

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

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PIETRO PASQUALE ANTONIO SGROMO  
(a/k/a PETER ANTHONY SGROMO).

Plaintiff,

Civil No. 20-cv-1030— JRT-LIB

v.

TARGET BRANDS INC.

Defendant.

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**FIRST AMENDED COMPLAINT FOR  
PATENT AND TRADEMARK  
INFRINGEMENT**

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Plaintiff PIETRO PASQUALE ANTONIO SGROMO (a/k/a PETER ANTHONY SGROMO— "SGROMO"), for his Complaint against TARGET BRANDS INC. ("TARGET") states and alleges as follows:

1. Plaintiff Sgromo— a Canadian National living in British Columbia Canada is a Marketing Consultant, Inventor and part-time University Marketing Instructor. Sgromo has thirty (30) years global marketing, sales and product development experience from global companies and international brands like Procter & Gamble, Crayola, Levi's, Sauza Tequila, and Wham-O.

2. Defendant Target Brands Inc. ("Target") is a Minnesota corporation having its principal place of business at 1000 Nicollet Mall, Minneapolis, MN USA 55403.

3. According to filing with the USPTO, Serial Number 88004082 Target is the registered owner (Applicant) of Word Mark SUN SQUAD ("SS") for *inter alia*, Goods and Services: IC 028. US 022 023 038 050 which encompass the alleged infringing products—a true and correct copy is attached as Exhibit 1.

### **JURISDICTION AND VENUE**

4. This is a claim for patent infringement under 35 U.S.C. §§ 271; 281-285 and related state and common law claims is proper pursuant to 28 U.S.C. §§ 1338 and 1367.

5. This Court has jurisdiction over the subject matter of Sgromo's claims pursuant to section 39 of the Lanham Act, 15 U.S.C. § 1121, and under 28 U.S.C. §§ 1331 and 1338.

6. This Court has personal jurisdiction over Target because Target regularly conducts business in Minnesota at its Corporate Offices in Minneapolis and its retail locations ubiquitous in Minnesota. Target has also engaged in acts of patent infringement in violation of patent rights held by Sgromo in the United States and in the District of Minnesota. Target has purposely and intentionally

subjected itself to the privileges of doing business in the State of Minnesota by placing its goods in the stream of commerce with the intent that they would be sold in Minnesota. Target has exercised control over the offering for sale and sale, and has participated in the promotion and sale, in the State of Minnesota of products which infringe patents owned by Sgromo.

7. Venue is proper under 28 U.S.C. § 1400, as to Target, because Target has committed acts of infringement in this district and has a regular and established place of business in this district.

#### **THE PATENTS AND TRADEMARKS-IN-SUIT**

8. On or about December 21, 2010, Sgromo acquired the entire right, title and interest in and to the purchased the full and substantial rights to U.S. Patent No. 7,046,440, entitled "3-D Vision System for Swimming Pools" (the "440 Patent") from Jaqueline Sell Homann—the Ch. 7 Trustee appointed in Case No.: 19-33640, Jefferey L. Kaehr (the "Inventor") which was granted on May 16, 2006 by the United States Patent and Trademark Office ("USPTO"). A true and correct copy of the 440 Patent and the assignment to Sgromo is attached as Exhibit 2.

9. Sgromo had previously on or about May 2013, licensed the non-exclusive rights to practice the '440 Patent to Bestway (USA) Inc., Bestway (Hong Kong) Intl. Ltd., Bestway Inflatables & Material Corp. (Shanghai— collectively "Bestway") but on or about March 28, 2017 Bestway terminated the license agreement and any rights to practice the '440 Patent immediately terminated. Attached as Exhibit 3 is Notice from the USPTO that the rights to the '440 Patent exclusively reverted to Sgromo.

10. On or about February 28, 2014 U.S. Patent No. 8,654,422 entitled "Holographic Bubble Generating System" (the "'422 Patent) was granted by the USPTO to Sgromo based upon an invention made by him. A true and correct copy of the '422 Patent is attached as Exhibit 4.

11. Also, on or about December 2009, Sgromo granted a license with less than all substantial rights to *inter alia* the '422 Patent to Imperial Toy LLC (the "Imperial License"). However, the license was terminated for non-payment of royalties and all rights to the '422 Patent reverted to Sgromo. Attached as Exhibit 5 is Notice from the USPTO rights to the '422 Patent reverted to Sgromo.

