



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

Bureau of Consumer Protection
Division of Enforcement

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February 27, 2019

VIA EMAIL

Mr. Justin Tollis
Store and Production Manager
Native Ken Eyewear, Inc.
188 8th Avenue
New York, NY 10011

Dear Mr. Tollis:

We received your submissions on behalf of Native Ken Eyewear, Inc. (“Native Ken” or the “Company”). During our review, we discussed concerns that marketing materials may have overstated the extent to which Native Ken eyewear is made in the United States. Specifically, although Native Ken designs products in the United States, the Company sources its glasses frames overseas.

As discussed, unqualified U.S.-origin claims in marketing materials – including claims that products are “Made” 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.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.

To avoid deceiving consumers, Native Ken removed all claims that its products are “made” or “built” in the United States or New York City from its advertising materials, including hashtagged claims on social media platforms. As discussed, it is appropriate for Native Ken to

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.*

promote the fact that it designs its products in the United States, provided that marketing materials do not overstate the extent to which products are made in the United States. Additionally, 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 Native Ken'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