



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

December 21, 2016

VIA FEDEX

Steve Sasaki, President
Advanced Air Systems, Inc., also d/b/a Powertank
43 Commerce St. #103
Lodi, CA 95240

Dear Mr. Sasaki:

We received your submissions on behalf of Advanced Air Systems, Inc., also d/b/a Powertank ("Powertank"). During our review, we raised concerns that certain marketing materials may have overstated the extent to which Powertank's products, including, but not limited to, certain CO₂ tank systems, are made in the United States. Specifically, although Powertank completes final assembly of certain products in the United States, those products incorporate significant imported content.

As we discussed, unqualified "Made in USA" or "Built in USA" claims on marketing materials likely suggest to consumers that all products advertised in those materials are "all or virtually all" made in the United States. Furthermore, the FTC's Enforcement Policy Statement on "Made in USA" and Other U.S. Origin Claims explains that "'Assembled in USA' claims should be limited to those instances where the product has undergone its principal assembly in the United States and that assembly is substantial. In addition, a product should be last substantially transformed in the United States to properly use an 'Assembled in USA' claim."¹

Accordingly, to avoid deceiving consumers, you explained that Powertank implemented a remedial action plan to clarify its representations. The plan included: (1) removing all "Made in USA" messaging from the website; (2) removing "Made in USA" decals from Powertank products; (3) introducing claims that truthfully convey information about Powertank's U.S. operations without conveying that its products are of U.S. origin, such as "Designed in USA"; and (4) sending a letter to distributors and other representatives clarifying that Powertank designs products in the United States, and instructing representatives to remove unqualified "Made in USA" claims from marketing materials.

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

As we discussed, if in the future you offer a new product that is “all or virtually all” made in the United States or you are able to substantiate that your products are substantially transformed in the United States, it would be appropriate to update your marketing materials accordingly. However, please note that your marketing materials should clearly differentiate U.S.-origin or U.S.-assembled products from imported products, and that you should take care not to make overly broad claims on marketing materials that refer to multiple products.

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. If you have any questions, you can reach me at (202) 326-2377.

Sincerely,



Julia Solomon Ensor
Staff Attorney