

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**KUBOTA NORTH AMERICA  
CORPORATION, a corporation, also d/b/a  
KUBOTA ENGINE CORPORATION,  
KUBOTA TRACTOR CORPORATION,  
KUBOTA MANUFACTURING OF  
AMERICA CORPORATION, KUBOTA  
INDUSTRIAL EQUIPMENT  
CORPORATION, and GREAT PLAINS  
MANUFACTURING  
INCORPORATED/LANDPRIDE,**

**Defendant.**

**Case No. 3:24-cv-159**

**COMPLAINT FOR PERMANENT INJUNCTION,  
CIVIL PENALTY JUDGMENT, AND OTHER RELIEF**

Plaintiff, the United States of America, acting upon notification and referral from the Federal Trade Commission (“FTC” or “Commission”), for its Complaint alleges:

1. Plaintiff brings this action for Defendant’s violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Made in USA Labeling Rule (“MUSA Labeling Rule”), 16 C.F.R. Part 323. Defendant’s violations relate to the false labeling of millions of wholly-imported products as “Made in USA.” For these violations, Plaintiff seeks relief, including a permanent injunction, civil penalty, and other relief, pursuant to Sections 5(m)(1)(A), 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45(m)(1)(A), 53(b), 57b, and the MUSA Labeling Rule, 16 C.F.R. Part 323.

## **JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355.

3. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(1), (b)(2), (c)(2), and (d), 1395(a), and 15 U.S.C. § 53(b).

## **PLAINTIFF**

4. Plaintiff brings this action, which was referred by the FTC pursuant to Section 16(a)(1) of the FTC Act, 15 U.S.C. § 56(a)(1). The FTC is an independent agency of the United States Government created by the FTC Act. 15 U.S.C. §§ 41–58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces the MUSA Labeling Rule, 16 C.F.R. Part 323, which prohibits unqualified “Made in USA” claims on labels on products unless the products are all or virtually all made in the United States.

## **DEFENDANT**

5. Defendant Kubota North America Corporation (“Kubota”), also doing business as Kubota Engine Corporation, Kubota Tractor Corporation, Kubota Manufacturing of America Corporation, Kubota Industrial Equipment Corporation, and Great Plains Manufacturing Incorporated/LandPride, is a Delaware corporation with its principal place of business within the Dallas Division of this District, at 1000 Kubota Drive, Grapevine, TX 76051 (which is a location within the portion of Grapevine that lies within Dallas County). Kubota transacts or has transacted business in this District and throughout the United States. At all times relevant to this Complaint, acting alone or in concert with others, Kubota has advertised, marketed, distributed, or sold products, including lawn tractors, mowers, utility vehicles, backhoes, loaders, agricultural implements, and associated parts, to consumers throughout the United States.

## COMMERCE

6. At all times relevant to this Complaint, Defendant has maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

### 1999 COMMISSION ORDER

7. On January 19, 1999, the FTC published an administrative complaint alleging Kubota subsidiary Kubota Tractor Company (“KTC”) violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) (“Section 5”), by falsely advertising certain lawn and garden tractors incorporating significant imported parts as “Made in the United States” (“MUSA”) (Exhibit 1, the “KTC Complaint”).

8. According to the KTC Complaint, by claiming certain lawn and garden tractors were MUSA, KTC “represented, expressly or by implication, . . . that all, or virtually all, of the component parts of the [tractors are] made in the United States, and that all, or virtually all, of the labor in manufacturing the [tractors] is performed in the United States.” KTC Complaint at ¶¶ 8, 11, 17.

9. Thus, the KTC Complaint alleged KTC’s MUSA claims were false or misleading in violation of Section 5 because the relevant models “contain[] significant foreign parts and therefore [are] not all or virtually all made in the United States.” KTC Complaint at ¶¶ 9, 12, 18.

10. Also on January 19, 1999, the FTC announced the parties had reached a settlement and published an Agreement Containing Consent Order signed in 1998 by KTC’s then-President Shohei Majima and then-General Counsel Richard O. Briggs (Exhibit 2, the “KTC Agreement”).

11. The KTC Agreement contained a provision enjoining KTC’s deceptive claims, allowing KTC to advertise affected products as MUSA only “so long as all, or virtually all, of

the component parts of such product, or of all products in such product line, are made in the United States and all, or virtually all, of the labor in manufacturing such product, or of all products in such product line, is performed in the United States.” KTC Agreement, Section I.

