

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)	
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)	
THYSSENKRUPP ACCESS CORP.)	CPSC DOCKET NO.: 21-1
)	
)	
Respondent.)	
)	

**COMPLAINT COUNSEL’S
FIRST SET OF INTERROGATORIES TO RESPONDENT**

Pursuant to 16 C.F.R. § 1025.32, Complaint Counsel hereby requests that Respondent thyssenkrupp Access Corp., now known as TK Access Solutions Corp., (“Respondent” or “thyssenkrupp”), serve upon Complaint Counsel, within thirty (30) days, written answers, under oath, to each of the interrogatories set forth below.

DEFINITIONS

1. “You,” “your,” “Respondent,” and “thyssenkrupp” means the Respondent to whom these discovery requests are directed (including if previously known under different names), including all past and present officers, directors, representatives, agents, and employees of the Respondent, all other past and present persons acting or purporting to act on Respondent’s behalf (including, but not limited to, all past or present agents and employees exercising discretion, discharging duties, making policy, or making decisions with respect to Respondent), and all past and present parents, subsidiaries, divisions, or branches of Respondent, including but not limited to: Access Industries, Inc.; ThyssenKrupp Access Manufacturing, LLC; National Wheel-O-Vator Company, Inc, and TK Access Solutions Corp.

2. “Person” means any natural person, entity, group, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, office, or other business or legal entity, whether private or governmental and whether foreign or domestic.

3. “Documents” shall be interpreted as the term is used in Federal Rule of Civil Procedure 34, and includes electronically stored information.

4. “Relating to” or “related to” means consisting of, referring to, describing, discussing, constituting, evidencing, containing, mentioning, concerning, pertaining to, citing, summarizing, analyzing, or bearing any logical or factual connection with the matter discussed.

5. “Identify” or “identity,” when used with respect to an individual, means to provide the individual’s present or last known name, residential address, telephone number, occupation, job or position, job title(s), employer, employer department and/or subject area in which the individual works, business affiliation, and business or employment address, and the individual’s relationships or associations, if any, to the Respondent.

6. “Identify” or “identity,” when used with respect to a business, entity, building, or place, means the present or last known name, address, and telephone number, and all former names, of that business, entity, building, or place, its state of incorporation, registration, or organization, the identity and address of its registered agent in each state where it is present and doing business or has a place of business, its present officers, directors, and shareholders, and its relationship, if any, to the Respondent.

7. “Identify” or “identity” when used with respect to a Document means the name or title of the Document, a description of the Document or record including its date of preparation and transmission, the author, sender, and recipient, a summary of the subject matter, and the

identity of the Person who currently has custody of, possession of, or control over the Document. You may also identify a Document by providing a complete and legible copy thereof, and by stating that you have done so.

8. “Identify” when used with respect to a communication means to describe in detail the nature and content of the communication, state the date of the communication, identify all Persons to and from whom the communication was made, and identify all Persons hearing, witnessing, and/or present during the communication.

9. “Communications” means any disclosure, transfer, or exchange of information or opinion, however made, including but not limited to, emails, voice mails, fax, memoranda, inquiries, reports, claims, and complaints.

10. “Elevators” means any model of residential elevators manufactured and/or distributed by Respondent in U.S. commerce, including but not limited to the Elevators listed in the Complaint in CPSC Docket 21-1 filed on July 7, 2021: Chaparral, Destiny, LEV, LEV II, LEV II Builder, Rise, Volant, Windsor, Independence, and Flexi-Lift.

11. “Manufacture,” and all variations of the word manufacture, means to “manufacture, produce, or assemble,” as defined in 15 U.S.C. § 2052(a)(10).

14. “Distribute,” and all variations of the word distribute, means to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce as defined in 15 U.S.C. § 2052(a)(7)–(8).

15. “Complaint” shall mean the Complaint, and any amendments to the Complaint, filed in this action, CPSC Docket 21-1.

16. “Answer” shall mean the Answer and Defenses, and any amendments to the Answer and Defenses, of Respondent, filed in this action.

