UNITED STATES OF AMERICA BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS:	Joseph J. Simons, Chairman Noah Joshua Phillips Rohit Chopra Reb et ca Kelly Slaughter a corporation;)
	Össur Americas Holdings, Inc, a corporation;)
	and)
	College Park Industries, Inc., a corporation.)

DECISION DOCKE

DECISION

The Federal Trade Commission initiated an investigation of the proposed acquisition by Respondent Össur Americas Holdings Inc., controlled by Respondent Össur Hf, of the voting securities of Respondent College Park Industries, Inc., collectively "Respondents." The Commission's Bureau of Competition prepared and furnished to Respondents the Draft Complaint, which it proposed to present to the Commission for its consideration. If issued by the Commission, the Draft Complaint would charge Respondents with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

Respondents and the Bureau of Competition executed an Agreement Containing Consent Orders ("Consent Agreement") containing (1) an admission by Respondents of all the jurisdictional facts set forth in the Draft Complaint, (2) a statement that the signing of said

Draft Complaint, other than jurisdictional facts, are true, (3) waivers and other provisions as required by the Commission's Rules, and (4) a proposed Decision and Order and Order to Maintain Assets

The Commission considered the matter and determined that it had reason to believe that Respondents have violated the said Acts, and that a complaint should issue stating its charges in that respect. The Commission accepted the Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments. The Commission duly considered any comments received from interested persons pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34. Now, in further conformity with the procedure described in Rule 2.34, the Commission issues its Complaint, makes the following jurisdictional findings, and issues the following Decision and Order ("Order"):

- 1. Respondent SurHf is a corporation organized, existing, and doing business under, and by virtue of, the laws local local with its executive offices and principal place of business located afjothals 15, 110 Reykjavik, Iceland, and its United States address for service of proises 7051 Towne Center Drive, Foothill Ranch, California, 92610, United States of Airca.
- 2. Respondent SurAmericas Holdings, Inc. is corporation organized, existing, and doing business under, and by virtue of, the laws of Delaware, with its executive offices and principal place of business located 1 Towne Center Drive, Foothill Ranch, California, 92610, United States of America.
- 3. Respondent College Park Industries, Inc. is a corporation organized, existing, and doing business under, and by virtue of, the laws of Michigath its executive offices and principal place of business located at 27955 College Park Drive, Warren, Michigan, 48088, United States of America.
- 4. The Commission has jurisdiction over the subject matter of this proceeding and over Respondents, and proceeding is in the public interest.

ORDER

Definitions

IT IS ORDERED that, as used in the Orders, the

- ventures, subsidiaries, partnerships, divisions, groups, and affiliates lead by Össur Americas Holdings, Inc., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- C. "ÖssurHf" means ÖssurHf, its directors, officers, employees, agents, representatives, successors, anabsigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled bys ÖurHf, including Össur Americas Holdings, Inc., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- D. "Acquirer" means (i) Steepelor (ii) any other Person that the Commission approves to alequate street (a) (1 (b) 0r1 T10.0sj 10.0ea1.9aPTc (1 (b,o4 (p 1 a)--)-(a)4ev(1 (b I (o) po4 (pp T44 T

assemble, package, or sell a Myoelectric Elbow Product, and as listed-**P**hulblica Appendix C.

L. "Commission" means the Federal Trade Commission.

M.

- 6. The portion of Business Information that contains information about any business other than the business divested to an Acquirer;
- 7. Any original document that Respondents have a legal, contractual, or fiduciary obligation to retain the original; provided, however, that Respondents shall provide copies of the record and shall provide the Acquirer access to the original materials if copies are insufficient for regulatoryevidentiary purposes; and
- 8. Assets specifically identified as excluded in Nomblic Appendix B.
- V. "Intellectual Property" means intellectual property of any kind, includ**intents**, patent applications, mask works, trademarks, service marks, copyrighte, dress, commercial names, internet websites, internet domain names, inventions, discoveries, process technology, engineering technology, product technology, product rights, trade secrets, know-how, and proprietary information.
- W. "Key Employees" means themployees listed in No-Public Appendix D to this Order.
- X. "Marketing Materials" means all marketing materials used specifically in the marketing or sale of the Myoelectric Elbow roduct as of the Divestiture Datacluding allquality system documentation used for customer presentations, advertising materials, training materials, product data ailing lists, sales materiale. all, sales reports, sales funnel or process information, and sales data reketing information and; competitor information, research data, market intelligence reports, statistical programs (if any) used for marketing and sales research), customer information (including customer net purchase information to be provided on the basis of either dollars and/or units for each month, quarter or year), sales forecasting models, educational materials, and advertising and display materials, speaker lists, promotional and marketing materials provided to distributors and/or enduse customere(g specification sheets, application/use instructions and technical specifications) website content and advertising and display materials, artwork for the production of packaging components, television masters, and other sinaterials related to the Myoelectric Elbowroduct.
- Y. "Monitor" means any monitor appointed pursuant to Paraglix port this Decision and Order or Paragraph V of the Order to Maintain Assets.

