

## Are You Making a Made in USA Marking Mistake?

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In order to be transparent and fair in the marketplace, the Federal Trade Commission (FTC) ensures that a product advertised as Made in USA requires an “all or virtually all” standard. This means all or virtually all significant parts and processing that go into the product must be of U.S. origin, having no, or negligible foreign content.

The FTC Act gives the Commission the power to bring law enforcement actions against false or misleading claims that a product is of U.S. origin. All products of foreign origin imported into the U.S. are required to be marked with the name of the country of origin.

[Click here](#) to learn about a recent case regarding an American-made flatware company taking legal action to expose companies that falsely advertise their products as being American-made. The Sherrill, NY flatware company’s true selling point is being misused by competitors who are abusing the Made in USA claim.

### Complying with the Standard

According to the FTC, an example of a qualified Made in USA claim could look like any of the following:

- 60% U.S. content
- Made in USA of U.S. and imported parts
- Couch assembled in USA from Italian Leather and Mexican Frame

It is apparent that these products above are not entirely of domestic origin, and we can tell because that is indicated appropriately.

The Commission considers factors like how much of the total manufacturing costs can be assigned to U.S. parts and processing, and how far removed any foreign content is from the finished product.

In some cases, a small portion of the total manufacturing costs are attributable to foreign processing, but that processing represents a significant amount of the product's overall processing. For example, a table lamp assembled in the U.S. from American-made brass and an American made lampshade, but has an imported base. The base counts for a small percentage of the total cost of making the lamp, however it is a significant part of the final product. Therefore, a Made in USA claim is inappropriate.

## **Made in America marking mistakes**

Below you will find three common marking mistakes:

1. An American brand name or trademark by itself does not suffice as a U.S. origin claim. For example, you may recognize a manufacturer as a known U.S. entity, however the manufacturer's established name does not constitute as a claim of U.S. origin.
2. Not only do products have to be physically labeled correctly, but they also have to be marketed appropriately. [The Commission issued an Enforcement Policy Statement](#) (see page 1) on U.S. origin claims to provide guidance to marketers on the difference between a qualified and unqualified Made in USA claim under the "all or virtually all" standard.

Therefore, the Enforcement Policy Statement applies to marketing claims too, including marketing through the Internet or e-mail (see page 19).

For example, if an email campaign was promoting the "Couch assembled in USA from Italian Leather and Mexican Frame," it would be misleading to use any of the following slogans:

- Made in USA
- Our products are American-made.
- USA

These phrases could lead a reader to believe that the product advertised is entirely of U.S. origin.

3. If a company uses U.S. symbols or geographic references, such as the American flag, when advertising a product that is not entirely of domestic origin, the impression is likely to convey to consumers that the product is of U.S. origin. This type of promotion is deceiving, quite possibly without companies knowing their ignorance.

## **Does the FTC pre-approve Made in USA claims?**

The Commission does not pre-approve advertising or

labeling claims. A company does not need approval from the Commission before making a Made in USA claim. However, a manufacturer or marketer may make any claim as long as it is truthful and substantiated.

The rules and regulations for Made in USA products can get tricky. To learn more about how to comply with FTC's standards, click [here](#).

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