

FTC Brings Enforcement Action over “Made in USA” Claims

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Two months ago, our colleague Dan Herling cautioned on this [blog](#) about making unsubstantiated “Made in the USA” claims on consumer products. He compared the Federal Trade Commission’s standard to California’s more stringent standard under Business & Professions Code 17200. Interestingly, just last week, the FTC **announced** that it has entered into **proposed consent order** with the company E.K. Ekcessories, Inc. over the firm’s claims that many of its products are “Made in the U.S.A.” Companies should take note of this consent order as it is the first settlement announced by the FTC concerning “Made in the USA” claims since 2009 when the FTC entered into an **agreement** with a manufacturer of magnifiers and other portable vision aids over similar allegations.

The FTC alleged in its **draft complaint** that E.K. Ekcessories made misrepresentations regarding its products, including outdoor equipment, bottle holders, dog collars and leashes, and cell phone accessories about their manufacture and production in the U.S. These representations included (1) “For 28 years E.K. Ekcessories has been producing superior quality made accessories in our 60,000 sq. ft. facility in Logan, Utah;” (2) “our source of pride and satisfaction abounds from true ‘Made in USA’ product;” and (3) “Truly Made in the USA.” The FTC claimed that, in fact, the company imported many products and components from overseas.

Under the proposed settlement, E.K. Ekcessories would be barred from making such claims in the future assuming that the products contain substantial foreign made content. In 1997, the FTC announced in its **enforcement policy** that all products advertised as “Made in the USA” must be “all or virtually all” made in the U.S. That means all or virtually all significant parts and processing that go into the product must be of U.S. origin.

For most businesses, the FTC’s “Made in the USA” standard applies to any marketing claims. The FTC Act (Section 5) gives the Commission authority to bring enforcement actions against companies who make misleading claims that a product is of U.S. origin. Companies who choose to make these claims must be familiar with the strict and sometimes complicated “Made in the USA” policies announced by the FTC (and California) before making such claims.

Authors