



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

November 12, 2020

**VIA EMAIL**

Kathleen Benway, Esq.  
Alston & Bird LLP  
950 F Street, NW  
Washington, DC 20004-1404  
kathleen.benway@alston.com

Dear Ms. Benway:

We received your submissions on behalf of Dal-Tile Corporation, a subsidiary of Mohawk Industries, Inc. (“Dal-Tile” or the “Company”). During our review, we discussed concerns that marketing materials may have overstated the extent to which Dal-Tile’s quartz slab products are made in the United States. Specifically, although the Company substantially transforms American Reserve products into finished goods in the United States, because quartz material has limited availability in the U.S., the Company imports essential raw materials it incorporates into these products.

As discussed, unqualified U.S.-origin claims in marketing materials – including claims that products are “Made,” “Manufactured,” 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.<sup>1</sup> 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.<sup>2</sup>

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<sup>1</sup> 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) (the “Policy Statement”).

<sup>2</sup> The Policy Statement provides that “raw materials are neither automatically included nor automatically excluded in the evaluation of whether a product is all or virtually all made in the United States. Instead, whether a product whose other parts and processing are of U.S. origin would not be considered all or virtually all made in the United States because the product incorporated imported raw materials depends (as would be the case with any other input) on what percentage of the cost of the product the raw materials constitute and how far removed

For a product that is substantially transformed in the United States, but not “all or virtually all” made in the United States, the Policy Statement explains that “any claim of U.S. origin should be adequately qualified to avoid consumer deception about the presence or amount of foreign content . . . . 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.”<sup>3</sup>

To avoid deceiving consumers, Dal-Tile implemented a remedial action plan to update its representations. This plan included: (1) correcting webpages and social media posts; (2) redistributing labels, as well as instructions and guidelines, to stone centers, third-party fabricators, and distributors that purchased sample tower displays; and (3) undertaking a comprehensive review of and substantiation check for U.S.-origin claims by other Mohawk Industries, Inc. subsidiaries.

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 products are made in the United States. Additionally, to the extent the Company offers other products that are “all or virtually all” made in the United States, it is appropriate to promote those products accordingly, taking care not to make overly broad U.S.-origin claims on marketing materials that refer to multiple products. As you know, 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 Dal-Tile’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, please feel free to call.

Sincerely,



Julia Solomon Ensor  
Staff Attorney



Lashanda Freeman  
Federal Trade Investigator

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from the finished product the raw materials are.” *Id.* at 63769.

<sup>3</sup> *Id.*