

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE EASTERN DISTRICT OF PENNSYLVANIA

4 -----X
5 DESTINATION MATERNITY CORPORATION,

6 Plaintiff,

Case No. 2:12-CV-05680-AB

7 VS.

8 TARGET CORPORATION, CHEROKEE,
9 INC. and ELIZABETH LANGE, LLC.,
Defendants.

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12
13 **HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY**

14
15 VIDEOTAPED DEPOSITION
16 OF
17 LISA HENDRICKSON
18 Tuesday, October 15, 2013
19 1650 Market Street
20 Philadelphia, Pennsylvania

21
22
23 Reported by:
24 AYLETTE GONZALEZ, RPR, CLR
25 JOB 66673

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 DATE: October 15, 2013
 3 TIME: 10:46 a.m.
 4
 5
 6 Highly Confidential - Attorneys Eyes Only Videotaped
 7 Deposition of LISA HENDRICKSON, held at the
 8 offices of DLA PIPER, 1650 Market
 9 Street, Philadelphia, Pennsylvania,
 10 pursuant to NOTICE, before AYLETTE GONZALEZ,
 11 a Registered Professional Reporter,
 12 Certified LiveNote Reporter and Notary
 13 Public of the States of New York and New
 14 Jersey.
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 24
 25

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 APPEARANCES:
 3
 4 DLA PIPER
 5 Counsel for Plaintiff
 6 1251 Avenue of the Americas
 7 New York, New York 10020
 8 BY: TAMAR DUVDEVANI, ESQ.
 9
 10
 11
 12 FAEGRE BAKER DANIELS
 13 Counsel for Defendants
 14 300 North Meridian Street, Suite 2700
 15 Indianapolis, Indiana 46204
 16 BY: TREVOR CARTER, ESQ.
 17 BY: MATTHEW ENNIS, ESQ.
 18
 19
 20
 21
 22 ALSO PRESENT:
 23 KRISTEN D. HAN, DESTINATION MATERNITY
 24 GERALD ALFE, Videographer
 25

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 THE VIDEOGRAPHER: This video
 3 deposition is now beginning. The date
 4 is October 15, 2013. The time is
 5 10:46. This is the video deposition
 6 of Lisa Hendrickson taken in the
 7 matter of Destination Maternity
 8 Corporation versus Target Corporation,
 9 et al., in the United States District
 10 Court of Eastern Pennsylvania, Number
 11 2-12-CV-05680-AB.
 12 Counsel will now introduce
 13 themselves.
 14 MS. DUVDEVANI: Tamar Duvdevani,
 15 DLA Piper on behalf of Plaintiff,
 16 Destination Maternity.
 17 MS. HAN: Kristen Han of
 18 Destination Maternity Corporation,
 19 in-house Counsel.
 20 MR. CARTER: Trevor Carter from
 21 Faegre Baker Daniels on behalf of
 22 Target Corporation.
 23 MR. ENNIS: Matthew Ennis from
 24 Faegre Baker Daniels on behalf of
 25 Target Corporation.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 LISA HENDRICKSON,
 3 called as a witness, having been
 4 first duly sworn by a Notary Public
 5 of the State of New York, was
 6 examined and testified as follows:
 7 EXAMINATION BY
 8 MR. CARTER:
 9 Q. Good morning, Ms. Hendrickson. How
 10 are you?
 11 A. Good morning.
 12 Q. Could you please state and spell
 13 your name for the record.
 14 A. Lisa Hendrickson; L-I-S-A,
 15 H-E-N-D-R-I-C-K-S-O-N.
 16 Q. Have you had your deposition taken
 17 before?
 18 A. I have not.
 19 Q. Okay. So, a few ground rules.
 20 I'll be asking questions. You'll be
 21 answering. From time to time, your Counsel
 22 may lodge objections. For the sake of the
 23 Court Reporter, only one of us should speak at
 24 a time. So, I will do my best not to
 25 interrupt anyone. So, just be mindful of that

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 2 for the Court Reporter.
 3 I also see you're shaking your
 4 head, nodding?
 5 A. Yes. I should be saying, "I
 6 understand."
 7 Q. Very common. Very common, but the
 8 Court Reporter can't take down nods so we'll
 9 need audible responses.
 10 A. I understand.
 11 Q. You can take a break whenever you'd
 12 like. This isn't a marathon. So, the Court
 13 Reporter -- the videographer said the tapes
 14 last one hour and 20 minutes so we may go
 15 close to that long. If you need a break
 16 sooner, just let us know. The only exception
 17 is we don't break on a pending question.
 18 A. I understand.
 19 Q. So, if you want to take a break,
 20 please let me know before I ask another
 21 question.
 22 A. I understand.
 23 Q. If you don't understand one of my
 24 questions, please let me know and I'll do my
 25 best to rephrase it.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 A. I understand.
 3 Q. If you answer one of the questions
 4 I'm going to assume that you understood the
 5 question.
 6 A. I understand.
 7 Q. Is that fair?
 8 A. Yes.
 9 Q. Okay.
 10 (Exhibit 40, Defendant's Notice of
 11 Rule 30(b)(6), Deposition of Lisa
 12 Hendrickson, marked for
 13 identification, as of this date.)
 14 BY MR. CARTER:
 15 Q. Ms. Hendrickson, I handed you a
 16 document marked Exhibit 40. Have you seen
 17 Exhibit 40.
 18 A. I don't know. I have -- you just
 19 handed it to me.
 20 (Exhibit 41, Defendant Target's
 21 Notice of the Deposition of Plaintiff
 22 Destination Maternity Corporation
 23 Pursuant to Fed.R.Civ.P.30(b)(6),
 24 marked for identification, as of this
 25 date.)

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 2 BY MR. CARTER:
 3 Q. And the Court Reporter has also
 4 handed you a document marked as Exhibit 41.
 5 A. Correct.
 6 Q. Have you seen Exhibit 41?
 7 A. I don't know. You've just handed
 8 it to me.
 9 Q. Please take a look at Exhibits 40
 10 and 41.
 11 A. This is going to take me a long
 12 time to read.
 13 Q. Have you seen Exhibit 41?
 14 A. I've seen Exhibit 40, and I read
 15 Exhibit 40.
 16 Q. Okay. You haven't seen Exhibit 41
 17 before today?
 18 A. I don't know. You've given me a
 19 document of 19 pages, so...
 20 Q. Okay. Let me help you out. If you
 21 skip to page 13, you see there's a heading,
 22 "Topics for Examination"?
 23 A. I do.
 24 Q. Okay. Have you looked at any of
 25 the topics listed on pages 13 through 19?

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 2 A. You'll have to give me a few
 3 minutes to read it.
 4 Q. Okay. Let me see if I can short
 5 circuit this. If you look at Topic 17.
 6 A. I have read 17.
 7 Q. Okay. You understand that you are
 8 here today as a witness on behalf of
 9 Destination Maternity --
 10 A. I do.
 11 Q. -- for certain topics set out in
 12 Exhibit 41?
 13 A. Yes, I have not read all of the
 14 topics of 41.
 15 Q. Okay. And then you also understand
 16 that you are here today for your deposition of
 17 your personal knowledge?
 18 A. That is correct.
 19 Q. Okay. If there is a point today
 20 when I ask you a question and your personal
 21 knowledge is different from your corporate
 22 knowledge, can you let me know that there is a
 23 difference?
 24 A. I will let you know if there is a
 25 difference.

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2 Q. Otherwise, when you give an answer,

3 I will assume that your corporate knowledge

4 and your personal knowledge are one and the

5 same?

6 A. I understand.

7 Q. Okay. Thank you.

8 MR. CARTER: Counsel, just to

9 short circuit this, can we go through

10 and get on the record all the topics

11 for Ms. Hendrickson in Exhibit 41?

12 MS. DUVDEVANI: Sure.

13 MR. CARTER: So, I have

14 Ms. Hendrickson as a corporate

15 representative for Topic 17.

16 MS. DUVDEVANI: In part.

17 MR. CARTER: 19, in part. 20, in

18 whole. 23, in part. 28, in whole.

19 30, in whole.

20 MS. DUVDEVANI: Hold on.

21 A. Hard time following.

22 MS. DUVDEVANI: Okay. 28, in

23 whole.

24 MR. CARTER: 30, in whole?

25 MS. DUVDEVANI: Yes.

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2 MR. CARTER: 32, in part.

3 MS. DUVDEVANI: 32, in part.

4 MR. CARTER: 34, in whole.

5 MS. DUVDEVANI: Yes.

6 MR. CARTER: 35, in part. 44, in

7 part. 45, in whole. 46, in whole and

8 72, in part.

9 MS. DUVDEVANI: I'll just add for

10 the record that all of those topics

11 are subject to the objections that

12 were lodged by Destination Maternity

13 to those topics.

14 MR. CARTER: And did I miss any

15 topics for which Destination Maternity

16 is providing Ms. Hendrickson as a

17 corporate representative today?

18 MS. DUVDEVANI: As far as I can

19 tell, no. We did go through it prior

20 to the deposition and it sounded like

21 the same list, that sounded correct.

22 MR. CARTER: Okay. Yes, I tried

23 to read the same thing we discussed

24 before the deposition.

25 BY MR. CARTER:

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2 Q. All right. Ms. Hendrickson, what

3 is your education, after high school?

4 A. I have a four-year degree from Iowa

5 State University, double majored in fashion

6 merchandising and design.

7 Q. And what year did you receive that

8 degree?

9 A. 1983.

10 Q. Okay. Any other education other

11 than your Iowa State degree?

12 A. No.

13 Q. And is that a Bachelors of Arts or

14 Bachelors of Science degree?

15 A. I'm not sure I remember. I think

16 it's a Bachelors of Science, but I'm not sure.

17 Q. It's a four-year degree?

18 A. It is a four-year degree.

19 Q. Okay. Do you have any other

20 certifications or professional training that

21 you have done since then?

22 A. No.

23 Q. Okay. What was your first job

24 following graduation from Iowa State?

25 A. My first job -- my first job was

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2 with a company called the Ingram Collection.

3 Q. Okay. And what did you do for the

4 Ingram Collection?

5 A. I was an assistant to the

6 production manager.

7 Q. How long were you with the Ingram

8 Collection?

9 A. Maybe a year.

10 Q. So, 1983 to '84?

11 A. Approximately.

12 Q. What were your duties at the Ingram

13 Collection as an assistant to the production

14 manager?

15 A. Chief gofer. I -- it was a catalog

16 firm. I ran errands. I packed boxes. I did

17 whatever I was asked to do.

18 Q. Okay. You said a catalog firm.

19 What do you mean by that?

20 A. A merchandise catalog.

21 Q. What kind of products?

22 A. Women's wear.

23 Q. Did the Ingram Collection

24 manufacture products?

25 A. We did not manufacture.

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2 Q. Have products manufactured?

3 A. I don't believe so.

4 Q. So, you were merely selling

5 products that other vendors were providing?

6 A. Correct.

7 Q. Okay. Were you -- do you recall

8 any maternity products being sold by the

9 Ingram Collection when you worked there?

10 A. No.

11 Q. So, in this case -- are you aware

12 of the products that are in dispute in this

13 case?

14 A. I am aware that Target has been

15 infringing on our patented Secret Fit Belly.

16 Q. Okay. That's your opinion?

17 A. That is my opinion.

18 Q. Okay. And on what do you base that

19 opinion?

20 A. Based on seeing product that I

21 believe is the same as our patented product in

22 stores and online.

23 Q. Okay. What about Target's product

24 leads you to believe that its infringing?

25 A. It has the key attributes of our

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2 product.

3 Q. Okay. And what are those?

4 A. They have a band, a belly band that

5 expands with a growing abdomen. It comes up

6 over the belly and reaches to almost the

7 ampire line.

8 Q. You said comes up over the belly?

9 A. To the ampire line.

10 Q. Can you spell ampire?

11 A. Ampire, empire, A-M-P-I-R-E.

12 Q. And what is the -- it isn't empire,

13 it's --

14 A. Ampire is how it is pronounced in

15 the fashion business. And the definition is

16 approximately where it's right below the bust

17 line. So, it was in French fashion that was

18 created the ampire silhouette.

19 Q. Dose the ump --

20 A. Ampire.

21 Q. Does the ampire line change based

22 on whether a woman is pregnant or not

23 pregnant?

24 MS. DUVDEVANI: Objection.

25 You can answer.

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2 A. Not really, because it's always

3 sort of right below the bust line. So it's

4 kind of where the bust and the top of the

5 abdomen meet. So, it's basically at the same

6 place. It's not an exact measurement, but it

7 is below the bust and at the top of the

8 abdomen.

9 Q. How do you define where the abdomen

10 is?

11 MS. DUVDEVANI: Objection.

12 A. The abdomen area is a person's

13 abdomen where your stomach and organs and

14 uterus, I guess, would be.

15 Q. Okay. And where is the bottom of

16 the rib cage compared to the abdomen in the

17 ampire line?

18 A. I don't know I mean I can feel in

19 my own abdomen, but I don't really want to do

20 that on camera. It's, I would say, the bottom

21 of the rib cages, I guess in the middle of

22 your abdomen.

23 Q. Is the ampire line at the same

24 place for all women?

25 MS. DUVDEVANI: Objection.

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2 THE WITNESS: Is that an

3 objection?

4 MS. DUVDEVANI: You can answer if

5 you understand the question.

6 A. Would you repeat it again, please?

7 Q. Is the ampire line at the same

8 place for all women?

9 A. Not exactly the same place because

10 every torso is different. Som it's at the

11 same place, but you can't give a fixed

12 measurement. My waist and abdomen is a

13 different length than somebody who would be

14 six-foot tall. But the general meeting

15 between the bust and the abdomen is about at

16 the same spot in everyone.

17 Q. Okay. So you said somebody who's

18 taller than you would have the ampire line at

19 a different spot?

20 MS. DUVDEVANI: Objection.

21 Q. Compared to you.

22 MS. DUVDEVANI: Objection.

23 A. Not at a different spot, but if

24 you're doing a measurement from high point of

25 shoulder, the measurement would not be exactly

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 2 the same on everybody.
 3 Q. Okay. How about instead of
 4 measuring from top of the shoulder, is there a
 5 place where can you measure from below up to
 6 the ampire line?
 7 A. The standard point of measurement
 8 is from a high shoulder point if you're
 9 measuring down for bust point and ampire line,
 10 a waistline.
 11 Q. Okay. Can you measure from a point
 12 below the ampire line up to the ampire line?
 13 MS. DUVDEVANI: Objection.
 14 A. You can measure different -- the
 15 measurement would be different if a woman was
 16 -- had no belly, was six months pregnant, was
 17 pregnant with twins because you'd have to come
 18 up and over to measure to -- if you were
 19 measuring below.
 20 Q. So, is there a place on a woman's
 21 body where you're aware -- excuse me. That
 22 anyone has measured up to the ampire line?
 23 MS. DUVDEVANI: Objection.
 24 A. Can you please repeat the question?
 25 Q. Is there a place on a woman's body

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 2 where you are aware that anyone has measured
 3 up to the ampire line?
 4 MS. DUVDEVANI: Objection.
 5 A. Not to my knowledge.
 6 Q. That isn't something that's done in
 7 the industry?
 8 MS. DUVDEVANI: Objection.
 9 A. Generally, no.
 10 Q. And why is that? You had mentioned
 11 that if a woman was pregnant, that that would
 12 impact the measurement?
 13 A. Yes, if you were pregnant,
 14 depending on your torso length.
 15 Q. Anything else?
 16 A. Not that I can think of.
 17 Q. So, if you were pregnant, it would
 18 make a difference in measuring up to the
 19 ampire line?
 20 A. Depending on where you were
 21 measuring it from, yes.
 22 Q. And it would differ based on your
 23 stage of pregnancy?
 24 A. Correct.
 25 Q. And your torso length would also

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 2 impact the measurement up to the ampire line?
 3 A. Correct.
 4 Q. What is the torso?
 5 MS. DUVDEVANI: Objection.
 6 A. I don't know the technical
 7 definition, but torso generally means the
 8 upper half of your body, I believe.
 9 Q. Does torso include all of the
 10 abdomen?
 11 MS. DUVDEVANI: Objection.
 12 A. I don't know technically. I would
 13 say yes, but I don't know technically.
 14 Q. Okay. Well, when you said torso
 15 length would impact measuring up to the ampire
 16 line, what were you referring to?
 17 A. The upper half of someone's body.
 18 Q. Okay. Would the abdomen length
 19 impact the measurement up to the ampire line?
 20 MS. DUVDEVANI: Objection.
 21 A. I would guess, yes.
 22 Q. And when you're speaking of
 23 measuring up to the ampire line and saying
 24 there would be a difference based on stage of
 25 pregnancy; is that correct?

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 2 A. Please say that again.
 3 Q. You were speaking of measuring up
 4 to the ampire line and you could have
 5 differences based on stage of pregnancy,
 6 correct?
 7 A. Correct.
 8 Q. Torso length?
 9 A. Correct.
 10 Q. Abdomen length?
 11 A. Correct.
 12 Q. Anything else?
 13 A. Not that I can think of.
 14 Q. Okay. This measurement that you're
 15 speaking of, from what pointed are you
 16 starting this measurement?
 17 MS. DUVDEVANI: Objection.
 18 A. I don't measure generally torso
 19 length and to the ampire is not measured from
 20 below. So, there are -- you could pick any
 21 measurement from below that you wanted. You
 22 could measure it from the crotch, from the
 23 knee, but that is not a standard industry
 24 measurement is to measure up.
 25 Q. How about measuring from the bottom

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 2 of the abdomen up?
 3 A. That would be a more typical --
 4 that is a measurement that we use in our
 5 bellies because you are measuring from a place
 6 underneath the pregnant belly to somewhere
 7 above the belly. So, in our belly
 8 measurements, you would measure the abdomen
 9 from below the belly.
 10 Q. Okay. Why didn't you mention that
 11 before when I was asking you where would you
 12 take measurements up to the ampire line?
 13 A. You didn't specifically ask me if I
 14 was. You said generally where do people
 15 measure from and most corporations don't
 16 measure from below. I'm speaking specifically
 17 about a belly, not generally a measurement of
 18 a body and that's why.
 19 Q. Do you take the belly and abdomen
 20 to be one and the same?
 21 MS. DUVDEVANI: Objection.
 22 A. No.
 23 Q. What is the difference?
 24 A. An abdomen is on a person. A belly
 25 is a garment or a covering of the abdomen. It

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 2 doesn't cover the entire abdomen. It covers
 3 from where the belly protrudes and an abdomen
 4 covers from -- I mean, it's not an exact
 5 science for a total -- I don't have a
 6 technical, medical knowledge of what is
 7 considered totally part of the abdomen.
 8 You're asking me to be very
 9 specific about more of a medical term of what
 10 is the size of someone's abdomen. I don't
 11 know that.
 12 Q. I just want to make sure I'm clear.
 13 Does a person have a belly?
 14 MS. DUVDEVANI: Objection.
 15 A. Everyone has an abdomen. I don't
 16 know that you would say that everyone has a
 17 belly. It depends. Some people have a very
 18 flat stomach and they don't have a belly.
 19 Q. But some people have a belly?
 20 A. Correct, some people have a belly.
 21 Q. So, for people who have a belly,
 22 how does the belly compare to the abdomen?
 23 MS. DUVDEVANI: Objection.
 24 A. I don't -- I don't think that's a
 25 question I can answer. Belly and abdomen --

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 2 an abdomen is not -- does not consist of
 3 totally your belly. It consists of a whole
 4 area of internal organs. So, I don't think
 5 doctors' offices use the term, "belly" when
 6 they're describing the abdomen.
 7 Q. How would you describe the term,
 8 "belly" on a person as opposed to a garment?
 9 MS. DUVDEVANI: Objection.
 10 A. I would say that a belly is
 11 generally thought of that it's somewhat
 12 protruding. That it has -- sometimes it's
 13 used in context with a pregnant woman.
 14 Sometimes it's used in context of a man with a
 15 beer belly. So, it generally connotes
 16 something protruding from the abdomen area.
 17 Q. Okay. Anything else?
 18 A. Not that I can think of right now.
 19 Q. Okay. When you talking about
 20 measuring up to the ampire line --
 21 A. Correct.
 22 Q. -- were you talking about measuring
 23 from -- you're talking the bottom of the
 24 abdomen, the bottom of the belly or both?
 25 MS. DUVDEVANI: Objection.

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 2 A. When you are talking about a
 3 maternity panel, we talk about the panel
 4 starting below the belly and going up towards
 5 the ampire line.
 6 Q. Okay. And is the bottom -- how
 7 would you define where the bottom of the belly
 8 is?
 9 A. There's not a definite spot of
 10 where because every woman carries slightly
 11 differently. So, there isn't a specific
 12 measurement that you can create where you
 13 could say from the crotch, it's always five
 14 inches up. It depends on the type of fabric
 15 used. It depends on the height of the person.
 16 So, there's not a specific
 17 measurement where you start at the bottom of
 18 the belly. You would tend to start it where a
 19 belly starts to protrude.
 20 Q. Okay. The location -- I asked how
 21 you define where the bottom of the belly is
 22 and you said it depends on the type of fabric.
 23 How does the location of the bottom of the
 24 belly depend on the type of fabric?
 25 MS. DUVDEVANI: Objection.

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2 A. When you have all pants, either

3 pants, jeans or shorts, the only exception

4 would be skirts, but on all bottoms, there is

5 what's called a crotch. And so, you have a

6 crotch measurement. The crotch measurement is

7 different on different garments depending on

8 the fabric. If you have a very stretchy

9 fabric, you have, most likely, a shorter

10 crotch because when you pull it up, the fabric

11 stretches. If you have a rigid fabric, you

12 would have a longer crotch seam because the

13 fabric doesn't stretch. So, that would

14 determine how low the panel started.

15 Q. I'm not talking about where the

16 panel starts. I guess I'm talking about on a

17 person's body where the bottom of the belly

18 is.

19 A. Again, depending on the height or

20 body structure of a person, the -- from my

21 crotch to the bottom of my belly would be

22 different than somebody who was taller,

23 heavier. It depends.

24 Q. So, the location of the bottom of

25 the belly can be impacted by someone's height?

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2 MS. DUVDEVANI: Objection.

3 A. It can be impacted by their body

4 type.

5 Q. How about, you had mentioned their

6 body structure can impact where the bottom of

7 the belly is?

8 MS. DUVDEVANI: Objection.

9 A. Yes.

10 Q. Their weight?

11 MS. DUVDEVANI: Objection.

12 A. Yes, I would say.

13 Q. And if they are pregnant, how they

14 carry?

15 A. Yes.

16 Q. Anything else?

17 A. Not that I can think of.

18 Q. Now, for women, do women only have

19 bellies when they are pregnant?

20 MS. DUVDEVANI: Objection.

21 A. No, when they are heavy, they also

22 might have a belly.

23 Q. So, men aren't the only ones having

24 the attribute of -- of having a non-pregnant

25 Belize?

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2 A. That's correct.

3 Q. Every once in a while, we'll try to

4 have a little humor.

5 A. Okay.

6 Q. For women who are not pregnant,

7 where will the bottom of their bellies be

8 located?

9 MS. DUVDEVANI: Objection.

10 A. The bottom of ones belly doesn't

11 necessarily change depending on whether you're

12 heavy or you're not heavy.

13 Q. I don't understand that, I'm sorry.

14 A. My belly, where I would say my

15 tummy might start coming out doesn't change

16 depending on whether I'm fatter ir thinner

17 stage. If I'm heavier, my belly just

18 protrudes more than if I'm thinner.

19 Q. How about looking across different

20 women, what will impact the location of the

21 bottom of their belly?

22 MS. DUVDEVANI: Objection.

23 A. Haven't I answered that already?

24 Q. Is it -- is it the same for

25 non-pregnant women and pregnant women except

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2 for pregnant women, it will be impacted by how

3 they carry?

4 MS. DUVDEVANI: Objection.

5 A. Can you ask -- can you ask the

6 question again?

7 Q. Sure. So you did go through and

8 list how the bottom of the belly is impacted

9 -- strike that.

10 You answered how the location of

11 the bottom of the belly can differ between

12 women who are pregnant. One of those

13 differences was how a pregnant women carries.

14 Other than how a pregnant woman

15 carries, will the bottom of the belly

16 difference between women be the same for

17 non-pregnant women and pregnant women?

18 MS. DUVDEVANI: Objection to form.

19 A. I'm sorry; I just don't understand

20 the question.

21 Q. Okay. So for pregnant women, you

22 had said the difference in the bottom of belly

23 location when you look at different women will

24 be impacted by how someone carries, their body

25 type -- sorry; you're nodding?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. Yes.

3 Q. Yes to both of those?

4 A. Yes, to both of those.

5 Q. Their weight?

6 A. Yes. Okay, yes.

7 Q. Their body structure?

8 A. Yes.

9 Q. And their height?

10 A. Yes.

11 Q. For women who are not pregnant,

12 will the location of the bottom of their

13 belly, looking at different women be based on

14 their body type?

15 A. Yes.

16 Q. Weight?

17 A. Yes.

18 Q. Body structure?

19 A. Yes.

20 Q. And height?

21 A. Yes.

22 Q. Anything else?

23 A. Not that I can think of.

24 Q. Okay. The ampire line you were

25 speaking of, is there a distance between the

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 ampire line and the bottom of the breast area?

3 MS. DUVDEVANI: Objection.

4 A. It's not a define where there's a

5 very specific measurement. It is an area of

6 the body.

7 Q. The ampire line?

8 A. Correct.

9 Q. And if you look, height wise, at a

10 woman, what is the range in inches of where

11 the ampire line area is located?

12 MS. DUVDEVANI: Objection.

13 A. It is measured from the high

14 shoulder point [REDACTED]

15 [REDACTED].

16 Q. And is that true for all women?

17 MS. DUVDEVANI: Objection.

18 A. I don't have a hard fast. I've not

19 measured all women. It's a range.

20 Q. So if you have a woman who's

21 five-foot tall, do you know what her -- where

22 her ampire line will be located?

23 A. I do not.

24 MS. DUVDEVANI: Objection.

25 Q. For a woman who's six-foot tall, do

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 you know where her ampire line will be

3 located?

4 MS. DUVDEVANI: Objection.

5 A. I do not.

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 MS. DUVDEVANI: Objection.

11 [REDACTED]

12 Q. On a particular woman, one woman,

13 is the ampire line a line that goes across the

14 body or for a particular woman is the ampire

15 line a range?

16 MS. DUVDEVANI: Objection.

17 A. State the question again, please.

18 Q. I'll use you as an example. Where

19 is your ampire line?

20 MS. DUVDEVANI: Objection.

21 Q. Is it -- is it a line or is it an

22 area on you, looking height wise?

23 MS. DUVDEVANI: Objection.

24 A. It's an area. It is under the

25 bust, above the abdomen.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. But it's called an ampire line?

3 A. Correct.

4 Q. So, is the ampire line on a

5 particular person not a line?

6 MS. DUVDEVANI: Objection; asked

7 and answered.

8 You can answer.

9 A. It's -- it's a line. It's not

10 necessarily a straight line. An ampire line

11 can be straight across, it can be slightly

12 curved.

13 Does that answer your question?

14 Q. So, on a particular person, the

15 ampire line is a line across a person's body,

16 but it doesn't have to be a straight line?

17 MS. DUVDEVANI: Objection.

18 A. Yes.

19 Q. What impacts for a particular woman

20 whether the ampire line is straight or curved?

21 MS. DUVDEVANI: Objection.

22 MR. CARTER: Let me strike that.

23 Let me strike that.

24 Q. For ampire lines going across a

25 woman's body, what different shapes can the

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 line take?

3 MS. DUVDEVANI: Objection.

4 A. I don't understand the question.

5 Q. Well, you had said that the ampire

6 line can go straight across a woman's body,

7 correct?

8 A. Correct.

9 Q. And it can also be in a curved line

10 across a woman's body?

11 A. Correct.

12 Q. Can it take any other -- can that

13 line take any other shapes across a woman's

14 body?

15 MS. DUVDEVANI: Objection.

16 A. It can be in a slight V.

17 Q. Anything else?

18 A. Not that I can think of now.

19 Q. For a particular woman, what

20 impacts whether the ampire line is straight,

21 curved or a slight V?

22 A. It's not determined by a woman's

23 body. It's determined by fashion style lines.

24 Q. Okay. What do you mean by fashion

25 style lines?

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2 A. It's part of the design of the

3 garment. Does the creator want a straight

4 looking line, does the creator want a curved

5 line, does the creator want a V look.

6 Q. I see. So the ampire line isn't

7 necessarily a line on a woman's body, it is

8 where someone making a garment wants a certain

9 part of the garment to fall?

10 A. Can you say it one more time?

11 Q. Sure. Let me back up. I thought

12 the ampire line was a place on a woman's body

13 that you can look at and say that is the

14 ampire line.

15 A. It is.

16 Q. And for the place on a woman's body

17 for the ampire line, is that line -- can that

18 line be straight, curved or a slight V?

19 A. I would say it can be straight or

20 curved. A V is really more of a fashion style

21 line.

22 Q. I want to try to separate fashion

23 style lines on one side compared to the

24 location of the ampire line on a woman's body.

25 A. Okay.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. Does that make sense?

3 A. Um-hum.

4 Q. So, when you're looking at an

5 ampire line on a woman's body, what impacts

6 whether the ampire line is straight or curved?

7 MS. DUVDEVANI: Objection.

8 A. A woman's body is not straight so

9 there really are no perfectly straight lines

10 in the human anatomy. So I guess technically

11 it would always be a slightly curved line

12 because nothing is straight in the human body.

13 Q. Okay. Is it -- can we talk about

14 the curve in the shape of a C?

15 A. I don't understand what you're

16 saying there.

17 Q. I want to see which way the curve

18 is going. Is the high point of the ampire

19 line curve on a woman's body toward her head

20 or toward her feet?

21 MS. DUVDEVANI: Objection.

22 A. It can be either.

23 Q. And what determines whether the

24 ampire line on a woman's body has the curve --

25 strike that.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Are you familiar with the term,

3 "concave"?

4 A. Yes, I have to remember which is

5 concave or convex, but, yes.

6 Q. If we think about a C and the

7 opening of the C facing down or the opening of

8 the C facing up for a curve, is that a fair

9 way to talk about this as opposed to concave

10 and convex?

11 A. Sure.

12 Q. Okay. So, for some women the

13 curved ampire line, the opening of the C faces

14 up?

15 MS. DUVDEVANI: Objection.

16 A. Again, it probably would be more of

17 a style line that could face up.

