

Exhibit 45

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)	
)	
AMAZON.COM, INC.)	
)	
)	CPSC DOCKET NO.: 21-2
)	
Respondent.)	

**COMPLAINT COUNSEL’S OBJECTIONS AND RESPONSES
TO RESPONDENT’S FIRST SET OF INTERROGATORIES TO
CONSUMER PRODUCT SAFETY COMMISSION**

Pursuant to 16 C.F.R. § 1025.32, Complaint Counsel respectfully submits its objections and responses (“Responses”) to Respondent Amazon.com, Inc.’s (“Respondent’s”) First Set of Interrogatories to Consumer Product Safety Commission (“Interrogatories”).

PRELIMINARY STATEMENT

Discovery in this action is ongoing. The specific Responses set forth below are for the purposes of discovery only, and Complaint Counsel neither waives nor intends to waive, and expressly reserves, any and all objections it may have to the relevance, competence, materiality, admission, admissibility, or use at trial of any information, documents, or writings produced, identified, or referred to herein, or to the introduction of any evidence at trial relating to the subjects covered by such Responses.

These Responses are based solely upon information presently known and readily available to Complaint Counsel following a reasonable inquiry for responsive information, as described herein. Complaint Counsel will amend these Responses in accordance with 16 C.F.R. § 1025.31(f), as appropriate. Complaint Counsel expressly reserves the right to rely, at any time including trial, upon subsequently discovered information. Further, the specific Responses

below are based upon Complaint Counsel's interpretation of the language used in the Interrogatories, and Complaint Counsel reserves its right to amend or supplement further its responses in the event Respondent asserts an interpretation that differs from Complaint Counsel's interpretation.

By making these Responses, Complaint Counsel does not concede it is in possession of any information responsive to any particular Interrogatory or that any Response given is relevant to this action. Complaint Counsel's failure to object to a particular Interrogatory or willingness to provide responsive information pursuant to an Interrogatory is not, and shall not be construed, as an admission of the relevance, or admissibility into evidence, of any such information, nor does it constitute a representation that any such information in fact exists.

Upon request by Respondent, Complaint Counsel is willing to meet and confer regarding its Response to any of the Interrogatories.

GENERAL OBJECTIONS

The following General Objections and statements shall be applicable to, and shall be included in, Complaint Counsel's response to each Interrogatory, whether or not mentioned expressly in any particular response. Complaint Counsel does not waive any of its General Objections by stating specific objections to any particular Interrogatory. Complaint Counsel's Responses are based solely on Complaint Counsel's current knowledge and belief.

1. Complaint Counsel objects to the Interrogatories, including the Definitions and Instructions contained within them, to the extent they impose or seek to impose any requirement or discovery obligation greater than or different from those under the 16 C.F.R. Part 1025 and applicable orders of the Presiding Officer.

2. Complaint Counsel objects to the Interrogatories to the extent they seek disclosure of information protected under the attorney-client privilege, work product doctrine, deliberative process privilege, or any other applicable privilege or immunity, including the privilege afforded information given to the staff of the Commission on a pledge of confidentiality and/or by other law or rule of procedure, including, but not limited to, the Consumer Product Safety Act, 15 U.S.C. § 2051 *et seq.*, the Privacy Act, 5 U.S.C. § 552a, and other applicable laws and regulations. Should any such disclosure by Complaint Counsel occur, it is inadvertent and shall not constitute a waiver of any privilege or immunity.

3. Complaint Counsel objects to the Interrogatories to the extent they seek information not relevant to the subject matter involved in the proceedings, nor reasonably calculated to lead to the discovery of admissible evidence, including but not limited to, out-of-scope Interrogatories that seek information about settlement negotiations between CPSC staff and representatives of Respondent (Interrogatory Nos. 16 and 17). Such out-of-scope Interrogatories are not relevant to the Court's analysis of whether the Subject Products distributed by Respondent pose a substantial product hazard under Section 15 of the CPSA, 15 U.S.C. § 2064, or applicable regulations, including 16 C.F.R. Part 1115, and will serve only to delay the proceedings and obfuscate the issue at hand. Complaint Counsel is not waiving any objection as to the relevance of the information provided or the admissibility of that information at any trial, hearing, or other proceeding.

4. Complaint Counsel objects to the Interrogatories to the extent they seek information not live and in dispute in the proceedings following the Court's January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. The sole remaining issues in dispute and ripe for discovery concern whether the Subject Products present a substantial product

hazard, what actions Respondent has taken with respect to the Subject Products, and the remedies sought by Complaint Counsel to remediate the hazards posed by the Subject Products.

5. Complaint Counsel objects to the Interrogatories to the extent they are misleading and/or improper.

6. Complaint Counsel objects to the Interrogatories as premature to the extent they seek Complaint Counsel's contentions at this early stage of the proceeding.

7. Complaint Counsel objects to the Interrogatories to the extent they seek information beyond what is available to Complaint Counsel at present from a reasonable search of its own files and from a reasonable inquiry of its present employees.

