



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

Bureau of Consumer Protection
Division of Enforcement

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VIA EMAIL

Wesley A. Roberts, Esq.
Thomas Horstemeyer, LLP
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Dear Mr. Roberts:

We received your submissions on behalf of Aqua Marine Deck, Inc. (“Aqua Marine” or the “Company”). During our review, we discussed concerns that marketing materials with broad, unqualified claims that Aqua Marine products are made in the United States may have failed to account for the fact that certain of the Company’s marine decking products contain significant foreign 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.

To avoid deceiving consumers, Aqua Marine implemented a remedial action plan. This plan included: (1) removing all “Made in USA” claims from Aqua Marine marketing materials;

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.*

(2) updating social media platforms; (3) collecting and destroying outdated materials from dealers and distributors; and (4) providing updated materials to dealers and distributors.

If, in the future, Aqua Marine offers a new product that is “all or virtually all” made in the United States, it would be appropriate for the Company to update its marketing materials accordingly. In the interim, it is appropriate for Aqua Marine 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 the Company’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 Aqua Marine’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