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"Made In the USA" Labeling Cases Surge

By Emily Madoff

Products labeled "Made in the USA" enjoy a heightened demand among a large segment of the consuming public, often driving purchase decisions. Whether it's for reasons of patriotism or a perception of quality, the "Made in the USA" label can command premium prices. However, there are very strict standards to be satisfied before a product legally may be labeled "Made in the USA."

The Federal Trade Commission serves as the primary enforcer of "Made in the USA" labeling requirements under its authority to prevent deceptive trade practices. In addition, private litigants have relied on the states' unfair and deceptive acts and practices laws and, in certain instances, their own labeling statutes to challenge false "Made in the USA" labels.

The Federal Trade Commission finalized its Made in the USA Labeling Rule in 2021[1]. The use of "Made in the USA" or "Made In America" claim may only appear on a label if the product is:

- "All or virtually all" made in the United States; and
- Made using American-made components and ingredients.

This standard goes beyond final assembly. The FTC examines the entire supply chain, including raw materials sourcing, components of manufacturing, and assembly processes. Companies cannot simply import foreign-made components, assemble them domestically and then claim the "Made in the USA" designation. The FTC evaluates several factors when determining whether a product meets the "all or virtually all" standard, such as the proportion of the products total manufacturing costs attributable to U.S. parts and processing, how far removed any foreign content is from the finished product, and the importance of the foreign content or processing to the overall function of the product. Also, depending on the context and overall impression conveyed to

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1 16 C.F.R. Part 323

consumers, U.S. symbols or geographic references (for example, U.S. flags or outlines of a map of the USA) may convey a Made In the USA claim even if there is no explicit representation that the produce is made in the USA.

The FTC does permit qualified claims that specify the extent of U.S content or processing. A qualified claim includes limitations or other explanations, such as "Made in the USA of U.S. and imported parts" or "Assembled in the USA".

The FTC provides a safe harbor for certain disclosures. Products with de minimis foreign content may still meet the "Made in the USA" unqualified claim, provided the foreign content does not significantly alter the products nature or contribute materially to its functionality.

An example of the FTC's enforcement of its Made In USA regulation may be found in the recent action against Williams-Sonoma, Inc[2]. In an April 2024 complaint, the U.S. alleged that Williams-Sonoma listed multiple products for sale as being "Made in USA" when in fact they were made in China and other countries. This was a repeat offense because the FTC had sued Williams-Sonoma in 2020, charging that the company advertised multiple product lines under its Goldtouch, Rejuvenation, Pottery Barn Teen and Pottery Barn Kids brands as being all or virtually all made in the USA when they were not. The company agreed to an FTC order that required them to stop deceptive claims and follow Made in USA requirements. Later, the FTC became aware that the company was marketing PBTeen mattress pads as "Crafted in America from domestic and imported materials" when they were actually made in China. The FTC found these and six other products to be deceptive in violation of the 2020 order. In addition to a civil penalty of $3.175 million, the federal court settlement also required William-Sonoma to submit annual compliance certifications, and imposed a number of requirements about the claims the company makes, reinforcing requirements from the 2020 FTC order, such as restriction on unqualified claims, and added requirements for qualified claims and assembly claims.

The FTC's Made In the USA Labeling Rule does not expressly pre-empt state laws, leaving room for states to impose stricter requirements. Although most private litigants must rely on their states' consumer protection laws to challenge Made In the USA labeling, California has its own statute:

It is unlawful for any person, firm, corporation, or association to sell or offer a sale in this state any merchandise on which merchandise or on its container there appears the words "Made in U.S.A.," "Made in America," "U.S.A.," or similar words if the merchandise or any article, unit, or part thereof, has been entirely or substantially made, manufactured, or produced outside of the United States.[3]

There recently has been surge of "Made In USA" cases brought in California, possibly as a result of the success of the case Kimberly Banks etal v. R.C. Bigelow, Inc.[4] In that case, plaintiffs brought a class action challenging Bigelow's labeling on the packaging of its tea as "Manufactured in the USA 100% American Family Owned" and "American Classic". In purchasing the teas, plaintiff claimed to have relied on the labeling and formed the reasonable belief that the tea was manufactured in the USA. In fact, none of the tea sold in those packages was grown or processed in the United States.

