



American Hakko Products, Inc.

September 24, 2024

Via: <https://respond.Better Business Bureau.org/letter/>

Better Business Bureau
Serving Los Angeles and Silicon Valley
1112 S. Bascon Ave.
San Jose, CA 95128
Attention: Natalie G

Re: Complaint ID 22062518 (Submitted 7/29/2024) – Additional Correspondence

Dear Natalie G:

This is in response to your letter dated September 17, 2024.

As instructed in your letter, we will again avoid any information that personally identifies the complaining party. Instead, we will refer to him as simply the “Claimant”.

The Claimant originally submitted a claim to the Better Business Bureau dated July 29, 2024. We responded to that claim by letter to the Bureau dated August 16, 2024. In Claimant’s latest submission, Claimant makes new arguments based on the California Right to Repair Act (also referred to herein as “SB244” or the “Act”) to support his demands for documentation and other information relating to products sold by American Hakko Products, Inc. (“AHP”).

In his latest submission, Claimant has asked for documentation and other information for the following four AHP products:

FM203
FX951
FX971
FX972

In our discussion below, we will address the new arguments advanced by the Claimant in support of his demands and then discuss the reasons supporting denial of Claimant’s demands relating to the four AHP products identified above.

Claimant's New Assertions

It is difficult to discern what new arguments are being advanced in Claimant's latest submission message because of his rambling and disjointed style of writing. As best as we can make out, *he appears* to be advancing *three arguments* in support of his demands:

1. Claimant asserts that SB244 covers any products "sold to schools, businesses, local governments, or in other methods outside of direct retail sale". Because AHP products are allegedly "sold to schools, businesses, local governments, or in other methods outside of direct retail sale," Claimant asserts that AHP's products are covered by SB244, regardless of any other conditions imposed by SB244.
2. Claimant asserts that SB244 covers "any other device that depends for its functioning, in whole or in part, on any digital electronic embedded or attached to the product and has a value over ten dollars (\$10)". Because AHP products have digital electronics embedded and have a value over \$10, Claimant asserts that AHP's products are covered by SB244.
3. Claimant asserts that AHP's soldering station products "are also not classified as industrial, construction, or maintenance equipment under BPC 22900, which pertains specifically to farm and heavy equipment. Hakko misinterprets BPC 22900, which addresses farm machinery and heavy equipment, not consumer electronics." In other words, Claimant appears to be saying that unless a product can be categorized as "farm machinery and heavy equipment," that product cannot be excluded from the scope of SB244 under the exceptions set forth in Section 22900 of the California Business and Professions Code (the "BPC").

As will be demonstrated below, each of Claimant's latest arguments misconstrues the California Right to Repair Act and results in patently absurd readings of the statute unsupported by the plain language of the Act.

Analysis of Claimant's New Assertions

1. Are AHP products covered by SB 244 solely because they may be sold "sold to schools, businesses, local governments, or in other methods outside of direct retail sale"?

To understand Claimant's first new assertion, it is useful to review the statutory provision that contains the quoted language relating to sales to "schools, businesses, local businesses, or in other methods outside of direct retail sale". The cited language is found in the following excerpt from SB244 (which defines the products subject to the Act):

(3) (A) "Electronic or appliance product" or "product" means a product, manufactured for the first time, and first sold or used in California, on or after July 1, 2021, described in subdivision (h), (i), (j), or (k) of Section 9801 of the Business and Professions Code for which the manufacturer makes available tools, parts, and documentation to authorized repair providers, and includes products described in those subdivisions that are sold to schools, businesses, local governments, or in other methods outside of direct retail sale.

When reading this excerpt, it becomes clear even from a superficial reading of the text that, in order for products sold to "schools, businesses, local governments, or in other methods outside of

direct retail sale,” to come within the scope of the Act, those products must also be “**products described in those subdivisions**” of Section 9801 of the BPC.

In other words, it is not enough that certain products are sold to “schools, businesses, local governments or by other methods outside of direct retail sale,” they **must also fall within** the product descriptions contained in **subdivision (h), (i), (j), or (k) of Section 9801** of the Business and Professions Code. Contrary to Claimant’s assertion, there is no stand-alone special category of covered products sold to schools, businesses, local governments, etc. The cited words simply make clear that even products sold to such buyers are covered by the Act, if they otherwise fall within the scope of subdivision (h), (i), (j), or (k) of BPC Section 9801. AHP does not contest that its products may be subject to the requirements of SB244 if they fall within any of the specified subdivisions of Section 9801. However, the sale of products to schools, businesses, local governments or by other methods outside of direct retail sale is not alone sufficient to cause those products to be subject to SB244.

