



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

Bureau of Consumer Protection
Division of Enforcement

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VIA EMAIL

Justin B. Bender, Esq.
General Counsel
UNEX Corporation, d/b/a HYTORC
333 NJ-17
Mahwah, NJ 07430

Dear Mr. Bender:

We received your submissions on behalf of UNEX Corporation, d/b/a HYTORC (“HYTORC” or the “Company”). During our review, we discussed concerns that marketing materials may have overstated the extent to which HYTORC industrial bolting tools are made in the United States. Specifically, although HYTORC offers U.S.-origin hydraulic and pneumatic tools, the Company also offers electric tools that incorporate significant imported parts.

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

To avoid deceiving consumers, HYTORC removed U.S.-origin claims from marketing materials that relate to its electric tools, and revised marketing materials that apply to all

¹ 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.*

Company products to remove or qualify claims as appropriate. HYTORC also sent a communication to all employees advising them of the updates.

As discussed, to the extent the Company offers tools that are “all or virtually all” made in the United States, it is appropriate to highlight that fact in marketing materials. However, marketing materials should clearly differentiate U.S.-origin tools from tools that are imported or contain significant imported parts, and the Company should take care not to make overly broad U.S.-origin claims when referring to multiple products. As you know, 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 HYTORC’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