

Complaint

IN THE MATTER OF

MADE IN THE USA BRAND, LLCCONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket No. C-4497; File No. 142 3121**Complaint, November 10, 2014 – Decision, November 10, 2014*

This consent order addresses Made in the USA Brand, LLC's marketing, sale, and distribution of licenses to use its "Made in USA" certification mark to companies wishing to make U.S.-origin claims for their products. The complaint alleges that Respondent represented that products and entities using Respondent's certification mark were independently and objectively evaluated for compliance with Respondent's accreditation standard. The complaint further alleges that Respondent did not possess and rely upon a reasonable basis to substantiate its claims that entities promoted on its website sold products that are all or virtually all made in the United States. The consent order prohibits Respondent from representing, expressly or by implication, that covered entities meet Respondent's accreditation standard, unless: (1) an entity with no material connection to that covered entity conducted an independent and objective evaluation to confirm that the accreditation standard was met; or (2) Respondent's mark and marketing materials prominently disclose that the accreditation standard may be met through self-certification.

Participants

For the *Commission*: *Julia Solomon Ensor*.

For the *Respondent*: *Robert Cochran, Ice Miller LLP*.

COMPLAINT

The Federal Trade Commission, having reason to believe that Made in the USA Brand, LLC, a limited liability company ("Respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Made in the USA Brand, LLC ("MUSA Brand") is an Ohio limited liability company with its principal office or place of business at 1398 Goodale Boulevard, Columbus, Ohio 43212.

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2. Respondent has advertised, offered for sale, sold, and distributed licenses to use its “Made in USA” certification mark to companies wishing to make U.S.-origin claims for their products.

3. The acts and practices of Respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

MUSA Brand Certification Mark

4. As U.S.-origin claims become more material to some consumers, those consumers increasingly rely on seals and certification programs to confirm that such claims are credible.

5. Respondent introduced a U.S.-origin seal for marketers to use to boost the credibility of their “Made in USA” claims in 2009, and registered it as a Certification Mark with the United States Patent and Trademark Office in 2010.

6. Respondent sells licenses to use its Certification Mark through its website at www.madeintheusabrand.com. Respondent charges \$250 to \$2,000 for a one-year license to use the Certification Mark, depending on the licensee’s annual sales.

7. Respondent grants licenses to use its Certification Mark to any company, product, or entity that states it meets Respondent’s accreditation standard and pays the licensing fee.

8. Respondent’s accreditation standard for using its Certification Mark is the Federal Trade Commission’s Enforcement Policy Statement for U.S.-Origin Claims.

9. Respondent does not rely on an independent or objective evaluation to confirm that licensees meet its accreditation standard. Instead, Respondent awards licenses to any company, product, or entity that self-certifies that it meets the accreditation standard.

10. Respondent does not audit licensees to confirm ongoing compliance with the accreditation standard.

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11. Respondent has never rejected an application to use its Certification Mark and has never terminated any licensee's use of its Certification Mark.

12. In some instances, Respondent has licensed use of the Certification Mark to companies that do not meet the accreditation standard.

13. Respondent has disseminated or has caused to be disseminated advertisements and promotional materials for the MUSA Brand Certification Mark, as well as promotional materials for licensed companies to use to promote their products as made in the USA. These materials include, but are not necessarily limited to, the attached Exhibits A through D. Exhibits A through D contain the following statements and images:

a.



(Exhibit A, <https://www.madeintheusabrand.com> (2014)).

b. "The Made in USA Brand Certification Mark provides a standard symbol for Made in USA product identification . . . When printed on labels by accredited manufacturers, consumers are able to identify at a glance which products are made in the USA."

. . .

"The Certification Mark is available to be downloaded by U.S. business that meet the accreditation standards based on the Federal Trade Commission's regulations for complying with Made in USA origin claims."

(Exhibit B, flyer (2010)).

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- c. “The Made In USA Brand Certification Mark is a perfect fit for me, my family and my race team, because it stands for buying American products produced by American workers. That’s really important in today’s world when creating and sustaining jobs is a priority for all Americans. We can all make a difference by checking for the Made In USA Brand Certification Mark on the products we purchase.”

(Exhibit C, <https://www.madeintheusabrand.com/2012/05/are-you-made-in-usa/> (2012)).

