

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

_____)	
In the Matter of)	
)	
)	
BRITAX CHILD SAFETY, INC.)	CPSC DOCKET NO.: 18-1
)	
)	
)	
Respondent.)	
_____)	

**COMPLAINT COUNSEL'S
FIRST SET OF REQUESTS FOR ADMISSION TO RESPONDENT**

Pursuant to 16 C.F.R. § 1025.34, Complaint Counsel hereby requests that Respondent Britax Child Safety, Inc., serve upon Complaint Counsel, within thirty (30) days, written answers to each of the Requests for Admissions set forth below.

DEFINITIONS

1. "You," "your," "Respondent," and "Britax," 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 without limitation, B.O.B. Trailers, Inc.

2. "B.O.B." means B.O.B. Trailers, Inc. (including if previously known under different names), including all past and present officers, directors, representatives,

agents, and employees of B.O.B. Trailers, Inc., all other past and present persons acting or purporting to act on B.O.B. Trailers, Inc.'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 B.O.B. Trailers, Inc.), and all past and present parents, subsidiaries, divisions, or branches of B.O.B. Trailers, Inc.

3. "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.

4. "Documents" mean the original and any nonidentical copy of any written, printed, reproduced, graphic, photographic, electronic, audio, visual, or computer records, however produced or reproduced, of any kind or description, whether prepared by you or by any other Person, that is in your possession, custody, or control, including, but not limited to, the following: electronic mail; electronically stored information; papers; notes; books; letters; telecopies; facsimiles; photographs; motion pictures; videotapes; video disks; audio recordings; drawings; schematics; manuals; blueprints; intra- and interoffice communications; transcripts; minutes; reports; audio recordings; affidavits; statements; pleadings; summaries; indices; analyses; evaluations; agreements; calendars; appointment books; diaries; telephone logs; tabulations; charts; graphs; data sheets; computer tapes, disks, cards, printouts, and programs; microfilm; microfiche; social media communications, including, but not limited to, information posted on or transmitted through social networking platforms (e.g., LinkedIn or Facebook), digital file-sharing services (e.g., Flickr), blogs and microblogs (e.g., Twitter); instant messages, customer

reviews and/or comments posted on the your website(s) relating to the Strollers; and all drafts, alterations, and/or amendments of or to any of the foregoing. The term includes all drafts of a document and all copies that differ in any respect from the original, including any notation, underlining, marking, or information not on the original. The term also includes information stored in or accessible through computer or other information retrieval systems (including computer archives or backup systems), together with instructions and all other materials necessary to use or interpret such data compilations.

5. “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.

6. “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 Respondents.

7. “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 Respondents.

8. “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.

9. “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.

10. “Communication” 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.

11. “Strollers” means single and double occupant 3-wheeled B.O.B. jogging strollers designed with a dropout fork assembly and quick release mechanism that are listed in the Complaint in CPSC Docket 18-1 filed on February 16, 2018, including without limitation: the Revolution, Sport Utility Stroller, Ironman, SUS Duallie, Ironman Duallie, Revolution SE, Revolution CE, Stroller Strides, Revolution SE Duallie, Stroller Strides Duallie, Revolution Pro, Revolution Pro Duallie, Revolution Flex, Revolution SE Plus, Revolution Flex Duallie, and Revolution SE Duallie Plus model strollers.

12. “QR Mechanism” means the removable quick release mechanism that is used to secure or remove the removable front wheel of the Strollers.

13. “Complaint” shall mean the Complaint, and any amendments to the Complaint, filed in this action, CPSC Docket 18-1.

14. “Answer” shall mean the Answer and Defenses, including any amendments to the Answer and Defenses, of Respondent Britax Child Safety, Inc., filed in this action.

15. “Interrogatories” means Complaint Counsel’s First Set of Interrogatories to Respondent Britax Child Safety, Inc., served upon the Respondent.

16. “Requests for Production” means Complaint Counsel’s First Set of Requests for Production of Documents and Things to Respondent Britax Child Safety, Inc., served upon the Respondent.

17. “Retailer” shall mean any Person who sold the Strollers to consumers in the United States.

18. “ASTM” shall mean ASTM International, formerly known as the American Society for Testing and Materials, of West Conshohocken, PA, including all past and present officers, directors, representatives, agents, and employees, all other past and present persons acting or purporting to act on ASTM’s behalf.

INSTRUCTIONS

A. The answers to these requests for admissions shall specifically admit or deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission.

B. When good faith requires that a party qualify an answer or deny only a part of the matter to which an admission is requested, the party shall specify the portion that is true and qualify or deny the remainder.

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 requests for admissions.

D. 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.

E. 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.

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

G. These requests for admissions 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, the Respondents’ attorneys are requested to contact Complaint Counsel for the purpose of resolving any ambiguity. If any request 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.

H. Pursuant to 16 C.F.R. § 1025.31, the Respondents are under a continuing duty to supplement their responses to these discovery requests without further request

from Complaint Counsel. A Respondent who has responded to a discovery request with a response that was complete when made is under a duty to supplement that response to include information later obtained.

REQUESTS FOR ADMISSIONS

REQUEST NO. 1

Admit that the document attached hereto as Attachment A is authentic within the meaning of Federal Rule of Evidence 901.

REQUEST NO. 2

Admit that the document attached hereto as Attachment A is self-authenticated within the meaning of Federal Rule of Evidence 902.

REQUEST NO. 3

Admit that all of B.O.B.'s liabilities and assets of every nature became those of Britax when B.O.B. was merged into Britax in December 2011.

REQUEST NO. 4

Admit that the Strollers were distributed in commerce by B.O.B. from approximately 1997 until December 2011, as the term "distribution in commerce" is defined in the Consumer Product Safety Act, 15 U.S.C. § 2052(a)(8).

REQUEST NO. 5

Admit that B.O.B. was a "manufacturer" of the Strollers as that term is defined in the Consumer Product Safety Act, 15 U.S.C. § 2052(a)(11).

REQUEST NO. 6

Admit that the Strollers were distributed in commerce by Britax from approximately December 2011 until at least September 2015, as the term "distribution in

commerce” is defined in the Consumer Product Safety Act, 15 U.S.C. § 2052(a)(8).

REQUEST NO. 7

Admit that Britax began importing the Strollers in approximately December 2011.

REQUEST NO. 8

Admit that Britax is a “manufacturer” of the Strollers as that term is defined in the Consumer Product Safety Act, 15 U.S.C. § 2052(a)(11).

REQUEST NO. 9

Admit that the Strollers imported by B.O.B. and Britax between approximately 1997 to September 2015 included substantially similar QR Mechanisms and dropout fork assemblies.

REQUEST NO. 10

Admit that the front wheel of the Strollers contains a QR Mechanism designed to secure the front wheel to the dropout fork assembly.

REQUEST NO. 11

Admit that some consumers may not use the Strollers’ QR Mechanism correctly.

REQUEST NO. 12

Admit that some consumers may not tighten the QR Mechanism with the force necessary to secure the front wheel to the front fork.

REQUEST NO. 13

Admit that some consumers may tighten the QR Mechanism as if it is a wing nut.

REQUEST NO. 14

Admit that it is foreseeable that some consumers who have read the Strollers’ warnings and instructions may not use the QR Mechanism correctly.

REQUEST NO. 15

Admit that incorrect tightening of the QR Mechanism can cause the front wheel of a Stroller to detach during use.

REQUEST NO. 16

Admit that beginning in September 2015, Britax began importing and distributing jogging strollers that eliminated the dropout fork assembly and were designed with a “thru-axle” fork assembly and a modified quick release mechanism and skewer.

REQUEST NO. 17

Admit that Britax has received fewer incident and injury reports related to front wheel detachments involving jogging strollers designed with a “thru-axle” fork assembly than on Strollers designed with a dropout fork assembly.

REQUEST NO. 18

Admit that when the front wheel of the Strollers detaches during use, the Strollers’ front fork can plant or dig into the ground, causing the Strollers to come to an abrupt stop and tip over.

REQUEST NO. 19

Admit that Strollers with incorrectly installed QR Mechanisms pose a risk of front wheel detachment, which can result in a risk of injury to children.

REQUEST NO. 20

Admit that Strollers with incorrectly installed QR Mechanisms pose a risk of front wheel detachment, which can result in a risk of injury to adults.

REQUEST NO. 21

Admit that injuries to child occupants or adult users can occur when the front

wheel of a Stroller detaches during use.

REQUEST NO. 22

Admit that serious injuries, as that term is used in 16 C.F.R. § 1115.6(c), to children or adults can occur when the front wheel of a Stroller detaches during use.

REQUEST NO. 23

Admit that injuries to child occupants or adult users are likely to occur when the front wheel of a Stroller detaches during use.

REQUEST NO. 24

Admit that Strollers manufactured between approximately 1997 to September 2015 included either horizontal or vertical dropout fork assemblies into which the QR Mechanism is seated.

REQUEST NO. 25

Admit that the QR Mechanism does not include any visual indicator that confirms that the QR Mechanism has been correctly installed.

REQUEST NO. 26

Admit that the population group exposed to front wheel detachments involving the Strollers includes children.

REQUEST NO. 27

Admit that the population group exposed to front wheel detachments involving the Strollers includes adults.

REQUEST NO. 28

Admit that from approximately December 2011 until September 2015, Britax imported or distributed approximately 493,000 Strollers in U.S. commerce.

REQUEST NO. 29

Admit that injuries to children have occurred when the front wheel of the Strollers detached during use.

REQUEST NO. 30

Admit that injuries to adults have occurred when the front wheel of the Strollers detached during use.

REQUEST NO. 31

Admit that injuries, including serious injuries, as that term is used in 16 C.F.R. § 1115.6(c), to children have occurred when the front wheel of the Strollers detached during use.

REQUEST NO. 32

Admit that injuries, including serious injuries, as that term is used in 16 C.F.R. § 1115.6(c), to adults have occurred when the front wheel of the Strollers detached during use.

REQUEST NO. 33

Admit that prior to December 2011, B.O.B. marketed and distributed the Strollers primarily to bicycle specialty shops.

REQUEST NO. 34

Admit that after acquiring B.O.B., Britax began marketing and distributing the Strollers through mass Retailers, including Amazon, Babies "R" Us, REI, Target, and Buy Buy Baby.

REQUEST NO. 35

Admit that when Britax began marketing and distributing the Strollers at mass

Retailers, the number of reports of front wheel detachments per year increased.

REQUEST NO. 36

Admit that the instruction manual for the Strollers states: “Using your stroller with an improperly adjusted wheel quick release lever can allow the wheel to vibrate, wobble or become detached from the stroller. This can result in serious injury or death.”

REQUEST NO. 37

Admit that the instruction manual for the Strollers states: “Your stroller fork utilizes secondary wheel retention devices designed to help keep the wheel from disengaging from the fork if the quick release is incorrectly adjusted and tightened.”

REQUEST NO. 38

Admit that the secondary retention device can fail to hold the front wheel when the QR Mechanism has been incorrectly engaged.

REQUEST NO. 39

Admit that the instruction manual for the Strollers states: “The tension adjusting nut only needs minor adjustments to provide the correct clamping force, less than a half turn can mean the difference between safe and unsafe clamping force.”

REQUEST NO. 40

Admit that in or about March 2013, Britax published an instructional video regarding use and maintenance of the QR Mechanism.

REQUEST NO. 41

Admit that in or about June 2013, Britax added a hang tag warning label to the QR Mechanism for every Stroller shipped thereafter.

REQUEST NO. 42

Admit that in or about July 2014, Britax added a link to the March 2013 video into the hang tag warning by adding a scanable code.

REQUEST NO. 43

Admit that after March 2013, Britax continued to receive incidents of front wheel detachments involving the Strollers.

REQUEST NO. 44

Admit that after June 2013, Britax continued to receive incidents of front wheel detachments involving the Strollers.

REQUEST NO. 45

Admit that after July 2014, Britax continued to receive incidents of front wheel detachments involving the Strollers.

REQUEST NO. 46

Admit that Britax currently markets and sells a product called the B.O.B. Rambler, which is a jogging stroller designed without a quick release mechanism, containing a “thru-axle” and nut that is tightened by a hex wrench.

REQUEST NO. 47

Admit that prior to and including December 2011, B.O.B. was a participant in the ASTM F833 Carriages and Strollers standards group.

REQUEST NO. 48

Admit that prior to and including December 2011, B.O.B. did not provide all of the incident or injury information in its possession regarding front wheel detachments involving the Strollers to the ASTM committee for the F833 Carriages and Stroller

standard.

REQUEST NO. 49

Admit that prior to and including September 2015, Britax was a participant in the ASTM F833 Carriages and Strollers standards group.

REQUEST NO. 50

Admit that prior to and including September 2015, Britax did not provide all of the incident or injury information in its possession regarding front wheel detachments involving the Strollers to the ASTM committee for the F833 Carriages and Strollers standard.

REQUEST NO. 51

Admit that, prior to May 2016, B.O.B. did not provide reports of incidents or injuries regarding front wheel detachments involving the Strollers to the CPSC.

REQUEST NO. 52

Admit that, prior to May 2016, Britax did not provide reports of incidents or injuries regarding front wheel detachments involving the Strollers to the CPSC.

REQUEST NO. 53

Admit that the Strollers were sold for between \$400 and \$650.


REQUEST NO. 54

Admit that Strollers are exchanged between consumers through used or second hand markets.

REQUEST NO. 55

Admit that Strollers bought or sold via second-hand markets may not be accompanied by the user guide or the warning hang tag provided with the Strollers at the

time of first sale.


Mary B. Murphy, Assistant General Counsel
Philip Z. Brown, Trial Attorney
Gregory M. Reyes, Trial Attorney
Division of Compliance
Office of the General Counsel
U.S. Consumer Product Safety Commission
Bethesda, MD 20814
Tel: (301) 504-7809

Complaint Counsel for
U.S. Consumer Product Safety Commission
Bethesda, MD 20814

CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2018, I served Complaint Counsel's First Set of Requests for Admission to Respondent upon all parties and participants of record in these proceedings by mailing, postage prepaid, a copy to each and emailing a courtesy copy as follows, unless otherwise indicated below:

Service by Hand Delivery and 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

Service by Hand Delivery and Email 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

Service by U.S. Mail and Email to Counsel for Respondent:

Timothy L. Mullin, Jr.
Dwight W. Stone II
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A handwritten signature in blue ink, appearing to read "Mary B. Murphy". The signature is written in a cursive style with a horizontal line underneath it.

Mary B. Murphy, Assistant General Counsel
Complaint Counsel for
U.S. Consumer Product Safety Commission

Attachment A

D 1104999

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

1748102 out

DEC 13 2011

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

ARTICLES OF MERGER

Pursuant to South Carolina Code of Laws § 33-11-105, the undersigned, as the surviving corporation in a merger with its wholly-owned subsidiary, hereby submits the following information:

ABJ/LN
FILED
in the office of the Secretary of State
of the State of California

- Attached hereto and made a part hereof is a copy of the Plan of Merger.
- The name of the surviving corporation is Britax Child Safety, Inc., a corporation organized under the laws of South Carolina. The shareholders of Britax Child Safety, Inc. are not required to approve the Plan of Merger (South Carolina Code of Laws § 33-11-104(a)).
- The name of the merging corporation is B.O.B. Trailers, Inc. a corporation organized under the laws of California. The shareholders of B.O.B. Trailers, Inc. are not required to approve the Plan of Merger (South Carolina Code of Laws § 33-11-104(a)).
- A plan of merger has been duly approved in the manner required by law by each merging corporation.
- These articles shall be effective at 11:59 PM EST on December 31, 2011.

DEC 14 2011

EFFECTIVE
DATE

DEC 31 2011

This the 7th day of December, 2011.

BRITAX CHILD SAFETY, INC.

By: J. Clark
Jon Chamberlain, President



PLAN OF MERGER
OF
B.O.B. TRAILERS, INC.
WITH AND INTO
BRITAX CHILD SAFETY, INC.

In accordance with the applicable laws of the State of South Carolina and the State of California, B.O.B. Trailers, Inc., a California corporation, will merge with and into Britax Child Safety, Inc., a South Carolina corporation, pursuant to the following Plan of Merger:

1. Background. B.O.B. Trailers, Inc., a California corporation (the "Merging Entity"), is a wholly-owned subsidiary of Britax Child Safety, Inc., a South Carolina corporation (the "Surviving Entity").

2. Constituent Corporations. The Merging Entity shall be merged (the "Merger") with and into the Surviving Entity, in accordance with the terms of this Plan of Merger.

3. Effective Time. Upon acceptance of the Articles of Merger by the South Carolina Secretary of State, the Merger shall become effective on the date and time set forth in the Articles of Merger (the "Effective Time").

4. Effect of the Merger. At the Effective Time, the existence of the Merging Entity shall cease, and the existence of the Surviving Entity shall continue. At the Effective Time, the Merging Entity's liabilities and assets of every nature shall become those of the Surviving Entity by operation of law.

5. Conversion of Shares. At the Effective Time, the outstanding shares of the Surviving Entity and the Merging Entity shall be converted and exchanged as follows:

- (a) Surviving Entity. The shares of the Surviving Entity issued and outstanding at the Effective Time shall not be converted or altered in any manner and shall remain outstanding as shares of the Surviving Entity.
- (b) Merging Entity. The shares of the Merging Entity issued and outstanding at the Effective Time shall be canceled, and no consideration shall be paid therefor.