



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

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FEDERAL EXPRESS

Timothy J. Fitzgibbon, Esq.
Managing Partner – Washington, D.C. Office
Nelson Mullins Riley & Scarborough LLP
101 Constitution Avenue, N.W., Suite 900
Washington, D.C. 20001

Dear Mr. Fitzgibbon:

We received your submissions of March 24, 2015, April 3, 2015, April 6, 2015, and May 6, 2015, on behalf of your client, Element Electronics Corp. (“Element” or the “Company”). During our review, we discussed concerns that certain Element marketing materials may have suggested that all Element televisions are assembled in the United States.

As we discussed, a product that includes foreign components may be called “Assembled in the USA” without qualification when its principal assembly takes place in the United States and the assembly is substantial. For the “assembly” claim to be valid, the product’s last “substantial transformation” also should have occurred in the United States. As the Commission has noted, this requirement “ensures against potentially contradictory claims, *i.e.*, a product claiming to be ‘Assembled in USA’ while simultaneously being marked as ‘Made in [foreign country.’ In many instances, this requirement will also be a minimum guarantee that the U.S. assembly operations are substantial.”¹

In your submissions, you explained that Element confirmed that the U.S. Customs Service would consider certain of Element’s televisions to be “substantially transformed” in the United States. Thus, an “Assembled in USA” claim likely would not be deceptive for those televisions. However, Element continues to market other televisions that are not “substantially transformed” in the United States. Accordingly, to avoid deceiving consumers, the Company made changes to its website to clarify that some – not all – of Element’s televisions are assembled in the United States, and to make it easier for consumers to view televisions assembled in the United States separately from other Company products.

¹ *Federal Trade Commission, Issuance of Enforcement Policy Statement on “Made in USA” and Other U.S. Origin Claims*, 62 Fed. Reg. 63756, 63770 (December 2, 1997).

Based on your statements, 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,

A handwritten signature in blue ink, appearing to read "J. ENSOR". The signature is stylized and cursive.

Julia Solomon Ensor
Staff Attorney