



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

Bureau of Consumer Protection
Division of Enforcement

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FEDERAL EXPRESS

Braden Perry, Esq.
Kennyhertz Perry LLC
420 Nichols Road, Suite 207
Kansas City, MO 64112

Dear Mr. Perry:

We received your submissions on behalf of your client, Niall Luxury Goods, LLC (“Niall”). During our review, we raised concerns that certain marketing materials may have overstated the extent to which Niall’s watches are made in the United States. Specifically, although Niall sources many parts in the United States, the watches’ movements are made in Switzerland.

As discussed, unqualified “Made in USA” or “Built 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, though the cost of a Swiss movement may be small relative to Niall’s overall U.S. manufacturing costs, without a movement, a watch cannot tell time. Therefore, movements are essential to the function of a watch. Accordingly, to avoid deceiving consumers, Niall implemented a remedial action plan to qualify its representations. This plan included: (1) updating claims on watch dials and bezels to clarify that the watches contain Swiss parts; (2) updating websites and social media; and (3) adopting new compliance measures, including legal review of future marketing materials and a coordinated media plan.

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", with a stylized flourish at the end.

Julia Solomon Ensor
Staff Attorney