASOFF: Okay. I would submit that's a  
17 mischaracterization of my comments. My comments is that  
18 the Commission must adopt trade names, but the trade  
19 names can become common names in the marketplace as a  
20 result of the efforts of the marketing activities of that  
21 business. And I think that is clearly the case of what  
22 has occurred here with Finn raccoon. There has been  
23 heavy investment in its marketing, and that marketing has  
24 been tailored specifically to its -- the animal welfare  
25 standards that they're doing.



1 data, but I think on its face it's misleading to  
2 characterize multiple species by one name, because as we  
3 all know, different species suffer in different ways from  
4 environmental and external factors, including human  
5 population encroachment, hunting and trapping issues.

6 So, I think it's very important, and I think  
7 this is really critical that one name be given for each  
8 species. That is the best way for a person to learn  
9 about a product and make a decision based on the  
10 information. There are many different types of  
11 chipmunks, very different species. If one species of  
12 chipmunk is not yet listed as threatened or endangered by  
13 a certain agency but has been called by a number of  
14 nonprofits to the attention of other people as being  
15 almost there. If a consumer wants to know that, they  
16 need to know which species that is. If all they know is  
17 chipmunk, how can they make that determination?  
18 Chipmunks -- several different species of chipmunks, to  
19 put it mildly. And I think it's really important that  
20 they have that information. I think this is the interest  
21 of a market operating most efficiently and I think is as  
22 simple as that.

23 MS. KIM: Does your response apply to every  
24 different species that's listed in the Name Guide? Or is  
25 your response -- does it apply only to certain species?

1                   MR. GRZYBOWSKI: I would think it would apply  
2 to every species. I can't think of why it wouldn't apply  
3 to one and not another. And like we had mentioned  
4 before, the FTC doesn't necessarily have to make a list  
5 of every mammalian species, and I can't even imagine the  
6 number, but I imagine it's in the thousands, to put it  
7 mildly, there could be some sort of a reference to some  
8 of the more common names and then for the names that are  
9 more commonly used and then a reference in the  
10 regulations to look then to ITIS if the name is not  
11 listed for what an English name might be, what the  
12 suitable common English name would be used.

13                   So, I think that's -- there's a bit of  
14 massaging to do and thinking to do on how exactly that  
15 would be done in order to make it most efficient and to  
16 keep it fresh, because obviously taxonomic systems are  
17 dynamic and they do change. And I think having it linked  
18 to something that does change presents both benefits and  
19 also a couple areas that would need to be looked at as  
20 far as if a change were to occur what you would be  
21 looking at then, but I think that can be addressed with  
22 some fixes.

23                   But I think ultimately it's about let's link  
24 what we're selling to a good reputable source so that  
25 consumers can get more information. And I think right

1 now, we simply don't have that. And I think this would  
2 be a good starting point, and there can be some more work  
3 done to make that happen. But one species, one name, and  
4 I think everyone will be better off for it.

5 MS. KIM: Okay, Mr. Autor? I'd like to just go  
6 down the line.

7 MR. AUTOR: I am just unclear and wanted some  
8 collaboration about whether we are talking about species  
9 or sub-species. You know, I don't know for instance in  
10 the example of the chipmunks whether all chipmunks fall  
11 under the same species or whether we're talking about  
12 sub-species of chipmunks.

13 MS. KIM: Humane Society, do you want to  
14 respond to that?

15 MR. HENRY: No, other than I think it's a good  
16 point.

17 MR. BERNSTEIN: Dr. Gardner.

18 MR. HENRY: I'll be very brief. Other than I  
19 think it's a good point that there probably needs to be  
20 some rule set by the Commission as to where a cutoff is  
21 if you're going to go by species or something like that.  
22 And to be fair, it's a complex system and the FTC wants  
23 to remove some of the complexity. So, I think what we're  
24 suggesting is keeping in mind the need for accurate  
25 consumer information when you set those boundaries.

1 MR. GRZYBOWSKI: And if I could just clarify  
2 the points -- the suggestions that were made in our  
3 written comments as far as kind of our looking at what  
4 the list was currently and putting out -- kind of  
5 breaking it out by species, these are all species. None  
6 of these lists here are sub-species.

