



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

Bureau of Consumer Protection
Division of Enforcement

Julia Solomon Ensor
Attorney

Email: jensor@ftc.gov
Direct Dial: (202) 326-2377

March 7, 2019

VIA EMAIL

Mr. Reggie Judah
CEO
Solve America's Problems d/b/a TV Liquidator
5801 West Jefferson Blvd.
Los Angeles, CA 90016

Dear Mr. Judah:

We received your submissions on behalf of Solve America's Problems d/b/a TV Liquidator ("TV Liquidator" or the "Company"). During our review, we discussed concerns that marketing materials may have overstated the extent to which TV Liquidator sells LED signs that are made in the United States. Specifically, although TV Liquidator distributes USA-assembled signs, the signs contain significant imported parts.

As discussed, unqualified 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.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 Commission has noted that "[w]here a product is not all or virtually all made in the United States, any claim of U.S. origin should be adequately qualified to avoid consumer deception about the presence or amount of foreign content. In order to be effective, any

¹ 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). Additionally, beyond express "Made in USA" claims, "[d]epending on the context, U.S. symbols or geographic references, such as U.S. flags, outlines of U.S. maps, or references to U.S. locations of headquarters or factories, may, by themselves or in conjunction with other phrases or images, convey a claim of U.S. origin." *Id.*

qualifications or disclosures should be sufficiently clear, prominent, and understandable to prevent deception. Clarity of language, prominence of type size and style, proximity to the claim being qualified, and an absence of contrary claims that could undercut the effectiveness of the qualification will maximize the likelihood that the qualifications and disclosures are appropriately clear and prominent.”²

In this case, TV Liquidator appropriately qualified its claims in some places on its website. However, as discussed, “[a] disclosure is more likely to be effective if consumers view the disclosure and the claim that raises the need for disclosure (often referred to as a “triggering claim”) together on the same screen.”³ Therefore, to avoid deceiving consumers, TV Liquidator updated its website, social media platforms, and Google Ads to ensure the Company’s U.S. origin claims included appropriate qualifications everywhere they appeared.

Based on TV Liquidator’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 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

² *Id.* at 63769.

³ See Federal Trade Commission, *.com Disclosures: How to Make Effective Disclosures in Digital Advertising*, at 8 (Mar. 2013), available at <https://www.ftc.gov/tips-advice/business-center/guidance/com-disclosures-how-make-effective-disclosures-digital>.



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February 27, 2019

VIA EMAIL

Mr. Justin Tollis
Store and Production Manager
Native Ken Eyewear, Inc.
188 8th Avenue
New York, NY 10011

Dear Mr. Tollis:

We received your submissions on behalf of Native Ken Eyewear, Inc. ("Native Ken" or the "Company"). During our review, we discussed concerns that marketing materials may have overstated the extent to which Native Ken eyewear is made in the United States. Specifically, although Native Ken designs products in the United States, the Company sources its glasses frames overseas.

As discussed, unqualified 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.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.

To avoid deceiving consumers, Native Ken removed all claims that its products are "made" or "built" in the United States or New York City from its advertising materials, including hashtagged claims on social media platforms. As discussed, it is appropriate for Native Ken to

¹ 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). Additionally, beyond express "Made in USA" claims, "[d]epending on the context, U.S. symbols or geographic references, such as U.S. flags, outlines of U.S. maps, or references to U.S. locations of headquarters or factories, may, by themselves or in conjunction with other phrases or images, convey a claim of U.S. origin." *Id.*

promote the fact that it designs its products in the United States, provided that marketing materials do not overstate the extent to which products are made in the United States. Additionally, FTC staff is 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 Native Ken'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 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



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

Bureau of Consumer Protection
Division of Enforcement

February 5, 2019

VIA FEDEX

Richard B. Newman, Esq.
Hinch Newman LLP
40 Wall Street
35th Floor
New York, NY 10005

Dear Mr. Newman:

We received your submissions on behalf of Whiteside Machine & Repair Company, Inc. ("Whiteside" or the "Company"). During our review, we discussed concerns that marketing materials may have overstated the extent to which Whiteside products, including router bits, are made in the United States. Specifically, although Whiteside performs some manufacturing functions in the United States, many of its products contain significant imported components.