18 Q. Once again, I want to separate --

19 A. I understand that, but you're

20 trying to -- an ampire line is a measurement

21 from the high shoulder point and it's over the

22 bust and in a certain area. It's a one --

23 it's a points of measurement so it's not

24 really curved. Where it extends around the

25 body can be curved or can look straight. So,

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 I'm not really sure where -- what you're
 3 trying to get at.
 4 Q. Well, I'm not trying to get at
 5 anything. I'm just trying to figure out --
 6 you talked about an empire line being a line
 7 on a woman's body, correct?
 8 A. Yes.
 9 Q. And you had said that the empire
 10 line on a woman's body is straight or curved?
 11 A. Yes.
 12 Q. But then you changed it to say
 13 nothing is straight on a woman's body so
 14 they're all curved on a woman's body, correct?
 15 MS. DUVDEVANI: Objection.
 16 A. I did say that.
 17 Q. And then we talked about whether on
 18 the curve of the empire line on a woman's body
 19 if you think of the curve being a C shape,
 20 whether the opening of the C faces up and do
 21 empire lines on a woman's body have a curve
 22 shape where the opening of the C faces up?
 23 MS. DUVDEVANI: Objection.
 24 A. Yes. I know you don't want me to
 25 talk about the style lines, but that, when

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 you're talking about Cs going up or Cs going
 3 down is really a style line on a garment.
 4 It's not -- you're not talking about how
 5 you're measuring.
 6 Q. Okay. We can talk about the
 7 fashion styles also. I'm just trying to
 8 separate talking about on a woman's body.
 9 A. An empire line can go up or down on
 10 a woman's body depending on what the look of
 11 the garment you want. So, from a measurement
 12 point of view, the designer determines what
 13 the look of the empire line they want or how
 14 they want it measured. So there is an area
 15 that's defined as below the bust and above the
 16 abdomen, that's the empire area. But it can
 17 -- you can have style lines or measurement
 18 lines that go up or down depending on what
 19 you're looking for.
 20 Q. Okay. Aside from using this for a
 21 fashion style, without any clothes on a
 22 woman's body, can you look at a woman's body
 23 and see where the empire line is?
 24 A. Yes.
 25 Q. Okay. And for some woman, will

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 that empire line have the opening of the C
 3 facing down?
 4 MS. DUVDEVANI: Objection.
 5 A. Yes.
 6 Q. And for some women, once again,
 7 without clothes on, will they have the opening
 8 of the C for the empire line facing up?
 9 MS. DUVDEVANI: Objection.
 10 A. It isn't really -- it's not how you
 11 look at an empire line. You're looking at an
 12 empire line, it really is about the style
 13 lines.
 14 Q. Okay. So an empire line is going
 15 to differ from fashion designer to fashion
 16 designer?
 17 MS. DUVDEVANI: Objection.
 18 A. The style lines of empire are
 19 determined by a designer where -- whether they
 20 want them to be straight, curved up or curved
 21 down. But there's a specific area of the
 22 body. You would never call style lines at the
 23 waist an empire line.
 24 Q. Why not?
 25 A. Because that's not what -- where

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 the empire line is.
 3 Q. Can you determine for a woman who
 4 has a belly, whether pregnant or not, does the
 5 top of the belly have any impact on the empire
 6 line?
 7 MS. DUVDEVANI: Objection.
 8 A. No, it doesn't have because it's
 9 between where the bust is and the top of the
 10 belly is. So whether I have a flat belly or a
 11 pregnant belly, the empire area is still the
 12 same.
 13 Q. Okay. Earlier we had talked about
 14 not everybody has a belly because you needed
 15 some kind of protrusion?
 16 A. I said that is generally what
 17 people call a belly as having a protrusion.
 18 Q. Okay. So, for somebody who doesn't
 19 have a belly, where is their empire line?
 20 A. At the top. Well, at the top of
 21 the abdomen.
 22 Q. Okay. So for someone who has no
 23 belly, this area between the bust and the top
 24 of the abdomen, looking height wise, what is
 25 the range in inches that someone has between

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 the top of the abdomen and the bottom of the
 3 bust?
 4 MS. DUVDEVANI: Objection.
 5 A. It's the same as I said before
 6 because you're measuring it from the high
 7 shoulder point.
 8 Q. So, it's always two inches,
 9 regardless of person?
 10 MS. DUVDEVANI: Objection.
 11 A. I can't say it's always two inches.
 12 It depends on somebody's bust. If somebody
 13 was a double D, a size G, it might be longer
 14 over the bust to get to the empire line. It
 15 starts below the bust and above the abdomen.
 16 So, depending on what you're
 17 measuring over, if you are a very large busted
 18 woman, in our plus sizes, the measurement is
 19 much greater for an empire line. So, there is
 20 no definitive, but a general size medium is
 21 between [REDACTED] inches given that somebody
 22 has an average figure type.
 23 Q. Okay. So that's medium. How about
 24 small? What is the measurement for the empire
 25 line?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 A. I don't know.
 3 Q. Is it less than [REDACTED] inches?
 4 A. It's somewhere in there. Would be
 5 close to the [REDACTED], but I don't know
 6 specifically what the grade is for a small
 7 versus a medium, large or extra large.
 8 Q. Okay. For a large, do you know
 9 what the --
 10 A. I just said I don't know the
 11 measurement.
 12 Q. For XL you don't know?
 13 A. Correct.
 14 Q. Is this -- is this something that
 15 would be considered an industry standard where
 16 if I find a fashion designer book, it will
 17 tell me these measurements?
 18 MS. DUVDEVANI: Objection.
 19 A. No, there isn't. It would not. We
 20 don't have published measurements in the
 21 industry of -- but you would find an over the
 22 bust, you would find a bust point measurement,
 23 you'd find hip measurements. But there isn't
 24 a standard.
 25 Q. If I wanted to leave here today and

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 find the measurement for the empire line for
 3 someone who is an XL, could I do that?
 4 MS. DUVDEVANI: Objection.
 5 A. Probably with the Target company,
 6 yes. I would assume that's who you would go
 7 to and ask for the information.
 8 Q. Okay. What -- what if I am
 9 somebody who only has access to publicly
 10 available information?
 11 MS. DUVDEVANI: Objection.
 12 A. I don't know. I never tried to
 13 research it.
 14 Q. Okay. You said there were no
 15 published measurements that you were aware of
 16 from this measurement you said from the top of
 17 the shoulder to the empire line?
 18 A. I am not aware that there are
 19 published measurements. There could well be.
 20 Q. Okay. How did you know today the
 21 [REDACTED]-inch measurement for the empire line?
 22 A. That would be in our company, what
 23 we use as the range for the empire line.
 24 Q. Okay. Does your company have
 25 measurements for a small size for an empire

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 line?
 3 A. Yes, we do.
 4 Q. Okay. Has that been provided to
 5 us?
 6 A. I have no idea.
 7 Q. How about for a large, the
 8 measurement for the empire line, is that
 9 something that your company has?
 10 A. Yes. We don't have -- I don't
 11 believe we have published specs where
 12 literally that is, but that is the range that
 13 we work on when we do style lines with empire
 14 lines.
 15 Q. So, the [REDACTED] inch measurement
 16 you have for medium?
 17 A. Correct.
 18 Q. Do you have a measurement for the
 19 empire line for a large?
 20 A. I do not in my memory, but we do
 21 have ranges we work with in -- for our
 22 company.
 23 Q. Where would you find that in your
 24 company?
 25 A. In our specs.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. Okay. Have those been provided to

3 us?

4 A. I don't know.

5 Q. And when you're saying specs, what

6 do you mean by specs?

7 A. Specifications of garments.

8 Q. Okay. Do you know of any

9 specifications of garments that have been

10 provided to us?

11 A. I don't know.

12 Q. How about for the XL size, the [REDACTED]

13 [REDACTED] measurement you had for the empire

14 line?

15 A. I told you, I don't know off the

16 top of my head what the XL measurement would

17 be.

18 Q. Okay. Thank you. My question is:

19 If you wanted to find out that measurement,

20 would you be able to find it at Destination

21 Maternity?

22 A. I would look at spec sheets for XL

23 garments that have empire lines.

24 Q. Have those been provided to us?

25 A. I don't know.

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2 Q. Are there any other sizes other

3 than small, medium, large and XL where you

4 could find a measurement for an empire line at

5 Destination Maternity?

6 A. Yes, we carry 1x, 2x and 3x plus

7 sizes.

8 Q. Okay. And so for all three of

9 those 1x, 2x and 3x, could you find the

10 measurement for the empire line?

11 A. If I looked at a style that had an

12 empire line, yes.

13 Q. And do you know if those have been

14 provided to us?

15 A. I don't know.

16 Q. The [REDACTED] measurement for

17 the empire line, how is it that you know that

18 measurement today, but none of the other

19 measurements today for empire lines?

20 [REDACTED]

21 [REDACTED]

22 Q. Now, the measurements that you have

23 for empire lines from small to 3x?

24 A. Correct.

25 Q. Is that the range, small on one

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 side, 3x on the other side?

3 A. I believe we also have a few styles

4 in extra small.

5 Q. Okay. Same with extra small, the

6 measurement for the empire line, you don't

7 know, but you could find in a spec?

8 A. Correct.

9 Q. And you don't know if that has been

10 provided to us?

11 A. I don't know.

12 Q. So, from extra small on one side to

13 3x on the other side, are the empire

14 measurements -- strike that.

15 From extra small on one side of the

16 spectrum to 3x on the other side of the

17 spectrum, the empire line measurements used by

18 Destination Maternity, will those be used by

19 the rest of the industry or will the rest of

20 the industry have different empire line

21 measurements?

22 MS. DUVDEVANI: Objection.

23 A. I don't know.

24 [REDACTED]

25 [REDACTED]

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 Q. All right. For a woman who has a

11 belly, where will the top of the belly be

12 compared to the empire line?

13 MS. DUVDEVANI: Objection.

14 A. Close. I don't have a measurement.

15 Q. Okay. And where will the location

16 of the top of the belly differ between

17 different women the same as the bottom of the

18 belly differ between women?

19 MS. DUVDEVANI: Objection.

20 A. Can you state the question again,

21 please?

22 Q. Sure. So, let me go back to the

23 bottom of the belly, see if we can get through

24 this a little quicker.

25 A. Yes.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. So, the bottom of the belly for

3 someone who's pregnant, you said that the

4 location of the bottom of the belly for

5 different women would differ based on how

6 someone carries their height, their body

7 structure, their weight and their body type?

8 A. Yes.

9 Q. Will the location of the top of the

10 belly for a pregnant woman differ based on

11 those same attributes?

12 MS. DUVDEVANI: Objection.

13 A. You'll have to read me back every

14 attribute I said, please.

15 Q. Sure. So the location of the top

16 of the belly --

17 A. Yes.

18 Q. -- as you look between different

19 women, will that differ for someone who's

20 pregnant based on how that particular woman

21 carries?

22 A. Yes.

23 Q. For a woman, regardless of whether

24 she's pregnant, but if she has a baby, will

25 her height impact the location of the top of

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 the belly?

3 A. Yes.

4 Q. For a woman, regardless of whether

5 she is pregnant, will her body structure

6 impact the location of the top of her belly?

7 A. Yes.

8 Q. For a woman with a belly,

9 regardless if she's pregnant, will her weight

10 impact the location of the top of her belly?

11 A. Yes.

12 Q. For a woman who has a belly,

13 regardless if she's pregnant, will her body

14 type impact the location of the top of her

15 belly?

16 A. You just asked that.

17 Q. I had asked body structure, I

18 believe?

19 A. What's the difference between body

20 structure and body type?

21 Q. When you provided your list

22 earlier, is there a difference to you between

23 body type and body structure?

24 A. No.

25 Q. What do you mean by body type and

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 body structure?

3 A. If somebody was short and heavy,

4 tall and thin, long torso versus short torso.

5 Q. Anything else?

6 A. Not that I can think of.

7 Q. All right. Then if we look at this

8 location of the top of the belly to the bottom

9 of the breast area, and we think of a

10 measurement in terms of height, will that

11 measurement differ woman to woman?

12 A. Can you ask the question again?

13 Q. Sure. So we've talked about

14 different locations of the top of the belly.

15 A. Yes.

16 Q. As you look at different women,

17 will then the distance from the top of the

18 belly to the bottom of the breast area differ,

19 woman to woman?

20 MS. DUVDEVANI: Objection.

21 A. Yes, every body is different. Will

22 it differ substantially, no, but there's not a

23 finite measurement between the bottom of

24 everyone's breast and the top of everyone's

25 belly.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. Okay. What will impact the

3 differences, woman to woman, in that distance?

4 MS. DUVDEVANI: Objection.

5 A. Whether they have a long torso or

6 short torso, breast size. Bodies are not a

7 finite measure.

8 Q. Anything else other than long,

9 short torso and breast size that impact the

10 distance from the top of the belly to the

11 bottom of the breast area?

12 A. Actually, breast size would not

13 impact the difference, but I think more just

14 torso.

15 Q. So, the long, short torso?

16 A. It -- it's all how your internal

17 organs are arranged. So, it's not a finite

18 number, but it's a -- I would guess a

19 relatively small range of difference between

20 bodies.

21 Q. So, for someone who is five-feet

22 tall and pregnant, just looking at how they


















23 carry as an example --

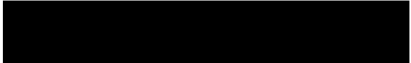
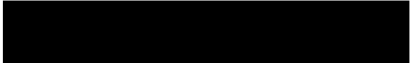
24 MS. DUVDEVANI: Objection.

25 Q. -- how much range can you have for

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 where the top of the belly is located?
 3 MS. DUVDEVANI: Objection.
 4 A. I don't know.
 5 Q. You don't know. What is the
 6 shortest distance that you know of for the
 7 difference between a top of a pregnant woman's
 8 belly, say she's almost full term, and the
 9 bottom of the breast area?
 10 MS. DUVDEVANI: Objection.
 11 A. I don't know. I've never measured
 12 it.
 13 Q. Okay.
 14 A. I can't say I have measured that
 15 spot on that kind of those exact attributes.
 16 Q. Okay. So you don't know that
 17 distance.
 18 How about for someone who is -- for
 19 a woman who's tall, say six-feet tall, and
 20 early in pregnancy, just starting to show a
 21 belly.
 22 MS. DUVDEVANI: Objection.
 23 Q. Do you have that person in mind?
 24 MS. DUVDEVANI: Objection.
 25 A. I do not know the measurement.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Q. Okay. So you don't know what the
 3 difference in measurement would be from the
 4 top of the belly to the bottom of the breast
 5 area for those two women; is that correct?
 6 A. That is correct.
 7 MS. DUVDEVANI: Objection.
 8 Q. Would someone at Destination
 9 Maternity be in a better position than you to
 10 answer that question?
 11 A. No, I don't believe there is
 12 anyone.
 13 Q. So, Destination Maternity doesn't
 14 have a position on the distance between the
 15 top of the belly and the bottom of the breast
 16 area --
 17 MS. DUVDEVANI: Objection.
 18 Q. -- for any particular woman?
 19 MS. DUVDEVANI: Objection.
 20 A. Not that I know of.
 21 Q. All right. So in this case, the --
 22 you're familiar with the DMC Secret Fit Belly
 23 product?
 24 A. I am familiar with it.
 25 Q. How does it have the name, Secret

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Fit Belly?
 3 
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 18 
 19 
 20 MS. DUVDEVANI: Objection.
 21 A. We talked about earlier that
 22 normally people talk about in maternity
 23 garments, there's a belly panel that covers
 24 the belly and that's what I'm talking about
 25 that we created. And we all have -- all

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 maternity pants have some kind of a belly that
 3 is modified for the pregnant figure.
 4 Q. So when you said maternity pants
 5 have some kind of a belly when you say that,
 6 is that different than the belly panel?
 7 A. No. Belly panel meaning the
 8 covering, yes. No, it is not different. So
 9 when I say maternity pants have a belly, I
 10 guess I should have phrased it that it has a
 11 belly panel.
 12 Q. Okay. I'm sorry, we're not -- I'm
 13 not --
 14 A. You're not used to buying them.
 15 Q. I'm not used to company lingo.
 16 A. And I understand that.
 17 Q. And I just want to make sure for
 18 the record if we could, when we're talking
 19 about the garment, say belly panel --
 20 A. I will do that.
 21 Q. And when we're talking about a
 22 person's body, talk about belly?
 23 A. I will do that.
 24 
 25 

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2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]

6 Q. Okay; thank you. Anything else
7 associated with that name?

8 A. Not that I can remember.

9 Q. Okay. So, the belly panel on the
10 Secret Fit Belly, is it expandable?

11 A. Yes.

12 Q. Does it stretch?

13 A. Yes.

14 Q. Any other attributes that you can
15 list for it?

16 A. The Secret Fit bottoms hold
17 maternity in place. It's comfortable and
18 expands with the wear. So it can be worn
19 early in pregnancy through pregnancy even with
20 multiple pregnancies and also can be worn
21 postpartum.

22 Q. What allows it to hold the
23 maternity pants in place?

24 A. The way we constructed the tube of
25 fabric so it is a narrower tube of stretchy

2 fabric that goes from below the belly area to
3 above the belly near the ampire line. And so
4 because it has the smaller tube and the
5 height, it gives stability of the pant and
6 holds it up.

7 Q. So when you're talking about above
8 the belly near the ampire line, what is the
9 difference, if any, between above the belly
10 and the ampire line?

11 A. I don't understand the question.

12 Q. Well, you had said that the way we
13 constructed the tube of fabric so it's a
14 narrower tube of stretchy fabric that goes
15 below the area that goes near the belly to the
16 ampire line?

17 A. Yes, I did say that.

18 Q. So, what is the difference, if any,
19 just asking, between the top of the belly and
20 the ampire line?

21 A. Again, there's a range where the
22 ampire line or area occurs. So, depending on
23 whether a woman was early in her pregnancy,
24 the panel would come higher and if she was
25 further along into the panel -- in her

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2 pregnancy, the panel might be slightly
3 shorter. So, [REDACTED]
4 [REDACTED] the top of the belly or top of the
5 belly panel would fall somewhere in that
6 range.

7 There's not -- when you're working
8 with stretchy belly panel fabrics, it's not a
9 rigid fabric where you can give a specific
10 measurement. It stretches, so it stretches
11 over, depending on your size. But stretches
12 up to the -- over the top of the belly into
13 the ampire area.

14 Q. Okay. So does the ampire area
15 start at the top of the belly?

16 A. I said it starts between the bottom
17 of the breast and the top of the belly.

18 Q. Well, is that the full range of the
19 ampire line area or is there a space between
20 the bottom of the ampire line area and the top
21 of the belly?

22 MS. DUVDEVANI: Objection.

23 A. I'm sorry; I don't understand.

24 Q. Are you much of an artist?

25 A. Um-hum.

2 Q. Can you draw a -- just an outline
3 of a woman's body and then so that we can mark
4 on it the location of the bottom of the belly,
5 the top of the belly, the ampire line area?
6 Is that something where you're a good enough
7 artist to do that?

8 A. I can.

9 Q. Okay. Okay. Then on this drawing,
10 can you mark where the ampire line area is?

11 A. (Witness complies.)

12 Q. Can you mark where the top of the
13 belly is?

14 A. I did. (Witness complies.)

15 Q. Now, if someone is carrying early
16 in their pregnancy will the top of the belly
17 location be lower?

18 MS. DUVDEVANI: Objection.

19 A. No, because it's the top of your
20 belly it just may not be protruding as much.

21 Q. Okay. Can you mark where you have
22 marked ampire line area? I know that you have
23 some dashes in there. If you could just write
24 that off to the side.

25 A. (Witness complies.)

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2 Q. Can you mark where you have top of

3 the belly?

4 A. (Witness complies.)

5 Q. All right. Are you familiar with

6 the term "girth," G-I-R-T-H?

7 A. Yes.

8 Q. What is girth?

9 A. I would say I'm not sure if this is

10 the technical definition, but the

11 circumference of something. It doesn't have

12 to be a person, could be an animal or perhaps

13 an inanimate object.

14 Q. So, what is the maximum girth of a

15 person?

16 MS. DUVDEVANI: Objection.

17 A. I have no idea.

18 Q. You can't tell me what the maximum

19 girth of a woman's body is?

20 MS. DUVDEVANI: Objection.

21 A. No, I cannot.

22 Q. Okay. How about for the woman's

23 abdomen area, can you tell me what the maximum

24 girth is?

25 A. I cannot.

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2 Q. You told me what girth means?

3 A. I did.

4 Q. Do you know what maximum means?

5 A. The biggest something could get.

6 Q. Okay. So on a woman's abdomen,

7 where is the biggest girth?

8 MS. DUVDEVANI: Objection.

9 A. It totally varies depending on how

10 heavy she is, how many babies she has in her

11 uterus. I have no idea what the maximum girth

12 someone could be.

13 Q. Okay. For different women will the

14 location of maximum girth differ?

15 A. I don't know.

16 Q. Can anyone at Destination Maternity

17 answer where the location of maximum girth is?

18 A. No, not that I know of.

19 Q. Anyone better suited than you to

20 answer that question?

21 A. Not that I know of.

22 Q. If someone -- we talked earlier

23 about how someone carries during pregnancy?

24 A. Yes.

25 Q. Differs between women how someone

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 carries. Will that impact the location of

3 maximum girth?

4 MS. DUVDEVANI: Objection.

5 A. I guess so.

6 Q. So, for someone early in pregnancy,

7 where will the maximum girth be in their

8 abdomen?

9 MS. DUVDEVANI: Objection.

10 A. There's not a specific spot.

11 Everyone is different.

12 Q. Okay. How about mid pregnancy,

13 where will the location of maximum girth be?

14 MS. DUVDEVANI: Objection.

15 A. Everyone is different.

16 Q. Okay. Will stage of pregnancy

17 impact the location of maximum girth?

18 MS. DUVDEVANI: Objection.

19 A. Yes.

20 Q. Will that also impact the location

21 of the top of the belly?

22 MS. DUVDEVANI: Objection.

23 A. No.

24 Q. Okay. Will the height of a person

25 impact their maximum girth?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 MS. DUVDEVANI: Objection.

3 A. No.

4 Q. Body structure, will that impact

5 maximum girth location of the abdomen of a

6 woman's body?

7 MS. DUVDEVANI: Objection.

8 A. I don't know.

9 Q. So, the location of maximum girth

10 for different women, you said it depends on

11 how heavy they are?

12 MS. DUVDEVANI: Objection.

13 A. I don't know what -- I don't know

14 how big somebody could get. I don't know what

15 physically affects how big they can get. I'm

16 not a medical person.

17 Q. Okay. No one at DMC is in a better

18 position than you to answer the question about

19 the location of a maximum girth on a woman's

20 body; is that correct?

21 A. Not that I can think of.

22 Q. And I'm just going to go through

23 what it is that I wrote down that you said

24 will impact where the location of maximum

25 girth for a woman's abdomen will be.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 You had said the number of babies

3 in her belly?

4 A. Yes. If you were -- what was her

5 name, Octomom. Her -- the number of babies

6 she had affected how big she got. How big she

7 could possibly have gotten, I don't have any

8 idea.

9 Q. Okay. How did the number of babies

10 in her belly impact the location of maximum

11 girth when you look height wise?

12 A. I didn't say it could impact the

13 location. I said it could impact what the

14 maximum girth was.

15 Q. All right. So let's look at

16 maximum girth height wise. So, for example,

17 on the drawing that you have in front of you,

18 what would impact, height wise, the location

19 of maximum girth on a woman's body?

20 MS. DUVDEVANI: Objection.

21 A. I don't know.

22 Q. Would how she carries impact the

23 location of maximum girth?

24 A. I don't know.

25 Q. Well --

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2 A. I'm not a doctor.

3 Q. I want to make sure I understand.

4 You worked with maternity wear for how long?

5 A. Fifteen years.

6 Q. Fifteen years. Do some women carry

7 babies so the maximum girth is lower compared

8 to other people the way they carry their

9 babies their maximum girth is higher?

10 MS. DUVDEVANI: Objection.

11 A. Yes.

12 Q. Okay. So how they carry impacts

13 the height, location of maximum girth,

14 correct?

15 MS. DUVDEVANI: Objection.

16 A. Yes.

17 Q. How about the stage of pregnancy,

18 does that impact the height location of

19 maximum girth?

20 MS. DUVDEVANI: Objection.

21 A. Yes.

22 Q. How about how tall they are, does

23 that impact the height, location of maximum

24 girth?

25 A. That, I don't know.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. How about the body type, the body

3 structure?

4 A. I don't know that.

5 Q. Okay. Anything else other than how

6 a woman carries, the stage of pregnancy, how

7 that impacts the location of maximum girth on

8 a woman's body?

9 MS. DUVDEVANI: Objection.

10 A. Not that I can think of.

11 Q. Can you mark on the drawing you

12 have in front of you where the location of

13 maximum girth will be on different women?

14 A. No, I cannot.

15 Q. Why not?

16 A. Because how a woman carries, we

17 just went through, the maximum different

18 people have different circumferences. They

19 may all have one baby. They're different

20 circumferences so, no, I cannot tell you where

21 the exact spot of the maximum girth is.

22 Q. How big of a range will there be,

23 height wise, in location of maximum girth on a

24 woman's body?

25 MS. DUVDEVANI: Objection.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. The abdomen area.

3 Q. Could it be anywhere in the abdomen

4 area, the location of maximum girth?

5 MS. DUVDEVANI: Objection.

6 A. Probably not at the very top.

7 Q. Okay. Can you on that drawing draw

8 in where a woman's hips would be?

9 A. (Witness complies.)

10 Q. Okay. And then on that drawing can

11 you draw in the location or range of where,

12 for different women, the location of maximum

13 girth will be?

14 A. No.

15 Q. Okay. Can you draw to the side to

16 say, and tell me if this is correct, I am not

17 able to determine the location of maximum

18 girth? Is that correct?

19 A. Yes, I just think this is kind of

20 beyond the reason for somebody who is not in

21 the medical profession to know where the

22 maximum girth would be on a woman's body or

23 the potential.

24 Q. You understand girth means

25 circumference?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 A. Yes.
 3 Q. All right. And you understand
 4 maximum means biggest?
 5 A. Yes.
 6 Q. Okay. And for a women's abdomen,
 7 you can't draw on there to tell me the range
 8 of where, on different women the location of
 9 maximum girth can be in their abdomen?
 10 MS. DUVDEVANI: Objection.
 11 A. Not --
 12 MS. DUVDEVANI: I am objecting to
 13 this whole exercise, but go ahead, if
 14 you can.
 15 A. No, I cannot.
 16 Q. Okay. So please write on there
 17 that "I cannot identify."
 18 A. Can you say it all first and then
 19 I'll decide if I'm writing it?
 20 Q. I cannot identify the locations of
 21 maximum girth for women.
 22 MS. DUVDEVANI: Objection.
 23 A. (Witness complies.)
 24 Q. Okay. Can I see what you wrote?
 25 You wrote, "I cannot identify the exact area

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 for maximum girth."
 3 All right. And you agree with that
 4 statement?
 5 A. Yes.
 6 Q. And I'm speaking of the abdomen so
 7 we should add that I'm not asking maximum
 8 girth of the whole body, so I cannot identify
 9 the exact area for maximum girth of the
 10 abdomen.
 11 MS. DUVDEVANI: Objection.
 12 A. (Witness complies.)
 13 Q. And just to make clear what I'm
 14 asking, is the area of how that would vary
 15 between different women?
 16 A. The area that can change in a
 17 woman's body is her abdomen area. So can I
 18 identify the exact area of where maximum girth
 19 can occur, no, but we're talking about the
 20 abdomen area. So I don't know if it can occur
 21 five inches down, seven inches down, how far
 22 down.
 23 Q. You can't give me any kind of a
 24 range that, for different women, where the
 25 location of maximum girth will be in their

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 belly?
 3 A. No, I cannot give you a range.
 4 Q. Could you please sign and date that
 5 document?
 6 A. (Witness complies.)
 7 MS. DUVDEVANI: Again, I'm
 8 objecting to the exercises, but you
 9 can go ahead.
 10 A. What's today's date, please?
 11 Q. October 15th.
 12 A. (Witness complies.)
 13 Q. Okay. And I'm going to mark this
 14 as Exhibit 42.
 15 (Exhibit 42, drawing made by
 16 Ms. Hendrickson, marked for
 17 identification, as of this date.)
 18 MR. CARTER: And we can take a
 19 break.
 20 THE VIDEOGRAPHER: We are now
 21 going off the video record. That
 22 concludes tape number one. The time
 23 is 12:06.
 24 (Whereupon, a short break was
 25 held.)

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 THE VIDEOGRAPHER: We are now back
 3 on the video record. This commences
 4 tape number 2; October 15, 2013. The
 5 time 12:25. Please continue.
 6 BY MR. CARTER:
 7 Q. Ms. Hendrickson, as we talked about
 8 when we broke, whenever you would like to
 9 break for lunch, let us know.
 10 A. I will.
 11 Q. If you don't let us know, we'll
 12 probably go through the end of this tape, but
 13 it's up to you when we take lunch.
 14 A. Okay.
 15 Q. You had talked about the Secret Fit
 16 Belly panel and some of attributes.
 17 A. Correct.
 18 Q. You mentioned its expandability,
 19 it's stretchy?
 20 A. Yes.
 21 Q. You said it holds maternity pants
 22 in place and it does that because it has a
 23 narrow tube?
 24 A. Yes.
 25 Q. And that it's stretchy?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. Yes.

3 Q. Any other reasons why it holds

4 maternity pants in place?

5 A. Yes, that it goes up over the belly

6 towards the ampire line.

7 Q. Any other reasons?

8 A. Not that I can think of.

9 Q. And you said it could be worn

10 through different stages of pregnancy?

11 A. Yes, that's correct.

12 Q. And why is that?

13 A. Because the tube is stretchy and

14 it's tight enough so that you can wear it

15 early in your pregnancy. Since it is

16 stretchy, it expands as you get into your

17 pregnancy and then also you can wear it

18 post-pregnancy.

19 Q. Okay. Anything else?

20 A. Not that I can think of.

21 Q. Any other attributes of the Secret

22 Fit Belly panel other than what we discussed?

23 A. Not that I can think of.

24 Q. So, does it come down to that it's

25 expandable, stretchy and is a narrow tube?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 MS. DUVDEVANI: Objection.

3 A. It's a narrow tube that's shaped so

4 it's longer in the front to go over the

5 abdomen belly area and it is shorter in the

6 back starting at the top of the pants.

7 Q. Okay. Anything else?

8 A. Not that I can think of right this

9 minute.

10 Q. Is the Secret Fit Belly panel

11 seamless?

12 A. Ours is, but other versions are

13 not.

14 Q. When you say, "ours is," what do

15 you mean by that?

16 A. Destination Maternity's Secret Fit

17 Belly panel is made of a seamless knit.

18 Q. Are there any other kinds of Secret

19 Fit Belly panels?

20 MS. DUVDEVANI: Objection.

21 A. The infringing Target panel is not

22 seamless.

23 Q. So, when you use the term, Secret

24 Fit Belly panel, do you use that for panels

25 other than Destination Maternity panels?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. We use it for the type of panel

3 that looks like our Secret Fit Belly. It's a

4 narrow tube, it has a certain height that it

5 goes over the belly and a more extended waist

6 than the old panels used to.

7 Q. You mentioned Target. Any other

8 panels that you have ever seen on the market

9 that you would call Secret Fit Belly panels?

10 A. Old Navy and Gap also are

11 infringing or have infringing designs.

12 Q. Anyone else?

13 A. Not that I can think of right this

14 minute.

15 Q. How about in the past?

16 A. In the past, JCPenney also copied

17 our belly.

18 Q. Okay. Anyone else?

19 A. I'm trying to think. Not that I

20 can think of right this minute.

21 Q. Have you ever heard of Suit Your

22 Belly?

23 A. Yes.

24 Q. Do they have what you would

25 consider a Secret Fit Belly panel?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. Yes, they have something similar.