- d. “Consumers value transparency in the manufacturing process and have looked to trusted symbols and certification marks to help align their purchases with their beliefs. The Made in USA Brand Certification Mark joins the ranks of such symbols as Certified Organic, Certified Gluten-Free and Rainforest Alliance Certified. For the first time American companies will have a registered certification mark to label and distinguish their products are of United States country of origin. Consumers will be able to identify at a glance that the product they are buying is of United States country of origin.”

...

“Consumers have become conditioned to read labels. They look to certification marks and trusted symbols to help align their purchases with their values and their beliefs.”

(Exhibit D, <https://www.madeintheusabrand.com/2011/01/registered-certification-mark-now-available-to-label-and-identify-made-in-usa-products> (2011)).

14. In numerous instances, including, but not limited to, the promotional materials shown in Exhibits A-D, Respondent has represented that entities and products using its Certification Mark have been independently and objectively evaluated for compliance with Respondent’s accreditation standard. For

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example, in Exhibit D, Respondent strongly implied that it independently and objectively evaluated licensees by claiming on its website that its Certification Mark “joins the ranks” of “trusted symbols and certification marks [that] help align [consumers’] purchases with their beliefs,” and that its Certification Mark is “available for accredited U.S. businesses.”

15. In fact, entities and products using Respondent’s Certification Mark have not been independently and objectively evaluated for compliance with Respondent’s accreditation standard.

16. In numerous instances, including, but not limited to, the promotional materials shown in Exhibits A-D, Respondent has represented that products using its Certification Mark are all or virtually all made in the United States. For example, Respondent promotes a directory of licensees on its website as a list of manufacturers selling U.S.-origin products in compliance with the FTC’s Enforcement Policy Statement for U.S.-Origin Claims.

17. In fact, Respondent does not possess competent and reliable evidence that products using its Certification Mark are all or virtually all made in the United States.

18. In numerous instances, Respondent has distributed promotional materials, including but not limited to the promotional materials shown in Exhibits A-D, to third-party marketers for use in the marketing and sale of those third parties’ products.

19. In so doing, Respondent has provided third-party marketers with the means and instrumentalities to deceive consumers. For example, several of Respondent’s licensees have used Respondent’s Certification Mark or other materials to promote products that contain significant imported content.

COUNT I (False or Misleading Representation)

20. In connection with the advertising, promotion, offering for sale, or sale of the MUSA Brand Certification Mark, Respondent has represented, directly or indirectly, expressly or by implication, that each entity or product licensed to use its Certification Mark

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has been independently and objectively evaluated for compliance with Respondent's accreditation standard.

21. In fact, products and entities using Respondent's Certification Mark have not been independently and objectively evaluated for compliance with Respondent's accreditation standard. Therefore, the representation set forth in Paragraph 20 is false or misleading.

COUNT II (False or Unsubstantiated Representation)

22. In connection with the advertising, promotion, offering for sale, or sale of the MUSA Brand Certification Mark, Respondent has represented, directly or indirectly, expressly or by implication that the entities promoted on its website sell products that are all or virtually all made in the United States.

23. In fact, in numerous instances, entities promoted on Respondent's website have sold products containing significant imported content, and Respondent does not possess competent and reliable evidence that any entity promoted on its website sells products that are all or virtually all made in the United States. Therefore, the representation set forth in Paragraph 22 was false or not substantiated at the time the representation was made.

COUNT III (Means and Instrumentalities)

24. Respondent has distributed the promotional materials described in Paragraphs 13-19 to third-party marketers for use in the marketing and sale of those third parties' products. In so doing, Respondent has provided the means and instrumentalities to these third-party marketers for the commission of deceptive acts or practices.

VIOLATION OF SECTION 5

25. The acts and practices of Respondent as alleged in this Complaint, constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