7 So, for chipmunk, for example, when I broke  
8 that down based on ITIS, these references here within  
9 that category are all individual species. I think that's  
10 currently the low end or the most specific end that the  
11 Fur Products Labeling Act deals with that I'm aware of is  
12 species, though what we saw in the Name Guide currently,  
13 I believe some of the references are to a higher level,  
14 taxonomic level, including family, if I recall correctly.  
15 So, I think having it -- having species at the -- at kind  
16 of the basic -- the base point is probably the way to go,  
17 but, I mean, I think that it's certainly something that  
18 could be discussed.

19 MS. KIM: Dr. Butler, did you have a response?  
20 No, nothing to add?

21 Ms. Lynn? I'm just going to go down the line  
22 and -- on this question.

23 MS. LYNN: I think this -- the Name Guide is  
24 mainly listing by genus instead of species, because  
25 they'll list with the -- where is the chipmunk at? The



1 chipmunk -- well, there's only one genus in there, and  
2 then -- but the civet right below it has got one, two,  
3 three, four, five different genuses listed. So, I think  
4 that would simplify things, leaving it at the genus  
5 level.

6 MS. KIM: Dr. Gardner? Dr. Gardner?

7 DR. GARDNER: Yes, those are all names of  
8 species of chipmunks. However, there's only one chipmunk  
9 that enters into the -- possibly enters into the fur  
10 trade, and that's the Asiatic chipmunk. And, indeed,  
11 that name is eutamias. None of the other chipmunks enter  
12 into the fur trade. The eastern chipmunk is the genus  
13 tamias, and the western chipmunks in the United States,  
14 Canada to Mexico, are neotamias. And as far as rat  
15 kangaroo, why would the Humane Society list 16 species of  
16 kangaroo rats and none of rat kangaroo unless it shows  
17 that they were confused?

18 MS. KIM: Mr. Lasoff?

19 MR. LASOFF: I would like to get back to the  
20 original question. First, the FTC has used multiple  
21 common names with respect to single species. Blue fox,  
22 white fox. So, it's been done. I don't know any  
23 confusion that's been associated with this.

24 When we were addressing the previous issues, a  
25 key point here is that the global marketplace, there are

1 different common names, results of different marketing  
2 strategies utilized by different industries. And, so,  
3 again, common names are evolving. They're evolving in  
4 the marketplace as a result of the promotion of products,  
5 the use of certain trade names, which, you know, develop  
6 as a result of the marketing efforts of these companies  
7 into common names, as well as the fact that we have  
8 different legal systems.

9 The EU has just enacted new labeling  
10 legislation, which is also going to fold into what's  
11 being done here, and they're going to utilizing names  
12 such as Finn raccoon. So, in a global marketplace, we're  
13 going to create a situation that -- where we -- if  
14 there's no flexibility on the part of the Commission in  
15 these situations, we are going to cause confusion.

16 And, so, again, the flexibility is necessary in  
17 this situation, as exemplified by the Asiatic raccoon,  
18 Finn raccoon, which is a unique situation where a product  
19 -- where a trade name has become common throughout the  
20 world market. I think this is something that the  
21 Commission needs to have the ability to do in evaluating  
22 the market -- and but also taking into account the  
23 marketplace and, you know, where, you know, is there  
24 going to be deception as a result of that, and a name --

25 MS. KIM: All right, just --

1 MR. LASOFF: -- can be deceptive.

2 MS. KIM: Just to follow up on your point  
3 earlier that the Name Guide currently contains more than  
4 one common name for some animals, what is your basis for  
5 saying that that hasn't caused any confusion?

6 MR. LASOFF: Blue fox and -- blue fox and white  
7 fox, have you ever had a consumer or a retailer be  
8 confused by the fact that --

9 MR. ROSS: I've never heard of any comments or  
10 questions regarding those two articles, and those are two  
11 very substantial fur articles.

12 MS. KIM: Anything else?

13 Okay, Mr. Henry?

14 MR. HENRY: Just one minor point of  
15 clarification to a prior comment by Ms. Lynn, and that is  
16 I do note that the Name Guide breaks down into sort of  
17 box-like categories by genus, but the Name Guide clearly  
18 then breaks that down with respect to the common names  
19 used in many, many, many cases by specific species,  
20 whether it's badger or bear, the genus is separated out,  
21 but then the name that's required for the -- to be  
22 presented to consumers is by species. So, that was just  
23 a point of clarification.