12. On or about February 28, 2014 U.S. Patent No. 9,511,298 entitled "Water Slide" (the "'298 Patent) was granted by the USPTO to Sgromo based upon an invention made by him. A true and correct copy of the '298 Patent is attached as Exhibit 6.

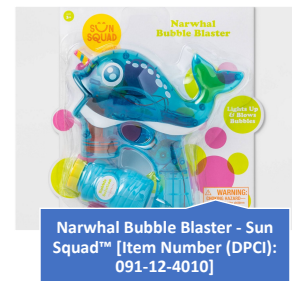
13. Sgromo had previously on or about November 2013, licensed the non-exclusive rights to practice the '298 Patent to Bestway but on or about March 28, 2017 Bestway terminated the license agreement and any rights to practice the '298 Patent immediately terminated. Attached as Exhibit 7 is Notice from the USPTO that the rights to the '298 Patent exclusively reverted to Sgromo.

14. On or about October 2015 Sgromo licensed the non-exclusive rights to practice the H2O-GO! Trademark to Bestway but on or about March 28, 2017 Bestway terminated the license agreement and any rights to practice the H2O-GO! trademarks immediately terminated. Attached as Exhibit 10 is Notice from the USPTO that the rights to the H2O-GO! Trademarks [Registration No.s: 5565709; 4940366; 4741874]exclusively reverted to Sgromo.

### **DEFENDANT'S INFRINGING PRODUCTS**

15. Defendants are offering for sale and selling in, importing into the United States, and otherwise distributing children's bubble blowing toys, backyard water slides (a/k/a as "Slip 'N Slides) and inflatable swimming pools that infringe on the '440, '298 and '422 Patents and H2O-GO! and Summer Waves trademarks. Defendant is doing so without the permission or consent of Sgromo.

16. By way of example and without limitation, Defendant sells products infringing the '422 Patent as part of their Target trademark brand of "Sun Squad" Seasonal Outdoor Products— Thunder Bubble Blaster - Sun Squad™ [Item Number (DPCI): 091-12-3132]; Bubble Camera - Sun Squad™ [Item Number (DPCI): 091-12-4630]; Bubble Flashlight - Sun Squad™ [Item Number (DPCI): 091-12-2084]; Light Up Bubble Machine - Sun Squad™ [Item Number (DPCI): 091-12-4622]; Volcano Bubble Machine - Sun Squad™ [Item Number (DPCI): 091-12-6156]; Unicorn Bubble Blaster Light And Sound - Sun Squad™ [Item Number (DPCI): 091-12-2932]; Dinosaur Bubble Blaster Light & Sound - Sun Squad™ [Item Number (DPCI): 091-12-0097]; Narwhal Bubble Blaster - Sun Squad™ [Item Number (DPCI): 091-12-4010] — see diagram, below:

