



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

Bureau of Consumer Protection
Division of Enforcement

Julia Solomon Ensor
Attorney

Email: jensor@ftc.gov
Direct Dial: (202) 326-2377

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VIA EMAIL

David P. Callet, Esq.
CalletLaw, LLC
5335 Wisconsin Ave. NW, Suite 440
Washington, D.C. 20015
Dcallet@Calletlaw.com

Dear Mr. Callet:

We received your submissions on behalf of Komar, Inc. d/b/a BedHead Pajamas (“BedHead” or the “Company”). During our review, we discussed concerns that, although BedHead performs certain manufacturing processes in the United States, certain marketing materials may not have complied with certain 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, Company materials omitted required country-of-origin information or failed to disclose that products were made from imported fabrics.

BedHead sells articles of wearing apparel covered by the Textile Act and Textile Rules. *See* 16 C.F.R. § 303.45(a)(1)(a). Accordingly, Company products are subject to mandatory country-of-origin labeling requirements. *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”). These requirements apply regardless of whether products originated in the United States or abroad.¹ The Textile Act also requires marketers to disclose product origin in “mail

¹ 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 that the Commission has traditionally applied to claims for products in other categories. Specifically, 16 C.F.R. § 303.33 states that, when evaluating whether a covered product may be marked as wholly or partially made in the United States, marketers need only consider the origin of materials that are one step removed from the particular manufacturing process. For example, a yarn manufacturer must identify imported fiber, a manufacturer of knitted garments must identify imported yarn, and a manufacturer of apparel made from cloth must identify imported fabric. *See* FTC, *Threading Your Way Through the Labeling*

order advertising,” including online materials. *See* 16 C.F.R. § 303.34 (advertising materials must contain “a clear and conspicuous statement that the product was either made in U.S.A., imported, or both”).

To come into immediate compliance with the Textile Act and Textile Rules, BedHead implemented a remedial action plan to update its labels and marketing materials. This plan included: (1) removing broad, unqualified advertisements that stated BedHead products were made in the United States; (2) ensuring that all BedHead garments were labeled with an appropriate country of origin; (3) updating online marketing materials to include required country-of-origin information; (4) training BedHead personnel on the requirements of the Textile Act and Textile Rules; and (5) making diligent efforts to ensure the accuracy of third-party retailer claims, including contacting all BedHead retailers to confirm the accuracy of their marketing materials.

Based on BedHead’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

Requirements Under the Textile and Wool Acts, available at <https://www.ftc.gov/tips-advice/business-center/guidance/threading-your-way-through-labeling-requirements-under-textile>.