- 6. The content related exclusively to the Myoelectric Elbowduct that is displayed on any website that is not dedicated exclusively to the Myoelectric Elbow Product;
- 7. At the option of the Acquirer, all Contracts;
- 8. For each Myoelectric Elbow Product:
 - a. a list of all customers for each Myoelectric Elbow Product and a listing of the net sales (in either units or dos) of that Myoelectric Elbow Product to such customers during the one (1) year period immediately prior to the Divestiture Date, stated on either an annual, quarterly, or monthly basis, including the name of each ustomer's employee(s) which or has been responsible for the purchase of three duct on behalf of the customer and that employee's business contact information;
 - b. a list for each Myoelectric Elbow Product containing: (i) thepriete (i.e., the final price per unit charged by Respondent College Retrike all customerlevel discounts, rebates, or promotions of the Divestiture Date; and (ii) the net price charged by Respondent College Park at the end of each quarter during the one (1) year period immediately prior to the Divestiture Date.
- 9. At the option of the Acquirer, a Myoelectric Elbow Products inventor and
- 10. The quantity and delivery terms in all unfilled customerchase orders for each Myoelectric Elbow Product as of the Divestiture Datebe provided the Acquirer not later than 5 dayster the Divestiture Date.
- AA. "Myoelectric Elbow Business" means the Business related to the Myoelectric Elbow Products and including without limitation all improvements and activities relating thereto as of the Divestiture Date.
- BB. "Myoelectric Elbow Employees" means: (1) any and all-furtle, parttime, or contract employees of Respondent College Park who work or worked on the Myoelectric Elbow Business, at any time 1 year prior to the Divestiture Date; and (2) the Key Employees.
- CC. "Myoelectric Elbow Product(s)" means the myoelectric prosthetic elbow products
 Developed, manufactured, assembled, marketed, sold, owned, or controlled by
 Respondent College Park, including the entire Espire Elbow family of products (e.g.,
 Espire Pro, Hybd, Classic 2 (itie (g)10ol)-2 (la)6 2C)A(s)1 (i jt3O D)4 (a)6 (tei)-6 (c 2 (i (u)-4 (l)-6

- GG. "Steeper" mean teeper Group, a corporation organized, existing, and doing business under and by virtue of the laws of the United Kingdom with its executive offices and principal place of business located at Unit 3, Stourton Link, Intermezzo Drive, Leeds, LS10 1DF, United Kingdom, and any Person controlled by or under common control of Steeper Group.
- HH. "Technical Support" means all capabilities to provide custom perific technical expertise, modification of products, customizing of products, testing of products, product performance advice, equipment assessment itemproduct assistance, monitoring of inventory levels and product orders/deliveries, and general product issue-solving and trouble-shooting.
- II. "Third Party(ies)" means any negrovernmental Person other than Respondents or the Acquirer of particular assets or rights pursuant to this Order.
- JJ. "Transitional Product Supply" means Respondentovision of supply of he Myoelectric ElbowProducts (including manufacture and assembly) or any component or input thereof, to the Acquirer.
- KK. "Transition Assistancemeans Technical Support, services, assistance, cooperation, training and access to personnel regarding the transfer and operation Mybtlectric Elbow Business, including, but not limited to, accounting and finance, human resources (employee benefits, payroll, etc.), information technology and systems, logistics (purchasing, distribution, warehousing, supply chain management, etc.), manufacturing (technology, technology transfer, operating permits and licenses, regulatory compliance, quality control, manufacturing processes and troubleshooting, etc.), research and Development, and sales and marketing (including customer service, supply chain management, and customer transfer logistics, etc.).

