



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

Bureau of Consumer Protection
Division of Enforcement

June 5, 2018

VIA FEDEX

Shawna Hanson, Esq.
General Counsel
Daktronics, Inc.
201 Daktronics Dr.
Brookings, SD 57006

Dear Ms. Hanson:

We received your submissions on behalf of Daktronics, Inc. (“Daktronics” or the “Company”). During our review, we discussed concerns that marketing materials may have overstated the extent to which Daktronics’ LED signs – which incorporate significant imported materials – are made in the United States.

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 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 Commission has noted that “[w]here a product is not all or virtually all made in the United States, any claim of U.S. origin should be adequately qualified to avoid consumer deception about the presence or amount of foreign content. In order to be effective, any qualifications or disclosures should be sufficiently clear, prominent, and understandable to prevent deception.”²

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 63769.

In this case, Daktronics implemented a remedial action plan to avoid deceiving consumers. This plan included: (1) immediately withdrawing and replacing online ads identified by the staff; (2) reviewing all other online, hardcopy, tradeshow, and on-product marketing materials and removing or modifying overly broad or unsubstantiated U.S.-origin claims; (3) providing training on how to make non-deceptive U.S.-origin claims to marketing groups, sales groups, product managers, human resources, technical writers, content creation groups, and demos groups; and (4) reviewing reseller claims for Daktronics products and providing replacement marketing materials to resellers as needed.

You noted that Daktronics intends to use appropriately qualified U.S.-origin claims in the future to promote the work the company performs in the United States. If Daktronics employs workers and performs certain processes in the United States, it is appropriate for the Company to promote those facts, provided that marketing materials do not overstate the extent to which Daktronics products are made in the United States. Additionally, 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 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.

Sincerely,



Julia Solomon Ensor
Staff Attorney
Division of Enforcement
(202) 326-2377
jensor@ftc.gov



Crystal D. Ostrum
Investigator
Division of Enforcement
(202) 326-3405
costrum@ftc.gov