17. “Interrogatories” shall mean Complaint Counsel’s First Set of Interrogatories to Respondent, served upon the Respondent.
18. “Requests for Production” shall mean Complaint Counsel’s First Set of Requests for Production of Documents and Things to Respondent, served upon the Respondent.
19. “Hearing” shall mean any hearing conducted in this matter pursuant to 16 C.F.R. § 1025.41 *et seq.*
20. “Test” shall mean any examination, inspection, analysis, results, or other assessment of the Elevators, or any components of the Elevators.
21. “Affiliate” shall mean, with respect to any Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with, such Person.
22. “Installation Materials” shall mean materials disseminated by Respondent to assist in the installation of the Elevators, including, but not limited to: engineering drawings and instructional materials, including installation, design, and planning guides.
23. “Hazardous Space” shall mean the space between the hoistway door and the elevator car door or gate, in which children can become entrapped.
24. “ASME” shall mean The American Society of Mechanical Engineers, of New York, NY, including all past and present officers, directors, representatives, agents, and employees, all other past and present persons acting or purporting to act on ASME’s behalf.

INSTRUCTIONS

A. Each interrogatory and every subpart thereof shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated. If objection is made to only part of an interrogatory, that part shall be specified. An

answer should not be supplied solely by reference to the answer to another interrogatory or subpart unless the answer is completely identical to the answer to which reference is made.

B. The answers shall be signed by the Person giving them, and the objections, if any, shall be signed by the Person or attorney making them. When a complete answer to a particular interrogatory is not possible after exercising the required diligence, the interrogatory shall be answered to the extent possible and a statement shall be made indicating the reasons only a partial answer is given, stating the information or knowledge you have concerning the unanswered portion or unproduced Documents, and describing your efforts to secure the unknown information or unproduced Documents.

C. Identify each Person who assisted or participated in preparing and/or supplying any of the information given in a response to or relied upon in preparing the answers to these interrogatories.

D. If precise information cannot be supplied in response to any interrogatory, an estimate (identified as such) and an explanation of the basis for the estimate shall be supplied.

E. The words “and” and “or” shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The word “including” shall be construed to mean without limitation. The words “any” and “all” shall be construed so as to make the request inclusive rather than exclusive.

F. The use of the past tense shall include the present tense, and the use of the present tense shall include the past tense, so as to make all definitions and discovery requests inclusive rather than exclusive.

G. The singular shall include the plural, and vice versa.

H. These interrogatories shall be read, interpreted, and answered in accordance with these instructions and the definitions set forth herein. If the meaning of any word or phrase used herein is unclear, Respondent's attorneys are requested to contact Complaint Counsel to resolve any ambiguity. If any interrogatory cannot be answered in full after exercising the required diligence, it shall be answered to the extent possible with a full statement of all efforts to fully answer and of all reasons a full answer cannot be made.

I. If Respondent claims that the attorney-client privilege or any other privilege is applicable to any Document sought by these discovery requests, specify the privilege claimed and the factual basis you contend supports the assertion of the privilege, and identify the Document as follows:

- i) State the date, nature, and subject matter of the Document;
- ii) Identify each author of the Document;
- iii) Identify each preparer of the Document;
- iv) Identify each Person who is an addressee or an intended recipient of the Document;
- v) Identify each Person from whom the Document was received;
- vi) State the present location of the Document and all copies thereof;
- vii) Identify each Person who has or ever had possession, custody, or control of the Document or any copy thereof;
- viii) State the number of pages, attachments, appendices, and exhibits; and
- ix) Provide all further information concerning the Document and the circumstances upon which the claim of privilege is asserted.

J. For any Communication with respect to which a privilege is asserted, identify the Persons or entities among whom the Communication took place, the date of the Communication, and the subject.

K. In the event that any Document sought by these discovery requests has been destroyed, discarded, or otherwise disposed of, that Document is to be identified as completely as possible, by including, without limitation, the following information:

- i) Each author of the Document;
- ii) Each preparer of the Document;
- iii) Each addressee or intended recipient of the Document;
- iv) Each Person who received the Document;
- v) The date of the Document;
- vi) The subject matter of the Document;
- vii) The reason for disposal of the Document;
- viii) Each Person who authorized disposal of the Document;
- ix) Each Person who disposed of the Document.

L. If any Document was, but is no longer, in your possession, custody, or control, provide the following information:

- i) State the disposition of the Document;
- ii) State the date such disposition was made;
- iii) Identify the present custodian of the Document, or, if the Document no longer exists, so state;
- iv) Identify the Person(s) who made the decision regarding the disposition of the Document; and

- v) State the reasons for the disposition and describe the Document and the contents of the Document, including the title, author, position or title of the author, addressee, position or title of the addressee, whether indicated or blind copies were made, date, subject matter, number of pages, attachments or appendices, and all Persons to whom the Document was distributed, shown, or explained.