2. Are AHP products covered by SB244 solely because they have digital electronics embedded and have a value over \$10?

As a preliminary matter, Claimant misquotes the statutory language. The California Right to Repair Act makes references to “electronic or appliance” products “with a wholesale price to the retailer or to others outside of direct retail sale of one hundred dollars (\$100) or more” (not more than \$10 as asserted by the Claimant). However, since most of AHP’s products have a wholesale price of more than \$100, we will interpret Claimant’s argument as applying to products with a wholesale price of more than \$100 (not \$10).

More importantly, Claimant ignores the fact that even if a product has a wholesale price of \$100 or more, the product must nonetheless constitute an “**electronic or appliance product**” within the meaning of the Act. As quoted earlier, the California Right to Repair Act defines an “electronic or appliance product” that is subject to its provisions as follows:

(3) (A) “**Electronic or appliance product**” or “product” means a product, manufactured for the first time, and first sold or used in California, on or after July 1, 2021, **described in subdivision (h), (i), (j), or (k) of Section 9801 of the Business and Professions Code** for which the manufacturer makes available tools, parts, and documentation to authorized repair providers, and includes products described in those subdivisions that are sold to schools, businesses, local governments, or in other methods outside of direct retail sale.

Subdivision (h), (i), (j) and (k) of BPC Section 9801 read as follows:

(h) “Electronic set” includes, but is not limited to, any television, radio, audio or video recorder or playback equipment, video camera, video game, video monitor, computer system, photocopier, or facsimile machine **normally used or sold for personal, family, household, or home office use.**

(i) “Appliance” or “major home appliance” includes, but is not limited to, any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, trash compactor, or room air-conditioner **normally used or sold for personal, family, household, or home office use, or for use in private motor vehicles.**

(j) “Antenna” includes, but is not limited to, a resonant device designed especially for the purpose of capturing electromagnetic energy transmitted by direct satellite or commercial radio or television broadcasting facilities. An antenna and its associated accessories are not deemed to be a part of a set and shall be considered, under this section, to be located outside or in the attic of a residence.

(k) “Rotator,” when used in connection with an antenna installation or repair, includes, but is not limited to, an electromechanical device operated from a remote location to rotate an antenna on a horizontal plane. A rotator and its associated accessories are not deemed to be a part of a set and shall be considered under this section, with the exception of the directional control unit, to be located outside or in the attic of a residence.

AHP’s soldering stations clearly do not fall within the definitions of either an “Antenna” or a “Rotator”. AHP acknowledges that its soldering stations may constitute an “electronic set,” but only those “normally used or sold for personal, family, household, or home office use” fall within the purview of the Act. AHP does not believe any of its soldering stations constitute an “appliance” within the meaning of the Act. For purposes of discussion, however, even if some of AHP’s soldering stations are deemed an “appliance,” only those that are “normally used or sold for personal, family, household, or home office use, or for use in private motor vehicles” are covered by the Act.

In his latest submission, the Claimant completely ignores the statutory requirement that a product (such as AHP’s soldering stations) that have embedded digital electronics are not covered by SB244 **unless** they “normally sold for personal, family, household, or home office use”.

Since the “normally sold for personal, family, household, or home office use” qualification appears in the definitions of both an “electronic set” and an “appliance” (the only two subdivisions of BPC Section 9801 that might apply to soldering stations), the qualification cannot simply be read out of the statute as Claimant attempts to do. Thus, unless an AHP product is “normally sold for personal, family, household, or home office use,” it is not subject to the requirements of the California Right to Repair Act. Indeed, when this added requirement is considered, very few (if any) of AHP’s soldering stations fall within the scope of the Act.

3. Must a product be categorized as “farm machinery and heavy equipment” in order to be excluded from the scope of SB244 under the exception set forth in Section 22900 of the California Business and Professions Code?

Claimant appears to be saying that unless a product is categorized as “farm machinery and heavy equipment,” it cannot be excluded from the scope of the California Right to Repair Act under the exceptions set forth in Section 22900 of the Business and Professions Code. Claimant’s assertion is completely unsupported by a simple reading of the statutory language.

The exclusion from the scope of the Act is found in Section (B) of the statute that reads as follows:

(B) “Electronic or appliance product” or “product” does not include any of the following:

(i) Equipment or repair parts as defined in Chapter 28 (commencing with Section 22900) of Division 8 of the Business and Professions Code.

(ii) A product or component of an “alarm system” as defined in subdivision (c) of Section 7590.1 of the Business and Professions Code, including a fire protection system, as defined in the California Fire Code.

Thus, expressly excluded from the California Right to Repair Act are (i) “equipment or repair parts” defined in Section 22900 of the Business and Professions Code, and (ii) a product or component of an “alarm system”. Since AHP’s soldering stations are not alarm systems or components of alarm systems, we need to consider whether they might satisfy the definition of “equipment or repair parts” in BPC Section 22900.