As discussed, 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.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 Commission has noted that "[w]here a product is not all or virtually all made in the United States, any claim of U.S. origin should be adequately qualified to avoid consumer deception about the presence or amount of foreign content. In order to be effective, any qualifications or disclosures should be sufficiently clear, prominent, and understandable to prevent deception."²

¹ 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). Additionally, beyond express "Made in USA" claims, "[d]epending on the context, U.S. symbols or geographic references, such as U.S. flags, outlines of U.S. maps, or references to U.S. locations of headquarters or factories, may, by themselves or in conjunction with other phrases or images, convey a claim of U.S. origin." *Id.*

² *Id.* at 63769.

To avoid deceiving consumers, Whiteside implemented a remedial action plan to update and qualify its representations. For Whiteside's own materials, the Company: (1) stickered over outdated claims on product packaging; (2) updated online marketing materials; and (3) printed new catalogues, signs, banners, and product packaging. Whiteside also sent a detailed communication to dealers requiring them to: (1) sticker over claims on products in their possession; (2) remove potentially deceptive point-of-sale materials; and (3) update dealer-controlled online materials, including websites and social media accounts.

As discussed, it is appropriate for the Company to promote the fact that it is American-owned, employs workers, or performs certain processes in the United States, provided that marketing materials do not overstate the extent to which Whiteside's products are made in the United States. Additionally, FTC staff is 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 Whiteside'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 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
Division of Enforcement
(202) 326-2377
jensor@ftc.gov



Crystal D. Ostrum
Investigator
Division of Enforcement
(202) 326-3405
costrum@ftc.gov



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Division of Enforcement

Julia Solomon Ensor
Attorney

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December 14, 2018

VIA FEDEX

Megan Miller, Esq.
Assistant General Counsel
Electrolux North America, Inc.
10200 David Taylor Drive
Charlotte, NC 28262

Dear Ms. Miller:

We received your submissions on behalf of Electrolux North America, Inc. ("Electrolux" or the "Company"). During our review, we discussed concerns relating to potentially deceptive U.S.-origin claims made in conjunction with Electrolux's "Built with American Pride" campaign for Frigidaire-branded products that incorporate significant imported parts.

As we discussed, unqualified "Made in the USA," "Built in the USA," or "Produced in the USA" claims on marketing materials 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.

To avoid deceiving consumers, Electrolux implemented a remedial action plan to qualify its representations. This plan included: (1) updating claims on frigidaire.com, including on the homepage and individual product pages; (2) using Google tools to accelerate the removal of Frigidaire pages from certain consumer searches; (3) removing certain YouTube videos; (4) updating the product information management system, which automatically results in updates to retailer pages; (5) removing affected in-store materials; and (6) sending field representatives to more than 2,000 retail locations to confirm updates were made.

Based on Electrolux'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 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,

A handwritten signature in blue ink, appearing to read "J. Ensor", with a stylized, cursive flourish at the end.

Julia Solomon Ensor
Staff Attorney



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FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

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Division of Enforcement

Julia Solomon Ensor
Attorney

Email: jensor@ftc.gov
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December 13, 2018

VIA FEDEX

Mr. Robert Nieman
Director of Manufacturing and Technical Services
Emotiva Audio Corporation
135 SE Parkway Court
Franklin, TN 37064

Dear Mr. Nieman:

We received your submissions on behalf of Emotiva Audio Corporation ("Emotiva" or the "Company"). During our review, we discussed concerns that marketing materials may have overstated the extent to which certain Emotiva audio products are made in the United States. Specifically, although certain Emotiva products are designed and assembled in Emotiva's Franklin, Tennessee facility, these products contain significant imported parts, or parts of unknown origin.