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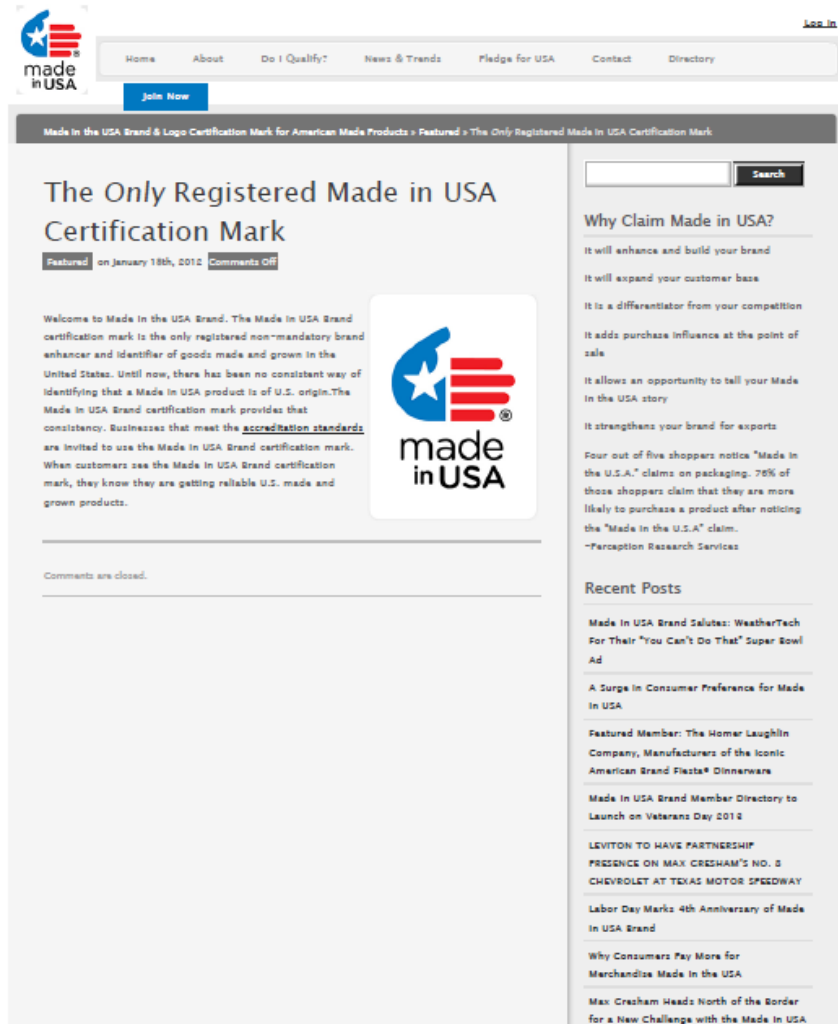
THEREFORE, the Federal Trade Commission this tenth day of November, 2014, has issued this Complaint against Respondent.

By the Commission.

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Exhibit A

The Only Registered Made in USA Certification Mark | Made in the USA Brand & Logo Certification Mark for American Made Products



The screenshot shows the homepage of the Made in USA website. At the top, there is a navigation bar with links: Home, About, Do I Qualify?, News & Trends, Pledge for USA, Contact, and Directory. A 'Join Now' button is also present. Below the navigation bar, a banner reads 'Made in the USA Brand & Logo Certification Mark for American Made Products > Featured > The Only Registered Made in USA Certification Mark'. The main article is titled 'The Only Registered Made in USA Certification Mark' and is dated 'Featured on January 18th, 2012'. The article text states: 'Welcome to Made in the USA Brand. The Made in USA Brand certification mark is the only registered non-mandatory brand enhancer and identifier of goods made and grown in the United States. Until now, there has been no consistent way of identifying that a Made in USA product is of U.S. origin. The Made in USA Brand certification mark provides that consistency. Businesses that meet the accreditation standards are invited to use the Made in USA Brand certification mark. When customers see the Made in USA Brand certification mark, they know they are getting reliable U.S. made and grown products.' To the right of the text is a large image of the Made in USA logo, which features a blue star and red stripes. On the right side of the page, there is a search bar and a section titled 'Why Claim Made in USA?' with several bullet points: 'It will enhance and build your brand', 'It will expand your customer base', 'It is a differentiator from your competition', 'It adds purchase influence at the point of sale', 'It allows an opportunity to tell your Made in the USA story', and 'It strengthens your brand for exports'. Below this is a quote: 'Four out of five shoppers notice "Made in the U.S.A." claims on packaging. 75% of those shoppers claim that they are more likely to purchase a product after noticing the "Made in the U.S.A." claim. -Perception Research Services'. At the bottom right, there is a 'Recent Posts' section with several article titles: 'Made in USA Brand Salutes: WeatherTech For Their "You Can't Do That" Super Bowl Ad', 'A Surge in Consumer Preference for Made in USA', 'Featured Member: The Homer Laughlin Company, Manufacturers of the Iconic American Brand Fiesta® Dinnerware', 'Made in USA Brand Member Directory to Launch on Veterans Day 2012', 'LEVITON TO HAVE PARTNERSHIP PRESENCE ON MAX GRESHAM'S NO. 3 CHEVROLET AT TEXAS MOTOR SPEEDWAY', 'Labor Day Marks 4th Anniversary of Made in USA Brand', 'Why Consumers Pay More for Merchandise Made in the USA', and 'Max Gresham Heads North of the Border for a New Challenge with the Made in USA'.