24 MS. KIM: Okay. I wanted to move on to a  
25 question raised by the Fur Information Council in its

1 comment, so I'll go to you first on this, about whether  
2 the Name Guide should be modified to remove the names of  
3 certain species that are prohibited by statute or other  
4 regulation. And if you think the answer is yes, what is  
5 the basis for your position?

6 MR. LASOFF: Again, those comments were based  
7 what the consumer and the retailer -- again, we represent  
8 the retailers, and the retailers must comply with these  
9 regulations. And, for example, if you have a category  
10 for dog, for canis familiaris, domestic dog, and there's  
11 a prohibition, why do you need an article in there, which  
12 is only going to confuse the retailer in that situation,  
13 because we're looking at this not only -- granted, your  
14 principal function here is, of course, to look at the  
15 consumer and potential deception to the consumer.

16 Well, we're also -- and you invited us in these  
17 comments, you know, to look at this overall scheme, and  
18 not only from the perspective of the consumer but from  
19 the ability of the retailer to comply and the  
20 manufacturer to comply with the scheme. The market has  
21 changed, and comments this morning and comments that have  
22 been made by the Humane Society recently regarding the  
23 fact that much of the production goes off-shore, which  
24 puts, you know, retailers at risk with respect to  
25 compliance.

1           So, therefore, again, the ability to be able to  
2           turn to the Name Guide and not cause confusion by  
3           providing names associated with prohibited products  
4           That's where -- that's the origin of our particular point  
5           here.

6           MS. KIM: Mr. Henry, do you have a response to  
7           that?

8           MR. HENRY: Sure. One of the FTC's other  
9           purposes here is enforcement. Enforcement --

10          MS. KIM: Could you speak into the microphone,  
11          please?

12          MR. HENRY: Sorry. One of the FTC's purposes  
13          here is enforcement, as well as sort of structuring the  
14          Name Guide. And the issue with removing names from the  
15          Name Guide that might be prohibited by other law is a  
16          problem with enforcement if, for instance, a retailer is  
17          not selling dog fur in violation of Federal law, there's  
18          no extra burden on that retailer with the name being in  
19          the Name Guide.

20          I don't see how it adds confusion. In fact, it  
21          adds additional layers of enforcement. We have seen  
22          actually recently dog fur advertised in the United  
23          States, listed as dog fur. So, that's not only in  
24          violation of the Dog and Cat Protection Act of 2000, but  
25          it would also be in violation of the FPLA, which adds

1 additional enforcement mechanisms.

2 And as we all know, in law enforcement, you  
3 know, it's broken down into various agencies. And to  
4 have that additional ability to enforce is important.  
5 Quite honestly, I don't think a retailer should escape  
6 liability if the retailer is failing to label dog fur as  
7 dog when dog is not -- domestic dog is not allowed to be  
8 sold in the United States.

9 The point of the FPLA is to have accurate  
10 information to consumers. And where more would we want  
11 accurate information than with respect to a fur that  
12 might be lawful to sell in other countries but is illegal  
13 to sell here?

14 MS. KIM: Okay. Ms. Grymes?

15 MS. GRYMES: Yep. We've heard anecdotally that  
16 there is some confusion about what the Name Guide is. I  
17 think some entities who are involved in labeling think  
18 the Name Guide is a list of approved furs and are  
19 confusing it with what might be a list of products that  
20 they're not on the endangered species list, and so I  
21 think that's where the confusion originates because if  
22 the name is on the Name Guide it must be a fur that is  
23 approved for sale and therefore appropriate to use, and  
24 so that's why we were thinking that you could eliminate  
25 that source of confusion by removing those names from the

1 list.

2 MS. KIM: And just to clarify the confusion  
3 that you've heard of is among what groups?

4 MS. GRYMES: We've heard it from retailers.

5 MS. KIM: Retailers?

6 MS. GRYMES: Yeah.

7 MS. KIM: Okay.

8 MR. LASOFF: One other point with respect to  
9 the terminology dog and our discussion this morning about  
10 the term raccoon dog, the requirements to administer the  
11 dog and cat act falls with Customs and Border Protection.  
12 So, if, in fact, the Commission, which has no direct role  
13 in the regulation of the importation of those products,  
14 if the name raccoon dog was supposed to be added and  
15 those products that are made from Asiatic raccoon or Finn  
16 raccoon are imported in the United States, I have no  
17 doubt whatsoever, having discussed this issue in  
18 administration with members of Customs and Border  
19 Protection, that seeing the term -- terminology dog on an  
20 invoice on a commercial document would result in massive  
21 seizures at ports of entries, as Customs officials  
22 standing on the boards will immediately open boxes, see a  
23 term dog, seize the shipment, and it would wreak havoc  
24 with the marketplace. That's one aspect that the  
25 Commission should look at the regulatory consequences of

1 adopting this, as well, on other agencies, such as  
2 Customs and Border Protection.

