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12 Attorneys for Plaintiff
INTEX RECREATION CORP.

13
14 UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
15 WESTERN DIVISION

16 INTEX RECREATION CORP.,

17 Plaintiff,

18 vs.

19 BESTWAY (USA), INC.,
20 BESTWAY GLOBAL HOLDINGS
INC., BESTWAY (HONG KONG)
21 INTERNATIONAL, LTD.,
22 BESTWAY INFLATABLES &
MATERIALS CORPORATION, and
23 BESTWAY (NANTONG)
RECREATION CORP.,

24 Defendants.

Case No.: 16-cv-3950

**COMPLAINT FOR
PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff Intex Recreation Corp. (“IRC”), for its complaint against Defendants,
2 Bestway (USA), Inc. (“Bestway-USA”), Bestway Global Holdings Inc. (“Bestway
3 Global”), Bestway (Hong Kong) International, Ltd. (“Bestway-Hong Kong”),
4 Bestway Inflatables & Materials Corporation (“Bestway Inflatables”), and Bestway
5 (Nantong) Recreation Corp. (“Bestway-Nantong”), (collectively, “Bestway” or
6 “Defendants”), alleges as follows:

7 **THE PARTIES**

8 1. IRC is a corporation organized and existing under the laws of the State
9 of California.

10 2. IRC is in the business of selling many products, including inflatable
11 spas, among many others.

12 3. On information and belief, Bestway-USA is a corporation organized and
13 existing under the laws of the State of Arizona, having a principal place of business at
14 3249 East Harbour Drive, Phoenix, Arizona.

15 4. On information and belief, Bestway Global is a corporation organized
16 under the laws of the People’s Republic of China, having a principal place of
17 business at No. 3065 Cao An Road, Shanghai, China, 201812. On further
18 information and belief, Bestway Global is registered to do business in California, and
19 lists an agent for service of process at 20335 Howard Court, Woodland Hills,
20 California.

21 5. On information and belief, Bestway-Hong Kong is a corporation
22 organized under the laws of the Hong Kong Special Administrative Region of the
23 People’s Republic of China, having a principal place of business at 66 Mody Road,
24 Kowloon, Hong Kong.

25 6. On information and belief, Bestway Inflatables is a company organized
26 under the laws of the People’s Republic of China, having a principal place of
27 business at No. 3065 Cao An Road, Shanghai, China, 201812.
28

1 through intermediaries (including distributors, retailers, and others), subsidiaries, alter
2 egos, and/or agents—imports into the United States or offers to sell, sells, or uses
3 within the United States the Accused Products. Bestway Global has purposefully and
4 voluntarily placed one or more of the Accused Products into the stream of commerce
5 with the awareness and/or intent that they will be purchased by consumers in this
6 District. Bestway Global knowingly and purposefully ships the Accused Products
7 into and within this District through an established distribution channel.

8 12. This Court has personal jurisdiction over Bestway-Hong Kong. On
9 information and belief, Bestway-Hong Kong has conducted, and does regularly
10 conduct, business within the State of California including this District. Bestway-
11 Hong Kong—directly and/or through intermediaries (including distributors, retailers,
12 and others), subsidiaries, alter egos, and/or agents—has made, used, offered to sell,
13 sold, and/or imported into the United States, including to customers located within
14 the State of California and this District, the Accused Products. Bestway-Hong
15 Kong—directly and/or through intermediaries (including distributors, retailers, and
16 others), subsidiaries, alter egos, and/or agents—imports into the United States or
17 offers to sell, sells, or uses within the United States the Accused Products. Bestway-
18 Hong Kong has purposefully and voluntarily placed one or more of the Accused
19 Products into the stream of commerce with the awareness and/or intent that they will
20 be purchased by consumers in this District. Bestway-Hong Kong knowingly and
21 purposefully ships the Accused Products into and within this District through an
22 established distribution channel.

23 13. This Court has personal jurisdiction over Bestway Inflatables. On
24 information and belief, Bestway Inflatables has conducted, and does regularly
25 conduct, business within the State of California including this District. Bestway
26 Inflatables—directly and/or through intermediaries (including distributors, retailers,
27 and others), subsidiaries, alter egos, and/or agents—has made, used, offered to sell,
28 sold, and/or imported into the United States, including to customers located within

1 the State of California and this District, the Accused Products. Bestway Inflatables—
2 directly and/or through intermediaries (including distributors, retailers, and others),
3 subsidiaries, alter egos, and/or agents—imports into the United States or offers to
4 sell, sells, or uses within the United States the Accused Products. Bestway Inflatables
5 has purposefully and voluntarily placed one or more of the Accused Products into the
6 stream of commerce with the awareness and/or intent that they will be purchased by
7 consumers in this District. Bestway Inflatables knowingly and purposefully ships the
8 Accused Products into and within this District through an established distribution
9 channel.

10 14. This Court has personal jurisdiction over Bestway-Nantong. On
11 information and belief, Bestway-Nantong has conducted, and does regularly conduct,
12 business within the State of California including this District. Bestway-Nantong—
13 directly and/or through intermediaries (including distributors, retailers, and others),
14 subsidiaries, alter egos, and/or agents—has made, used, offered to sell, sold, and/or
15 imported into the United States, including to customers located within the State of
16 California and this District, the Accused Products. Bestway-Nantong—directly
17 and/or through intermediaries (including distributors, retailers, and others),
18 subsidiaries, alter egos, and/or agents—imports into the United States or offers to
19 sell, sells, or uses within the United States the Accused Products. Bestway-Nantong
20 has purposefully and voluntarily placed one or more of the Accused Products into the
21 stream of commerce with the awareness and/or intent that they will be purchased by
22 consumers in this District. Bestway-Nantong knowingly and purposefully ships the
23 Accused Products into and within this District through an established distribution
24 channel.

25 15. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and
26 1400(b).

1 **FACTUAL BACKGROUND**

2 16. IRC realleges and incorporates by reference, as if fully set forth herein,
3 the allegations in paragraphs 1-15, above.

4 **The '240 Patent**

5 17. The '240 Patent, entitled "Inflatable Spa," was duly and legally issued to
6 inventors Hua Hsiang Lin and Yaw Yuan Hsu on February 9, 2016. A true and
7 accurate copy of the '240 Patent is attached hereto as Exhibit 1.

8 18. IRC is the exclusive licensee to the '240 Patent and has the right to sue
9 for any infringement of the '240 Patent.

10 **Bestway's Accused Products**

11 19. On information and belief, Bestway is infringing the '240 Patent
12 directly, jointly, contributorily, and/or by inducement, by, without authority, making,
13 using, importing, selling, or offering for sale in the United States, including in this
14 District, inflatable spas that embody claims in the '240 Patent or that are made using
15 the inventive processes claimed in the '240 Patent. Specifically, on information and
16 belief, Bestway is infringing the '240 Patent by making, using, selling, offering for
17 sale, and/or importing into the United States, or by importing into the United States or
18 offering to sell, selling, or using within the United States at least the following
19 products, (collectively, the "Accused Products"): Coleman™ Lay-Z-Spa™ (Model
20 No. 54131E); Lay-Z-Spa™ HydroJet Pro™ Hawaii (Model Nos. 54138 and 54139);
21 Lay-Z-Spa™ Palm Springs (Model Nos. 54129, 54130, 54135); and Lay-Z-Spa™
22 HydroJet™ Palm Springs (Model Nos. 54144 and 54145).

23 20. On information and belief, the Accused Products are or were available,
24 and are or were being offered for sale and sold at, at least, Walmart stores and
25 Walmart.com, Target.com, Amazon.com, and bhg.com.

26 **Bestway's Knowledge of, and Willful Infringement of, the '240 Patent**

27 21. Bestway's infringement has been, and continues to be, willful and
28 deliberate.

1 22. On information and belief, Bestway actively monitors the inflatable spa
2 industry and competitive intellectual property.

3 23. In a letter dated July 30, 2014, IRC informed Bestway Inflatables¹ that
4 IRC owned U.S. patent application number 14/444,474 (“Patent Application”), which
5 is the application that eventually issued as the ’240 Patent. In its July 30, 2014 letter,
6 IRC included copies of the Patent Application and explained that certain products in
7 Bestway’s 2015 catalog would infringe claims that would issue from the then-
8 pending Patent Application.

9 24. In a letter dated October 2, 2014, IRC specifically informed counsel for
10 Bestway that Bestway’s importing and selling of the Coleman™ Lay-Z-Spa™ posed
11 a “significant risk” to Bestway in view of the claims then-pending in the Patent
12 Application.

13 25. On information and belief, on January 22, 2015, Bestway had actual
14 notice that the Patent Application published as U.S. Patent Publication No.
15 2015/0020306 (“Patent Publication”).

16 26. In a letter dated November 19, 2015, IRC informed counsel for Bestway
17 that the United States Patent and Trademark Office had recently allowed claim 1 of
18 the Patent Application, which is identical in scope to claims published in the Patent
19 Publication, and which Bestway’s Coleman™ Lay-Z-Spa™ infringed.

20 27. With knowledge of the ’240 Patent and its infringing conduct, Bestway
21 continues to make, use, sell, offer to sell, and/or import the Accused Products and/or
22 import into the United States or offer to sell, sell, or use within the United States the
23 Accused Products.

24 28. IRC has suffered and will continue to suffer damages from Bestway’s
25 acts of infringement complained of herein.

26 _____
27 ¹ Given the nature of the relationship between each of the Defendants, on
28 information and belief, IRC’s July 30, 2014 letter (including the copy of the Patent
Application attached thereto), and all other correspondence with Bestway Inflatables,
was also received by Defendants Bestway Global, Bestway-Hong King, Bestway-
Nantong, and Bestway-USA.

INFRINGEMENT OF U.S. PATENT NO. 9,254,240

1
2 29. IRC realleges and incorporates by reference, as if fully set forth herein,
3 the allegations in paragraphs 1-28, above.

4 30. Bestway-USA has directly infringed, either individually or as part of a
5 joint enterprise or through the exercise of direction and control over at least one other
6 Defendant or third party, and is still directly infringing, at least Claim 1 of the '240
7 Patent, literally or by the doctrine of equivalents, by making, using, offering to sell
8 and selling, and/or importing the Accused Products, and/or by importing into the
9 United States or offering to sell, selling, or using within the United States the
10 Accused Products. Bestway-USA will continue to infringe at least Claim 1 of the
11 '240 Patent unless enjoined by this Court.

12 31. Bestway Global has directly infringed, either individually or as part of a
13 joint enterprise or through the exercise of direction and control over at least one other
14 Defendant or third party, and is still directly infringing, at least Claim 1 of the '240
15 Patent, literally or by the doctrine of equivalents, by making, using, offering to sell
16 and selling, and/or importing the Accused Products, and/or by importing into the
17 United States or offering to sell, selling, or using within the United States the
18 Accused Products. Bestway Global will continue to infringe at least Claim 1 of the
19 '240 Patent unless enjoined by this Court.

20 32. Bestway-Hong Kong has directly infringed, either individually or as part
21 of a joint enterprise or through the exercise of direction and control over at least one
22 other Defendant or third party, and is still directly infringing, at least Claim 1 of the
23 '240 Patent, literally or by the doctrine of equivalents, by making, using, offering to
24 sell and selling, and/or importing the Accused Products, and/or by importing into the
25 United States or offering to sell, selling, or using within the United States the
26 Accused Products. Bestway-Hong Kong will continue to infringe at least Claim 1 of
27 the '240 Patent unless enjoined by this Court.
28

1 33. Bestway Inflatables has directly infringed, either individually or as part
2 of a joint enterprise or through the exercise of direction and control over at least one
3 other Defendant or third party, and is still directly infringing, at least Claim 1 of the
4 '240 Patent, literally or by the doctrine of equivalents, by making, using, offering to
5 sell and selling, and/or importing the Accused Products, and/or by importing into the
6 United States or offering to sell, selling, or using within the United States the
7 Accused Products. Bestway Inflatables will continue to infringe at least Claim 1 of
8 the '240 Patent unless enjoined by this Court.

9 34. Bestway-Nantong has directly infringed, either individually or as part of
10 a joint enterprise or through the exercise of direction and control over at least one
11 other Defendant or third party, and is still directly infringing, at least Claim 1 of the
12 '240 Patent, literally or by the doctrine of equivalents, by making, using, offering to
13 sell and selling, and/or importing the Accused Products, and/or by importing into the
14 United States or offering to sell, selling, or using within the United States the
15 Accused Products. Bestway-Nantong will continue to infringe at least Claim 1 of the
16 '240 Patent unless enjoined by this Court.

17 35. Bestway directly infringes at least Claim 1 of the '240 Patent, for
18 example, because:

- 19 a. The Accused Products satisfy the limitation of having “a first wall;”
- 20 b. The Accused Products satisfy the limitation of having “a second wall;”
- 21 c. The Accused Products satisfy the limitation of having “an inflatable air
22 chamber defined by the first wall and the second wall;” and
- 23 d. The Accused Products satisfy the limitation of having “a plurality of
24 tensioning structures located in the air chamber and coupled to the first
25 wall and the second wall, each tensioning structure including: at least
26 one attachment sheet having an outer perimeter; and a porous sheet
27 coupled to the at least one attachment sheet, the porous sheet having an
28 outer perimeter that substantially overlaps the outer perimeter of the at

1 least one attachment sheet, the porous sheet including a plurality of
2 enclosed pores located entirely within the outer perimeter of the at least
3 one attachment sheet and a plurality of frame members that intersect to
4 define the plurality of enclosed pores.”

5 36. With knowledge of the '240 Patent, as described above, Bestway-USA
6 has actively induced one or more Defendants and/or third-party manufacturers,
7 distributors, importers, agents, and/or contractors to directly infringe at least Claim 1
8 of the '240 Patent by, for example, distributing or making available instructions or
9 manuals for manufacturing the Accused Products, and/or providing technical support
10 for doing the same. On information and belief, Bestway-USA does so with
11 knowledge, or with willful blindness of the fact, that the induced acts constitute
12 infringement of at least Claim 1 of the '240 Patent. Bestway-USA intends to cause
13 infringement by these Defendants, third-party manufacturers, distributors, importers,
14 agents, and/or contractors.

15 37. With knowledge of the '240 Patent, as described above, Bestway-USA
16 has contributorily infringed at least Claim 1 of the '240 Patent by, for example,
17 selling or offering to sell a material or apparatus that is a component for use in
18 practicing at least Claim 1 of the '240 Patent. On information and belief, Bestway-
19 USA does so with knowledge that the component was especially made or adapted for
20 use in a manner that would infringe at least Claim 1 of the '240 Patent when
21 Bestway-USA sold, offered to sell, or imported the component. On information and
22 belief, these components are not staple articles of commerce capable of substantial
23 noninfringing uses.

24 38. With knowledge of the '240 Patent, as described above, Bestway Global
25 has actively induced one or more Defendants and/or third-party manufacturers,
26 distributors, importers, agents, and/or contractors to directly infringe at least Claim 1
27 of the '240 Patent by, for example, distributing or making available instructions or
28 manuals for manufacturing the Accused Products, and/or providing technical support

1 for doing the same. On information and belief, Bestway Global does so with
2 knowledge, or with willful blindness of the fact, that the induced acts constitute
3 infringement of at least Claim 1 of the '240 Patent. Bestway Global intends to cause
4 infringement by these Defendants, third-party manufacturers, distributors, importers,
5 agents, and/or contractors.

6 39. With knowledge of the '240 Patent, as described above, Bestway Global
7 has contributorily infringed at least Claim 1 of the '240 Patent by, for example,
8 selling or offering to sell a material or apparatus that is a component for use in
9 practicing at least Claim 1 of the '240 Patent. On information and belief, Bestway
10 Global does so with knowledge that the component was especially made or adapted
11 for use in a manner that would infringe at least Claim 1 of the '240 Patent when
12 Bestway Global sold, offered to sell, or imported the component. On information and
13 belief, these components are not staple articles of commerce capable of substantial
14 noninfringing uses.

15 40. With knowledge of the '240 Patent, as described above, Bestway-Hong
16 Kong has actively induced one or more Defendants and/or third-party manufacturers,
17 distributors, importers, agents, and/or contractors to directly infringe at least Claim 1
18 of the '240 Patent by, for example, distributing or making available instructions or
19 manuals for manufacturing the Accused Products, and/or providing technical support
20 for doing the same. On information and belief, Bestway-Hong Kong does so with
21 knowledge, or with willful blindness of the fact, that the induced acts constitute
22 infringement of at least Claim 1 of the '240 Patent. Bestway-Hong Kong intends to
23 cause infringement by these Defendants, third-party manufacturers, distributors,
24 importers, agents, and/or contractors.

25 41. With knowledge of the '240 Patent, as described above, Bestway-Hong
26 Kong has contributorily infringed at least Claim 1 of the '240 Patent by, for example,
27 selling or offering to sell a material or apparatus that is a component for use in
28 practicing at least Claim 1 of the '240 Patent. On information and belief, Bestway-

1 Hong Kong does so with knowledge that the component was especially made or
2 adapted for use in a manner that would infringe at least Claim 1 of the '240 Patent
3 when Bestway-Hong Kong sold, offered to sell, or imported the component. On
4 information and belief, these components are not staple articles of commerce capable
5 of substantial noninfringing uses.

6 42. With knowledge of the '240 Patent, as described above, Bestway
7 Inflatables has actively induced one or more Defendants and/or third-party
8 manufacturers, distributors, importers, agents, and/or contractors to directly infringe
9 at least Claim 1 of the '240 Patent by, for example, distributing or making available
10 instructions or manuals for manufacturing the Accused Products, and/or providing
11 technical support for doing the same. On information and belief, Bestway Inflatables
12 does so with knowledge, or with willful blindness of the fact, that the induced acts
13 constitute infringement of at least Claim 1 of the '240 Patent. Bestway Inflatables
14 intends to cause infringement by these Defendants, third-party manufacturers,
15 distributors, importers, agents, and/or contractors.

16 43. With knowledge of the '240 Patent, as described above, Bestway
17 Inflatables has contributorily infringed at least Claim 1 of the '240 Patent by, for
18 example, selling or offering to sell a material or apparatus that is a component for use
19 in practicing at least Claim 1 of the '240 Patent. On information and belief, Bestway
20 Inflatables does so with knowledge that the component was especially made or
21 adapted for use in a manner that would infringe at least Claim 1 of the '240 Patent
22 when Bestway Inflatables sold, offered to sell, or imported the component. On
23 information and belief, these components are not staple articles of commerce capable
24 of substantial noninfringing uses.

25 44. With knowledge of the '240 Patent, as described above, Bestway-
26 Nantong has actively induced one or more Defendants and/or third-party
27 manufacturers, distributors, importers, agents, and/or contractors to directly infringe
28 at least Claim 1 of the '240 Patent by, for example, distributing or making available

1 instructions or manuals for manufacturing the Accused Products, and/or providing
2 technical support for doing the same. On information and belief, Bestway-Nantong
3 does so with knowledge, or with willful blindness of the fact, that the induced acts
4 constitute infringement of at least Claim 1 of the '240 Patent. Bestway-Nantong
5 intends to cause infringement by these Defendants, third-party manufacturers,
6 distributors, importers, agents, and/or contractors.

7 45. With knowledge of the '240 Patent, as described above, Bestway-
8 Nantong has contributorily infringed at least Claim 1 of the '240 Patent by, for
9 example, selling or offering to sell a material or apparatus that is a component for use
10 in practicing at least Claim 1 of the '240 Patent. On information and belief, Bestway-
11 Nantong does so with knowledge that the component was especially made or adapted
12 for use in a manner that would infringe at least Claim 1 of the '240 Patent when
13 Bestway-Nantong sold, offered to sell, or imported the component. On information
14 and belief, these components are not staple articles of commerce capable of
15 substantial noninfringing uses.

16 46. Bestway will continue to infringe the '240 Patent, causing immediate
17 and irreparable harm to IRC, unless this Court enjoins and restrains Bestway's
18 activities.

19 47. Bestway's acts of infringement have deprived, and will continue to
20 deprive, IRC of sales, profits, and other related revenue that IRC would have made or
21 would enjoy in the future; has injured IRC in other respects; and will continue to
22 cause IRC added injury and damage unless and until the Court enters an injunction
23 prohibiting further infringement, and specifically enjoins further manufacture, use,
24 offers for sale, sale, and importation of the Accused Products.

25 48. IRC is entitled to recover damages adequate to compensate for
26 Bestway's infringement, including, but not limited to, lost profits, a reasonable
27 royalty, including a reasonable royalty pursuant to 35 U.S.C. § 154(d), treble
28

1 damages, pre and post judgment interest at the maximum allowable rate, costs,
2 attorneys’ fees, and other such relief this Court deems proper.

3 49. On information and belief, Bestway’s infringement of the ’240 Patent is
4 willful and justifies a trebling of damages pursuant to 35 U.S.C. § 284. Further, this
5 is an exceptional case supporting an award of reasonable attorneys’ fees pursuant to
6 35 U.S.C. § 285.

7 **REQUEST FOR RELIEF**

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

11 A. Order, adjudge, and decree that U.S. Patent 9,254,240 is valid,
12 enforceable, and infringed by Bestway;

13 B. Enter a permanent injunction against Bestway enjoining it, its
14 directors, officers, agents, employees, successors, subsidiaries, assigns, and all
15 persons acting in privity or in concert or participation with Bestway from making,
16 using, selling, or offering for sale in the United States, or importing into the United
17 States, any and all products and/or services embodying the patented inventions
18 claimed in the ’240 Patent;

19 C. Award IRC its damages for patent infringement pursuant to 35
20 U.S.C. §§ 284 and 154(d), and pre and post judgment interest as allowed by law;

21 D. Order, adjudge, and decree that Bestway’s infringement of the
22 ’240 Patent has been deliberate and willful, and award IRC treble damages under 35
23 U.S.C. § 284;

24 E. Find that this case is “exceptional” under 35 U.S.C. § 285, and
25 award IRC its costs and reasonable attorney’s fees as provided in 35 U.S.C. § 285;
26 and

27 ////

28 ////

1 F. Award such other and further relief as the Court deems just and
2 proper.

3 Dated: June 6, 2016

FAEGRE BAKER DANIELS LLP

4
5 By: /s/ Tarifa B. Laddon

6 TARIFA B. LADDON
7 R. TREVOR CARTER
8 ANDREW M. MCCOY
9 TRENTON B. MORTON
10 REID E. DODGE

11 Attorneys For Plaintiff,
12 INTEX RECREATION CORP.

13
REQUEST FOR TRIAL BY JURY

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

16 Dated: June 6, 2016

FAEGRE BAKER DANIELS LLP

17 By: /s/ Tarifa B. Laddon

18 TARIFA B. LADDON
19 R. TREVOR CARTER
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23 Attorneys For Plaintiff,
24 INTEX RECREATION CORP.
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