



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

Bureau of Consumer Protection
Division of Enforcement

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FEDERAL EXPRESS

Mr. Andrew C. Aitken, Esq.
IP Law Leaders PLLC
1701 Pennsylvania Ave., NW, Suite 300
Washington, DC 20006

Dear Mr. Aitken:

We received your submissions on behalf of your clients, Jennifer and David Aprea, d/b/a Spray Pal. During our review, we discussed concerns that certain marketing materials may have overstated the extent to which the Spray Pal cloth diaper cleaning device is made in the United States. Specifically, though some parts of the product are made in the United States, the clip used to fasten diapers to the device is imported.

As we discussed, unqualified "Made in USA" claims likely suggest to consumers that products 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, although the cost of the imported content may be small relative to overall manufacturing costs, the clip is essential to the function of the Spray Pal product. Accordingly, to avoid deceiving consumers, you explained that your clients have implemented a corrective action plan. This plan includes: (1) performing a company-wide analysis of labeling claims; (2) re-labeling existing Spray Pal inventory with the claim "Made in USA from US and Imported Parts"; (3) reviewing and correcting claims on the Spray Pal website and on social media; and (4) sending an email to website hosts of re-sellers and bloggers that have reviewed the Spray Pal product with updated marketing materials.

Based on your statements, 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", with a stylized flourish at the end.

Julia Solomon Ensor
Staff Attorney