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2 United States Of America v. William-Sonoma, Inc., Case No. 3:24-cv-02396 (N.D. Cal).
3 Cal Bus & Prof Code § 17533.7
4 Banks v. R.C. Bigelow, Inc., Case No. 20-cv-6208 DDP (RAOx) (C.D. Cal)

Plaintiff further claimed she would have paid less for the tea, or would not have purchased it at all, had she known it was not manufactured in the USA (i.e., that it was made solely from foreign sourced and processed tea). In its defense, although admitting that most of the ingredients in the tea (bags and strings included) came from overseas, the defendant explained that the phrase "Manufactured in the USA" was meant to refer to the company's American plants where the products are assembled. The plaintiff alleged they and the class suffered injury in fact and lost money as a result of Bigelow's false and deceptive practices. The consumers filed suit in 2020, and a California-wide consumer class was certified in 2023. The judge found Bigelow liable for misleading consumers about the overseas origin of some of its tea products and in 2025, a jury awarded plaintiffs and the class $2,360,744 in compensatory damages.

Following the success of the Bigelow case, a series of Made in the USA cases were filed in California relying on that California statute, as well as various California consumer law statutes. For example, in McCoy v. McCormick Company, Inc,[5] plaintiffs allege that the claim "crafted and bottled in Springfield, MO, USA," which is printed on defendants French's mustard products, is a false express U.S. origin representation because the mustard contains foreign ingredients and are wholly and partially made of foreign materials; specifically mustard seeds, which are sourced primarily, if not exclusively, from Canada.

In Supian v. Goya Foods, Inc.,[6] plaintiffs claim that Goya's labeling of certain products as "Product of USA" is false and misleading. In its complaint, plaintiffs specifically identify Goya's Yuca Cassava chips, which are made from cassava, and cassava is not from the United States. The complaint goes on to claim that Goya's Plantain Chips Original are not a "Product of the USA" as Goya represents because they contain plantains, which are not from the United States. Plaintiffs also note that the "Product of USA" label on Goya's Adobo seasoning and Sazonador Total Seasoning are false because the spices contain black pepper and turmeric, neither of which are available commercially in the USA.

In the case Daldalian v. Pepsico Inc.,[7] plaintiffs claim that defendant's labeling of its Pure Leaf Green Teas as "Brewed In the USA" violates California's Made in the USA law because the teas are made substantially with foreign ingredients (i.e. tea).

These recently filed California cases have no outcome to report yet.

The current surge in Made in the USA cases by private litigants has not been limited to California. For example, in March 2025, Lauer and Brookshier v. John Paul Mitchell Systems[8] was filed in the United States District Court for the Northern District of Illinois, alleging both Illinois and California subclasses. The plaintiffs allege that JPMS labels its products with a clear and unqualified statement that they are "Made in the USA," which is prominently displayed on the product label and in the product description online, despite the fact that the products contain substantial amounts of foreign ingredients and components. The complaint specifies several foreign ingredients, including tea tree

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5 McCoy v. McCormick & Co. Inc., Case No. 1:25-cv-00231 (E.D. Cal)
6 Supian v. Goya Foods, Inc., Case No. 2:25-cv-01512 (C.D. Cal)
7 Daldalian v. Pepsico Inc., Case No. 2:25-cv-01491 (C.D. Cal)
8 Lauer and Brookshier v. John Paul Mitchell Systems, Case No. 1:25-cv-02438 (N.D. Ill)


oil (the namesake ingredient, which is endemic to Australia), jojoba (Simmondsia chinesis, not produced commercially in the United States), Anthemis nobilis flower extract, Ascophyllum nodosum extract, shea butter (grows exclusively in Africa), and agave (not produced commercially in the United States). For the Illinois sub-class, the claims are for violations of the Illinois Consumer Fraud and Deceptive Business Practices Act and the Illinois Uniform Deceptive Practices Act. For the California sub-class, the claims are for violations of the Consumer Legal Remedies Act, the Unfair Competition Law and the False Advertising Law. Both sub-classes have claims for breach of express warranty, unjust enrichment, negligent misrepresentation and intentional misrepresentation. The plaintiffs seek various remedies including monetary damages, restitution, disgorgement of profits, injunctive relief to stop the deceptive labeling practices, attorney's fees, and punitive damages.

In another recent case, Washington v. Reynolds Consumer Products LLC.[9], plaintiff Washington filed a class action lawsuit against Reynolds Consumer Products LLC, claiming the company falsely advertises its Reynolds Wrap aluminum foil as "Made in USA" when a vital component is sourced from outside the United States. Specifically, the lawsuit alleges that aluminum foil is made from bauxite, and bauxite hasn't been mined commercially in the U.S. since 1981. According to the complaint, "without bauxite sourced from outside the United States, it would be impossible to produce the foil product." The plaintiff sued under New York law, alleging that Reynolds' "Foil Made in U.S.A." claim is false and misleading because the raw materials used to make the aluminum foil are sourced from outside the United States. Plaintiff Washington said she bought Reynolds Wrap at Target and other stores, believing the brand as trustworthy and familiar as Kleenex and Vaseline, and wouldn't have bought the foil had she known where it came from. The lawsuit seeks at least $5 million of damages for New Yorkers who purchased Reynolds Wrap aluminum foil within the past three years.