II. Divestiture

IT IS FURTHER ORDERED that:

A. No later than 10 days aftered Acquisition Date, Respondents street absolutely and in good faith, the Myoelectric Elbow Assets to Steeppersuant to, and in accordance with, the Divestiture Agreements

Provided, howeverthe Respondents may need to divest Excluded Assets if the Commission, in its sole discretion and within 12 months of the date of this Order is issued, determines in consultation with the Acquirer and the Monitor, that any such assets are necessary for the Acquirer to operate the Myoelectric Elbow Assets or the Myoelectric Elbow Business in a manner that achieves the purpose of this Order.

- B. If Respondents divest the Myoelectric Elbow As**setS**teeper before the Commission issues this Order, and the Commission subsequently notifies Respondents that:
 - 1. Steepeis not an acceptable acquire frthe Myoelectric Elbow Assets then Respondents shall immediately rescind Divestiture Agreements and shall

divest the Myoelectric Elbowssets no later than 180 days from the date this Order is issued, absolutely and in good faith, at no minimum price, to an Acquirer that receives the prior approval of the Commission and in a manner that receives the prior approval of the Commission; or

- 2. The manner in which the divestiture of the Myoelectric Ellassetsto the Acquirer was accomplished is not acceptable, the Commission may direct Respondents, or appoint a Divestiture Trustee, to effect such modifications to the manner of divestiture of the Myoelectric Elbassets as the Commission may determine are necessary to satisfy the requirements of this Order.
- C. Respondents shall deliver the Business Information Intellectual Propertyelated to the Myoelectric Elbow Producto the Acquirer as soon as practicable after the Divestiture Date in a manner that ensures their completeness, accuracy, and usefulness, and meets the reasonable requirements of the Acquirer.
- D. Prior to the Divesture Date, Respondents shall provide the Acquirer with the opportunity to review all Contractscluded in the Myoelectric Elbowssets for the purposes of the Acquirer's determination whether to assume sunthacts; provided, however that in cases in which any Contracts or relates to an Excluded Asset Respondents shall, at the Acquirer's option, assign or otherwise make available to the Acquirer all such rights under the Contrastare related to the Myoelectric Elbow Product, but concurrently may retain similar rights for the purposes of the Excluded Asset.
- E. Prior to the Divestiture Date, Respondents shaduse all consents, assignments, and waivers from all Persons that are necessary for the divestiture of the Myoelectric Elbow Assets; provided, however, that Respondents may satisfy this requirement by certifying that the Acquirer has executed appropriate agreements directly with each of the relevant Persons or has otherwise directly obtained the necessary consents.

Provided, howeverthat for the purposes of this Paragraph II.E., consents, assignments, and waivers do not include Approvals.

III. Divestiture Agreements

B. Respondents shall not modify or am**4hd** terms of the Divestiture Agreements after the Commission issues **ith**Order without the prior approval of the Commission, except as otherwise provided in Commission Rule 2.41(f)(5), 16 C.F.R. § 2.41(f)(5).

IV. Transition Assistance and Supply

IT IS FURTHER ORDERED that:

- A. Until Respondents we transferred all Business Information included in the Myoelectric Elbow Assets, Respondents shall provide the Acquirer with access to records and information (wherever located and however stored) included in the Business Information that Respondents have not yet transferred to the Acquirer, and to employees who possess the records and information.
- B. Respondents shall provide the Acquirer with Transition Assistande Transitional Product Supply sufficient Ele]TJ 0.001 Tc -0.001 TE-2 (bob)1 (IE)1 (Iw)-2 (ona)4 (I)-29.51 sha auppA (ssi s)-1 (ha)4 (I)-2 Elbow]TJ 0.001 Tc -0.1001 TE-2 (bob)1 (IE)1 (Iw)-2 (ona)4 (I)-23.38 sha assi shall prha

- a. Provide to the proposed cquirer a list of all Myoelectric Elbow Employees and rovide Employee Information for each; and
- b. Allow the proposed Acquirer a reasonable opportunity to interview any Myoelectric Elbow Employees.
- 2. Not later than 10 days after a request from a proposed Acquirer, Respondents shall provide an opportunity for that Acquirer to:
 - a. Meet personally, and outside the presence or hearing of any employee or agent of Respondents, with any of the Myoelectric Elbow Employments
 - b. Make offers of employment to any Myoelect Elbow Employees.
- 3. Respondents shall not directly or indirectly interfere with a proposed Acquirer offer of employment to any one or more of the Myoelectric Ellamployees not offer any incentive to Myoelectric Ellamployees to decline employment with a proposed Acquirer, and not otherwise interfere with the recruitment of any Myoelectric ElbowEmployees by a proposed Acquirer;
- 4. Respondents shall remove any impediments within the control of Respondents that may deter any Myoelectric Elbowmployees from accepting employment with a proposed Acquirer, including, but not limited to, removal of any non-compete or confidentiality provisions of employment or other contracts with Respondents that may affect the ability or incentive of those individuals to be employed by a proposed Acquirer, and shall not make any counteroffer to any Myoelectric ElbowEmployees who receive an offer of employment from the Acquirer; provided, howevethat nothing in this Order shall be construed to require Respondents to terminate the employment of any employee or -0-20 (y)20 (l)-2 (g)