8. Complaint Counsel objects to the Interrogatories and accompanying Definitions to the extent they are vague, ambiguous, overly broad, and/or unduly burdensome.

9. Complaint Counsel objects to the Interrogatories to the extent they would require Complaint Counsel to conduct an unreasonable search for responsive information.

10. By identifying a document in response to an Interrogatory, Complaint Counsel does not assert that the document is free from information that is privileged, subject to discovery, or relevant. Nor does Complaint Counsel waive its right to withhold any portion of the document that is privileged, immune from discovery, or irrelevant.

11. No objection, limitation, or response (or lack thereof) made herein shall be an admission by Complaint Counsel as to (a) the truth of any of the statements made in the Interrogatories, or (b) the existence or non-existence of documents or information responsive to the Interrogatories.

Subject to and without waiving the foregoing objections, Complaint Counsel provides the following Responses:

COMPLAINT COUNSEL'S RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1. IDENTIFY each **PERSON** with knowledge of **YOUR** efforts to respond to these Interrogatories or to the Requests for Production of Documents or Requests for Admission served by Amazon. For each **PERSON** identified, indicate the time period of their involvement in **YOUR** investigation, negotiation, and lawsuit against Amazon, and **DESCRIBE** each **PERSON**'s responsibility, role, and contribution to **YOUR** investigation, negotiation, and lawsuit.

RESPONSE TO INTERROGATORY NO. 1:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase "each Person with knowledge of [Complaint Counsel's] efforts to respond to [Respondent's First Set of Interrogatories to Consumer Product Safety Commission ("Interrogatories"); Respondent's First Set of Requests for Production of Documents and Things to Consumer Product Safety Commission ("Requests for Production"); and Respondent's First Set of Requests for Admission to the Consumer Product Safety Commission ("Requests for Admission") (collectively, the "Discovery")." Complaint Counsel interprets this phrase to mean individuals who located, identified, or provided documents or information potentially responsive to the Discovery. Complaint Counsel further objects to this Interrogatory as unduly burdensome, vague and ambiguous in its use of the phrase "the time period of their involvement." Complaint Counsel states that CPSC staff has not kept records of "the time period" of the above-mentioned staff members' "involvement" in this matter and requiring Complaint Counsel to do so retrospectively is unduly burdensome. Complaint Counsel also objects to this Interrogatory on the grounds it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege, by requesting that Complaint Counsel describe each "Person's responsibility, role and contribution" in responding to the Discovery. In addition, Complaint Counsel objects to this Interrogatory on the grounds it constitutes premature expert discovery. Complaint Counsel will identify the expert

witnesses it expects to call at the hearing in this matter pursuant to the Court's schedule set forth at page 28 of its January 19, 2022 Order, and will amend these Responses in accordance with 16 C.F.R. § 1025.31(f), as appropriate. Complaint Counsel reserves the right to identify any of the persons listed below as expert witnesses. Complaint Counsel also objects to this Interrogatory insofar as it seeks discovery of information relating to any pre-Complaint "negotiation" sessions between CPSC staff and Amazon representatives, as such information is irrelevant to the current proceedings.

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that undersigned Complaint Counsel prepared the Discovery responses.

Further responding, Complaint Counsel states that a reasonable search of appropriate CPSC electronic databases was conducted to locate potentially responsive documents and information. In addition, the following staff of the U.S. Consumer Product Safety Commission ("CPSC") and other individuals were involved in the following manner and performed the following functions, as described below:

Provided documents and information potentially responsive to the Discovery: Arthur Lee, Electrical Engineer, CPSC; Andrew Trotta, Director, Electrical Engineering Division, CPSC; Joseph Williams, Senior Compliance Officer, CPSC; Carolyn Carlin, Compliance Officer, CPSC; Benjamin Burgoon, Former Employee, Compliance Officer, CPSC; Renee Morelli-Linen, Internet Investigative Analyst, CPSC; Benjamin Mordecai, Mechanical Engineer, CPSC; Emily Maling, Textile Technologist, CPSC.

Identified potentially responsive documents and information: Mark Brown, Product Safety Investigator, CPSC; Patrick George, Product Safety Investigator, CPSC; Ann Reyes,

Product Safety Investigator, CPSC; Mary Pigott, Product Safety Investigator, CPSC; Shana Toole, Product Safety Investigator, CPSC; Donna King, Senior Product Safety Investigator, CPSC; Edward Fabiano, Product Safety Investigator, CPSC; Colleen Richardson, Product Safety Investigator, CPSC; Mary Notsch, Product Safety Investigator, CPSC; Travis Neeley, Safety Inspector, CPSC; Ian Nunn, Product Safety Investigator, CPSC; Johnnie Lewis, Senior Product Safety Investigator, CPSC; Meghan Ryan, Product Safety Investigator, CPSC; Mark Bucksath, Product Safety Investigator, CPSC; Glenn Dunlap, Senior Product Safety Investigator, CPSC; Nikki Wright, Product Safety Investigator, CPSC; Maryanne McGerty-Sieber, Product Safety Investigator, CPSC; Milton Sanchez, Product Safety Investigator, CPSC; Jason Twitchell, Product Safety Investigator, CPSC; Jay Hammond, Product Safety Investigator, CPSC; James Butscher Product Safety Investigator, CPSC; Robert McNenamin, Product Safety Investigator, CPSC; Elizabeth Phillips, Product Safety Investigator, CPSC; Stephanie Yoha, Product Safety Investigator, CPSC; David Eckstein, Product Safety Investigator, CPSC; Marc Bernstein, Product Safety Investigator, CPSC; Lisa Coupel, Product Safety Investigator, CPSC; Ellen Estes, Senior Product Safety Investigator, CPSC; Ellen Estes, Senior Product Safety Investigator, CPSC; Michael Nelson, Supervisory Mechanical Engineer, CPSC; Jalen LaRubbio, Former Employee, Legal Intern, CPSC; Diana Farsai, Product Safety Investigator, CPSC; Michelle Mach, Internet Surveillance Investigator, CPSC; Michael Mulvaney, Product Safety Investigator, CPSC; Rebecca Barnhart, Product Safety Investigator, CPSC; Kenneth Knopf, Product Safety Investigator, CPSC; Kevin Peter, Product Safety Investigator, CPSC; Justin McDonough, Deputy Director, Field Operations, CPSC; James Adam Williams, Supervisory Product Safety Investigator, CPSC; Dean LaRue, Product Safety Assessment Program Manager, CPSC; David Mayberry, Product Safety Investigator, CPSC; Weiyang Tao, Textile Technologist, CPSC; Lisa

Scott, Senior Fire Protection Engineer, CPSC; Allyson Tenney, Division Director, LSE, CPSC; Yolanda Tiano, Product Safety Investigator, CPSC; Paige Witzgen, Textile Technologist, CPSC; Tara Woodward, Product Safety Investigator, CPSC; Scott Putz, Supervisory Product Safety Investigator, CPSC.

Participated in electronic document collection and production of documents: Rajinder Rajput, CPSC Litigation Support Coordinator (Contractor); Edward Cambria, CPSC Litigation Support Coordinator (Contractor); Michael Edwards, CPSC Litigation Support Coordinator (Contractor); Grace Elman, CPSC Paralegal Specialist, Office of Compliance and Field Operations, Division of Enforcement and Litigation.

INTERROGATORY NO. 2. IDENTIFY each PERSON who has knowledge of the facts, circumstances and events that are related to the allegations and relief requested in the COMPLAINT, or who otherwise has knowledge relevant to the issues in this case, and DESCRIBE the relevant information possessed by each PERSON.

RESPONSE TO INTERROGATORY NO. 2:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase “each Person with knowledge of the facts, circumstances and events that are related to the allegations and relief requested in the Complaint.” Complaint Counsel interprets this phrase to mean individuals who have relevant information relating to live, discoverable issues ripe for discovery in these proceedings. Complaint Counsel also objects to this Interrogatory to the extent that it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege, in requesting that Complaint Counsel describe “the relevant information possessed by each Person.”

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the information sought by this Interrogatory is contained within, or

can be derived from, the various documents produced by Complaint Counsel in this matter.

Further responding, Complaint Counsel states that the following current or former members of CPSC staff possess relevant information relating to live, discoverable issues:

- a) Arthur Lee, Electrical Engineer: Possesses information relating to the testing of the Hair Dryers identified in the Complaint.
- b) Andrew Trotta, Director, Electrical Engineering Division: Possesses information relating to the testing of the Hair Dryers identified in the Complaint.
- c) Joseph Williams, Senior Compliance Officer: Possesses information relating to the investigation of the Hair Dryers and the Carbon Monoxide Detectors identified in the Complaint.
- d) Carolyn Carlin, Compliance Officer: Possesses information relating to the investigation of the Children's Sleepwear Garments identified in the Complaint.
- e) Benjamin Burgoon, Former Employee, Compliance Officer: Possesses information relating to the investigation of the Carbon Monoxide Detectors identified in the Complaint.
- f) Mark Brown, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- g) Patrick George, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- h) Ann Reyes, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- i) Mary Pigott, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.

- j) Shana Toole, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- k) Donna King, Senior Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- l) Edward Fabiano, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- m) Colleen Richardson, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- n) Mary Notsch, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- o) Travis Neeley, Safety Inspector,; Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- p) Ian Nunn, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- q) Johnnie Lewis, Senior Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- r) Meghan, Ryan, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- s) Mark Bucksath, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- t) Glenn Dunlap, Senior Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.

- u) Nikki Wright, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- v) Maryanne McGerty-Sieber, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- w) Milton Sanchez, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- x) Jason Twitchell, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- y) Jay Hammond, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- z) James Butscher Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- aa) Robert McNenamin, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- bb) Elizabeth Phillips, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- cc) Stephanie Yoha, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- dd) David Eckstein, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- ee) Marc Bernstein, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.

- ff) Lisa Coupel, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- gg) Ellen Estes, Senior Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- hh) Michelle Mach, Internet Surveillance Investigator: Possesses information relating to the procurement of the Carbon Monoxide Detectors and Children's Sleepwear Garments identified in the Complaint.
- ii) Renee Morelli-Linen, Internet Investigative Analyst: Possesses information relating to the procurement of the Carbon Monoxide Detectors and Children's Sleepwear Garments identified in the Complaint.
- jj) Benjamin Mordecai, Mechanical Engineer: Possesses information relating to the testing of the Carbon Monoxide Detectors identified in the Complaint.
- kk) Michael Nelson, Supervisory Mechanical Engineer: Possesses information relating to the testing of the Carbon Monoxide Detectors identified in the Complaint.
- ll) Jalen LaRubbio, Former Employee, Legal Intern: Possesses information relating to the investigation of the Carbon Monoxide Detectors identified in the Complaint.
- mm) Diana Farsai, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- nn) Michael Mulvaney, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- oo) Rebecca Barnhart, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.

- pp) Kenneth Knopf, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- qq) Kevin Peter, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- rr) Justin McDonough, Deputy Director, Field Operations: Possesses information relating to the procurement of the Subject Products identified in the Complaint.
- ss) James Adam Williams, Supervisory Product Safety Investigator: Possesses information relating to the procurement of the Subject Products identified in the Complaint.
- tt) Dean LaRue, Product Safety Assessment Program Manager: Possesses information relating to the testing of the Subject Products.
- uu) Emily Maling, Textile Technologist: Possesses information relating to the testing of the Children's Sleepwear Garments identified in the Complaint.
- vv) David Mayberry, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- ww) Weiyang Tao, Textile Technologist: Possesses information relating to the testing of the Children's Sleepwear Garments identified in the Complaint.
- xx) Allyson Tenney, Division Director, LSE: Possesses information relating to the testing of the Children's Sleepwear Garments identified in the Complaint.
- yy) Lisa Scott, Senior Fire Protection Engineer: Possesses information relating to the testing of the Children's Sleepwear Garments identified in the Complaint.
- zz) Yolanda Tiano, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.

- aaa) Paige Witzen, Textile Technologist: Possesses information relating to the testing of the Children's Sleepwear Garments identified in the Complaint.
- bbb) Tara Woodward, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- ccc) Scott Putz, Supervisory Product Safety Investigator: Possesses information relating to the procurement of the Subject Products identified in the Complaint.

INTERROGATORY NO. 3. For each **CHILDREN'S SLEEPWEAR GARMENT** that **YOU** allege to be defective, hazardous, or noncompliant with a mandatory or voluntary safety standard in its design, testing, creation, manufacture, assembly, sale, distribution, packaging, use, instructions, warnings, or otherwise), **DESCRIBE** all the bases for such allegation, including in **YOUR** description the safety standard which **YOU** allege applies, and each section of the standard the **CHILDREN'S SLEEPWEAR GARMENT** fails to comply; each instance in which **YOU** allege the **CHILDREN'S SLEEPWEAR GARMENT** failed or fails to comply; each change to the **CHILDREN'S SLEEPWEAR GARMENT** that **YOU** allege is required so that the **CHILDREN'S SLEEPWEAR GARMENT** would comply with any such mandatory or voluntary standard; and, if **YOU** allege that any **CHILDREN'S SLEEPWEAR GARMENT** is defective, an **IDENTIFICATION** of all these bases of such defect determination or allegation.

RESPONSE TO INTERROGATORY NO. 3:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrases "all the bases for such allegations" and "each change to the Children's Sleepwear Garment that You allege is required." Complaint Counsel interprets these phrases to mean the results of the testing CPSC staff conducted on the Children's Sleepwear Garments identified in the Complaint. In addition, Complaint Counsel objects to this Interrogatory to the extent it seeks information relating to a required "change" to the Children's Sleepwear Garments, as the requirements are readily available and set forth in the Flammable Fabrics Act ("FFA"), 15 U.S.C. §§ 1191-1204 and 16 C.F.R. Parts 1615 and 1616. Complaint Counsel also objects to this Interrogatory to the extent that it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f).

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Interrogatory No. 3. If the parties do not reach agreement on a Stipulation, Complaint Counsel will provide a response to Interrogatory No. 3 subject to their objections within a time frame agreed-upon by counsel.

INTERROGATORY NO. 4. For each **CO DETECTOR** that **YOU** allege to be defective, hazardous, or noncompliant with a mandatory or voluntary safety standard (whether in its design, testing, creation, manufacture, assembly, sale, distribution, packaging, use, instructions, warnings, or otherwise), **DESCRIBE** all the bases for such allegation, including in **YOUR** description: the safety standard which **YOU** allege applies, and each section of the standard with which **YOU** allege the **CO DETECTOR** fails to comply; each instance in which **YOU** allege the **CO DETECTOR** failed or fails to comply; each change to the **CO DETECTOR** that **YOU** allege is required so that the **CO DETECTOR** would comply with any such mandatory or voluntary standard; and, if **YOU** allege that any **CO DETECTOR** is defective, an **IDENTIFICATION** of all these bases of such defect determination or allegation.

