

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TARGET CORPORATION
Petitioner

v.

DESTINATION MATERNITY CORPORATION
Patent Owner

Case IPR2013-00532
Patent No. RE43,531 E

Before JENNIFER S. BISK, MICHAEL J. FITZPATRICK, and
MITCHELL G. WEATHERLY, *Administrative Patent Judges*.

**PETITIONER'S REQUEST FOR ORAL ARGUMENT
PURSUANT TO 37 C.F.R. § 42.70(a)**

Pursuant to 37 C.F.R. § 42.70(a), Petitioner Target Corporation (“Target” or “Petitioner”) respectfully requests the opportunity to present oral argument. There are currently six proceedings between Target and Patent Owner Destination Maternity Corporation (“DMC” or “Patent Owner”), four of which, as set forth in the Board’s February 14, 2014 Scheduling Order, are currently scheduled for oral argument on October 7, 2014. The four proceedings are:

IPR2013-00530 (U.S. Patent No. RE43,563);

IPR2013-00531 (U.S. Patent No. RE43,563);

IPR2013-00532 (U.S. Patent No. RE43,531); and

IPR2013-00533 (U.S. Patent No. RE43,531).

Because there are related issues in these proceedings, Target believes that the above cases can be grouped for oral argument. Target requests two (2) hours of argument time, to address the following issues:

1. IPR2013-00530 (U.S. Patent No. RE43,563):
 - a. Grounds for which *inter partes* review was instituted:
 - i. U.S. Patent No. RE43,563 claims 1-3 and 6-8 are anticipated by JCP fold-over panel jeans (Ex. 1002, at 2);
 - ii. U.S. Patent No. RE43,563 claims 3 and 4 are obvious over JCP fold-over panel jeans (Ex. 1002, at 2) in view of JCP maternity bootcut jeans (Ex. 1002, at 3); and

- iii. U.S. Patent No. RE43,563 claim 1 is anticipated by U.S. Patent No. 6,276,175 (Ex. 1004).
 - b. Any issues properly raised by Patent Owner in IPR2013-00530, including in Patent Owner's Preliminary Response, Patent Owner's Response, Patent Owner's Observations on Cross-Examination of Reply Witness and Petitioner's Response thereto, and Patent Owner's Motion to Exclude and Petitioner's Response thereto.
 - c. Any issues addressed by Petitioner in IPR2013-00530, including the Petition for *Inter Partes* Review, Petitioner's Reply to Patent Owner's Response, and Petitioner's Motion to Exclude and Patent Owner's Response thereto.
 - d. Issues related to all exhibits filed in IPR2013-00530.
 - e. Rebuttal to issues raised by Patent Owner in IPR2013-00530.
 - f. Any issues in IPR2013-00530 noted in Patent Owner's Request for Oral Argument or otherwise raised by the Board.
2. IPR2013-00531 (U.S. Patent No. RE43,563):
- a. Grounds for which *inter partes* review was instituted:
 - i. U.S. Patent No. RE43,563 claims 1, 10, 11, and 16 are anticipated by JCP fold-over panel jeans (Ex. 1002, at 2);

- ii. U.S. Patent No. RE43,563 claim 14 is obvious over JCP fold-over panel jeans (Ex. 1002, at 2) and JCP maternity bootcut jeans (Ex. 1002, at 3);
 - iii. U.S. Patent No. RE43,563 claims 12 and 13 are obvious over JCP fold-over panel jeans (Ex. 1002, at 2) in view of Expecting Style, by Lauren Sara (Ex. 1005, at 4, 5); and
 - iv. U.S. Patent No. RE43,563 claims 1 and 20 are anticipated by U.S. Patent No. 6,276,175 (Ex. 1004).
- b. Any issues properly raised by Patent Owner in IPR2013-00531, including in Patent Owner's Preliminary Response, Patent Owner's Response, Patent Owner's Contingent Motion to Amend, Patent Owner's Reply to Petitioner's Opposition to Patent Owner's Contingent Motion to Amend, Patent Owner's Observations on Cross-Examination of Reply Witness and Petitioner's Response thereto, and Patent Owner's Motion to Exclude and Petitioner's Response thereto.
- c. Any issues addressed by Petitioner in IPR2013-00531, including the Petition for *Inter Partes* Review, Petitioner's Reply to Patent Owner's Response, Petitioner's Opposition to Patent Owner's Contingent Motion to Amend, and Petitioner's Motion to Exclude and Patent Owner's Response thereto.

- d. Issues related to all exhibits filed in IPR2013-00531.
 - e. Rebuttal to issues raised by Patent Owner in IPR2013-00531.
 - f. Any issues in IPR2013-00531 noted in Patent Owner's Request for Oral Argument or otherwise raised by the Board.
3. IPR2013-00532 (U.S. Patent No. RE43,531):
- a. Grounds for which *inter partes* review was instituted:
 - i. U.S. Patent No. RE43,531 claims 1, 2, 5, 10, and 17 are anticipated by JCP fold-over panel jeans (Ex. 1002, at 2);
 - ii. U.S. Patent No. RE43,531 claims 6 and 11 are obvious over JCP fold-over panel jeans (Ex. 1002, at 2) in view of JCP maternity bootcut jeans (Ex. 1002, at 3); and
 - iii. U.S. Patent No. RE43,531 claims 15 and 16 are obvious over JCP fold-over panel jeans (Ex. 1002, at 2) in view of U.S. Patent Application Publication No. 2004/0049834 (Ex. 1003).
 - b. Any issues properly raised by Patent Owner in IPR2013-00532, including in Patent Owner's Preliminary Response, Patent Owner's Response, Patent Owner's Observations on Cross-Examination of Reply Witness and Petitioner's Response thereto, and Patent Owner's Motion to Exclude and Petitioner's Response thereto.

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