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. Zdraveva:

We received your submissions on behalf of Maverick Abrasives Corporation ("Maverick" or the "Company"). During our review, we discussed concerns Company marketing materials may have overstated the extent to which Maverick's products are made in the United States. Specifically, the Company made broad claims its abrasive, polishing, and other products were "American Made," and that the Company was a "USA made manufacturer," even though many Maverick products contained significant imported content.

As you know, both the FTC and U.S. Customs and Border Protection ("CBP") have responsibilities related to the use of country-of-origin claims. While the FTC regulates claims of U.S. origin under its general authority to act against deceptive acts and practices, 15 U.S.C. § 45(a), and the Made in USA Labeling Rule, 16 C.F.R. Part 323,[1] foreign-origin markings on products are regulated primarily by CBP under the Tariff Act of 1930. Specifically, Section 304 of the Tariff Act, 19 U.S.C. § 1304, requires all products of foreign origin imported into the United States be marked with the name of a foreign country of origin.

The Commission has explained, "regardless of the extent of a product's other U.S. parts or processing, in order to be considered . . . made in the United States, it is a prerequisite that the product have been last 'substantially transformed' in the United States," as that term is used by CBP. That is, marketers should not make U.S.-origin claims for products CBP requires to be

[1] Effective August 13, 2021, it is a violation of 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. Pursuant to 15 U.S.C. § 45(m)(1)(A), the Commission may seek civil penalties of up to $51,744 per MUSA Rule violation.

marked with a foreign country of origin under 19 U.S.C. § 1304.[2]

A marketer should not make an unqualified U.S.-origin claim for its product, even if it is last substantially transformed in the United States, unless the marketer can substantiate the product is "all or virtually all" made in the United States.[3] 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. If a product is last substantially transformed in the USA but contains more than a *de minimis* amount of foreign content, a qualified claim may be appropriate (*e.g.*, "Made in USA of Imported Parts" or "Assembled in USA").

In this case, to avoid deceiving consumers, the Company removed U.S. origin claims from its own and third-party marketing materials, and trained employees. Based on these actions and other factors, the staff has decided not to pursue this investigation any further. As you know, 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. These resources remain available to the Company in the future should it choose to explore reintroducing appropriately substantiated claims.

This letter should not be construed as a determination there was no violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45(a), or the Made in USA Labeling Rule, 16 C.F.R. Part 323. 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

[2] 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")

[3] *Id.*