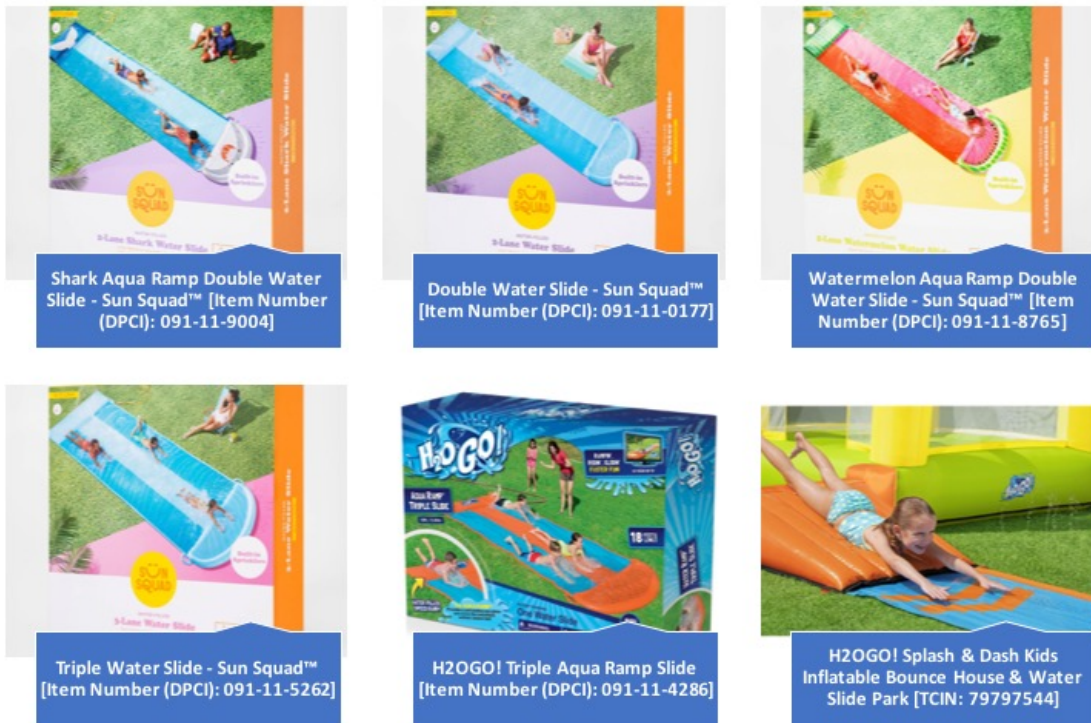


17. What is claimed in the '422 Patent— "[a]n optical effect bubble system comprising; an optical effect viewing device comprising one or more holographic images; a bubble generating device for generating one or more bubbles; and wherein the one or more generated bubbles appear to have [ ] the one or more holographic images thereon when lit by a light source and viewed through the optical effect viewing device.

18. What is fundamental to the independent claim as well as the entire invention is the 'light source'— without the light source the holograms would not appear. The light source further illuminates the bubble and whether or not the user wears the holographic glasses it enhances the viewing of bubbles. The infringing products read on the independent claim by incorporating the same light source and thus infringe on Sgromo's right to monopolize said invention.

19. By way of example and without limitation, Defendants sell products infringing the '298 Patent as part of their Target trademark brand of "Sun Squad" Seasonal Outdoor Products— Shark Aqua Ramp Double Water Slide - Sun Squad™ [Item Number (DPCI): 091-11-9004]; Double Water Slide - Sun Squad™ [Item Number (DPCI): 091-11-0177]; Watermelon Aqua Ramp Double Water Slide - Sun Squad™ [Item Number (DPCI): 091-11-8765]; Triple Water Slide - Sun Squad™ [Item Number (DPCI): 091-11-5262]; H2OGO! Triple Aqua Ramp Slide [Item Number (DPCI): 091-11-4286]; H2OGO! Splash & Dash Kids Inflatable Bounce

House & Water Slide Park [TCIN: 79797544] — see diagram, below:



20. Attached as Exhibit 8 is the Plaintiff’s claims mapping chart which describes in detail how the Target infringing products are a literal infringement on each of the ‘298 Patent claims.

21. By way of example and without limitation, Defendant sells products infringing the ‘440 Patent and infringing on the Summer Waves Trademark as part of their assortment of Seasonal Outdoor Products such as— Summer Waves 8ft x 30in Small Kiddie Inflatable Kids Above Ground Swimming Pool [TCIN: 75875429]— see below from Target’s online store:





22. Attached as Exhibit 9 is the Plaintiff's claims mapping chart which describes in detail how the Target infringing products are a literal infringement on each of the '440 Patent claims.

23. By way of example and without limitation, Defendant sells products infringing the H2O-GO! trademarks as part of their assortment of Seasonal Outdoor Products such as— H2O-GO! Limbo Sprinkler [Item Number (DPCI): 091-11-4288]; H2OGO! Triple Aqua Ramp Slide [Item Number (DPCI): 091-11-4286]; Bestway H2OGO! Splash & Dash Kids Inflatable Bounce House & Water Slide Park [TCIN: 79797544 | UPC: 821808533442]; Bestway H2OGO! Splash Tower Kids Inflatable Mega Water Slide Splash Park Pool [TCIN: 79807117 | UPC: 821808533480]— see below from Target's online store:



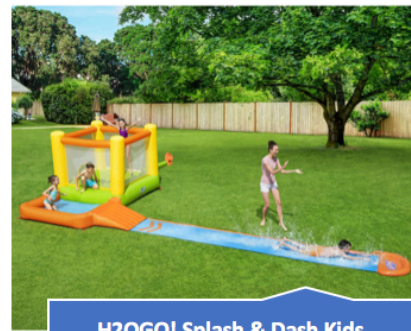
H2O-GO! Limbo Sprinkler [Item Number (DPCI): 091-11-4288]



H2OGO! Triple Aqua Ramp Slide [Item Number (DPCI): 091-11-4286]



H2OGO! Splash & Dash Kids Inflatable Bounce House & Water Slide Park [TCIN: 79797544 | UPC: 821808533442]



H2OGO! Splash & Dash Kids Inflatable Bounce House & Water Slide Park [TCIN: 79797544]

24. Attached as Exhibit 10 is the USPTO's Notice that the entire right, interest in and to the H2O-GO! Trademarks [Reg. No.s: 5565709; 4940366; 4741874] and the Summer Waves Trademarks [Reg. No.s: 5050873; 4862985] belong to Sgromo.

