



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

Bureau of Consumer Protection  
Division of Enforcement

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June 10, 2019

**VIA EMAIL**

Mr. Daren Peng  
Vice President  
Brigel International, Inc.  
d/b/a NuBra  
3383 Pomona Blvd.  
Pomona, CA 91768

Dear Mr. Peng:

We received your submissions on behalf of Brigel International, Inc., d/b/a NuBra (“Brigel” or the “Company”). During our review, we discussed concerns that marketing materials may have overstated the extent to which Brigel products, including fabric cup adhesive bras and accessories, are made in the United States. Specifically, although certain Brigel adhesive bras are made in the United States, Brigel also sells products that contain significant imported content.

As discussed, unqualified U.S.-origin claims in marketing materials – including claims that products are “Made,” “Crafted,” or “Manufactured” in the USA – likely suggest to consumers that all products advertised in those materials are “all or virtually all” made in the United States.<sup>1</sup> 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.

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<sup>1</sup> Federal Trade Commission, *Issuance of Enforcement Policy Statement on “Made in USA” and Other U.S. Origin Claims*, 62 Fed. Reg. 63756, 63768 (Dec. 2, 1997). Additionally, beyond express “Made in USA” claims, “[d]epending on the context, U.S. symbols or geographic references, such as U.S. flags, outlines of U.S. maps, or references to U.S. locations of headquarters or factories, may, by themselves or in conjunction with other phrases or images, convey a claim of U.S. origin.” *Id.*

The Commission has noted that “[w]here a product is not all or virtually all made in the United States, any claim of U.S. origin should be adequately qualified to avoid consumer deception about the presence or amount of foreign content. In order to be effective, any qualifications or disclosures should be sufficiently clear, prominent, and understandable to prevent deception.”<sup>2</sup>

To avoid deceiving consumers, Bragel implemented a remedial action plan to update and qualify its representations. This plan included: (1) updating product packaging and labels; (2) updating online materials, including the Company website and social media pages; (3) stickering over outdated claims on hardcopy marketing materials until new materials are printed; (4) updating trade show materials; (5) where appropriate, introducing new measures to enhance compliance with the Textile Fiber Products Identification Act, 15 U.S.C. § 70 *et seq.*, and implementing rule, 16 C.F.R. Part 303; and (6) making diligent efforts to ensure the accuracy of third-party retailer claims, including by providing stickers to apply on packaging containing outdated claims, sending several communications relating to the updates, and declining to fulfill orders from noncompliant customers.

As discussed, it is appropriate for the Company to promote the fact that it employs workers and makes certain products in the United States, provided that marketing materials do not overstate the extent to which all Bragel products are made in the United States. Additionally, FTC staff is available to work with companies to craft qualified claims that serve the dual purposes of conveying non-deceptive information to consumers and highlighting work done in the United States.

Based on Bragel’s 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,



Julia Solomon Ensor  
Staff Attorney

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<sup>2</sup> *Id.* at 63769.