

# Made in USA Tracker - October 2021

October 26, 2021

## NEWS

### **New FTC “Made in USA” Rule Takes Effect**

On August 13, 2021, the final Made in USA Labeling Rule took effect. The new rule will be codified in the Code of Federal Regulations at Title 16, Part 323. The Rule formalizes the FTC’s Enforcement Policy Statement on U.S. Origin Claims regarding unqualified claims, and prohibits labeling any product as “Made in the United States” unless: (1) the final assembly or processing of the product occurs in the United States; (2) all significant processing that goes into the product occurs in the United States; and (3) all or virtually all ingredients or components of the product are made and sourced in the United States.

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### **FTC Orders Resident Home LLC and Owner to Pay \$753,000 for Alleged “Made in USA” Violations**

On October 8, 2021, the FTC announced that home goods company, Resident Home LLC, and owner Ran Reske, will pay \$753,000 to settle charges that it made false, misleading, or unsupported advertising claims that its imported DreamCloud mattresses were made from 100% USA-made materials. The settlement comes after Nectar Brand LLC, a subsidiary of Resident Home, agreed to a [2018 Order](#) requiring Nectar Brand to cease misleading “Assembled in USA” claims for its mattresses. Following the 2018 Order, Reske, under penalty of perjury, stated that Resident Home had never made U.S.-origin claims about its DreamCloud mattresses.

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### **FTC Issues Closing Letter for Spa Nails Supply, Inc.**

On July 2, 2021, the FTC closed an investigation into whether the marketing materials of Spa Nails overstated the extent to which the company’s spa pedicure equipment was made in the United States. The FTC noted that for products that are substantially transformed in the United States, but not “all or virtually all” components are made in the United States, any claim of U.S. origin should be adequately qualified or substantiated. The FTC reported that Spa Nails removed U.S. origin claims from all marketing materials, and notified dealers and staff of this change.

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### **FTC Issues Closing Letter for GhostBed, Inc.**

On May 6, 2021, the FTC closed an investigation into whether marketing materials of GhostBed overstated the extent to which the company’s products are made in the United States, and whether other marketing materials failed to comply with provisions of the Textile Products Identification Act.

The FTC noted that marketers should not represent that a whole product line is of U.S. origin when only some products in the product line are, and should comply with the country-of-origin labeling and mail-order advertising requirements of the Textile Act. The FTC reported that GhostBed implemented a remedial action plan involving removing or updating U.S. origin claims, implementing an employee training program, and ensuring mail-order advertising contained required origin information.

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#### **FTC Issues Closing Letter for ThreeBond International, Inc.**

On April 27, 2021, the FTC closed an investigation into whether marketing materials of ThreeBond overstated the extent to which proprietary and white label cyanoacrylate glues are made in the United States. The FTC noted that while a product may be substantially transformed in the United States, but incorporate imported ingredients, unqualified U.S.-origin claims likely suggest to consumers that the products advertised are “all or virtually all” made in the United States. The FTC reported that ThreeBond implemented a remedial action plan involving updating product labels and specification sheets, updating internal policy documents, conducting staff training, confirming accuracy of online marketing materials, and informing third-party customers and distributors of the updates to U.S. origin claims.

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#### **RESOURCES**

#### **[Made in USA Tracker](#)**

Kelley Drye’s Advertising and Marketing practice prepares a comprehensive summary of FTC closing letters relating to Made in USA matters: [Click here.](#)

#### **[Advertising and Privacy Law Resource Center](#)**

The Advertising and Marketing and Privacy and Information Security practice groups at Kelley Drye have organized this Advertising and Privacy Law Resource Center to help your company navigate the legal landscape. While this practical site is not exhaustive, it addresses key legal topics relevant to advertising and marketing, privacy, data security, and consumer product safety and labeling. Feel free to contact us to discuss any specific claims, privacy or data security practices, or for any other questions.

#### **[Advertising and Privacy Law Desktop Reference Guide](#)**

The laws regulating advertising and privacy can seem daunting. The potential for liability arising from inaccurate or misleading advertising or lax privacy practices can be significant, both as a consequence of regulatory enforcement and of litigation. The Advertising & Marketing and Privacy & Information Security practice groups at Kelley Drye & Warren LLP have organized this “Advertising and Privacy Law Desktop Reference Guide” to help your company navigate the legal landscape. While this practical guide is not exhaustive, it addresses key legal topics relevant to advertising and marketing, privacy, data security, and consumer product safety and labeling. Feel free to contact us to discuss any specific claims, privacy or data security practices, or for any other questions.