

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)	
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)	
LEACHCO, INC.)	CPSC DOCKET NO. 22-1
)	
)	Hon. Michael G. Young
)	Presiding Officer
Respondent.)	

LEACHCO, INC.’S MOTION TO COMPEL DISCOVERY

Pursuant to 16 C.F.R. §§ 1025.23, 1025.31(c), (i), and 1025.36, Respondent Leachco, Inc. (“Leachco”) respectfully moves this Court to compel discovery and attaches its Memorandum in Support of Its Motion to Compel Discovery, which is incorporated herein by reference. For the reasons detailed in the attached Memorandum, Complaint Counsel have failed to respond adequately to Leachco’s Interrogatories (Dkt. No. 8) and Requests for Production (Dkt. No. 9).

As detailed in the attached Memorandum, Leachco is entitled to obtain this discovery in support of its defense to the administrative complaint filed in this litigation. The discovery requested is relevant to this proceeding and within the scope of discovery outlined in 16 C.F.R. § 1025.31(c). Leachco attempted to resolve this motion without judicial intervention through correspondence and meet and confer teleconferences, but the parties were unable to come to an agreement.

Leachco respectfully requests that the Presiding Officer enter an order pursuant to 16 C.F.R. § 1025.36 compelling Complaint Counsel to produce the following documents and information, within 10 days of entry of the Presiding Officer's order:

1. Documents and information concerning tests and evaluations of the Podster conducted by and relied upon by the Agency's fact witnesses to determine the Podster was defective (responsive to RFPs 7, 16, 32, 33, 34, 35, 41, 46, 47, 48, 49).
2. Documents and information concerning tests and evaluations of other infant lounger products conducted by and relied upon by the fact witnesses who determined the Podster was defective (responsive to RFPs 6, 28, 29, 30, 33, 35, 36, 37, 38, 39, 40, 42, 44, 49, 51; ROGs 9, 21, 23, 25, 27, 28, 29, 33, 34).
3. Information regarding warnings contentions and alternative design (responsive to ROGs 4, 5).
4. The CPSC's communications regarding the Podster, including communications with third parties and internal communications (responsive to RFPs 8, 9, 10, 11, 14, 17, 18, 38, 45; ROGs 37, 38).
5. Withdrawal of overbroad objections and confirmation that complete responses were provided.
6. Unredacted copies of all documents provided.

Additionally, Leachco respectfully requests that the Presiding Officer enter an order pursuant to 16 C.F.R. § 1025.36 compelling Complaint Counsel to produce, within two days of the Presiding Officer's Order, a privilege log providing information sufficient to determine the types of documents withheld and to evaluate the Agency's claims of privilege to support withholding those documents.

Leachco also has included with this Motion a proposed Order compelling Complaint Counsel to produce the requested discovery.

Dated: August 19, 2022

Respectfully Submitted,

/s/ Bettina J. Strauss

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[PROPOSED] ORDER ON LEACHCO, INC.'S MOTION TO COMPEL DISCOVERY

This matter, having come before the Presiding Officer on Respondent Leachco Inc.'s Motion to Compel Discovery dated August 19, 2022, it is hereby ORDERED that the Motion is GRANTED.

It shall be further ORDERED:

Within ten (10) days of this Order, Complaint Counsel shall produce a full and complete production of all responsive documents and things concerning the following:

1. Documents and information concerning tests and evaluations of the Podster conducted by and relied upon by the Agency's fact witnesses to determine the Podster was defective (responsive to RFPs 7, 16, 32, 33, 34, 35, 41, 46, 47, 48, 49).
2. Documents and information concerning tests and evaluations of other infant lounger products conducted by and relied upon by the fact witnesses who determined the Podster was defective (responsive to RFPs 6, 28, 29, 30, 33, 35, 36, 37, 38, 39, 40, 42, 44, 49, 51; ROGs 9, 21, 23, 25, 27, 28, 29, 33, 34).
3. Information regarding warnings contentions and alternative design (responsive to ROGs 4, 5).
4. The CPSC's communications regarding the Podster, including communications with third parties and internal communications (responsive to RFPs 8, 9, 10, 11, 14, 17, 18, 38, 45; ROGs 37, 38).

5. Withdrawal of overbroad objections and confirmation that complete responses were provided.
6. Unredacted copies of all documents provided.

Additionally, within two (2) days of this order, Complaint Counsel shall produce a full and complete privilege log providing information sufficient to determine the types of documents withheld and to evaluate the Agency's claims of privilege to support withholding those documents.

Done and dated _____, 2022

Michael G. Young
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that on August 19, 2022, a true and correct copy of the foregoing
Leachco Inc.'s Motion to Compel was served by e-mail on the following:

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/s/ Bettina J. Strauss
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