M. Pursuant to 16 C.F.R. § 1025.31, the Respondent is under a continuing duty to supplement its responses to these discovery requests without further request from Complaint Counsel. Where the Respondent has responded to a discovery request with a response that was complete when made, Respondent is under a duty to supplement that response to include information later obtained.

INTERROGATORIES

INTERROGATORY NO. 1

Identify all Persons who assisted in the preparation of, or who provided information or Documents used in the preparation of, the responses to these Interrogatories.

INTERROGATORY NO. 2

Identify each Person who possesses, or who you believe possesses, any knowledge relating to the Hazardous Space or the child entrapment hazard posed by the Elevators, and describe with specificity the knowledge of each Person identified.

INTERROGATORY NO. 3

Describe in detail the process by which you collected documents and information in response to requests by CPSC staff in matter nos. PI170085 and CA210007, including, but not limited to, what sources, libraries, or repositories you searched or accessed; whether hard-copy

or electronic; whether immediately accessible or in storage; and the results of those searches. If any potential sources, libraries or repositories of documents or information which may contain responsive information were not searched, provide a detailed explanation of why it was not searched.

INTERROGATORY NO. 4

Identify each Person whom you expect to call as a witness at the trial or Hearing of this matter, and for each witness, state or provide the following information:

- a) The subject matter on which the witness is expected to testify; and
- b) The substance of the facts to which the witness is expected to testify.

INTERROGATORY NO. 5

Identify each Person whom you expect to call as an expert witness at the trial or Hearing of this matter, and for each such expert witness, state or provide the following information:

- a) The subject matter on which the expert is expected to testify;
- b) The substance of the facts and opinions to which the expert is expected to testify; and
- c) A summary of the grounds for each opinion.

INTERROGATORY NO. 6

Identify each Person who participated in the design, development, and manufacture of the Elevators, including any Person who participated in developing the Installation Materials. For each Person, indicate the time period of the work and describe the Person's responsibilities, role and contribution.

INTERROGATORY NO. 7

Identify all Installation Materials for the Elevators manufactured and/or distributed by Respondent that contain specific instructions on how to measure the space between the hoistway door and the elevator car door or gate, and state with particularity where the Installation Materials contain those instructions.

INTERROGATORY NO. 8

Identify all Installation Materials for the Elevators manufactured and/or distributed by Respondent that expressly contain instructions to measure from the hoistway door to the furthest point on the elevator car door or gate.

INTERROGATORY NO. 9

Identify all Installation Materials for the Elevators manufactured and/or distributed by Respondent installed with accordion doors, and specify the date the accordion doors came into use as well as the reason why their use was instituted. Further identify any changes to the Installation Materials after Respondent began using accordion doors.

INTERROGATORY NO. 10

Identify all Installation Materials for the Elevators manufactured and/or distributed by Respondent that expressly state that measurements between the hoistway door and elevator car door or gate are related to safety.

INTERROGATORY NO. 11

Identify all Installation Materials for the Elevators manufactured and/or distributed by Respondent that expressly require the use of or provide a measurement tool to ensure precise measurements between the hoistway door and the elevator car door or gate.

INTERROGATORY NO. 12

Identify all Installation Materials for the Elevators manufactured and/or distributed by Respondent that expressly contain an elevator car door rigidity requirement to account for deflection of the elevator car door or gate.

INTERROGATORY NO. 13

Identify all Installation Materials for the Elevators manufactured and/or distributed by Respondent that expressly require use of available safety features to mitigate against the child entrapment hazard posed by the Elevators or the Hazardous Space.

INTERROGATORY NO. 14

Identify each Person involved in creating, designing, and manufacturing any and all versions or iterations of the packaging, labels, warnings, and instructions that accompanied the Elevators, including any Person with knowledge of changes made at any time to the packaging, labels, warnings, and instructions that accompanied the Elevators. For each Person, indicate the time period of the work, and describe the person's responsibilities, role, and contribution.

INTERROGATORY NO. 15

Identify each Person who participated in the marketing, advertising, and/or promotion of the Elevators, in any form or through any media. For each Person, indicate the time period of the work, and describe the Person's responsibilities, role, and contribution.

