



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

Bureau of Consumer Protection
Division of Enforcement

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VIA FEDEX

William R. Vigdor, Esq.
Vinson & Elkins LLP
2200 Pennsylvania Ave. NW
Suite 500 West
Washington, DC 20037-1701

Dear Mr. Vigdor:

We received your submissions on behalf of your client, New Sensor Corporation (“NSC”), d/b/a Electro-Harmonix (“EHX”). During our review, we raised concerns that certain marketing materials may have overstated the extent to which EHX-branded products, including, but not limited to, certain guitar pedals, are made in the United States. Specifically, although NSC designs, tests, and performs finishing operations on its pedals in the United States, those products incorporate significant imported content.

As we discussed, unqualified “Made 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. 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

Accordingly, to avoid deceiving consumers, you explained that NSC implemented a remedial action plan to clarify its representations. The plan included: (1) removing all unqualified claims from EHX products and advertising materials; (2) updating stock photos; (3) stickering over outdated claims on product packaging; (4) applying hangtags containing clear and conspicuous qualifications to EHX pedals in inventory with outdated claims; (5) modifying or applying appropriate qualifications to product videos and social media posts; (6) sending a letter to authorized dealers and distributors providing updated marketing materials, and instructing them to refrain from making unqualified claims; and (7) making all diligent efforts to

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).

identify and correct improper claims made by third-party marketers.

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