

May 21, 2019

VIA EMAIL AND OVERNIGHT MAIL

Andrew Smith, Director, Bureau of Consumer Protection James A. Kohm, Associate Director, Division of Enforcement Julia Ensor, Attorney, Division of Enforcement Federal Trade Commission 600 Pennsylvania Ave. N.W. Washington, D.C. 20580



Re: Williams-Sonoma, Inc.'s Continuing Use of False Made in the USA Marketing

Dear Attorneys Smith, Kohm, and Ensor:

As you know, the FTC previously investigated Williams-Sonoma, Inc. – a Californiabased multi-billion dollar retail company¹ – for falsely marketing certain Chinese-made products as "Crafted in America." This investigation resulted in a June 2018 closing letter from the FTC indicating that the Commission was not pursuing its investigation due to the company's corrective actions at that time.² In connection with this investigation, Williams-Sonoma represented to the FTC that the false U.S.-origin claim at issue was "an isolated error that occurred when Company personnel transposed two SKU numbers" and pledged to follow an established three-step process to prevent future consumer deception with respect to country-of-origin claims for products on its website and to ensure compliance with the FTC's Enforcement Policy Statement on U.S.-Origin Claims.³

Unfortunately, much like its Made in USA marketing, Williams-Sonoma's representations to the FTC were false. Between April and May 2019, TINA.org collected hundreds of examples of products that are or have been marketed by Williams-Sonoma as made in the USA but are either imported or made with imported materials, according to origin information inconspicuously provided on the company's various websites.⁴ The examples collected by TINA.org were drawn from seven of Williams-Sonoma's sites – Williams-Sonoma, Williams-Sonoma Home, Rejuvenation, Pottery Barn, PBteen, Pottery Barn Kids, and West Elm – and are available at https://www.truthinadvertising.org/williams-sonoma-summary-of-action/.5

By way of example, through May 2019, Williams-Sonoma marketed its Goldtouch Bakeware as "made in the USA" on the bakeware section of its site,⁶



while the company inconspicuously states – on an individual product page, in a "Dimensions & More Info" section that is beneath the "Add To Cart" button⁷ and that consumers must click on to open and read – that this Goldtouch Bakeware product below (as well as others) is Made in China:⁸



The yellow highlighting in the above image, as well as others below, was added by TINA.org.

Similarly, the company markets several of its Williams-Sonoma Home furniture lines as "Handcrafted in the USA," including, for example, its Fitzgerald line,⁹



while the company inconspicuously states – again, on an individual product page, in a "Dimensions & More Info" section – that this Fitzgerald furniture product is also Made in China:¹⁰

C	Fitzgerald Dining Bar Stool Limited Time Onlyl Special Price Items ending in .97 or .99 are final sale and cannot be cancelled or	▶ SUMMARY			
	returned. Fabric swatches are complimentary and ship for free. <u>Order Now!</u> O & A b	▼ DIMENSIONS & MORE INFO			
	SEE IT IN STORE	Dimensions • Overall: 19.5"W x 24.75"D x 42.25"H.			
	1 SELECT FABRIC AND COLOR FABRIC COLOR	 Seat: 19.5"W x 17.75"D x 30"H. Seat back: 19"W x 13"H. 			
	Special Price! Quick Ship: Delivered in 2-4 Weeks	 Weight capacity: 250 lb. Product weight: 23 lb. 14 oz. 			
		Additional Information			
ř – – – – – – – – – – – – – – – – – – –	Chunky Linen, Chunky Linen, Sunbrella Sunbrella White Natural Performance Sail Cloth, Sailor Cloth, Sait	Reinforced with double-dowels and corner blocks.Sinuous steel seat and back sprung by hand.			
	Made to Order: Delivered in 5-8 Weeks, Non-Returnable	 Smooth glides on leg bottoms protect floor surfaces. Made in China. 			

Note: The above screenshots are excerpts taken from the actual webpage and are not representative of the proximity of the origin information to the product description.

