

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

INTEX RECREATION CORP.,)	
)	
Plaintiff.)	
)	
v.)	CASE NO. 1:14-CV-1952
)	
BESTWAY (USA), INC.,)	
)	
Defendant.)	

COMPLAINT FOR PATENT INFRINGEMENT

The Plaintiff, Intex Recreation Corp. (“Intex”), files this Complaint for Patent Infringement against the Defendant, Bestway (USA), Inc. (“Bestway”).

I. THE PARTIES

1. Intex is a corporation organized and existing under the laws of the State of California, having a principal place of business at 4001 Via Oro Avenue, Long Beach, California.

2. Intex is in the business of selling many products, including inflatable pool products and accessories.

3. On information and belief, Bestway is a corporation organized and existing under the laws of the State of Arizona, having a principal place of business at 3249 E. Harbour Drive, Phoenix, Arizona.

4. On information and belief, Bestway is engaged in the business of manufacturing and selling inflatable pool products and accessories, and does business in the State of Indiana and in this district.

II. JURISDICTION AND VENUE

4. Intex hereby realleges and incorporates by reference, as if fully set forth herein, the allegations in paragraphs 1-3, *supra*.

5. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. This Court has exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Bestway. On information and belief, Bestway has conducted, and does conduct, business within the State of Indiana and the Southern District of Indiana. Bestway has made, used, offered to sell, sold, and/or imported into the United States, inflatable products that infringe one or more claims of a patent owned by Intex. On information and belief, Bestway's infringing inflatable products are or were available, and are or were being offered for sale and sold, via the internet on at least Amazon.com and at KMart stores and/or KMart's website, including to customers located within the State of Indiana and the Southern District of Indiana.

7. Venue is proper in this District pursuant to 28 U.S.C. §§1391(b) and (c), and 1400(b).

III. INFRINGEMENT OF UNITED STATES PATENT NO. 6,749,474

8. Intex hereby realleges and incorporates by reference, as if fully set forth herein, the allegations in paragraphs 1-7, *supra*.

9. On June 15, 2004, the United States Patent and Trademark Office ("PTO") duly and legally issued United States Patent No. 6,749,474 ("the '474 Patent"), which relates to an inflatable flotation device having a removable canopy. A true and accurate copy of the '474 Patent is attached hereto as Exhibit A.

10. Intex is the assignee of and owns all rights and interest in the '474 Patent entitled "Inflatable Flotation Device Having Removable Canopy." Intex thus has the right to sue for any infringement thereof.

11. Intex sells products in the United States that embody the patented inventions claimed in the '474 Patent, including, but not limited to, its Kiddie Float, Model number 56581.

12. On information and belief, Bestway is infringing the '474 Patent, either directly, contributorily, or by inducement, by making, using, importing, selling, or offering for sale in the United States, including in the Southern District of Indiana, products embodying the patented inventions claimed in the '474 Patent, without Intex's authority. For example, Bestway is infringing the '474 Patent by making, using, selling, offering for sale, and/or importing its UV Careful™ Baby Care Seats, including at least the products shown below:



13. On information and belief, Bestway will continue to infringe the '474 Patent, causing Intex immediate and irreparable harm unless this Court enjoins and restrains Bestway's activities.

14. Bestway's acts of infringement have deprived, and will continue to deprive, Intex of sales, profits, and other related revenue that Intex would have made or would

enjoy in the future; has injured Intex in other respects; and will continue to cause Intex added injury and damage, including loss of sales, profits, and other related revenue in the future, unless Bestway is enjoined from infringing the '474 Patent.

15. On information and belief, Bestway's infringement of the '474 Patent is willful and justifies a trebling of damages pursuant to 35 U.S.C. § 284. Further, this is an exceptional case supporting an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285.

IV. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Intex Recreation Corp., respectfully requests that the Court enter judgment in its favor and against Bestway, and provide Intex the following relief:

- A. Order, adjudge, and decree that U.S. Patent 6,749,474 is valid, enforceable, and infringed by Bestway;
- B. Enter a permanent injunction against Bestway enjoining it, its directors, officers, agents, employees, successors, subsidiaries, assigns, and all persons acting in privity or in concert or participation with Bestway from making, using, selling, or offering for sale in the United States, or importing into the United States, any and all products and/or services embodying the patented inventions claimed in the '474 Patent;
- C. Award Intex its damages for patent infringement, and prejudgment and postjudgment interest, pursuant to 35 U.S.C. §284;
- D. Order, adjudge, and decree that Bestway's infringement of the '474 Patent has been deliberate and willful, and award Intex treble damages under 35 U.S.C. § 284;
- E. Find that this case is "exceptional" under 35 U.S.C. § 285, and award Intex its costs and reasonable attorney's fees as provided in 35 U.S.C. § 285;
- F. Award such other and further relief as the Court deems just and proper.

V. REQUEST FOR TRIAL BY JURY

Plaintiff, Intex Recreation Corp. respectfully requests a trial by jury on all issues so triable.

Date: November 25, 2014

Respectfully submitted,

By: /s/ R. Trevor Carter

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