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GREGORY STANGLE
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESTINATION MATERNITY CORPORATION,)
Plaintiff,)
vs.) Case No.
TARGET CORPORATION, CHEROKEE, INC.) 2:12-CV-05680-AB
and ELIZABETH LANGE, LLC.,)
Defendants.)

VIDEOTAPED DEPOSITION OF GREGORY STANGLE
Chicago, Illinois
October 4, 2013

JOB 66288
REPORTED BY: Tina Alfaro, RPR, CRR, RMR, CLR

1 GREGORY STANGLE

2 Q. Earlier we talked about the declaration you
3 signed when you submitted your patent application to
4 the Patent Office; do you recall that?

5 A. Yes.

6 Q. And do you recall that one of the
7 acknowledgements you made was to submit any
8 pertinent prior art to the Patent Office?

9 A. Yes.

10 Q. So you understand when I use the term
11 "prior art" what that means?

12 A. Yes.

13 Q. If you look at Exhibit 4, which is your
14 patent application, when was your -- when was your
15 patent application of Exhibit 4 published?

16 A. March 18, 2004.

17 Q. So looking back at Exhibit 26, which I
18 believe you testified was filed on May 31, 2007, do
19 you understand that your patent application is prior
20 art to Exhibit 26?

21 A. Yes.

22 Q. Did you ever advise Mothers Work that your
23 patent application was prior art to this patent
24 application of Exhibit 26?

25 A. No.

1 GREGORY STANGLE

2 Q. I apologize. How much time have you
3 recorded working as a consultant in this matter on
4 behalf of Destination Maternity?

5 A. I don't know. I'd have to look at my time
6 sheets.

7 Q. Can you give me an approximation?

8 A. 20 hours or so.

9 Q. Approximately 20 hours?

10 A. Approximately, yeah.

11 Q. The 20 hours approximately that you've
12 spent in this case at your hourly rate, would that
13 be approximately \$6,000?

14 A. Yes.

15 Q. Do you anticipate spending more time
16 consulting for Destination Maternity in this case?

17 A. I don't know. It depends if they ask me.

18 MR. LECHLEITER: Pending any further questions
19 in response to your questions, I'm through for now.

20 MR. BURNS: Do we want to take a break before I
21 have a couple questions? Do you need to take a
22 break or do you want to go?

23 THE WITNESS: I'm fine to keep going if you
24 guys want to continue.

1 GREGORY STANGLE

2 Q. Did you ever advise any of Mothers Work
3 attorneys that your application was prior art to
4 this application of Exhibit 26?

5 A. No.

6 Q. Did anyone, any attorney for Mothers Work
7 ever ask you for a copy of your patent application
8 to be submitted in conjunction with the application
9 of Exhibit 26?

10 A. No.

11 Q. Did any nonattorney on behalf of Mothers
12 Work ever make that same request to you?

13 A. No.

14 Q. So no one from or on behalf of Mothers Work
15 ever asked you for a copy of your patent application
16 to submit with Exhibit 26 to the Patent Office?

17 A. No.

18 Q. Mr. Stangle, in the current case under your
19 consulting agreement with Destination Maternity, do
20 you know approximately how much time you've billed
21 to Destination Maternity during your consulting
22 arrangement?

23 A. No. I haven't actually billed anything.

24 Q. How much time have you recorded?

25 A. How much time have I spent?

1 GREGORY STANGLE
2 EXAMINATION

3 BY MR. BURNS:

4 Q. Okay. I have a couple questions. This is
5 Mike Burns representing Destination Maternity.

6 If we could go back to Exhibit 21.

7 A. Wait. 21 or 22? 22?

8 Q. This one.

9 A. Got it.

10 Q. I'm sorry. 22.

11 And the page at the bottom that ends 167.

12 A. Okay.

13 Q. Look back down at the three pictures side
14 to side in the bottom left-hand corner. Do you see
15 the breast area of the picture on any of those
16 models?

17 COURT REPORTER: I'm sorry. The?

18 MR. BURNS: Breast area.

19 BY THE WITNESS:

20 A. No.

21 Q. I want to go back to your patent
22 application. I think it's Exhibit 4. You testified
23 earlier that figures 7 to 10 are the figures where
24 the -- we have it attached to the pants; is that
25 correct?

GREGORY STANGLE

A. Yes.

Q. Okay. And the description of those, I believe, starts around paragraph 37. Take some time to review paragraph 37 to 46.

(Witness viewing document.)

BY THE WITNESS:

A. Okay.

Q. In what you reviewed, do any of the paragraphs discuss wearing these -- the attached sleeve up over the belly, upwards from the waist?