3 MS. KIM: Mr. Grzybowski?

4 MR. GRZYBOWSKI: Real quickly, and I think Mr.  
5 Henry wants to make a point. I believe that currently  
6 anything brought into the U.S. that contains an animal  
7 product has to fill out a customs declaration form, where  
8 they must give the scientific name and I believe also the  
9 common name. So, in that case, I think that will be -- I  
10 think Customs will be protected from that specter that's  
11 been raised when they see *nyctereutes procyonidos*.

12 And I think that's another important thing to  
13 bring up, which is the data needs to be consistent  
14 throughout the process of enforcement and potential  
15 enforcement and linking the correct scientific name to  
16 the correct common name will help people at every level  
17 beginning with the first level, which is Customs, and  
18 then coming in and then the FTC and then at the state and  
19 the county levels, local consumer protection enforcement  
20 agents.

21 I think just having a continuity of the name  
22 has really been kind of one of the big problems is just  
23 the number of hands and the number of people that a  
24 product changes from one to another and maintaining a  
25 continuity of what that animal is is very important. And



1 I think that we simply have to go with what the actual  
2 accurate name is in order for that to happen.

3 MR. GRZYBOWSKI: Mr. Henry, did you have a  
4 response more specifically on this question of whether  
5 certain species that are prohibited by statute should be  
6 removed from the Name Guide?

7 MR. HENRY: Yeah, it's two quick responsive  
8 points. One is rather than remove the species names, as  
9 I've noted, there's an important enforcement component  
10 here, what would be better is if the fur products  
11 regulations, if they do not already, and I admit that I  
12 don't recall, if they do not already make clear that this  
13 is -- that these species are not approved, if they're in  
14 the Name Guide, could easily do so. If the confusion is  
15 by those looking at the Name Guide, they can also easily  
16 look at some, you know, preamble language in the Name  
17 Guide that makes clear that this does not make the sale  
18 of these species legal.

19 And with respect to enforcement in the Customs  
20 issue, Customs is not the only person that enforces the  
21 Dog and Cat Protection Act. The President of the United  
22 States, through his law enforcement officials, actually  
23 enforce -- as a designated authority separate for the  
24 sales, distribution, and advertising side of that law.  
25 And when we've see recently dog fur sold in the United

1 States, it has not been tracking imports. We've actually  
2 seen problems with places within the United States  
3 selling the product. And, so, that would be through the  
4 other side of it, not just Customs.

5 And, so, again, an important enforcement  
6 component here is to be able to allow the FTC to work in  
7 cooperation with other Federal authorities to help  
8 prohibit the trade and trafficking in the species.

9 MS. KIM: Okay, I have a number of other points  
10 we need to cover in this session, so if you have like a  
11 couple of sentences, yeah.

12 MR. LASOFF: Thirty seconds.

13 MS. KIM: Yeah.

14 MR. LASOFF: Seconds. Anybody who makes a  
15 Customs entry has to provide an invoice, as well as  
16 documents that might require the name of the species.  
17 So, you will have a situation. And all of the products  
18 that we've been discussing today are coming in from off-  
19 shore, or 90 percent or 95 for them are coming in off-  
20 shore.

21 So, now you're creating a situation where if  
22 you utilize this term raccoon dog as an example you will  
23 have invoices that will say Asiatic raccoon but now under  
24 the Commission's new guidelines -- changed guidelines, if  
25 they adopt the Humane Society position, would have to say

1 raccoon dog as well. And, so, the Customs agents would  
2 see the invoices, they're part of the entry package, and,  
3 again, it would wreak havoc in the entry process.

