

Federal Trade Commission Imposes Fines for Unsubstantiated "Made in USA" Claims

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In a sign that it may be adopting a more aggressive enforcement stance, the Federal Trade Commission (FTC) fined Williams-Sonoma \$1 million as part of a settlement relating to false, misleading, or unsubstantiated claims that certain Williams-Sonoma products were "Made in the USA."

In the past, the FTC has tended to settle similar kinds of claims without seeking monetary relief. However, consumer groups have lately advocated for the FTC to issue formal rules regarding the enforcement of "Made in USA" claims, and to take a more forceful stance regarding violations of existing standards. Additionally, two FTC Commissioners have publicly pushed for the Commission to seek monetary relief in other recent "Made in the USA" settlements.

Although U.S. Customs and Border Protection is generally responsible for enforcing rules relating to the country of origin of imported goods, the FTC is responsible for enforcing rules relating to claims that products are made in the United States. A claim that a product is made in the United States, or that otherwise implies U.S. origin, must be truthful and substantiated. Such claims include not only labels on the products themselves, but claims made in advertising and promotional materials.

Under the FTC's "Made in USA" guidance, if a product is labeled or advertised as having been made in the United States without qualification, all, or virtually all, of the product must be made in the United States. Claims such as "Assembled in the United States" require that principal and final assembly or processing of the product take place in the United States, and that the assembly operations be substantial.

Authors

Duane C. Pozza
Partner
202.719.4533
dpozza@wiley.law
Maureen E. Thorson
Partner
202.719.7272
mthorson@wiley.law

Practice Areas

FTC and Consumer Protection

Last week's settlement was not the first time that Williams-Sonoma had run afoul of the FTC's rules. In 2018, the FTC staff investigated complaints that certain mattress pads sold under the Pottery Barn Teen brand were advertised as American-made, despite being imported. The company corrected the claims, and agreed to undertake a review of its verification process for product origin. However, according to the FTC's press release regarding the new settlement, the company continued to make misleading claims regarding its products.

The FTC plans to publish the full proposed consent agreement with Williams-Sonoma in the *Federal Register*, after which it will collect public comments on the terms of the settlement.

Elizabeth Baltzan, Consulting Counsel in Wiley's International Trade Practice, contributed to this alert.