



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

Bureau of Consumer Protection
Division of Enforcement

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VIA EMAIL

Michael B. Nadler, Esq.
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Two South Biscayne Boulevard
Suite 1600
Miami, FL 33131

Dear Mr. Nadler:

We received your submissions on behalf of GhostBed, Inc. (“GhostBed” or the “Company”). During our review, we discussed two sets of concerns. First, certain marketing materials may have overstated the extent to which all GhostBed products are made in the United States. For example, although certain GhostBed products are imported or contain imported components, GhostBed ran Google advertisements stating products were “Made in America,” and included unqualified “Made in USA” claims on social media accounts. Second, certain GhostBed marketing materials may have failed to comply with provisions of the Textile Products Identification Act, 15 U.S.C. § 70 *et seq.* (“Textile Act”), and implementing rules, 16 C.F.R. Part 303 (“Textile Rules”). Specifically, for some covered products, materials omitted required country-of-origin information, or failed to disclose that products were made from imported fabrics.

Unqualified U.S.-origin claims in general marketing materials, including social media posts, likely suggest to consumers that all products advertised are made in the United States.¹ As

¹ GhostBed’s U.S.-origin claims for mattresses are covered under the FTC’s general authority to prevent deceptive claims pursuant to Section 5 of the FTC Act, 15 U.S.C. § 45(a). In addition, GhostBed sells pillows, sheets, and other products covered by the Textile Act and Rules. *See* 16 C.F.R. § 303.45(a)(4). The Textile Rules set forth specific factors for marketers to apply in deciding whether to mark a product as of U.S. origin. Marketers should be aware that this analysis differs from the “all or virtually all” analysis the Commission has traditionally applied to claims for products in other categories. Specifically, 16 C.F.R. § 303.33 states that marketers need only consider the origin of materials that are one step removed from the particular manufacturing process. FTC, *Threading Your Way Through the Labeling Requirements Under the Textile and Wool Acts*, www.ftc.gov/tips-advice/business-center/guidance/threading-your-

the Commission has explained, “marketers should not represent, either expressly or by implication, that a whole product line is of U.S. origin (e.g., ‘Our products are Made in USA’) when only some products in the product line are, in fact, made in the United States.”²

Moreover, because they are covered by the Textile Act and Rules, certain GhostBed products, including pillows, sheets, and other bedding, are subject to mandatory country-of-origin labeling requirements, including requirements to disclose use of imported fabric. *See* 16 C.F.R. §§ 303.15(b); 303.16 (requiring a “conspicuous and readily accessible [country of origin] label or labels on the inside or outside of the product”).³ The Textile Act also requires marketers to disclose product origin in “mail order advertising,” including online materials. 16 C.F.R. § 303.34 (advertising must contain “a clear and conspicuous statement that the product was either made in U.S.A., imported, or both”).

To come into compliance with Section 5 of the FTC Act, 15 U.S.C. § 45(a) (“Section 5”), and the Textile Act and Textile Rules, GhostBed implemented a remedial action. This plan included: (1) removing broad, unqualified U.S.-origin claims from advertisements, including Google and Facebook ads and social media posts; (2) implementing a quarterly employee training program; (3) enhancing review of U.S.-origin claims; (4) working with partner affiliates to update and correct claims; (5) discontinuing noncompliant partners; and (6) ensuring “mail order advertising” contains required origin information.

As discussed, it is appropriate for GhostBed to promote the fact that it employs workers in the United States and offers a line of U.S.-origin mattresses and pillows. However, marketing materials that cover imported products or products made from imported components must (1) not overstate the extent to which Company products are made in the United States, and, where applicable, (2) make clear origin disclosures in compliance with the Textile Act and Textile Rules. FTC staff is available to work with companies to craft compliant claims that convey non-deceptive information to consumers and highlight work done in the United States.

Based on GhostBed’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 the Textile Act or Section 5. The Commission reserves the right to take such further action as the public interest may require. If you have questions, please feel free to call.

Sincerely,



Julia Solomon Ensor
Staff Attorney



Lashanda Freeman
Federal Trade Investigator

way-through-labeling-requirements-under-textile.

² FTC, *Issuance of Enforcement Policy Statement on “Made in USA” and Other U.S. Origin Claims*, 62 Fed. Reg. 63756, 63768 n.111 (Dec. 2, 1997).

³ Disclosure requirements apply regardless of whether products originated in the USA or abroad.