RESPONSE TO INTERROGATORY NO. 4:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrases “all the bases for such allegations” and “each change to the CO Detector that You allege is required.” Complaint Counsel interprets these phrases to mean the results of the testing CPSC staff conducted on the Carbon Monoxide Detectors identified in the Complaint. In addition, Complaint Counsel objects to this Interrogatory to the extent it seeks information relating to a required “change” to the Carbon Monoxide Detectors, as the relevant standard is readily available and set forth in Underwriters Laboratories (“UL”) 2034, Section 41. Complaint Counsel also objects to this Interrogatory to the extent that it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or

deliberative process privilege. Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f).

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Interrogatory No. 4. If the parties do not reach agreement on a Stipulation, Complaint Counsel will provide a response to Interrogatory No. 4 subject to their objections within a time frame agreed-upon by counsel.

INTERROGATORY NO. 5. For each **HAIR DRYER** that **YOU** allege to be defective, hazardous, or noncompliant with mandatory or voluntary safety standard (whether in its design, testing, creation, manufacture, assembly, sale, distribution, packaging, use, instructions, warnings, or otherwise), **DESCRIBE** all the bases for such allegation, including in **YOUR** description: the safety standard which **YOU** allege applies, and each section of the standard with which **YOU** allege the **HAIR DRYER** fails to comply; each instance in which **YOU** allege the **HAIR DRYER** failed or fails to comply; each change to the **HAIR DRYER** that **YOU** allege is required so that the **HAIR DRYER** would comply with any such mandatory or voluntary standard; and, if **YOU** allege that any **HAIR DRYER** is defective, an **IDENTIFICATION** of all these bases of such defect determination or allegation.

RESPONSE TO INTERROGATORY NO. 5:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrases “all the bases for such allegations” and “each change to the Hair Dryer that You allege is required.” Complaint Counsel interprets these phrases to mean the results of the testing CPSC staff conducted on the Hair Dryers identified in the Complaint. In addition, Complaint Counsel objects to this Interrogatory to the extent it seeks information relating to a required “change” to the Hair Dryers, as the relevant standards are readily available and set forth in the sections of the Underwriters Laboratories identified below. Complaint Counsel also objects to this Interrogatory to the extent that it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process

privilege. Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f).

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Interrogatory No. 5. If the parties do not reach agreement on a Stipulation, Complaint Counsel will provide a response to Interrogatory No. 5 subject to their objections within a time frame agreed-upon by counsel.

INTERROGATORY NO. 6. DESCRIBE all the bases for **YOUR** allegations in paragraphs 50–51 (relating to the sufficiency of the actions already taken by Amazon with respect to the **SUBJECT PRODUCTS**) of the **COMPLAINT**.

RESPONSE TO INTERROGATORY NO. 6:

Complaint Counsel objects to this Interrogatory as premature to the extent it seeks Complaint Counsel’s contentions at this early stage of the proceeding, and Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f). Complaint Counsel also objects to this Interrogatory to the extent it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that Amazon’s limited, voluntary actions with respect to the Subject Products do not adequately protect the public from the substantial products hazards created by the Subject Products and do not subject Amazon to CPSC oversight or to agency enforceability. Amazon is free to stop its actions at any time, allowing the Subject Products (or functionally identical hazardous products) to be posted on its online marketplace, sold, and fulfilled through Amazon’s Fulfillment by Amazon (“FBA”) program. Furthermore, to adequately protect the public, a mandatory order is required to empower the CPSC to, among other things, give public

notice of each Subject Product's specific defect or failure to comply and obtain information from Amazon regarding how Amazon and consumers are returning and destroying the hazardous Subject Products.

Complaint Counsel admits that Amazon has taken several actions relating to the Subject Products, including removing the Amazon Standard Identification Numbers ("ASINs") for the Subject Products. Amazon also unilaterally, and without CPSC involvement or input concerning the content of the notices or its other actions, notified consumers who purchased the Subject Products that they could present a hazard. In addition, Amazon provided an Amazon gift card credited to their account but did not condition the gift card on the return of the defective or violative product.