4 MS. KIM: Okay, let's move on to the next issue  
5 under this broad topic, which is whether the Name Guide  
6 should allow the name sheepskin in place of fur from  
7 sheep. This is something that was raised in a comment  
8 that was filed. What evidence is there that the term fur  
9 from sheep is confusing to consumers? Does anyone have a  
10 comment on that?

11 Is there anyone in the audience who would like  
12 to comment on that? Go ahead, Mr. Grzybowski.

13 MR. GRZYBOWSKI: I would just say that based on  
14 reading through the records of the original -- the  
15 original building up and passing of the act and the  
16 regulations that enforcement problems with sheep fur was  
17 a core issue. There was various, various different names  
18 and lengthy and very in-detail arguments from different  
19 interests about what to call certain types of sheep fur.

20 So, I think it's important that this product  
21 continue to be described in the same way. I think having  
22 -- not having exceptions is really important, which is  
23 why it's so important that Asiatic raccoon dog be fixed  
24 to raccoon. In order for a consumer to make a good  
25 decision, they have to know that there aren't exceptions

1 to the rule riddling the act and riddling the Name Guide.  
2 So, I think it's really important that all these products  
3 be treated in the same way, which is why ITIS is so good.

4 And I think sheepskin would -- I don't think it  
5 describes what the product is. It's not skin. Skin and  
6 leather has a very specific definition under the law, as  
7 does fur. And if it's fur, it should be called fur.

8 MS. KIM: Did you -- I see your name card is  
9 up? Okay.

10 The next question for discussion is -- I want  
11 to direct this to the Fur Information Council. You had  
12 suggested in your comment that there were various factual  
13 and typographical changes that should be made to the Name  
14 Guide. And my question is what evidence you have in  
15 support of those suggested changes.

16 MR. LASOFF: Essentially, we provided the Name  
17 Guide to wildlife biologists, people in the industry who  
18 are familiar with mammalogy, and simply had them go  
19 through an extensive review of the Name Guide. And what  
20 we provided in our written comments reflect that input  
21 that we have received.

22 MS. KIM: Is there anyone on the -- at the  
23 table who has any evidence to the contrary?

24 MR. GRZYBOWSKI: I'm sorry, to the contrary?

25 MS. KIM: To the typographical and factual

1 changes suggested by the Fur Information Council.

2 MR. GRZYBOWSKI: Well, I haven't had a chance  
3 to look closely at it, so I don't want to say with  
4 certainty, and I certainly don't want to go on the record  
5 as saying I agree with everything they say, because I  
6 can't recall. But all I can say is that the suggestions  
7 that were submitted by the HSUS in our written testimony  
8 was to the best of our ability a breakdown of the current  
9 Name Guide with the current names and both scientific and  
10 common, with ITIS as the sole source, with a few  
11 exceptions where there was further information to be  
12 gained by going outside the ITIS system.

13 MS. KIM: Dr. Gardner or Ms. Lynn, do you have  
14 any comments on the suggested changes?

15 DR. GARDNER: I went over this list in some  
16 detail, and I see it just replete with errors,  
17 misspellings, use of names that I -- for example, I  
18 brought up the point before, rat kangaroo I think should  
19 be omitted because bettongia is no longer in the fur  
20 trade. Its family name is preterite. The common names  
21 for a number of the -- the generic names for a number of  
22 these animals have been changed. It is long, long  
23 overdue for serious revision.

24 MS. LYNN: When I first looked at this list,  
25 that was one of the things that struck me was that, you

1 know, the polar bear is no longer called under this genus  
2 name. And, again, it was brought out earlier that some  
3 of -- you know, the cheetah and the jaguar and the  
4 leopard and the ocelot, things that cannot be traded in,  
5 it caused me a bit of confusion, so I think if a more  
6 systemic or -- lost my word -- regular review of it to  
7 include animals that are in the fur trade as was  
8 mentioned earlier, and since this is the -- you know, the  
9 Fur Products Name Guide and in a more routine review  
10 would be able to keep this from getting antiquated.

11 MS. KIM: Any other comments on this subject?  
12 Anything from the audience?

13 Okay, and just as a wrap-up question on this  
14 subject, are there any other changes, apart from the ones  
15 that we've discussed already, that people think should be  
16 made to the Name Guide, apart from the typographical and  
17 factual changes, apart from modifying it to remove the  
18 names of prohibited species. Anything else?