As discussed, 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.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.

To avoid deceiving consumers, Emotiva quickly implemented a comprehensive remedial action plan to update and qualify its representations. This plan included: (1) rewriting the

¹ 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). Additionally, beyond express "Made in USA" claims, "[d]epending on the context, U.S. symbols or geographic references, such as U.S. flags, outlines of U.S. maps, or references to U.S. locations of headquarters or factories, may, by themselves or in conjunction with other phrases or images, convey a claim of U.S. origin." *Id.*

Company website; (2) updating social media accounts; (3) destroying outdated packaging and other hardcopy marketing materials; (4) applying barcode stickers to cover claims on products; (5) purchasing back mismarked products from Amazon and updating Amazon listings; (6) instructing dealers and distributors to purge outdated materials and confirming compliance within a month; and (7) training marketing personnel on how to communicate product origin.

As discussed, it is appropriate for Emotiva to promote the fact that it employs workers and performs certain processes in the United States, provided that marketing materials do not overstate the extent to which products are made in the United States. Additionally, FTC staff is 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 Emotiva'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 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



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WASHINGTON, D.C. 20580

Bureau of Consumer Protection
Division of Enforcement

Julia Solomon Ensor
Attorney

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December 11, 2018

VIA FEDEX

Kevin J. Miller, Esq.
Kellogg, Hansen, Todd, Figel & Frederick, P.L.L.C.
Sumner Square
Suite 400
1615 M Street, N.W.
Washington, D.C. 20036

Dear Mr. Miller:

We received your submissions on behalf of KONG Company, LLC ("KONG" or the "Company"). During our review, we discussed concerns that marketing materials may have overstated the extent to which KONG products, including rubber dog toys, are made in the United States. Specifically, although certain KONG treats are made in the United States, and the Company performs certain manufacturing processes for other products in the United States, KONG also sells wholly imported products and products that contain significant imported content, including imported rubber latex.

As discussed, 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.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.

¹ 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). Additionally, beyond express "Made in USA" claims, "[d]epending on the context, U.S. symbols or geographic references, such as U.S. flags, outlines of U.S. maps, or references to U.S. locations of headquarters or factories, may, by themselves or in conjunction with other phrases or images, convey a claim of U.S. origin." *Id.*

The Commission has noted that “[w]here a product is not all or virtually all made in the United States, any claim of U.S. origin should be adequately qualified to avoid consumer deception about the presence or amount of foreign content. In order to be effective, any qualifications or disclosures should be sufficiently clear, prominent, and understandable to prevent deception.”²

To avoid deceiving consumers, KONG implemented a remedial action plan to update and qualify its representations. This plan included: (1) updating product packaging, product inserts, and trade show materials; (2) updating online material, including the Company website and social media pages; (3) working with direct-selling online retailers including Chewy, PetSmart, Petco, and Amazon to update claims; and (4) making diligent efforts to ensure the accuracy of third-party retailer claims, including by implementing a process to regularly check pages for origin claims and consistently notify the retailer of the issue until changes are made.³

As discussed, it is appropriate for the Company to promote the fact that it employs workers and performs certain processes in the United States, provided that marketing materials do not overstate the extent to which KONG’s products are made in the United States. Additionally, FTC staff is 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 KONG’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 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

² *Id.* at 63769.

³ You notified the staff that, despite these diligent efforts, certain unaffiliated third-party sellers continue to make unqualified claims for KONG products online. KONG has no direct sales relationship with these sellers – which might indirectly account for 1-2% of ultimate sales – and has been unable to secure their compliance.



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October 1, 2018

VIA FEDEX

Mr. Michael Evke
President & CEO
Eversan, Inc.
34 Main Street
Whitesboro, NY 13492

Dear Mr. Evke:

We received your submissions on behalf of Eversan, Inc. (“Eversan” or the “Company”). During our review, we discussed concerns that marketing materials may have overstated the extent to which Eversan’s video screens and scoreboards are made in the United States. Specifically, certain Eversan products contain imported components that, in some instances account for a significant proportion of the products’ manufacturing costs and, in other instances, though less significant in terms of cost, are essential to the products’ functionality.

