



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

Bureau of Consumer Protection
Division of Enforcement

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VIA EMAIL

Mr. Michael Muhlbaier
President
Spaghetti Engineering Corp., d/b/a DIGI-TAILS
150 Cooper Road, C-7
West Berlin, NJ 08091

Dear Mr. Muhlbaier:

We received your submissions on behalf of Spaghetti Engineering Corp., d/b/a DIGI-TAILS (“DIGI-TAILS” or the “Company”). During our review, we discussed concerns that marketing materials may have overstated the extent to which DIGI-TAILS’ digital tail and front light products are made in the United States. Specifically, although certain DIGI-TAILS products are designed and assembled in the United States, they incorporate imported printed circuit boards and other significant imported electronic components.

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

To avoid deceiving consumers, DIGI-TAILS implemented a remedial action plan to update its representations. This plan included: (1) removing unqualified U.S.-origin claims from

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.*

marketing materials, including packaging, Company websites, flyers, social media accounts, and trade show materials; (2) removing unqualified claims from third-party sales platforms, including ebay.com and amazon.com; (3) introducing qualified claims, where appropriate; (4) notifying all employees of changes; and (5) making diligent efforts to ensure the accuracy of distributor claims, including by suspending noncompliant or nonresponsive distributors.²

As discussed, it is appropriate for the Company to promote the fact that it employs workers and performs certain processes in the United States. However, marketing materials should not overstate the extent to which DIGI-TAILS' products are made in the United States. 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 DIGI-TAILS' 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 We understand that the Company has confirmed compliance among the majority of its distributor network, which is comprised of hundreds of small businesses. However, unqualified claims remain on a small handful of noncompliant or nonresponsive distributor websites. DIGI-TAILS has suspended orders from these distributors pending confirmation that they have brought their marketing materials into full compliance.