



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

Bureau of Consumer Protection
Division of Enforcement

October 1, 2018

VIA FEDEX

Mr. Michael Evke
President & CEO
Eversan, Inc.
34 Main Street
Whitesboro, NY 13492

Dear Mr. Evke:

We received your submissions on behalf of Eversan, Inc. (“Eversan” or the “Company”). During our review, we discussed concerns that marketing materials may have overstated the extent to which Eversan’s video screens and scoreboards are made in the United States. Specifically, certain Eversan products contain imported components that, in some instances account for a significant proportion of the products’ manufacturing costs and, in other instances, though less significant in terms of cost, are essential to the products’ functionality.

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.

The Commission has noted that “[w]here a product is not all or virtually all made in the United States, any claim of U.S. origin should be adequately qualified to avoid consumer deception about the presence or amount of foreign content. In order to be effective, any qualifications or disclosures should be sufficiently clear, prominent, and understandable to

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.*

prevent deception.”²

In this case, Eversan implemented a remedial action plan to avoid deceiving consumers. This plan included: (1) removing unqualified U.S.-origin claims from all online marketing materials; (2) removing unqualified claims from installation instructions; (2) introducing qualified claims such as “Assembled in USA” and “Made in USA with Some Imported Parts”; (3) communicating changes to business partners; (4) updating trade show materials; and (5) confirming that no additional products would leave the Eversan facility with unqualified claims.


As discussed, it is appropriate for the Company 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 Eversan’s products are made in the United States. Additionally, 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 your 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.

Sincerely,



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² *Id.* at 63769.