As discussed, 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.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 Commission has noted that “[w]here a product is not all or virtually all made in the United States, any claim of U.S. origin should be adequately qualified to avoid consumer deception about the presence or amount of foreign content. In order to be effective, any qualifications or disclosures should be sufficiently clear, prominent, and understandable to

¹ 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). Additionally, beyond express “Made in USA” claims, “[d]epending on the context, U.S. symbols or geographic references, such as U.S. flags, outlines of U.S. maps, or references to U.S. locations of headquarters or factories, may, by themselves or in conjunction with other phrases or images, convey a claim of U.S. origin.” *Id.*

prevent deception.”²

In this case, Eversan implemented a remedial action plan to avoid deceiving consumers. This plan included: (1) removing unqualified U.S.-origin claims from all online marketing materials; (2) removing unqualified claims from installation instructions; (2) introducing qualified claims such as “Assembled in USA” and “Made in USA with Some Imported Parts”; (3) communicating changes to business partners; (4) updating trade show materials; and (5) confirming that no additional products would leave the Eversan facility with unqualified claims.

As discussed, it is appropriate for the Company to promote the fact that it employs workers and performs certain processes in the United States, provided that marketing materials do not overstate the extent to which Eversan’s products are made in the United States. Additionally, FTC staff is 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 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.

Sincerely,



Julia Solomon Ensor
Staff Attorney
Division of Enforcement
(202) 326-2377
jensor@ftc.gov



Crystal D. Ostrum
Investigator
Division of Enforcement
(202) 326-3405
costrum@ftc.gov

² *Id.* at 63769.



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Division of Enforcement

Julia Solomon Ensor
Attorney

Email: jensor@ftc.gov
Direct Dial: (202) 326-2377

October 1, 2018

VIA FEDEX

Lydia B. Parnes, Esq.
Wilson Sonsini Goodrich & Rosati, PC
1700 K Street, NW
Fifth Floor
Washington, DC 20006-3817

Dear Ms. Parnes:

We received your submissions on behalf of your client, The Gillette Company LLC ("Gillette" or the "Company"). During our review, we raised concerns that certain marketing materials overstated the extent to which Gillette products, including certain three- and five-blade razors, are made in the United States. The relevant materials included, among others, the following statements: "Boston Made Since 1901"; "Built in Boston Since 1901"; "Built in Boston, Delivered all over the globe."; "Where do Gillette razors come from? The heart of South Boston"

As you know, 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.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.

¹ 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). Additionally, beyond express "Made in USA" claims, "[d]epending on the context, U.S. symbols or geographic references, such as U.S. flags, outlines of U.S. maps, or references to U.S. locations of headquarters or factories, may, by themselves or in conjunction with other phrases or images, convey a claim of U.S. origin." *Id.*

The Commission has noted that “[w]here a product is not all or virtually all made in the United States, any claim of U.S. origin should be adequately qualified to avoid consumer deception about the presence or amount of foreign content. In order to be effective, any qualifications or disclosures should be sufficiently clear, prominent, and understandable to prevent deception.”²

Although it is appropriate for the Company to promote the fact that it employs workers and performs certain processing in the United States, marketing materials cannot overstate the extent to which Gillette products are made in the United States. Accordingly, to avoid deceiving consumers, Gillette has implemented a remedial action plan re-focusing its campaign to highlight Boston-based employees and manufacturing functions without implying to consumers that Gillette razors or blades are “all or virtually all” made in the United States. Among other things, this plan includes discontinuing unqualified U.S.-origin claims across all shaving and shaving-related products in digital advertising, broadcast advertising, and on packages.