INTERROGATORY NO. 16

Identify any Documents and Communications, whether formal or informal, including opinions, assessments, studies, reports, publications, written evaluations, or materials of any kind, which discuss or refer to the effectiveness of any labels, warnings, instructions, or videos,

including warnings related to the Hazardous Space or the child entrapment hazard posed by the Elevators.

INTERROGATORY NO. 17

Identify any studies, reports, publications, written evaluations, or materials of any kind, that discuss or refer to the Installation Materials and the Hazardous Space or the child entrapment hazard posed by the Elevators.

INTERROGATORY NO. 18

Identify any studies, reports, publications, written evaluations, or materials of any kind, that evaluate the risks, hazards, or safety of the design of the Elevators that Respondent relied on to make any changes to its Installation Materials, or relied on to not make any changes.

INTERROGATORY NO. 19

Identify all Tests performed on the Elevators related to the Hazardous Space, the child entrapment hazard posed by the Elevators, or any mandatory or voluntary safety standard. As part of your response for each Test:

- a) Identify the specific product or products tested;
- b) Describe each Test including the date of the Test and the standard or protocols used;
- c) Identify all Persons who participated in setting up and conducting the Test;
- d) Describe all information, directions, and requests that you or any other thyssenkrupp employee provided to the Person conducting the Test;
- e) Describe and explain the results of the Test, including all observations and conclusions;

- f) Identify all Persons who participated in evaluating the test results; and
- g) Describe any changes to the Elevators following each Test.

INTERROGATORY NO. 20

Identify each claim, warranty claim, complaint, inquiry, or reports of incidents, injuries, or fatalities related to the Hazardous Space or the child entrapment hazard posed by the Elevators. For each claim, warranty claim, complaint, inquiry, or report of incidents, injuries, or fatalities:

- a) Provide the name, address, telephone number, email address, and any other identifying information of the claimant;
- b) Identify the date Respondent first received verbal or written information concerning the claim, warranty claim, complaint, inquiry, or report;
- c) State the information Respondent received in the claim, warranty claim, complaint, inquiry, or report and how you received it;
- d) State whether you or any other Person acting on behalf of Respondent investigated or took other responsive steps after the initial claim, warranty claim, complaint, inquiry, or report, and if so, state the date and description of each investigation or other step;
- e) State whether you or any other Person acting on behalf of Respondent provided any refunds, replacement parts, replacement Elevators, or other repair or remedy, and if so, separately state the date and description of what was provided;
- f) State whether medical attention was sought or received by any Person involved in any claim, warranty claim, complaint, inquiry, or reports;

- g) State the age of any Person involved in the incident;
- h) Provide all information on the Elevator involved, including but not limited to, model and year of manufacture;
- i) State the date the product involved was purchased;
- j) State where the product involved was purchased and who purchased it;
- k) Describe the type of packaging and warnings on the involved product;
- l) Describe the Installation Materials for each Elevator involved in an incident as they pertain to the measurement between the Hoistway Door and the Elevator Door; and,
- m) State whether any claims were submitted to your insurer. If so, identify the insurer; state whether the insurer affirmed that coverage existed for the claim; and state whether the insurer paid covered the claim and if so, the sum paid.

INTERROGATORY NO. 21

Separately state, by model and by year, the number of claims, warranty claims, complaints, inquiries, or reports of incidents, injuries, or fatalities related to the Elevators and the Hazardous Space or the child entrapment hazard posed by the Elevators.

INTERROGATORY NO. 22

Identify each Person with knowledge of any claims, lawsuits, or alternative dispute resolution proceedings related to the Elevators and the Hazardous Space or the child entrapment hazard posed by the Elevators.

INTERROGATORY NO. 23

Identify any changes or modifications to the Elevators and/or the Installation Materials in response to or as a result of any claims, complaints, inquiries, reports or incidents, injuries or fatalities related to the Elevators and the Hazardous Space or the child entrapment hazard posed by the Elevators.

INTERROGATORY NO. 24

Identify any changes or modifications to the Elevators and/or the Installation Materials related to the Elevators and the Hazardous Space or the child entrapment hazard posed by the Elevators.

INTERROGATORY NO. 25

Identify the complete corporate organization of Respondent from founding to the present, including, but not limited to, a detailed listing of its places of incorporation and principal places of business, its officers and directors. This request includes, but is not limited to, related entities, such as former and current parents and subsidiaries, as well as any entities acquired by or merged with Respondent.

INTERROGATORY NO. 26

Identify all Persons from any corporate parent or related entity of Respondent that exercised any control, took any corporate action, performed work, or otherwise communicated on behalf of the Respondent.

