



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

Bureau of Consumer Protection  
Division of Enforcement

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**VIA EMAIL**

David R. Merritt, Esq.  
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Dear Mr. Merritt:

We received your submissions on behalf of Wagner Spray Tech Corporation, d/b/a Titan Tool, Inc. (“Titan Tool” or the “Company”). During our review, we discussed concerns that marketing materials may have overstated the extent to which Titan Tool products are made in the United States. Specifically, although Titan Tool sells a mix of USA-assembled products and imported products, marketing materials made broad claims that Company products were “Built in America with Globally Sourced Materials.” Additionally, for certain USA-assembled products, and particularly on social media platforms, Titan Tool used versions of a “Built in America with Globally Sourced Materials” emblem that failed to include the “with Globally Sourced Materials” qualifier in a typeface sufficiently large to be read or noticed by reasonable consumers.

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.<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

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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). 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.* Truthful claims that products are BAA-compliant also likely convey unqualified “Made in USA” claims to non-government purchaser consumers.

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. 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>2</sup>

To avoid deceiving consumers, Titan Tool implemented a two-pronged remedial action plan to update and qualify its representations where needed, and to increase the clarity and prominence of existing qualifications. This plan included: (1) distributing new communication standards to all employees and partners responsible for making advertising claims; (2) limiting U.S.-origin claims to appropriate products; (3) setting specific standards for sizing of qualifications in print ads and social media posts; (4) updating all print, social, and digital advertising to conform to the updated requirements; (5) distributing updated materials; (6) training personnel; and (7) implementing new review and approval processes for U.S.-origin advertising.

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 Titan Tool’s products are made in the United States. 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 Titan Tool’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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<sup>2</sup> *Id.* at 63769.