http://www.madeintheusa.com/2012/01/certification_mark/2019/2014/11/06/25 AM/

Exhibit A

Complaint

Exhibit B

Made in USA Brand

Certification Mark

Made in USA Brand Certification Mark Sets the Standard to Label and Identify Made in USA Products

The Made in USA Brand Certification Mark logo is the only certification mark registered with the United States Patent and Trademark Office for labeling and identifying goods either made or grown in the United States. This is vital news to U.S. manufacturers, retailers and consumers. It comes at a time when Pocketbook Patriotism (buying American) and American jobs are important topics. Now, more than ever, consumers are interested in buying local and purchasing goods made in America because they associate them with American jobs and higher quality.

The Made in USA Brand Certification Mark provides a standard symbol for Made in USA product identification. American companies now have a distinctive, registered certification mark for labelling the United States as country of origin on their packaging and goods. When printed on labels by accredited manufacturers, consumers are able to identify at a glance which products are made in the USA.

The Certification Mark is available to be downloaded by U.S. businesses that meet the accreditation standards based on the Federal Trade Commission's regulations for complying with Made in USA origin claims found at madeintheusabrand.com/form/.

Since its inception in 2009, the Made In USA Brand Certification Mark has gained widespread acceptance. The number of accredited companies using the mark to identify their American-made products and services has grown to nearly 1000, including Ball Corporation, MaxPower Precision Parts and Leviton.

Contact: Marcie Gabor, President, Made in USA Brand and Principal, Conrad I Phillips I Vutech at 614.224.3887 or marcie@cpvinc.com.

"The 'Made in USA' Brand has allowed MaxPower to emphasize the fact that our mower blades are all 100% made in the United States of America. The logo lets the customer know right away where this product is made."

-Terry Mormon, Vice President Sale at MaxPower Precision Parts

"This effort has been very well received by Leviton customers as they are eager to promote Made in USA goods on their shelves. Leviton congratulates the Made in USA Brand organization for taking on the initiative to unify and certify the Made In USA identification."

-Carol Lynch, Vice President Sales and Marketing Retail at Leviton

1398 Goodale Blvd Columbus, OH 43212 614.224.3887 www.MadeinUSAbrend.com

© Made in The USA Brand, LLC

Exhibit B

Complaint

Exhibit C

Are You Made in USA? | Made in the USA Brand & Logo Certification Mark for American Made Products

made in USA Log In

Home About Do I Qualify? News & Trends Pledge for USA Contact Directory

[Join Now](#)

Made in the USA Brand & Logo Certification Mark for American Made Products » Featured » Are You Made in USA?

Are You Made in USA?

Featured on May 31st, 2012 [Comments Off](#)



NASCAR Driver Max Crasham

Max Crasham is racing the No. 5 Made in USA Brand Chevrolet Silverado for awareness of manufacturers that are making products here in the United States and to raise awareness of fans to look for and buy American products.

Fans, are you interested in looking for and buying Made in USA products? Pledge along with Max to purchase made in USA manufactured goods. Take the pledge for free at www.PledgeForUSA.com.

Manufacturers, are you making or growing an American product? Identify your products for the consumer, claim your U.S. Country of origin. The Made in USA Brand Certification Mark is the only certification mark for labeling and identifying goods that are made or grown in the United States.

Companies interested in securing the Made in USA Brand Certification Mark for their products are encouraged to log on to www.MadeInUSABrand.com.

