



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

Division of Enforcement

April 10, 1997

Robin P. Rosen  
Attorney

Direct Dial  
(202) 326-3740

Pamela Meloni  
DaMa, Inc.  
25 Oakdale Avenue  
Johnston, RI 02919

Dear Ms. Meloni:

This is in response to your letter of April 2, 1997 in which you requested a staff opinion on the legality of marking earrings "Made in Thailand" where the earring is made in Thailand and the backing is made in the United States.

The Federal Trade Commission's Guides for the Jewelry, Precious Metals, and Pewter Industries ("Guides") are an administrative interpretation of the laws administered by the Federal Trade Commission to provide guidance for the public to conform with legal requirements. The Guides do not address directly the use of markings indicating where the articles are made, such as "Made in the United States." The Guides do prohibit deception generally and provide, in pertinent part, that it is unfair or deceptive to misrepresent the origin of an industry product. 16 C.F.R. § 23.1.

The primary law that requires foreign-origin marking is found in Section 304 of the Tariff Act of 1930 and is enforced by the U.S. Customs Service. This law requires country-of-origin disclosures to accompany foreign imports as they are received into this country and until such time as the imported product is "substantially transformed" in the United States. The Tariff Act declares it unlawful to cover or remove a foreign-origin label that is already on a product. Thus, the Tariff Act most likely requires a country-of-origin disclosure for the earrings.

Goods manufactured in the United States, however, generally are not required to have a label identifying domestic origin content. Therefore, the earring backing does not have to be marked "Made in USA." Note, however, that a manufacturer may choose to make a domestic origin claim. Historically, the Commission has required that a product be "wholly" or "all or virtually all" domestic to be able to use an unqualified "Made in USA" claim in advertising or packaging.

In accordance with Section 1.3(c) of the Commission's Rules of Practice and Procedure (16 C.F.R. § 1.3(c)), this is a staff opinion only and has not been reviewed or approved by the Commission or by any individual Commissioner, and is given without prejudice to the right of the Commission later to rescind the advice and, where appropriate, to commence an enforcement

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action. In accordance with Section 1.4 of the Commission's Rules of Practice and Procedure (16 C.F.R. § 1.4), this response to your request will be placed on the public record, along with your request for advice. I hope this has been helpful. If you have any further questions, you may contact me at the above number.

Sincerely yours,

Robin P. Rosen  
Attorney