Based on Gillette’s implementation of the plan described above, the staff has decided not to recommend enforcement action at this time. However, certain materials presented to us during the pendency of our investigation raise concerns that Gillette may make deceptive U.S.-origin claim in the future. Therefore, we will continue to monitor the Company’s advertising closely.

Issuance of this letter 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

² *Id.* at 63769.



UNITED STATES OF AMERICA
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WASHINGTON, D.C. 20580

Bureau of Consumer Protection
Division of Enforcement

September 10, 2018

VIA FEDEX

Mr. Tyler Phillips
RentACoop, LLC
22325 Ridge Rd.
Germantown, MD 20876

Dear Mr. Phillips:

We received your submissions on behalf of RentACoop, LLC ("RentACoop" or the "Company"). During our review, we discussed concerns that marketing materials may have overstated the extent to which RentACoop's chicken feeding and watering products – which incorporate significant imported components – are made in the United States.

As discussed, 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.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 Commission has noted that "[w]here a product is not all or virtually all made in the United States, any claim of U.S. origin should be adequately qualified to avoid consumer deception about the presence or amount of foreign content. In order to be effective, any qualifications or disclosures should be sufficiently clear, prominent, and understandable to prevent deception."²

¹ 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). Additionally, beyond express "Made in USA" claims, "[d]epending on the context, U.S. symbols or geographic references, such as U.S. flags, outlines of U.S. maps, or references to U.S. locations of headquarters or factories, may, by themselves or in conjunction with other phrases or images, convey a claim of U.S. origin." *Id.*

² *Id.* at 63769.

In this case, RentACoop implemented a remedial action plan to avoid deceiving consumers. This plan included: (1) removing unqualified U.S.-origin claims from the Company website; (2) stickering over unqualified claims on RentACoop products; (3) updating listings on third-party platforms, including Amazon.com, Chewy.com, and MyPetChicken.com; (5) editing marketing videos that highlighted product labels with unqualified claims; and (6) introducing qualified claims, such as "Made in the USA with U.S. and Imported Parts."

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.

Sincerely,



Julia Solomon Ensor
Staff Attorney
Division of Enforcement
(202) 326-2377
jensor@ftc.gov



Crystal D. Ostrum
Investigator
Division of Enforcement
(202) 326-3405
costrum@ftc.gov



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

Bureau of Consumer Protection
Division of Enforcement

July 2, 2018

VIA FEDEX

Ms. Lauri Legere
Jantec Sign Group, LLC, also d/b/a Jantec Neon Products
1078 South Main Street
Mount Airy, NC 27030

Dear Ms. Legere:

We received your submissions on behalf of Jantec Sign Group, LLC, also d/b/a Jantec Neon Products ("Jantec" or the "Company"). During our review, we discussed concerns that marketing materials may have overstated the extent to which Jantec's neon signs – which incorporate significant imported components – are made in the United States.

As discussed, 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.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 Commission has noted that "[w]here a product is not all or virtually all made in the United States, any claim of U.S. origin should be adequately qualified to avoid consumer deception about the presence or amount of foreign content. In order to be effective, any qualifications or disclosures should be sufficiently clear, prominent, and understandable to prevent deception."²

¹ 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). Additionally, beyond express "Made in USA" claims, "[d]epending on the context, U.S. symbols or geographic references, such as U.S. flags, outlines of U.S. maps, or references to U.S. locations of headquarters or factories, may, by themselves or in conjunction with other phrases or images, convey a claim of U.S. origin." *Id.*

² *Id.* at 63769.

In this case, Jantec implemented a remedial action plan to avoid deceiving consumers. This plan included: (1) removing unqualified U.S.-origin claims from the Company website and printed materials; (2) revising claims on social media accounts; (3) updating listings on third-party platforms, including Etsy, eBay, and Amazon; (4) editing Google AdWords and Bing ads; and (5) introducing qualified claims that highlight the fact that Jantec hand-bends neon signs in the United States.