3 Q. How about M'Chic have you ever

4 heard of M'Chic?

5 A. Yes.

6 Q. Do they have what you would

7 consider to be a Secret Fit Belly panel?

8 A. A version, yes.

9 Q. All right. Any other attributes of

10 Secret Fit Belly panel? I think you already

11 said no, but I just want to make sure.

12 A. Not that I can think of right now.

13 Q. What do you know about M'Chic?

14 A. Not much. It was I believe two

15 friends who decided they were going to make a

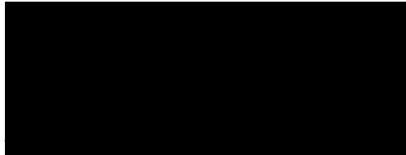
16 version of the Secret Fit Belly and try to

17 sell it to non-pregnant women.

18 Q. Did you know either of these two

19 women?

20 A. I did not.

21 

22

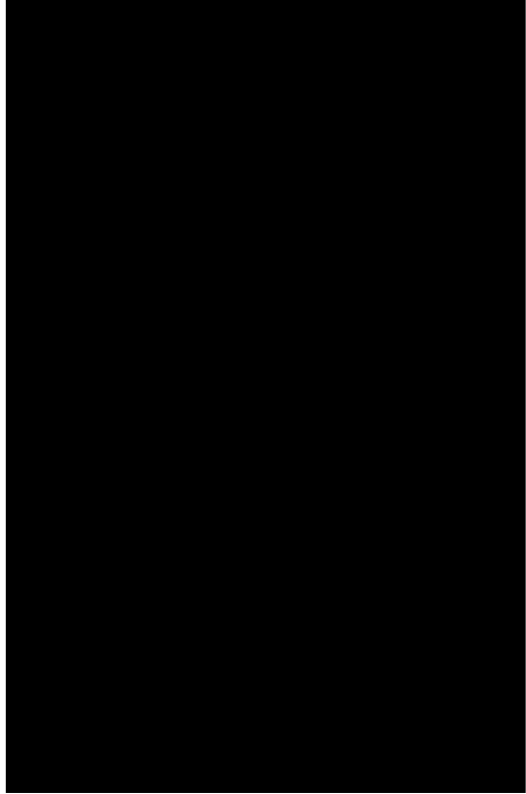
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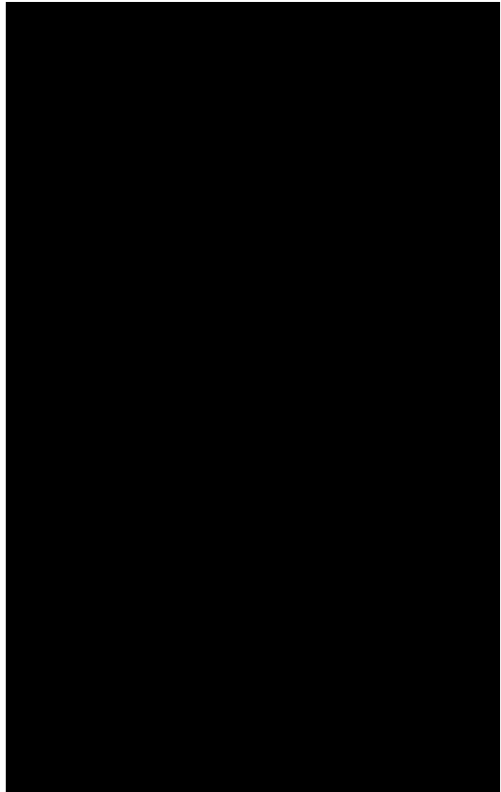
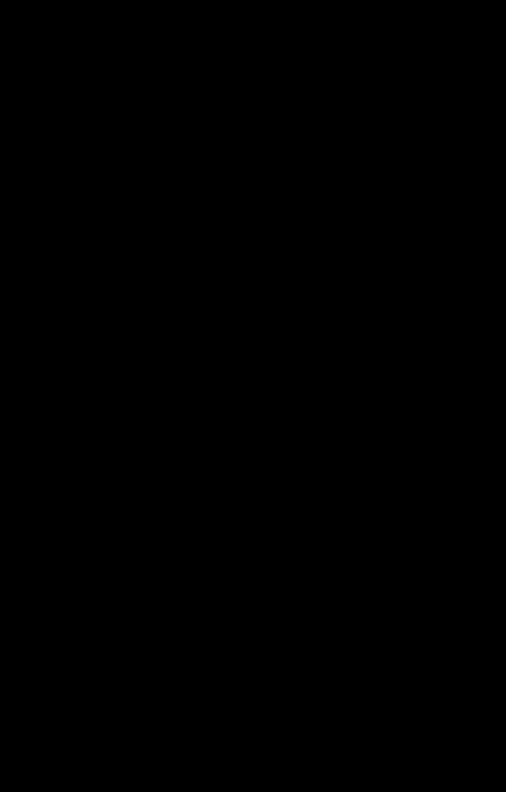


(Exhibit 43, document Bates stamped DMC0059984 through '985, marked for identification, as of this date.)

BY MR. CARTER:

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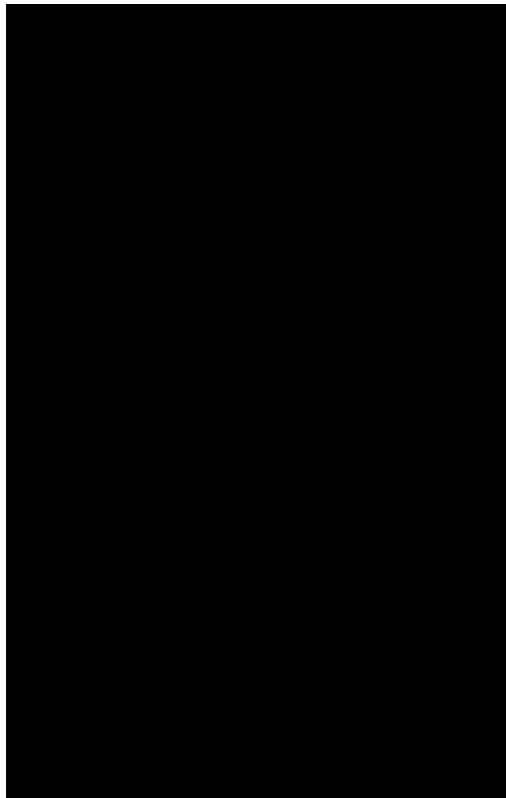


21 (Pages 78 to 81)



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9 What is the muffin top that is
10 being referred to?

11 MS. DUVDEVANI: Objection.

12 A. How should I phrase a muffin top.
13 When women have chubby bellies and they wear
14 their pants perhaps too tight, the extra belly
15 tends to muffin out the top.

16 Q. And did the [redacted] product smooth
17 out the muffin top?

18 MS. DUVDEVANI: Objection.

19 A. I assume so. I don't know that for
20 a fact.

21 Q. Why would you assume so?

22 A. Because they said that it did.

23 Q. Are there other products that women
24 wear to smooth out a muffin top?

25 MS. DUVDEVANI: Is there a

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1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 question?

3 MR. CARTER: Yes.

4 Q. I asked are there other products
5 that women wear to smooth out a muffin top?

6 MS. DUVDEVANI: Objection.

7 A. The company Spanx has many
8 products, actually many companies have
9 smoothing products, shapewear products.

10 Q. What are some of those products
11 called, these products that will smooth out
12 the muffin top?

13 A. I don't know the formal names.
14 Spanx has a different name for every product
15 they run.

16 Q. So, is it referred to generally as
17 shapewear?

18 A. Yes.

19 Q. I don't know that I would ever do
20 this and just for the record, I'm not saying
21 my wife needs to, but if I went to go to the
22 store and buy a product and say that I need to
23 buy a product to help smooth out a female's
24 muffin top, what would I ask -- what would I
25 ask the person when I walked in the store?

2 MS. DUVDEVANI: Objection.

3 A. I believe you should ask for the
4 shapewear department.

5 Q. Okay. And in the shapewear
6 department, what kind of products will be sold
7 that would smooth out muffin tops?

8 MS. DUVDEVANI: Objection.

9 A. A wide range of products. There
10 are many areas you can smooth.

11 Q. Okay. For the muffin tops, what
12 would those products be called?

13 A. There's pantyhose, panties,
14 girdles, camies.

15 Q. Okay. Anything else?

16 A. Not that I can think of right now.

17 Q. Do the pantyhose, panties, girdles
18 and camies that you were referring to, do they
19 have a flexible panel that comes up over a
20 woman's abdomen?

21 MS. DUVDEVANI: Objection.

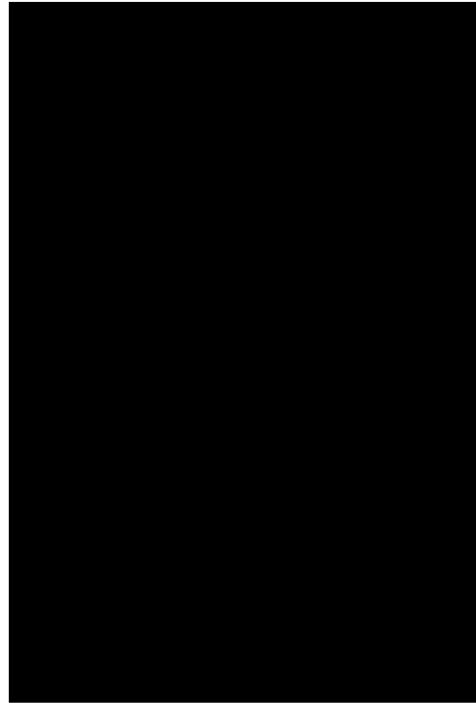
22 A. I would say in a variety, yes.

23 Q. And those are all meant to smooth
24 out muffin tops?

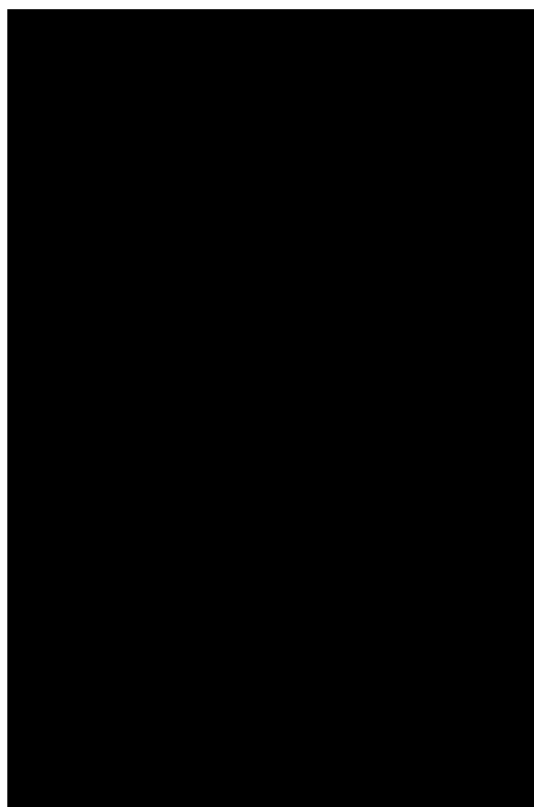
25 A. They're meant to smooth out many

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 areas.
 3 Q. Including the muffin top?
 4 MS. DUVDEVANI: Objection.
 5 A. I guess so.
 6 (Exhibit 44, document Bates
 7 stamped DMC0055277, marked for
 8 identification, as of this date.)
 9 BY MR. CARTER:
 10 Q. I handed you a document marked as
 11 Exhibit 44.
 12 Do you recognize Exhibit 44?
 13 A. I'm reading it.
 14 I have read the document.
 15 Q. Okay. Have you seen Exhibit 44
 16 before?
 17 A. Yes.
 18 Q. When is the last time you've seen
 19 Exhibit 44?
 20 A. April 3, 2009.
 21 Q. You haven't seen it since then?
 22 A. Not that I can remember.
 23 Q. Okay. This is an e-mail from
 24 Kathleen Scarduzio to you and Jill Doster?
 25 A. Doster.

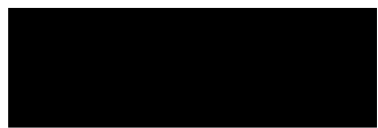
1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Q. Who is Jill Doster?
 3 A. She is the vice-president of the
 4 Pea in the Pod division.



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1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
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 5
 6 Q. Okay. As somebody who has worked
 7 on maternity products for years, what does it
 8 mean to you when you see that somebody writes
 9 that the material of their panel is much more
 10 firm than Secret Fit?
 11 MS. DUVDEVANI: Objection.
 12 A. I would speculate that it means
 13 that it the tension is tighter. That it's
 14 firmer.
 15 Q. Because it's shapewear?
 16 MS. DUVDEVANI: Objection.
 17 A. I don't have an answer to that.
 18 I'm not --
 19
 20
 21
 22
 23 Q. How would somebody have a panel
 24 that was much more firm than Secret Fit?
 25 MS. DUVDEVANI: Objection.



1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. I don't understand the question.

3 Q. Well, how would you have a --

4 what's being referred to in this e-mail,

5 Exhibit 44, is a belly panel, correct?

6 A. Correct.

7 Q. As I understand it, [REDACTED] had a

8 belly panel sewn onto the waist of a jean?

9 A. Correct.

10 Q. How would somebody have a belly

11 panel that is much more firm --

12 MS. DUVDEVANI: Objection.

13 Q. Compared to Secret Fit?

14 MS. DUVDEVANI: Objection.

15 A. They would use different materials.

16 Q. What kind of different materials?

17 A. Different knit, different fabric.

18 Q. Anything else?

19 A. Not that I can think of.

20 Q. Different construction?

21 A. I guess it could be.

22 Q. Anything else?

23 A. Not that I can think of.

24 [REDACTED]

25 [REDACTED]

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 MS. DUVDEVANI: I'm going to

12 object on the basis of the

13 attorney/client privilege and direct

14 my witness not to answer.

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 MS. DUVDEVANI: I'm going to

19 direct my witness not to answer based

20 on the attorney/client privilege.

21 MR. CARTER: She's already

22 answered. So you're going to need to

23 decide how much of a waiver you have

24 because you have a waiver problem.

25 [REDACTED]

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 MR. CARTER: Early on the witness

6 identified several products that she

7 thought were infringing in this case.

8 MS. DUVDEVANI: That's a very

9 different question than what legal

10 spoke with an employee.

11 MR. CARTER: Okay.

12 Q. Your understanding of products that

13 infringe the patents in this case, what is

14 that based upon?

15 A. Please ask the question again.

16 Q. Your understanding of products that

17 infringe the patents in this case, you've said

18 -- you identified several products that you

19 believe infringe, correct?

20 A. I did.

21 Q. What do you base that upon?

22 A. Products that have belly panels

23 that have the same attributes as our panels.

24 Q. Did you come up with that

25 determination on your own?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. No. It would have been my own

3 judgment and also what my legal Counsel would

4 say was infringing.

5 Q. Okay. Who is your legal Counsel

6 who told you that?

7 MS. DUVDEVANI: I'm going to

8 object. She didn't -- you're

9 characterizing the witness' testimony

10 and I'm going to object, again, on the

11 base of attorney/client privilege and

12 direct the witness not to answer.

13 Q. Okay. You said that it would have

14 been my own judgment and also what my legal

15 Counsel would say was infringing.

16 My question is: Who was that legal

17 Counsel?

18 MS. DUVDEVANI: You can answer

19 that question.

20 A. Destination Maternity in-house

21 Counsel.

22 Q. Who is that?

23 A. Ron Masciantonio.

24 Q. Anybody else?

25 A. Kristen Han.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. Anyone else?

3 A. No.

4 Q. Okay. Did they tell you why they

5 said it was infringing?

6 MS. DUVDEVANI: I'm going to

7 object and instruct my witness not to

8 answer based on the attorney/client

9 privilege.

10 MR. CARTER: Okay. I just want to

11 make clear your view is you can have

12 the witness say that she understands

13 there's infringement, but not give us

14 the basis for it?

15 MS. DUVDEVANI: The witness is

16 well aware that letters were sent to

17 entities such as M'Chic accusing them

18 of infringement. That is completely

19 different than what the witness spoke

20 to with legal Counsel about the

21 infringement.

22 Q. Okay. Your understanding of when

23 there's infringement, what is the basis for

24 that? What attributes do you look for in a

25 product to determine whether it infringes?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. Whether a product has a belly panel

3 attached to the bottom garment. That it

4 expands and contracts with the belly size.

5 That it goes up over the belly and is

6 somewhere in the ampire area. And that it's

7 shaped so it's longer in the front and shorter

8 in the back.

9 Q. Okay. So how did you determine

10 that those are attributes that you look for in

11 a product to determine if there's

12 infringement?

13 A. Those are some of the key points in

14 the patent.

15 Q. Did you look at the patent by

16 yourself and determine that those are the key

17 points to look for?

18 A. I wrote the patent, but legal

19 Counsel reviewed the patent.

20 Q. My question is: When you believe

21 that a panel attached to a bottom garment that

22 expands and contracts with the belly size is

23 an attribute to look for in infringement, how

24 do you know that that's something that relates

25 to patent infringement?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. I don't understand the question.

3 Q. So, are you aware that there are

4 different parts of a patent? For example,

5 there are drawings.

6 A. Yes, I'm aware there are drawings

7 in the patent.

8 Q. And then there is -- there are text

9 in addition to the drawings?

10 A. Yes, there's text.

11 Q. And do you understand that part of

12 that text has a section called claims?

13 A. I believe so. I haven't looked at

14 the patent in that detail for a while, but,

15 yes, I believe there's an area called claims.

16 Q. Do you understand that the scope of

17 a patent to determine whether something

18 infringes is determined by the claims?

19 MS. DUVDEVANI: Objection.

20 A. Can you ask the question again?

21 Q. You said you do know that there's a

22 part of a patent called the claims?

23 A. Yes.

24 Q. Do you know that the scope of a

25 patent of what -- of whether something is

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 infringing is determined by the claims?

3 MS. DUVDEVANI: Objection.

4 Mr. Carter, you're giving her your

5 definition of infringement.

6 MR. CARTER: I'm asking if she

7 knows. There's nothing wrong with

8 that question.

9 A. I don't know that I know.

10 Q. Okay. What -- what is your

11 understanding of the claims in a patent?

12 A. The claims would be what makes the

13 pat -- the product differentiate from other

14 things that are in the current marketplace and

15 make it unique.

16 Q. And how do you have that

17 understanding?

18 MS. DUVDEVANI: Objection.

19 A. I don't know.

20 Q. Do you have a law degree?

21 A. I do not have a law degree.

22 Q. Do you have any training in

23 patents?

24 A. I do not.

25 Q. You have that understanding only

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 through discussions with legal Counsel?
 3 MS. DUVDEVANI: Objection.
 4 A. Yes.
 5 Q. So, when you say that for something
 6 to infringe, you said something along the
 7 lines of the panels attached to a bottom
 8 garment and expands and contracts with belly
 9 size, is that something that is part of the
 10 claims --
 11 A. I don't remember.
 12 Q. -- of the patents?
 13 MS. DUVDEVANI: Objection.
 14 Q. You don't know?
 15 A. I don't remember. I'd have to read
 16 the claims.
 17 Q. When's the last time you read the
 18 claims?
 19 A. In detail, I'm not sure. Couple
 20 years ago.
 21 Q. How about even generally?
 22 A. I guess what's the determination
 23 generally? I recently looked through the
 24 patent document quickly. I did not go through
 25 it in depth and read every line-by-line as

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 2 when I first wrote it.
 3 Q. When you said you wrote it, what do
 4 you mean by you wrote it?
 5 A. I wrote what the key attributes
 6 were. The sketches that were given to the
 7 patent attorney were my original sketches.
 8 There are questions in the patent that have to
 9 be answered that I wrote answers for.
 10 Q. All right. So, once again, when
 11 you say that for something to infringe you
 12 look at whether there's a panel attached to a
 13 bottom garment that expands and contracts with
 14 belly size, what is your basis for believing
 15 that that is a feature related to whether a
 16 product infringes?
 17 MS. DUVDEVANI: I'm going to
 18 object. And to the extent that that
 19 answer is related to conversations
 20 that you've had with Counsel at
 21 Destination Maternity, I'm going to
 22 direct the witness not to answer the
 23 question.
 24 Q. So I want to know is that knowledge
 25 based, just yes or no, on what you learned

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 from legal Counsel?
 3 MS. DUVDEVANI: Or in part. Could
 4 be yes, no or in part.
 5 A. Yes, in part.
 6 Q. Okay. What is the part that is not
 7 from what you learned from legal Counsel?
 8 A. I don't know if I -- your questions
 9 are somewhat confusing and so I'm -- I'm not
 10 sure. People have inherent or perceived
 11 knowledge. I don't have a law degree, so it's
 12 my -- my opinion.
 13 Q. Okay. And I want to know for this
 14 attribute, and if I have this attribute wrong
 15 let me know, but you said you look at, to
 16 determine whether something infringes, whether
 17 there is a panel attached to a bottom garment
 18 that expands and contracts with belly size,
 19 right?
 20 A. That is one of the attributes.
 21 Q. You said that in part you have that
 22 knowledge from conversations with legal
 23 Counsel, correct?
 24 A. Yes.
 25 Q. And that would be with Mr.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Masciantonio and Ms. Han, correct?
 3 A. Yes.
 4 Q. Can you think of any other basis
 5 that you have, other than conversations with
 6 legal Counsel, for why you believe that a
 7 product with that attribute infringes the
 8 patents in this case?
 9 A. No, I can't right now.
 10 Q. You also said that if the panel
 11 goes up over the belly that that is an
 12 attribute that you look at to determine
 13 whether a product infringes?
 14 A. Yes, that is.
 15 Q. What is your basis for believing
 16 that that attribute relates to infringement of
 17 the patents in this case?
 18 A. It's part of the attributes that we
 19 base the patent on.
 20 Q. Okay. How do you know that?
 21 A. Because I wrote it.
 22 Q. Do you know if that's in the
 23 claims?
 24 A. I would have to double-check and
 25 read it to confirm.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. Okay. Is the fact that a panel

3 goes up over the belly -- I believe those are

4 your words, right?

5 A. Yes, I believe those are my words.

6 Q. The fact that that's an attribute

7 that results in infringement, is that based in

8 whole, not at all or in part on discussions

9 with legal Counsel?

10 MS. DUVDEVANI: Objection.

11 A. In part.

12 Q. Okay. The portion of your basis

13 that is not in part, what is that basis for

14 your belief that up over the belly is

15 something that relates to infringement?

16 A. Because of the design that I

17 created. That was important that it was up

18 over the belly versus under the belly.

19 Q. Okay. Anything else?

20 A. Not that I can think of.

21 Q. For that attribute, did you discuss

22 that attribute with anyone other than

23 Mr. Masciantonio and Ms. Han?

24 A. Anyone else? That's a pretty broad

25 statement.

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2 Q. Any other legal Counsel, start

3 there.

4 A. We had another law firm that filed

5 the patent. I can't remember the name of the

6 law firm.

7 Q. You would have discussed it with

8 the attorney prosecuting the patent?

9 A. Not prosecuting. I don't think

10 that's the correct word.

11 Q. Or who filed the patent application

12 for you?

13 A. Yes.

14 Q. Handled negotiations with the

15 patent office?

16 A. I don't believe that's -- there was

17 no negotiations with the patent office. There

18 was a filing of a patent.

19 Q. Okay. And then someone worked with

20 the patent office?

21 MS. DUVDEVANI: Objection.

22 Q. Or do you not know?

23 A. I don't know.

24 MR. CARTER: Okay. And for the

25 record, you're going to say that all

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2 communications with the prosecuting

3 attorneys are privileged?

4 MS. DUVDEVANI: Yes, I am.

5 Q. You had also said that another

6 attribute that you look at to determine if

7 there is infringement is that the panel is

8 longer in the front compared to the back?

9 A. Correct.

10 Q. What is your basis for believing

11 that that attribute relates to infringement?

12 A. It's -- I'm not sure if it's part

13 of the claims. It is part of the design that

14 the panel is longer in the front and shorter

15 in the back.

16 Q. Okay. You don't know whether that

17 attribute is part of the patent claims?

18 A. I'd have to have it in front of me.

19 Q. Did you ever discuss that attribute

20 with legal Counsel?

21 A. I don't remember.

22 Q. Are there any other attributes that

23 you look at to determine whether, in your

24 mind, the patents in-suit are infringed?

25 MS. DUVDEVANI: Objection.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. I've told you those are the ones

3 that I remember up to this moment.

4 Q. Okay. So making sure; we have a

5 panel attached to a bottom garment that

6 expands and contracts with belly size?

7 A. Yes.

8 Q. The panel goes up over the belly?

9 A. Yes.

10 Q. And the panel is shaped longer in

11 front than the back?

12 A. Yes.

13 Q. Anything else?

14 A. Not that I can remember right now.

15

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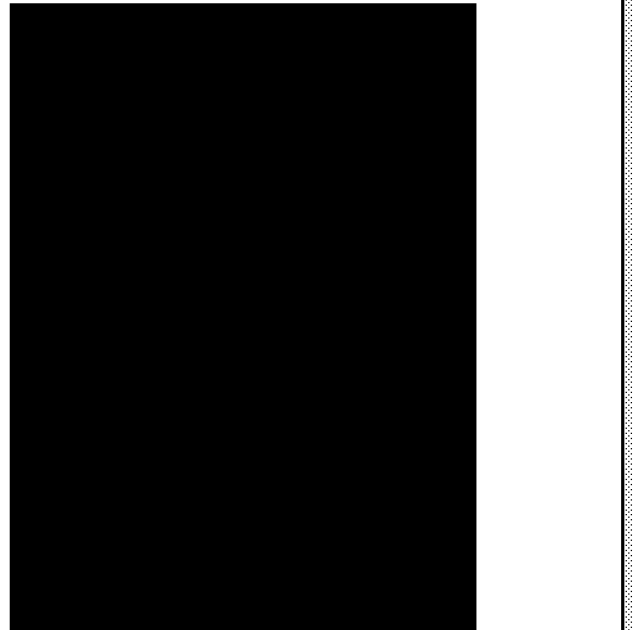
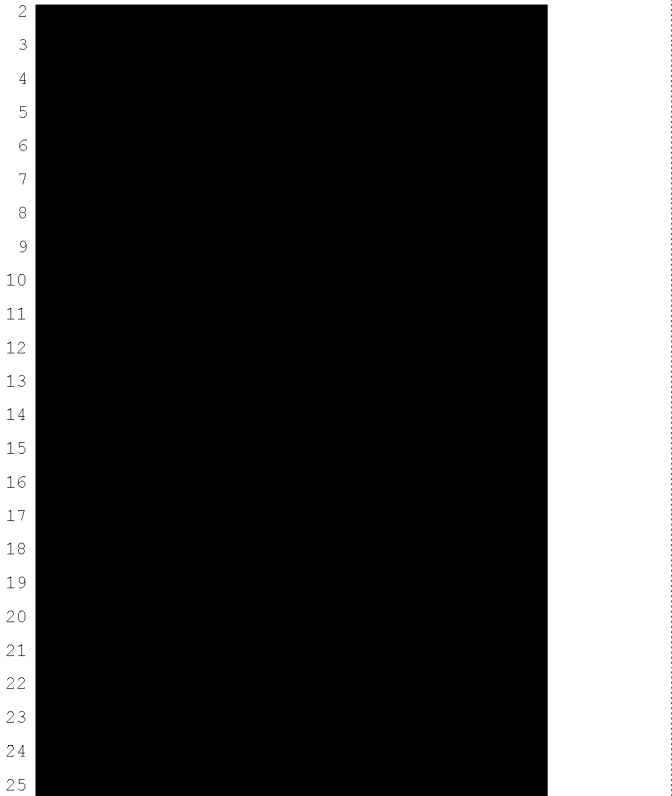
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21 Q. All right. You had mentioned Suit
22 Your Belly?

23 A. No, you had mentioned Suit Your
24 Belly.

25 Q. I did. And you said that was a

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1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 product that you believe infringed the patents
3 in this case?

4 MS. DUVDEVANI: Objection.

5 A. I looked at the garment. I had
6 legal review whether it infringed or not.

7 Q. Okay. And what is your
8 understanding of that determination?

9 MS. DUVDEVANI: I'm going to
10 object to the extent that that answer
11 requires divulgence of attorney/client
12 privilege or work product information.
13 I'm going to direct the witness not to
14 answer.

15 Q. Earlier you said when I asked you
16 for Secret Fit Belly panels that you believe
17 infringed, you mentioned Old Navy, correct?

18 A. I did.

19 Q. Gap?

20 A. I did.

21 Q. JCPenney?

22 A. I did.

23 Q. Target?

24 A. I did.

25 Q. M'Chic?

2 A. I did not mention them. You asked
3 me if -- I said -- I gave you four names and I
4 said that's what I remembered at the time.
5 You then asked me about M'Chic.

6 Q. And I asked you if you believed
7 they infringed the patents in-suit?

8 A. And I don't remember what I
9 answered.

10 Q. You said yes.

11 A. Okay.

12 Q. Are you changing your answer?

13 A. I am not changing my answer.

14 Q. Okay. So what is your answer?

15 MS. DUVDEVANI: What's the
16 question?

17 Q. I'll strike -- the testimony stand.

18 In Suit Your Belly, does Suit Your
19 Belly have a belly panel that infringes?

20 MS. DUVDEVANI: Objection.

21 Q. Or do you want to stand by your
22 prior answer?

23 A. I looked at the pattern -- I looked
24 at the garment. I had our legal review
25 whether they believed it infringed or not.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Q. Did you believe it infringed before
 3 you gave it to legal?
 4 A. I believe that it possibly
 5 infringed, which is why I gave it to legal to
 6 review.
 7 Q. Why did you believe it infringed?
 8 MS. DUVDEVANI: Objection; asked
 9 and answered.
 10 THE WITNESS: I'm sorry?
 11 MS. DUVDEVANI: Sorry; you can
 12 answer. I said objection; asked and
 13 answered. But you can answer.
 14 A. Can you repeat the question again?
 15 Q. Why did you believe that it
 16 infringed?
 17 A. Because it had a belly panel that
 18 expanded as you grew in size. It also went up
 19 over the belly and so we -- I thought it might
 20 infringe upon our patent.
 21 Q. Okay. For Gap and JCPenney, do you
 22 believe they infringe or do you believe they
 23 might infringe?
 24 MS. DUVDEVANI: Objection.
 25 A. I believe they infringe on the

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 patent.
 3 Q. So, there's a difference?
 4 A. I am much more familiar with the
 5 Gap and Old Navy panels that I believe I saw
 6 Suits Your Belly once quite a few years ago.
 7 I frankly can't remember the details of what
 8 it looked like right at this moment.
 9 Q. Do you recall if legal sent letters
 10 to Suit Your Belly?
 11 A. I don't know. I believe they did.
 12 Q. Okay. And why did they send
 13 letters to Suit Your Belly?
 14 MS. DUVDEVANI: I'm going to
 15 object on the basis of attorney/client
 16 privilege and direct my witness not to
 17 answer the question.
 18 Q. Do you know if it's because legal
 19 believed that Suit Your Belly infringed?
 20 A. It would be asking me to speculate.
 21 I don't know.
 22 Q. Do you know if legal believes that
 23 Gap infringes the patents in this case?
 24 MS. DUVDEVANI: I'm going to
 25 object on the basis of attorney/client

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 privilege and instruct the witness not
 3 to answer.
 4 Q. Do you know if legal believes Old
 5 Navy infringes or has infringed the patents in
 6 this case?
 7 MS. DUVDEVANI: Same objection.
 8 Same objection.
 9 MR. CARTER: Am I going to get the
 10 same answer if I'm asking if legal has
 11 advised her if any product has
 12 infringed or does infringe the patents
 13 in this case?
 14 MS. DUVDEVANI: Most likely. It
 15 depends on the question. And we can
 16 go off the record and talk about this
 17 for a minute. But you are asking a
 18 layperson, who testified that she's
 19 not a lawyer, without defining the
 20 word, "infringement" if things
 21 infringe.
 22 Q. Okay. Right out of the box in this
 23 deposition, you told me that you believe the
 24 Target products infringed, right?
 25 A. I did say that.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Q. Right. And you said that without
 3 me asking you if the Target products
 4 infringed, correct?
 5 A. I don't remember.
 6 MR. CARTER: Okay. The record
 7 will speak for itself. So you need to
 8 decide tomorrow what line you're
 9 drawing because I mean, frankly, I
 10 think you already waived the
 11 privilege.
 12 MS. DUVDEVANI: Let's go off the
 13 record for a second.
 14 THE VIDEOGRAPHER: One moment. We
 15 are now going offer the video record.
 16 The time is 13:16. One moment please.
 17 (Whereupon, an off-the-record
 18 discussion was held.)
 19 THE VIDEOGRAPHER: Back on, 13:18.
 20 MR. CARTER: So, let me make sure
 21 I understand because I can go through
 22 and ask all these questions
 23 individually. If I ask for a
 24 particular product whether legal
 25 advised the witness whether or not

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 those products infringe, are you going

3 to object to all of those questions as

4 attorney/client privilege? You can't

5 have a different answer to different

6 products.