A. No.

Q. Does anywhere in your patent application disclose that way of wearing the pants, the attachments?

A. No.

Q. I'm going to go -- stay with your application. We talked a lot earlier about figure 8. Go to figures 7 through 10.

COURT REPORTER: I'm sorry.

BY MR. BURNS:

Q. I'm sorry. Can we go back to figures 7 through 10. If you look at figure 8, we talked about 42 as being the attached end earlier; is that right?

GREGORY STANGLE

Q. What's incorrect about it?

A. Well, in -- in Exhibit 18 I assumed the attachment was at the waist. So the whole folding up portion -- folded up portion of the product is higher. In figure 10 the attachment is much lower, which would make everything -- so if it was folded up, it would be even much lower.

Q. All right. Is there any difference in the -- in the attachment in drawings shown on figure 7, 8, 9, and 10?

A. Any difference in the attachment? I'm not sure I understand.

Q. I guess what I'm asking is, is this a bunch of different views of the same way you envisioned your sleeve attaching?

A. I would need to refer back to the actual descriptions in the application because it was so long ago.

Q. Okay. Take your time.

(Witness viewing document.)

BY MR. BURNS:

Q. So maybe we can go through it. On page numbered 1516 at the bottom right, paragraph 24, it says "Figure 7 illustrates movable sleeve visible

GREGORY STANGLE

A. Right.

Q. If you look at Exhibit 18, which I think you marked up. Do you still have that?

Okay. We were -- again, we were pointing to No. 42 as the attached end; is that right?

A. Right.

Q. Okay. Could you look at figure 10, please.

A. Okay.

Q. Do you see a 42 on figure 10 as well?

A. Yes.

Q. And where does 42 -- how far is the attachment there? What's the location?

A. The attachment? Oh, the attachment is further into the pants.

Q. Is it at the waist area or does it go further down?

A. In figure 10 it looks like it goes below the waist.

Q. Right. Okay. So if you look at what you marked up on figure -- I'm sorry, Exhibit 18 --

A. Yes.

Q. -- do you think that is correct what you did?

A. No.

GREGORY STANGLE

through a cut-away of clothing," correct?

A. Yes.

Q. And then it moves on to figure 8, paragraph 25. Can you just read that for me.

A. "Figure 8 illustrates how initially the sleeve 40 could be built into clothing 32 without impacting normal use."

Q. And could you read the figure 9 description, paragraph 26.

A. "Figure 9 illustrates the outside surface 36 of the clothing 32 where the movable sleeve 40 is folded over and around the clothing 32 to provide extra covering of the clothing 32 where support of the person's body."

Q. Okay. And paragraph 27 for figure 10.

A. "Figure 10 illustrates the movable sleeve 40 folded around the clothing 32."

Q. So we talked earlier about the 42 in figure 10 and the 42 in figure 8. Do you have any reason to believe the 42s in those two illustrations are different in any way?

A. Yes. The descrip- -- the references to figure 8 and figure 10 in paragraphs 41 and 42 describe that No. 42 indicates where the item is

1 GREGORY STANGLE
 2 STATE OF ILLINOIS)
 3) SS:
 4 COUNTY OF C O O K)
 5
 6 I, TINA M. ALFARO, Certified Shorthand
 7 Reporter No. 084-004220, Certified Realtime
 8 Reporter, and Notary Public in and for the State of
 9 Illinois, do hereby certify:
 10 That GREGORY STANGLE, whose deposition is
 11 hereinbefore set forth, was duly sworn by me and
 12 that said deposition is a true record of the
 13 testimony given by such witness.
 14 I further certify that I am not counsel for
 15 nor in any way related to any of the parties to this
 16 suit, nor am I in any way interested in the outcome
 17 thereof.
 18 In witness, whereof, I have hereunto set my
 19 hand this 16th day of October, 2013.
 20
 21
 22
 23
 24 _____
 25 Tina M. Alfaro, CSR, CRR

1 GREGORY STANGLE
 2 ERRATA SHEET
 3 CASE NAME: Destination Maternity Corporation v.
 Target Corporation
 4 DATE: October 4, 2013
 5 WITNESS: GREGORY STANGLE
 6 PAGE LINE
 7 _____ CHANGE: _____
 8 _____ REASON: _____
 9 _____ CHANGE: _____
 10 _____ REASON: _____
 11 _____ CHANGE: _____
 12 _____ REASON: _____
 13 _____ CHANGE: _____
 14 _____ REASON: _____
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 18 _____ REASON: _____
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 21 _____ CHANGE: _____
 22 _____ REASON: _____
 23
 Signed: _____ Date: _____
 24
 25 REPORTER: Tina M. Alfaro