In addition to the FTC's Made in USA regulation, there are industry specific labeling regulations:

- The Textile Fiber Products Identification Act[10], Wool Products Labeling Rules[11], and Fur Products Labeling Act[12] require clear country-of-origin labeling for specific goods.
- The American Automobile Labeling Act[13], mandates U.S. and foreign content disclosures for vehicles, requires labels on vehicles specifying U.S./Canadian parts content, the country of assembly, and the countries of origin for the engine and transmission.
- The Buy American Act[14] mandates federal agencies to prefer manufactured products permanently incorporated into infrastructure projects undertaken by U.S. states, municipalities, and some federal departments and agencies.

The Lanham Act[15] provides an avenue for business competitors, as opposed to consumers or regulators to challenge deceptive origin claims. The Lanham Act, a trademark law, requires showing actual or likely harm to plaintiff's business reputation or sales. A successful action may result in injunctive relief, damages, corrective advertising, and attorneys' fees.

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9 Washington v. Reynolds Consumer Products LLC., Case No. 1:2024-cv-02327 (S.D.N.Y)
10 15 U.S.C. § 70.
11 16 CFR Part 300.
12 15 U.S.C. §§ 69-71. In 2014, the FTC amended its Regulations under the Fur Products Labeling Act (Fur Rules) to update provide business with more flexibility in labeling and incorporate provisions of the Truth in Fur Labeling Act of 2010 (TFLA), and conform the Rules' guaranty provisions to those governing Textile products.
13 49 C.F.R. Part 583 –Automobile Parts Content Labeling.
14 41 U.S.C. §§ 8301-8305.
15 Trademark Act of 1946 ("Lanham Act") 15 U.S.C.S. §§ 1051-1127. The Lanham Act is named after Fritz Garland Lanham, the congressman who introduced the legislation into Congress.

The FTC also coordinates with the U.S. Customs and Boarder Protection, whose "substantial transformation" test under the Tariff Act of 1930 determines origin for imported goods that have undergone processing or manufacturing in more than one country. This is crucial for compliance with the Tariff Act's requirement that imported goods be marked with their country origin. Importantly, a product that passes CBP's test does not automatically satisfy FTC standards for domestic marketing claims; the "all or virtually all" standard is typically more stringent.

Now that tariffs are front and center, businesses may be more tempted than ever to use Made In the USA labeling. Yet for companies looking to benefit from "Made In the USA" branding, compliance with federal and state laws is not optional as courts have shown a willingness to entertain these claims and to find favorably for consumers.


Emily Madoff

About the Author

Emily Madoff is the Managing Partner of Wolf Popper LLP.

Throughout her career, Emily has used the law to drive socio-political change, often protecting the public from consumer fraud. Emily recently focused on the rampant problems with surprise medical bills; she was instrumental in developing the Firm's cases in this area, several of which have settled with full recovery for the class. Emily presently is concentrating on using the law to expedite the benefits of diversity and inclusion.

A commercial attorney, Emily was mentored by Marty Popper, eventually inheriting his practice. As such, Emily has represented several missions to the United Nations and various governments and government officials. She is proud to have represented personally some early social justice luminaries, such as Freda Diamond and Ring Lardner Jr. To this day, Emily represents the Georgian artist, Zurab Tsereteli, an internationally-acclaimed monumentalist and UNESCO Goodwill Ambassador, whose works are installed worldwide, including "Good Defeats Evil," which statue sits on the front grounds of the United Nations headquarters in New York City. The Tsereteli family owns the largest winery in Georgia, producing Tsereteli Wine.

Emily has published many articles about the law, including for the New York Law Journal, an article explaining litigation funding (Analyzing the Fundamentals of Litigation Funding, August 19, 2013) and one about arbitration clauses in consumer contracts (Mandatory Arbitration Clauses in Consumer Contracts, July 5, 2016) and for Latin Lawyer, an article about the securities litigation spawned in the United States as a result of the Petrobras scandal in Brazil (Bringing 'big oil' to the Big Apple, March 2015), for a few examples.

Ms. Madoff is a graduate of Connecticut College (B.A., 1973), and Northeastern University School of Law (J.D., 1979). She is admitted to the Bars of the State of New York, the Commonwealth of Massachusetts and the United States District Court for the Southern District of New York.

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