7 MS. DUVDEVANI: If you're using

8 the legal definition of infringement,

9 with everything that goes along with

10 it, then, yes, I am going to be

11 objection -- objecting on the basis of

12 attorney/client privilege.

13 MR. CARTER: Okay. So, I will not

14 answer those, and you'll instruct the

15 witness not to answer?

16 MS. DUVDEVANI: Correct. And we

17 can fight this with Judge Brody.

18 That's totally fine with me. Looking

19 forward to it.

20 BY MR. CARTER:

21 Q. So, going back to Suit Your Belly.

22 A. Um-hum.

23 Q. You saw the Suit Your Belly product

24 and why did you send it to legal?

25 A. I did.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. Why did you send it to legal?

3 A. Because I thought there might be a

4 possibility that would infringe upon our

5 patent.

6 Q. Okay. When you use the word,

7 "infringe" as you've been using it in this

8 deposition, what do you mean by that?

9 A. That it would -- I guess I have to

10 think infringe, that it was -- that it is

11 encroaching upon the idea that we were granted

12 the patent. That it's covering the same

13 product innovations that is laid out in the

14 patent.

15 Q. When you use the word, "infringe"

16 do you mean that a court should determine that

17 that product should no longer be sold because

18 it infringes your patent?

19 MS. DUVDEVANI: Objection.

20 A. I don't have that -- I don't know.

21 Q. When you use the word, "infringe"

22 do you mean that a court should determine that

23 the company selling that product that you

24 believe infringes should pay damages to

25 Destination Maternity?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 MS. DUVDEVANI: Objection.

3 A. If the court deemed that there was

4 infringement, then the company should either

5 have to take it off the market and/or pay

6 fees.

7 Q. And when you've used the term,

8 "infringement" in this deposition so far,

9 that's what you mean by infringement is that

10 because of the infringement that you believe

11 is happening, the product should come off the

12 market and/or that company should have to pay

13 Destination Maternity money?

14 MS. DUVDEVANI: Objection.

15 A. Can you restate the question one

16 more time, please?

17 Q. When you've used the term,

18 "infringement" or "infringe" in this

19 deposition, that's what you mean, is that that

20 infringement should result in a court finding

21 that the company selling the product that you

22 believe infringes should take that product off

23 the market and/or pay money to Destination

24 Maternity?

25 MS. DUVDEVANI: Objection.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. If it comes to a court decision,

3 yes.

4 Q. Okay. And that's the way you've

5 been using the term, "infringe" and

6 "infringement," correct?

7 MS. DUVDEVANI: Objection.

8 A. I'm not sure. I'm not an expert in

9 legal questions -- legal matters. I believe

10 that products that I spoke about copied the

11 idea of Secret Fit Belly and that people were

12 trying to cover the same areas of uniqueness

13 that we covered with Secret Fit Belly patent.

14 Q. You believe that the Secret Fit

15 Belly patent, as you refer to it, is -- covers

16 the products that you say infringe?

17 MS. DUVDEVANI: Objection.

18 A. Personally I believe that.

19 Q. Okay. When you say that a product

20 infringes, for example, you don't say they

21 infringe and then think they should be able to

22 keep selling that product, do you?

23 MS. DUVDEVANI: Objection.

24 A. I do not.

25 Q. Okay. I'm going to hand you a

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 document marked as Exhibit 46.
 3 (Exhibit 46, Maternity Pants
 4 webpage printout, marked for
 5 identification, as of this date.)
 6 BY MR. CARTER:
 7 Q. Do you recognize Exhibit 46?
 8 A. Specifically, no.
 9 Q. Okay. Do you recognize under the
 10 words, "all maternity pants" there is a
 11 picture?
 12 A. Can you point to the document that
 13 you're --
 14 Q. Sure. This picture (indicating).
 15 A. Okay.
 16 Q. Do you recognize that picture?
 17 A. I may have seen it before.
 18 Q. Okay. Where do you think you may
 19 have seen it before?
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 A. She had a packet of information on
 6 the belly -- I don't even remember what was in
 7 it.
 8 Q. When's the last time you saw that
 9 packet of information?
 10 A. The day I met her.
 11 Q. Do you know what day that was?
 12 A. No.
 13 Q. Approximately?
 14 A. No.
 15 Q. Do you know where that packet of
 16 information from Suit Your Belly is today?
 17 A. In a landfill.
 18 Q. Do you know when it went to a
 19 landfill?
 20 A. That week.
 21 Q. So your testimony is -- is the
 22 timing of this is that a lady from [REDACTED]
 23 [REDACTED] came to Destination Maternity?
 24 A. Yes.
 25 Q. And she provided a handout on a

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Suit Your Belly product?
 3 A. Yes.
 4 Q. Did that product and the handout
 5 look like the picture that I pointed to on the
 6 first page of Exhibit 46?
 7 MS. DUVDEVANI: Objection.
 8 A. From my memory, yes.
 9 Q. Can you put a star or something
 10 next to that picture because the record isn't
 11 going to indicate what picture we're looking
 12 at?
 13 Thank you.
 14 A. (Witness complies.)
 15 Q. Who attended that meeting?
 16 A. Myself and Chris Daniel.
 17 Q. Who's Chris Daniel?
 18 A. He's the president of Destination
 19 Maternity.
 20 Q. What led to this meeting happening
 21 at Destination Maternity with [REDACTED]?
 22 A. What do you mean what led to the
 23 meeting.
 24 Q. What caused this meeting to happen?
 25 A. I believe -- I don't remember if

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 she e-mailed myself or Chris and said she had
 3 a product she wanted to show us.
 4 Q. And then did you invite her to --
 5 A. We did.
 6 Q. -- Destination Maternity?
 7 A. Um-hum.
 8 Q. Had you seen the product before the
 9 meeting?
 10 A. No, we had not.
 11 Q. Had you seen a picture of the
 12 product?
 13 A. No, we had not.
 14 Q. A drawing of the product?
 15 A. No, we had not.
 16 Q. What did you know about the product
 17 before the meeting?
 18 A. That it was a maternity pant
 19 product.
 20 Q. Anything more than that?
 21 A. No.
 22 Q. What was discussed during the
 23 meeting?
 24 A. She showed us the pants. She also
 25 brought along matching suit jackets and

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 blouses, I believe, and she told us what

3 fabrication she was making it in, that she was

4 interested in selling it to us.

5 Q. Okay. Anything else?

6 A. Not that I remember right now.

7 Q. What fabrication did she talk about

8 that she was interested in selling?

9 MS. DUVDEVANI: Objection.

10 A. I don't remember all the different

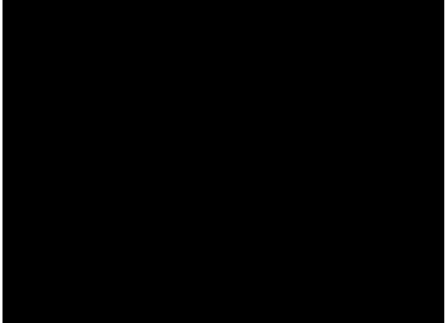
11 kinds. She focused on a suiting fabric

12 because she had matching jacket. I can't

13 remember if there were other fabrics.

14 Q. Okay. Do you recall anything else

15 from the meeting?

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1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

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18 Q. Do you recall if legal Counsel

19 thought the  product infringed?


20 MS. DUVDEVANI: I'm going to

21 direct my witness not to answer on the

22 basis of attorney/client privilege.

23 Q. Looking at the picture that you

24 have the star beside, do you recall any other

25  maternity pant that was

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 discussed during the meeting other than the

3 one shown there?

4 A. No.

5 Q. So, in Exhibit 46, the picture that

6 you have in front of you, where does the top

7 of the panel fall on that person's body?

8 MS. DUVDEVANI: Objection.

9 A. It is above the belly near the

10 ampire seam or near the ampire line.

11 Q. Okay. Can you see the breast area

12 in this photograph?

13 A. I believe I see a hint of the

14 breast area. But it's hard to tell. It's not

15 a great picture.

16 Q. Where do you think you see a hint

17 of the breast area?

18 A. (Indicating). It's hard to tell.

19 It's not a great photo. It could be a shadow.

20 Don't know.

21 Q. Is the breast area in that entire

22 area you circled?

23 A. No.

24 Q. Okay. Can you mark where you

25 believe the bottom of the breast area is in

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 this photograph?

3 A. Given that I don't know that this

4 is the breast area, it's a shadow on a picture

5 so...

6 (Witness complies.)

7 Q. Okay. On that line, can you mark,

8 "bottom of breast area or shadow"?

9 A. (Witness complies.)

10 Q. Can I see that photograph, please?

11 A. (Witness complies.)

12 Q. Okay. Does the top of the panel

13 come up to the ampire line area?

14 MS. DUVDEVANI: Objection.

15 A. From the photograph, it looks like

16 it's in the ampire area, but it's hard to see

17 -- it's hard to know for sure.

18 Q. So I just want to make sure the

19 record is clear, in the photograph is the top

20 of the panel the front of the belly in the

21 ampire area, yes, no or you weren't sure?

22 MS. DUVDEVANI: Objection; asked

23 and answered.

24 A. I'm not sure.

25 Q. What would you need to know to be

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 sure?
 3 A. I would have to see the pant in
 4 person on a body.
 5 Q. Can you look at a pant by yourself
 6 to make that determination?
 7 MS. DUVDEVANI: Objection.
 8 A. No, I would have to see a garment
 9 on a body to personally determine whether I
 10 thought it was in the empire area.
 11 Q. Does the top of the panel in the
 12 photograph we're looking at in Exhibit 46,
 13 where is that in relation to the top of the
 14 belly?
 15 MS. DUVDEVANI: Objection.
 16 A. Ask the question again, please.
 17 Q. The photograph we're looking at,
 18 Exhibit 46, where is the top of the panel in
 19 relation to the top of the belly?
 20 MS. DUVDEVANI: Objection.
 21 A. It is at the top of the belly of
 22 this particular person.
 23 Q. Can you mark on Exhibit 46 where
 24 the top of the belly is located, please?
 25 A. Okay. Can I see another because I

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 now have a lot of lines and drawings on here.
 3 Q. Sure. Let's do this; we'll have
 4 Exhibit 46 and then we'll have Exhibit 46A.
 5 MR. CARTER: Is that fine,
 6 Counsel?
 7 MS. DUVDEVANI: That's fine.
 8 (Exhibit 46A, document Bates
 9 stamped DMC0116949 through '950,
 10 marked for identification, as of this
 11 date.)
 12 BY MR. CARTER:
 13 A. So you want me it write where?
 14 Q. Just mark where you believe the top
 15 of the belly is located on that photograph.
 16 And, once again, you have your
 17 Exhibit 42 that you used earlier?
 18 A. 46.
 19 Q. I'm sorry; Exhibit 42, earlier you
 20 identified approximate top of the belly.
 21 A. (Witness complies.)
 22 Q. Can I see where you marked?
 23 A. I marked an area because it's not
 24 -- I'm not able to determine from this
 25 photograph the exact top of the belly.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Q. Can you mark "top of the belly"
 3 because I understand that's what you meant by
 4 the circle?
 5 A. (Witness complies.)
 6 Q. All right. So I understand that
 7 someone from ██████████ contacted DMC?
 8 A. Correct.
 9 Q. You had the meeting?
 10 A. Correct.
 11 Q. They provided a handout to you with
 12 a packet of information?
 13 A. Correct.
 14 Q. That packet of information, that
 15 week, went to the landfill?
 16 A. Yes.
 17 Q. How soon after the meeting that you
 18 had with the person from ██████████ did
 19 you contact legal?
 20 A. Immediately afterward.
 21 Q. Okay. Are you aware of what
 22 happened between Destination Maternity and
 23 ██████████ after that point?
 24 ██████████
 25 ██████████

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 ██████████
 3 ██████████
 4 ██████████
 5 ██████████
 6 Q. Does the name Jennifer Skanron mean
 7 anything to you?
 8 A. That might be the gal from ██████████
 9 ██████████. I don't remember what her name
 10 was. I know I e-mailed her, I think, to set
 11 up the meeting. I can't remember.
 12 (Exhibit 47, sample of maternity
 13 pants, marked for identification, as
 14 of this date.)
 15 BY MR. CARTER:
 16 Q. I'm going to hand you, what your
 17 Counsel and I will discuss how to mark later,
 18 as Exhibit 47.
 19 Do you recognize Exhibit 47?
 20 A. It could be the pant that she
 21 showed us. I don't remember in detail. I
 22 can't say exactly this was the pant.
 23 Q. Sorry. Just to make sure the
 24 record is clear, you said "she." Did you
 25 mean --

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. The woman we met with was a she.

3 I'm not sure what her name was. I don't

4 remember. I would have to look back in my

5 files.

6 Q. And what files do you have?

7 A. If I have any e-mail communication

8 with her. I don't remember.

9 Q. Were those e-mail communications

10 provided to us?

11 A. I don't know.

12 Q. Do you also have e-mail

13 communications with [REDACTED] that you would have

14 in your files?

15 A. No.

16 Q. So, Exhibit 47, just so I'm

17 clear -- feel free to take a look at that as

18 long as you like -- is that the product that

19 the lady from [REDACTED] showed you

20 during your meeting with her?

21 A. I don't remember.

22 Q. Did she show you a product?

23 A. She definitely showed us a product.

24 Q. Did she show you more than one

25 product?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. She showed us suit jacket, shirts

3 and a pant.

4 Q. Just one pair of maternity pants?

5 A. It was a pant in different fabrics

6 and colors.

7 Q. But did it have the same

8 construction?

9 A. I don't remember. I believe they

10 had the same.

11 Q. Was the height of the panel the

12 same in all of them?

13 A. I don't know.

14 Q. On Exhibit 46 or 46A, are you able

15 to mark the location of maximum girth of the

16 person wearing the [REDACTED] maternity

17 pant?

18 A. Of where this person's maximum

19 girth is --

20 Q. Yes.

21 A. -- from the picture?

22 (Witness complies.)

23 Q. Okay. Can you mark that line?

24 I understand that you're saying

25 that is the position of maximum girth.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. (Witness complies.)

3 Q. Can I see Exhibit 46A, please?

4 So you say, "perceived maximum

5 girth."

6 What's the difference between

7 perceived maximum girth and maximum girth?

8 A. If I had a tape measure and I could

9 measure her, then I would be able to

10 substantiate whether that was really the

11 biggest part of that person's belly or not.

12 Q. But just commonsensically, can you

13 look at that and say that's about the location

14 of the maximum girth?

15 MS. DUVDEVANI: Objection.

16 A. That's why I put the line there.

17 Q. Thank you.

18 MR. CARTER: How much time do we

19 have on the tape?

20 THE VIDEOGRAPHER: Six minutes.

21 (Exhibit 48, document Bates

22 stamped DMC0066709 through '711,

23 marked for identification, as of this

24 date.)

25 BY MR. CARTER:

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. Ms. Hendrickson, I'm going to hand

3 you a document marked as Exhibit 48.

4 Do you recognize Exhibit 48?

5 Sorry; do you recognize Exhibit 48?

6 A. No, I have not seen it before.

7 Q. You see it's an e-mail from

8 Jennifer Skanron of [REDACTED] to Ms. Han

9 and Mr. Masciantonio?

10 A. I do.

11 Q. Okay. And is Ms. Han, referenced

12 in this e-mail, sitting in this room today?

13 A. She is.

14 Q. The e-mail says, [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 Does that sentence help your

24 recollection of this meeting?

25 MS. DUVDEVANI: Objection.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. I told you that Chris and I met

3 with her.

4 Q. Okay. But do you recall now that

5 Chris Daniel, Jill Doster and many others also

6 met with her?

7 MS. DUVDEVANI: Objection.

8 A. I don't remember.

9 Q. I'm just asking if this -- does the

10 timing of this e-mail help you recall when

11 this meeting occurred?

12 A. I assume before May 28, 2012. I do

13 not know the -- I don't have the date of when

14 we met.

15 Q. So, the March 27th referenced here,

16 you aren't sure if that's the right date?

17 MS. DUVDEVANI: Objection.

18 A. It probably is. I'd have to look

19 at my calendar.

20 Q. Okay. Do you have your calendar?

21 A. Actually no, I don't have a

22 calendar.

23 Q. From 2012, okay.

24 As of March to May 2012, had you

25 been informed by anyone that you should

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 preserve documents relating to the patents

3 in-suit?

4 A. Yes.

5 Q. What did you receive?

6 A. I was told that I needed to keep

7 documents. Not to destroy documents for

8 anything that was related to Secret Fit Belly.

9 Q. And who told you that?

10 MS. DUVDEVANI: I'm going to

11 object to this. Given the fact that

12 you refused to give us a witness on

13 this topic, I think it's only fair

14 that you're not to ask about document

15 preservation and document hold


16 notices.

17 So, I'm going to object to this

18 and direct the witness not to answer

19 any of these lines of questions.

20 Q. All right. The next sentence says,

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25 Do you agree with that statement?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. I don't remember.

3 Q. The next sentence says, 


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8 Do you agree with that sentence?

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19 Do you agree with that sentence?

20 A. I don't remember.

21 MR. CARTER: Okay. Why don't we

22 take a lunch break?

23 MS. DUVDEVANI: Okay.

24 THE VIDEOGRAPHER: We are now

25 going off the video record.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 That concludes tape number two.

3 The time is 13:46.

4 (Whereupon, a lunch break was

5 held.)

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1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 AFTERNOON SESSION
 3
 4 (Time noted: 2:44 p.m.)
 5
 6 THE VIDEOGRAPHER: We are now back
 7 on the video record. This commences
 8 tape number 3, October 15, 2013. The
 9 time 14:44. Please continue.
 10 LISA HENDRICKSON, resumed and
 11 testified as follows:
 12 EXAMINATION BY (Cont'd.)
 13 MR. CARTER:
 14 Q. All right, Ms. Hendrickson, are you
 15 still feeling okay to continue?
 16 A. I am.
 17 Q. You recalled you had a doctor's
 18 appointment this morning so I don't want to
 19 ask anything personal, but just want to make
 20 sure you're fine to continue.
 21 A. Yes, I'm fine to continue.
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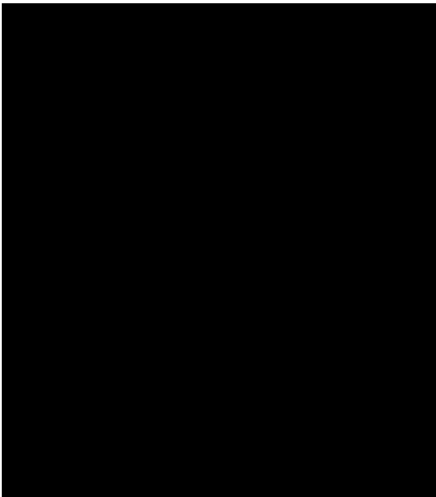
1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2
 3 Q. When you say quite a few years, do
 4 you have any range of time in mind?
 5 A. No, I don't know whether it was six
 6 years, eight years.
 7 (Exhibit 49, document Bates
 8 stamped DMC0110373, marked for
 9 identification, as of this date.)
 10 BY MR. CARTER:
 11 Q. I hand you a document marked as
 12 Exhibit 49. Are you familiar with Exhibit 49?
 13 A. I am.
 14 Q. And what is Exhibit 49?
 15 A. It is an e-mail I sent to all
 16 e-mail which then gets to all of our
 17 executives in the merchandising area that was
 18 a summary, it looks like, of notes from some
 19 of the past belly panel meetings.
 20 Q. So, would the e-mail have gone to
 21 Mr. Masciantonio?
 22 A. I believe so.
 23 Q. Ms. Han?
 24 A. I believe so.
 25 Q. How about James Gardener?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 A. It depends. I'm not sure when --
 3 the years James was employed with us, but he
 4 would have been part of the e-mail.
 5 Q. Richard Adelman?
 6 A. If he was employed with us in 2007,
 7 yes.
 8 Q. Okay. Anyone else that you know of
 9 who received this all e-mail at corp e-mail?
 10 A. There's a lot of people that would
 11 have received it. I don't know the number of
 12 people on the all e-mail corp list.
 13 Q. Is there a certain level of
 14 executives -- did you have to be a manager, a
 15 vice-president to receive this?
 16 A. I don't know. I've never seen the
 17 whole list. I don't know who's on it.
 18 Q. Okay. The document starts out,
 19
 20
 21 A. Um-hum.
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1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
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 12 Q. Do you know when they started?
 13 A. I don't know.
 14 Q. Who at Destination Maternity would
 15 be in a better position than you to give that
 16 answer?
 17 A. No one. I started them, but I
 18 don't have a recollection of what year I
 19 started them.
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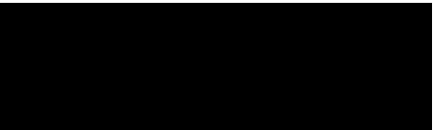
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17 Q. Okay. When you say pregnant women
18 of different sizes, what are the different
19 sizes?

20 A. Extra small through extra large
21 women.



2 Q. Why is that?

3 A. So that you make sure you're
4 covering the important parts of fit on all
5 different size people.

6 Q. Do products fit differently on
7 different size people?

8 A. Yes. That's why there's all the
9 different products in the world.

10 Q. Okay. And we talked about some of
11 the differences being height, talked about
12 differences in terms of different people, they
13 can be a different height?

14 A. They can be a different weight.

15 Q. Body type?

16 A. They could be a different body
17 type.

18 Q. And use the term body structure to
19 mean the same as body type?

20 A. Yes.

21 Q. Okay. Any other differences
22 between people?

23 A. Some women have one baby, some
24 women have multiple babies.

25 Q. Could also be a difference in how

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 they carry?

3 A. Correct.

4 Q. Stage of pregnancy?

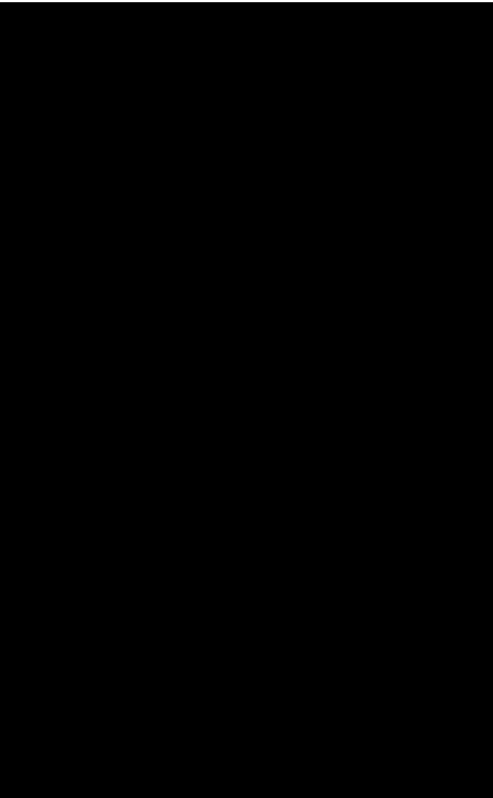
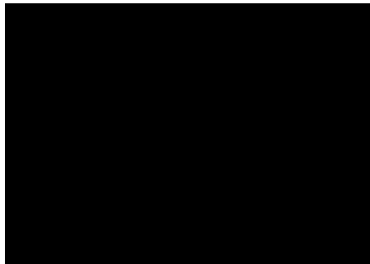
5 A. Stage of pregnancy.

6 Q. Talked about some women being
7 longer torso. I heard the term long waisted.
8 Is that a difference also?

9 A. Yes.

10 Q. Is the long torso, long waisted
11 difference something that we can add to when
12 earlier we were talking about the different
13 locations of the top of the belly or the
14 bottom of the belly, is that also something
15 that can impact where the top of the belly or
16 bottom of the belly is on a woman?

17 A. I believe I said it did.



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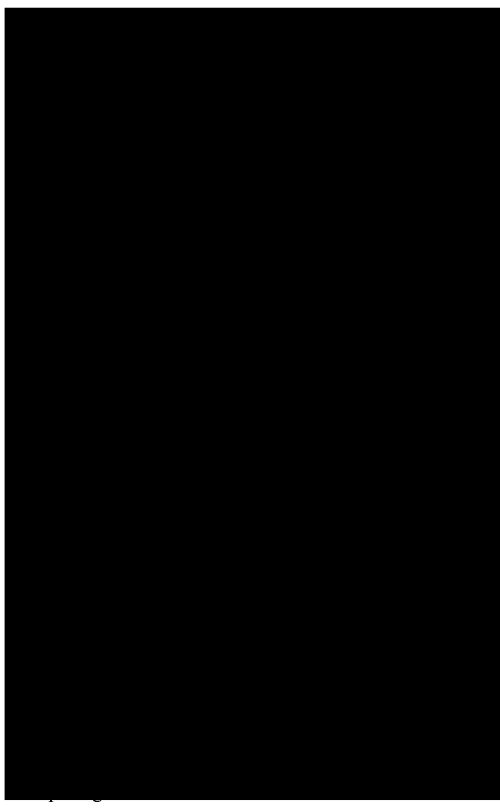
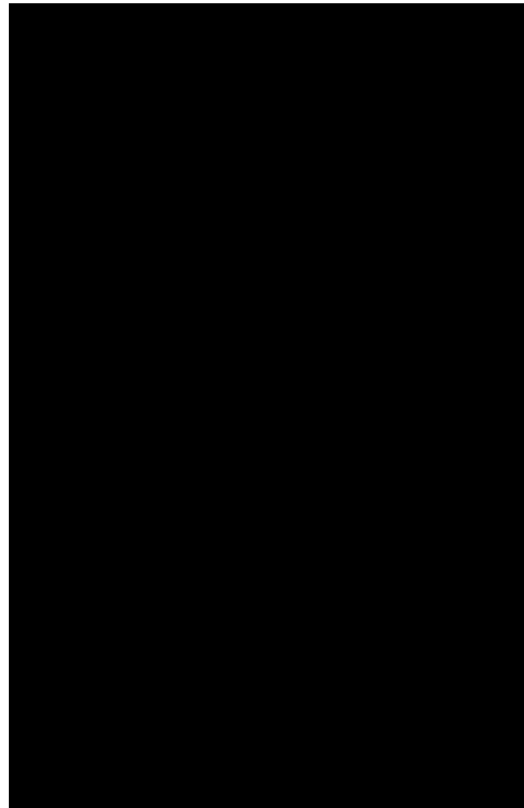
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MS. DUVDEVANI: Objection.

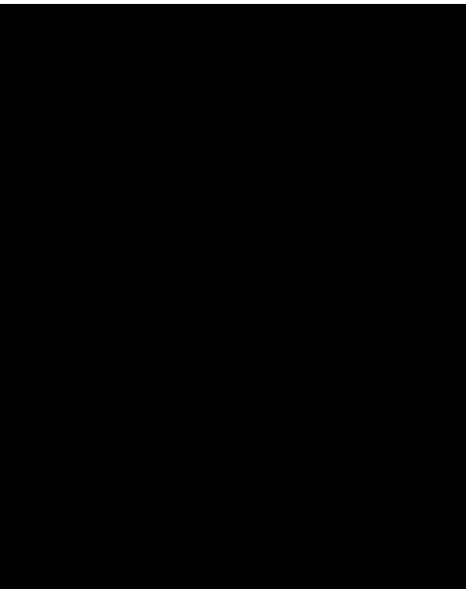
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2 Q. Okay. What do you mean by
3 fabrication?
4 A. The word fabrication, its fabric.
5 Q. So, is fabrication the type of
6 fabric?
7 A. Yes.

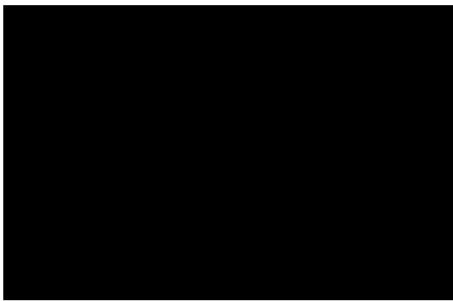
2 Q. As opposed to how it's made?
3 A. Yes.
4 Q. For example, stitching?
5 A. Yes.
6 Q. Fabrication --
7 A. Fabrication would be the type of
8 fabric.
9 Q. I'm sorry. I didn't mean to talk
10 over you.
11 So, fabrication is just the type of
12 fabric?
13 A. Yes.
14 Q. Styling, what does styling include?
15 A. Design details.
16 Would you like your pen back?
17 Q. I'm sorry?
18 A. You have another.
19 Q. So styling includes design details.
20 Anything else?
21 A. The styling of the garment.
22 Q. I mean, is it also at a higher
23 level than details? For example, skinny leg
24 jeans?
25 A. Styling is the style of the

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 2 garment. So you keep it whether it's -- if
 3 you want to see if it's a skinny leg jean, if
 4 there were back pocket details. If the dress
 5 had a cowl neck. It's styling.
 6 Q. The type of stitching used, would
 7 that be a design detail?
 8 A. We don't usually look at the type
 9 of stitching.
 10 Q. The kind of pockets used you
 11 mentioned would be styling?
 12 A. Back pocket.
 13 Q. The type of fly used, would that be
 14 type of styling?
 15 A. In general, there's no fly in
 16 maternity pants, so, no.
 17 Q. Is it known that in maternity pant
 18 you'll have what's called a faux-fly?
 19 A. What do you mean is it known?
 20 Q. You said maternity pants you don't
 21 have a fly?
 22 A. I said generally a fly is not
 23 important. There are some maternity pants
 24 that have a fly and a zipper, but in general,
 25 that's not a detail that we focus a lot on.

