



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

Bureau of Consumer Protection
Division of Enforcement

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August 21, 2017

VIA FEDEX

Jonathan N. Zerger, Esq.
General Counsel
Excel Industries, Inc.
200 S. Ridge Road
Hesston, KS 67062

Dear Mr. Zerger:

We received your submissions on behalf of your client, Excel Industries, Inc., also d/b/a Hustler Turf Equipment and BigDog Mower Company ("Excel" or the "Company"). During our review, we discussed concerns that certain marketing materials may have overstated the extent to which certain lawnmowers are made in the United States. Specifically, although Excel assembles mowers and performs some manufacturing functions in the United States, certain mowers incorporate significant imported content.

As discussed, unqualified "Made in USA" claims on products and in company marketing materials likely suggest to consumers that the products advertised in those materials are "all or virtually all" made in the United States. Accordingly, Excel implemented a comprehensive remedial action plan to avoid deceiving consumers. This plan included: (1) completing phase-out of "Made in USA" decals for mowers; (2) updating marketing materials and photos; (3) sending notices to dealers regarding discontinuation of "Made in USA" decals and marketing claims; (4) deleting old social media posts; and (5) introducing qualified claims where appropriate, such as "Engineered, designed and assembled in USA of US and global parts," "Designed and assembled in USA," and "Made in USA of US and Global Parts."

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. 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".

Julia Solomon Ensor
Staff Attorney