

Locke Lord QuickStudy: Once Again, the FTC Shows How Serious It Takes False Made in USA Claims With Its \$3.7M Fine

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Last Friday the FTC business blog reported the largest civil penalty received in a case involving the FTC's Made in USA labeling rule. In 2022, Williams-Sonoma, Inc., entered into an administrative order with the Federal Trade Commission to settle previous violations of the FTC Made in USA labeling rule. On entering into the FTC Administrative Order, Williams-Sonoma, Inc., paid \$1,000,000 in civil penalties. Despite very clear provisions in the FTC 2022 Administrative Order, Williams-Sonoma, Inc., continued to make Made in the USA Claims that were in violation of the Administrative Order and the underlying Made in USA labeling rules.

Because violation of an administrative order constitutes a violation of the law, the Commission referred the matter to the Justice Department who commenced civil action against Williams-Sonoma, Inc. To settle the matter, Williams-Sonoma, Inc., accepted all the allegations of the justice's complaint as correct. To settle the suit with the Justice Department, Williams-Sonoma, Inc., agreed to comply with the terms of the 2022 Administrative Order and to pay civil penalties of \$3.7 million.

The FTC views these matters as not being just a matter of consumer deception but importantly being a matter that unfairly impacts honest competitors.

The last major FTC civil penalty levied by the agency for false Made in USA Claims was against a tractor manufacturer for falsely labeling replacement parts as Made in USA, which resulted in a \$2 million civil penalty.

Special Note for manufacturers and marketers of OTC drug products: The FTC has taken the position that the active ingredient in an OTC drug product is the product, which means if it was imported the product cannot make a Made in USA claim. The FTC could extend the logic applied to the active ingredients in OTC products to other products where a critical component is not made in the USA.

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