

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)	
)	
)	
)	
TK ACCESS SOLUTIONS CORP. f/k/a)	CPSC DOCKET NO.: 21-1
THYSSENKRUPP ACCESS CORP.)	
)	
)	
Respondent.)	
)	

**COMPLAINT COUNSEL’S MOTION TO COMPEL DISCOVERY
AND MEMORANDUM IN SUPPORT**

Pursuant to 16 C.F.R. §§ 1025.23, 1025.31(c), (i), 1025.32, 1025.33, 1025.34 and 1025.36 and this Court’s November 30, 2021 and February 18, 2022 Orders, Complaint Counsel respectfully moves this Court to compel discovery and attaches its Memorandum in Support of its Motion to Compel Discovery.¹ For the reasons detailed in the attached Memorandum, Respondent TK Access Solutions Corp. f/k/a thyssenkrupp Access Corp. (“Respondent”) has failed to adequately respond to Complaint Counsel’s discovery requests concerning the corporate and financial relationships between Respondent and other affiliated entities, which either own or exercise control over Respondent. Among other things, Respondent must produce all the underlying financial documentation regarding the funding Respondent claims it possesses to satisfy any expenses to remediate its defective residential elevators, as well as any corporate governance, shareholder and other inter-corporate documents relating to the organizational charts produced by Respondent.

¹ Complaint Counsel is also filing a Motion for Extension of Time to Submit Additional Briefing on the Motion to Amend Complaint concurrently with this Motion to Compel Discovery. This is to permit Complaint Counsel time to review any discovery that would be produced if the Court issues an Order granting the Motion to Compel Discovery prior to the submission of the supplemental briefing directed by the Court’s February 18, 2022 Order.

As detailed in the attached Memorandum, Complaint Counsel is entitled to obtain discovery on these subjects in support of its pending Motion to Amend Complaint to ensure all appropriate relief can be ordered if a Substantial Product Hazard is found and to ensure any corrective action ordered in this matter is funded and effectual. The discovery requested is relevant and within the scope of discovery outlined in 16 C.F.R. § 1025.31(c). Complaint Counsel attempted to resolve this motion without judicial intervention through correspondence and several meet and confers; however, the parties were unable to come to an agreement.

Accordingly, Complaint Counsel respectfully requests that the Presiding Officer issue an Order compelling Respondent to, within ten (10) days of the date of such Order, make a full and complete production of all documents and information, including, but not limited to all of the underlying financial documentation regarding the funding Respondent claims it possesses to satisfy any expenses to remediate its defective residential elevators, as well as any corporate governance, shareholder and other inter-corporate documents relating to the organizational charts produced by Respondent, as well as all other documents and information responsive to:

1. Dkt. No. 14, Complaint Counsel's First Set of Interrogatories to Respondent, Nos. 25–26 and 28;
2. Dkt. No. 15, Complaint Counsel's First Set of Requests for Production to Respondent, Nos. 7–9;
3. Dkt. No. 69, Complaint Counsel's First Set of Requests for Admission to Respondent, Nos. 56–60; and,
4. Dkt. No. 70, Complaint Counsel's Second Set of Interrogatories to Respondent, Nos. 47–51, 56–57.

A proposed Order compelling Respondent to produce the requested discovery and a Memorandum in Support of Complaint Counsel's Motion to Compel Discovery is attached hereto.

Dated this 5th day of April, 2022

Respectfully submitted,

Michael J. Rogal

Gregory M. Reyes, Supervisory Attorney
Michael J. Rogal, Trial Attorney
Frederick C. Millett, Trial Attorney
Joseph E. Kessler, Trial Attorney
Nicholas J. Linn, 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

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)	
)	
)	
)	
TK ACCESS SOLUTIONS CORP. f/k/a)	CPSC DOCKET NO.: 21-1
THYSSENKRUPP ACCESS CORP.)	
)	
Respondent.)	
)	

**[PROPOSED] ORDER ON COMPLAINT COUNSEL’S
MOTION TO COMPEL DISCOVERY**

This matter, having come before the Presiding Officer on Complaint Counsel’s Motion to Compel Discovery dated April 5, 2022, it is hereby ORDERED that the Motion is GRANTED.

It shall be further ORDERED:

Within ten (10) days of this Order, Respondent shall produce a full and complete production of all documents and information including:

1. All of the underlying financial documentation regarding the funding Respondent claims it possesses to satisfy any expenses to remediate its residential elevators;
2. All corporate governance, shareholder and other inter-corporate documents relating to the organizational charts produced by Respondent;
3. Complete and accurate responses to Dkt. No. 14, Complaint Counsel’s First Set of Interrogatories to Respondent, Nos. 25–26 and 28;
4. All relevant documents and things concerning Dkt. No. 15, Complaint Counsel’s First Set of Requests for Production to Respondent, Nos. 7–9;

5. Complete and accurate responses to Dkt. No. 69, Complaint Counsel's First Set of Requests for Admission to Respondent, Nos. 56–60; and,
6. Complete and accurate responses to Dkt. No. 70, Complaint Counsel's Second Set of Interrogatories to Respondent, Nos. 47–51, 56–57.

Done and dated April ____ 2022

Arlington, VA

Mary F. Withum
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2022, I served Complaint Counsel's Motion to Compel Discovery and Memorandum in Support of Complaint Counsel's Motion to Compel Discovery as follows:

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

By email to the Presiding Officer:

Hon. Mary F. Withum, Administrative Law Judge
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
Steven Michael Gentine
Eric P. Gotting
Taylor D. Johnson
Anushka N. Rahman
Keller and Heckman LLP
1001 G Street, NW, Suite 500 West
Washington, DC 20001

Email: millar@khlaw.com
gentine@khlaw.com
gotting@khlaw.com
johnsont@khlaw.com
rahman@khlaw.com

Michael J. Garnier
Garnier & Garnier, P.C.
2579 John Milton Drive
Suite 200

Herndon, VA 20171

Email: mjgarnier@garnierlaw.com

Meredith M. Causey
Quattlebaum, Grooms & Tull PLLC
111 Center Street
Suite 1900
Little Rock, AR 72201

Email: mcausey@qgtlaw.com

Michael J. Rogal

Michael J. Rogal
Complaint Counsel for
U.S. Consumer Product Safety Commission