

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of the complaint contemplated hereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the attached draft complaint or that the facts as alleged in the attached draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of §2.34 of the Commission's Rules the Commission may without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the complaint and the order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER

DEFINITION

For purposes of this order, the term "Clearly and prominently" shall mean as follows:

- A. In a television or video advertisement, the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement. The audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. The video disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it.
- B. In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.
- C. In a print advertisement, the disclosure shall be in a type size, and in a location, that is sufficiently noticeable so that an ordinary consumer will see and read it, in print that contrasts with the background against which it appears. In multipage documents, the disclosure shall appear on the cover or first page.
- D. On a product label, the disclosure shall be in a type size, and in a location on the principal display panel, that is sufficiently noticeable so that an ordinary consumer will see and read it, in print that contrasts with the background against which it appears.

Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or on any label.

I.

IT IS ORDERED that respondent, Hyde Athletic Industries, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any footwear in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, that footwear made wholly abroad is made in the United States.

PROVIDED, however, that respondent will not be in violation of this Order, if, in connection with a truthful representation about domestic production of its footwear, it makes one of the following disclosures, if truthful, in a clear and prominent manner.

- A. "Most Saucony models are made in the USA"; or
- B. "Models __ are not made in the USA"; or
- C. "Only models __ are imported"; or
- D. "__% of Saucony footwear is made in the USA."

This proviso shall not apply to any advertising, labeling or promotional material containing any depiction of or other representation relating to footwear made wholly abroad.

II.

IT IS FURTHER ORDERED that for five (5) years after the last date of dissemination of any representation covered by this Order, respondent, or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All materials that were relied upon in disseminating such representations; and
- B. All tests, reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

III.

IT IS FURTHER ORDERED that the respondent shall distribute a copy of this Order to each of its operating divisions and to each of its officers, agents, representatives, or employees engaged in the preparation or placement of advertisements, promotional materials, product labels or other such sales materials covered by this Order.

IV.

IT IS FURTHER ORDERED that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as a dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations under this Order.

V.

IT IS FURTHER ORDERED that respondent shall, within sixty (60) days after service of this Order upon it, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

VI.

IT IS FURTHER ORDERED that this Order will terminate twenty (20) years from the date it becomes final, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the Order, whichever comes later;

PROVIDED, HOWEVER, that the filing of such a complaint will not affect the duration of:

- A. Any paragraph in this Order that terminates in less than twenty (20) years;
- B. This Order's application to any respondent that is not named as a defendant in such complaint; and
- C. This Order if such complaint is filed after the Order has terminated pursuant to this paragraph.

PROVIDED FURTHER, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this paragraph as though the complaint was never filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

Signed this ____ day of _____, 19____.

HYDE ATHLETIC INDUSTRIES, INC.
a corporation

By: _____
John H. Fisher, President and
Chief Executive Officer
13 Centennial Industrial Park Drive
Peabody, Massachusetts 01960

By:

David Wolf
Attorney for Respondent
Wolf, Greenfield & Sacks, P.C.
Federal Reserve Plaza
600 Atlantic Avenue
Boston, Massachusetts 02210

Theresa M. McGrew
Attorney
For the Federal Trade Commission

Alan E. Krause
Investigator
For the Federal Trade Commission

APPROVED:

C. Steven Baker
Director
Chicago Regional Office

JODIE BERNSTEIN
Director
Bureau of Consumer Protection

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

In the Matter of)	
)	
HYDE ATHLETIC INDUSTRIES, INC.,)	DOCKET NO.
a corporation.)	
)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Hyde Athletic Industries, Inc., a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH ONE: Respondent Hyde Athletic Industries, Inc., is a Massachusetts corporation which manufactures and sells footwear. Its principal office or place of business is located at 13 Centennial Industrial Park Drive, Peabody, Massachusetts 01960.

PARAGRAPH TWO: Respondent has manufactured, assembled, advertised, labeled, offered for sale, sold, and distributed athletic and other footwear under the trademark "Saucony," to consumers.

PARAGRAPH THREE: The acts and practices of Respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PARAGRAPH FOUR: Respondent has disseminated or has caused to be disseminated advertisements, including product labeling, and other promotional materials for footwear sold under the Saucony trademark including, but not necessarily limited to, the attached Exhibits 1-8.

The "Help The Country" advertisement (Exhibit 1) states:

"IT CAN EVEN HELP THE COUNTRY GET BACK ON ITS FEET."

"Built With Pride In BANGOR MAINE USA"

"Any running shoe company can help keep Americans in shape. At Saucony, we've helped keep America in shape. That's because we've been a major employer in New England since 1906. Generation after generation, our family-owned company has worked with the families of Bangor, Maine to build Saucony shoes and a history of quality craftsmanship."

"For 86 years, we've worked in America. And helped make America work. After all, it's the best way we know to keep athletes - and the economy - running smoothly."

The "Front-Runners" advertisement (Exhibit 2) states:

"IF ONLY THE OTHER FRONT-RUNNERS COULD KEEP A PROMISE FOR 86 YEARS."

"Built With Pride In BANGOR MAINE USA"

"Eight-six years ago, we pledged to build our footwear at home in New England. Since then, our family-owned company has worked with the families of Bangor, Maine to build Saucony shoes and a history of quality craftsmanship."

