

## Made in the USA? Better make sure.

### Access US –

Any product expressly or impliedly touted as “Made in the USA” must be “all or virtually all” manufactured in the United States. Failure to meet this standard may result in an uncomfortable, and perhaps costly, run-in with the U.S. Federal Trade Commission (FTC). The FTC defines “all or virtually all” to mean that “all significant parts and processing that go into the product must be of U.S. origin. That is, the product should contain no - or negligible - foreign content.”

Signaling an uptick in enforcement activity, the FTC issued “closing letters” to four companies in August that had “overstated the extent to which” their products were made in the United States. Closing letters are administrative tools the FTC uses to exact significant remedial measures, including phasing out use of “Made in the USA” materials, sending compliance notices to customers and vendors, deleting social media posts and introducing “qualified claims,” such as “Made in USA of US *and* Global Parts.” In exchange for such concession, the FTC agrees to close out its pending investigation, unless public interest requires further action.

So, what can you do to reduce the risk of running afoul of the FTC?

- Visit the FTC website to understand the law. (<https://www.ftc.gov/tips-advice/business-center/guidance/complying-made-usa-standard> )
- Carefully calculate how much of your manufacturing costs are linked to U.S. parts and processing.
- Keep reliable evidence supporting your “Made in the USA” claim.
- If appropriate, consider using qualified claims to indicate that your product is not entirely of domestic origin.

For more information on this subject, please contact John G. Horn, Partner at Harter Secrest and Emery, LLP. 716-844-3728 or [jhorn@hselaw.com](mailto:jhorn@hselaw.com). [www.hselaw.com](http://www.hselaw.com)