



## Consumer Protection/FTC ADVISORY ■

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### “Made in the USA” Claims Face Continued Scrutiny from FTC

By [Kathleen Benway](#), [Alex Brown](#), and [Robert Poole](#)

On March 1, 2021, the Federal Trade Commission (FTC) [announced](#) a proposed settlement with Gennex Media LLC over the use of the company’s alleged false, misleading, or unsupported U.S. origins claims made in its product advertising. Along with monetary damages of \$146,249.24, the FTC’s proposed order would put strict restrictions on when Gennex may advertise a product as “Made in the USA.”

Under the settlement, Gennex cannot make an unqualified claim that a product is made in the United States unless:

- Final assembly or processing of the product occurs in the United States.
- All significant processing that goes into the product occurs in the United States.
- All or virtually all ingredients or components of the product are made and sourced in the United States.

If a product does not meet these requirements, the order permits Gennex to use a “qualified” Made in the USA claim under certain circumstances. In order to utilize the qualified claim, Gennex must clearly and conspicuously disclose immediately adjacent to the origins claim the extent to which the product contains foreign parts or processing. Also, the company can make a claim that a product was “assembled” in the United States when certain conditions are met.

The requirements for qualified and unqualified claims in the Gennex order track the FTC’s long-standing [Enforcement Policy Statement for U.S. Origins Claims](#).

The Gennex settlement is noteworthy because it illustrates the FTC’s focus on articulating a consistent framework for a company to claim its product is Made in the USA. In July 2020, the FTC issued a [proposed rule](#) that would impose the same three-prong standard for making an unqualified Made in the USA claim on all product labeling. If finalized, the rule will impose civil penalties on companies whose product labeling violates that standard. The proposed rule does not address unqualified claims.

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