

From: [Trials](#)
To: [Michael N. MacCallum](#); [Trials](#)
Cc: [John S. Artz](#); [Melinda K. Poehlmann](#); [Steven A. Caloiaro](#); trevor.carter@faegredrinker.com; [#AndrewMcCoyPTAB](#); [#ReidDodge PTAB](#)
Subject: RE: PGR2024-00036; BESTWAY (USA), INC. v. Intex Recreation Corp.; Request for Authorization to file Reply to POPR
Date: Tuesday, August 13, 2024 4:55:52 PM
Attachments: [image001.png](#)
[image002.png](#)

Counsel,

The Board finds that briefing on the adverse judgment issue will be helpful to the panel. Petitioner is authorized to file a 5 page reply brief addressing the adverse judgement issue no later than August 21, 2024. Patent Owner, if it chooses, may file a 5 page sur-reply addressing Petitioner's reply only no later than August 28, 2024. No further briefing is authorized.

Regards,

Esther Goldschlager
Supervisory Paralegal Specialist
Patent Trial & Appeal Board
U.S. Patent & Trademark Office

From: Michael N. MacCallum <MMacCallum@dickinson-wright.com>
Sent: Tuesday, August 13, 2024 3:11 PM
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Dear Board,

We represent Petitioner in the matter of Bestway (USA) Inc. v. Intex Marketing Ltd., PGR2024-00036. We are writing to seek authorization from the Board to file a Reply to the Patent Owner Preliminary Response (POPR) that was filed Thursday, August 8, 2024.

If authorized, Petitioner's Reply would focus solely on the issue of whether Adverse Judgment should be entered. Specifically, when a Patent Owner files a Statutory Disclaimer (as is the case here), it is within the discretion of the Board to enter an Adverse Judgment, and Petitioner would explain why such an Adverse Judgment should be entered in this matter. In particular (and as will be explained in the Reply), Petitioner would be prejudiced if Adverse Judgment is not entered due to Patent Owner's

pending application and ability to obtain patents with indistinct claim scope. The Board has granted requests for additional briefing on this issue in other cases, and has also entered Adverse Judgment in such situations.

Petitioner would only need five (5) pages to brief this issue.

Petitioner is available for a conference call this week or next week if it would assist the Board in determining whether Petitioner is authorized to file such a Reply.

Patent Owner (copied on this email) opposes this request.



[Michael N. MacCallum](#)

Member

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For docketing purposes of patent & trademark matters only, please add the appropriate email of dwpatents@dickinson-wright.com or dwtrademarks@dickinson-wright.com to any emails being sent to our office. Thank you.

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