

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BESTWAY (USA), INC.

Petitioner,

v.

INTEX MARKETING LTD.

Patent Owner.

Case No. PGR2024- 00036
U.S. Patent No. 11,959,512

**DECLARATION OF PATRIZIO FUMAGALLI
IN SUPPORT OF PETITION FOR POST GRANT REVIEW**

I, Patrizio Fumagalli, hereby declare as follows:

1. I am over the age of 18 and competent to make this declaration. The statements contained herein are based on my personal knowledge and, if called upon to do so, I could and would competently testify thereto.

2. I am the Chairman and Chief Strategic Officer for Petitioner Bestway (USA), Inc. (“Bestway”). I make this Declaration in support of Bestway’s Petition for Post Grant Review. I have personal knowledge of the facts set forth in this Declaration.

3. During the course of my employment, I have had frequent interactions with materials related to above-ground pools, including catalogs produced by Intex Corporation (“Intex”).

4. Bestway has obtained true and accurate copies of these catalogs through various business means, as further detailed below.

5. Upon information and belief, Intex distributes catalogs regarding their above-ground pools (“Above Ground Pool Catalogs”). These Above Ground Pool Catalogs are distributed to clients during sales meetings each year. These meetings occur regularly and typically coincide with the introduction of new products or updates to existing product lines.

6. Intex also mails their Above Ground Pool Catalogs to agents and clients at the beginning of the sales season, typically in May or June, and throughout the entire sales season.

7. Intex also showcases its products at exhibition booths at industry trade shows and events. At these events, Intex representatives distribute Above Ground Pool Catalogs to attendees.

8. Based on my experience and observations, it is common industry practice for companies like Intex to distribute catalogs like these to potential customers and stakeholders through various channels, including in-person meetings, trade shows, and direct mail.

9. Exhibits EX1010 through EX1017, concurrently filed with this Declaration, are representative of the catalogs that are distributed by Intex to clients.

10. Exhibit EX1010 is a true and accurate copy of Intex's 2005 Above Ground Pool Catalog.

11. Exhibit EX1011 is a true and accurate copy of Intex's 2006 Above Ground Pool Catalog.

12. Exhibit EX1012 is a true and accurate copy of Intex's 2007 Above Ground Pool Catalog.

13. Exhibit EX1013 is a true and accurate copy of Intex's 2008 Above Ground Pool Catalog.

14. Exhibit EX1014 is a true and accurate copy of Intex's 2009 Above Ground Pool Catalog.

15. Exhibit EX1015 is a true and accurate copy of Intex's 2010 Above Ground Pool Catalog.

16. Exhibit EX1016 is a true and accurate copy of Intex's 2011 Above Ground Pool Catalog.

17. Exhibit EX1017 is a true and accurate copy of Intex's 2014 Above Ground Pool Catalog.

18. I understand and have been warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. § 1001). I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of title 18 of the United States Code.

19. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: 6/10/2024

DocuSigned by:
Pat Fumagalli
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Patrizio Fumagalli