Manufacturers, are you interested in showing your Made in USA pride? Learn more about co-branding with Made in USA Brand and sponsorship opportunities with Max Crasham and the No. 5 Made in USA Brand Chevy. Contact:

J. R. Longley
JLongley@MaxCrasham.com
708-351-8870

“ Race fans are proud of their sport and their country. The Made in USA Brand Certification Mark is a perfect fit for me, my family and my race team, because it stands for buying American products produced by American workers. That's really important in today's world when creating and sustaining jobs is a priority for all Americans. We can all make a difference by checking for the Made in USA Brand Certification Mark on the products we purchase. That's a message we are going to bring to the racetrack throughout the 2012 racing season. – Max Crasham.

For more information about Max Crasham, please visit www.MaxCrasham.com. You can also follow Crasham on Twitter [@MaxCrasham](https://twitter.com/MaxCrasham) and at the [Max Crasham Fan Page on Facebook](#).

Tags: [American Manufacturing](#), [co-branding](#), [country of origin](#), [Made in America logo](#), [Made in USA Brand Certification Mark](#), [Made in USA label](#), [Made in USA logo](#), [Made in USA manufacturer](#), [Max Crasham](#), [NASCAR](#), [NASCAR sponsorship](#), [pledge for USA](#), [pledgeforusa.com](#), [www.madeinusa.com](#), [www.madeinusa.com](#)

Comments are closed.

Why Claim Made in USA?

- It will enhance and build your brand
- It will expand your customer base
- It is a differentiator from your competition
- It adds purchase influence at the point of sale
- It allows an opportunity to tell your Made in the USA story
- It strengthens your brand for exports

Four out of five shoppers notice "Made in the U.S.A." claims on packaging. 76% of those shoppers claim that they are more likely to purchase a product after noticing the "Made in the U.S.A." claim.
—Perception Research Services

Recent Posts

- Made in USA Brand Salutes WeatherTech For Their "You Can't Do That" Super Bowl Ad
- A Surge in Consumer Preference for Made in USA
- Featured Member: The Homer Laughlin Company, Manufacturers of the Iconic American Brand Fiesta® Dinnerware
- Made in USA Brand Member Directory to Launch on Veterans Day 2012
- LEVITON TO HAVE PARTNERSHIP PRESENCE ON MAX CRASHAM'S NO. 5 CHEVROLET AT TEXAS MOTOR SPEEDWAY
- Labor Day Marks 4th Anniversary of Made in USA Brand
- Why Consumers Pay More for Merchandise Made in the USA
- Max Crasham Heads North of the Border for a New Challenge with the Made in USA

<https://www.madeinusa.com/2012/05/are-you-made-in-usa/> [2/10/2014 11:07:24 AM]

Exhibit C

Complaint

Exhibit D

Registered Certification Mark Now Available to Label and Identify Made in USA Products. | Made in the USA Brand & Logo Certification Mark for American Made Products


[Join Now](#)

[Home](#)
[About](#)
[Do I Qualify?](#)
[News & Trends](#)
[Pledge for USA](#)
[Contact](#)
[Directory](#)

[Log In](#)

Made in the USA Brand & Logo Certification Mark for American Made Products » Featured » Registered Certification Mark Now Available to Label and Identify Made in USA Products.

Registered Certification Mark Now Available to Label and Identify Made in USA Products.

Featured | **Trend Watch** | on January 18th, 2011 | **Comments Off**

The Made in USA brand certification mark received registration status from the United States Patent and Trademark Office on December 14, 2010. This is big news to United States businesses and to consumers here in America and around the world.



Consumers value transparency in the manufacturing process and have looked to trusted symbols and certification marks to help align their purchases with their beliefs. The Made in USA Brand Certification Mark joins the ranks of such symbols as Certified Organic, Certified Gluten-Free and Rainforest Alliance Certified.

For the first time American companies will have a registered certification mark to label and distinguish their products are of United States country of origin. Consumers will be able to identify at a glance that the product they are buying is of United States country of origin.

The Made in USA brand certification mark originated from Marcie Cabor, a principal at Conrad Phillips Vutech, a branding and marketing firm located in the heart of the Midwest in Columbus, OH. The certification mark is backed by certification guidelines based on the Federal Trade Commission's regulations for complying with Made in USA origin claims.

"Consumers are becoming increasingly interested in buying local and purchasing goods made in America because they associate them with higher quality and reliability than products made in other countries," Cabor said.

Cabor, who developed the concept and program, sees the Made in USA Brand Certification Mark as an important brand enhancement and a clear way for U.S. businesses that meet accreditation standards to differentiate themselves from competitors, and is available for accredited U.S. businesses at www.madeintheusabrand.com/form/.