In social media marketing, Williams-Sonoma also claims its Presidio sofa is "Made in USA."¹¹



The Williams-Sonoma YouTube page that features this video contains no origin information about the Presidio sofa. However, according to inconspicuous "Additional Information" on Williams-Sonoma's product webpage, the sofa contains imported materials.¹²

\bigcirc	Presidio Sofa, 94" Limited Time Only! Special Price	▶ SUMMARY		
	Items ending in .97 or .99 are final sale and cannot be cancelled or returned. Fabric swatches are complimentary and ship for free. <u>Order Nawl</u>	▼ DIMENSIONS & MORE INFO		
	Q&A,	 Overall: 94"L x 36"W x 35"H. 		
	SEE IT IN STORE Clear Selection	 Seat width: 86". Seat depth: 23". 		
	▼ 1 SELECT FABRIC AND COLOR	Seat height: 21".Back height: 10.5".		
	FABRIC + COLOR +	Arm height: 24". Arm width: 4".		
	Special Price! Quick Ship: Delivered in 2-4 Weeks	Diagonal depth: 30".		
		 Legs (fixed): 2.5" diam. at top; 1.5" diam. at bottom x 4"H. Seat cushion (1): 85"L x 29"W x 10"H. 		
		 Back cushions (2): 41"L x 21"W x 11" thick. 		
		Weight: 133 lb.		
	Sunbrella Performance Soll Cloth, Solt	Additional Information Mortise-and-tenon joinery, reinforced with double-dowels and corner blocks.		
	Made to Order: Delivered in 5-8 Weeks, Non-Returnable	 Sinuous steel springs in seat and back for additional support. Cushion cores are wrapped in your choice of premium down blend or thick, double-layer poly fiber. 		
		Made in USA with American and imported materials.		

Note: The above screenshots are excerpts taken from the actual webpage and are not representative of the proximity of the origin information to the product description.

Most of Williams-Sonoma's other brands fare no better. On its Rejuvenation Homepage and Furniture page, as well as in promotional emails, the company markets its furniture as "Made in America" and "Made in the USA,"¹³



Rejuvenation Homepage



Rejuvenation May 2019 promotional email

Rejuvenation furniture page

while the company states, in the "Ideas" section of its Rejuvenation website, which is several clicks removed from the homepage, that its leather – a critical component of all of its leather furniture – is imported:¹⁴



An April 2019 version of the Rejuvenation homepage had a similar issue, claiming that its outdoor lighting is "Made in America."¹⁵



However, all three of the featured products in the image above are either imported or contain imported parts, according to product specifications information that is frequently hidden from sight unless a consumer hovers over the "Product Description" section of the webpage and scrolls down to reveal the final lines of text, as well as product packaging:¹⁶



Screenshot from Rejuvenation Pittock Single Sconce product webpage indicating the product is "Imported"

Photograph of Rejuvenation Pittock Single Sconce product packaging stating the product is "Made in China"





Screenshot from Rejuvenation Everett Narrow LED Wall Sconce product webpage stating the product is "Assembled in the USA of domestic and imported parts" Screenshot from Rejuvenation Macadam Pendant product webpage stating the product is "Assembled is [sic] USA of domestic and imported parts"

On its Furniture landing page, Rejuvenation also claims its solid walnut bedroom furniture is "made in the USA,"¹⁷



while the very bed featured in the image above is actually imported, according to the Product Specifications box:¹⁸



Screenshot from Rejuvenation Perkins Spindle Bed product webpage stating the product is "Imported"

Williams-Sonoma also markets many Pottery Barn, PBteen, Pottery Barn Kids, and West Elm products as made in the USA, as well as "Crafted" and "Handcrafted" in America (among other similar terms),¹⁹ while product specifications state that the items contain imported materials or are fully made in other countries.

For example, in a video on the pbteen.com website, as well as on the PBteen YouTube channel, Williams-Sonoma claims its PBteen upholstered furniture is "Made in America,"²⁰

	Btee								C		
New	Furniture	Bedding	Rugs + Windows	Bath + Beach	Lighting	Decor	Luggage + Bags	Gifts	Dorm	PBteen Outlet	Sale
DESI	GN STUDI	0						View M	lore Videos	Print 昌 🚺	Like 0
Desig Deco Produ • Video S P C	NLIBRARY n Tools tarling Articles text Information special Features roducts ontests N SERVICES	Cra	fted In An	ica: PBteen U	pholstered F te	Furnitu PB en			•	Ire * Ter Share	
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[Video language: "Furniture's been made in Hickory for over 100 years. ... Here at Pottery Barn Teen, we take pride and put our heart and soul into every product that we build here. ... Everything here is handcrafted. ... Made in America means pride, it means opportunity, and it means people are working in America. It makes our country stronger. ... I see a label that says 'Made in America' and I'm proud."]

while TINA.org's database shows that is frequently not the case:²¹

PBteen What are you looking for? Q T	▼ OVERVIEW				
New Furniture Bedding Rugs + Windows Bath + Beach Lighting Decor Luggage + Bags Gifts Dorm PBteen Outlet Sa FreeShipping On Orders Over \$99" Use Code: FREESHIP99 *EXCLUSIONS APPLY 3 Days Left: The Epic Event Up to 75% Off Spring Clearance 40-50% Off Our Deepest Deals Up to 75% Off Spring Clearance 40-50% Off Our Deepest Deals	Sleep chic. Our Ellery Essential Upholstered Bed majorly elevates the styl of any bedroom with its traditional upholstered headboard and gold metal legs. This beautifully crafted bed adds sophisticated elegance to your dream space.				
EAT STOP SURF EVENTS OF THE STOP SURF Full Cueen King PLEASE SELECT SIZE: Twin Twin Full Queen King PLEASE SELECT COLOR: Made to Order, In Home Delivery	 HOW IT'S CONSTRUCTED Crafted of polywood, foam, dacron and polyester fabric. Twelve beech wood slats. 100% polyester fill composition. Gold metal legs. DETAILS YOU'LL APPRECIATE Requires one mattress (sold separately). Bed can be used without a box spring. 				
\$609 - \$1,099 Special \$559 - \$879 Unimited File Table Delivery QTY ADD TO CART	 KEY PRODUCT POINTS Water-based finish that meets stringent chemical emission standards. Rigorously tested to meet or exceed all required and voluntary safety standards. Imported. 				

Note: The above screenshots are excerpts taken from the actual webpage and are not representative of the proximity of the origin information to the product description.

The above examples are merely a handful of the more than 800 collected by TINA.org that do not meet the FTC's definition of Made in the USA.

Simply put, TINA.org's findings make clear that the FTC's June 2018 closing letter was ineffective at putting an end to Williams-Sonoma's deceptive U.S.-origin marketing. Such false and misleading statements have the potential of deceiving millions of consumers, the majority of whom prefer and specifically seek out products made in the U.S.²² Thus, it is critically important that the company's continuing consumer deception be addressed if the Commission's Enforcement Policy Statement on U.S.-Origin Claims is to be taken seriously by not only Williams-Sonoma but other companies as well. As such, TINA.org urges the FTC to reopen its investigation of Williams-Sonoma and take appropriate enforcement action.

If you have any questions or need further information, please do not hesitate to contact us.

Sincerely,

Laura Smith, Esq. Legal Director Truth in Advertising, Inc.

Bonnie Patten, Esq. Executive Director Truth in Advertising, Inc.

Cc: David King, General Counsel Danielle Hohos, Deputy General Counsel Williams-Sonoma, Inc. 3250 Van Ness Ave. San Francisco, CA 94109 ¹ Williams-Sonoma, Inc. Timeline; <u>https://www.williams-sonomainc.com/company-overview/corporate-timeline.html</u>; March 20, 2019 Press Release, Williams-Sonoma, Inc. Announces Strong Fourth Quarter and Fiscal Year 2018 Results, <u>https://ir.williams-sonomainc.com/press-release/earnings/williams-sonoma-inc-announces-strong-fourth-quarter-and-fiscal-year-2018-resu</u>; Williams-Sonoma, Inc.'s 2018 Annual Report, <u>https://ir.williams-sonomainc.com/sites/williams-sonomainc.investorhq.businesswire.com/files/doc_library/file/doc_library/file/FY2018 Annual Report FILED.pdf.</u>

² June 13, 2018 letter from FTC to Williams-Sonoma, Inc., <u>https://www.ftc.gov/system/files/documents/closing_letters/nid/musa_williams-sonoma_closing_letter.pdf</u>.

 3 Id.

⁴ The more than 800 product examples in TINA.org's database include products that have been marketed directly, as well as indirectly, as made in the USA. For example, Williams-Sonoma claims on its Pottery Barn Kids website, that its "bedding essentials," among other things, are made in the USA without defining the term or specifying which products are included in the "bedding essentials" category. *See* <u>https://www.potterybarnkids.com/shop/tips-and-ideas/crafted-in-america-feature/</u>. Thus, TINA.org's Pottery Barn Kids database includes quilts, sheet sets, blankets, pillow and duvet inserts, and mattress pads that are imported or contain imported components because a reasonable consumer may interpret Made in USA bedding essentials to encompass those items. *See* TINA.org's Pottery Barn Kids database, www.truthinadvertising.org/pottery-barn-kids-database.

⁵ TINA.org's databases represent samplings and are not intended to be a complete list of deceptive Williams-Sonoma Made in USA marketing materials or a complete list of products that contain imported materials or are made in other countries.

TINA.org's Williams-Sonoma database: <u>www.truthinadvertising.org/williams-sonoma-database</u> TINA.org's Williams-Sonoma Home database: <u>www.truthinadvertising.org/williams-sonoma-home-database</u>

TINA.org's Rejuvenation database: <u>www.truthinadvertising.org/rejuvenation-database</u> TINA.org's Pottery Barn database: <u>www.truthinadvertising.org/pottery-barn-database</u> TINA.org's PBteen database: www.truthinadvertising.org/pbteen-database

TINA.org's Pottery Barn Kids database: <u>www.truthinadvertising.org/pottery-barn-kids-database</u> TINA.org's West Elm database: <u>www.truthinadvertising.org/west-elm-database</u>

⁶ <u>https://www.williams-sonoma.com/shop/bakeware/?cm_type=gnav</u>. *See also* How to Make the Most of Goldtouch Bakeware | Williams Sonoma, <u>https://www.youtube.com/watch?v=3_tq6Vu9Y</u> <u>dk</u>.

Note that all of the examples of Williams-Sonoma marketing materials highlighted in this letter are captured and preserved in TINA.org's databases.

⁷ Disclosures must be clear and conspicuous, and appear "before consumers make a decision to buy – e.g., before they 'add to shopping cart." FTC's .com Disclosures: How to Make Effective Disclosures in Digital Advertising, <u>https://www.ftc.gov/sites/default/files/attachments/press-</u>releases/ftc-staff-revises-online-advertising-disclosure-guidelines/130312dotcomdisclosures.pdf. ⁸ <u>https://www.williams-sonoma.com/products/tartlet-baking-set/?pkey=cbakeware-williams-sonoma%7Cbakeware-usa-goldtouch&isx=0.0.6824</u>.

⁹ <u>https://www.williams-sonoma.com/shop/home-furniture/fitzgerald-collection-guide/</u>.

¹⁰ <u>https://www.williams-sonoma.com/products/fitzgerald-bar-stool-upholstery/?pkey=s%7Cfitzgerald%7C6</u>.

¹¹ <u>https://www.youtube.com/watch?time_continue=18&v=CxRHqNKgtt4</u>.

¹² <u>https://www.williams-sonoma.com/products/presidio-sofa-94-inches-upholstery/?pkey=s%7Cpresidio%20sofa%7C6</u>.

¹³ <u>https://www.rejuvenation.com/; https://www.rejuvenation.com/catalog/categories/furniture-decor; https://www.truthinadvertising.org/wp-content/uploads/2019/05/Promotional-Email-5_09_19-WM.png.</u>

¹⁴ <u>https://ideas.rejuvenation.com/your-guide-to-upholstered-furniture/</u>.

¹⁵ https://web.archive.org/web/20190409183157/https://www.rejuvenation.com/.

¹⁶ <u>https://www.rejuvenation.com/catalog/collections/pittock-3-14-single-sconce;</u> <u>https://www.rejuvenation.com/catalog/collections/everett-narrow-led-wall-sconce;</u> <u>https://www.rejuvenation.com/catalog/products/macadam-6-pendant/configurations/a1769-oil-rubbed-bronze-27.</u>



Product description box prior to hovering over this section and scrolling down:

Product description box after scrolling down in this section:



¹⁷ https://www.rejuvenation.com/catalog/categories/furniture-decor.

¹⁸ https://www.rejuvenation.com/catalog/collections/perkins-spindle-bed/products/5865a94378f2b 4850011ed.

In other examples, individual product pages contain conflicting U.S.-origin claims within the same page. For example, the Rejuvenation Hood - Classic Globe Pendant is marketed, in several places on the product page, as "built-to-order" in Portland, Oregon, which, according to the FTC, means the product was made in the USA, while the language at the very bottom of the Product Specifications section, which is not visible unless a user hovers over that portion of the webpage and scrolls down, states "Assembled in the USA of domestic and imported parts." https://www.rejuvenation.com/catalog/products/hood. See e.g., FTC's Feb. 27, 2019 letter to Native Ken Eyewar, Inc., https://www.ftc.gov/system/files/documents/closing letters/nid/2019-02-27 native ken closing letter.pdf ("[U]nqualified 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."): FTC's Feb. 5, 2019 letter to Hinch Newman LLP, https://www.ftc.gov/system/files/documents

/closing_letters/nid/whiteside_closing_letter_2-5-19.pdf (same); FTC's Dec. 14, 2018 letter to Electrolux North America, Inc., <u>https://www.ftc.gov/system/files/documents/closing_letters/nid/</u> <u>electrolux_closing_letter_12-14-18.pdf</u> (same); FTC's Oct. 1, 2018 letter to The Gillette Company LLC, <u>https://www.ftc.gov/system/files/documents/closing_letters/nid/2018-10-01_gillette_closing_letter.pdf</u> (same); FTC's Sept. 10, 2018 letter to RentACoop, LLC, <u>https://www.ftc.gov/system/</u> <u>files/documents/closing_letters/nid/musa_rentacoop_closing_letter.pdf</u> (same); FTC's May 9, 2018 letter to Superwinch, LLC, <u>https://www.ftc.gov/system/files/documents/closing_letters/nid/</u> <u>superwinch_llc_closing_letter.pdf</u> (same); FTC's June 16, 2016 closing letter to Bedrock Manufacturing Company, LLC d/b/a Shinola/Detroit, LLC, and Filson Holdings, Inc., <u>https://www.ftc.gov/system/files/documents/closing_letter.pdf</u> (same).



¹⁹ In its marketing materials, Williams-Sonoma uses the terms "made," "benchmade," "crafted," "built," "produced," and "constructed" interchangeably and synonymously. See examples below (yellow highlights added by TINA.org):



https://www.potterybarn.com/tips-and-ideas/pottery-barn-made-in-america/



https://www.pbteen.com/design-studio/videos/made-in-america-pbteen-furniture.html



https://www.potterybarnkids.com/shop/tips-and-ideas/crafted-in-america-feature/



https://www.westelm.com/shop/furniture/upholstered-furniture-collection/assembled-in-theusa/?isx=0.0.508



https://blog.westelm.com/2018/09/05/west-elms-north-carolina-factory/



https://www.truthinadvertising.org/wp-content/uploads/2019/05/Promotional-Email-5_09_19-WM.png

On its West Elm website, however, Williams-Sonoma uses the terms "assembled" and "made" – which, according to the FTC, have two very different meanings – interchangeably. This mixing up of terms is not only confusing but may also mislead consumers as to the true origin of products.



https://www.westelm.com/pages/assembled-in-the-usa/

²⁰ <u>https://www.pbteen.com/design-studio/videos/made-in-america-pbteen-furniture.html;</u> <u>https://www.youtube.com/watch?v=np_ZO4-H71A</u>.

²¹ <u>https://www.pbteen.com/products/ellery-essential-upholstered-bed/?pkey=cupholstered-bedroom-furniture&isx=0.0.1011</u>.

²² In fact, surveys in recent years show that 78% of Americans would rather buy American-made products than ones made abroad, and more than 80% are willing to pay more for "Made in the USA" products than their foreign counterparts. Nov. 15, 2012 Press Release, "U.S. and Chinese Consumers Willing to Pay More for Made in USA Products,"

https://www.truthinadvertising.org/wp-content/uploads/2015/07/BCG-Press-Release-U...or-Madein-USA-Products.pdf; Knowing Which Products are Truly Made in America: How to know which flag-waving products are true red, white, and blue, Consumer Reports, February 2013, http://www.consumerreports.org/cro/magazine/2013/02/made-in-america/index.htm.