12. Following a public comment period, on April 6, 1999, in a proceeding bearing Docket No. C-3863, the FTC adopted the substance of the KTC Agreement through issuance of a final Decision and Order resolving all matters then in dispute (Exhibit 3, the “KTC Order”).

13. The KTC Order, which bound KTC, its successors and assigns, and its officers, agents, representatives, and employees, including through any corporation, subsidiary, or other device, prohibited KTC from misrepresenting the extent to which lawn or garden tractors or product lines were MUSA.

14. Consistent with the KTC Agreement, the KTC Order stated that lawn or garden tractors or product lines could be advertised as MUSA only if “all, or virtually all, of the component parts of such products in such product line, are made in the United States and all, or virtually all, of the labor in manufacturing such product, or of all products in such product line, is performed in the United States.” KTC Order, Section I.

15. Section III of the KTC Order required KTC to deliver copies of the KTC Order to all current and future officers and directors, and all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of the Order.

16. Section VI of the KTC Order contained an administrative “sunset” provision, terminating the order after 20 years, with certain exceptions.

17. Because none of the exceptions detailed in Section VI occurred, the KTC Order terminated on April 6, 2019.

18. Through the KTC Complaint, Agreement, and Order, Kubota has had actual

notice since at least 1998 that it is a violation of Section 5 to advertise or label a product as MUSA unless “all, or virtually all, of the component parts of such product, or of all products in such product line, are made in the United States and all, or virtually all, of the labor in manufacturing such product, or of all products in such product line, is performed in the United States.”

### DEFENDANT’S BUSINESS ACTIVITIES

19. In addition to selling finished tractors, mowers, utility vehicles, and construction and agricultural equipment, Kubota sells replacement parts for those products.

20. Since at least 2021, Kubota has labeled thousands of replacement parts as MUSA when, in fact, they were wholly imported.

21. In many instances, Kubota has incorrectly recorded “USA” as the origin of wholly-imported parts in its sales databases, leading its systems to generate MUSA labels for those products.



22. In other instances, Kubota has failed to update package designs that incorporated MUSA labels after shifting production of those products overseas.



23. Because of these systems failures, Kubota has sold millions of wholly-imported replacement parts with false MUSA labels.

24. Kubota's express or implied representations that wholly-imported parts are all or virtually all made in the United States are false and/or unsubstantiated.

25. Based on the facts and violations of law alleged in this Complaint, the FTC has reason to believe Defendant is violating or is about to violate laws enforced by the Commission because, among other things: Defendant has engaged in its unlawful acts repeatedly over a period of at least three years, despite being sued by the FTC previously for the same violations; Defendant has earned significant revenues from participating in these unlawful acts and practices; and Defendant only has ceased its unlawful activities after learning of the FTC's investigation into its unlawful conduct.

### **VIOLATIONS OF THE FTC ACT**

26. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or deceptive acts or practices in or affecting commerce."

27. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

**Count I**  
**FTC Act Violation – MUSA Claims for Imported Parts**

28. In numerous instances since at least January 2021, in connection with the advertising, marketing, promotion, offering for sale, or sale of replacement parts and other products, Defendant has represented, directly or indirectly, expressly or by implication, that such products are all or virtually all MUSA.

29. In fact, in numerous instances in which Defendant has made the representations described in Paragraph 28, Defendant's replacement parts and other products are not all or virtually all MUSA because they are wholly imported or incorporate significant imported materials.

30. Therefore, Defendant's representations as described in Paragraph 28 are false or misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

**VIOLATIONS OF THE MADE IN USA LABELING RULE**

31. Effective August 13, 2021, the Made in USA Labeling Rule, 16 C.F.R. Part 323 ("MUSA Labeling Rule"), prohibits marketers from labeling products as MUSA unless: (1) "the final assembly or processing of the product occurs in the United States;" (2) "all significant processing that goes into the product occurs in the United States;" and (3) "all or virtually all ingredients or components of the product are made and sourced in the United States." 16 C.F.R. § 323.2.

32. The MUSA Labeling Rule also provides, to the extent any mail order catalog or mail order promotional material includes a seal, mark, tag, or stamp labeling a product MUSA, such label must comply with the requirements of 16 C.F.R. § 323.2. 16 C.F.R. § 323.3.

33. For purposes of the MUSA Labeling Rule, MUSA is defined as "any unqualified

representation, express or implied, that a product or service, or a specified component thereof, is of U.S. origin, including, but not limited to, a representation that such product or service is ‘made,’ ‘manufactured,’ ‘built,’ ‘produced,’ ‘created,’ or ‘crafted’ in the United States or in America, or any other unqualified U.S.-origin claim.” 16 C.F.R. § 323.1(a).

