



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

Bureau of Consumer Protection
Division of Enforcement

Julia Solomon Ensor
Attorney

Email: jensor@ftc.gov
Direct Dial: (202) 326-2377

June 5, 2015

FEDERAL EXPRESS

Alison J. Stimac, Esq.
Keating Muething & Klekamp PLL
One East 4th Street, Suite 1400
Cincinnati, OH 45202

Dear Ms. Stimac:

We received your submissions on behalf of your client, Gorilla Glue Company (“Gorilla Glue” or the “Company”). During our review, we discussed concerns that certain labels and marketing materials may have overstated the extent to which Gorilla Glue adhesive products are made in the United States or contain U.S.-sourced ingredients. Specifically, we discussed concerns that an unqualified “Made in USA” claim for a glue or tape product may deceive consumers where, although the product was last substantially transformed in the United States, either: (1) a significant percentage of the raw materials contained in the product is sourced overseas, or (2) a key raw material in the product that gives it its adhesive quality is sourced overseas.

As we discussed, the FTC’s Enforcement Policy Statement on “Made in USA” and Other U.S. Origin Claims (“Enforcement Policy Statement”) explains that in order to make any “Made in USA” claim – qualified or unqualified – “it is a prerequisite that the product have been last ‘substantially transformed’ in the United States, as that term is used by the U.S. Customs Service.”¹ If a marketer can substantiate that its product was last “substantially transformed” in the United States, then the marketer should apply the analysis described in the Enforcement Policy Statement to determine whether it can make a non-deceptive unqualified “Made in USA” claim for its product.

Unqualified “Made in USA” claims likely suggest to consumers that the advertised products 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. For products that incorporate imported raw materials, the Commission considers “what percentage of the cost of the product the raw materials constitute and how far removed

¹ *Federal Trade Commission, Issuance of Enforcement Policy Statement on “Made in USA” and Other U.S. Origin Claims*, 62 Fed. Reg. 63756, 63768 (December 2, 1997).

from the finished product the raw materials are.”² As the Commission has noted, “even where a raw material is nonindigenous to the United States, if that imported material constitutes the whole or essence of the finished product . . . , it would likely mislead consumers to label the final product with an unqualified ‘Made in USA’ claim.”³

In this case, although the adhesive products in question were last substantially transformed in the United States, they include imported raw materials that are significant, either in quantity or to the function of the relevant product. Accordingly, to avoid deceiving consumers, you explained that the Company is in the process of implementing a comprehensive corrective action plan. This plan includes: (1) updating “Made in USA” claims for impacted products to state “Made in USA with Domestic and Imported Materials” or “Made in Germany. Bottled in the USA,” as appropriate; (2) revising product packaging to make qualifications more clear and prominent; (3) updating product descriptions and photos on the Company website and social media; and (4) contacting third-party retailers to provide updated product claims, descriptions, and images.

Based on your statements and Gorilla Glue’s ongoing corrective effort, the staff has decided not to recommend further action. This letter 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 *Id.* at 63766.

³ *Id.* at 63739 n.117.