25. On information and belief, the products are manufactured by Target's current vendor supply chain, but controlled by Target because with the exception of the Summer Waves and H2O-GO! Brand trademarks Target, as the owner of the trademark, now controls the products advertised and sold under that trademark—"Sun Squad."

26. On or about March 4, 2020 Sgromo served notice to Target regarding the infringing products. Sgromo did receive some response from Target's outside counsel claiming that its vendors not only indemnify and hold harmless but agree to "defend" Target against such patent infringement claims. Despite request to provide proof of such indemnity clause exists in its vendor agreements, Target has refused.

27. Upon information and belief Target has eschewed responsibility to the purported vendors who simply reject Sgromo's patent infringement claims. Because there is no evidence to suggest these vendors knowingly placed these items in the stream of commerce in this district and there is no indication on the packaging of the infringing products or on target.com are supplied by said vendors the action remains against Target.

### **COUNT I: INFRINGEMENT OF THE '422 PATENT**

28. The allegations of Paragraphs 1-27 of the Complaint are realleged and incorporated herein by reference.

29. Sgromo is the sole owner of the '422 Patent.

30. Defendants have infringed and continue to infringe the '422 Patent by offering for sale and selling in the United States and within this judicial district and importing into the United States, without authorization from Sgromo, various "light-up" bubble blowing toys that are covered by the '422 Patent.

31. Defendant's actions have caused and will continue to cause irreparable harm to Sgromo unless enjoined.

**COUNT 2: INFRINGEMENT OF THE '298 PATENT**

32. The allegations of Paragraphs 1-31 of the Complaint are realleged and incorporated herein by reference.

33. Sgromo is the sole owner of the '298 Patent.

34. Defendant has infringed and continues to infringe the '298 Patent by offering for sale and selling in the United States and within this judicial district and importing into the United States, without authorization from Sgromo, various water slide toys that contain an inflatable— whether by air or water under the Sun Squad and H2O-GO! Brand trademarks. The water slides are a literal infringement on each and every claim of the '298 Patent.

35. Defendant's actions have caused and will continue to cause irreparable harm to Sgromo unless enjoined.

**COUNT 3: INFRINGEMENT OF THE '440 PATENT**

36. The allegations of Paragraphs 1-34 of the Complaint are realleged and incorporated herein by reference.

37. Sgromo is the sole owner of the '440 Patent.

38. Defendant has infringed and continues to infringe the '440 Patent by offering for sale and selling in the United States and within this judicial district and importing into the United States, without authorization from Sgromo, an inflatable swimming pool that infringes on each and every of the claims of the '440 Patent.

39. Defendant's actions have caused and will continue to cause irreparable harm to Sgromo unless enjoined.

### **COUNT 3: INFRINGEMENT OF THE H2O-GO! TRADEMARKS**

40. The allegations of Paragraphs 1-39 of the Complaint are realleged and incorporated herein by reference.

41. Sgromo is the owner of the H2O-GO! Trademarks [Registration No.s: 5565709; 4940366; 4741874].

42. Defendant has infringed and continues to infringe the H2O-GO! trademarks by offering for sale and selling in the United States and within this judicial district and importing into the United States, without authorization from Sgromo, by selling water slides and water toys under the H2O-GO! trademark.

43. Defendant's actions have caused and will continue to cause irreparable harm to Sgromo unless enjoined.

## DEMAND FOR JUDGEMENT

WHEREFORE, Plaintiff Sgromo prays for judgment as follows:

- (a) In favor of Sgromo and against Defendant on all counts of the Complaint.
- (b) Preliminarily and permanently enjoining and restraining Defendant, its officers, directors, agents, servants, employees, attorneys, affiliated companies and all others acting under or through them, from directly infringing or inducing others to infringe the '422 Patent, the '298 Patent, the '440 Patent, and the H2O-GO! and Summer Waves Trademarks.
- (c) That all infringing articles be delivered to Sgromo for destruction.
- (e) Awarding Sgromo damages under 35 U.S.C. §§ 284 and 289, including Defendant's profits and treble damages for willful infringement.
- (f) Awarding Sgromo his reasonable fees, costs, expenses, and interest pursuant to 35 U.S.C. § 285 and other applicable law as the Court deems just and equitable, together with such other relief as the Court may deem just and proper.

