



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Bureau of Consumer Protection  
Division of Enforcement

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**VIA EMAIL**

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Dear Ms. Duncan:

We received your submissions on behalf of Kaisa USA, Inc. (“Kaisa USA” or the “Company”). During our review, we discussed two concerns relating to the Company’s use of U.S.-origin marketing claims. First, Kaisa USA published a web catalogue that included “Made in USA” claims on every page, including pages featuring wholly-imported products or products containing significant imported materials. Second, the Company labeled certain composition books assembled in the USA of U.S.-origin paper and foreign-origin covers as “Made in USA.”

As discussed, unqualified U.S.-origin claims in marketing materials – including claims that products are “Made” or “Built” in the USA – likely suggest to consumers that the products advertised in those materials are “all or virtually all” made in the United States.<sup>1</sup> The Commission may analyze a number of different factors to determine whether a product is “all or virtually all” made in the United States, including the proportion of the product’s total manufacturing costs attributable to U.S. parts and processing, how far removed any foreign content is from the finished product, and the importance of the foreign content or processing to the overall function of the product. The “all or virtually all” standard is codified in the Made in USA Labeling Rule, 16 C.F.R. § 323 (the “MUSA Labeling Rule”).<sup>2</sup>

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<sup>1</sup> FTC, *Issuance of Enforcement Policy Statement on “Made in USA” and Other U.S. Origin Claims*, 62 Fed. Reg. 63756, 63768 (Dec. 2, 1997) (the “Policy Statement”). Additionally, beyond express “Made in USA” claims, “[d]epending on the context, U.S. symbols or geographic references, such as U.S. flags, outlines of U.S. maps, or references to U.S. locations of headquarters or factories, may, by themselves or in conjunction with other phrases or images, convey a claim of U.S. origin.” *Id.*

<sup>2</sup> Effective August 13, 2021, it is a violation of the MUSA Labeling Rule to label any covered product “Made in the United States,” as the MUSA Labeling Rule defines that term, unless the final assembly or processing of the product occurs in the United States, all significant processing that goes into the product

The Commission has explained that, unless marketers specify which products are covered or directly link claims to particular products, consumers generally interpret U.S.-origin claims in marketing materials to cover *all* products advertised in those materials. Accordingly, the Policy Statement provides, “marketers should not represent, either expressly or by implication, that a whole product line is of U.S. origin (*e.g.*, ‘Our products are Made in USA’) when only some products in the product line are, in fact, made in the United States.”<sup>3</sup>

In this case, Kaisa USA made updates to its marketing materials to avoid deceiving consumers. First, although it is appropriate for Kaisa USA to promote the fact that it employs workers and certain of its products are made in the United States, printing “Made in USA” claims on every page of the Company catalogue suggests all products in the catalogue are of U.S. origin. Thus, Kaisa USA removed the claim. In the future, the Company will tailor U.S.-origin claims to the products to which they relate and take care not to imply they cover all Company products.

Second, although the cost of an imported cover is small relative to the Company’s overall costs to manufacture a composition book, a cover is not far enough removed in the manufacturing process from the finished product to be of little consequence, and it is a significant part of the final product. Accordingly, Kaisa USA removed unqualified “Made in USA” claims from this product and disposed of mismarked items in inventory, including by gifting composition books to local schools.

FTC staff members are available to work with companies to craft claims that serve the dual purposes of conveying non-deceptive information and highlighting work done in the United States. Based on Kaisa USA’s actions and other factors, the staff has decided not to pursue this investigation any further. This action should not be construed as a determination that there was no violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. The Commission reserves the right to take such further action as the public interest may require. If you have any questions, please feel free to call.

Sincerely,



Julia Solomon Ensor  
Staff Attorney



Lashanda Freeman  
Senior Investigator

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occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States. *See* <https://www.federalregister.gov/documents/2021/07/14/2021-14610/made-in-usa-labeling-rule>. Pursuant to 15 U.S.C. § 45(m)(1)(A), the Commission may seek civil penalties of up to \$50,120 per MUSA Labeling Rule violation.

<sup>3</sup> Policy Statement, 62 Fed. Reg. 63756, 63768 n.111.