



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

Bureau of Consumer Protection
Division of Enforcement

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VIA EMAIL

Neil C. Jones, Esq.
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Dear Mr. Jones:

We received your submissions on behalf of J-B Weld Company, LLC (“J-B Weld” or the “Company”). During our review, we discussed concerns that marketing materials may have overstated the extent to which J-B Weld’s products are made in the United States. Specifically, although J-B Weld makes many U.S.-origin epoxy and silicone adhesive products in the United States, the Company also sells cyanoacrylate and other adhesive products that either incorporate significant imported content, or are wholly imported.¹

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.² 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

¹ The staff’s review followed a referral from the National Advertising Review Board of the BBB-National Programs (“NARB”) after J-B Weld disagreed with NARB’s finding that its caps, tubes, syringes, and/or applicators were covered by the Company’s U.S.-origin claims, and declined to comply with NARB’s recommendations.

² 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) (“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.*

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. Clarity of language, prominence of type size and style, proximity to the claim being qualified, and an absence of contrary claims that could undercut the effectiveness of the qualification, will maximize the likelihood that the qualifications and disclosures are appropriately clear and prominent.”³

To avoid deceiving consumers, J-B Weld implemented a remedial action plan to update and qualify its representations where needed. This plan included: (1) updating packaging for three product lines; (2) removing unqualified U.S.-origin claims from general company marketing materials, including the J-B Weld website, LinkedIn page, Facebook page, and YouTube page; and (3) requiring updates to third-party online marketing materials for affected product lines.

In general, although not specifically covered in the Policy Statement, the FTC has not required manufacturers to account for the origin of incidental, discarded packaging when analyzing product origin, unless the marketer’s claims expressly or impliedly convey that the packaging is of U.S. origin.⁴ In this case, in certain instances, J-B Weld made unqualified “Made in USA” claims on its packaging about its products. While the glue contained in that packaging was “all or virtually all” made in the United States, the packaging itself, which had no independent value to consumers and was typically discarded upon depletion, was not. In the absence of consumer perception evidence showing otherwise, FTC staff finds it is unlikely that reasonable consumers interpreted the unqualified U.S. origin claims on these adhesive products as covering the incidental, discarded packaging.

As discussed, it is appropriate for J-B Weld to promote the fact that it employs workers

³ *Id.* at 63769.

⁴ *See, e.g.*, FTC Advisory Opinion No. 368, Disclosure of origin of imported plastic vinegar bottles (Oct. 9, 1969), *digest available at* https://www.ftc.gov/sites/default/files/documents/commission_decision_volumes/volume-76/ftc_volume_decision_76_july_-_december_1969pages_1039-1125.pdf (stating a manufacturer of domestically-made vinegar need not disclose the origin of imported plastic containers in the absence of an affirmative representation that the bottles were made in the United States). Relatedly, the FTC has long advised marketers that U.S.-origin claims on U.S.-origin packaging containing imported products likely deceive consumers. *See, e.g.*, FTC Advisory Opinion No. 230, Foreign country of origin disclosure on mounting cards displaying imported eyelashes (Apr. 4, 1968), *digest available at* https://www.ftc.gov/sites/default/files/documents/commission_decision_volumes/volume-73/ftcd-vol73january-june1968pages1289-end.pdf (where imported eyelashes were displayed in U.S.-origin packaging, marketer must disclose foreign origin of imported eyelashes).

and makes a wide range of products in the United States, provided that marketing materials do not convey that all J-B Weld products are made in the United States or overstate the U.S. content of products that contain significant imported inputs. 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 J-B Weld'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,

A handwritten signature in blue ink, appearing to read "J. ENSOR", written in a cursive style.

Julia Solomon Ensor
Staff Attorney

cc: Kenneth Plevan, Chair, NARB