- hasaccepted an offer of employment with, or who is employed by captirer to terminate his or her employment relationship with the Acquired; a
- 2. For a period of 2/years from the DivestiturDate, notdirectly or indirectlysolicit or induce, or attempt to solicit or induce, any Key Employee whoatcaspted an offer of employment with, or who is employed by, Acquirer to terminate his or her employment relationship with the Acquirer.

replicates the College Palkkanufacturing Equipment such that it manufactures assembleshe Myoelectric ElbowProducts in a manner that fulfills the Acquirer's worldwide demand, and until Acquirer obtains all relevant Approvals worldwide, Responderst shall

1. Shall take actions as are necessary to

Provided, however

- 3. Allow the Acquirer reasonable access to all Business Information related to the Myoelectric ElbowAssets and Myoelectric ElbowAssets and to employees who possess or are able to locate such information; and
- 4. Establish projected timelines for accomplishingtasks necessary to effectuate the transition to the Acquirer in an efficient and timelanner
- B. Respondents shall not join, file, prosecute, or maintain any suit, in law or equity, against the Acquirer, its licensees, or its customers under atemphat was pending or issued on or before the Acquisition Date if such suit would directly limit or impair the Acquirer's freedom to manufacture, distribute, market, sell, or offer for sale any Myoelectric Elbow Product anywhere in the world.
- C. Upon reasonable written notice and request from the Acquirer to Respondents, Respondents shall provide, in a timely manner, at no greater than Direct Cost, assistance of knowledgeable employees of Respondents to aseistate to defend against, respond to, or otherse participate in any litigation brought by a ouitss t/2 (de)4 s,hall provi ated

IX. Monitor

- F. The Monitor shall serve, without bond or other security, at the expense of Respondents, on such reasonable and customary terms and conditions as the Commission may set. The Monitor shall have the authority to employ, at the expense of Respondents, such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities.
- G. Respondents shall indemnify the Monitor and hold the Monitor harmless against any losses, claims, damages, liabilities, or expensising out of, or in connection with, the performance of the Monitor's duties, including all reasonable fees of counsel and other reasonable expenses incurred in connection with the preparations for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from gross negligence, willful or wanton acts, or bad faith by the Monitor. For purposes of this Para®Yaph the term "Monitor" shall include all persons retained by the Monitor pursuant to Para®Yaph this Order.
- H. Respondents shall report to the Monitor in accordance with the requirements of this Order or the Order to Maintain Assets as otherwise provided in the Monitor Agreement approve the Commission. The Monitor shall evaluate the reports submitted by the Respondents with respect to the performance of Respondents' obligations under this Order and the Order to Maintain Assets in 1 month from the date the Monitor is appointed pursuant to this Paragraph IX, and every 60 days thereafter (and otherwise as the Commission or its staff may request), the Monitor shall report in writing to the Commission concerning performance by Respondents of their obligations under the Others.
- I. Respondents may require the Monitor and each of the Monitor's consultants, accountants, and other representatives and assistants to sign a customary confidentiality agreement provided, however, that such agreement shall not restrict the Monitor from providing any information to the Commission
- J. The Commission may require, among other things, the Monitor and each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants to sign an appropriate confidentiality agreement related to Commission materials and information received in connection with the performance of the Monitor's duties.
- K. The Commission may on its own initiative, or at the request of the Monitor, issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of this Order.
- L. The Monitor appointed pursuant to this Order may be the same person appointed as a Divestiture Trustee pursuant to the relevant provisions of this Order.
- M. If the Commission determines **thta**e Monitor has ceased to act or failed to act diligently, the Commission may appoint a substitute Monitor

- 1. Commissiormay select the substitute Monitor, subject to the consent of Respondents, which consent shall not be unreasonably withheld. If Respondent have not opposed, in writing, including the reasons for opposing, the selection of a proposed Monitor within 10 days after the notice by the staff of the Commission to Respondents of the identity of any proposed Monitor, Respondents shall be deemed to have consented to the selection of the proposed Monitor.
- 2. Not later than 10 days after the appointment of the substitute Monitor, Respondents shall execute an agreement that, subject to the prior approval of the Commission, confers on the Monitor all rights and powers necessary to permit the Monitor to monitor Respondents' compliance with the relevant terms of this Order, the Order to Maintain Assets, and the Divestiture Agreement in a manner consistent with the purposes of the ers and in consultation with the Commission.