The definition of “equipment” in BPC Section 22900 is as follows:

“Equipment” means all-terrain vehicles and other machinery, equipment, implements, or attachments used for, or in connection with, any of the following purposes:

- (A) Lawn, garden, golf course, landscaping, or grounds maintenance.
- (B) Planting, cultivating, irrigating, harvesting, and producing agricultural or forestry products.
- (C) Raising, feeding, or tending to, or harvesting products from, livestock and any other activity in connection with those activities.
- (D) Industrial, construction, maintenance, mining, or utility activities or applications, including, but not limited to, material handling equipment.

Thus, expressly excluded from the scope of the Act is any “equipment...used for, or in connection with...industrial, construction [or] maintenance...applications.”

There can be no serious question that soldering stations are used in industrial, construction and maintenance applications. Manufacturers clearly use soldering stations to assemble all types of electronic products – basically anything that has an electrical circuit routinely relies upon a soldering station for assembly. Even contractors constructing houses or other buildings often utilize soldering equipment to connect electrical wires used in the structure.

Nothing in the relevant statutory provisions states or implies that the exemption is limited to “farm machinery and heavy equipment”.

Addressing the Four Products Cited in Claimant’s Latest Submission

In his latest submission, Claimant has identified the following four AHP products for which documentation and other information is sought:

FM203
FX951
FX971
FX972

Claimant had earlier requested documentation and other information for each of these four products and those earlier requests were properly denied.

Earlier Request Relating to FX203 and FX951

By email dated July 1, 2024, Claimant requested “Schematics & Firmware” for the following:

Hakko FM-203 Soldering Station
Hakko FM-204/205 Soldering Station
Hakko FX-951 Soldering Station
Hakko FM-202 Soldering Station

AHP responded to this earlier request via email dated July 11, 2024, that read as follows:

You have requested information regarding the following four products:

Hakko FM-203 Soldering Station
Hakko FM-204/205 Soldering Station
Hakko FX-951 Soldering Station
Hakko FM-202 Soldering Station

Each of these stations was manufactured and sold prior to July 1, 2021. For this reason, none of them are within the scope of the California Right to Repair law.

Earlier Request Relating to FX971 and FX972

By email dated July 11, 2024, Claimant requested documentation and other information for AHP’s FX-971 and FX-972 soldering stations.

AHP responded to this request via email dated July 29, 2024, that read as follows:

In response to your request for documents relating to Hakko’s FX-971 and FX-972 stations, please be advised that neither the FX-971 nor the FX-972 are normally used or sold for personal, family, household, or home office use. For this reason, they are both beyond the scope of the California Right to Repair Act, and we decline the request.

Following the above response, Claimant did not contest the fact that the FX-971 and FX-972 stations are not normally used or sold for personal, family, household, or home office use.

What is AHP willing to make available to the Claimant?

To date, the Claimant has failed to make a request for documents and information with respect to a product that falls within the scope of the California Right to Repair Act. Even though AHP has fully complied with the Act, AHP is willing to provide the Claimant with documents and information that should enable the Claimant to repair AHP products. Specifically, AHP is willing make available the following:

1. Firmware for all AHP products first manufactured and sold on or after July 1, 2021.
2. Service manuals for all AHP products first manufactured and sold on or after July 1, 2021.

3. A list of parts (and prices) for all AHP products first manufactured and sold on or after July 1, 2021.
4. Identification of the tools normally used by AHP to repair and/or service AHP products first manufactured and sold on or after July 1, 2021.¹
5. To the extent maintained by AHP, AHP is willing to make available service manuals, parts lists and tools lists for AHP products manufactured and sold before July 1, 2021.

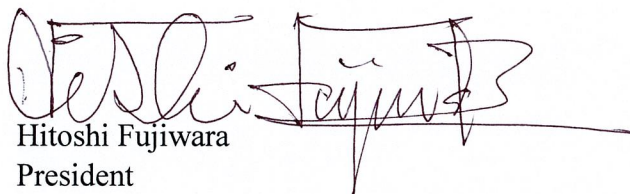
It should be noted that the service manuals that AHP is prepared to release are the same manuals that AHP itself uses to repair the soldering stations that it markets. AHP does not possess and therefore does not rely upon schematics to repair products. Making such service manuals available should, therefore, place the Claimant in the same position as AHP when it comes to repairing and servicing the soldering stations marketed by AHP.

* * *

We hope this letter makes it clear that AHP fully complied with the California Right to Repair Act and that AHP is prepared to make available firmware, service manuals and parts for all products first sold after July 1, 2021, whether or not those products are subject to the Act. To the extent available, AHP is also willing to make firmware, service manuals and parts available even for products not within the scope of the Act because they were first sold in California before July 1, 2021. Making these things available to the Claimant should place him in the same position as AHP when making repairs to AHP products.

If useful, we would welcome an opportunity to address any questions that the Better Business Bureau may have.

Very truly yours,


Hitoshi Fujiwara
President

¹ The parts and tools are usually listed in the applicable service manual. If not, AHP will identify such parts and the pricing for such parts. For tools, AHP is prepared, upon request, to identify vendors or other sources that can supply such tools.