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 2 Q. Okay. Why is it that?
 3 A. Because there's not much room
 4 between the crotch and the belly to have a
 5 fly.
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 MS. DUVDEVANI: Objection.
 20 A. I don't know, I wasn't there in the
 21 beginning.
 22 Q. But since you've been at
 23 Destination Maternity?
 24 A. I would say we have done pants with
 25 flies since I have been at Destination

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 2 Maternity so we have used them in the past.
 3 We currently do have some pants with flies
 4 now. But in general, we do not do, and have
 5 not in the 15 years there, done a lot of pants
 6 with flies.
 7 Q. And the reason for that is?
 8 A. Most of our bottoms have belly
 9 panels of some form.
 10 Q. And why don't you have a -- an
 11 actual working fly when you have a belly
 12 panel?
 13 MS. DUVDEVANI: Objection.
 14 A. I think that's kind of an absurd
 15 question because as a female, there would be
 16 nothing to use the fly for.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 MS. DUVDEVANI: Objection; asked
 15 and answered.
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]



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2 [REDACTED]

2 [REDACTED]

6 MS. DUVDEVANI: Objection.

7 [REDACTED]

7 [REDACTED]

12 [REDACTED]

16 MS. DUVDEVANI: Objection.

17 [REDACTED]

24 MS. DUVDEVANI: Objection.

25 [REDACTED]

17 [REDACTED]

23 Q. What percentage of DMC products are made in the United States?

25 A. I have no idea.

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2 Q. Do you have a range, any idea at all?

4 A. No.

5 Q. If DMC wants to make a change to one of its products, how does it communicate that change to the factory?

8 A. Through e-mail or a tech pack.

9 Q. And what does -- strike that.

10 How would DMC communicate a product change through e-mail to a factory?

12 A. Write them a message and say we would like to change the product in the following methods, in the following iterations.

16 Q. Would it attach pictures to assist the factory?

18 A. It might. We might.

19 Q. Would you attach pictures of competitor products if you were using a competitor product as a basis to change a product feature for DMC?

23 A. It's possible. I don't know.

24 [REDACTED]

2 [REDACTED]

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 6 A. It's possible. I don't have an
 7 example.
 8 Q. Who would be in a better position
 9 at DMC to know the answer to that question?
 10 A. We have a lot of people that create
 11 product.
 12 Q. Can you give me some names?
 13 A. I guess Olivia Capone.
 14 Q. How do you spell her name?
 15 A. O-L-I-V-A -- O-L-I-V-I-A,
 16 C-A-P-O-N-E.
 17 Q. Okay. Anyone else?
 18 A. Sarah Keller.
 19 Q. Anyone else?
 20 A. There's a lot of people that
 21 develop product.
 22 Q. These products that are kept, for
 23 what period of time are they kept?
 24 A. There's no specific time frame.
 25 Might be kept a month, might be kept six

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 2 months. Might be kept a week.
 3 Q. At any point have any products
 4 purchased by DMC, as part of the purchasing by
 5 the merchant teams, been kept longer because
 6 of this litigation?
 7 A. Ask the question again, please.
 8 Q. Sure. I'll strike that.
 9
 10
 11
 12
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 14
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 16
 17
 18
 19
 20 MS. DUVDEVANI: I'm going to
 21 object on the basis of attorney/client
 22 privilege and direct the witness not
 23 to answer. Also based on a previous
 24 agreement regarding document retention
 25 and preservation and related -- in

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 relation to the litigation.
 3
 4
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 11 Q. Who would that someone be?
 12 A. We have many merchants.
 13 Q. Who are the merchants for the
 14 maternity pants?
 15 A. Nancy Orman.
 16 Q. How do you spell her last name?
 17 A. O-R-M-A-N.
 18 Q. Anyone else?
 19 A. Kelly Morrison. Those are probably
 20 the two key.
 21
 22
 23
 24
 25

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 A. No.
 3 Q. Any kind of a log or documentation
 4 kept to determine what is being kept in
 5 storage?
 6 A. No.
 7
 8
 9
 10
 11 Q. How are they reimbursed for those
 12 purchases?
 13 A. They're paid by the company.
 14 Q. How does the company know how much
 15 to pay them for their purchases?
 16 A. There are receipts.
 17 Q. Who would keep those represents?
 18 A. For past years, I don't have any
 19 idea.
 20 Q. How about currently?
 21 A. I would think the merchants
 22 themselves have recent receipts.
 23
 24
 25

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2 A. Say the question --

3 Q. As part of -- strike that.

4 You were involved in collecting

5 documents for this case, I assume?

6 MS. DUVDEVANI: You're treading on

7 thin ice. I'll allow her to answer

8 that question.

9 A. My computer was able to be

10 accessed.

11 Q. Okay. You're aware that documents

12 were collected as a result of this case?

13 A. I am aware.

14 Q. Were you aware of whether you or

15 anyone else looked for receipts for maternity

16 pants purchased by DMC?

17 MS. DUVDEVANI: I'm going to

18 object that any instructions came from

19 Counsel or outside Counsel, I'm going

20 to direct the witness not to answer

21 that question.

22 Q. So, is there anything other than


23 Counsel or outside Counsel that you heard

24 regarding collecting receipts for maternity

25 pants?

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2 A. I did not.

3 

4

5

6

7 A. Can you explain what documentation

8 or what?

9 Q. Put it into writing.

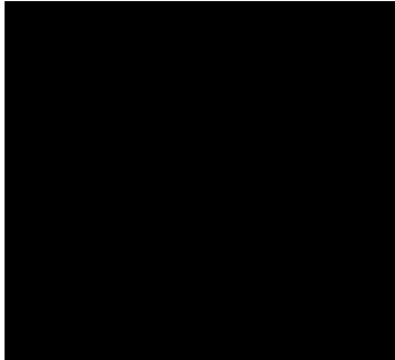
10 A. I don't think so. I don't know. I

11 don't have access to their communications.

12 Q. You never review what it is the

13 merchant teams are doing?

14 MS. DUVDEVANI: Objection.

15 

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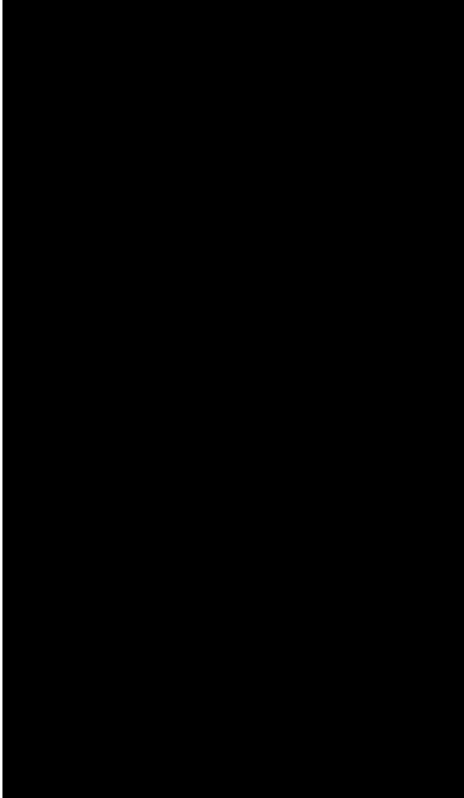
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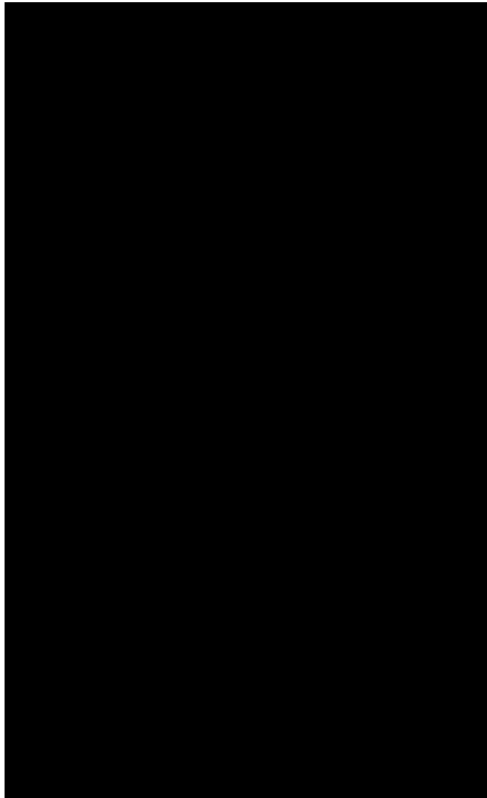
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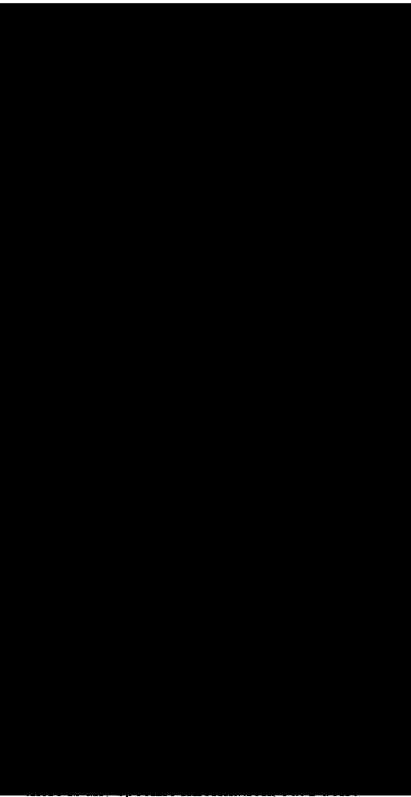
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2 [REDACTED]

3 MR. CARTER: Could we take a quick
4 five-minute break?

5 MS. DUVDEVANI: Sure.

6 THE VIDEOGRAPHER: Now going off
7 the video record. The time is 15:27.

8 (Whereupon, a short break was
9 held.)

10 THE VIDEOGRAPHER: Back on, 15:36.

11 (Exhibit 50, document Bates
12 stamped TAR060_00002265, marked for
13 identification, as of this date.)

14 BY MR. CARTER:

15 Q. Ms. Hendrickson, I am going to hand
16 you a document marked as Exhibit 50. Have you
17 seen Exhibit 50 before?

18 A. I'm sure I have.

19 Q. This printout was from the way back
20 machine?

21 A. I see that.

22 Q. It says, "copyright 2005
23 Destination Maternity" at the bottom?

24 A. Um-hum.

25 Q. Does this show an All Around Belly

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2 stretch twill pants sold my Destination

3 Maternity in 2005?

4 A. That's what it says here. The
5 picture is extremely hard to see, but that's
6 what it says in print.

7 Q. Do you recall these -- is it fair
8 to call these maternity pants?

9 A. Yes.

10 Q. Do you recall these maternity pants
11 being sold by Destination Maternity?

12 A. Yes. We had twill pants with
13 maternity panel.

14 Q. Okay. Does this have a -- this
15 product have a belly panel?

16 A. It has a belly panel.

17 Q. And is the belly panel expandable?

18 A. Yes.

19 Q. Does it stretch so that women can
20 wear it through different stages of pregnancy?

21 A. It can be worn through pregnancy.
22 It is not good early in pregnancy or
23 postpartum because it's too loose.

24 Q. Okay. And why is that?

25 A. Because the panel does not have the

2 stretch and also it's a lot bigger.

3 Q. That is the girth --

4 A. Girth, yes.

5 Q. -- of the panel, okay. How about
6 the height of the panel where -- how high did
7 the panel on this product come up on a woman?

8 A. It looks like from the picture,
9 just to the top of the belly. But it's very
10 hard to tell.

11 Q. Okay. Can you, on Exhibit 42, mark
12 where the top of the panel comes on the woman?

13 I'm sorry; this is the original.

14 Let's use a copy.

15 A. (Witness complies.)

16 Q. Can you mark that that is the top
17 of the panel in Exhibit 50?

18 A. (Witness complies.)

19 Q. Okay. Can I see what you marked?

20 A. (Witness complies.)

21 Q. Okay. And can you sign and date
22 that document?

23 A. (Witness complies.)

24 Q. Okay. Do you recall this panel of
25 Exhibit 50 being sold around 2005 by

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 2 Destination Maternity?
 3 A. That's what it says here.
 4 Q. Do you have any -- strike that.
 5 For this product would Destination
 6 Maternity have had spec packets?
 7 A. Yes.
 8 Q. Do any of those spec packets still
 9 exist today?
 10 A. I have no idea.
 11 Q. Do you know when -- to the extent
 12 the spec packets don't exist today, do you
 13 know when they would have been destroyed?
 14 A. No.
 15 Q. Do any samples of the product of
 16 Exhibit 50 still exist today?
 17 A. I don't think so.
 18 Q. Did Destination Maternity have
 19 maternity pants with similar panels as in
 20 Exhibit 50 in 2005 or 2006?
 21 MS. DUVDEVANI: Objection.
 22 A. I said I don't know. I think so.
 23 Q. Do you know if any information
 24 about any of those products still exist today?
 25 A. I told you, I don't know.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Q. Okay. So first I was asking you
 3 just about these pants in Exhibit 50. Now I'm
 4 just asking broader --
 5 A. Oh, broader, I don't know.
 6 Q. -- of any pants that might have the
 7 same panel.
 8 A. I don't know.
 9 Q. Would there have been spec packets
 10 for all of those other products?
 11 A. Not for probably all, but, yes, we
 12 would have had specs for products we imported.
 13 Q. For -- how does Destination
 14 Maternity store its spec packets?
 15 A. Currently we would be on whatever
 16 -- however we store corporately documents. In
 17 the past, I have no idea.
 18 Q. I mean, is there a certain database
 19 or place where spec packets are stored?
 20 A. We currently have a PLM system.
 21 Q. How long has DMC had a PLM system?
 22 A. I don't know.
 23 Q. What is in the PLM system?
 24 A. PLM packages where it has, for each
 25 specific style, an information packet of the

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 2 labels, hang tags, specs, fabrication.
 3 Q. So, I apology if I asked you this:
 4 Do you know when DMC started using the PLM
 5 system?
 6 A. I said I do not know the exact
 7 date.
 8 Q. Do you have an approximation?
 9 A. Six years ago, maybe.
 10 Q. Do you know if any information out
 11 of the PLM system has been printed and
 12 produced to Target in this case?
 13 A. I have no idea.
 14 MR. CARTER: Counsel?
 15 MS. DUVDEVANI: I don't know.
 16 You'll have to send a letter and we'll
 17 have to do a search.
 18 MR. CARTER: Okay or maybe make
 19 the PLM system available to us.
 20 Q. What -- other than spec packets,
 21 what else will have you in the PLM system?
 22 A. Nothing other than spec packets.
 23 Q. Would you have any correspondence
 24 with vendors?
 25 A. No. Whatever is in the spec

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 packet, that's what's there.
 3 Q. In the -- where is correspondence
 4 with the vendors saved?
 5 A. On each buyers' hard drive.
 6 Q. So, do you know who the buyer for
 7 maternity was in 2006?
 8 A. No.
 9 Q. How would we learn the answer to
 10 that question?
 11 A. I guess through our HR department.
 12 Q. Do you know who the buyers for
 13 maternity pants have been at any time from
 14 2006 to presents?
 15 A. I know who the buyers are for the
 16 last two or three years I can remember.
 17 Q. Who are they?
 18 A. Nancy Orman, Katie Scarduzio, Kelly
 19 Morrison. I think that those are the key
 20 buyers.
 21 Q. In Exhibit 50, the panel belly
 22 panel, that product, do you know what it is
 23 made out of?
 24 A. I know it's made of a knit. I
 25 don't know what this one is made of.

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2 Q. Okay. Anything else?

3 A. What do you mean, anything else?

4 Q. Anything else that you can recall

5 about the belly panel on this product shown on

6 Exhibit 50?

7 A. I don't know what you're asking.

8 Q. Did it have a seam?

9 A. Yes.

10 Q. Where was the seam?

11 A. It either had side seams. It may

12 have also had a back seam. I don't remember.

13 Q. Anything else that you can recall

14 about the panel in Exhibit 50?

15 A. It had elastic at the top of the

16 panel.

17 Q. Anything else?

18 A. Not that I can remember that far

19 back.

20 Q. For these pants, do you know if

21 they had pockets?

22 A. I don't remember. Probably had

23 back pocket, but I don't know that for a fact.

24 Q. Why do you say probably?

25 A. Because we have pockets on most of

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 our pants, back pockets.

3 Q. For how long have you had pockets

4 on most of your maternity pants?

5 A. Forever. I mean, it depends like

6 if you have a legging, you don't put pockets

7 on a legging. If you have a pant that should

8 have a pocket, pants have pockets.

9 Q. For the product on Exhibit 50, what

10 is the pant made out of?

11 A. It says it's a cotton spandex blend

12 and it says it's twill.

13 Q. Did you also have the same or

14 similar belly panels on denim jeans?

15 A. Yes.

16 Q. In 2005, 2006?

17 A. Yes.

18 Q. For how long has DMC sold maternity

19 pants with denim jeans?

20 A. Whenever we started carrying denim.

21 I don't know. I wasn't with the company when

22 they first started.

23 Q. So it would have been before?

24 A. I don't know. I wasn't there.

25 Q. When did you start with Destination

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2 Maternity?

3 A. Fifteen years ago. So, what was

4 that? I have to do my math.

5 Q. So at least since 1998, Destination

6 Maternity has sold maternity pants with denim

7 jeans?

8 A. Yes.

9 Q. Does the pant of Exhibit 50 have a

10 fake fly?

11 A. I don't know. I think so.

12 Q. Why do you think so?

13 A. I think our twill pants had a

14 faux-fly. I don't know that for a fact.

15 Q. The panel of Exhibit 50, is it

16 meant to fit different body types?

17 A. Yes.

18 Q. Is it elastically expandable and

19 contractible?

20 A. Yes.

21 Q. The top edge of the belly panel of

22 Exhibit 50, how is it constructed?

23 MS. DUVDEVANI: Objection.

24 A. I believe it has an elastic waist.

25 Again, I can't tell from the picture, but I

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2 believe it has an elastic waist at the top.

3 Q. And how is that elastic waist held

4 in place?

5 A. Because the elastic is small enough

6 that it holds on the body.

7 Q. But does the material of the panel

8 go around the elastic?

9 A. Yes.

10 Q. How does it go around it?

11 A. It goes around it and it's

12 stitched.

13 Q. So, is the top edge of the panel

14 folded over the elastic?

15 A. Yes.

16 Q. And then sewn to the rest of the

17 panel?

18 A. Yes.

19 Q. Is it folded over and then sewn to

20 an inside of the belly panel?

21 A. Yes.

22 Q. The belly panel of Exhibit 50, does

23 it have a partial waistband across the back of

24 the pants?

25 MS. DUVDEVANI: Objection.

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2 A. I have no idea.

3 Q. Would we need the spec packet to

4 determine that?

5 A. I would think so, unless you have a

6 sample.

7 Q. And you are sure those still exist?

8 A. I'm sure -- I'm pretty sure those

9 do not exist, but I don't know for a fact.

10 Q. Why do you say you're pretty sure

11 they don't exist?

12 A. It was from 2005. We don't run

13 that pant anywhere.

14 Q. So, how long after you no longer

15 have a pant do you no longer keep the spec

16 packet?

17 A. Oh, I don't know. I told you, I

18 don't know if we have spec packets. I have no

19 idea how the information was archived.

20 Q. The bottom of the panel in

21 Exhibit 50, is it straight across on the

22 woman's body?

23 A. You can't tell from the picture,

24 but from knowing how we've done panels, no, it

25 is not straight across on the body.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. Okay. How is it shaped going

3 across the woman's body at the bottom of the

4 panel?

5 A. It's curved at the bottom of the

6 panel to go under the belly. It's shorter at

7 the sides and then shorter at the back.

8 Q. I want to make sure I understand

9 shorter at the sides and shorter at the back.

10 Talking just about the bottom.

11 A. The height of the belly. So, it's

12 curved so it's longer at the front. Then it

13 curves up to the sides and curves around to

14 the back.

15 Q. Okay. But in the front, does it

16 curve downwardly under the woman's belly?

17 A. Yes.

18 Q. But you had said earlier there are

19 no straight lines on the human's body?

20 A. I did say that.

21 Q. And is this an example of a

22 naturally curved line on a woman's body being

23 the bottom of the belly?

24 A. Yes.

25 Q. So, as a result -- for how long had

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 DMC maternity pants with belly panels been

3 curved downwardly to go under a woman's belly?

4 MS. DUVDEVANI: Objection.

5 A. I believe always.

6 Q. Always would be at least before

7 1998 when you started?

8 A. I don't know before I started.

9 Q. But at least before 1998?

10 A. I don't know if it was before 1998.

11 I told you I wasn't with them. 15 years,

12 so...

13 Q. It's 1998.

14 A. Okay so you said before 1998, and I

15 can't speak to before 1998.

16 Q. Okay. So since at least 1998, DMC

17 maternity pants with belly panels have been

18 curved downwardly in the front to go under a

19 woman's belly?

20 A. Yes.

21 Q. Are you familiar with the term,

22 "parabolic"?

23 A. I have heard of it, but I cannot

24 define it.

25 Q. Okay. Do you know if the lower

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2 edge of the belly panel extends downward with

3 a parabolic shape?

4 A. I don't.

5 Q. The belly panel of Exhibit 50, does

6 it have a tubular structure?

7 MS. DUVDEVANI: Objection.

8 A. I'm not sure what you mean.

9 Q. Okay. Do you know what a tubular

10 structure is?

11 A. I guess a tube is what I would

12 consider -- well, it doesn't have to be round,

13 but a tube, yes.

14 Q. Is the belly panel of Exhibit 50 a

15 tubular structure?

16 A. I guess in a loose form, yes.

17 Q. And had Destination Maternity been

18 doing that since at least 2005, having belly

19 panels on maternity pants made out of a

20 tubular structure?

21 A. Yes.

22 Q. Do you know if the belly panel in

23 Exhibit 50 has straight sides or are the sides

24 contoured in some way?

25 A. I don't remember.

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2 Q. As the belly panel of Exhibit 50 is

3 on a woman's body, will it have straight sides

4 or will it assume the shape of a woman's body?

5 A. It's a knit, so it would assume the

6 shape of a woman's body.

7 Q. Are you familiar with the term,

8 "hyperboloid"?

9 A. I heard it. Again, I cannot define

10 what it means.

11 Q. So you don't know whether what is

12 in Exhibit 50 has the shape of a hyperboloid

13 cylinder?

14 A. I do not.

15 Q. In Exhibit 50, we had talked about

16 the bottom of the belly panel being curved

17 under a woman's belly. Will that allow

18 expansion of the woman's belly in different

19 stages of pregnancy?

20 A. Yes.

21 Q. Or for different body types?

22 A. Yes.

23 Q. On Exhibit 50, do you know where

24 the position of maximum girth is on that

25 person?

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2 A. I don't -- I can't tell from this

3 picture.

4 Q. Can you tell if the top of the

5 belly panel is above or below it?

6 A. I can't tell from the picture.

7 Q. If we had the spec packet, would

8 you be able to tell that?

9 A. No.

10 Q. What would we need to have -- to be

11 able to tell if the maternity pant with belly

12 panel of Exhibit 50 went above the location of

13 maximum girth of a --

14 A. A sample.

15 Q. -- of a person's abdomen?

16 A. A sample and a body, a pregnant

17 body.

18 Q. Do you have to put the pant on a

19 person's body to determine if the top of the

20 belly panel goes up to a position or location

21 of maximum girth of the abdomen?

22 A. For me, yes, I would need to see it

23 on a belly.

24 Q. Is that DMC's position also or just

25 yours?

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2 A. I don't know.

3 Q. You're here as DMC's corporate

4 representative.

5 MS. DUVDEVANI: For certain

6 topics. What topic are you asking

7 about with regard to that question,

8 Mr. Carter?

9 MR. CARTER: Patents in suit,

10 prosecution, prior art. Lots of

11 topics.

12 MS. DUVDEVANI: That's a really

13 specific question.

14 MR. CARTER: I'll tell you what,

15 we'll argue late about whether it's a

16 specific topic.

17 MS. DUVDEVANI: Fair enough. Fair

18 enough.

19 Q. So, you told me your position of

20 what you need to know to determine if that

21 belly panel of Exhibit 50 goes up to or above

22 a position or location of maximum girth on an

23 abdomen. Is that DMC's position also?

24 A. I don't know.

25 Q. Who at DMC would be better suited

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2 than you to answer that question, if anybody?

3 A. No one.

4 Q. Does the girth of the belly panel

5 of Exhibit 50 change based on different body

6 types?

7 A. Yes.

8 Q. Is that because it has an elastic

9 fabric that is contractible?

10 A. Yes.

11 Q. And so, it will cover an abdomen

12 during different stages of pregnancy?

13 A. Yes. As I said earlier, it is not

14 good early in the pregnancy because it's loose

15 on the belly and it does not work well after

16 pregnancy because it's too loose on the belly.

17 Q. It won't work well, but will it

18 still work?

19 A. The pants and the belly do not stay

20 up on a newly pregnant woman because there --

21 it's too big.


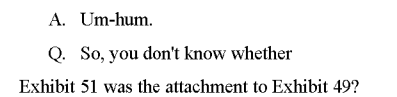
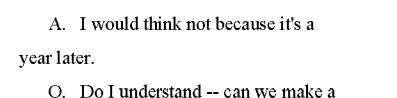
22 (Exhibit 51, document Bates

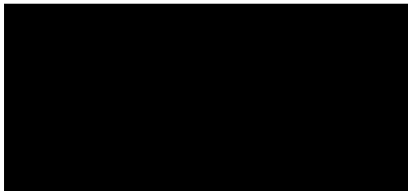
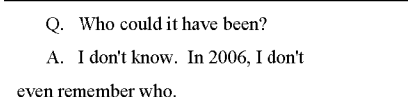
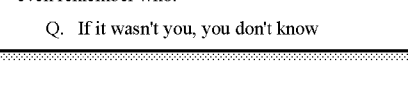



23 stamped DMC0110376 through '377,



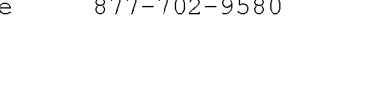
24 marked for identification, as of this

25 date.)

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 BY MR. CARTER:
 3 Q. I hand you a document marked as
 4 Exhibit 51. Do you recognize Exhibit 51?
 5 A. I'm reading it.
 6 Q. Do you recognize Exhibit 51?
 7 A. Recognize, not necessarily, but
 8 I've read the information.
 9 Q. When's the last time you saw
 10 Exhibit 51?
 11 A. 2006.
 12 Q. You haven't seen it since then?
 13 A. Not that I recollect.
 14 Q. Just real quick, did we mark an
 15 Exhibit 50?
 16 MS. DUVDEVANI: Yes.
 17 A. Yes, we talked about it a lot.
 18 Q. Very good.
 19 If you could, look at Exhibit 49.
 20 Do you see that Exhibit 49 references
 21 attachments?
 22 A. Um-hum.
 23 Q. Is Exhibit 51 of the attachments to
 24 the e-mail of Exhibit 49?
 25 A. I have no idea.

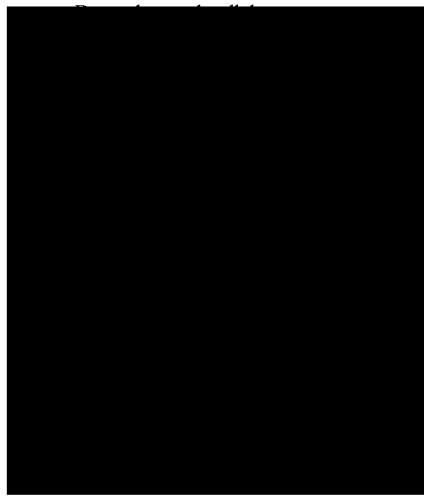
1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 
 3 
 4 
 5 A. Um-hum.
 6 Q. So, you don't know whether
 7 Exhibit 51 was the attachment to Exhibit 49?
 8 A. I would think not because it's a
 9 year later.
 10 Q. Do I understand -- can we make a
 11 representation that based on the production,
 12 Exhibit 51 was an attachment to Exhibit 49?
 13 We can make that representation that the belly
 14 panel notes in Exhibit 51 is the
 15 bellypanelnotes.doc of Exhibit 49 based on the
 16 way the production was made to us?
 17 A. Okay.
 18 Q. Real quick back on Exhibit 49, the
 19 second paragraph says that you are sending
 20 this message to all company members. Earlier
 21 you had said that this e-mail would have gone
 22 to certain people, but not everybody.
 23 A. I didn't say it didn't go. I said
 24 I didn't know who the list went to is what I
 25 said.

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 2 Q. Okay. So when you see it says,
 3 "I'm sending this message to all company
 4 members," what does that mean to you?
 5 A. To buyers, designers, managers.
 6 Q. Anyone else?
 7 A. Our production manager.
 8 Q. Legal?
 9 A. I said I think they were on the
 10 e-mail, but I don't know. I don't have the
 11 corporate list.
 12 Q. Okay. If you look at Exhibit 51,
 13 you see this is dated November 30, 2006?
 14 A. Yes.
 15 Q. Do you know who made these notes?
 16 
 17 
 18 
 19 
 20 
 21 
 22 Q. Who could it have been?
 23 A. I don't know. In 2006, I don't
 24 even remember who.
 25 Q. If it wasn't you, you don't know

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 2 who it would have been?
 3 A. No. It might have been another
 4 merchant. Might have been an assistant.
 5 Q. Do you have any documents that
 6 would show an org chart or people involved in
 7 this group --
 8 A. No.
 9 Q. -- in 2006?
 10 A. I don't have any currently.
 11 Q. Would you have had a document like
 12 that in the past?
 13 A. I would not.
 14 Q. Would anyone have had a document
 15 like that in the past at DMC?
 16 A. No.
 17 Q. All right. But you do recall
 18 having seen this document in November 2006?
 19 A. I said I don't know. I'm reading
 20 it now. I don't know. I don't -- I guess if
 21 it came from -- with this e-mail chain, then,
 22 yes, I saw it.
 23 
 24 
 25 

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17 Q. So, is that a [redacted] maternity pant
18 with a belly panel?

19 A. Yes.

20 Q. It says the content of the belly
21 fabric is 89 poly 14 SP.

22 A. Spandex.

23 Q. 80 polyester, 14 spandex as
24 percentages to get to 100 percent?

25 A. Yes.

2 Q. Does that tell you anything about
3 that fabric?

4 A. It does not.

5 Q. All right. If you continue on, it
6 says, [redacted]

7 [redacted]
8 You see the sentence that is four
9 lines down, [redacted] also has the synthetic
10 fabric on their bellies on a career pant and
11 denim. The content of their belly fabric is
12 62 polyester, 34% rayon, 4% spandex"; is that
13 right?

14 A. That's what it says.

15 Q. Does that mix tell you anything
16 about the fabric of the [redacted] belly fabric?

17 A. It does not.

18 Q. Any of its qualities, how it feels,
19 how it stretches?

20 A. That they both have spandex, I
21 would know that they both stretch. It doesn't
22 tell me if it's a knit. It doesn't tell me
23 from the feedback from the participant that it
24 was soft and silky.

