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PHILIP ANTHONY

As Chief Clerk

in and to the Federal Circuit, is

Chief Clerk of the Court

Chief Clerk

the Clerk

the Clerk

13(b)

19, d 6(a)(1) of the Act

FC Act), 15 IS.C. §3(b), 57b

By

Order)

in

HEREFORE, IT IS ORDERED

BY

1. IC

2. IC

15 IS.C. §45 d 6 C.F.R. Pt 23, itv

2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.

3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily

be

1. **“Corporate Defendant”** means Lithionics Battery, LLC, and its successors and assigns.
 2. **“Individual Defendant”** means Steven Tartaglia.
- C. **“Made in the United States”** means any representation, express or implied, that a product or service, or a specified component thereof, is of U.S.-origin, including, but not limited to, a representation that such product or service is “made,” “manufactured,” “built,” “produced,” or “crafted” in the United States or in America, or any other U.S.-origin claim.

ORDER

I. PROHIBITION AGAINST MISREPRESENTATIONS REGARDING U.S.-

C. For a claim that a product is assembled in the United States, the product is last substantially transformed in the United States, the product's principal assembly takes place in the United States, and United States assembly operations are substantial.

**II.
PROHIBITION AGAINST MISLEADING OR UNSUBSTANTIATED
COUNTRY-OF-ORIGIN REPRESENTATIONS**

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, 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 good or service, are permanently restrained and enjoined from making any representation, expressly or by implication, regarding the country of origin of any product or service unless the representation is non-misleading, including that, at the time such representation is made, Defendants possess and rely upon a reasonable basis for the representation.

**III.
MONETARY JUDGMENT FOR CIVIL PENALTY**

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of \$105,319.56 is entered in favor of Plaintiff against the Individual Defendant and the Corporate Defendant, jointly and severally, as a civil penalty.
- B. Defendants are ordered to pay to Plaintiff, by making payment to the Treasurer of the United States, \$105,319.56, which, as Defendants stipulate, their undersigned counsel holds in escrow for no purpose other than payment to Plaintiff. Such payment must be made within 7

days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of Plaintiff.

IV.

Internal Revenue Service or other tax authority to provide the information directly to the Commission or Plaintiff.

**V.
NOTICE TO CUSTOMERS**

IT IS FURTHER ORDERED that Defendants must notify customers as follows:

- A. Defendants must identify all consumers who purchased any Lithionics product between August 13, 2021 and August 30, 2021 (“Affected Customers”).
1. Such Affected Customers, and their contact information, must be identified to the extent such information is in Defendants’ possession, custody, or control;
 2. Affected Customers include those identified at any time, including after Defendants’ execution of the Agreement through the eligibility period, which runs for 1 year after the date the Order was entered.
- B. Defendants must notify all identified Affected Customers by emailing each a notice in the form shown in Attachment A. The email containing the notice may contain a copy of this Order, but no other document or enclosures.
- C. Defendants must notify all Affected Customers within 30 days after the date the Order was entered, and any Affected Customers identified thereafter within 30 days of their identification.
- D. Defendants must report on its notification program under penalty of perjury:
1. Defendants must submit a report within 60 days of entry of this Order and at the conclusion of the program summarizing its compliance to date.
 2. If a representative of the Plaintiff or Commission requests any information

notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Defendant must report any change in: (a) any designated point of contact;

or (b) the structure of the Defendant's organization. (b)(1) (b)(2) (b)(3) (b)(4) (b)(5) (b)(6) (b)(7) (b)(8) (b)(9) (b)(10) (b)(11) (b)(12) (b)(13) (b)(14) (b)(15) (b)(16) (b)(17) (b)(18) (b)(19) (b)(20) (b)(21) (b)(22) (b)(23) (b)(24) (b)(25) (b)(26) (b)(27) (b)(28) (b)(29) (b)(30) (b)(31) (b)(32) (b)(33) (b)(34) (b)(35) (b)(36) (b)(37) (b)(38) (b)(39) (b)(40) (b)(41) (b)(42) (b)(43) (b)(44) (b)(45) (b)(46) (b)(47) (b)(48) (b)(49) (b)(50) (b)(51) (b)(52) (b)(53) (b)(54) (b)(55) (b)(56) (b)(57) (b)(58) (b)(59) (b)(60) (b)(61) (b)(62) (b)(63) (b)(64) (b)(65) (b)(66) (b)(67) (b)(68) (b)(69) (b)(70) (b)(71) (b)(72) (b)(73) (b)(74) (b)(75) (b)(76) (b)(77) (b)(78) (b)(79) (b)(80) (b)(81) (b)(82) (b)(83) (b)(84) (b)(85) (b)(86) (b)(87) (b)(88) (b)(89) (b)(90) (b)(91) (b)(92) (b)(93) (b)(94) (b)(95) (b)(96) (b)(97) (b)(98) (b)(99) (b)(100)

the Commission pursuant to this Order must 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, DC 20580. The subject line must begin: FTC v. Lithionics Battery, LLC.

**VIII.
RECORDKEEPING**

IT IS FURTHER ORDERED that Defendants must create certain records for 10 years after entry of the Order, and retain each such record for 5 years. Specifically, Corporate Defendant, and Individual Defendant, for any business that such Defendant, individually or collectively with the Corporate Defendant, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. Accounting records showing the revenues from all goods or services sold;
- B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. Records of all consumer complaints and refund requests concerning the subject matter of the Order, whether received directly or indirectly, such as through a third party, and any response;
- D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and
- E. A copy of each unique advertisement, label, or other marketing material that includes any express or implied Made in the United States claim.

IX.
COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order and any failure to transfer any assets as required by this Order:

A. Within 14 days of receipt of a written request from a representative of the Commission or Plaintiff, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission and Plaintiff are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission and Plaintiff are authorized to communicate directly with each Defendant. Defendants must permit representatives of the Commission or Plaintiff to interview any employee or other person affiliated with any Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission and Plaintiff may use all other lawful means, including posing through their representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

D. Upon written request from a representative of the Commission or Plaintiff, any consumer reporting agency must furnish consumer reports concerning Individual Defendant, pursuant to

Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).

X.
RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED this _____ day of _____, 202_.

UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

Of Counsel:

JAMES A. KOHM
Associate Director
Division of Enforcement

LAURA KOSS
Assistant Director
Division of Enforcement

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FOR DEFENDANTS:

A handwritten signature in black ink, appearing to be 'M. J. S.', written over a horizontal line.

Date: 1/6/22

Tel.: (212) 880-3834
Fax: (212) 880-8965

ATTACHMENT A: NOTICE TO CUSTOMERS

The notification email must be in the following form, from an authorized Lithionics Battery, LLC email address, and containing a Lithionics Battery, LLC signature line with the sender's full contact information:

Subject: Settlement of FTC Deceptive Advertising and Labeling Case

Dear <Name of customer>:

Our records show that when you bought ~~product~~ from Lithionics Battery, LLC, we labeled or advertised it as "Made in USA." We're writing to tell you that the Federal Trade Commission, the nation's consumer protection agency, has sued us for deceptive or false labeling and advertising. According to the FTC, our claim that your product ~~was~~ "Made in USA" was misleading.

To settle the FTC's lawsuit, we're ~~contacting~~ you to tell you that the product you bought was ~~not~~ or virtually all "Made in USA." In fact, it contains significant imported components including, in the case of battery and battery module products, imported lithium ion cells.

If you have questions about this lawsuit, visit [\[get short URL\]](#). For more information about "Made in USA" advertising and labeling, visit [\[get short URL\]](#).

Sincerely,

[signature]

[Lithionics Battery, LLC signature block]