



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

Bureau of Consumer Protection
Division of Enforcement

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FEDERAL EXPRESS

Jennifer Coleman, Esq.
Deputy General Counsel and Chief Litigation Counsel
Leggett & Platt, Incorporated
P.O. Box 757
No. 1 Leggett Road
Carthage, MO 64836-0757

Dear Ms. Coleman:

We received your submissions on behalf of Leggett & Platt, Inc. (“Leggett & Platt”). During our review, we raised concerns that marketing materials you provided to third-party retailers for use in the sale or marketing of Gordon Manufacturing-branded adjustable standing desks may have overstated the extent to which those desks are made in the United States. Specifically, although the desks include U.S. components, the motor and electronics used to raise and lower the desk are imported.

As discussed, unqualified “Made in USA” claims on marketing materials likely suggest to consumers that the products advertised in those materials are “all or virtually all” made in the United States. 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. In this case, the imported motor and electronics are essential to the desks’ function.

Although Leggett & Platt does not market the relevant desks directly to end-use consumers, it distributes promotional materials to third-party retailers for the use in marketing and sale of its products, which retailers rely upon to market the desks. As we discussed, providing third-party retailers with the means and instrumentalities to deceive consumers constitutes a violation of Section 5 of the Federal Trade Commission Act. *See, e.g., Regina Corp. v. FTC*, 322 F.2d 765, 768 (3d Cir. 1963); *FTC v. Five-Star Auto Club*, 97 F. Supp. 2d 502, 530-31 (S.D.N.Y. 2000); *FTC v. Am. Std. Credit Sys., Inc.*, 874 F. Supp. 1080, 1090-91 (C.D. Cal. 1994). Accordingly, to avoid deceiving consumers, you explained that Leggett & Platt amended affected advertising materials and sent a letter to its customers notifying them of the change and updated materials.

Based on your 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, you can reach me at (202) 326-2377.

Sincerely,



Julia Solomon Ensor
Staff Attorney