25 Q. The [redacted] belly panel that is

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2 86 percent polyester, 14 percent spandex, it
3 goes on to say, [redacted]

4 [redacted]
5 A. That's what it says.

6 Q. Does the 86 percent polyester,
7 14 percent spandex tell you anything about the
8 quality characteristics of that belly panel?

9 A. It does not.

10 Q. Such as let me ask you this: Would
11 it have been stretchy?

12 A. I just said that, it has spandex so
13 it would have been stretchy.

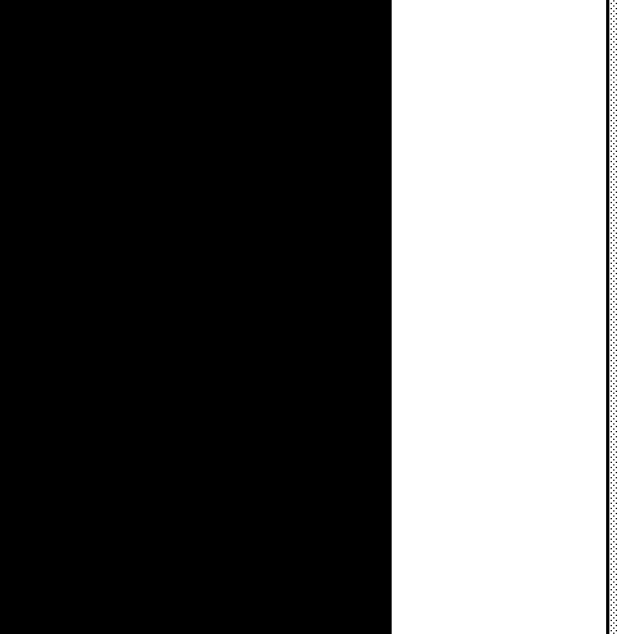
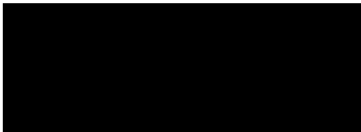
14 Q. It would have been expandible?

15 A. Yes.

16 MS. DUVDEVANI: Objection.

17 Q. All right. Number two, [redacted]

18 [redacted]
19 [redacted]
20 Do you know what that is referring
21 to?



21 A. Just what it said.

22 Q. Does it spark any recollection and
23 discussion about this [redacted] product?

24 A. That at the time we had many panels
25 that hit in the mid part of the belly. We

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 also had the [REDACTED], and this was
 3 their version of the panel.
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 A. I don't recall exactly what it
 19 looked like, but I'm sure I saw it on a
 20 person.
 21 Q. Do you recall generally seeing it
 22 on a person?
 23 A. I just said, I must have seen it.
 24 I don't remember exactly where it hit.
 25 Q. Okay. It says, "The highest the

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 2 [REDACTED] belly that they liked is eight and a half
 3 at CF."
 4 Is that center front?
 5 A. Yeah.
 6 Q. "Four and three-quarter inch at
 7 sides and three and a half at CB."
 8 Is that center back?
 9 A. Yes.
 10 Q. "Including the WB." Is that
 11 waistband?
 12 A. Yes.
 13 Q. "Height of two inches." It says,
 14 "the [REDACTED] synthetic belly fabric is double
 15 layer, quite stretchy"?
 16 A. That's what it says.
 17 Q. Do you recall that in the [REDACTED]
 18 product?
 19 A. I don't remember. This was in
 20 2006.
 21 Q. Looking at the Exhibit 42 version
 22 that you have marked up where you put the
 23 approximate area of top of panel in
 24 Exhibit 50, are you able to, for this [REDACTED]
 25 [REDACTED], identify the location where that

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 2 [REDACTED] -- the top of the panel in this [REDACTED] All
 3 [REDACTED] that we've been discussing in
 4 Exhibit 51 would have come to?
 5 MS. DUVDEVANI: Objection.
 6 A. No.
 7 Q. Do you have any idea, based on your
 8 recollection and this document?
 9 A. I'd have to see a sample. Lots of
 10 pants over the years.
 11 Q. Okay. You have no idea whether it
 12 would be higher than Exhibit 50?
 13 A. I'm not going to speculate.
 14 Q. This [REDACTED] belly panel product that
 15 is being discussed here --
 16 A. Yes.
 17 Q. -- does it still exist today?
 18 A. I don't know.
 19 Q. How would we find out?
 20 A. Go to a [REDACTED] store and see if you --
 21 Q. I'm talking about the one DMC had.
 22 A. No, I don't know. I doubt it.
 23 Q. How would we find out?
 24 A. We've looked. I don't think we
 25 have any of the old [REDACTED] pants.

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 2 Q. What do you mean you've looked?
 3 How do you know that you've looked?
 4 A. I don't have any of the old pants.
 5 I'm not going to say there isn't, 100 percent,
 6 a sample somewhere in the building. We have a
 7 huge facility and huge warehouse. I do not
 8 have one. The current merchant teams do not
 9 have one. Is there potentially one somewhere
 10 in the building? It's possible.
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 MS. DUVDEVANI: Objection; sorry.
 15 Q. DMC doesn't know positively, one
 16 way or another, whether it still has these
 17 pants?
 18 MS. DUVDEVANI: Objection.
 19 A. No, we do not know. There could be
 20 in a far corner of a box in the warehouse,
 21 but, no, we do not have the pants from this
 22 meeting.
 23 Q. What efforts have been made to find
 24 these pants, if any?
 25 A. I don't know.

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 2 MR. CARTER: We can change tapes.
 3 THE VIDEOGRAPHER: We are now
 4 going off the video record. That
 5 concludes tape number three. The time
 6 is 16:14.
 7 (Whereupon, a short break was
 8 held.)
 9 THE VIDEOGRAPHER: We are now back
 10 on the video record. This commences
 11 tape number 4, October 15, 2013. The
 12 time 16:22, please continue.
 13 Q. All right. Looking at Exhibit 51
 14 that discusses this [REDACTED] maternity belly panel
 15 product?
 16 A. Yes.
 17 Q. It says that the [REDACTED] synthetic
 18 fabric is double layer and stretchy?
 19 A. It says that.
 20 Q. Does it say anything about this
 21 belly panel having elastic at the top?
 22 A. Not that I read here.
 23 Q. Do you recall anything about this
 24 [REDACTED] belly panel having or not having elastic
 25 at the top of the panel?

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 2 A. I believe it had elastic because it
 3 does talk about the waistband height being two
 4 inches. And at the time, most belly panels
 5 had a one to two-inch band of elastic at the
 6 top.
 7 Q. So, the waistband height, could
 8 that have been at the bottom of the panel?
 9 A. I don't believe so.
 10 Q. But could it have been?
 11 MS. DUVDEVANI: Objection; asked
 12 and answered.
 13 A. It's possible.
 14 Q. And where is the waist on a woman?
 15 A. If she's not pregnant, it's at the
 16 waist area. If she's pregnant, she doesn't
 17 really have a waist.
 18 Q. So, but the waist area of a woman
 19 would be where you would think of the bottom
 20 of the panel being located, correct?
 21 MS. DUVDEVANI: Objection.
 22 A. No, you could think of the ampire
 23 line being her waist also.
 24 Q. Okay, also. But the waist area of
 25 a woman is often thought of as being where the

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 2 lower part of the panel is located, right?
 3 A. No, technically, the waist area of
 4 a woman who is not pregnant would be above
 5 that area. It's in the middle. Not directly
 6 necessarily in the middle of the abdomen area,
 7 but it is not where a panel would be.
 8 Q. Okay. So, the waistband height of
 9 two inches, you don't know one way or the
 10 other?
 11 A. I believe it is speaking to the
 12 elastic at the top of the panel.
 13 Q. Okay, but you don't know that for
 14 sure?
 15 A. Not without having the pant in
 16 front of me.
 17 Q. As I understand it, it could be a
 18 waistband height at the bottom of the panel?
 19 A. It's possible, but unlikely.
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

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 2 Do you recall any discussion along
 3 those lines in 2006 or after?
 4 A. The discussion is documented here.
 5 Q. Okay, but do you recall anything
 6 about that discussion?
 7 A. Not specifically.
 8 Q. How about generally?
 9 A. It's outlined here what was
 10 discussed, so...
 11 Q. But is there anything other than
 12 the words of this document that you can
 13 provide regarding anything regarding this [REDACTED]
 14 product that DMC tested in November 2006?
 15 A. I don't recall discussion beyond
 16 what is written in these notes at this moment.
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. I'm guessing maybe eight.

3 Q. Different sizes?

4 A. Yes.

5 Q. Ranging from extra small to?

6 A. Extra large.

7 Q. Did DMC -- strike that.

8 Has DMC ever used mannequins as

9 part of the process of evaluating products?


10 A. In general, yes, we have mannequins

11 in-house that we look at products on.

12 Q. Okay. And what products do you put


13 on the mannequins?

14 A. A variety of products.

15 

16

17

18 Q. Do you believe you put these 

19 maternity pants, discussed in Exhibit 51, on a

20 DMC mannequin?

21 A. I have no idea.

22 Q. Who would know that?

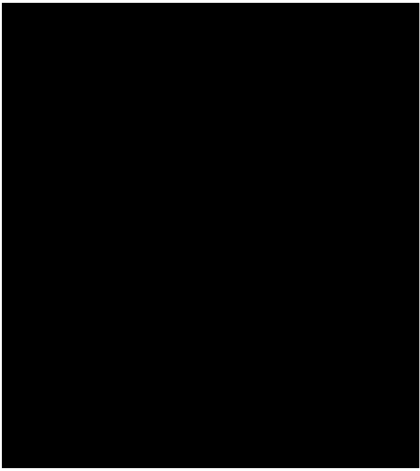
23 A. No one. I mean, no one that would

24 remember whether we put pants on a mannequin

25 it's not something people remember

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2 definitively.

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17 A. At the time we would have kept, we

18 clean out samples sometimes monthly sometimes

19 every six months because if you've ever seen a

20 design room samples multiply and there's not

21 room. So there's a constant purge where we

22 get rid of products that we're not using

23 anymore.

24 Q. Okay. This constant purge where

25 you get rid of products that you're not using

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2 anymore, has that constant purge been stopped

3 and do you have any activity regarding the

4 patents in-suit?

5 A. No. When the design room needs to

6 clean out samples.

7 Q. So, right before we took a break

8 you had said you weren't sure whether a pair

9 of these Gap maternity pants discussed in

10 Exhibit 51 were still at DMC.

11 A. I can't say definitively that

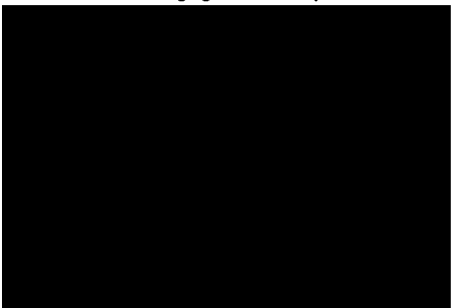
12 there's no possible way we have any of the

13 pants at the facility.

14 Q. You aren't changing that testimony

15 before we took the break?

16 A. I'm not changing that testimony.

17 

18

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2 Q. Who would be the best person to

3 know that?

4 A. It would be looking at old specs.

5 There isn't anyone.

6 Q. So if we had access to the PLM data

7 base, we could potentially see those specs?

8 A. Yes, there are -- there are

9 different specs on many different bellies.

10 There is not a standard. It does depend on

11 the fabrication of the pant, the styling and

12 the belly. So there's not a specific where

13 everything is all in one size.

14 Q. Okay. So we would have to have

15 access to all those different specs is what

16 you're saying?

17 A. Yes.

18 Q. And you don't know whether those

19 different specs still exist?

20 A. I've said that, yes.

21 Q. Goes on to say, "We need to be

22 conscious of the measurement flat."

23 What does that mean?

24 A. Sorry; where are you?

25 Q. Toward the end of the second

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 2 paragraph.
 3 A. Um-hum. Your question?
 4 Q. It says, "We need to be conscious
 5 of the measurement flat."
 6 What does that mean?
 7 A. When you measure a garment you
 8 measure it flat, but depending on the stretch
 9 ability of the fabric when it's on the body,
 10 it may then measure longer than the flat spec
 11 when it stretched.
 12 Q. And is -- does it also depend on
 13 different attributes of a person's body as
 14 we've talked about?
 15 A. That's what I just said.
 16 Q. Height, weight, body type,
 17 et cetera that we've discussed?
 18 A. Yes.
 19 Q. It goes on to say, [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 [REDACTED]
 3 [REDACTED]
 4 MS. DUVDEVANI: Objection.
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 A. That is correct.
 12 Q. So just going back to this marked
 13 up Exhibit 42, doesn't that mean that that [REDACTED]
 14 pant that we discussed, the top panel would
 15 have necessarily come up higher than what you
 16 have marked as the location of where the panel
 17 of Exhibit 50 would come?
 18 MS. DUVDEVANI: Objection.
 19 A. No, I don't believe that.
 20 Q. Why is that?
 21 A. Because the All Around Bellies from
 22 ourselves and Gap were all within a similar
 23 range and were at the top of the belly, not
 24 above.
 25 [REDACTED]

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 A. That's true. So, the top of the
 12 belly is the top of the belly. And our panels
 13 all came to the top of the belly. So I gave
 14 you before that there's a range for the tops
 15 of the bellies. And so, I felt ours were in
 16 the lower end of the range and that the [REDACTED]
 17 was higher than ours was.
 18 Q. Okay. So when you're talking about
 19 ours, you're referring to Exhibit 50?
 20 A. You asked on this pant
 21 approximately where I thought that belly came
 22 and I drew you a line that I felt was an
 23 approximation of that, yes.
 24 Q. And then you --
 25 MS. DUVDEVANI: I'm sorry; are we

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 talking about Exhibit 42 or

3 Exhibit 50?

4 MR. CARTER: Right, the marked up

5 Exhibit 50.

6 A. It's Exhibit 42.

7 MS. DUVDEVANI: Exhibit 42 and you

8 didn't give it a new sticker.

9 Exhibit 50 is this exhibit right

10 here.

11 MR. CARTER: So we will put

12 Exhibit 50A on the marked up

13 Exhibit 42 that has the line from

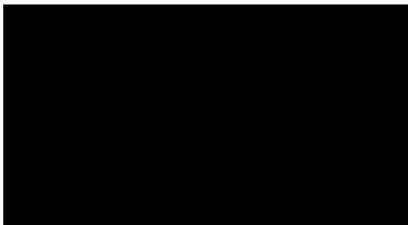
14 Exhibit 50, okay?

15 (Exhibit 50A, marked up copy of

16 Exhibit 42, marked for identification,

17 as of this date.)

18 BY MR. CARTER:

19 

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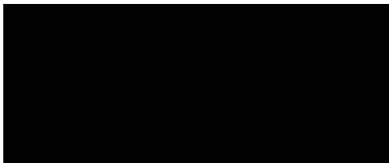
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7 A. Yes.

8 Q. "Are making them too short" and

9 "we," DMC?

10 A. Yes.

11 Q. "Have lost some of the belly

12 coverage"?

13 A. Yes.

14 Q. So doesn't that necessarily mean

15 that this Gap belly panel is going to come up


16 higher than what you drew for where Exhibit 50

17 came from?

18 MS. DUVDEVANI: Objection.

19 A. Within a range. I gave you an

20 approximate of where Exhibit 50, to my

21 perception, it came up. I don't have a 

22 pant. Yes, it sounds like it was a little

23 higher, but I -- we didn't necessarily

24 specifically reference this pant in the notes,

25 so I can't say definitively how much higher.

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2 It might have been a little higher. It's hard

3 to say. So, it sounds like it did come up

4 higher. I don't know that it came up

5 specifically higher than Exhibit 50.

6 Q. Well, you said it sounds like it

7 did come up higher.

8 A. It says here that it came up higher

9 than some of our All Around Bellies. I do not

10 know that it came up higher than specifically

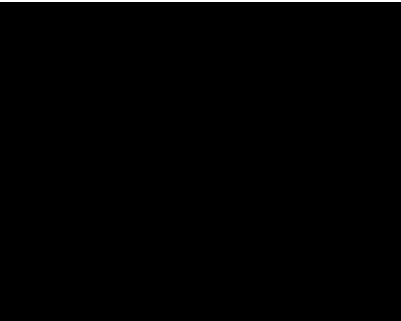
11 Exhibit 50.

12 Q. Okay. Did -- in 2006, did DMC have

13 different All Around Bellies?

14 A. We have had belly variety for

15 15 years.

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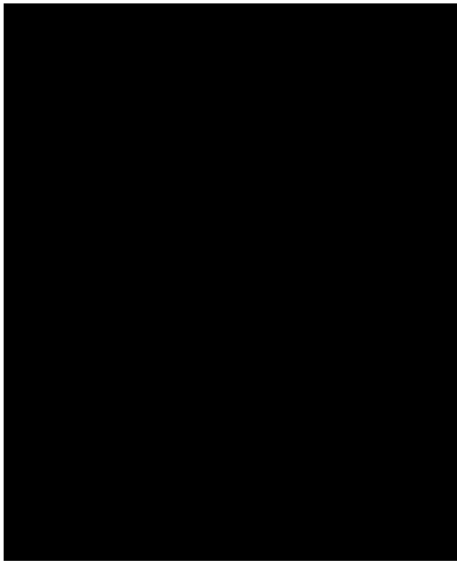
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19 MS. DUVDEVANI: Objection to form.


20 You can answer, if you understand

21 the question.

22 A. I don't know definitively that the

23  pants came up higher than Exhibit 50.

24 There were obviously pants we had in our

25 assortment at the time we wear tested the 

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 pants that the [REDACTED] pant came higher than our
 3 bellies.
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 MS. DUVDEVANI: Objection.
 13 A. I'm telling you. You're being --
 14 Q. Well, at the end of the day --
 15 A. I know. I will be.
 16 Q. At the end of the day, you
 17 understand that this will be played in court?
 18 A. I do.
 19 MS. DUVDEVANI: Trevor, no, come
 20 on. I'm going to object to that.
 21 That's not necessarily true. You're
 22 mischaracterizing her testimony and
 23 you're slightly harassing her at this
 24 point so calm down a little.
 25 Q. I just want to make sure I

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 understand your testimony.
 3 MS. DUVDEVANI: But to say that
 4 she's telling the jury. She's not
 5 telling the jury anything.
 6 A. I'm telling you. You're asking me
 7 the questions.
 8 Q. Okay. So I'll ask this one more
 9 time and then we'll move on.
 10 A. Please do.
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 MS. DUVDEVANI: Objection.
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Q. I see. So you think that between
 3 2005 and 2006, the height of the DMC panels
 4 would have been lowered?
 5 MS. DUVDEVANI: Objection.
 6 A. I don't know. We change belly
 7 specs depending on fabrications. Different
 8 designers like different belly heights. So,
 9 it's possible.
 10 Q. Do you know how tall the panel is
 11 on the panel of Exhibit 50?
 12 A. I do not.
 13 Q. We'd have to see the spec
 14 packets --
 15 A. Correct.
 16 Q. -- for that?
 17 Do you have any approximation how
 18 high the panel is on Exhibit 50?
 19 A. I do not.
 20 Q. When it says that the panel comes
 21 up over the belly, what does that mean to you?
 22 A. Just what it said, the panel comes
 23 over the belly.
 24 Q. Does that give you any idea of how
 25 high it is?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. It does not.

3 Q. Anything else you recall about

4 these [REDACTED] pants?

5 A. Not right now.

6 Q. Okay. When you were asked to

7 collect or hold documents in this case or

8 things, were you specifically asked about

9 these [REDACTED] pants?

10 MS. DUVDEVANI: I am going to

11 object. I direct the witness not to

12 answer based on the party's agreement

13 and attorney/client privilege.

14 Q. All right. Going onto paragraph

15 three, it says "regarding the under belly

16 fit"?

17 A. Yes.

18 Q. Is this the under belly fit on the

19 maternity pant belly panels being sold by DMC

20 at the time?

21 A. It appears so.

22 Q. It says, the second sentence, [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 Q. Okay. What is the front rise?

6 A. The front rise is the front rise of

7 a pant.

8 Q. Does that go up to where the belly

9 panel starts?

10 A. Yes.

11 Q. So is that saying that you need to

12 have the panel dip lower under the belly

13 in the front of the pant?

14 A. It says that the rise needs to be

15 shorter so that the belly starts on the lower

16 end of the body.

17 Q. So, would that result in a curve of

18 the bottom of the belly panel in the front to

19 accommodate the belly?

20 A. Well, specifically shortening the

21 rise -- the front rise does not make for a

22 curve, but generally then there is a curved

23 line around the belly.

24 Q. As a result of carrying out making

25 the front -- not making the front rises too

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 long -- well, let me strike that.

3 Here it says, [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Would fixing that problem result in

7 a curve or more of a curve at the bottom edge

8 of the belly panel?

9 MS. DUVDEVANI: Objection.

10 A. Not necessarily.

11 Q. The last sentence of paragraph

12 three says, [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 A. Yes.

18 Q. This is just referring to an under

19 belly fit?

20 A. Correct.

21 Q. As opposed to what would you call

22 Exhibit 50?

23 A. Over the belly.

24 Q. Right in paragraph three, if you

25 look further down, there is a reference to a

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 [REDACTED]

3 A. Yes.

4 Q. What is that?

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 A. I don't believe they're in business

12 anymore.

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

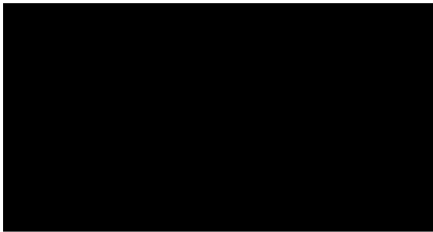
23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY



9 Q. Number five says, [redacted]

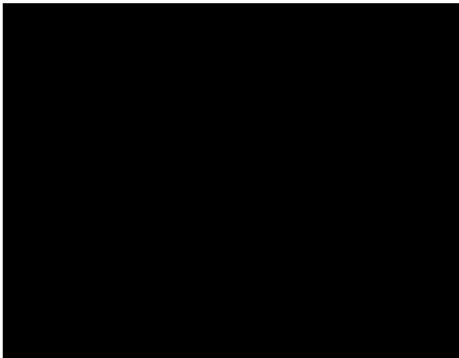
4 Q. In response to your e-mail of Exhibit 49, do you recall getting feedback from anyone?

12 A. That's what it says.

7 A. I don't recall.

13 Q. Do you recall any discussion about that?

8 Q. Do you recall following up with anyone following your e-mail of Exhibit 49?



10 A. It wasn't necessarily for me to follow-up. It was for the merchant design teams to look at the product and evaluate what they felt was right based on the fabrications and styling.

15 Q. How often did you send out e-mails like this to all company members?

17 A. Perhaps once a month.

18 Q. Okay. For what reason would you send out e-mails like this to all company members?

21 A. Because I was directed to by the owner of the company.

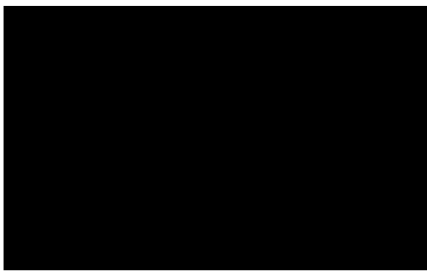
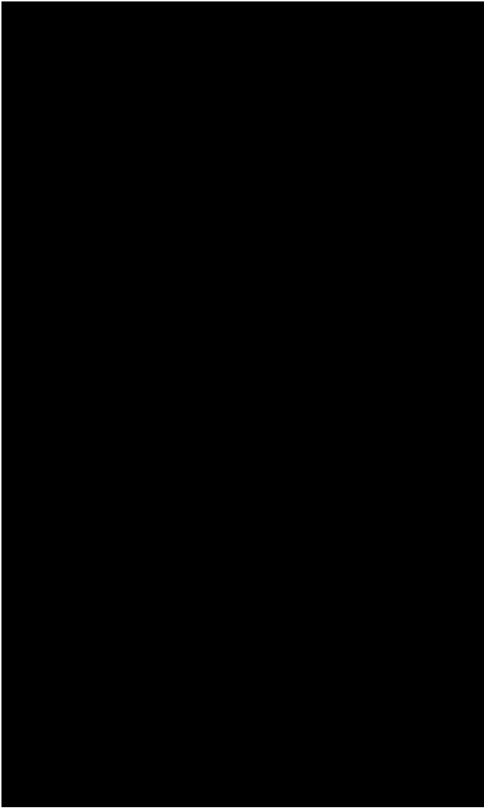
23 Q. Who is the owner of the company?

24 A. Dan Mathias.

25 Q. And what direction resulted to you

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1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY



10 Q. Do you ever get reports about trends in the industry?

12 A. We do. Reports, not necessarily. We buy trend books.

14 Q. You buy trend books?

15 A. Yes.

16 Q. Who do you buy trend books from?

17 A. I'm not even sure I know the names anymore. We subscribe to WGSN. We -- I'm -- I don't know what the current design books are that we subscribe to because that's not part of my area.

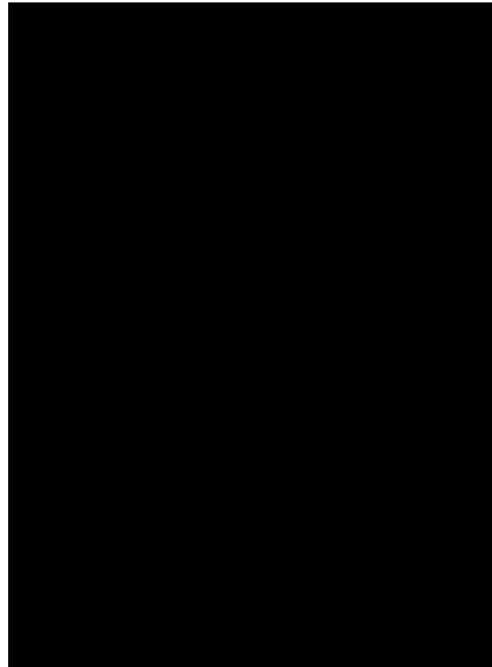
22 Q. Who is the best person at DMC to know that?

24 A. Olivia Capone.

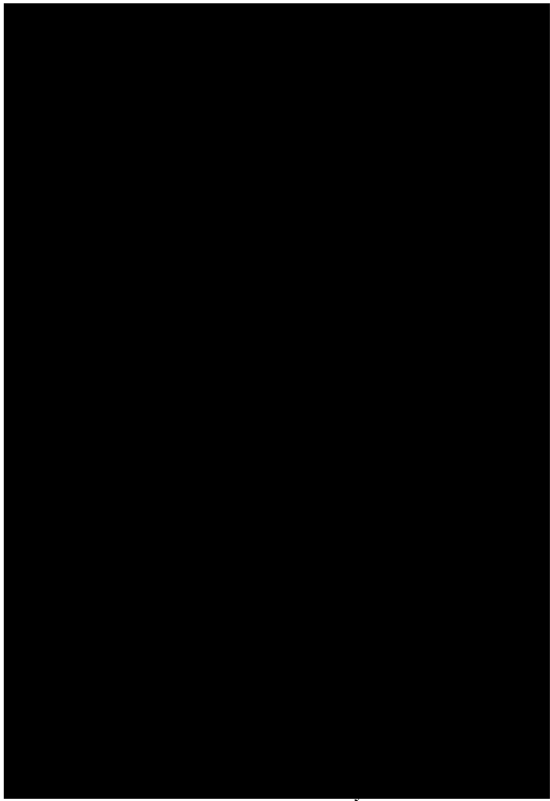
25 Q. Do you know if those trend books

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 have been provided to Target in this case?
 3 A. I would have no idea.
 4 Q. What does DMC do with the trend
 5 books?
 6 A. They give color and print
 7 direction, and so, you look at it and you
 8 determine whether you like what the service is
 9 suggesting and how you're going to offer those
 10 trends to your customer.
 11 Q. So, is color the reason that if you
 12 go into a variety of stores, you'll see kind
 13 of the same color pallet for a particular
 14 year?
 15 A. Every -- usually the trend services
 16 are all quite on the same thing. And so, if
 17 it's a green year, everybody does green.
 18 Q. Okay. So you're going to follow
 19 what the trend service says you should do?
 20 MS. DUVDEVANI: Objection.
 21 A. If it's right for our customer.
 22 It's not always right. There are hundreds of
 23 trends that go on. The idea is you have to
 24 understand what trends are going to be best
 25 suited for your customer.

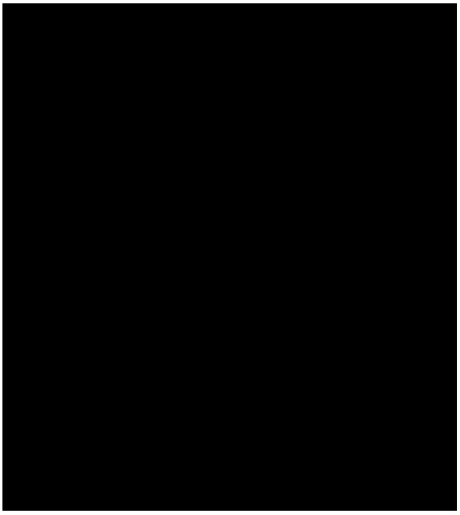
1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Q. The -- where does the trend service
 3 get its information?
 4 A. I wish I knew. All over the world.
 5 MS. DUVDEVANI: Europe.



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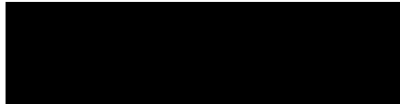
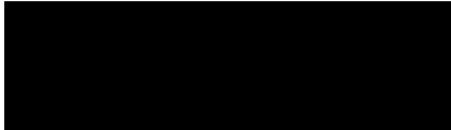



1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
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 17 Q. You say the trend services provide
 18 information on prints?
 19 A. They do.
 20 Q. What do you mean by that?
 21 A. They will show prints that are
 22 happening on the runways. They will show
 23 prints from print services for the general
 24 feeling of prints.
 25 Q. What do you mean by prints?



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 2 A. Prints, printed garment. Tamar is
 3 wearing a printed plaid.
 4 Q. I see. Not like a blueprint of an
 5 outline of a product, but --
 6 A. No, a print, a floral, a plaid, a
 7 geometric.
 8 Q. So, the trend service is giving you
 9 information on colors and prints, anything
 10 else?
 11 A. Fabrics.
 12 Q. And what about the fabrics?
 13 A. Like I said, tweeds are important
 14 or knits are important or they're not
 15 important. Chunky sweaters, fine gauge
 16 sweaters.
 17 Q. And DMC will determine if it wants
 18 to use any of that information to mimic what
 19 it is the trend services are reporting and
 20 other competitors are doing?
 21 A. It's not other competitors. It's
 22 what high fashion and what the general trends
 23 are happening in the world. It has nothing to
 24 do with competition.
 25 Q. Okay. As far as other than the

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 competitors, whether it's high fashion or what
 3 other people are doing in the world, anything
 4 other than color print and fabrics that DMC
 5 uses from these other companies in its design
 6 process?
 7 A. Not that I can think of right now.
 8 (Exhibit 52, document Bates
 9 stamped DMC0007395, marked for
 10 identification, as of this date.)
 11 BY MR. CARTER:
 12 Q. I'm going to hand you a document
 13 marked Exhibit 52.
 14 Do you recognize Exhibit 52?
 15 MR. CARTER: Counsel, these all
 16 have actual exhibit stickers on them,
 17 so...
 18 MS. DUVDEVANI: Did you give me
 19 yours by mistake?
 20 MR. CARTER: I did.
 21 MS. DUVDEVANI: I was going to say
 22 I didn't think the highlighting was
 23 part of the -- I can keep that one if
 24 you want.
 25 MR. CARTER: It's not that

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 exciting.
 3 Q. Do you recognize Exhibit 52?
 4 
 5
 6
 7 Q. Do you recall when?
 8 A. No.
 9 Q. Approximately?
 10 A. No. Well, it says October 20th. I
 11 don't know what October 20th, but --
 12 Q. August 20th?
 13 A. August, 20th sorry.
 14 Q. Just so the record is clear. I
 15 believe you said you don't know when the belly
 16 panel started?
 17 A. I do not remember.
 18 Q. Were you -- did you have any
 19 involvement with the Ingrid & Isabel
 20 litigation involving DMC?
 21 A. I did not.
 22 
 23
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 25

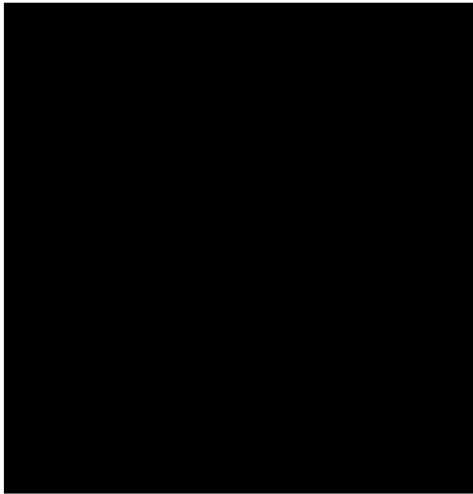
1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
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 8 (Exhibit 53, document Bates
 9 stamped DMC0066543, marked for
 10 identification, as of this date.)
 11 BY MR. CARTER:
 12 Q. I hand you a document marked 53.
 13 Do you recognize Exhibit 53?
 14 A. I've read the document.
 15 Q. Do you recognize Exhibit 53?
 16 A. I don't recognize it.
 17 Q. March 2007, Olivia Capone who I
 18 believe you talked about earlier?
 19 A. Um-hum.
 20 Q. I'm sorry; was she the buyer for
 21 maternity at that time?
 22 A. She's a designer.
 23 Q. Designer of maternity? Is she a
 24 technical designer?
 25 A. No, she's not.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. So she's the higher level --

3 A. She's a designer.



(Exhibit 54, document Bates stamped DMC0018139 through '145, marked for identification, as of this date.)

21 BY MR. CARTER:

22 Q. I'm going to hand you a document marked as Exhibit 54. Do you recognize Exhibit 54?

25 A. I do.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. Is your signature on the last page of Exhibit 54?

4 A. Yes.

5 Q. All right. Exhibit 54, the descriptive title says "Seamless belly panel attached to top of a garment worn as a bottom."

9 A. That is correct.

10 Q. Is Exhibit 54 an invention disclosure form related to the patents in-suit in this case?

13 A. Yes.

14 Q. How is it related?

15 A. It is the invention disclosure form for Secret Fit Belly.

17 Q. Why did you include seamless in the title?

19 A. Because the original prototype was made of a seamless fabric.

21 Q. Were there any prototypes not made from a seamless fabric?

23 A. Yes.

24 Q. Okay. The commercial product that DMC sells today, is it a seamless belly panel?

2 A. It is.

3 Q. Have any commercial Secret Fit Belly products from DMC not had a seamless belly panel?

6 A. Say the question again, please.

7 Q. Have any DMC products, other than prototypes, ever had anything other than a seamless belly panel?

10 A. Yes. We've had many belly panels over the years that have had seams. We talked about that earlier.

13 Q. Including panels that you referred to as secret fit panels?

15 A. The Secret Fit panel bellies that we run have all been seamless.

17 Q. Since you started with the Secret Fit Belly panel?

19 A. Yes.

20 Q. I just want to make sure we're clear on this. I think we are. DMC has sold other maternity pants with belly panels?

23 A. Yes.

24 Q. With seams?

25 A. Yes.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. Such as the one we saw in

3 Exhibit 50?

4 A. Yes.

5 Q. But the belly panels DMC refers as

6 Secret Fit Belly, none of those belly panels

7 have had seams?

8 A. That is correct.

9 Q. So, you said there were prototypes

10 that included seams?

11 A. Yes, we've tried a variety of

12 different panels over the years and we were

13 able to perfect one without seams, but we have

14 made prototypes with seams in the past.

15 Q. For what reasons?

16 A. To try different fits. To try

17 different cost effective measures.

18 Q. Is it more expensive to make a

19 seamless belly panel compared to a belly panel

20 with a seam?

21 A. There's -- you can't definitively

22 say. It all depends on the materials, what

23 you're trying to achieve.

24 [REDACTED]

25 [REDACTED]

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 Q. If they had seams?

6 A. We've used a variety of fabric.

7 So, the fabric is the biggest determination.

8 So we have had belly fabrics that have been

9 more expensive than others so that is the

10 price of the belly then, whether it has seams

11 or not, some of them are less than Secret Fit,

12 some of them are more than Secret Fit with the

13 seamless construction.

14 Q. So, I want to make sure I

15 understand. The maternity pants with belly

16 panels that DMC believes are covered by the

17 patents in-suit, are all of those products

18 referred to as Secret Fit Belly products?

19 MS. DUVDEVANI: Objection.

20 A. Please ask the question again.

21 Q. I'll just ask it a slightly

22 different way.

23 Has DMC ever sold products that it

24 believes are covered by the patents in-suit

25 that are not called Secret Fit Belly products?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. That we ever sold; sorry?

3 Q. So, Secret Fit Belly product,

4 you're familiar with that name. We talked

5 about that?

6 A. Yes.

7 Q. If DMC sells a product that it

8 believes is covered by the patents in-suit, is

9 it always called, that product, Secret Fit

10 Belly?

11 A. Yes.

12 Q. And all Secret Fit Belly products

13 have always been seamless?

14 A. In terms of what we've sold, yes.

15 Q. The seamed products you're speaking

16 of, what products are those?

17 A. In the prototypes we've made or in

18 other people have created.

19 Q. DMC commercial products that it

20 sells.

21 A. We have sold bellies with seams.

22 We have not sold anything under the Secret Fit

23 Belly label with the seam up to this point.

24 We have made protos, and for different

25 reasons, we have stayed with the seamless

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2 construction.

3 Q. Okay. Outside the prototypes, has

4 DMC, since 2009, sold maternity pants with

5 seamed belly panels?

6 A. Yes, we have. Not under the Secret

7 Fit Belly name.

8 Q. Under Secret Fit --

9 A. Not under the Secret Fit Belly

10 name.

11 Q. Under what name?

12 A. We've called them mid bellies.

13 We've called them under bellies. We've called

14 them full panels.

15 Q. Do you believe that any of those

16 maternity pants with the seams are covered by

17 the patents in-suit?

18 MS. DUVDEVANI: Objection.

19 A. I do not.

20 Q. The full panel products that you're

21 talking about with the seams, how high do

22 these come up on a woman's body?

23 A. They come somewhere around the top

24 of the belly. I already have it diagrammed if

25 you're going to ask me again.

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2 (Exhibit 55, marked up copy of

3 Exhibit 42, marked for identification,

4 as of this date.)

5 BY MR. CARTER:

6 Q. So, we'll mark this Exhibit 55.

7 So DMC's full panel product?

8 A. Full panel all around belly. We

9 call things many different titles.

10 Q. Okay. You don't call it Secret Fit

11 Belly?

12 A. Secret Fit Belly is a specific

13 products. We do not call a full panel or an

14 all around belly a secret fit.

15 Q. Okay. The full panel product, that

16 has a seam?

17 A. Um-hum.

18 Q. How high does it come on a woman's

19 body? Can you mark on what I marked as

20 Exhibit 55, which will be a modification of

21 Exhibit 42?

22 A. (Witness complies.)

23 Q. All right. So you placed it over

24 Exhibit 50A. Why did you do that?

25 A. Because it's approximately at the

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2 top. Here, if this is the, again, the top of

3 the belly, this is where the panel would fit

4 in an all around or a full panel. So it's

5 hitting at the top of the belly.

6 Q. So you've already drew on there

7 "approximate top of the belly"?

8 A. I did.

9 Q. So, you drew two-dash lines?

10 A. This is the waistband, the elastic

11 waistband.

12 Q. Okay. And so, that's how high your

13 full panel product gets?

14 A. Yes.

15 Q. Can you document that on the side,

16 please?

17 A. (Witness complies.)

18 Q. Just because we have been having

19 you sign and date everything, if you could do

20 that, please.

21 A. (Witness complies.)

22 Q. For your full panel product, do you

23 know how tall the panels are?

24 A. I do not.

25 Q. How would we determine that?

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2 A. From a spec.

3 Q. Okay. Have any of those specs been

4 produced to us?

5 A. I don't know.

6 Q. For how long has DMC been selling

7 those full panel products that you have marked

8 as Exhibit 55?

9 A. I don't know when we started and

10 when we stopped.

11 Q. Okay. How would you determine

12 that?

13 A. I don't know.

14 Q. Who would be the best person to

15 know?

16 A. There isn't anybody. We don't have

17 it documented where we started this date and

18 we stopped at this date.

19 Q. Who would be -- do you have any

20 idea if anybody at DMC would know?

21 A. I do not believe there's anybody at

22 DMC that would know.

23 Q. Approximate time frame when that

24 full panel was sold.

25 A. I don't know.

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2 Q. Before or after 2005 as a starting

3 point?

4 A. Well, before or after is like the

5 entire range of eternity.

6 Q. I'm just -- I mean, I'm just

7 looking for a starting point.

8 A. I don't know.

9 Q. No idea?

10 A. I don't have any idea.

11 Q. Not even an approximate to know if

12 it was around 2000?

13 A. Don't have an approximate.

14 Q. 1995?

15 A. I don't know about.

16 Q. Could DMC have been selling that

17 product, that you just drew in Exhibit 55, in

18 1995?

19 A. I don't know.

20 Q. 2000?

21 A. I told you, I don't know.

22 Q. Okay. So it's possible it was?

23 A. I don't know.

24 MS. DUVDEVANI: Objection.

25 Q. We'd have to look at spec packets

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 to see?
 3 A. That's correct.
 4 Q. All right. In Exhibit 54 where it
 5 listen vendors, you are the only person
 6 listed; is that correct?
 7 A. I created the initial prototype,
 8 but I was assisted in bringing the product to
 9 market by Rick Adelman and Jay Gardener.
 10 Q. Okay. So they are listed on the
 11 second page. What did Rick Adelman
 12 contribute?
 13 A. Rick Adelman was our production man
 14 at the time. So, he helped with engineering
 15 the product and getting it to a cost effective
 16 place and deciding who was going to make it.
 17 Q. Okay. How did he help with the
 18 engineering?
 19 A. Worked with different knitting
 20 tensions. Worked with the factories overseas
 21 to make sure they were following our slopers.
 22 Q. Is slopers something you use to
 23 change dimensions based on size?
 24 A. It's usually a hard pattern piece
 25 that somebody is able to follow so they know

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 the shape of the belly that we wanted them to
 3 make.
 4 Q. Anything else that Mr. -- is it
 5 Adelman --
 6 A. Adelman.
 7 Q. -- contributed?
 8 A. Not off the top of my head.
 9 Q. All right. How about James
 10 Gardener?
 11 A. He was the head of the technical
 12 department so he helped with getting the
 13 testing. So, washability, crocking,
 14 flammability, making sure that the tech team
 15 understood the specs that we wanted in the
 16 pants. Also communicated with factories as to
 17 how to construct and stitch on the belly so
 18 that it wouldn't rip.
 19 Q. Would out of what he did qualified
 20 him to be an inventor?
 21 A. It was a partnership. I came up
 22 with the concept, but had a great deal of help
 23 in getting it to market and making sure that
 24 we had really fulfilled the customer needs
 25 with the pant that it was going to wash and

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 wear and provide the comfort that we were
 3 offering. That we were --
 4 Q. So, the last page is dated
 5 April 30, 2007.
 6 A. It is.
 7 Q. For what it is that you describe in
 8 Exhibit 54, that Mr. Adelman and Gardener, and
 9 we'll talk about this fellow in a second, when
 10 did that process start?
 11 MS. DUVDEVANI: Objection.
 12 A. When did the process of creating
 13 the product start?
 14 Q. Yes.
 15 A. In March of '07.
 16 Q. Okay. So when you say, first
 17 completed conception of invention, March 21,
 18 and you have date first written description,
 19 March 21. First sketches, photographs,
 20 drawings, March 21. Completion of sample
 21 model, prototype, demonstrative step,
 22 March 21.
 23 Was there work done on what is
 24 described on Exhibit 54 before March 21st?
 25 MS. DUVDEVANI: Objection.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 A. Yes, it doesn't just come from a
 3 pencil to a garment in one day.
 4 Q. I understand. So when did this
 5 start? I mean, had it been months?
 6 A. No.
 7 Q. Weeks?
 8 A. Perhaps two weeks, three weeks. I
 9 don't remember.
 10 Q. So, maybe beginning of March?
 11 A. I guess so. I don't know.
 12 Q. So, by March 21st, you had -- did
 13 you have a completed sample by that time?
 14 A. We did.
 15 Q. You had a sketch?
 16 A. Yes.
 17 Q. How long does it take to have a
 18 sample made?
 19 A. In our place, it can be done in --
 20 well, this was not making a whole sample
 21 because you're just attaching a belly. Can be
 22 done in an hour. On a normal sample, we can
 23 make a sample in a day.
 24 Q. Okay. So, once again, do you have
 25 any other documentation to show when work on

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 what is described in Exhibit 54 would have
 3 started?
 4 A. There are sketches of my initial
 5 idea. I don't -- I don't remember the date on
 6 the sketches.
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 MS. DUVDEVANI: Objection;
 14 mischaracterizing previous testimony.
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 MS. DUVDEVANI: Objection.
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 A. You said it came from there.
 24 Q. Those are dated November 30, 2006?
 25 A. That's correct.

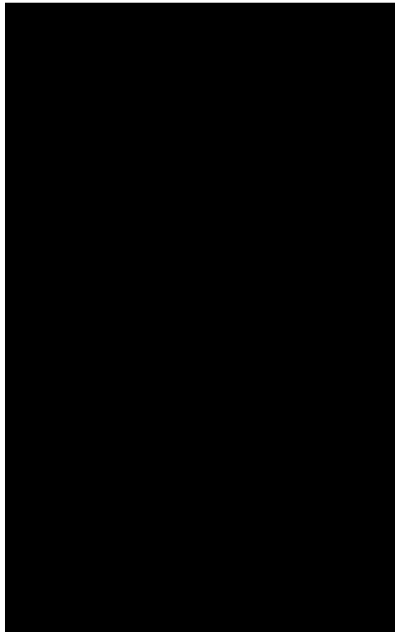
1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Q. And then by March 21, 2007, a few
 3 months later, you have sketches and a sample
 4 of what it is that you say you invented,
 5 correct?
 6 A. That's correct.
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 Q. Mr. Adelman and Mr. Gardener, would
 14 they have received your e-mail in
 15 January 2007?
 16 A. Exhibit 49?
 17 Q. Yes.
 18 A. I believe so.
 19 Q. And Ms. Fela, would she have
 20 received your e-mail of Exhibit 49?
 21 A. I have no idea.
 22 Q. Was she an employee?
 23 A. She was.
 24 Q. Was she a company member at that
 25 time?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 A. She was.
 3 Q. So, she would have received it,
 4 right?
 5 A. I don't know that for a fact. I
 6 don't know who's on the list.
 7 Q. Well, you said, "I'm sending this
 8 to all company members."
 9 A. I don't know who's on the list.
 10 Q. All right. On page 4 you describe
 11 an April 25, 2007 panel of pregnant women?
 12 A. Yes.
 13 Q. Do you recall anything about that
 14 panel?
 15 A. That is where we debut the first
 16 prototypes with pregnant customers.
 17 Q. What do you remember about those
 18 first prototypes?
 19 A. I don't understand the question.
 20 Q. So, you say you debuted your first
 21 prototypes. Do you recall anything about
 22 those prototypes?
 23 A. They were pants with our Secret Fit
 24 Belly attached to them.
 25 Q. Do you remember how tall the panel

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 was?
 3 A. I do not.
 4 Q. During the development of what you
 5 call the Secret Fit panel, did the height of
 6 the panel change over time?
 7 A. Yes.
 8 Q. Do you know what the heights were?
 9 A. I don't.
 10 Q. The panel that you did in
 11 April 27th -- 25, 2007, was that panel
 12 confidential?
 13 A. It was.
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

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21 Q. Okay. So this information that is
22 documented here, the comments that the
23 participants made, that was publicly -- I
24 mean, they could have gone and talked to their
25 neighbors about the comments that they made

2 here?
3 A. Yes.
4 Q. Nothing stopped them from doing so?
5 A. I don't know.
6 Q. Okay. On page 5, where it says
7 "devices and references closely related to the
8 invention" --
9 A. Yes.
10 Q. -- you reference the Bellaband?
11 A. Yes.
12 Q. Is that the Ingrid & Isabel product
13 that was at issue in the DMC Ingrid & Isabel
14 litigation?
15 A. Yes.
16 Q. How was that a device or reference
17 or product or thing closely related to the
18 invention?
19 MS. DUVDEVANI: Objection.
20 A. The Bellaband was created to -- for
21 women early in their pregnancy who didn't need
22 maternity pants and they could wear it over
23 their regular pants leaving them potentially
24 unzipped and keeping the pant up.
25 Q. Have you seen a Bellaband on

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2 pregnant women?
3 A. Yes.
4 Q. How many times?
5 A. I don't know.
6 Q. Do you know how approximately how
7 far up a Bellaband comes up on a woman?
8 A. It depends on where she wears it.
9 Q. Do you know how high you have seen
10 a Bellaband on a woman?
11 A. I haven't specifically seen how
12 high it goes on a woman. I've seen women pull
13 up their tops and show that they are wearing a
14 Bellaband. I have not seen where the top --
15 it all demands on where you situate it on the
16 body. If you want it lower hanging out the
17 bottom of your T-shirt or you wanted it
18 higher.
19 Q. So, you could take a Bellaband and
20 pull it up, correct?
21 A. Yes.
22 Q. Over your belly?
23 A. Yes.
24 Q. Could you draw on one of your
25 Exhibit 42s, how high the Bellaband product

2 could go on a woman?
3 MS. DUVDEVANI: Objection.
4 A. No, because it depends on where a
5 woman starts it. So, it could come up over
6 the bust. You could make it a tube top if you
7 wanted to. So, there's not a specific spot
8 that it can come up.
9 Q. So, the Bellaband could extend up
10 to just below the breast area?
11 A. Depending on where the woman
12 started it, yes.
13 Q. If the woman started the Bellaband
14 so that it was just over the top of her jeans,
15 could the Bellaband go up to just below a
16 woman's breast area?
17 A. No.
18 MS. DUVDEVANI: Objection.
19 Q. Why not?
20 A. It would probably go up over the
21 bust. It's too tall.
22 Q. Okay. So, it would go up higher
23 than just below the bust area?
24 A. I believe so, yes.
25 Q. So, if the woman -- could a woman

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 take a Bellaband and situate it at a point on
 3 her jeans so that the Bellaband would come up
 4 just below her breast area?
 5 A. Yes.
 6 Q. And how long has a woman been able
 7 to do that?
 8 A. Since the creation of the
 9 Bellaband.
 10 Q. Is that before 2005?
 11 A. I don't know.
 12 Q. How long do you recall -- when do
 13 you first recall seeing a Bellaband that would
 14 do that?
 15 A. I don't recall.
 16 Q. But this Bellaband that we're
 17 talking about existed before you completed any
 18 of your work that's documented in Exhibit 54?
 19 A. Yes, I noted that in the
 20 application.
 21 Q. What is the Tummy Tube/Tummy Sash?
 22 A. It is our version of the Bellaband.
 23 Q. How high up could a woman well --
 24 strike that.
 25 Could a woman situate the Tummy

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Tube or Tummy Sash on her jeans so that the
 3 top of the Tummy Tube or Tummy Sash comes just
 4 below a woman's bust area?
 5 A. Yes.
 6 Q. Have you ever seen a woman wear it
 7 like that?
 8 A. Specifically, no, I have not seen
 9 somebody standing in front of me with the jean
 10 and the Bellaband on.
 11 Q. Have you heard of anyone wearing it
 12 like that?
 13 A. Not specifically, no.
 14 Q. How about the Bellaband?
 15 A. No.
 16 Q. How about generally?
 17 A. I don't know. I haven't
 18 specifically said to a lot of women, how do
 19 you wear your Bellaband.
 20 Q. Do you know if other people at DMC
 21 did or would know?
 22 A. I don't know.
 23 Q. Do you know how tall the Bellaband
 24 was in the dimension that a woman wears it for
 25 the height of her body?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 A. I don't understand your question.
 3 Q. Well, if you put a Bellaband on the
 4 table and oriented it in the direction a woman
 5 would put it on the height of her body, do you
 6 know how tall it would be?
 7 A. I don't know the exact dimensions
 8 of a Bellaband.
 9 Q. How would it relate to the height
 10 of the Secret Fit Belly panel?
 11 A. It is taller than the height of a
 12 Secret Fit Belly panel.
 13 Q. How about the Tummy Tube or Tummy
 14 Sash?
 15 A. Same.
 16 Q. And by being taller than the Secret
 17 Fit Belly panel, did that allow the Bellaband
 18 and the Tummy Tube/Tummy Sash to be pulled by
 19 a woman down over her pants?
 20 MS. DUVDEVANI: Objection.
 21 A. I don't understand. What do you
 22 mean, allows?
 23 Q. When a woman wears a Bellaband,
 24 Tummy Tube or Tummy Sash, does she want to
 25 wear it down over her pants?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 A. That's the concept behind the
 3 product.
 4 Q. Do you know normally when a woman
 5 wears a Bellaband or Tummy Tube/Tummy Sash in
 6 normal positions, the range of positions those
 7 products come up to at the highest point on a
 8 woman's body?
 9 MS. DUVDEVANI: Objection.
 10 A. I don't. It depends on how a woman
 11 wants to wear it.
 12 Q. Okay. Probably also depends on all
 13 the factors we talked about, height, weight,
 14 body type, how she carries, et cetera?
 15 A. It's used for early in the
 16 pregnancy so it doesn't usually have a lot to
 17 do with -- I mean, people can continue to wear
 18 it during pregnancy, but it's an early stage
 19 product.
 20 Q. You go on to say, "most maternity
 21 bottoms have a belly panel of some kind
 22 attached at the waist"?
 23 A. That's correct.
 24 Q. Do you ever provide anymore
 25 specificity than that in any of your

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 disclosures?
 3 A. I don't believe so.
 4 Q. You ever do anything to identify
 5 the Gap product discussed in Exhibit 51 in
 6 Exhibit 54 or any other document where you
 7 were asked to identify references causally
 8 related to the invention?
 9 A. I don't believe the Gap pant from
 10 the belly panel notes is related to the Secret
 11 Fit Belly.
 12 Q. Why is that?
 13 A. Because it has seams. It has
 14 elastic at the top. It doesn't come up high
 15 -- as high as the Secret Fit Belly and it's
 16 not good through all stages of pregnancy.
 17 Q. Well, how do you know all of that?
 18 So, you listed it has elastic at the top?
 19 A. We discussed that. I believe it
 20 has elastic based on the discussion in the
 21 notes that the waistband height is two inches.
 22 Q. But once again, that waistband
 23 height could be below the belly correct?
 24 A. I told you, I don't think that
 25 that's what it is, but it is possible.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Q. And you don't recall knowing that
 3 from seeing that product in 2006, correct?
 4 A. I don't know. I can't speak to the
 5 exact pant that was shown in 2006, but you
 6 don't have a picture of it.
 7 Q. That's right. And DMC hasn't been
 8 able to provide the product either?
 9 A. That's correct. We don't have it.
 10 Q. All right. You say it doesn't come
 11 up as high, so we'll talk about height. But
 12 you agree that the Gap product was described
 13 as being eight and a half inches at the center
 14 front and quite stretchy.
 15 A. That is what the notes say.
 16 Q. So, so eight and a half inches and
 17 quite stretchy isn't high enough?
 18 MS. DUVDEVANI: Objection.
 19 Q. Correct?
 20 A. It is not as high as the Secret Fit
 21 Belly product.
 22 Q. My question to you is: Is a
 23 product that has a belly panel that is eight
 24 and a half inches high and is quite stretchy,
 25 do you believe that's covered by the patents

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 in-suit?
 3 MS. DUVDEVANI: Objection.
 4 A. I'd have to see it. The --
 5 Q. You'd have to see it on somebody to
 6 know?
 7 A. I would have to see the
 8 construction fabric of the panel to know
 9 whether it -- whether I felt that it was a
 10 version of the Secret Fit Belly or not.
 11 Q. Is it possible that a product that
 12 is eight and a half inches at the center front
 13 and quite stretchy is covered by the patents
 14 in-suit?
 15 MS. DUVDEVANI: Objection.
 16 A. It's possible.
 17 Q. Okay. So what is it that you know
 18 about the Gap pants where you can definitively
 19 say that the height of the Gap pants means
 20 that they are not closely related to what you
 21 consider to be your invention?
 22 MS. DUVDEVANI: Objection.
 23 A. I didn't say that.
 24 Q. Yes, you did. You said -- I said I
 25 don't believe the Gap pant from -- or you

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 said, "I don't believe the Gap pant from the
 3 belly panel notes is related to the Secret Fit
 4 Belly."
 5 A. I didn't say that.
 6 Q. I said, "why is it that?"
 7 You said, "because it has seams."
 8 Okay, so we'll add that. And you
 9 said, "It has elastic at the top."
 10 We talked about that.
 11 And you said, "It doesn't come up
 12 as high as the Secret Fit Belly."
 13 A. I did say that.
 14 Q. Okay. So not as high as the Secret
 15 Fit Belly, but you weren't sure that if it's
 16 height, being eight and a half inches tall and
 17 quite stretchy, means that it isn't covered by
 18 the patents in-suit?
 19 MS. DUVDEVANI: Objection.
 20 A. You'll have to ask me again.
 21 Q. I already have your testimony on
 22 this. You also said it's not good through all
 23 stages of pregnancy.
 24 What is it that you know of the Gap
 25 pants of why you can say that?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. The belly panels were a larger

3 girth, the circumference of the two, and so,

4 it does not fit when you don't really have a

5 belly or after you give birth and you don't

6 have a belly.

7 Q. Where do you see that in these

8 belly panel notes?

9 A. I don't see that in the belly panel

10 notes.

11 Q. Okay. So you don't know that,

12 correct?

13 MS. DUVDEVANI: Objection.

14 A. I know from the bellies that were

15 available at the time before the Secret Fit,

16 they were all larger than the Secret Fit Belly

17 tube circumference and so, they were all loose

18 when you were early in your pregnancy.

19 Q. Okay. Is there anything in the

20 notes here that you see about the Gap product

21 where it says that it cannot be used through

22 all stages of pregnancy?

23 A. There is nothing in the notes.

24 Q. Okay. Is there anything that you

25 remember about seeing the Gap product where it

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 was not good at all stages of pregnancy?

3 A. Yes, I've said with the belly --

4 with the bellies at the time from -- that the

5 bellies were not good for early in pregnancy

6 because they were loose on the belly and pants

7 did not stay up, which is why they had elastic

8 at the top.

9 Q. Okay. We talked about the elastic

10 at the top and whether that's true for this or

11 not and you're not positive.

12 And the issue about whether it

13 works at all stages of pregnancy, you're

14 talking about the industry in general, but you

15 can't tell me specifically about these Gap

16 pants because you don't remember what they

17 look like. You don't remember seeing them on

18 anybody, right?

19 MS. DUVDEVANI: Objection.

20 A. I don't remember specifically. We

21 -- as I've said, we tested a lot of pants and

22 I'm not going to speak to specifically a pant

23 that there is not a picture of or a sketch of

24 or a sample of.

25 Q. Okay. So, let's go back.

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2 Exhibit 54, you didn't specifically identify

3 these Gap maternity pants with the belly

4 panels?

5 A. Sorry; we're back to 54?

6 Q. Yes.

7 A. Yes; ask your question again,

8 please.

9 Q. You didn't identify the Gap

10 maternity pants discussed in Exhibit 51,

11 right?

12 A. I did not.

13 Q. And your reason is -- is today was

14 that it has elastic at the top, but we've

15 already talked about that.

16 You talked about height, but you

17 weren't sure of whether these Gap pants that

18 are eight and a half inches at center front

19 and quite stretchy would or would not be

20 covered by the patents in-suit, correct?

21 A. Yes.

22 Q. You said that the Gap pants did not

23 have seams -- I'm sorry; the Gap pants did

24 have seams?

25 A. Yes, they did.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. And you said that you recall that

3 in general, the maternity pants at this time

4 could not be used for all stages of pregnancy?

5 A. Yes.

6 Q. But you don't remember seeing these

7 specific Gap pants on anyone?

8 A. I saw a lot of pants over the years

9 on a lot of people. You keep referring to one

10 specific group of notes, and I don't know

11 those -- I don't know which those specific

12 pants were.

13 Q. We can take a break.

14 THE VIDEOGRAPHER: We are now

15 going off the video record. That

16 concludes tape number four. The time

17 is 17:41.

18 (Whereupon, a short break was

19 held.)

20 THE VIDEOGRAPHER: We are now back

21 on the video record. This commences

22 tape number 5, October 15, 2013. The

23 time 17:56. Please continue.

