



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

Bureau of Consumer Protection
Division of Enforcement

December 21, 2017

VIA FEDEX

Terrie A. Gleason, Esq.
Baker & McKenzie LLP
Two Embarcadero Center
11th Floor
San Francisco, California, 94111

Dear Ms. Gleason:

We received your submissions on behalf of your client, B/A Products Co. (“B/A Products” or the “Company”). During our review, we raised concerns that certain marketing materials may have overstated the extent to which the Company’s products, including, but not limited to, certain strap assemblies, are made in the United States.

As discussed, unqualified “Made in USA” claims on marketing materials likely suggest to customers that all products advertised in those materials are “all or virtually all” made in the United States. Furthermore, the FTC’s Enforcement Policy Statement on “Made in USA” and Other U.S. Origin Claims explains 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.”¹

In this case, although the Company performs some manufacturing functions in the United States, certain products incorporate significant imported content. Accordingly, B/A Products implemented a comprehensive remedial action plan to avoid deceiving consumers. This plan included: (1) removing unqualified U.S.-origin claims from marketing materials, including online, hardcopy, and tradeshow materials; (2) destroying outdated materials; (3) rendering unqualified claims on affected products in inventory invisible to consumers, either by removing tags containing the claims, or, in the case of the Company’s webbing, sewing the webbing into two-ply webbing with the claims sealed inside; (4) introducing qualified claims, where appropriate; (5) requesting a formal ruling from U.S. Customs and Border Protection regarding the country of last “substantial transformation” for certain products; (6) launching a new website; (7) scrubbing the Company’s social media platforms and updating promotional videos; (8) obtaining certification letters from suppliers regarding component origins; (9) training staff;

¹ *Federal Trade Commission, Issuance of Enforcement Policy Statement on “Made in USA” and Other U.S. Origin Claims*, 62 Fed. Reg. 63756, 63770 (Dec. 2, 1997).

and (10) instructing distributors and certain third-party sellers to make changes to marketing materials to reflect updated claims.

As we discussed, if in the future B/A Products can substantiate claims that particular products are “all or virtually all” made in the United States, it would be appropriate for the Company to update its marketing materials accordingly.

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,



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