19 Okay. Well, our last topic for discussion is  
20 just to have an opportunity to raise any other  
21 miscellaneous issues that haven't been discussed yet.  
22 And I can start --

23 MR. LASOFF: Question? Referring only to  
24 issues related to the Name Guide or more general issues.

25 MS. KIM: Just to the Name Guide.

1 MR. LASOFF: Okay.

2 MS. KIM: Yeah, today's hearing is just limited  
3 to the Name Guide. So, if there are other miscellaneous  
4 issues that people would like to discuss relating to the  
5 Name Guide, this is the opportunity to raise those.

6 MR. HENRY: One question: Will the Commission  
7 be accepting or want copies of any documents mentioned  
8 here, not included in written comments, to form the basis  
9 of a record, since they're mentioned here only in  
10 testimonial form?

11 MS. KIM: Can you give me an example of what  
12 you're talking about?

13 MR. HENRY: For example, the Humane Society has  
14 made reference to a few bibliographies, documents from  
15 Finnish Fur Sales, Breeders Association, and from the  
16 Ministry of Forestry and Agriculture from Finland. Those  
17 documents are not attached to our written comments, and  
18 we'd appreciate the opportunity to submit them for the  
19 record after the hearing, solely if they were mentioned  
20 in the context of this hearing.

21 MS. KIM: Hold on just one moment. Does anyone  
22 object to us opening up the submission of documents that  
23 were specifically referenced at today's hearing to  
24 further supplement the record? It would be limited to  
25 documents that were discussed here today.

1 MR. LASOFF: And we were informed initially  
2 when with respect to the hearing that there would be no  
3 subsequent submissions.

4 MS. KIM: Further submissions.

5 MR. LASOFF: That was how we prepared it, and  
6 we did not refer to anything new in this particular  
7 situation. We'd be able to discuss issues, but as far as  
8 our understanding, you know, we did not -- you know, we  
9 did not, you know, prepare our presentation to bring in  
10 new information into the record.

11 MS. BERNSTEIN: That could be incorporated into  
12 the record.

13 MR. LASOFF: That could be incorporated into  
14 the record. That was our understanding in terms of how  
15 this would be set up. Otherwise, you know, you're  
16 creating a situation where, you know, if documents are  
17 put into the record then there should be an opportunity  
18 to respond to those documents, as well.

19 MR. KIM: And I think there are two different  
20 issues, you know, whether further documents can be  
21 submitted versus what you were mentioning about whether  
22 you could have discussed other things at the hearing  
23 today. But did you have -- Dr. Gardner, did you have a  
24 response?

25 DR. GARDNER: I have a comment to make about a



1 lot of the so called authoritative references. Most  
2 lists that you find today on the internet are derived  
3 from Mammal Species of the World, the names used in that  
4 and that there are dozens of lists and encyclopedic kinds  
5 of lists of mammal names that -- in all languages -- that  
6 are based on those three editions.

7 Now, I was oversight person for the first  
8 edition for the Mammal Society -- the American Society of  
9 Mammalogists, and for the second and third edition, I  
10 have four in the third and five articles in the -- four  
11 in the second and five articles in the third. I don't  
12 agree with all of those common names, but those are the  
13 names that have been appended in these lists that people  
14 have pulled together. People love lists for some reason.  
15 But you'll find that the majority come from a very  
16 limited number of sources.

17 MS. KIM: I think what we're going to say for  
18 now is that we're not going to accept further submissions  
19 and that if there's a change we'll make that announcement  
20 publicly so that all will be able to submit additional  
21 materials that were referenced at today's hearing.

22 MR. LASOFF: Could you also perhaps describe  
23 for the group what the process will now be in terms of  
24 going forward?

25 MS. BERNSTEIN: Yes.

1 MR. LASOFF: I would appreciate just potential  
2 timing, potential -- what is the next step, will a  
3 written record be produced, will there be opportunities  
4 to review the record, or does the Commission go into  
5 notice of proposed rule making, what exactly is the next  
6 step and do you, at this point, have any sense of timing  
7 on that, as well?

