



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

Bureau of Consumer Protection  
Division of Enforcement

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**VIA EMAIL**

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Dear Ms. Torman:

We received your submissions on behalf of Wilson Sporting Goods Co. (“Wilson” or the “Company”). During our review, we discussed concerns marketing materials may have overstated the extent to which certain sporting goods are made in the United States. Specifically, although Wilson temporarily shifted to dual sourcing certain youth footballs from the USA and Vietnam, the Company failed to update marketing materials to reflect this change.

Unqualified U.S.-origin claims in marketing materials – including claims products are “Made” or “Built” in the USA – likely suggest to consumers that the products advertised in those materials are “all or virtually all” made in the United States.<sup>1</sup> 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. The “all or virtually all” standard is codified in the Made in USA Labeling Rule, 16 C.F.R. § 323 (the “MUSA Labeling Rule”).<sup>2</sup>

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<sup>1</sup> FTC, *Issuance of Enforcement Policy Statement on “Made in USA” and Other U.S. Origin Claims*, 62 Fed. Reg. 63756, 63768 (Dec. 2, 1997) (the “Policy Statement”).

<sup>2</sup> Effective August 13, 2021, it violates the MUSA Labeling Rule to label any covered product “Made in the United States,” as the MUSA Labeling Rule defines that term, unless the final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States. *See* <https://www.federalregister.gov/documents/2021/07/14/2021-14610/made-in-usa-labeling-rule>. The Commission may seek civil penalties of up to \$51,744 per MUSA Labeling Rule violation. 15 U.S.C. § 45(m)(1)(A).

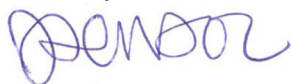
It is deceptive to make a “Made in USA” claim – or any other advertising claim – “unless, *at the time the claim is made*, the marketer possesses and relies upon a reasonable basis substantiating the claim” (emphasis added).<sup>3</sup> Thus, marketers must remain vigilant and update marketing materials if they can no longer substantiate that products previously advertised as “Made in the USA” remain “all or virtually all” made in the United States. Moreover, if updates become necessary, marketers should communicate changes to third-party retailers and distributors and ensure materials are revised accordingly.

As discussed, it is appropriate for Wilson to promote its general commitment to American jobs and manufacturing, including by highlighting investment in new U.S. manufacturing facilities for youth footballs. However, marketing materials should not state or imply “that a whole product line is of U.S. origin (*e.g.*, ‘Our products are Made in USA’) when only some products in the product line are, in fact, made in the United States.”<sup>4</sup>

To avoid deceiving consumers, Wilson performed a comprehensive review of marketing materials and implemented a remedial action plan. This included: (1) removing unqualified claims; (2) communicating with third-party retailers to update materials; (3) implementing enhanced review processes; and (4) training employees.

FTC staff members are available to work with companies to craft claims that serve the dual purposes of conveying non-deceptive information and highlighting work done in the United States. Based on the Company’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, please feel free to call.

Sincerely,



Julia Solomon Ensor, Staff Attorney



Lashanda Freeman, Senior Investigator

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<sup>3</sup> Policy Statement, 62 Fed. Reg. 63756, 63767.

<sup>4</sup> *Id.* at 63768 n.111.