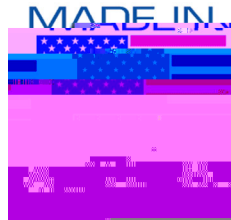


Defendants' Business Activities

9. For more than 20 years, Defendants have advertised, offered for sale, and distributed battery, battery module, and battery management systems.

10. From at least 2018 until at least August 30, 2021, Defendants labeled their products with the following image, which consists of the statement "Made in U.S.A" surrounding a USA flag (the "MUSA Label").



11. In some instances, the MUSA Labels appeared on product packaging immediately adjacent to the statement, "Proudly Designed and Built in USA."

12. In numerous instances, Defendants featured photographs of products with the MUSA Label and other "Made in USA" claims on labels on product description pages on the lithionicsbattery.com website. *See Exhibit A, (lithionicsbattery.com product listings).*

13. In addition to specific product pages, depictions of the MUSA Label also appeared in Lithionics' general company advertising, sometimes paired with "Made in USA" narrative claims. For example, consumers who clicked on

the “Made in USA” link on Defendants’ website, lithionicsbattery.com, were informed that Defendants’ “battery systems are engineered and manufactured in [their] Clearwater, FL USA factory.” *See* Exhibit B (lithionicsbattery.com).

14. Defendants’ MUSA Labels also appeared on their social media platforms. For example, Defendants published YouTube videos depicting company employees, including Defendant Tartaglia, printing “Made in U.S.A.” labels in the Lithionics facility and placing them on Lithionics products. *See* Exhibit C (composites from Lithionics YouTube page).

15. In addition to the MUSA Label and other express “Made in USA” claims on Lithionics marketing materials, Lithionics published a chart in its marketing materials juxtaposing Lithionics products with “imports,” highlighting the “advantage[s]” of Lithionics’ battery systems over imported competing products. *See* Exhibit D.

16.

17. In fact, all Lithionics battery and battery module products incorporate imported lithium ion cells, and Lithionics battery management

22. Despite knowing Lithionics products incorporated significant imported components, the videos posted to Defendants' YouTube page referenced in Paragraph 14 feature foot

‘manufactured,’ ‘built,’ ‘produced,’ ‘created,’ or ‘crafted’ in the United States or in America, or any other unqualified U.S.-origin claim.” 16 C.F.R. § 323.1.

26. A violation of the MUSA Labeling Rule constitutes an unfair or deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). 15 U.S.C. § 57a(d)(3) and 16 C.F.R. § 323.4.

Count I: MUSA Labeling Rule Violations

27. Between August 13, 2021, and August 30, 2021 (the “Violation Period”), Defendants placed “Made in U.S.A.” labels on products containing significant imported components.

28. During the Violation Period, some of Defendants’ product labels also included claims that products were “Built in U.S.A.”

29. Also during the Violation Period, Defendants included images of the labels affixed on products described in Paragraphs 27-28 in promotional materials, including the lithionicsbattery.com website and Lithionics’ social media accounts.

30. Defendants applied the labels described in Paragraphs 27-29 to products containing ingredients or components that were not “all or virtually all . . . made and sourced in the United States.” *See*

deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45(a).

32. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, and as implemented by 16 C.F.R. § 1.98(d), authorizes this Court to award monetary civil penalties of up to \$46,517 for each violation of the MUSA Labeling Rule. Defendants violated the MUSA Labeling Rule with “actual knowledge or knowledge fairly implied on the basis of objective circumstances that [their acts] [were] unfair or deceptive and [were] prohibited” by the MUSA Labeling Rule. 15 U.S.C. § 45(m)(1)(A).

Additional Violations of the FTC Act

33. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

34. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

Count II: Section 5 Violation

35. In numerous instances since 2018, in connection with the advertising, marketing, promotion, offering for sale, or sale of goods—namely, bc -0.0Tw -15s, .0Tw -y cid0.15 Tc -0.0 Tw 16.7193 0 Td[1In numerosim

Consumer Injury

40. Consumers are suffering, have suffered, and will continue to suffer substantial injury as a result of Defendants' violations of the MUSA Labeling Rule and FTC Act. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers and harm the public interest.

Prayer for Relief

Wherefore, Plaintiff requests that the Court:

- A. Enter judgment against Defendants in favor of Plaintiff for each violation alleged in this Complaint;
- B. Enter a permanent injunction to prevent future violations of the MUSA Labeling Rule and FTC Act by Defendants;
- C. Award monetary and other relief within the Court's power to grant;
- D. Award Plaintiff monetary civil penalties from Defendant for each violation of the MUSA Labeling Rule; and
- E. Award any additional relief as the Court determines just and proper.

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