



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

Bureau of Consumer Protection
Division of Enforcement

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VIA EMAIL

Russell C. Menyhart, Esq.
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Dear Mr. Menyhart:

We received your submissions on behalf of LumenFocus, LLC (“LumenFocus” or the “Company”). During our review, we discussed concerns that marketing materials may have overstated the extent to which LumenFocus products are made in the United States. Specifically, although LumenFocus performs manufacturing processes in the United States, certain LED lighting products incorporate significant imported content.

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

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.*

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, LumenFocus implemented a remedial action plan to update and qualify its representations. This plan included: (1) updating marketing materials to clarify or correct U.S.-origin representations; (2) updating social media platforms; (3) training marketing staff; (4) communicating changes to third-party distributors and energy service companies; and (5) assigning direct responsibility for and oversight over U.S.-origin claims compliance to LumenFocus’s President/CEO.

As discussed, it is appropriate for LumenFocus to make unqualified claims for specific products or product lines it can substantiate are “all or virtually all” made in the United States, and to promote the fact that it employs workers to perform certain processes in the United States. However, unless it becomes true, marketing materials must not suggest to consumers that all Company products are made in the United States, or obscure the fact that some products contain significant imported content. 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 LumenFocus’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.