



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Division of Enforcement

March 18, 1997

Robin P. Rosen
Attorney

Direct Dial
(202) 326-3740

Mr. Craig H. Neilson
Logo Communications, Inc.
5751 Palmer Way, Ste. D
Carlsbad, CA 92008

Dear Mr. Neilson:

This is in response to your letter of March 13, 1997 in which you requested a staff opinion on the legality of your proposed marking of a silver-plated key holder with a sterling silver charm.

You are correct that the National Gold and Silver Stamping Act prohibits the use of the word "Sterling" unless the material sold is solid 925/1000 (.925) sterling silver. Therefore, any mark or description that could be interpreted to represent that the entire article, that is, both the charm and the key holder, is sterling silver would violate the Act. Such a marking also would be considered unfair and deceptive under the Federal Trade Commission's Guides for the Jewelry, Precious Metals, and Pewter Industries (the "Guides"). The Commission's Guides are an administrative interpretation of the laws administered by the Federal Trade Commission to provide guidance for the public to conform with legal requirements.

The Guides state, in pertinent part, that where a quality mark, such as "sterling" or "silver-plate," is applicable to only part of the product, the part of the product to which it is applicable (or inapplicable) should be disclosed when, absent such disclosure, the location of the mark misrepresents the product or part's true composition. 16 C.F.R. § 23.9(a)(1). Further, "[i]f the quality mark is applicable to only part of an industry product, but not another part which is of similar surface appearance, each quality mark should be closely accompanied by an identification of the part or parts to which the mark is applicable." 16 C.F.R. § 23.9(a)(2).

Based on the diagram of the article you provided, it appears that the charm and the key holder are two separate pieces, presented as separate pieces in the case. Therefore, each piece can be marked with the applicable quality mark; that is the charm can be marked ".925 sterling," and the key holder can be marked "silver plate" as you indicated in your letter.¹ In addition, any

¹ It appears from the diagram in your letter that both the U-shaped key holder and the round balls at the ends are silver-plated. If only the U-shape portion of the holder is silver-plate and the balls are some other kind of metal, please be aware that a "silver-

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representations as to the silver content of the products made on the product packaging should make clear that the key holder is silver-plated and the charm is sterling silver.

With respect to your question regarding registering the charm so you can stamp it with ".925 Sterling," the National Gold and Silver Stamping Act provides, in pertinent part, that an article bearing a quality mark or stamp indicating that such article is made in whole or in part of gold or silver shall also contain the U.S. registered trademark or the name of the responsible party. 15 U.S.C. § 297 (b). Therefore, although you may obtain a registered trademark to place on your article, you may also stamp the article "Sterling" as long as the name of the responsible party appears next to the quality mark. If you are interested in obtaining a trademark, you should call the Trademark Office at (703) 308-9800. The National Gold and Silver Stamping Act is enforced by the Department of Justice. To obtain further information, you can contact Ezra Friedman, Esq., Department of Justice, Criminal Division, P.O. Box 887, Ben Franklin Station, Washington, DC 20044-0887.

In accordance with Section 1.3(c) of the Commission's Rules of Practice and Procedure (16 C.F.R. § 1.3(c)), this is a staff opinion only and has not been reviewed or approved by the Commission or by any individual Commissioner, and is given without prejudice to the right of the Commission later to rescind the advice and, where appropriate, to commence an enforcement action.

In accordance with Section 1.4 of the Commission's Rules of Practice and Procedure (16 C.F.R. § 1.4), this response to your request will be placed on the public record, along with your request for advice. I hope this has been helpful. If you have any further questions, you may contact me at the above number.

Sincerely yours,

Robin P. Rosen
Attorney

plate" marking on the holder would be misleading because one would assume the marking applied to the balls at the end as well.