It is appropriate for the Company to promote the fact that it employs workers and performs certain processes in the United States, provided that marketing materials do not overstate the extent to which Jantec products are made in the United States. Additionally, FTC staff is 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 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.

Sincerely,



Julia Solomon Ensor
Staff Attorney
Division of Enforcement
(202) 326-2377
jensor@ftc.gov



Crystal D. Ostrum
Investigator
Division of Enforcement
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costrum@ftc.gov



UNITED STATES OF AMERICA
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WASHINGTON, D.C. 20580

Bureau of Consumer Protection
Division of Enforcement

June 5, 2018

VIA FEDEX

Shawna Hanson, Esq.
General Counsel
Daktronics, Inc.
201 Daktronics Dr.
Brookings, SD 57006

Dear Ms. Hanson:

We received your submissions on behalf of Daktronics, Inc. (“Daktronics” or the “Company”). During our review, we discussed concerns that marketing materials may have overstated the extent to which Daktronics’ LED signs – which incorporate significant imported materials – are made in the United States.

As discussed, 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.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 Commission has noted that “[w]here a product is not all or virtually all made in the United States, any claim of U.S. origin should be adequately qualified to avoid consumer deception about the presence or amount of foreign content. In order to be effective, any qualifications or disclosures should be sufficiently clear, prominent, and understandable to prevent deception.”²

¹ 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). Additionally, beyond express “Made in USA” claims, “[d]epending on the context, U.S. symbols or geographic references, such as U.S. flags, outlines of U.S. maps, or references to U.S. locations of headquarters or factories, may, by themselves or in conjunction with other phrases or images, convey a claim of U.S. origin.” *Id.*

² *Id.* at 63769.

In this case, Daktronics implemented a remedial action plan to avoid deceiving consumers. This plan included: (1) immediately withdrawing and replacing online ads identified by the staff; (2) reviewing all other online, hardcopy, tradeshow, and on-product marketing materials and removing or modifying overly broad or unsubstantiated U.S.-origin claims; (3) providing training on how to make non-deceptive U.S.-origin claims to marketing groups, sales groups, product managers, human resources, technical writers, content creation groups, and demos groups; and (4) reviewing reseller claims for Daktronics products and providing replacement marketing materials to resellers as needed.

You noted that Daktronics intends to use appropriately qualified U.S.-origin claims in the future to promote the work the company performs in the United States. If Daktronics employs workers and performs certain processes in the United States, it is appropriate for the Company to promote those facts, provided that marketing materials do not overstate the extent to which Daktronics products are made in the United States. Additionally, FTC staff is 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 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.

Sincerely,



Julia Solomon Ensor
Staff Attorney
Division of Enforcement
(202) 326-2377
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Bureau of Consumer Protection
Division of Enforcement

Julia Solomon Ensor
Attorney

Email: jensor@ftc.gov
Direct Dial: (202) 326-2377

May 30, 2018

VIA FEDEX

Jeffrey J. Dean, Esq.
Morris & Dean
101 East Crawford Street
Suite #300
Dalton, GA 30720

Dear Mr. Dean:

We received your submissions on behalf of your client, Semyx, LLC ("Semyx" or the "Company"). During our review, we discussed concerns that marketing materials may have overstated the extent to which Semyx's waterjet cutting machines – which contain significant imported components – are made in the United States.

As discussed, unqualified "Made in USA" or "Built in USA" claims on marketing materials likely suggest to consumers that all products advertised in those materials are "all or virtually all" made in the United States.¹ As we also discussed, beyond express "Made in USA" claims, "[d]epending on the context, U.S. symbols or geographic references, such as U.S. flags, outlines of U.S. maps, or references to U.S. locations of headquarters or factories, may, by themselves or in conjunction with other phrases or images, convey a claim of U.S. origin."²

Accordingly, Semyx implemented a remedial action plan to avoid deceiving consumers. This plan included: (1) discontinuing use of unqualified U.S.-origin claims; (2) updating all marketing materials, including the Semyx website, social media, tradeshow materials, and other hardcopy materials; (3) removing "Made in USA" stickers from products in inventory; and (4) communicating changes and sending updated information to third-party distributors.

