

Assembled in the USA – The FTC Confirms What’s Required

March 28, 2018 – *The TMCA*

by Sandra Edelman

Deceptive “Made in USA” advertising and labeling claims have received a lot of attention from the FTC in recent years, reflecting the agency’s recognition that USA-origin claims are a persuasive selling point and should not be false and misleading. Many of the FTC’s enforcement actions have emphasized that “Made in USA” should not be used unless “all or virtually all” of the ingredients or components of the product are made and sourced in the United States. The same standard applies to words that are considered equivalent to “made” such as manufactured, built or produced.

But what about “Assembled in the USA”? A mattress company using the ad claim “Designed and Assembled in the USA” ran afoul of FTC substantiation requirements when it turned out that the mattresses were imported from China already completed, with no assembly operations performed in the United States at all. See [Complaint](#) in *In the Matter of Nectar Brand LLC*. It is not surprising, then, that this ad claim was found to be deceptive. However, the Decision and proposed Consent Order provides helpful guidance about when it *is* appropriate to represent that a product is “Assembled in the USA.” According to the [Consent Order](#), such a claim is substantiated if “the product is last substantially transformed in the United States, the product’s principal assembly takes place in the United States, **and** United States assembly operations are substantial.” (emphasis added).

This is very clear guidance for companies using “Assembled in the USA” or closely analogous ad claims. As the FTC commented in [its own blog post](#) announcing the Complaint and Order, “Claims like Made in USA or Assembled in USA are more than just marketing talk to slap on a webpage or label.....Given how important USA claims are to many consumers, companies have an obligation to comply with the law. That starts with one simple principle: Tell the truth.” Definitely words to live by.

Related Capabilities

- Trademark, Copyright + Advertising
- Intellectual Property Litigation