

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**KUBOTA NORTH AMERICA
CORPORATION, a corporation, also d/b/a
KUBOTA ENGINE CORPORATION,
KUBOTA TRACTOR CORPORATION,
KUBOTA MANUFACTURING OF
AMERICA CORPORATION, KUBOTA
INDUSTRIAL EQUIPMENT
CORPORATION, and GREAT PLAINS
MANUFACTURING
INCORPORATED/LANDPRIDE,**

Defendant.

Case No. 3:24-cv-159

**COMPLAINT FOR PERMANENT INJUNCTION,
CIVIL PENALTY JUDGMENT, AND OTHER RELIEF**

Plaintiff, the United States of America, acting upon notification and referral from the Federal Trade Commission (“FTC” or “Commission”), for its Complaint alleges:

1. Plaintiff brings this action for Defendant’s violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Made in USA Labeling Rule (“MUSA Labeling Rule”), 16 C.F.R. Part 323. Defendant’s violations relate to the false labeling of millions of wholly-imported products as “Made in USA.” For these violations, Plaintiff seeks relief, including a permanent injunction, civil penalty, and other relief, pursuant to Sections 5(m)(1)(A), 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45(m)(1)(A), 53(b), 57b, and the MUSA Labeling Rule, 16 C.F.R. Part 323.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355.

3. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(1), (b)(2), (c)(2), and (d), 1395(a), and 15 U.S.C. § 53(b).

PLAINTIFF

4. Plaintiff brings this action, which was referred by the FTC pursuant to Section 16(a)(1) of the FTC Act, 15 U.S.C. § 56(a)(1). The FTC is an independent agency of the United States Government created by the FTC Act. 15 U.S.C. §§ 41–58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces the MUSA Labeling Rule, 16 C.F.R. Part 323, which prohibits unqualified “Made in USA” claims on labels on products unless the products are all or virtually all made in the United States.

DEFENDANT

5. Defendant Kubota North America Corporation (“Kubota”), also doing business as Kubota Engine Corporation, Kubota Tractor Corporation, Kubota Manufacturing of America Corporation, Kubota Industrial Equipment Corporation, and Great Plains Manufacturing Incorporated/LandPride, is a Delaware corporation with its principal place of business within the Dallas Division of this District, at 1000 Kubota Drive, Grapevine, TX 76051 (which is a location within the portion of Grapevine that lies within Dallas County). Kubota transacts or has transacted business in this District and throughout the United States. At all times relevant to this Complaint, acting alone or in concert with others, Kubota has advertised, marketed, distributed, or sold products, including lawn tractors, mowers, utility vehicles, backhoes, loaders, agricultural implements, and associated parts, to consumers throughout the United States.

COMMERCE

6. At all times relevant to this Complaint, Defendant has maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

1999 COMMISSION ORDER

7. On January 19, 1999, the FTC published an administrative complaint alleging Kubota subsidiary Kubota Tractor Company (“KTC”) violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) (“Section 5”), by falsely advertising certain lawn and garden tractors incorporating significant imported parts as “Made in the United States” (“MUSA”) (Exhibit 1, the “KTC Complaint”).

8. According to the KTC Complaint, by claiming certain lawn and garden tractors were MUSA, KTC “represented, expressly or by implication, . . . that all, or virtually all, of the component parts of the [tractors are] made in the United States, and that all, or virtually all, of the labor in manufacturing the [tractors] is performed in the United States.” KTC Complaint at ¶¶ 8, 11, 17.

9. Thus, the KTC Complaint alleged KTC’s MUSA claims were false or misleading in violation of Section 5 because the relevant models “contain[] significant foreign parts and therefore [are] not all or virtually all made in the United States.” KTC Complaint at ¶¶ 9, 12, 18.

10. Also on January 19, 1999, the FTC announced the parties had reached a settlement and published an Agreement Containing Consent Order signed in 1998 by KTC’s then-President Shohei Majima and then-General Counsel Richard O. Briggs (Exhibit 2, the “KTC Agreement”).

11. The KTC Agreement contained a provision enjoining KTC’s deceptive claims, allowing KTC to advertise affected products as MUSA only “so long as all, or virtually all, of

the component parts of such product, or of all products in such product line, are made in the United States and all, or virtually all, of the labor in manufacturing such product, or of all products in such product line, is performed in the United States.” KTC Agreement, Section I.

12. Following a public comment period, on April 6, 1999, in a proceeding bearing Docket No. C-3863, the FTC adopted the substance of the KTC Agreement through issuance of a final Decision and Order resolving all matters then in dispute (Exhibit 3, the “KTC Order”).

13. The KTC Order, which bound KTC, its successors and assigns, and its officers, agents, representatives, and employees, including through any corporation, subsidiary, or other device, prohibited KTC from misrepresenting the extent to which lawn or garden tractors or product lines were MUSA.

