



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

Bureau of Consumer Protection
Division of Enforcement

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VIA EMAIL

Nima Astani, Esq.
Corporate Counsel
Ariat International, Inc.
3242 Whipple Road
Union City, CA 94587

Dear Mr. Astani:

We received your submissions on behalf of Ariat International, Inc. (“Ariat” or the “Company”). During our review, we discussed two sets of concerns relating to origin disclosure requirements under 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”). First, the Company advertised certain apparel products as “Crafted with fabric made in the USA” without disclosing the products were sewn into finished garments in Mexico. Second, for some apparel products, marketing materials omitted required country-of-origin information.

Among other products, Ariat sells articles of wearing apparel, which are covered by the Textile Act and Rules. The Textile Rules require country-of-origin disclosures on labels and marketing materials for all covered products.¹ Origin disclosure requirements apply regardless of whether products originated in the United States or abroad.² For imported products, 16 C.F.R. § 303.33(d) provides that marketers should disclose the country of origin as determined under the laws and regulations enforced by U.S. Customs and Border Protection (“CBP”).³ In this

¹ 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”); 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”).

² 16 C.F.R. §§ 303.33; 303.34.

³ In most instances, CBP requires imported products to be labeled with the last country of substantial transformation, which is where the product last underwent a fundamental change in form, appearance, nature, or character. To determine whether a marketer can mark a product as of U.S. origin, 16 C.F.R. § 303.33(b) provides that marketers should consider the origin of

case, although the Ariat products marketed as “Crafted with fabric made in the USA” did incorporate U.S. fabrics, because they were last substantially transformed in Mexico, to comply with the Textile Rules they must be marked and marketed as of Mexican origin. Additional information about the U.S. fabric may be included, provided that information is non-deceptive and does not conflict with the required origin disclosure.⁴

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, Ariat implemented a remedial action plan to update its labels and marketing materials. This plan included: (1) updating product labels, where appropriate; (2) ensuring all “mail order advertising,” including but not limited to on the Company’s own website and on Amazon.com, contains required, accurate origin information; (3) reviewing U.S.-origin claims for products not covered by the Textile Rules; (4) communicating with Company retailers; and (6) training Company leadership and affected employees.

As discussed, it is appropriate for Ariat to promote the truthful fact that it employs workers or performs certain functions in the United States. However, marketing materials must (1) not overstate the extent to which Company products are made in the United States, and (2) make clear, accurate origin disclosures in compliance with the Textile Act and Textile Rules, where relevant. FTC staff is available to work with companies to craft appropriate claims that comply with the Textile Act and Textile Rules and Section 5, convey non-deceptive information to consumers, and highlight work done in the United States.

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

Sincerely,

Julia Solomon Ensor
Staff Attorney

Lashanda Freeman
Senior Investigator

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. 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. See FTC, *Threading Your Way Through the Labeling Requirements Under the Textile and Wool Acts*, www.ftc.gov/tips-advice/business-center/guidance/threading-your-way-through-labeling-requirements-under-textile.

⁴ 16 C.F.R. §303.6 (non-required information “shall not minimize, detract from, or conflict with required information and shall not be false, deceptive, or misleading”).