



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

Bureau of Consumer Protection
Division of Enforcement

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December 21, 2016

VIA FEDEX

Steven A. Horowitz, Esq.
Horowitz and Rubenstein, LLC
200 South Service Road, Suite 104
Roslyn Heights, NY 11577

Dear Mr. Horowitz:

We received your submissions on behalf of your client, American Scientific Lighting Corp., also d/b/a ASL Lighting Inc. (“ASL” or the “Company”). During our review, we raised concerns that marketing materials may have overstated the extent to which ASL’s LED fixtures are made in the United States.

As discussed, the FTC’s Enforcement Policy Statement on U.S. Origin Claims (“Policy Statement”) states that unqualified “Made in USA” or “Manufactured in USA” claims likely suggest to consumers that products 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.

The Policy Statement also provides that “‘Assembled in USA’ claims should be limited to those instances where the product has undergone its principal assembly in the United States and that assembly is substantial. In addition, a product should be last substantially transformed in the United States to properly use an ‘Assembled in USA’ claim.”²

In this case, ASL assembles some LED fixtures in the United States using significant imported parts, and also sells some wholly imported products. Accordingly, to avoid deceiving consumers, the Company implemented a remedial action plan to clarify its representations. This

¹ Federal Trade Commission, *Issuance of Enforcement Policy Statement on “Made in USA” and Other US Origin Claims*, 62 Fed. Reg. 63756, 63768 (Dec. 2, 1997).

² *Id.* at 63770.

plan included: (1) removing unqualified “Made in USA” or “Manufactured in USA” claims from all Company marketing materials and replacing them with “Assembled in the USA” claims, where appropriate; (2) updating product specification sheets; (3) sending a letter to distributors and other representatives clarifying that ASL sells a mix of products assembled in the United States and imported products, and instructing representatives to update marketing materials accordingly; and (4) making all diligent efforts to identify and correct improper claims made by third-party marketers.

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,



Julia Solomon Ensor
Staff Attorney