"I began to notice there was not a consistent way of identifying for consumers which companies manufacture here in the States," Cabor said. "Now, the Made in USA Brand Certification Mark provides that consistency."

About the Made in USA Brand Certification Mark www.madeintheusabrand.com

The Made in USA Brand Certification Mark is the only registered certification mark for identifying goods made or grown in the United States developed by Conrad Phillips Vutech principal Marcie Cabor. The certification mark is available for any U.S. business that meets the accreditation standards found at www.madeintheusabrand.com/form/.

About [Conrad Phillips Vutech](#)

Why Claim Made in USA?

- It will enhance and build your brand
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-Perception Research Services

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- Max Crasham Heads North of the Border for a New Challenge with the Made in USA

<http://www.madeintheusabrand.com/2011/01/registered-certification-mark-now-available-to-label-and-identify-made-in-usa-products/> [2/19/2014 11:07:51 AM]

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Registered Certification Mark Now Available to Label and Identify Made in USA Products | Made in the USA Brand & Logo Certification Mark for American Made Products

Conrad Phillips Vutach is an award-winning full-service marketing and branding firm that specializes in building the brands of its clients.

Country of Origin



Certification Marks

Environmental Responsibility





Food






Consumers have become conditioned to read labels. They look to certification marks and trusted symbols to help align their purchases with their values and their beliefs.

Tags: [Buy American](#), [country of origin](#), [Domestic goods](#), [made](#), [Made in America Challenge](#), [Made in America logo](#), [Made in America Project](#), [Made in USA](#), [Made in USA Certification Mark](#), [Made in USA label](#), [Made in USA logo](#)

Comments are closed.

Brand Team

Max Gresham Set for Thunder Valley Debut

NY NOW: Cash-in on the Cachet of "Made in the U.S.A."

Racing for Awareness of Made in USA Manufacturing and Products

Made in the USA. A conversation with Kitchen Craft Cookware.

The Made in USA Brand Partners with Max Gresham to Give an American Salute

Made in the USA. A conversation with C.J. Boots Casket Company.

2012 National Hardware Show All-American Award Winners Announced

© 2014 MadeInTheUSABrand.com | Conrad Phillips Vutach | Terms of Use | sCommerce Terms

Decision and Order

DECISION AND ORDER

The Federal Trade Commission (“Commission”), having initiated an investigation of certain acts and practices of the Respondent named in the caption hereof, and the Respondent having been furnished thereafter with a copy of a draft of a Complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued, would charge the Respondent with violation of the Federal Trade Commission Act; and

The Respondent, its attorney, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), which includes: a statement by Respondent that it neither admits nor denies any of the allegations in the draft complaint, except as specifically stated in this Decision and Order, and, only for purposes of this action, admits the facts necessary to establish jurisdiction; and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the Respondent has violated the Federal Trade Commission Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered the comments received from interested persons pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34, now in further conformity with the procedure prescribed in Commission Rule 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following Order:

1. Respondent Made in the USA Brand, LLC is an Ohio limited liability company with its principal office or place of business at 1398 Goodale Boulevard, Columbus, Ohio 43212.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the

Decision and Order

Respondent, and the proceeding is in the public interest.

ORDER**DEFINITIONS**

For purposes of this order, the following definitions shall apply:

- A. “Accreditation Standard” means any independently-developed and objectively-applied criteria Respondent sets for Covered Entities to meet in order to use Respondent’s Certification Mark, which substantiate the claim being made.
- B. “Certification Mark” means any certification mark that Respondent has registered with the United States Patent and Trademark Office including, but not limited to, the following marks:



- C. “Clearly and prominently” shall mean as follows:
 - 1. In an advertisement communicated through an electronic medium (such as television, video, radio, and interactive media such as the Internet and online services), the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement. Provided, however, that in any advertisement presented solely through video or audio means, the disclosure may be made through the same means in which the ad is

Decision and Order

presented. The audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. The video disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it. In addition to the foregoing, in interactive media the disclosure shall also be unavoidable and shall be presented prior to the consumer incurring any financial obligation.

2. In a print advertisement, promotional material, or instructional manual, the disclosure shall be in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears. In multipage documents, the disclosure shall appear on the cover or first page.
3. On a product label, the disclosure shall be in a type size and location on the principal display panel sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.

The disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or on any label.

- D. “Commerce” means as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
- E. “Covered Entity” means any product, including any product line or group of products, or any company, group, or other association, that Respondent authorizes to use any of Respondent’s Certification Marks, seals, logos, brands, or other marketing or promotional material.
- F. “Independent and Objective Evaluation” means an audit or verification check, conducted by a party other

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than a Covered Entity with no Material Connection to a Covered Entity, to confirm that a Covered Entity complies with Respondent's Accreditation Standard.

- G. "Material Connection" shall mean any relationship that materially affects the weight or credibility of Respondent's Certification Mark and that would not be reasonably expected by consumers, provided that a reasonable certification fee shall not constitute a Material Connection.
- H. "Respondent" means Made in the USA Brand, LLC, a limited liability company, and its successors and assigns.

I.**PROHIBITED MISREPRESENTATIONS**

IT IS ORDERED that Respondent, Respondent's officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with marketing, promoting, offering for sale, or selling any product, good, or service, are permanently restrained and enjoined from representing, expressly or by implication, that a Covered Entity meets Respondent's Accreditation Standard, unless: (1) an entity with no Material Connection to that Covered Entity has conducted an Independent and Objective Evaluation to confirm that the Covered Entity meets the Accreditation Standard; or (2) Respondent's Certification Mark, seal, logo, brand, or any other promotional materials clearly and prominently disclose that Covered Entities may meet Respondent's Accreditation Standard through self-certification.

II.**SUBSTANTIATION**

IT IS FURTHER ORDERED that Respondent, Respondent's officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with marketing, promoting,

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offering for sale, or selling any product, good, or service, shall not make any representation, in any manner, expressly or by implication, including but not limited to on Respondent's website or other marketing material, regarding the country of origin of any Covered Entity unless: (1) the representation is true, not misleading, and at the time it is made, Respondent possesses and relies upon competent and reliable evidence to substantiate the representation; or (2) for representations made through use of Respondent's Certification Mark, the Mark, seal, logo, brand, or any other promotional materials clearly and prominently disclose that Covered Entities may meet Respondent's Accreditation Standard through self-certification.

III. MEANS AND INSTRUMENTALITIES

IT IS FURTHER ORDERED that Respondent, Respondent's officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with promoting or offering for sale any product, good, or service, shall not provide to others the means and instrumentalities with which to make any representation prohibited by Part I above. For the purposes of this Part, "means and instrumentalities" means any information, including, but not necessarily limited to, any Certification Mark, advertising, labeling, promotional, sales training, or purported substantiation materials, for use by trade customers in their marketing of any Covered Entity.

IV. RECORDKEEPING

IT IS FURTHER ORDERED that Respondent shall, for five (5) years after the last date of dissemination of any Representation that includes or concerns any U.S.-origin claim, Respondent's Certification Mark, or advertising or promotional materials that contain Respondent's Certification Mark, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

Decision and Order

- A. All advertisements and promotional materials containing the Representation;
- B. All materials that were relied upon in disseminating the Representation;
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the Representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations; and
- D. All signed and dated statements acknowledging receipt of the Order secured pursuant to the Order Distribution provision of this Order

V.
ORDER DISTRIBUTION

IT IS FURTHER ORDERED that Respondent shall deliver a copy of this Order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this Order, and shall secure from each such person a signed and dated statement acknowledging receipt of the Order. Respondent shall deliver this Order to current personnel within thirty (30) days after the date of service of this Order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

VI.
NOTICE OF CORPORATE CHANGES

IT IS FURTHER ORDERED that Respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or

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practices subject to this Order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. *Provided, however,* that, with respect to any proposed change in the corporation about which Respondent learns less than thirty (30) days prior to the date such action is to take place, Respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, D.C. 20580. The subject line must begin: “In re Made in the USA Brand, LLC, File No. 142 3121.”

VII.
COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Respondent, within sixty (60) days after the date of service of this Order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its compliance with this Order. Within ten (10) days of receipt of written notice from a representative of the Commission, it shall submit additional true and accurate written reports.