14. Consistent with the KTC Agreement, the KTC Order stated that lawn or garden tractors or product lines could be advertised as MUSA only if “all, or virtually all, of the component parts of such products in such product line, are made in the United States and all, or virtually all, of the labor in manufacturing such product, or of all products in such product line, is performed in the United States.” KTC Order, Section I.

15. Section III of the KTC Order required KTC to deliver copies of the KTC Order to all current and future officers and directors, and all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of the Order.

16. Section VI of the KTC Order contained an administrative “sunset” provision, terminating the order after 20 years, with certain exceptions.

17. Because none of the exceptions detailed in Section VI occurred, the KTC Order terminated on April 6, 2019.

18. Through the KTC Complaint, Agreement, and Order, Kubota has had actual

notice since at least 1998 that it is a violation of Section 5 to advertise or label a product as MUSA unless “all, or virtually all, of the component parts of such product, or of all products in such product line, are made in the United States and all, or virtually all, of the labor in manufacturing such product, or of all products in such product line, is performed in the United States.”

DEFENDANT’S BUSINESS ACTIVITIES

19. In addition to selling finished tractors, mowers, utility vehicles, and construction and agricultural equipment, Kubota sells replacement parts for those products.

20. Since at least 2021, Kubota has labeled thousands of replacement parts as MUSA when, in fact, they were wholly imported.

21. In many instances, Kubota has incorrectly recorded “USA” as the origin of wholly-imported parts in its sales databases, leading its systems to generate MUSA labels for those products.



22. In other instances, Kubota has failed to update package designs that incorporated MUSA labels after shifting production of those products overseas.



23. Because of these systems failures, Kubota has sold millions of wholly-imported replacement parts with false MUSA labels.

24. Kubota's express or implied representations that wholly-imported parts are all or virtually all made in the United States are false and/or unsubstantiated.

25. Based on the facts and violations of law alleged in this Complaint, the FTC has reason to believe Defendant is violating or is about to violate laws enforced by the Commission because, among other things: Defendant has engaged in its unlawful acts repeatedly over a period of at least three years, despite being sued by the FTC previously for the same violations; Defendant has earned significant revenues from participating in these unlawful acts and practices; and Defendant only has ceased its unlawful activities after learning of the FTC's investigation into its unlawful conduct.

VIOLATIONS OF THE FTC ACT

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

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

Count I
FTC Act Violation – MUSA Claims for Imported Parts

28. In numerous instances since at least January 2021, in connection with the advertising, marketing, promotion, offering for sale, or sale of replacement parts and other products, Defendant has represented, directly or indirectly, expressly or by implication, that such products are all or virtually all MUSA.

29. In fact, in numerous instances in which Defendant has made the representations described in Paragraph 28, Defendant's replacement parts and other products are not all or virtually all MUSA because they are wholly imported or incorporate significant imported materials.

30. Therefore, Defendant's representations as described in Paragraph 28 are false or misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE MADE IN USA LABELING RULE

31. Effective August 13, 2021, the Made in USA Labeling Rule, 16 C.F.R. Part 323 ("MUSA Labeling Rule"), prohibits marketers from labeling products as MUSA unless: (1) "the final assembly or processing of the product occurs in the United States;" (2) "all significant processing that goes into the product occurs in the United States;" and (3) "all or virtually all ingredients or components of the product are made and sourced in the United States." 16 C.F.R. § 323.2.

32. The MUSA Labeling Rule also provides, to the extent any mail order catalog or mail order promotional material includes a seal, mark, tag, or stamp labeling a product MUSA, such label must comply with the requirements of 16 C.F.R. § 323.2. 16 C.F.R. § 323.3.

33. For purposes of the MUSA Labeling Rule, MUSA is defined as "any unqualified

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

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

Count II MUSA Labeling Rule Violations

35. In numerous instances since August 13, 2021, Defendant has labeled replacement parts and other products as MUSA.

36. In fact, in numerous instances in which Defendant has labeled the products described in Paragraph 35, such products are not MUSA because they are wholly imported or contain significant imported materials.

37. Therefore, Defendant’s acts or practices as described in Paragraph 35 violate the MUSA Labeling Rule.

CONSUMER INJURY

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

CIVIL PENALTIES

39. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), authorizes this Court to award civil penalties for each violation of the MUSA Labeling Rule.

40. Defendant has violated the MUSA Labeling Rule with actual knowledge or knowledge fairly implied on the basis of objective circumstances, as required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

PRAYER FOR RELIEF

Wherefore, Plaintiff requests that the Court:

- A. Enter a permanent injunction to prevent future violations of the FTC Act and the MUSA Labeling Rule by Defendant;
- B. Award monetary and other relief within the Court's power to grant;
- C. Impose civil penalties on the Defendant for every violation of the MUSA Labeling Rule; and
- D. Award any additional relief as the Court determines to be just and proper.

Dated: January 22, 2024

**FOR THE FEDERAL TRADE
COMMISSION:**

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Respectfully submitted,

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