The "Economic Problems" advertisement (Exhibit 3) states:

"FURTHER PROOF THAT ECONOMIC PROBLEMS CAN BE SOLVED AT THE GRASS ROOTS LEVEL."

"Built With Pride In BANGOR MAINE USA"

"At Saucony, we've been a major employer in New England for 86 years. Generation after generation, our family-owned company has worked with the families of Bangor, Maine to build Saucony shoes and a history of quality craftsmanship."

"Through it all, we've discovered that the best way to solve economic problems is to build from the ground up."

The advertisements attached as Exhibits 4 and 5 include the statements made in Exhibits 2 and 3, respectively, and also include a fine print statement at the bottom of each advertisement which states:

"In-Line running shoes built in Bangor, Maine. 'Classic' running styles and some components are imported. Call 1-800-365-7282 for more details."

The advertisement attached as Exhibit 6 is a different version of the "Help The Country" Advertisement (Exhibit 1) which states:

"IT CAN EVEN HELP THE COUNTRY GET BACK ON ITS FEET."

"Built With Pride In BANGOR MAINE USA"

"Any running shoe company can help keep Americans in shape. At Saucony, we've helped keep America in shape. That's because we've been a major employer in New England since 1906. Generation after generation, our family-owned company has worked with the families of Bangor, Maine to build Saucony shoes and a history of quality craftsmanship."

A fine print statement at the bottom of this advertisement states:

"In-Line running shoes built in Bangor, Maine. 'Classic' running styles and some components are imported. Call 1-800-365-7282 for more details."

The "American" advertisement (Exhibit 7) states:

"PROUD TO BE AN AMERICAN."

"Built With Pride In BANGOR MAINE USA"

"The new wave of American patriotism sweeping the country has a few of our competitors shaking in their imported shoes. At Saucony, we've been a major employer in New England for 86 years. Generation after generation, our family-owned company has worked with the families of Bangor, Maine to build Saucony running shoes and a history of quality craftsmanship."

A fine print statement at the bottom of this advertisement states:

"In-Line running shoes built in Bangor, Maine. 'Classic' running styles and some components are imported. Call 1-800-365-7282 for more details."

The "PRIDE IN AMERICA" advertisement (Exhibit 8) states:

"PROUD TO BE AN AMERICAN."

"Built With Pride In BANGOR MAINE USA"

"For decades, the people of Bangor, Maine have been building Saucony running shoes with superior American craftsmanship."

"In honor of these American shoemakers..."

"The Saucony Bangor is the newest addition to our line of high quality American-built running shoes."

"TRADE IN YOUR IMPORTS AND WE'LL SEND YOU \$10 FOR BUYING THE SAUCONY BANGOR."

A fine print statement at the bottom of this advertisement states:

"In Line Running Shoes are built in Bangor, Maine using imported components, except the Class Running styles which are assembled abroad."

PARAGRAPH FIVE: Through the use of the statements contained in the advertisements referred to in PARAGRAPH FOUR, including, but not necessarily limited to, the advertisements attached as Exhibits 1-8, Respondent has represented, directly or by implication, that all Saucony footwear is made in the United States.

PARAGRAPH SIX: In truth and in fact, a substantial amount of Saucony footwear is wholly made in foreign countries. Therefore, the representation set forth in PARAGRAPH FIVE was, and is, false and misleading.

PARAGRAPH SEVEN: The acts and practices of Respondent as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

Therefore, the Federal Trade Commission this ___ day of _____, 19_, has issued this complaint against Respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL:

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondent Hyde Athletic Industries, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns advertising and promotional practices related to the sale of athletic shoes. The Commission's complaint charges that respondent falsely represented that all of its athletic shoes sold in the United States are made in the United States.

The proposed consent order contains a provision which is designed to remedy the advertising violation charges and to prevent the respondent from engaging in similar acts and practices in the future. Part I of the proposed order prohibits the respondent from misrepresenting that footwear made wholly abroad is made in the United States. The proposed order would allow respondent, in connection with a truthful representation about domestic production of its footwear, to make one of the following disclosures, if truthful, in a clear and conspicuous manner: (a) "Most Saucony products are made in the USA"; (b) "Models ___ are not made in the USA"; (c) "Only models ___ are imported"; or (d) ___% of Saucony footwear is made in the USA."

This order provision provides that if Hyde chooses to make affirmative disclosures in its advertising it can do so if they are truthful and nondeceptive. Although several of the disclosures set out in Part I of the proposed order contain the phrase "Made in USA," this provision is not intended to address the standard for when, if at all, a product that is made partly from domestic parts and labor and partly from foreign parts and labor may appropriately be labeled "Made in USA"; that issue is the subject of a separate, ongoing review by the Commission. Rather, Part I is addressed to the circumstance in which some of the company's products are made entirely abroad.

Part II of the proposed order requires the respondent to maintain materials relied upon in disseminating any representation covered by the order. Part III of the proposed order requires the respondent to distribute copies of the order to certain company officials and employees. Part IV of the proposed order requires the respondent to notify the Commission of any change in the corporation which may affect compliance obligations under the order. Part V of the proposed order requires the respondent to file one or more compliance reports. Part VI of the proposed order is a provision whereby the order, absent certain circumstances, terminates twenty years from the date of issuance.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.