VIII.
ORDER TERMINATION

This order will terminate on November 10, 2034, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a Complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however,* that the filing of such a Complaint will not affect the duration of:

- A. Any Part in this Order that terminates in less than twenty (20) years;
- B. This Order’s application to any respondent that is not named as a defendant in such complaint; and

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- C. This Order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that Respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this Part as though the complaint had never been filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

**ANALYSIS OF CONSENT ORDER TO AID PUBLIC
COMMENT**

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an agreement containing a consent order from Made in the USA Brand, LLC. (“Respondent”).

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement’s proposed order.

This matter involves Respondent’s marketing, sale, and distribution of licenses to use its “Made in USA” certification mark to companies wishing to make U.S.-origin claims for their products. According to the FTC’s complaint, Respondent represented that products and entities using Respondent’s certification mark were independently and objectively evaluated for compliance with Respondent’s accreditation standard. These

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claims were false or misleading. Additionally, the complaint alleges that Respondent did not possess and rely upon a reasonable basis to substantiate its claims that entities promoted on its website sold products that are all or virtually all made in the United States. In fact, in numerous instances, entities promoted on Respondent's website have sold products containing significant imported content. Finally, the complaint alleges that Respondent distributed promotional materials to third-party marketers for use in the marketing and sale of those third parties' products, providing the means and instrumentalities to those marketers to commit deceptive acts or practices. Accordingly, the complaint concludes that Respondent engaged in deceptive acts or practices in violation of Section 5(a) of the FTC Act.

The proposed consent order contains provisions designed to prevent Respondent from engaging in similar acts and practices in the future. Specifically, Part I prohibits Respondent from representing, expressly or by implication, that covered entities meet Respondent's accreditation standard, unless: (1) an entity with no material connection to that covered entity conducted an independent and objective evaluation to confirm that the accreditation standard was met; or (2) Respondent's mark and marketing materials prominently disclose that the accreditation standard may be met through self-certification.

Part II prohibits Respondent from making any country of origin claim about a product authorized to use Respondent's certification mark unless: (1) the claim is true, not misleading, and Respondent has a reasonable basis substantiating the representation; or (2) for representations made through use of Respondent's certification mark, Respondents clearly and prominently disclose that covered entities may meet the accreditation standard through self-certification.

Part III prohibits Respondent from providing third-party retailers with the means and instrumentalities to make the claims prohibited in Part I.

Parts IV through VIII are reporting and compliance provisions. Part IV requires Respondent to keep and make available to the Commission on request: copies of advertisements, labeling, packaging, and promotional materials

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containing the representations identified in Parts I and II; materials relied upon in disseminating those representations; evidence that contradicts, qualifies, or calls into question the representations or the basis relied upon for the representations; and all acknowledgments of receipt of the Order. Part V requires Respondent to disseminate the Order to principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities relating to the subject matter of the order. Part VI requires notification to the FTC of changes in Respondent's corporate status. Part VII requires Respondent to submit an initial compliance report to the FTC within sixty (60) days of service and subsequent reports upon request.

Finally, Part VIII is a "sunset" provision, terminating the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.

Complaint

IN THE MATTER OF

GOOGLE INC.

CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket No. C-4499; File No. 122 3237
Complaint, December 2, 2014 – Decision, December 2, 2014

This consent order addresses Google Inc.'s billing for charges incurred by children in apps that are likely to be used by children without having obtained the account holders' express informed consent. The complaint alleges that Google offers thousands of apps, including games that children are likely to play, and that in many instances, children can obtain virtual items within a game app that cost money for which Google bills parents and other adult account holders. The complaint further alleges that, in connection with billing for children's in-app charges, Google in many instances did not request a password or other method to obtain account holder authorization. The consent order requires Google to provide full refunds to Google account holders who have been billed by Google for unauthorized in-app charges incurred by minors, for a year following entry of the order. If Google's refunds total less than \$19 million, Google will remit any remaining balance to the Commission to be used for informational remedies, further redress, or payment to the U.S. Treasury as equitable disgorgement.

Participants

For the *Commission*: Jason Adler and Duane Pozza.

For the *Respondent*: Logan Breed, Wes Carson, Christine Habeeb, and Corey Roush, Hogan Lovells LLP.

COMPLAINT

The Federal Trade Commission, having reason to believe that Google Inc. ("Google" or "Respondent") has violated provisions of the Federal Trade Commission Act ("FTC Act"), and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent is a Delaware corporation with its principal place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043.