

## **Analysis of Proposed Consent Order to Aid Public Comment**

### ***In the Matter of E.K. Ekcessories, Inc., File No. 1323156***

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an agreement containing a consent order from E.K. Ekcessories, Inc. (“respondent”).

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement’s proposed order.

This matter involves respondent’s marketing, sale, and distribution of outdoor equipment with claims that the products are of U.S.-origin. According to the FTC’s complaint, respondent represented that all of its products are “Truly Made in the USA.” In fact, some of respondent’s products are not made in the USA.

The complaint alleges that respondent’s claims that all of its products are “Truly Made in the USA,” made in Logan, Utah, or “Made in the USA” were false and misleading for some products. The complaint also alleges that respondent did not possess and rely upon a reasonable basis to substantiate its claims, and that respondent distributed deceptive promotional materials to third-party retailers for use in the marketing and sale of its products. Accordingly, the complaint alleges that respondent engaged in deceptive acts or practices in violation of Section 5(a) of the FTC Act.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts and practices in the future. Consistent with the FTC’s Enforcement Policy Statement on U.S. Origin Claims, Part I forbids respondent from making unqualified U.S.-origin claims for its products unless the product is all or virtually all made in the USA.

Part II prohibits respondent from making any “Made in the USA” or other country of origin claim about a covered product unless the claim is true, not misleading, and respondent has a reasonable basis substantiating the representation.

Part III prohibits respondent from providing third-party retailers with the means and instrumentalities to make the claims prohibited in Parts I and II.

Parts IV and V require respondent to identify its third-party retailers and deliver a letter to them that instructs them to remove deceptive “Made in the USA” claims from respondent’s products or marketing materials.

Parts VI through X are reporting and compliance provisions. Part VI requires respondent to keep and make available to the Commission on request: copies of advertisements, labeling, packaging, and promotional materials containing the representations identified in Part I; materials relied upon in disseminating those representations; evidence that contradicts, qualifies, or calls into question the representations, or the basis relied upon for the representations; all

acknowledgments of receipt of the order; and all notification orders sent pursuant to Part V. Part VII requires respondent to disseminate the order to principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities relating to the subject matter of the order. Part VIII requires notification to the FTC of changes in respondent's corporate status. Part IX requires respondent to submit an initial compliance report to the FTC within sixty (60) days of service and subsequent reports upon request.

Finally, Part X is a "sunset" provision, terminating the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.