



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

Bureau of Consumer Protection
Division of Enforcement

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July 29, 2019

VIA EMAIL

Mr. John Gilmore
Vice President
Linmore LED Labs, Inc.
2360 S. Orange Ave.
Bldg. 1
Fresno, CA 93725

Dear Mr. Gilmore:

We received your submissions on behalf of Linmore LED Labs, Inc. (“Linmore LED” or the “Company”). During our review, we raised concerns that certain marketing materials may have overstated the extent to which certain LED lighting products are made in the United States. Specifically, although Linmore LED assembles products in the United States, those products incorporate significant imported content. Linmore LED also sells wholly imported products.

As discussed, unqualified U.S.-origin claims in marketing materials – including claims that products are “Made,” “Built,” or “Manufactured” in the USA – likely suggest to consumers that all products advertised in those materials are “all or virtually all” made in the United States.¹ Furthermore, the FTC’s Enforcement Policy Statement on “Made in USA” and Other U.S. Origin Claims explains that “‘Assembled in USA’ claims should be limited to those instances where the product has undergone its principal assembly in the United States and that assembly is substantial. In addition, a product should be last substantially transformed in the United States to properly use an ‘Assembled in USA’ claim.”²

Accordingly, to avoid deceiving consumers, Linmore LED implemented a remedial action plan to clarify its representations. The plan included: (1) removing unqualified claims

¹ Federal Trade Commission, *Issuance of Enforcement Policy Statement on “Made in USA” and Other U.S. Origin Claims*, 62 Fed. Reg. 63756, 63768 (Dec. 2, 1997). 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.*

² *Id.* at 63770.

from all marketing material; (2) sending notices to consumers that purchased mismarked product; (3) training personnel; and (4) introducing qualified claims, where appropriate.

As discussed, it is appropriate for the Company to promote the fact that it employs workers and performs certain processes in the United States, provided that marketing materials do not overstate the extent to which Linmore LED products are made in the United States. It is also appropriate for Linmore LED to make truthful claims that products meet the domestic manufacturing requirements of the Buy American Act (“BAA”), 41 U.S.C. §§ 8301-8305³, as long as those claims are either: (1) limited to marketing materials available only to government purchasers, or (2) qualified to avoid consumer deception. As you know, FTC staff is available to work with companies to craft qualified claims that serve the dual purposes of conveying non-deceptive information to consumers and highlighting work done in the United States.

Based on Linmore LED’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, you can reach me at (202) 326-2377.

Sincerely,



Julia Solomon Ensor
Staff Attorney

³ BAA establishes price preferences for domestic end products and construction materials in government acquisitions, and defines those terms as they are used in that limited context. *See* 48 CFR § 25.003 (stating that for purposes of BAA, “domestic end product[s]” and “domestic construction material[s]” include, among other things, certain manufactured products or materials where either the cost of the components mined, produced, or manufactured in the United States exceeds 50% of the cost of all components, or the product or material is a commercially available off-the-shelf item).