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## Lessons for luxury brands from recent FTC action over beltmaker's Made in USA claims

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*Milton Springut is partner at Moses Singer*

By **Milton Springut**

Deceptive marketing erodes consumer trust. When customers discover that they have been misled or deceived, the likelihood that customers will lose confidence in a brand or company grows exponentially.

In a recent decision and order, the Federal Trade Commission (FTC) has taken a firm stance against deceptive "Made in USA" claims made by a group of Massachusetts- and New Hampshire-based clothing accessories companies.

Fashion and luxury goods companies considering making such a product claim to promote their brands need to understand the basics of this rule, and how to avoid violating it.

Below, I delve into the rule's key provisions and explore why companies should re-evaluate their operational practices to ensure that their product labeling and marketing strategies remain fully compliant with the law.

Ensuring compliance with the FTC's "Made in USA" rule is not just a matter of best practices, it is a legal requirement.

**FTC's "Made in USA" rule**

According to the FTC's decision, Chaucer Accessories, Bates Accessories and Bates Retail Group, each under the ownership of Thomas Bates, advertised their products with the labels "Made in USA" or "Hand Crafted in USA."

Contrary to these representations, these companies marketed and sold various products that either entirely originated overseas or included substantial imported components.

For instance, the companies imported belt straps from Taiwan, affixed buckles to the straps in the United States, and labeled the finished belts as "Made in USA from Global Materials."

Under the FTC's "Made in USA" rule, a product can only be represented as made in the United States if "all or virtually all" of the product has been made in America.

Specifically, the final assembly or processing of the product must occur in the United States, all significant processing that goes into the product must occur in the United States, or all or virtually all ingredients or

components of the product must be made and sourced in the United States.

For a claim that a product is assembled in the United States, it must undergo its final and substantial transformation within the U.S., or the product's principal assembly must take place in the U.S., and that assembly must be substantial.

In light of the numerous instances in which the companies made the representations that its products were made in America when the products were instead wholly imported with *de minimis* finishing in the U.S., if any, the FTC has taken decisive action.

FTC's power of enforcement

The FTC is empowered to enforce its provisions under the Consumer Review Fairness Act of 2016 (CRFA).

Where the FTC determines someone is in violation of the law, it can issue a complaint and require the party to appear at an administrative hearing. The end result can be an order to cease and desist the illegal practice.

Many companies receiving such complaints end up agreeing to such an order without a hearing. Later violations of the cease-and-desist order can result in civil penalties and injunctive relief before a federal court.

Under the FTC's order, Chaucer Accessories, Bates Accessories, Bates Retail Group and their owner going forward are prohibited from making unqualified U.S.-origin claims for any product, must include clear disclosures for qualified claims, notify customers who purchased falsely labeled products, and report their compliance to the FTC.

In one year, the companies are required to submit a compliance report describing the activities of each business, including the goods and services offered, the means of advertising, marketing and sales, and whether and how that the companies are in compliance with each provision of the FTC's order, including a discussion of all of the changes the companies made to comply with the order.

And finally, they face a \$191,481.00 monetary judgment.

AN FTC ENFORCEMENT action can clearly be both a major headache to a company as well as a major public relations embarrassment.

Understanding the FTC's "Made in USA" rule and aligning product claims with these guidelines should be a top priority. Businesses would be wise to conduct a review of their current operations to ensure full compliance.

Staying well-informed, proactive and transparent in matters of product labeling and advertising is not just a legal obligation, but a strategic move to protect both a company's legal integrity and its hard-earned reputation.

*The views expressed in this article are purely the author's.*

*Milton Springut is partner at [Moses Singer](#), New York. Reach him at [mspringut@mosessinger.com](mailto:mspringut@mosessinger.com).*

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