If Semyx employs workers in the United States, it is appropriate for the Company to promote that fact, provided that marketing materials do not overstate the extent to which Semyx products are made in the United States. Additionally, if, in the future, Semyx can substantiate

¹ 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).

² *Id.*

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,



Julia Solomon Ensor
Staff Attorney



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Bureau of Consumer Protection
Division of Enforcement

May 9, 2018

VIA FEDEX

Scott Salmon
Vice President of Consumer Business
Superwinch, LLC
359 Lake Road
Dayville, CT 06241

Dear Mr. Salmon:

We received your submissions on behalf of Superwinch, LLC ("Superwinch" or the "Company"). During our review, we discussed concerns that marketing materials may have overstated the extent to which certain of Superwinch's products are made in the United States.

As discussed, 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.

Accordingly, Superwinch implemented a remedial action plan to avoid deceiving consumers. This plan included: (1) updating Superwinch's website and social media accounts to remove or appropriately qualify U.S.-origin claims; (2) correcting or discarding all print materials that include potentially deceptive U.S.-origin claims; (3) updating all trade show materials; (4) working with an extensive third-party distributor network to update all marketing materials; and (5) altering or replacing product packaging to remove or appropriately qualify U.S.-origin claims.

If, in the future, Superwinch 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.

Sincerely,

A handwritten signature in blue ink, appearing to read "Crystal Ostrum", with a long horizontal flourish extending to the right.

Crystal D. Ostrum
Investigator
Division of Enforcement
(202) 326-3405
costrum@ftc.gov



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Division of Enforcement

May 4, 2018

VIA FEDEX

Nathan Heyde, Esq.
Varner & Brandt LLP
3750 University Ave.
Suite 610
Riverside, CA 92501-3323

Dear Mr. Heyde:

We received your submissions on behalf of your client, Tradenet Enterprise, Inc., d/b/a Vantage LED ("Vantage" or the "Company"). During our review, we discussed concerns that marketing materials may have overstated the extent to which Vantage's LED signs are made in the United States.

As discussed, 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. Accordingly, Vantage implemented a remedial action plan to avoid deceiving consumers. This plan included: (1) updating Vantage's website and social media accounts to remove or appropriately qualify U.S.-origin claims; (2) removing, discarding, or discontinuing use of all print materials that include potentially deceptive U.S.-origin claims; (3) instructing all third-party distributors and dealers to discard or return outdated materials to Vantage; (4) providing updated materials to dealers and distributors; and (5) training all sales staff on how to make non-deceptive claims for Vantage's products.

If Vantage employs workers in the United States, it is appropriate for the Company to promote that fact, provided that marketing materials do not overstate the extent to which Vantage products are made in the United States. Additionally, if, in the future, Vantage 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.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Ensor', with a stylized flourish at the end.

Julia Solomon Ensor
Staff Attorney
Division of Enforcement
(202) 326-2377
jensor@ftc.gov

A handwritten signature in blue ink, appearing to read 'Crystal D. Ostrum', with a long horizontal flourish extending to the right.

Crystal D. Ostrum
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April 17, 2018

VIA FEDEX

Paul D. Rubin, Esq.
Debevoise & Plimpton LLP
801 Pennsylvania Ave., N.W.
Washington, DC 20004

Dear Mr. Rubin:

We received your submissions on behalf of your client, EBSCO Sign Group, LLC ("ESG" or the "Company"). During our review, we discussed concerns that marketing materials may have overstated the extent to which ESG's LED signs are made in the United States.

As discussed, unqualified "Made in USA"/"Made in America" or "Built in USA"/"Built in America" claims on marketing materials likely suggest to consumers that all products advertised in those materials are "all or virtually all" made in the United States. Accordingly, ESG implemented a remedial action plan to avoid deceiving consumers. This plan included: (1) discontinuing use of unqualified U.S.-origin claims; (2) updating all marketing materials accordingly; (3) communicating changes and distributing updated materials to third-party dealers; and (4) training staff on how to make non-deceptive claims for ESG products.

If ESG employs workers in the United States, it is appropriate for the Company to promote that fact, provided that marketing materials do not overstate the extent to which ESG products are made in the United States. Additionally, if, in the future, ESG 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.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Ensor", is written over the name Julia Solomon Ensor.

Julia Solomon Ensor
Staff Attorney
Division of Enforcement
(202) 326-2377
jensor@ftc.gov

A handwritten signature in blue ink, appearing to read "Crystal D. Ostrum", is written over the name Crystal D. Ostrum.

Crystal D. Ostrum
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February 7, 2018

VIA FEDEX

Robert Provost, CEO
Prodeco Technologies, LLC
1201 NE 38th St., #B-1
Oakland Park, FL 33334-4504

Dear Mr. Provost:

We received your submissions on behalf of Prodeco Technologies, LLC ("ProdecoTech" or the "Company"). During our review, we raised concerns that certain marketing materials may have overstated the extent to which the Company's electric bicycles are made in the United States.

As discussed, unqualified "Made in USA" or "Built in USA" claims on marketing materials likely suggest to customers that products are "all or virtually all" made in the United States. "All or virtually all" means that all of the product's significant parts and processing must be of U.S. origin. In other words, the product should contain, at most, only negligible foreign content. 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.¹

In this case, although the Company designs its products and performs sophisticated assembly operations in the United States, Prodecotech's electric bicycles incorporate significant imported content. Accordingly, Prodecotech implemented a remedial action plan to avoid deceiving consumers. This plan included: (1) replacing unqualified "Built in USA" claims with "Built in the USA of Global Components" across all marketing materials and product packaging; (2) revising the ProdecoTech website, including by updating title tags and meta descriptions; (3) reviewing and revising social media accounts, including by removing #builtinusa from posts; (4) terminating authorized dealers that failed to update marketing materials after three requests; and (5) updating contracts with authorized dealers to include language prohibiting them from making unqualified U.S.-origin claims for ProdecoTech products.

¹ For additional information, see <http://business.ftc.gov/advertising-and-marketing/made-usa>.

As we discussed, if in the future ProdecoTech can substantiate claims that its electric bicycles 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,



Julia Solomon Ensor
Staff Attorney
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Bureau of Consumer Protection
Division of Enforcement

Julia Solomon Ensor
Attorney

Email: jensor@ftc.gov
Direct Dial: (202) 326-2377

January 9, 2018

VIA FEDEX

Brian Siegel, Esq.
Secretary, Treasurer, & General Counsel
The Solid Wood Cabinet Company, LLC, d/b/a Solid Wood Cabinets
928 Jaymor Road, Suite A-100
Southampton, PA 18966

Dear Mr. Siegel:

We received your submissions on behalf of The Solid Wood Cabinet Company, LLC, d/b/a Solid Wood Cabinets ("Solid Wood Cabinets" or the "Company"). During our review, we discussed concerns that certain marketing materials may have overstated the extent to which Solid Wood Cabinets' products are made in the United States. Specifically, although the Company assembles cabinetry in its factory, much of the base material for its products comes from overseas. Additionally, Solid Wood Cabinets sells a line of wholly imported, ready-to-assemble products.

As discussed, unqualified "Made in USA" or "Built in USA" claims on company marketing materials likely suggest to customers that all the products advertised in those materials are "all or virtually all" made in the United States. Accordingly, to avoid deceiving consumers, you explained that the Company updated its website, social media accounts, and other marketing materials to remove, or, where appropriate, qualify U.S.-origin claims.

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,

A handwritten signature in blue ink, appearing to read "J. Ensor", written over a horizontal line.

Julia Solomon Ensor
Staff Attorney