Complaint Counsel seeks additional remedial actions from Amazon, including an order requiring Amazon to cease any distribution of the Subject Products including the permanent and verifiable removal of the ASINs and any other listings of the Subject Products and functionally identical products; to issue CPSC-approved direct notice(s) to all consumers who purchased the Subject Products, which includes a particularized description of the hazard presented by each Subject Product, encourages the return of the Subject Products, and notes the action is in conjunction with the CPSC; to issue a CPSC-approved press release, as well as any other public notice documents or postings required by CPSC staff that inform consumers of the hazard posed by the Subject Products and encourage the return or destruction of the Subject Products; and to facilitate the return and destruction of the Subject Products, at no cost to consumers, under Section 15(d)(1) of the CPSA, 15 U.S.C. § 2064(d)(1), to adequately protect the public from the substantial product hazards posed the Subject Products. Complaint Counsel also requests an order requiring Amazon to destroy products in its inventory (including providing proof of such

destruction) and to provide monthly progress reports to reflect the products remaining in Amazon's inventory, returned by consumers, and destroyed and to provide monthly reports identifying all functionally equivalent products removed from amazon.com by ASIN, the number distributed prior to removal, and the platform through which the products were sold. The CPSC reserves the right to request an order directing Amazon to take other and further actions as the Commission deems necessary to protect public health and safety. The CPSC is empowered to seek an order of this kind because it would constitute remedial actions that protect the public. *See* 15 U.S.C. § 2064(c), (d).

Recalled products that are not returned or destroyed can remain in homes or available for sale and continue to pose hazards. Absent proof that hazardous products are destroyed, the threat to the safety of consumers remains and will not be remediated as required by law so long as Amazon's actions are limited, wholly voluntary, and not designed to remove the Subject Products from homes and the secondary market.

INTERROGATORY NO. 7. DESCRIBE all the bases for **YOUR** allegations in paragraphs 58–61 (relating to **CHILDREN'S SLEEPWEAR GARMENTS**), 66–69 (relating to **CO DETECTORS**), and 72–74 (relating to **HAIR DRYERS**) of the **COMPLAINT**.

RESPONSE TO INTERROGATORY NO. 7:

Complaint Counsel objects to this Interrogatory as premature to the extent it seeks Complaint Counsel's contentions at this early stage of the proceeding, and Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f). Complaint Counsel also objects to this Interrogatory to the extent it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f).

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Interrogatory No. 7. If the parties do not reach agreement on a Stipulation, Complaint Counsel will provide a response to Interrogatory No. 7 subject to their objections within a time frame agreed-upon by counsel.

INTERROGATORY NO. 8. IDENTIFY all DOCUMENTS on which YOU rely, in part or in whole, in support of the allegations YOU make in paragraphs 50–51, 58–61, 66–69, and 72–74 of the COMPLAINT.

RESPONSE TO INTERROGATORY NO. 8:

Complaint Counsel objects to this Interrogatory as premature to the extent it seeks Complaint Counsel's contentions at this early stage of the proceeding, and Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f). In addition, Complaint Counsel objects to this Interrogatory to the extent that it seeks the identification of Documents in the possession of Respondent that have yet to be produced in these proceedings. Complaint Counsel also objects to this Interrogatory to the extent it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f).

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot the majority of Interrogatory No. 8. If the parties do not reach agreement on a Stipulation, Complaint Counsel will provide a response to Interrogatory No. 8 subject to their objections within a time frame agreed-upon by counsel. As to the portion of Interrogatory No. 8 that

references Paragraphs 50-51 of the Complaint, Complaint Counsel identifies the following documents: CPSC_AM0000001-324, CPSC_AM0000325-9487.

INTERROGATORY NO. 9. IDENTIFY all PERSONS involved in YOUR determination regarding the sufficiency of the actions that Amazon took, prior to the filing of the COMPLAINT, relating to the SUBJECT PRODUCTS.

RESPONSE TO INTERROGATORY NO. 9:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase “all Persons involved in Your determination regarding the sufficiency of the actions that Amazon took.” Complaint Counsel further objects to this Interrogatory as irrelevant to any issue live and in dispute in the proceedings following the Court’s January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. In addition, Complaint Counsel objects to this Interrogatory to the extent that it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that information responsive to this Interrogatory is contained within, or can be derived from, the various documents produced by Complaint Counsel in this matter. Further responding, Complaint Counsel states that the following members of CPSC staff may possess information responsive to this Interrogatory, insofar as this Interrogatory seeks information relating to the investigations of the Subject Products:

- a) Joseph Williams, Senior Compliance Officer: Possesses information relating to the investigation of the Hair Dryers identified in the Complaint.
- b) Carolyn Carlin, Compliance Officer: Possesses information relating to the investigation of the Children’s Sleepwear Garments identified in the Complaint.

- c) Jalen LaRubbio, Former Employee, Legal Intern: Possesses information relating to the investigation of the Carbon Monoxide Detectors identified in the Complaint.
- d) Benjamin Burgoon, Former Employee, Compliance Officer: Possesses information relating to the investigation of the Carbon Monoxide Detectors identified in the Complaint.

INTERROGATORY NO. 10. IDENTIFY all **PERSONS** involved in any analysis or testing **YOU** performed, or performed on **YOUR** behalf, or upon which **YOU** rely or have relied, concerning, involving or in any way relating to any alleged defect or alleged hazard relating to any **SUBJECT PRODUCT**, or any alleged noncompliance of any **SUBJECT PRODUCT** with a mandatory or voluntary safety standard.

RESPONSE TO INTERROGATORY NO. 10:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase “all Persons involved in any analysis or testing You performed, or performed on Your behalf, or upon which You rely or have relied, concerning, involving or in any way relating to any alleged defect or alleged hazard relating to any Subject Product.” Complaint Counsel interprets this phrase to mean individuals who have relevant information relating to the testing of the Subject Products. Complaint Counsel also objects to this Interrogatory to the extent that it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f).

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Interrogatory No. 10. If the parties do not reach agreement on a Stipulation, Complaint Counsel will provide a response to Interrogatory No. 10 subject to their objections within a time frame agreed-upon by counsel.

INTERROGATORY NO. 11. DESCRIBE YOUR acquisition of any **SUBJECT PRODUCTS**. In **YOUR DESCRIPTION, IDENTIFY** the **PERSON** making the acquisition, the **PERSON** from whom the **SUBJECT PRODUCTS** were acquired, the date of the acquisition, and (if purchased) the price of the **SUBJECT PRODUCTS**.

RESPONSE TO INTERROGATORY NO. 11:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase “Describe Your acquisition of any Subject Products.” Complaint Counsel interprets this phrase to mean how CPSC staff obtained samples of the Subject Products. Complaint Counsel also objects to this Interrogatory to the extent that it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f).

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Interrogatory No. 11. If the parties do not reach agreement on a Stipulation, Complaint Counsel will provide a response to Interrogatory No. 11 subject to their objections within a time frame agreed-upon by counsel.

INTERROGATORY NO. 12. IDENTIFY any reports **YOU** received of any complaints, incidents, injuries, or deaths allegedly related to the **SUBJECT PRODUCTS**.

RESPONSE TO INTERROGATORY NO. 12:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the undefined term “reports.” Complaint Counsel also objects to this Interrogatory to the extent that it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f).

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Interrogatory No. 12. If the parties do not reach agreement on a Stipulation, Complaint Counsel will provide a response to Interrogatory No. 12 subject to their objections within a time frame agreed-upon by counsel.

INTERROGATORY NO. 13. IDENTIFY any prior recall, corrective action plan, enforcement action, or other notice or matter in which **YOU** directed or requested a subject firm to withhold the provision of refunds to purchasers or consumers; condition the provision of a refund to purchasers or consumers on the recalled product being returned to the subject firm; or withhold or condition the provision of instructions to purchasers or consumers on how to safely dispose of a recalled product.

RESPONSE TO INTERROGATORY NO. 13:

Complaint Counsel objects to this Interrogatory as irrelevant to any issue live and in dispute in the proceedings following the Court's January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. Complaint Counsel also objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase "any prior recall, corrective action plan, enforcement action, or other notice or matter." In addition, Complaint Counsel objects to this Interrogatory as overly broad in its lack of time limitation.

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the CPSC's actions in prior recalls, corrective action plans, or enforcement actions are not relevant to this matter or to any issue live and in dispute in the proceedings.

INTERROGATORY NO. 14. DESCRIBE fully and completely the remedy or remedies you seek with respect to the **SUBJECT PRODUCTS**, beyond the actions already taken by Amazon, and explain why each remedy or remedies would be "in the public interest" within the meaning of 15 U.S.C. § 2064(d)(1).

RESPONSE TO INTERROGATORY NO. 14:

Complaint Counsel objects to this Interrogatory as premature to the extent it seeks Complaint Counsel's "complete[]" contentions relating to remedy at this early stage of the proceeding, and Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f). In addition, Complaint Counsel objects to this Interrogatory to the extent that it seeks information that may depend upon information and documents currently in the possession of Respondent that have yet to be produced in these proceedings. Complaint Counsel also objects to this Interrogatory to the extent it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the remedies sought in these proceedings include a mandatory order stating that:

1. the Subject Products are substantial product hazards under Sections 15(a)(1), 15(a)(2), and 15(j) of the CPSA, 15 U.S.C. §§ 2064(a)(1), (a)(2), and (j);
 - a. This determination would be in the public interest, as it definitively establishes the hazards posed by the Subject Products.
2. Respondent must ensure that the ASINs relating to the Subject Products remain removed from Amazon's online marketplace, including ASINs for functionally identical products;
 - a. This order would be in the public interest, as it ensures that neither the Subject Products nor functionally identical products are sold through Amazon's online marketplace.