8 Because, again, this is -- you know, if changes  
9 are going to be made, I think it's important that the  
10 Commission from the perspective of those it regulates  
11 also be sensitive to timing aspects of this and new  
12 seasons and so forth. So, these proceedings, you know,  
13 beyond the issue we discussed today, that these  
14 proceedings can have significant impact on the regulatory  
15 obligations of the industry. And already we're -- you  
16 know, we're dealing with the implementation of a new  
17 provision that brings in hundreds and thousands of new  
18 products by the elimination of the small value exception,  
19 which, by the way, you know, is something that the  
20 Commission needs to address quickly.

21 MS. KIM: Yeah, well, as far as the process  
22 going forward, we will be -- the Commission will be  
23 considering the comments that were submitted in written  
24 form, as well as the comments that were received today at  
25 the hearing. And then staff will formulate a proposal

1 that will be forwarded to the Commission for a proposed  
2 rule and proposed changes. Obviously, we will have  
3 written comment on that.

4 And as far as the specific timing of that, I  
5 can't make a commitment about that right now, but I can  
6 assure you that we're -- we've had this hearing so that  
7 the Commission can consider the comments in written form  
8 and the comments that were submitted today.

9 MR. LASOFF: If I may ask, then, one other  
10 question, you did --

11 MS. KIM: Oh, well, and one other thing I would  
12 add --

13 MR. LASOFF: -- with respect to the other  
14 aspects of the implementation of the law, how are you  
15 going to implement, such as the elimination of the small  
16 value exception, the implementation of the trappers,  
17 these are major issues because you've just brought in  
18 hundreds of thousands of new products under the  
19 regulations.

20 And you have retailers at all levels, not just,  
21 you know, fur retailers or fur salons, you now have Mr.  
22 Autor's -- you know, WalMart, you know, may have now to  
23 have a little rabbit's foot or something may suddenly  
24 become you know, obliged to do a two-inch-by-three-inch  
25 card, you know, according to a particular font.

1           So, what the scope of all of this is going to  
2 be, the industry is kind of crying out for this right now  
3 in terms of the implementation, your grandfathering  
4 provision ends in March of 2012, at which case you're now  
5 in enforcement mode, and some of the allegations that you  
6 have before you, you know, suddenly have become relevant  
7 to an enforcement mode. So, I don't know if there's  
8 anything you could lend to that, as well, but as this  
9 sort of reflects concerns that the retail community has  
10 right now, as well.

11           MS. KIM: I have heard your --

12           MR. LASOFF: And I don't mean to put you on the  
13 spot.

14           MS. KIM: I've heard the concerns that you  
15 voiced, and unfortunately today really is limited to a  
16 discussion of the issues pertaining to changes to the  
17 Name Guide. And I very much appreciate the comments that  
18 were shared today. Unfortunately, I can't share or shed  
19 more light on that at this time, but you have now put  
20 your concerns on the record.

21           MR. LASOFF: Thank you.

22           MS. KIM: If there's nothing else relating --

23           MR. HENRY: I was just wondering if you had an  
24 idea of when we'd have the stenographer's account  
25 available to us?

1 MS. KIM: Oh, yeah, do you want to speak to  
2 that?

3 MR. WILSHIRE: Right, it should be up within a  
4 few weeks on our website, it will probably be available.

5 MS. KIM: If there are no other comments on  
6 changes to the Name Guide, seeing none, we will close the  
7 record for today and thank you very much for your  
8 participation.

9

10 (Whereupon, at 12:05 p.m., the hearing was  
11 concluded.)

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## 1                   C E R T I F I C A T I O N   O F   R E P O R T E R

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3

MATTER NUMBER: P074201

4

CASE TITLE: FUR NAME GUIDE REVIEW

5

DATE: DECEMBER 6, 2011

6

7

I HEREBY CERTIFY that the transcript contained  
8 herein is a full and accurate transcript of the notes  
9 taken by me at the hearing on the above cause before the  
10 FEDERAL TRADE COMMISSION to the best of my knowledge and  
11 belief.

12

13

DATED: DECEMBER 14, 2011

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LINDA METCALF

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## C E R T I F I C A T I O N   O F   P R O O F R E A D E R

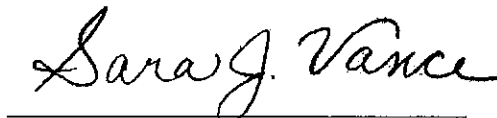
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I HEREBY CERTIFY that I proofread the transcript for  
21 accuracy in spelling, hyphenation, punctuation and  
22 format.

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SARA J. VANCE