INTERROGATORY NO. 27

Identify all Persons from Respondent or any corporate parent or related entity of Respondent that exercised any control, took any corporate action, performed work, or are

otherwise responsible for the homeSAFE campaign launched in 2014 and the thyssenkrupp Home Elevator Safety Program, www.homelevator-safety.com.

INTERROGATORY NO. 28

Identify all transfers of funds from any corporate parent or related entity of Respondent to Respondent or any entity acting on behalf of Respondent, including funds for the homeSAFE campaign launched in 2014 and the thyssenkrupp Home Elevator Safety Program, www.homelevator-safety.com.

INTERROGATORY NO. 29

Identify all consumers who have participated in the homeSAFE campaign launched in 2014 and separately for the thyssenkrupp Home Elevator Safety Program, www.homelevator-safety.com and state the number of inspections and repairs conducted, and whether a space guard was installed between 2014 and the date of your response.

INTERROGATORY NO. 30

Identify the cost of any safety devices for the Elevators, including space guards that were distributed as part of and separate from the homeSAFE campaign, as well as the cost of inspections of the Elevators to determine whether safety devices were necessary to reduce or eliminate the Hazardous Space or the child entrapment hazard posed by the Elevators.

INTERROGATORY NO. 31

Identify all consumer responses to the homeSAFE campaign launched in 2014 and separately for the thyssenkrupp Home Elevator Safety Program, www.homelevator-safety.com

including, but not limited to, any telephonic inquiries, any written correspondence, electronic correspondence, website hits, and social media interactions.

INTERROGATORY NO. 32

Identify all Persons who were involved in the Respondent's decision to stop the homeSAFE campaign and provide a detailed explanation of why that decision was made.

INTERROGATORY NO. 33

Separately state, by model and by year, the total number of Elevators (1) manufactured by Respondent and (2) distributed in U.S. commerce.

INTERROGATORY NO. 34

Identify the number of Elevators that were installed with Installation Materials that permitted a Hazardous Space greater than four (4) inches.

INTERROGATORY NO. 35

Identify the number of Elevators that were installed with Installation Materials that did not recommend a measurement from the hoistway door to the valley, or furthest point, of an accordion door.

INTERROGATORY NO. 36

Identify the approximate or estimated price for all Elevator models and for each year the Elevators were distributed in U.S. commerce.

INTERROGATORY NO. 37

Identify each Person who has been deposed in any matter regarding the Hazardous Space or the child entrapment hazard posed by the Elevators and provide the date of the deposition and caption of the matter.

INTERROGATORY NO. 38

Identify each Person involved with or with knowledge of Respondent's involvement in the ASME A17 Residence Elevator Committee as it relates to the Hazardous Space or the child entrapment hazard posed by the Elevators. For each Person, indicate the time period of the work, and describe the Person's responsibilities, role, and contribution.

INTERROGATORY NO. 39

Identify and describe any information, including any Documents or Communications, that Respondent provided to ASME or any ASME committee or subcommittee relating to the Elevators and the Hazardous Space or the child entrapment hazard posed by the Elevators.

INTERROGATORY NO. 40

Identify and describe any information, including any Documents or Communications, that ASME or any ASME committee or subcommittee provided to Respondent relating to the Elevators and the Hazardous Space or the child entrapment hazard posed by the Elevators.

Dated this 30th day of July, 2021



Mary B. Murphy, Director
Gregory M. Reyes, Trial Attorney
Michael J. Rogal, Trial Attorney

Division of Enforcement and Litigation
Office of Compliance and Field Operations
U.S. Consumer Product Safety Commission
Bethesda, MD 20814
Tel: (301) 504-7809

Complaint Counsel for
U.S. Consumer Product Safety Commission

CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2021, I served Complaint Counsel's First Set of Interrogatories to Respondent upon all parties and participants of record in these proceedings as follows:

An original and three copies by U.S. mail, postage prepaid, and one copy by email, to the Secretary:

Alberta E. Mills
Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
Email: AMills@cpsc.gov

One copy by U.S. mail, postage prepaid, to the Presiding Officer:

Presiding Officer
c/o Alberta E. Mills
Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
Email: AMills@cpsc.gov

By email to Counsel for Respondent:

Sheila A. Millar
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Michael J. Rogal, Trial Attorney
Complaint Counsel for
U.S. Consumer Product Safety Commission