**JURY DEMAND**

Sgromo demands a trial by jury of all issues so triable.

**Date:** April 27, 2020

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Pietro Pasquale Antonio Sgromo  
(a/k/a Peter Anthony Sgromo)  
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CANADA | V2V 5L1  
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***Pro per for PLAINTIFF—***  
**PIETRO PASQUALE ANTONIO**  
**SGROMO (a/k/a PETER**  
**ANTHONY SGROMO)**

# **EXHIBIT 10**





**UNITED STATES PATENT AND TRADEMARK OFFICE**

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

APRIL 27, 2020

PTAS

PIETRO (PETER) PASQUALE ANTONIO  
(ANTHONY  
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MISSION, V2V 5L1 CANADA

**900546060**

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT RECORDATION BRANCH OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE ASSIGNMENT RECORDATION BRANCH AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT RECORDATION BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 04/22/2020

REEL/FRAME: 6922/0619  
NUMBER OF PAGES: 31

BRIEF: CORRECTIVE ASSIGNMENT VIA DECLARATION

ASSIGNOR:  
BESTWAY

DOC DATE: 03/28/2017  
CITIZENSHIP: NONE  
ENTITY: CORPORATION

ASSIGNEE:  
SGROMO, PIETRO (PETER) PA  
  
32600 BOBCAT DR.  
MISSION, CANADA V2V 5L1

CITIZENSHIP: CANADA  
ENTITY: INDIVIDUAL

SERIAL NUMBER: 86221845  
REGISTRATION NUMBER: 4741874  
MARK: H2O GO  
DRAWING TYPE: STANDARD CHARACTER MARK

FILING DATE: 03/14/2014  
REGISTRATION DATE: 05/26/2015

SERIAL NUMBER: 86695879  
REGISTRATION NUMBER: 4940366  
MARK: H2O GO!  
DRAWING TYPE: AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)  
/NUMBER(S)

FILING DATE: 07/16/2015  
REGISTRATION DATE: 04/19/2016



**UNITED STATES PATENT AND TRADEMARK OFFICE**

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 6, 2020

PTAS

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RECORDATION DATE: 05/04/2020

REEL/FRAME: 6929/0492  
NUMBER OF PAGES: 22

BRIEF: CORRECTIVE ASSIGNMENT BY DECLARATION

ASSIGNOR:

SGROMO, PIETRO (PETER) P

DOC DATE: 08/06/2015  
CITIZENSHIP: CANADA  
ENTITY: INDIVIDUAL

ASSIGNEE:

SGROMO, PIETRO (PETER) P.A., SGRO  
  
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MISSION, QUEBEC V2V 5L1

CITIZENSHIP: CANADA  
ENTITY: INDIVIDUAL

SERIAL NUMBER: 75241003

REGISTRATION NUMBER: 2204434

MARK: SUMMER WAVE

DRAWING TYPE: TYPESET WORD(S) /LETTER(S) /NUMBER(S)

FILING DATE: 02/11/1997

REGISTRATION DATE: 11/17/1998

SERIAL NUMBER: 86608125

REGISTRATION NUMBER: 4862985

MARK: SUMMER WAVES ELITE

DRAWING TYPE: STANDARD CHARACTER MARK

FILING DATE: 04/23/2015

REGISTRATION DATE: 12/01/2015

SERIAL NUMBER: 86674152  
REGISTRATION NUMBER: 5050873  
MARK: SUMMER WAVES 3D  
DRAWING TYPE: STANDARD CHARACTER MARK

FILING DATE: 06/25/2015  
REGISTRATION DATE: 09/27/2016

ASSIGNMENT RECORDATION BRANCH  
PUBLIC RECORDS DIVISION

SERIAL NUMBER: 87795268  
REGISTRATION NUMBER: 5565709  
MARK: H2O GO!  
DRAWING TYPE: STANDARD CHARACTER MARK

FILING DATE: 02/13/2018  
REGISTRATION DATE: 09/18/2018

ASSIGNMENT RECORDATION BRANCH  
PUBLIC RECORDS DIVISION