



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

Bureau of Consumer Protection
Division of Enforcement

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VIA EMAIL

John Kavanagh, J.D.
Steptoe & Johnson LLP
1330 Connecticut Ave., NW
Washington, DC 20036
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Dear Mr. Kavanagh:

We received your submissions on behalf of Sunex International, Inc., and its related companies, PowerStation LLC, International Specialty Services, Inc., and Professional Tool Products (collectively, the “Companies”).¹ During our review, we discussed concerns that marketing materials may have overstated the extent to which certain hydraulic presses are made in the United States. Specifically, although the Companies’ hydraulic presses are substantially transformed in the United States, they incorporate significant imported components.²

Unqualified U.S.-origin claims in marketing materials – including claims that products are “Made,” “Built,” or “Manufactured” in the USA – likely suggest to consumers that all products advertised in those materials are “all or virtually all” made in the United States. 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.³

¹ The Companies sell products under various brand names, including Sunex, Arcan, AmerEquip, Matco, MAC, and Cornwell Products.

² During this review, the Companies discovered and voluntarily disclosed that they also mistakenly made “Made in USA” claims for certain press accessories and other (mostly discontinued) products. The Companies immediately withdrew the claims.

³ See 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) (“Policy Statement”).

To avoid deceiving consumers, the Companies implemented a remedial action plan to update and qualify their representations where needed. This plan included: (1) updating press labels to state “Made in USA with Foreign Components;” (2) updating product manuals and catalogues; (3) updating social media accounts; (4) updating profiles on third-party sales platforms, including amazon.com; and (5) implementing a plan to communicate changes and distribute materials to third-party distributors and downstream retailers, including sending multiple communications, performing internal checks on customer sites, and suspending noncompliant dealers.⁴

As discussed, it is appropriate for the Companies to promote the fact that they employ workers and perform certain manufacturing functions in the United States. However, marketing materials should not overstate the U.S. content of products that contain significant imported inputs. As you know, FTC staff members are 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 the Companies’ 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, please feel free to call.

Sincerely,

Julia Solomon Ensor
Staff Attorney

Lashanda Freeman
Federal Trade Investigator

⁴ The Companies notified FTC staff that out of approximately 280 entities it contacted during this process, it was unable to secure compliance from four third-party vendors, including one overseas. Sunex has no distribution relationship with any of these noncompliant vendors, and has stated it will not supply products to these vendors unless and until they bring marketing materials into compliance.