JURISDICTION

4. At all times relevant herein, Respondent has been, and is now, a corporation as "corporation" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

5. The acts and practices of Respondent, including the acts and practices alleged herein, are in commerce or affect commerce in the United States, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

RELEVANT MARKET

6. There are over nine million residential pools in the United States, and over 250,000 commercial pools operated by hotels, country clubs, apartment buildings, municipalities, and others. In 2010, the distribution of pool products was an estimated $3 billion industry in the United States.

7. The relevant product market is no broade

12. While manufacturers make some direct sales to larger dealers, they cannot easily expand their operations into distribution because of the costs, their lack of expertise in distribution, and the difficulty of obtaining products to distribute from competing manufacturers. Distributors are the only available source of pool products for the vast majority of dealers, which are small mom-and-pop operations that do not have the inventory size or resources to purchase pool products directly from manufacturers. Dealers that buy direct from manufacturers are not permitted by the manufacturers to participate more broadly in the wholesale distribution market and sell pool products to other dealers.

13. The relevant geographic markets are no larger than the United States, and numerous local geographic markets contained therein. With the exception of a few large national pool retail chains that purchase products for their retail centers throughout the United States, competition among distributors for sales to dealers occurs locally. The high cost of transportation and the general need for same-day or next-day delivery of pool products typically limits local geographic markets to 50 to 100 square miles, depending on the concentration of the population and pools in the local area.

RESPONDENT HAS MONOPOLY POWER

14. Respondent is the world's largest distributor of pool products, and operates approximately half of all pool distribution facilities in th

RESPONDENT EMPLOYED UNFAIR METHODS OF COMPETITION IN ORDER TO MAINTAIN ITS MONOPOLY

18. Beginning in at least 2003 and continuing through to today, Respondent has engaged in unfair methods of competition by foreclosing access to essential inputs and impeding market entry by potential rivals. Respondent's conduct has the tendency and effect of improperly maintaining and enhancing Respondent's monopoly power. Respondent's conduct has caused injury to competition and to consumers. Respondent's conduct is likely to continue to harm competition absent the relief requested herein, and violates Section 5 of the FTC Act, as amended.

A. The Wholesale Pool Product Distribution Industry

19. The swimming pool industry is generally very fragmented. There are over 100 manufacturers that produce a small number of product lines, such as pool heaters or diving boards and rails. However, there are only three manufacturers that sell nearly all the pool products necessary to operate and maintain a pool: Pentair Water Pool and Spa, Inc.; Hayward Pool Products, Inc.; and Zodiac Pool Systems, Inc. Collectively, these three full-line manufacturers represent more than 50 percent of sales at the wholesale level.

20. Distributors generally carry all brands of pool products across all manufacturers in order to satisfy any and all orders from their dealer customers. It is necessary to sell the products of at least one of the three full-line manufacturers in order to be able to compete effectively as a distributor. The products of the full-line manufacturers are "must have" products for wholesale distributors because of the volume of products they represent and the considerable consumer demand for their products. A positive relationship with these and other manufacturers is

B. Respondent's Exclusionary Practices

24. In August 2002, Respondent acquired Fort Wayne Pools, Inc. ("FWP"), a large regional pool distributor with operations in 16 states. FWP was Respondent's then-largest, and sometimes only, competitor in numerous local markets.

25. Soon thereafter, Respondent closed a FWP distribution facility in Baton Rouge, LA. This left Respondent as the only remaining distributor in the area, and it implemented a five percent price increase. In Spring 2003, a former dealer with almost 20 years of experience in the industry opened a distribution business in Baton Rouge, LA to compete with Respondent.

26. Respondent responded to this new competition by notifying all major manufacturers that it would stop dealing with any manufacturer that sold any of its products to the new entrant. Respondent threatened to terminate not only its purchases and sales in the local Baton Rouge area, but across the entire country.

27. As the manufacturers' largest customer, Respondent's threat was significant. No other distributor could replace the large volume of potential lost sales to Respondent, particularly in those markets where Respondent was the only distributor. The loss of sales to Respondent could be "catastrophic" to the financial viability of even major manufacturers. Without expending tens of millions of dollars to enter dozens of markets simultaneously, it was impossible for the new entrant to offer any economic incentive to manufacturers that would offset the risks imposed by Respondent's threats.

28. The manufacturers, including the three "must-have" manufacturers, refused to sell pool products to the new entrant and canceled any pre-existing orders. Respondent effectively foreclosed the new entrant from obtaining pool products from manufacturers that represented more than 70 percent of all pool product sales. Without direct access to the manufacturers' pool products, the new entrant's business ultimately failed in 2005.

29. A new entrant cannot avoid the effects of Respondent's conduct by purchasing pool products from other distributors, rather than directly from manufacturers. As a general rule, distributors do not sell pool products to other distributors. Even when possible, this alternative is not a viable long-term strategy because it substantially increases a distributor's costs and lessens its quality of service.

30. For example, buying from a distributor forces the new entrant to pay transportation costs from the distributor's location rather than receiving free shipping under manufacturer programs. The purchases are also at a marked-up price and do not qualify for key manufacturer year-end rebates. These higher costs would prevent the new entrant from being able to compete aggressively on price. Additionally, without full control of its inventory, this work-around hampers the entrant's ability to provide timely and quality service to its dealer customers.

31. Respondent has employed similar exclusionary strategies in other local markets, including against distributors that have entered the market since 2008, with the purpose and effect of excluding rivals, raising its rivals' costs, and maintaining its monopoly power. Respondent's

exclusionary practices and policies target new entrants, rather than established rivals, because new