3. Respondent must issue a CPSC-approved direct notice to all consumers who purchased the Subject Products which includes a CPSC approved description of the hazard presented by each Subject Product, and which is different from the notice initially sent by Respondent in that it sufficiently identifies the hazard and encourages consumers to return or destroy the product, with or without an incentive provided to do so;
 - a. This order would be in the public interest, as it clarifies the hazard presented and promotes the removal of the hazardous Subject Products from homes and the stream of commerce.
4. The issuance of a press release, as well as any other public notice documents or postings required by CPSC staff that inform consumers of the specific hazards posed by the Subject Products.
 - a. This order would be in the public interest, as it both clarifies the hazards presented and promotes awareness of the hazardous products.
5. Respondent must facilitate the return and destruction of the Subject Products, at no cost to consumers, under Section 15(d)(1) of the CPSA, 15 U.S.C. § 2064(d)(1);
 - a. This order would again be in the public interest, as it promotes the removal of the hazardous Subject Products from homes and the stream of commerce.
6. Respondent must destroy the Subject Products that are returned to Amazon by consumers or that remain in Amazon's inventory, with proof of such destruction

via a certificate of destruction or other acceptable documentation provided to CPSC staff;

- a. This order would be in the public interest, as it ensures that no inventory of the Subject Products remains to re-enter the stream of commerce.
7. Respondent must provide monthly progress reports to reflect, among other things, the number of Subject Products located in Amazon's inventory, returned by consumers, and destroyed;
 - a. This order would promote the public's interest in tracking the return and destruction of the hazardous Subject Products.
 8. Respondent must provide monthly progress reports identifying all functionally equivalent products removed by Respondent from its online marketplace, including the ASIN, the number distributed prior to removal, and the platform through which the products were sold;
 - a. This order would be in the public interest, as it would facilitate the identification and removal of products posing identical hazards.
 9. Respondent is prohibited from distributing in commerce the Subject Products, including any functionally identical products. *See* CPSA Section 15(d)(2), 15 U.S.C. § 2064(d)(2);
 - a. This order would be in the public's interest, as it subjects Respondent to penalties if Respondent distributes the hazardous Subject Products or functionally identical products.

In addition, the CPSC reserves the right to request an order directing Amazon to take other and further actions as the Commission deems necessary to protect public health and safety.

INTERROGATORY NO. 15. If you contend that the Commission has the authority to enjoin, ban, prevent, prohibit, or constrain a subject firm from offering a refund of the purchase price of a recalled product, **IDENTIFY** all the bases for such contention.

RESPONSE TO INTERROGATORY NO. 15:

Complaint Counsel objects to this Interrogatory as irrelevant to any issue live and in dispute in the proceedings following the Court's January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. In addition, Complaint Counsel objects to this Interrogatory as based on a misreading of the remedies it seeks from Respondent in these proceedings as set forth in the Complaint and in Complaint Counsel's response to Interrogatory No. 14. Complaint Counsel also objects to this Interrogatory as calling for a legal conclusion in seeking "the authority" of the Commission to take an action. Complaint Counsel further objects to this Interrogatory to the extent it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

INTERROGATORY NO. 16. DESCRIBE YOUR consideration, evaluation, or assessment of, and response to, Amazon's proposed Recalls Pledge relating to recalls of products sold by third-party sellers on Amazon.com. In **YOUR DESCRIPTION**, **IDENTIFY** all **PERSONS** involved in such consideration, evaluation, assessment, or response.

RESPONSE TO INTERROGATORY NO. 16:

Complaint Counsel objects to this Interrogatory as irrelevant to any issue live and in dispute in the proceedings following the Court's January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. In addition, Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase "consideration, evaluation, or assessment of, and response to, Amazon's proposed Recalls Pledge." Complaint Counsel also objects to this Interrogatory to the extent it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

INTERROGATORY NO. 17. DESCRIBE YOUR consideration, evaluation, or assessment of, and response to, Amazon’s proposed Memorandum of Understanding relating to recalls of products sold by third-party sellers on Amazon.com. In **YOUR DESCRIPTION, IDENTIFY** all **PERSONS** involved in such consideration, evaluation, assessment, or response.

RESPONSE TO INTERROGATORY NO. 17:

Complaint Counsel objects to this Interrogatory as irrelevant to any issue live and in dispute in the proceedings following the Court’s January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. In addition, Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase “consideration, evaluation, or assessment of, and response to, Amazon’s proposed Memorandum of Understanding.”

Complaint Counsel also objects to this Interrogatory to the extent it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

I, John C. Eustice, declare under penalty of perjury that the foregoing Responses to Respondent's First Set of Interrogatories to Consumer Product Safety Commission are true and correct to the best of my knowledge, information and belief.

Executed on March 21, 2022.



John C. Eustice
Division of Enforcement and Litigation
Office of Compliance and Field Operations
U.S. Consumer Product Safety Commission

For the Objections:

Dated this 21st day of March, 2022

John C. Eustice

John C. Eustice, Senior Trial Attorney
Liana G.T. Wolf, Trial Attorney
Serena Anand, Trial Attorney

Division of Enforcement and Litigation
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Complaint Counsel for
U.S. Consumer Product Safety Commission

CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2022, a copy of the foregoing was served via email upon the following:

Sarah L. Wilson at swilson@cov.com
Stephen P. Anthony at santhony@cov.com
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Counsel for Respondent Amazon.com, Inc.



Complaint Counsel for
U.S. Consumer Product Safety Commission