X. Divestiture Trustee

i

IN .hT IS FURTHER ORDERED4 (ons)-1 (2TJ 0 Tc(c)6 (on of)3 (t)-2 (he)4 (p)-10 (r)3 (opos)-1 (e)-

- Divestiture Trustee all rights and powers necessary to permit the Divestiture Trustee to effect the relevant divestiture or other action required by the Order.
- E. If a Divestiture Trustee is appointed by the Commission or a court pursuant to this Order, Respondents shall consent to the following terms and conditions regarding the Divestiture Trustee's powers, duties, authority, and responsibilities:
 - Subject to the prior approval of the Commission, the Divestiture Trustee shall have the exclusive power and authority to assign, grant, license, divest, transfer, deliver, or otherwise convey the relevant assets that are required by this Order to be assigned, granted, licensed, divested, transferred, delivered, or otherwise conveyed, and to take such other action as may be required to divest the MyoelectricElbow Assets.

Respondents shall select such entity within 5 days of receiving notification of the Commission's approval.

5. The Divestiture Trustee shall serve, without bond or other security, at the cost and expense of

- sign a confidentiality agreement related to Commission materials and information received in connection with the performance of the Divestiture Trustee's duties.
- G. If the Commission determines that a Divestiture Trustee has ceased to act or failed to act diligently, the Commission may appoint a substitute Divestiture Trustee in the same manners provided in this Paragraxh.
- H. The Divestiture Trustee appointed pursuant to this Order may be the same Person appointed as the Monitor pursuant to the relevant provisions of this Order.
- I. The Commission or, in the case of a court-appointed Divestiture Trustee, the court, may on its own initiative or at the request of the Divestiture Trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestitures and other obligations or actions required by this Order.

XI. Prior Notice

IT IS FURTHER ORDERED that:

A. For a period of 5 years from the date this Order is issued, Respondents shall not, without

- iii. The provision of Transitional Product Supply of the Myoelectric Elbow Products to the Acquirer.
- 3. Respondents shall retain all material written communications with eath p identified in the compliance report and all non-privileged internal memoranda, reports, and recommendations concerning fulfilling Respondents' obligations under the Order and provide copies of these documents to Commission staff upon request.
- 4. Respondents shall verify each compliance report in the manner set forth in 28 U.S.C. § 1746 by the Chief Executive Officer or another officer or employee specifically authorized to pterm this function. Respondents shall submit an original and 2 copies of each compliance report as required by Commission Rule 2.41(a), 16 C.F.R. § 2.41(a), including a paper original submitted to the Secretary of the Commission and electronic copies to the Secretary at ElectronicFilings@ftc.govand to the Compliance Division at bccompliance@ftc.gov and dition, Respondents shall provide a copy of each compliance report to the Monitor.

XIII. C.16001.004 Tc -0.[Ccs 0 6 ta9me.umfo0 (c)m (l)-2 (dy <</MCID 1

- control of thatRespondent related to compliance with this Order, which copying services shall be provided by thatRespondent at the request of the authorized representative of the Commission and at the expense of that Respondent; and
- B. To interview officers, directors, or employees of that Respondent, who may have counsel present, regarding such matters.

XV. Purpose

IT IS FURTHER ORDERED that the purpose of this Order is to

- A. Ensure that the Acquirer can operate the Myoelectric E**Bosi**ness in a manner equivalent in all material aspects to the manner in which Respondent College Park operated the Myoelectric Elbo**B**usinesses prior to the Acquisition;
- B. Create a viable and effective competitoatt is independent of Respondents in the Myoelectric ElbowBusinessand
- C. Remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's Complaint in a timely and sufficient manner.

XVI. Term

	IT IS FURTHER	ORDERED	that this	Order	shall	terminate	10	ye árrs m	the	date	it is
issued											

	April J. Tabor
	Acting Secretary

SEAL

By the Commission.

ISSUED: