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19 Attorneys for Plaintiff,
20 **INTEX RECREATION CORP.**

21 **UNITED STATES DISTRICT COURT**
22 **CENTRAL DISTRICT OF CALIFORNIA**
23 **WESTERN DIVISION**

24 **INTEX RECREATION CORP.,**

25 Plaintiff,

26 vs.

27 **BESTWAY (USA), INC.,**
28 **BESTWAY GLOBAL HOLDINGS**
INC., BESTWAY (HONG KONG)
INTERNATIONAL, LTD.,
BESTWAY INFLATABLES &
MATERIALS CORPORATION,
BESTWAY (NANTONG)
RECREATION CORP., and
BESTWAY (HONG KONG)
ENTERPRISE COMPANY
LIMITED,

Defendants.

Case No.:

COMPLAINT FOR
PATENT INFRINGEMENT

DEMAND FOR JURY TRIAL

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

8 **THE PARTIES**

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

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

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

16 4. On information and belief, Bestway Global is a corporation organized
17 under the laws of the People’s Republic of China, having a principal place of
18 business at No. 3065 Cao An Road, Shanghai, China, 201812.

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

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

26 7. On information and belief, Bestway-Nantong is a company organized
27 under the laws of the People’s Republic of China, having a principal place of
28

1 business at No. 8 Huimin West Rd., Economic Development Zone, Rucheng Town,
2 Nantong, Jiangsu, China, 226503.

3 8. On information and belief, Bestway-Enterprise is a registered non-
4 Hong Kong company incorporated in the British Virgin Islands, with a principal
5 place of business at 66 Mody Road, Suite 713, Tsim Sha Tsui, Kowloon, Hong
6 Kong.

7 **JURISDICTION AND VENUE**

8 9. IRC realleges and incorporates by reference, as if fully set forth herein,
9 the allegations in paragraphs 1-8, above.

10 10. This is an action for patent infringement arising under the laws of the
11 United States, Title 35 of the United States Code, relating specifically to U.S.
12 Patent No. 9,567,762 (the “Asserted Patent” or the “762 Patent”). This Court has
13 exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331
14 and 1338(a).

15 11. This Court has personal jurisdiction over Bestway-USA. On
16 information and belief, Bestway-USA has conducted, and does regularly conduct,
17 business within the State of California including this District. Bestway-USA has
18 made, used, offered to sell, sold, and/or imported into the United States, including
19 to customers located within the State of California and this District, the Accused
20 Products (as defined below). Bestway-USA has sought the protection and benefit
21 from the laws of the State of California by placing infringing products into the
22 stream of commerce through an established distribution channel with the awareness
23 and/or intent that they will be purchased by consumers in this District.

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

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

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

26 14. This Court has personal jurisdiction over Bestway Inflatables. On
27 information and belief, Bestway Inflatables has conducted, and does regularly
28 conduct, business within the State of California including this District. Bestway

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

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

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1 20. IRC is the exclusive licensee to the '762 Patent and has the right to sue
2 for any infringement of the '762 Patent.

3 **Bestway's Accused Products**

4 21. On information and belief, Bestway is infringing the '762 Patent
5 directly, jointly, contributorily, and/or by inducement, by, without authority,
6 making, using, importing, selling, or offering for sale in the United States,
7 including in this District, inflatable spas that embody claims in the '762 Patent.
8 Specifically, on information and belief, Bestway is infringing the '762 Patent by
9 making, using, selling, offering for sale, and/or importing into the United States, or
10 by importing into the United States or offering to sell, selling, or using within the
11 United States at least the following products, (collectively, the "Accused
12 Products"): Coleman Lay-Z-Spa (Model No. 54131E); SaluSpa Palm Springs
13 (Model No. 54130); SaluSpa Hawaii HydroJet Pro, (Model 54139E) .

14 22. On information and belief, the Accused Products are available, and are
15 being offered for sale and sold at, at least, Amazon.com.

16 **Bestway's Knowledge of, and Willful Infringement of, the '762 Patent**

17 23. Bestway's infringement has been, and continues to be, willful and
18 deliberate.

19 24. On information and belief, Bestway actively monitors the inflatable
20 spa industry and Intex's intellectual property. Bestway and Intex are competitors,
21 and are currently involved in several pending intellectual disputes—both in this
22 Court and before the Patent Trial and Appeal Board of the United States Patent and
23 Trademark Office.

24 25. As such, on information and belief, Bestway had actual notice that the
25 '424 Publication published on May 21, 2015, and, as noted above, ultimately issued
26 as the '762 Patent on February 14, 2017—the same date of this Complaint.

27 26. With knowledge of the '762 Patent and its infringing conduct—based
28 on monitoring competitive intellectual property and also as of the date of this

1 Complaint going forward—Bestway continues to willfully infringe the '762 Patent
2 by making, using, selling, offering to sell, and/or importing the Accused Products
3 and/or importing into the United States or offering to sell, selling, or using within
4 the United States the Accused Products.

5 27. IRC has suffered and will continue to suffer damages from Bestway's
6 acts of infringement complained of herein.

7 **INFRINGEMENT OF U.S. PATENT NO. 9,567,762**

8 28. IRC realleges and incorporates by reference, as if fully set forth herein,
9 the allegations in paragraphs 1-27, above.

10 29. Bestway-USA has directly infringed, either individually or as part of a
11 joint enterprise or through the exercise of direction and control over at least one
12 other Defendant or third party, and is still directly infringing, at least Claim 1 of the
13 '762 Patent, literally or by the doctrine of equivalents, by making, using, offering to
14 sell and selling, and/or importing the Accused Products, and/or by importing into
15 the United States or offering to sell, selling, or using within the United States the
16 Accused Products. Bestway-USA will continue to infringe at least Claim 1 of the
17 '762 Patent unless enjoined by this Court.

18 30. Bestway Global has directly infringed, either individually or as part of
19 a joint enterprise or through the exercise of direction and control over at least one
20 other Defendant or third party, and is still directly infringing, at least Claim 1 of the
21 '762 Patent, literally or by the doctrine of equivalents, by making, using, offering to
22 sell and selling, and/or importing the Accused Products, and/or by importing into
23 the United States or offering to sell, selling, or using within the United States the
24 Accused Products. Bestway Global will continue to infringe at least Claim 1 of the
25 '762 Patent unless enjoined by this Court.

26 31. Bestway-Hong Kong has directly infringed, either individually or as
27 part of a joint enterprise or through the exercise of direction and control over at
28 least one other Defendant or third party, and is still directly infringing, at least

1 Claim 1 of the '762 Patent, literally or by the doctrine of equivalents, by making,
2 using, offering to sell and selling, and/or importing the Accused Products, and/or by
3 importing into the United States or offering to sell, selling, or using within the
4 United States the Accused Products. Bestway-Hong Kong will continue to infringe
5 at least Claim 1 of the '762 Patent unless enjoined by this Court.

6 32. Bestway Inflatables has directly infringed, either individually or as
7 part of a joint enterprise or through the exercise of direction and control over at
8 least one other Defendant or third party, and is still directly infringing, at least
9 Claim 1 of the '762 Patent, literally or by the doctrine of equivalents, by making,
10 using, offering to sell and selling, and/or importing the Accused Products, and/or by
11 importing into the United States or offering to sell, selling, or using within the
12 United States the Accused Products. Bestway Inflatables will continue to infringe
13 at least Claim 1 of the '762 Patent unless enjoined by this Court.

14 33. Bestway-Nantong has directly infringed, either individually or as part
15 of a joint enterprise or through the exercise of direction and control over at least one
16 other Defendant or third party, and is still directly infringing, at least Claim 1 of the
17 '762 Patent, literally or by the doctrine of equivalents, by making, using, offering to
18 sell and selling, and/or importing the Accused Products, and/or by importing into
19 the United States or offering to sell, selling, or using within the United States the
20 Accused Products. Bestway-Nantong will continue to infringe at least Claim 1 of
21 the '762 Patent unless enjoined by this Court.

22 34. Bestway-Enterprise has directly infringed, either individually or as part
23 of a joint enterprise or through the exercise of direction and control over at least one
24 other Defendant or third party, and is still directly infringing, at least Claim 1 of the
25 '762 Patent, literally or by the doctrine of equivalents, by making, using, offering to
26 sell and selling, and/or importing the Accused Products, and/or by importing into
27 the United States or offering to sell, selling, or using within the United States the
28

1 Accused Products. Bestway-Enterprise will continue to infringe at least Claim 1 of
2 the '762 Patent unless enjoined by this Court.

3 35. Bestway directly infringes at least Claim 1 of the '762 Patent, for
4 example, because:

- 5 a. The Accused Products satisfy the limitation of having “a first internal
6 wall;”
- 7 b. The Accused Products satisfy the limitation of having “a second
8 external wall positioned outside of the first internal wall;”
- 9 c. The Accused Products satisfy the limitation of having “a floor that
10 cooperates with the internal wall to define a water cavity;” and
- 11 d. The Accused Products satisfy the limitation of having “a floor drain in
12 communication with the water cavity, the floor drain including: a
13 drainage conduit having an inlet end positioned in the floor in a
14 location spaced apart from and horizontally interior of the first internal
15 wall and an outlet end positioned horizontally external of the first
16 internal wall, a first sealing plug removably coupled to the inlet end to
17 block drainage of water from the water cavity when coupled to the
18 inlet end and permit drainage of water from the water cavity when
19 removed from the inlet end, wherein the drainage conduit includes a
20 midsection pipe positioned between the inlet end and the outlet end,
21 the midsection pipe has a flat portion extending in a direction between
22 the inlet and outlet ends and a rounded portion positioned adjacent to
23 the flat portion extending in a direction between the inlet and outlet
24 ends.”

25 36. With knowledge of the '762 Patent, as described above, Bestway-USA
26 has actively induced one or more Defendants and/or third-party manufacturers,
27 distributors, importers, agents, and/or contractors to directly infringe at least Claim
28 1 of the '762 Patent by, for example, distributing or making available instructions

1 or manuals for manufacturing the Accused Products, and/or providing technical
2 support for doing the same. On information and belief, Bestway-USA does so with
3 knowledge, or with willful blindness of the fact, that the induced acts constitute
4 infringement of at least Claim 1 of the '762 Patent. Bestway-USA intends to cause
5 infringement by these Defendants, third-party manufacturers, distributors,
6 importers, agents, and/or contractors.

7 37. With knowledge of the '762 Patent, as described above, Bestway-USA
8 has contributorily infringed at least Claim 1 of the '762 Patent by, for example,
9 selling or offering to sell a material or apparatus that is a component for use in
10 practicing at least Claim 1 of the '762 Patent. On information and belief, Bestway-
11 USA 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 '762 Patent when
13 Bestway-USA 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 38. With knowledge of the '762 Patent, as described above, Bestway
17 Global has actively induced one or more Defendants and/or third-party
18 manufacturers, distributors, importers, agents, and/or contractors to directly infringe
19 at least Claim 1 of the '762 Patent by, for example, distributing or making available
20 instructions or manuals for manufacturing the Accused Products, and/or providing
21 technical support for doing the same. On information and belief, Bestway Global
22 does so with knowledge, or with willful blindness of the fact, that the induced acts
23 constitute infringement of at least Claim 1 of the '762 Patent. Bestway Global
24 intends to cause infringement by these Defendants, third-party manufacturers,
25 distributors, importers, agents, and/or contractors.

26 39. With knowledge of the '762 Patent, as described above, Bestway
27 Global has contributorily infringed at least Claim 1 of the '762 Patent by, for
28 example, selling or offering to sell a material or apparatus that is a component for

1 use in practicing at least Claim 1 of the '762 Patent. On information and belief,
2 Bestway Global does so with knowledge that the component was especially made
3 or adapted for use in a manner that would infringe at least Claim 1 of the '762
4 Patent when Bestway Global sold, offered to sell, or imported the component. On
5 information and belief, these components are not staple articles of commerce
6 capable of substantial noninfringing uses.

7 40. With knowledge of the '762 Patent, as described above, Bestway-
8 Hong Kong has actively induced one or more Defendants and/or third-party
9 manufacturers, distributors, importers, agents, and/or contractors to directly infringe
10 at least Claim 1 of the '762 Patent by, for example, distributing or making available
11 instructions or manuals for manufacturing the Accused Products, and/or providing
12 technical support for doing the same. On information and belief, Bestway-Hong
13 Kong does so with knowledge, or with willful blindness of the fact, that the induced
14 acts constitute infringement of at least Claim 1 of the '762 Patent. Bestway-Hong
15 Kong intends to cause infringement by these Defendants, third-party manufacturers,
16 distributors, importers, agents, and/or contractors.

17 41. With knowledge of the '762 Patent, as described above, Bestway-
18 Hong Kong has contributorily infringed at least Claim 1 of the '762 Patent by, for
19 example, selling or offering to sell a material or apparatus that is a component for
20 use in practicing at least Claim 1 of the '762 Patent. On information and belief,
21 Bestway-Hong Kong does so with knowledge that the component was especially
22 made or adapted for use in a manner that would infringe at least Claim 1 of the '762
23 Patent when Bestway-Hong Kong sold, offered to sell, or imported the component.
24 On information and belief, these components are not staple articles of commerce
25 capable of substantial noninfringing uses.

26 42. With knowledge of the '762 Patent, as described above, Bestway
27 Inflatables has actively induced one or more Defendants and/or third-party
28 manufacturers, distributors, importers, agents, and/or contractors to directly infringe

1 at least Claim 1 of the '762 Patent by, for example, distributing or making available
2 instructions or manuals for manufacturing the Accused Products, and/or providing
3 technical support for doing the same. On information and belief, Bestway
4 Inflatables does so with knowledge, or with willful blindness of the fact, that the
5 induced acts constitute infringement of at least Claim 1 of the '762 Patent.

6 Bestway Inflatables intends to cause infringement by these Defendants, third-party
7 manufacturers, distributors, importers, agents, and/or contractors.

8 43. With knowledge of the '762 Patent, as described above, Bestway
9 Inflatables has contributorily infringed at least Claim 1 of the '762 Patent by, for
10 example, selling or offering to sell a material or apparatus that is a component for
11 use in practicing at least Claim 1 of the '762 Patent. On information and belief,
12 Bestway Inflatables does so with knowledge that the component was especially
13 made or adapted for use in a manner that would infringe at least Claim 1 of the '762
14 Patent when Bestway Inflatables sold, offered to sell, or imported the component.
15 On information and belief, these components are not staple articles of commerce
16 capable of substantial noninfringing uses.

17 44. With knowledge of the '762 Patent, as described above, Bestway-
18 Nantong has actively induced one or more Defendants and/or third-party
19 manufacturers, distributors, importers, agents, and/or contractors to directly infringe
20 at least Claim 1 of the '762 Patent by, for example, distributing or making available
21 instructions or manuals for manufacturing the Accused Products, and/or providing
22 technical support for doing the same. On information and belief, Bestway-Nantong
23 does so with knowledge, or with willful blindness of the fact, that the induced acts
24 constitute infringement of at least Claim 1 of the '762 Patent. Bestway-Nantong
25 intends to cause infringement by these Defendants, third-party manufacturers,
26 distributors, importers, agents, and/or contractors.

27 45. With knowledge of the '762 Patent, as described above, Bestway-
28 Nantong has contributorily infringed at least Claim 1 of the '762 Patent by, for

1 example, selling or offering to sell a material or apparatus that is a component for
2 use in practicing at least Claim 1 of the '762 Patent. On information and belief,
3 Bestway-Nantong does so with knowledge that the component was especially made
4 or adapted for use in a manner that would infringe at least Claim 1 of the '762
5 Patent when Bestway-Nantong sold, offered to sell, or imported the component.
6 On information and belief, these components are not staple articles of commerce
7 capable of substantial noninfringing uses.

8 46. With knowledge of the '762 Patent, as described above, Bestway-
9 Enterprise has actively induced one or more Defendants and/or third-party
10 manufacturers, distributors, importers, agents, and/or contractors to directly infringe
11 at least Claim 1 of the '762 Patent by, for example, distributing or making available
12 instructions or manuals for manufacturing the Accused Products, and/or providing
13 technical support for doing the same. On information and belief, Bestway-
14 Enterprise does so with knowledge, or with willful blindness of the fact, that the
15 induced acts constitute infringement of at least Claim 1 of the '762 Patent.
16 Bestway-Enterprise intends to cause infringement by these Defendants, third-party
17 manufacturers, distributors, importers, agents, and/or contractors.

18 47. With knowledge of the '762 Patent, as described above, Bestway-
19 Enterprise has contributorily infringed at least Claim 1 of the '762 Patent by, for
20 example, selling or offering to sell a material or apparatus that is a component for
21 use in practicing at least Claim 1 of the '762 Patent. On information and belief,
22 Bestway-Enterprise does so with knowledge that the component was especially
23 made or adapted for use in a manner that would infringe at least Claim 1 of the '762
24 Patent when Bestway-Enterprise sold, offered to sell, or imported the component.
25 On information and belief, these components are not staple articles of commerce
26 capable of substantial noninfringing uses.

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States, or importing into the United States, any and all products and/or services embodying the patented inventions claimed in the '762 Patent;

- C. Award IRC its damages for patent infringement pursuant to 35 U.S.C. §§ 284 and 154(d), and pre and post judgment interest as allowed by law;
- D. Order, adjudge, and decree that Bestway's infringement of the '762 Patent has been deliberate and willful, and award IRC treble damages under 35 U.S.C. § 284;
- E. Find that this case is "exceptional" under 35 U.S.C. § 285, and award IRC its costs and reasonable attorney's fees as provided in 35 U.S.C. § 285; and
- F. Award such other and further relief as the Court deems just and proper.

Dated: February 14, 2017

FAEGRE BAKER DANIELS LLP

By: /s/ Tarifa B. Laddon

TARIFA B. LADDON

Attorneys For Plaintiff,
INTEX RECREATION CORP.

REQUEST FOR TRIAL BY JURY

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

Dated: February 14, 2017

FAEGRE BAKER DANIELS LLP

By: /s/ Tarifa B. Laddon

TARIFA B. LADDON

Attorneys For Plaintiff,
INTEX RECREATION CORP.