



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

Bureau of Consumer Protection
Division of Enforcement

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VIA EMAIL

Wendy Y. Wang, Esq.
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3390 University Avenue, 5th Floor
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Dear Ms. Wang:

We received your submissions on behalf of West Coast Corporation, also d/b/a Key-Bak (“WCC” or the “Company”). During our review, we discussed concerns that marketing materials may have overstated the extent to which products advertised, including certain retractable badge and key holders, are made in the United States. Specifically, although WCC operates a plant, designs products, and performs certain manufacturing functions in the USA, many products it offers are wholly imported or contain significant imported components.

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. 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

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, “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

¹ See 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) (“Policy Statement”). Additionally, as the Commission has explained, “marketers should not represent, either expressly or by implication, that a whole product line is of U.S. origin . . . when only some products in the product line are, in fact, made in the United States.” *Id.* at n.111.

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 appropriate situations, even if a particular product is not “all or virtually all” made in the United States or substantially transformed in the United States, “a marketer may make a claim that a particular manufacturing or other process was performed in the United States, or that a particular part was manufactured in the United States, provided that the claim is truthful and substantiated and that reasonable consumers would understand the claim to refer to a specific process or part and not to the general manufacture of the product.”³ For example, a marketer may be able to substantiate a non-deceptive claim that a foreign-origin product is “Designed” in the United States. In that case, the marketer could make this claim as long as it does not imply the product is of U.S.-origin, and the marketer does not omit or obscure any required foreign-origin labeling.

To avoid deceiving consumers, WCC implemented a remedial action plan to update and qualify its representations. This plan included: (1) revising websites and social media accounts; (2) updating listings on third-party platforms, such as Amazon.com; (3) updating print materials and packaging, including by stickering over unqualified claims until new materials could be printed; (4) updating tradeshow materials; (5) updating product molds; (6) contacting and training trade customers on appropriate claims; (7) designating employees to supervise and ensure compliance; and (8) adding country-of-origin training to the Company’s semi-annual sales training for sales, marketing, and customer service staff.

As discussed, it is appropriate for WCC to promote the fact that it employs workers, conducts certain manufacturing functions, and designs products in the United States. However, marketing materials should not convey that products are “all or virtually all” made in the United States unless WCC can substantiate those claims. As you know, FTC staff members are available to work with companies to craft qualified claims that serve the dual purposes of conveying non-deceptive information and highlighting work done in the United States.

Based on WCC’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
Senior Investigator

² *Id.*

³ *Id.* at 63770.