

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Edith Ramirez, Chairwoman**
 Julie Brill
 Maureen K. Ohlhausen
 Joshua D. Wright

<p>In the Matter of</p> <p>E.K. Ekcessories, Inc. a corporation</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>DECISION AND ORDER</p> <p>DOCKET NO. C-4419</p>
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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, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, 16 C.F.R. § 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent E.K. Ekcessories, Inc. is a Utah corporation with its principal office or place of business at 575 West 3200 South, Logan, Utah 84321.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent, and the proceeding is in the public interest.

ORDER

DEFINITIONS

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

1. "Commerce" means as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
2. "Covered product" means products offered for sale by Respondent, including, but not limited to, outdoor accessories such as waterproof iPhone accessories, eyewear retainers, bottle holders, lens cleaners, ID and credential holders, dog collars and leashes, and tie-downs and tow straps.
3. "Respondent" means E.K. Ekcessories, Inc., a corporation, and its successors and assigns.

I.

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 promoting or offering for sale any good or service are permanently restrained and enjoined from representing, expressly or by implication, that a Covered Product is made in the United States, unless the product is all or virtually all made in the United States.

II.

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 good or service, shall not make any representation, in any manner, expressly or by implication, regarding the country of origin of any Covered Product unless the representation is true, not misleading, and at the time it is made, Respondent possesses and relies upon a reasonable basis for the representation.

III.

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 good or service, shall not provide to others the means and instrumentalities with which to make any representation prohibited by Part I or II above. For the purposes of this Part, "means and instrumentalities" means any information, including, but not necessarily limited to, any advertising, labeling, or promotional, sales training, or purported substantiation materials, for use by trade customers in their marketing of any covered product.

IV.

IT IS FURTHER ORDERED that within thirty (30) days after service of this Order, Respondent shall deliver to the Commission a searchable electronic file containing the name and contact information of all distributors who purchased or otherwise received any product from Respondent on or after January 1, 2010 and through May 1, 2013. Such file shall: (1) include each distributor's name and address, and, if available, the telephone number and email address of each distributor; and (2) be accompanied by a sworn affidavit attesting to its accuracy.

V.

IT IS FURTHER ORDERED that within thirty (30) days after service of this Order, Respondent shall send by first-class mail, postage paid and return receipt requested, or by courier service such as FedEx with signature proof of delivery, an exact copy of the notice attached as Attachment A, showing the date of mailing, to all distributors identified pursuant to the Part IV of this Order. The notice required by this Part shall include a copy of this Order, but shall not include any other document or enclosures, and shall be sent to the principal place of business of each such distributor.

VI.

IT IS FURTHER ORDERED that Respondent shall, for five (5) years after the last date of dissemination of any representation covered by this Order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- 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;
- D. All signed and dated statements acknowledging receipt of the Order secured pursuant to the Order Acknowledgements provision of this Order; and
- E. Copies of all notification letters, with return receipts or signed proof of delivery if applicable, sent pursuant to Part V of this Order.

VII.

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.

VIII.

IT IS FURTHER ORDERED that Respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation 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 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, DC 20580. The subject line must begin: "In re E.K. Ekcessories, Inc., File No. 1323156."

IX.

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.

X.

This order will terminate on December 4, 2033, 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
- 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.

Donald S. Clark
Secretary

SEAL:
ISSUED: December 4, 2013