



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

Bureau of Consumer Protection
Division of Enforcement

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May 17, 2024

VIA EMAIL

Mr. Rob Canales
CEO & Co-Founder
ROKA Sports, Inc.
2214-A W. Braker Ln.
Austin, TX 78758

Dear Mr. Canales:

We received your submissions on behalf of ROKA Sports, Inc. (“ROKA” or the “Company”). During our review, we discussed concerns that marketing materials may have overstated the extent to which ROKA eyewear is made in the United States. Specifically, although ROKA broadly advertised its eyewear as “Handbuilt in USA” or “Handbuilt in Austin, TX,” certain products incorporated imported glasses frames, lenses, or other significant components.

As you know, unqualified U.S.-origin claims in marketing materials – including claims that 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.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 “all or virtually all” standard is codified in the Made in USA Labeling Rule, 16 C.F.R. § 323 (the “MUSA Labeling Rule”).²

¹ 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”). 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.*

² 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

The Commission has explained that, unless marketers either specify which products are covered or directly link claims to particular products, consumers generally interpret U.S.-origin claims in marketing materials to cover *all* products advertised in those materials. Accordingly, the Policy Statement provides, “marketers should not represent, either expressly or by implication, 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.”³

In some instances when a product is last substantially transformed in the USA but contains more than *de minimis* foreign content, a marketer may be able to make a qualified claim that conveys truthful information about U.S. processes or content without implying the product is “all or virtually all” made in the United States. A marketer may make any qualified claim that is truthful and substantiated, including one that generally alerts consumers to the existence of foreign content in the product (*e.g.*, “Made in USA of Imported Parts”), one that identifies the particular countries from which the parts came (“Made in USA from French and Korean Parts”), or one that specifies the proportion of the product that comes from the U.S. (*e.g.*, “60% U.S. Content”).⁴

Alternatively, a marketer may advertise a product as “Assembled in USA” provided the product is last substantially transformed in the USA, its principal assembly takes place in the USA, and United States assembly operations are substantial.⁵ In most cases, marketers need not qualify “Assembled in USA” claims with information about the origin of the parts or materials the product contains. The FTC reminds marketers that, when a product is last substantially transformed abroad and thus required by Customs and Border Protection (“CBP”) to be marked with a foreign country of origin, “it would be inappropriate, and confusing” to make a U.S. origin claim.⁶

As discussed, the Company may promote its general commitment to American jobs and re-shoring American manufacturing. However, marketing materials should not state or imply products are “all or virtually all” made in the United States unless ROKA can substantiate such claims. To avoid deceiving consumers, ROKA implemented a remedial action plan. This included: (1) removing unqualified U.S.-origin claims from marketing materials; (2) stickering over outdated claims on product packaging; (3) working with third-party marketers to update claims; (4) conducting a comprehensive review of CBP origin rulings to confirm proper origin markings and country of last substantial transformation for each product; (5) introducing “Assembled in USA” claims where appropriate; and (6) conducting companywide compliance training.

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

may seek civil penalties of up to \$51,744 per MUSA Labeling Rule violation. 15 U.S.C. § 45(m)(1)(A).

³ Policy Statement, 62 Fed. Reg. 63756, 63768 n.111.

⁴ *Id.* at 63769.

⁵ *Id.* at 63770.

⁶ *Id.*

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,

A handwritten signature in blue ink, appearing to read "J. Ensor".

Julia Solomon Ensor, Staff Attorney

A handwritten signature in blue ink, appearing to read "Lashanda J. Freeman".

Lashanda Freeman, Senior Investigator