34. A violation of the MUSA Labeling Rule constitutes an unfair or deceptive act or practice in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a). 15 U.S.C. § 57a(d)(3) and 16 C.F.R. § 323.4.

### **Count II MUSA Labeling Rule Violations**

35. In numerous instances since August 13, 2021, Defendant has labeled replacement parts and other products as MUSA.

36. In fact, in numerous instances in which Defendant has labeled the products described in Paragraph 35, such products are not MUSA because they are wholly imported or contain significant imported materials.

37. Therefore, Defendant’s acts or practices as described in Paragraph 35 violate the MUSA Labeling Rule.

### **CONSUMER INJURY**

38. Consumers are suffering, have suffered, and will continue to suffer substantial injury as a result of Defendant’s violations of the FTC Act and the MUSA Labeling Rule. Absent injunctive relief by this Court, Defendant is likely to continue to injure consumers and harm the public interest.

### **CIVIL PENALTIES**

39. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), authorizes this Court to award civil penalties for each violation of the MUSA Labeling Rule.



40. Defendant has violated the MUSA Labeling Rule with actual knowledge or knowledge fairly implied on the basis of objective circumstances, as required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

**PRAYER FOR RELIEF**

Wherefore, Plaintiff requests that the Court:

- A. Enter a permanent injunction to prevent future violations of the FTC Act and the MUSA Labeling Rule by Defendant;
- B. Award monetary and other relief within the Court's power to grant;
- C. Impose civil penalties on the Defendant for every violation of the MUSA Labeling Rule; and
- D. Award any additional relief as the Court determines to be just and proper.

Dated: January 22, 2024

**FOR THE FEDERAL TRADE  
COMMISSION:**

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Respectfully submitted,

**FOR THE UNITED STATES OF  
AMERICA:**

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Sean Saper, United States Department of Justice, Consumer Protection Branch

DEFENDANTS

Kubota North America Corporation

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Wrede H. Smith, III, McGuireWoods LLP, 888 16th St NW, Ste 500, Black Lives Matter Plaza, Washington, DC 20006,

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, HABES CORPUS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, INTELLECTUAL PROPERTY RIGHTS, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Real Estate, Personal Injury, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

FTC Act, 15 U.S.C. § 45(a)

Brief description of cause:

Kubota North America Corp. violated the Made in United States Rule in violation of the FTC Act.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

01/22/2024 /s/ Sean Saper

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleading or other paper a required by law, except as provided by local rule of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter name (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviation. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) **County of residence.** For each civil case filed, except U.S. plaintiff case, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff case, enter the name of the county in which the first listed defendant resides at the time of filing. NOTE: In land condemnation case, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "see attachment".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8 a), F.R.Cv.P., which requires that jurisdiction be shown in pleading. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below:  
 United States plaintiff 1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suit by agency and officer of the United States are included here.  
 United States defendant 2) When the plaintiff is using the United States, its officer or agency, place an "X" in this box.  
 Federal question 3) This refers to suit under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship 4) This refers to suit under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. See Section III below; **NOTE: federal question actions take precedence over diversity cases.**
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Description](#).
- V. **Origin.** Place an "X" in one of the seven boxes:  
 Original Proceeding 1) Cases which originate in the United States district court.  
 Removed from State Court 2) Proceeding initiated in state court may be removed to the district court under Title 28 U.S.C., Section 1441.  
 Remanded from Appellate Court 3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstituted or Reopened 4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District 5) For cases transferred under Title 28 U.S.C. Section 14 4 a) Do not use this for within district transfer or multidistrict litigation transfer.  
 Multidistrict Litigation – Transfer 6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 14 7.  
 Multidistrict Litigation – Direct File 8) Check this box when a multidistrict case is filed in the same district as the Matter MDL docket. **PLEASE NOTE THAT THE E IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical record and is no longer relevant due to change in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. **Requested in Complaint.** Classification. Place an "X" in this box if you are filing a claim action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related cases, if any. If a related case exists, whether pending or closed, insert the docket numbers and the corresponding judge names for such cases. A case is related to this filing if the case: 1) involves some or all of the same parties and is based on the same or similar claim; 2) involves the same property, transaction, or event; 3) involves substantially similar issues of law and fact; and/or 4) involves the same estate in a bankruptcy appeal.

**Date and Attorney Signature.** Date and sign the civil cover sheet.