UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEX RECREATION CORP.
Petitioner

v.

BESTWAY INFLATABLES & MATERIALS CORP.
Patent Owner

U.S. Patent No. 10,687,633
Filing Date: Sept. 29, 2016
Issue Date: June 23, 2020
Title: Inflatable Bed

DECLARATION OF MATTHEW WHALEN

I, Matthew Whalen, declare and state as follows:

1. I am more than eighteen years of age and I am competent to make this declaration. I have personal knowledge of the facts stated herein and would testify to such facts if asked to do so.

2. I am submitting this declaration in connection with the above-captioned proceeding, which is a Petition for *Inter Partes* Review of U.S. Patent No. 10,687,633 filed by Intex Recreation Corp. ("IRC") before the Patent Trial and Appeal Board of the U.S. Patent & Trademark Office.

3. I am an employee of IRC, which is based in Long Beach, California. I am currently Director of Risk Management for IRC, and I have held this position since September 2009. In that role, pursuant to agreements between IRC and Intex Development Company Ltd. ("ID"), I manage the filing of copyrights assigned to ID, attend semi-annual ID sales meetings, and have knowledge about ID's and IRC's attendance at trade shows around the world.

4. Petitioners' Exhibit 1008 is a true and accurate copy of the Intex 2014 Comfort Rest Collection Catalog ("the Catalog"). The Catalog generally describes the Intex "Comfort Rest™" line of inflatable products available for purchase in 2013 and 2014.

5. As reflected by the "©2013" notation on the last page of the Catalog, and as described further below, the Catalog was published and made available to

the public starting in 2013. I specifically directed and supervised the copyright application for the Catalog with the United States Copyright Office. Petitioners' Exhibit 1054 is a true and accurate copy of the Certificate of Registration from the U.S. Copyright Office for the Catalog that resulted from this filing. As shown in Exhibit 1054, the Catalog was first published on June 10, 2013 in the United States.

6. On May 6, 2013, ID printed 19,000 copies of the Catalog for publication and distribution to customers, potential customers, and persons interested in the inflatable products industry. These Catalog prints were disseminated by ID, IRC, and ID and IRC sales associates and representatives in the United States and throughout the world. Any customer or potential customer in the United States could have requested a copy of the Catalog by contacting IRC or sales representative through its website, by phone, by mail, or by email. Of these 19,000 copies, 5,225 were sent to IRC in Long Beach, California for distribution and use in sales meetings with customers and potential customers throughout 2013-14 to show Intex's product offerings. IRC sales representatives distributed these copies of the Catalog throughout the United States to customers and potential customers in 2013 and 2014.

INTEX EX. 1053, Pg. 3
Intex Recreation v. Bestway Inflatables, IPR2023-00487

7. Moreover, many copies of the Catalog were published and distributed at industry trade shows throughout the world in 2013 and 2014, including at least the following:

Show	Date	Place
Outdoor Retailer	July 31-Aug. 3, 2013	Salt Lake City, Utah
SPOGA (Toys & Outdoor Games)	Sept. 8-10, 2013	Cologne, Germany
Glee Retail Show	Sept. 17-19, 2013	Birmingham NEC, UK
Rimini Fair (Garden/Pool/Toys)	Oct. 3-5, 2013	Rimini, Italy
Shanghai Toys Fair	Oct. 15-17, 2013	Shanghai, China
IPSE (NSPI) Pool & Spa	Nov. 12-14, 2013	Las Vegas, Nevada
Furniture Fair Paris	Sept. 2013	Paris, France
Aquanale 2013	Oct. 22-25, 2013	Cologne, Germany
Hong Kong Toys & Games Fair	Jan. 6-9, 2014	Hong Kong Convention & Exhibition Center
Nürnberg Toy Fair	Jan. 29-Feb. 3, 2014	Nürnberg, Germany
Home and Houseware Show	Mar. 15-18, 2014	Chicago, IL

The above-identified trade shows are the major trade shows for the inflatable products industry throughout the world. These trade shows are attended by major inflatable product manufacturers and distributors, including Bestway Inflatables & Materials Corp., as well as hundreds of actual and potential customers. Anyone attending these trade shows could have requested and obtained a copy of the Catalog. In fact, hundreds (if not thousands) of copies of the Catalog were distributed at these trade shows without restriction and/or expectation of confidentiality, and IRC and ID expected people who received the Catalog to further share the material contained in the Catalog.

INTEX EX. 1053, Pg. 4
Intex Recreation v. Bestway Inflatables, IPR2023-00487

8. In addition, copies of the Catalog were published and distributed at two multi-day shows hosted by IRC for its customers and potential customers: (1) the Vianen Show, held from July 22-26, 2013, in Vianen, The Netherlands; and (2) the Open House at Intex Show Room, held from January 6-9, 2014, in Hong Kong. Anyone attending these shows could have requested and obtained a copy of the Catalog without restriction and/or expectation of confidentiality.

9. I hereby 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 are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 101 of Title 18 of the United States Code.

Executed on: January 20, 2023

By: _____
Matthew Whalen