24 BY MR. CARTER:

25 Q. Ms. Hendrickson, looking at

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Exhibit 54, you also referred to Trish Fela as
 3 contributing to the original idea?
 4 A. Yes.
 5 Q. Who is Trish Fela?
 6 A. She was an employee of the company
 7 who was pregnant.
 8 Q. And in what area did she work in
 9 this time frame?
 10 A. I believe store operations, but I'm
 11 not sure.
 12 Q. So, how did she contribute to the
 13 original idea?
 14 A. She was my first wear tester.
 15 Q. Did she do anything else?
 16 A. She gave feedback of what she liked
 17 or didn't like.
 18 Q. Okay. Did any of her feedback
 19 result in any revisions to the product?
 20 A. I don't remember. I -- she might
 21 have talked about the height of the back of
 22 the pant or the placement of the front, but I
 23 can't remember.
 24 Q. Okay. Did she contribute in any
 25 way to any features of what it is that you

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 ended up describing in your patent
 3 application?
 4 A. What do you mean did she contribute
 5 any features?
 6 Q. Well, is there anything in your
 7 patent application that she would have
 8 contributed to in any way?
 9 A. I don't think so.
 10 (Exhibit 56, document Bates
 11 stamped TAR060_00002238 through '249,
 12 marked for identification, as of this
 13 date.)
 14 (Exhibit 57, document Bates
 15 stamped TAR060_00000285 through '296,
 16 marked for identification, as of this
 17 date.)
 18 (Exhibit 58, United States
 19 Reissued Patent US RE43,531E, marked
 20 for identification, as of this date.)
 21 (Exhibit 59, United States
 22 Reissued Patent US RE43,563E, marked
 23 for identification, as of this date.)
 24 BY MR. CARTER:
 25 Q. Ms. Hendrickson, I handed you four

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 patent documents marked as Exhibit 56 through
 3 59.
 4 A. Yes, you did.
 5 Q. Do you recognize these exhibits?
 6 A. Not particularly, but they are --
 7 looks like patent applications covering the
 8 Secret Fit Belly and iterations.
 9 Q. So, are you aware that for these
 10 patent -- that for these patents, that there
 11 was a process at the U.S. Patent Office where
 12 there were communications between attorneys
 13 for DMC and the patent office?
 14 A. I'm not aware of that.
 15 Q. So, I take it that you were not
 16 involved in anything in the process between
 17 DMC and the patent office?
 18 A. That is correct.
 19 Q. Is it fair to say that once the
 20 first patent applications were filed with the
 21 patent office, that you didn't have any
 22 involvement with the patent applications from
 23 that point forward?
 24 A. I would say yes, there -- there may
 25 have been a discussion about when a patent was

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 filed. The only other discussion I remember
 3 is talking about other countries where we were
 4 going to potentially, but I was not involved
 5 in any of the discussions of the process of
 6 getting the patent.
 7 Q. Okay. And to the extent it is a
 8 privilege, what can you tell me about the
 9 discussions about where -- what foreign
 10 countries DMC would file?
 11 MS. DUVDEVANI: And, again, that
 12 means if there were any lawyers
 13 involved in the communications, I'm
 14 going to direct you not to answer that
 15 question.
 16 A. Then I won't answer the question.
 17 Q. Are you aware that related patent
 18 applications for the patent documents that you
 19 have in front of you were filed in countries
 20 other than the United States?
 21 A. Ask the question again.
 22 Q. Are you aware that there were
 23 related patent applications and related to the
 24 four patent documents in front of you,
 25 Exhibits 56 through 59, that there were such

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 applications filed in countries other than the

3 United States?

4 A. I believed we had. I never saw

5 actual documents that we did.

6 Q. Have you had any involvement in the

7 communication, correspondence, interaction,

8 however you want to say it, between DMC on the

9 one hand and the foreign patent offices on the

10 other hand?

11 A. I have not.

12 MR. CARTER: So Counsel, will Mr.

13 Masciantonio be the primary witness

14 for patent prosecution?

15 MS. DUVDEVANI: Yes. Again, to

16 the extent of the company's knowledge

17 regarding patent prosecution, he's the

18 best one we got.

19 MR. CARTER: Okay. I mean, I

20 think that I have vetted out --

21 MS. DUVDEVANI: You've exhausted

22 Ms. Hendrickson's information, I

23 think.

24 MR. CARTER: Okay, then we can

25 move on.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 MS. DUVDEVANI: Okay.

3 Q. The patent documents that you have

4 in front of you, Exhibits 56 through 59, do

5 any of them show a person wearing any of the

6 products shown in the patents?

7 A. I don't know. No, they do not.

8 Q. Do the pictures of the product

9 shown in the patent drawings, are they of the

10 product on a person or off a person?

11 MS. DUVDEVANI: Objection.

12 A. I would say they are off a person.

13 (Exhibit 60, document Bates

14 stamped DMC0002927 through '929,

15 marked for identification, as of this

16 date.)

17 BY MR. CARTER:

18 Q. I hand you a document marked as

19 Exhibit 60.

20 Ms. Hendrickson, do you recognize

21 Exhibit 60?

22 A. I do.

23 Q. What is Exhibit 60?

24 A. It is an e-mail I sent to

25 Mr. Adelman.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. And why did you send Exhibit 60 to

3 Mr. Adelman?

4 A. Why? To give him information on

5 some of the questions and thoughts as I was

6 creating the patent.

7 Q. Does Exhibit 60 relate in any way

8 to Exhibit 54?

9 A. In what way?

10 Q. Well, let's see if I can connect

11 dots here. So Exhibit 54 --

12 A. Yes.

13 Q. Is dated April 30, 2007.

14 A. Yes.

15 Q. And the second page of Exhibit 54,

16 under "documentation," refers to an attached

17 document or "see attached copy"?

18 A. I'm sorry; where is that?

19 Q. Under documentation date of first

20 written description, see attached document,

21 the next data for sketches, "see attached

22 copies"?

23 A. I see attached copies sketches,

24 yes.

25 Q. Is Exhibit 60 the document that is

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 referenced in Exhibit 54?

3 A. I don't know.

4 MS. DUVDEVANI: Objection.

5 Q. Do you know what the attached

6 document referenced in Exhibit 54 is?

7 A. I don't remember.

8 Q. Or where it says, "see attached

9 copy," do you know what that is?

10 A. I do not remember.

11 Q. Do you know if you still have those

12 documents today?

13 A. I would have assumed they were with

14 the original of this, which I don't have the

15 original.

16 Q. Who has the original?

17 A. I believe the law firm we were

18 dealing with.

19 Q. So, we have to get the original

20 documents from the law firm?

21 A. I would guess so. I don't know who

22 has the original documents.

23 MR. CARTER: Counsel do we need to

24 subpoena the law firm for the

25 documents?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 MS. DUVDEVANI: I'm sorry; which

3 documents are you talking about?

4 MR. CARTER: On Exhibit 54.

5 MS. DUVDEVANI: Exhibit 54 we

6 produced.

7 MR. CARTER: Understand.

8 MS. DUVDEVANI: So the law firm is

9 us.

10 MR. CARTER: And it references an

11 attached document on page 2 and "see

12 attached copy."

13 MS. DUVDEVANI: It looks like --

14 MR. CARTER: So I tried to assist

15 the witness in saying Exhibit 60 is

16 that, but she says she isn't sure and

17 doesn't know. So can you check the

18 law firm's records, please?

19 MS. DUVDEVANI: I will check the

20 records of our production and see if

21 they're consecutive.

22 MR. CARTER: Well, these aren't

23 consecutive.

24 MS. DUVDEVANI: I see what you

25 mean.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. All right. So, looking at

3 Exhibit 60, you see that paragraph one talks

4 about the general purpose of the invention?

5 A. Correct.

6 Q. Let's go down to .8, and it says,

7 "Points of the invention thought to be novel"?

8 A. Yes.

9 Q. Is that language that you created

10 on your own or did somebody else create that

11 language that I just read for you?

12 A. I don't remember.

13 Q. What does it mean to you when it

14 says, "Points of the invention thought to be

15 novel"?

16 A. That make it different than

17 something else.

18 Q. That existed before you what you

19 have done?

20 A. Yes.

21 Q. Point number 1 -- I'm sorry; you

22 see there are two sentences after that

23 statement?

24 A. I do.

25 Q. The first sentence says, "Seamless

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 band attached to a garment worn as a bottom"?

3 A. Yes, I see that?

4 Q. Why did you include "seamless"

5 there?

6 A. Because it was a novel part of the

7 original product.

8 Q. And then the second sentence says,

9 "Fashioning the seamless bands to create

10 graduated hyper support"?

11 A. That was a version that we also

12 worked on.

13 Q. So, both of the sentences that you

14 identified as what you thought was novel

15 involved the fact that the band was seamless,

16 correct?

17 A. One talks about fashioning and the

18 other talks about being a seamless band.

19 Q. Now, when you talk about fashioning

20 the seamless band to create graduated hyper

21 support, what does that mean?

22 A. You can do different stitches in a

23 knit and you can then alter the tension of

24 those stitches to which was called fashioning

25 stitches to create potentially support to the

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 back or the belly area.

3 Q. Do you see nine is "best mode known

4 for carrying out this invention"?

5 A. I do.

6 Q. It says, "knitting seamless tubes

7 and sewing them on knit or woven garments worn

8 as bottoms"?

9 A. I see that.

10 Q. So, once again, your best mode was

11 involving seamless tubes?

12 A. At the time, yes.

13 Q. Okay. Has that ever changed?

14 A. As I said earlier, we had looked at

15 other prototypes with seams and because of the

16 -- we have engineered the product, we still

17 like the seamless tubes the best, but there

18 are other versions of the seamless or of the

19 Secret Fit Belly that we have made protos on.

20 Q. So, this is dated April 29, 2007?

21 A. Correct.

22 Q. And your patent filing date is

23 May 31, 2007?

24 A. Correct.

25 Q. The -- what it is that you list out

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 here as the points of the invention thought to

3 be novel, is that also what you thought to be

4 novel one month later when the patent

5 application was filed?

6 MS. DUVDEVANI: Objection.

7 A. It's one of the areas that are

8 novel. It's not the only area that's novel.

9 Q. Okay. What is another area that

10 you believe is novel?

11 A. The circumference of the belly.

12 Q. Of the belly panel?

13 A. Of the belly panel. The height of

14 the belly panel. And that there's no elastic

15 at the top or in the panel. There's spandex

16 yarn, but no elastic.

17 Q. Okay. Why aren't those items

18 included as points of the invention in Item

19 Number 8?

20 A. Because I didn't know how much I

21 needed to write. Those are the novel points

22 of the pant. This was not an official

23 document so here was the start of what my --

24 Q. Number 7 is "Advantages of the

25 invention." It says, "The new belly panel

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 made with a seamless tube of knitted fabric

3 has several advantages."

4 So, once again, you're using the

5 fact that it is a seamless tube?

6 A. That is written there.

7 Q. You say "because it is seamless and

8 is very stretchy, it fits all types of figures

9 and belly sizes"?

10 A. Yes, that's what it says.

11 Q. It goes on to say, "Because it is

12 seamless, it is comfortable on the body with

13 no itchy seams or constricting elastic"?

14 A. That is what it says.

15 Q. And "because the height of the

16 belly comes up on the belly, the pant stays in

17 place all day"?

18 A. That is what it says.

19 Q. The piece about because it is

20 seamless and very stretchy it fits all types

21 and figures of belly sizes, how does it being

22 seamless impact fitting all types of figures

23 and belly sizes?

24 A. Seamless knit is a type of knit

25 that is very stretchy. It starts out quite

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 small and easily gets larger. It is not the

3 only type of knit that will change with a body

4 type.

5 Q. Now, you refer to it being very

6 stretchy. Do you know how the stretchiness of

7 what you are describing in Exhibit 60 compares

8 to the stretchiness of the Gap pant discussed

9 in Exhibit 51?

10 A. I do not.

11 Q. Could the Gap pant have been just

12 as stretchy as what you're describing in

13 Exhibit 60?

14 A. I don't believe so, but I don't

15 know that for a fact.

16 Q. Do you have any fact that you can

17 base -- base it on that the Gap pant is not as

18 stretchy as what you're describing in

19 Exhibit 60?

20 A. I do not.

21 Q. You see Number 5 is "Construction

22 and structure of preferred form of invention."

23 It says, "The construction of the design is

24 that a single layer seamless tube of knitted

25 fabric is attached to garment worn on the

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 bottom half of the body at the waist belly

3 seam, once again referring to seamless?

4 A. Yes, it does.

5 Q. Did the fact that your product that

6 you're describing here was seamless, as of

7 April and May 2007, did that impact in any way

8 what prior products you thought were relevant

9 to what you were developing?

10 MS. DUVDEVANI: Objection.

11 A. Can you ask the question again,

12 please?

13 (Exhibit 61, prosecution history

14 for the '575 patent, marked for

15 identification, as of this date.)

16 BY MR. CARTER:

17 Q. I'm going to hand you a document

18 marked as Exhibit 61.

19 MS. DUVDEVANI: We'll be here for

20 the next five hours.

21 Q. Ms. Hendrickson, I've handed you

22 what's been marked as Exhibit 61. Have you

23 ever seen Exhibit 61?

24 A. Not that I know of, but this has to

25 be a hundred pages, so I can't say.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. Exhibit 62.

3 (Exhibit 62, prosecution history

4 for the '276 patent, marked for

5 identification, as of this date.)

6 BY MR. CARTER:

7 Q. I will represent to you that

8 Exhibit 61 and 62 are what are referred to as

9 file histories or prosecution histories with

10 the patent office.

11 Exhibit 61 is the prosecution file

12 history for the '575 patent and Exhibit 62 is

13 the file history or prosecution history for

14 the '531 patent -- I'm sorry; the '276 patent.

15 And I'm referring to the last three numbers of

16 the patents.

17 A. Okay, so you want to say that

18 again.

19 Q. So, Exhibit 61 is the file or

20 prosecution history for the '575 patent,

21 what's marked as Exhibit 56. And Exhibit 62

22 is the file or prosecution history for the

23 '276 patent that I believe was marked as

24 Exhibit 57.

25 So I understand, you haven't seen

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 these documents before?

3 A. To my knowledge, no.

4 Q. Okay. Exhibit 61, if you could

5 turn -- if you look in the lower right-hand

6 corner, there are numbers called Bates

7 numbers.

8 A. Um-hum.

9 Q. And these are numbers that parties

10 put on documents when they produce them to

11 each other. So you've probably seen some with

12 DMC. This is a Target document.

13 A. Okay.

14 Q. And if you go to the last three

15 numbers '591 --

16 A. Yes.

17 Q. -- if you see '591, starting there,

18 this document, combined declaration and power

19 of attorney?

20 A. That's what it says.

21 Q. Do you recall seeing this document?

22 MS. DUVDEVANI: Just -- I'm sorry;

23 this page or the entire document?

24 MR. CARTER: Right now just this

25 page.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. Do I recall?

3 Q. Yes.

4 A. I don't know. It doesn't have my

5 name or signature, so I really don't know.

6 Q. Well, so page '591 is the first

7 page, '592 is the second and '593 has your

8 signature, I believe?

9 A. It does.

10 Q. So, that is your signature on Bates

11 number '593?

12 A. Yes, it is.

13 Q. Dated July 30, 2007?

14 A. Yes.

15 Q. So, if we go back to '591, combined

16 declaration and power of attorney, do you

17 recall signing this document?

18 A. Looking at it now, yes.

19 Q. Okay. What do you recall in

20 signing the document?

21 A. Nothing. I mean, I don't -- I

22 don't specifically remember the day or where I

23 signed the document.

24 Q. Do you recall anyone explaining to

25 you your duties as a named inventor?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. What do you mean, my duties?

3 Q. Okay. So if we look at this

4 document, it says, as a below named inventor,

5 you hereby declare that -- the first paragraph

6 talks about your residence, post office,

7 citizenship. You say that you are an inventor

8 on a patent which is sought on a belly

9 covering garment?

10 A. Yes.

11 Q. You state that you have reviewed

12 and understand the contents in the above

13 identified specification including the claims

14 as amended by any amendment referred to above?

15 A. Yes.

16 Q. So, did you review and understand

17 the contents of the patent application that

18 was filed?

19 MS. DUVDEVANI: Objection.

20 A. I read the patent application that

21 was filed.

22 Q. It says, "I acknowledge the duty to

23 disclose information which is material to the

24 patentability of this application in

25 accordance with 37 CFR Section 1.56"?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. Yes.

3 Q. Did anyone explain to you what that

4 meant?

5 A. I'm guessing so.

6 Q. You don't recall one way or

7 another?

8 A. I don't.

9 Q. Do you know, sitting here today,

10 what that duty means?

11 A. Looking at it, to disclose any

12 information which is material to

13 patentability. So, I guess any information of

14 how the patent was created. That's what I

15 take from this.

16 Q. Okay. And what do you mean by how

17 the patent was created?

18 A. What the claims of the patents are

19 and whether there was a prior product that

20 would be similar to the product that we are

21 patenting or patented.

22 Q. Okay. Did you have that discussion

23 with your patent Counsel?

24 MS. DUVDEVANI: Just yes or no

25 answer.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. Yes.

3 Q. Okay. You recall that discussion?

4 A. I do not. You're asking me if I

5 specifically recall having an exact

6 conversation. This was quite a few years ago.

7 I do not remember the word-for-word specific

8 conversation.

9 Q. But you recall having the

10 discussion?

11 A. I don't. I don't have a date or a

12 time so I can't say I recall having a specific

13 discussion. We had -- I had calls with our

14 outside Counsel and our inside Counsel,

15 several different calls. I can't tell you

16 specifically what was discussed on the calls.

17 Q. Okay, but you recall that Counsel

18 advised about the duty to disclose information

19 about products or things that existed before

20 whatever it is you came up with?

21 A. Yes.

22 Q. And what did you give Counsel as a

23 result of your duty to disclose information?

24 A. As I have in Exhibit 54, that I had

25 seen the Bellaband and that that was prior art

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 which was a seamless tube of fabric that was

3 not attached to a garment. And other than

4 that, there was nothing that I felt was

5 similar to the product that I had prior

6 knowledge of.

7 Q. And did you tell patent Counsel or

8 anyone else associated with the patent

9 application about the Gap pants discussed in

10 Exhibit 51?

11 MS. DUVDEVANI: Sorry, I'm going

12 to object on the basis of

13 attorney/client privilege and direct

14 the witness not to answer.

15 Although, frankly, I think she

16 answered the question already.

17 MR. CARTER: So I'm not going to

18 get an answer to that question?

19 MS. DUVDEVANI: You're asking

20 specific questions about did she say

21 this or not. I'm going to object to

22 those.

23 MR. CARTER: That isn't calling

24 for privilege.

25 Q. I'm asking the Gap product

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 discussed in Exhibit 51. Did you provide that

3 Gap product or any information about it to

4 anyone associated with your patents that are

5 involved in this case so that it could be

6 disclosed to the patent office?

7 A. No.

8 Q. Okay. Did you discuss it in any

9 way with patent Counsel or anyone else

10 associated with the pant in this case?

11 A. No, I did not believe it was the

12 same as our Secret Fit Belly.

13 Q. Did you consciously make that

14 decision in the time frame from, let's say,

15 March of 2007 to July of 2007 when you signed

16 the declaration and power of attorney in

17 Exhibit 61?

18 MS. DUVDEVANI: Objection.

19 Q. Or did it not even come to your

20 mind?

21 MS. DUVDEVANI: Objection.

22 A. It did not even come to my mind.

23 Q. So, you're saying that the belly

24 panel notes in Exhibit 51 that were attached

25 to the e-mail of Exhibit 49 that you sent out

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 to the entire company that you didn't think at
 3 all about those notes or that product when you
 4 filed for your patent application?
 5 A. I did not.
 6 MS. DUVDEVANI: Objection.
 7 Q. All right. Exhibit 62, if you look
 8 at Bates number '812 through '814, is your
 9 signature on '814?
 10 A. It is.
 11 Q. And do you see that this is a
 12 declaration of power of attorney for the file
 13 history for another of your patents in-suit?
 14 A. It's the same wording as the other
 15 document.
 16 Q. Okay. So once again, on the same
 17 date for the other patent application you
 18 understood you had a duty to disclose?
 19 A. Product that I thought was similar
 20 to our product?
 21 Q. Yes. Okay, so what exhibit are we
 22 up to now?
 23 (Exhibit 63, Pea in the Pod pant,
 24 marked for identification, as of this
 25 date.)

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 BY MR. CARTER:
 3 Q. All right. I'm going to hand you a
 4 product marked as Exhibit 63.
 5 MS. DUVDEVANI: I'd like to look
 6 at those first.
 7 MR. CARTER: Sure.
 8 MS. DUVDEVANI: Hold that thought.
 9 MR. CARTER: Tamar, these were
 10 part of the production that DMC made
 11 to us.
 12 MS. DUVDEVANI: That's fine. I
 13 just prefer you handed it to the
 14 witness I had an opportunity to look
 15 at them, try them on.
 16 Q. Do you recognize Exhibit 63?
 17 A. Recognize, no. Looking at it, it's
 18 a Pea in the Pod pant.
 19 Q. Okay. So that's a DMC product?
 20 A. That is.
 21 Q. So if you look at the tag on the
 22 inside and flip it over, are you aware where
 23 DMC marks its products with its patent
 24 numbers?
 25 A. I'm not. I should be, but I'm not.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Q. Are you involved in that process in
 3 any way?
 4 A. I'm not.
 5 Q. Do you know how that process is
 6 made?
 7 A. Our legal department gives
 8 information of when something needs to be
 9 marked and where it needs to be marked to the
 10 technical design staff.
 11 Q. Okay. And do you recall signing
 12 interrogatory answers in this case?
 13 A. I don't recall.
 14 Q. All right. Right under this tab
 15 you'll see that this product is marked with
 16 patent numbers. Are those patent numbers of
 17 any of the patent documents we put in front of
 18 you?
 19 A. I'm sorry; I have to get my glasses
 20 out. I hope I brought them.
 21 Yes.
 22 Q. Okay. What patents numbers are
 23 marked on Exhibit 63?
 24 A. 7,814,575. 9,800,276.
 25 Q. Okay. Any others?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 A. Not that I see.
 3 Q. Okay. You understand those are the
 4 patents marked as Exhibits 56 and 57?
 5 A. I don't -- what does that mean.
 6 Q. The patent numbers that you read
 7 are those the patents that we marked at
 8 Exhibit 56 and 57?
 9 A. Yes.
 10 Q. Could you layout those pants in a
 11 way so that we can measure the front of the
 12 panel?
 13 A. (Witness complies.)
 14 Q. I have a ruler. If you want to
 15 have another ruler, we can do that?
 16 MS. DUVDEVANI: I'm not sure what
 17 you're planning on doing with that
 18 ruler, Mr. Carter.
 19 Q. If you could measure the center
 20 front, that's a term that we've seen used, for
 21 example, with the Gap pants, they were
 22 measured at the center front and had a height
 23 of eight and a half inches.
 24 Could you please measure the center
 25 front of Exhibit 63?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. Eight and a half.

3 Q. If you'd like to use another ruler,

4 we do that.

5 MS. DUVDEVANI: You don't have to

6 use another ruler. I'm sure that

7 that's a real ruler.

8 MR. CARTER: It is.

9 MS. DUVDEVANI: I don't know if

10 this is a proper measuring technique,

11 but it's certainly a proper ruler.

12 Q. I'll ask you; is that a proper

13 measuring technique for measuring a center

14 front, what you just --

15 A. In general, yes. I would not use a

16 wooden ruler, but yes. (Witness complies.)

17 Q. Okay. Do you have any doubt that

18 the center front of Exhibit 63 is eight and a

19 half inches?

20 A. No.

21 Q. Okay. Is Exhibit 63 a product that

22 you believe is covered by your patents

23 in-suit?

24 A. Yes.

25 Q. Why is that?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. Perhaps.

3 Q. Why is that?

4 A. Because you're asking me if I

5 should have. It did not occur to me. I did

6 not think they were the same product. And so,

7 I did not bring it up to the look of the

8 bellies was not at all the same.

9 Q. So, just if there is fault for the

10 Gap product discussed in Exhibit 51 not being

11 disclosed to the patent office, does that

12 fault lie with your patent Counsel?

13 MS. DUVDEVANI: Objection.

14 Q. Because as I understand it, your

15 patent Counsel didn't even know about the Gap

16 prior art?

17 A. Yes, that's true. I don't believe

18 they knew about the Gap.

19 Q. Okay.

20 A. The variety of competition pants.

21 Q. Today sitting here right now,

22 reading your declaration where you have the

23 duty to disclose prior art to the patent

24 office, would you tell your patent Counsel

25 about the Gap pants --

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. Because of the construction of the

3 belly. Because of the look of the tube, there

4 is no elastic at the top.

5 Q. Okay. Any other reasons?

6 A. It -- no, not that I can --

7 Q. The stretchiness of the belly panel

8 material in Exhibit 63, how does that compare

9 to the stretchiness of the Gap maternity pants

10 discussed in Exhibit 51 that were noted by DMC

11 as being quite stretchy?

12 A. I've told you, I can't tell you

13 that without a pant in front of me.

14 Q. Okay. And so, I want to understand

15 your testimony. Exhibit 63 is covered by your

16 patents in-suit, correct?

17 A. Yes.

18 Q. And you did not have a duty to tell

19 the patent office or even your patent Counsel

20 about the Gap maternity pants discussed in

21 Exhibit 51, correct?

22 A. I did not think I needed to. It

23 did not occur to me.

24 Q. Do you think that you should have?

25 MS. DUVDEVANI: Objection.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 MS. DUVDEVANI: Objection.

3 Q. -- of Exhibit 51?

4 A. After you asking the question, it

5 could have. I still do not believe that they

6 are the same product.

7 Q. My question is: After what we

8 discussed today, if today you had a decision

9 after knowing your duty to disclose

10 information to the patent office, would you

11 tell your patent Counsel, who is filing your

12 patent application with the patent office,

13 about the Gap prior art discussed in

14 Exhibit 51?

15 MS. DUVDEVANI: I'm going to

16 object to this line of questioning.

17 You're asking her a hypothetical

18 question about attorney/client

19 privilege. So I'm going to direct the

20 witness not to answer this question.

21 Q. 64.

22 (Exhibit 64, document Bates

23 stamped DMC0002963, marked for

24 identification, as of this date.)

25 BY MR. CARTER:

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Q. I'll hand you a document marked as
 3 Exhibit 64.
 4 MR. CARTER: 65.
 5 (Exhibit 65, document Bates
 6 stamped DMC0002964, marked for
 7 identification, as of this date.)
 8 MR. CARTER: 66.
 9 (Exhibit 66, document Bates
 10 stamped DMC0002967, marked for
 11 identification, as of this date.)
 12 MR. CARTER: 67.
 13 (Exhibit 67, document Bates
 14 stamped DMC0002966, marked for
 15 identification, as of this date.)
 16 MR. CARTER: 68.
 17 (Exhibit 68, document Bates
 18 stamped DMC0002965, marked for
 19 identification, as of this date.)
 20 MS. DUVDEVANI: Did you say 68?
 21 THE WITNESS: It's coming.
 22 MR. CARTER: And 69.
 23 (Exhibit 69, document Bates
 24 stamped DMC0002961 through '962,
 25 marked for identification, as of this

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 date.)
 3 BY MR. CARTER:
 4 Q. And we can represent that
 5 Exhibit 65 -- I'm sorry, 64 through 68 were
 6 attached to Exhibit 69 is our understanding
 7 based on how we received the production.
 8 Do you recognize Exhibit 64 to 69?
 9 A. Yes.
 10 Q. What are they?
 11 A. Pictures of different belly --
 12 Secret Fit bellies.
 13 Q. Okay, so 64 through 68 are all
 14 Secret Fit bellies?
 15 A. Versions of, yes.
 16 Q. And this e-mail was sent May 29,
 17 2007?
 18 A. Yes.
 19 Q. So, in exhibit, say, 68 is a side
 20 view?
 21 A. Yes.
 22 Q. That's what you referred to as a
 23 Secret Fit Belly?
 24 A. It is a version of a Secret Fit
 25 Belly.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Q. Why is it a version of a Secret Fit
 3 Belly?
 4 A. This particular one is showing the
 5 panel is sitting at midpoint of the belly,
 6 which we ended up -- it did not work, so we
 7 did not continue with a secret fit because the
 8 height was important.
 9 Q. Does Exhibit 68 show a product that
 10 you believe is covered by the patents in-suit?
 11 MS. DUVDEVANI: Objection.
 12 A. No.
 13 Q. Why not?
 14 A. Because the height of the belly is
 15 important to Secret Fit staying up.
 16 Q. Do you believe what's shown in
 17 Exhibit 68 is too low?
 18 A. Yes.
 19 Q. What pants in the other exhibits go
 20 with Exhibit 68?
 21 A. I believe 65 does and perhaps 67,
 22 but I can't be sure.
 23 Q. Okay. Could 67 be a product that
 24 is covered by the patents in-suit or you're
 25 not sure?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 A. I'm not sure. I would say no, the
 3 height of the belly is not high enough.
 4 Q. So, does that leave Exhibit 64 and
 5 66 as a different product?
 6 A. Yes.
 7 Q. Do you believe that is what is
 8 shown in Exhibit 64 and 66 are covered by the
 9 patents in-suit?
 10 A. Yes.
 11 Q. Is that based on the factors that
 12 you discussed earlier?
 13 A. Yes.
 14 Q. Where part of that basis is based
 15 on discussions with Counsel?
 16 MS. DUVDEVANI: Objection. Wait,
 17 wait, wait. Don't answer yet.
 18 To the extent I'm not sure that I
 19 understand that question.
 20 MR. CARTER: I'll strike the
 21 question.
 22 Q. We had the discussion earlier about
 23 your bases for saying whether or not something
 24 infringed. Is that the same bases you're
 25 using in your testimony here?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. You'd have to read it back to me.

3 Q. Has your testimony on why you think

4 something infringed changed during the day?

5 A. It has not.

6 MS. DUVDEVANI: Objection. You

7 didn't ask her if these infringe.

8 Q. Your belief as to whether something

9 is covered by your patents in-suit. Is your

10 analysis there the same as determining, in

11 your mind, whether something infringes the

12 patents in-suit?

13 A. Please repeat the question.

14 Q. All right. I believe I asked the

15 question in the terms of whether these

16 products were covered by the patents in-suit.

17 Is your analysis on whether

18 something is covered by the patents in-suit

19 the same as your analysis on whether something

20 infringes the patents in-suit?

21 MS. DUVDEVANI: Objection.

22 A. I guess so.

23 Q. All right. Looking at Exhibit 56

24 through 59 --

25 A. 56 through 59.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. We can start with Exhibit 56, if

3 that's easier.

4 A. Sure.

5 Q. Do you have it in front of you?

6 A. Um-hum.

7 Q. If you turn toward the back of that

8 document, there will be a section called

9 claims?

10 A. Can you direct me to what page?

11 Q. If you look in the last page, it's

12 a 5 in the top left and under that is "What is

13 Claimed."

14 Have you ever done an analysis

15 looking at the language of any of these claims

16 to any product?

17 A. What do you mean by analysis?

18 Q. Well, have you ever looked at

19 word-for-word these claims to see whether

20 those words were in a product?

21 A. I don't know.

22 Q. You don't know?

23 A. Can you ask me the question again,

24 please?

25 Q. Sure. So, you see this is what is

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 claimed and then there's a 1?

3 A. Yes.

4 Q. It says, "a garment comprising"?

5 A. Yes.

6 Q. Have you ever read the words of

7 Claim 1 and compared those words to a product?

8 A. I specifically don't analyze every

9 garment that I see that might potentially

10 infringe on our patent. I do not go garment

11 by garment. I pass it to our legal department

12 to handle that.

13 Q. Okay. Are you someone qualified to

14 determine whether something infringes?

15 MS. DUVDEVANI: Objection.

16 A. Technically, no.

17 Q. Okay?

18 A. I'm not a lawyer.

19 Q. So, my question is -- Counsel maybe

20 can you help me out.

21 MR. CARTER: Is Ms. Hendrickson

22 going to show up at trial and read

23 claims on the products?

24 MS. DUVDEVANI: I'm not sure what

25 you mean, and I'm not sure that I'm

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 telling you what our trial strategy is

3 going to be.

4 MR. CARTER: Okay.

5 Q. Well, have you ever -- have you

6 ever compared word-for-word these --

7 MS. DUVDEVANI: I mean, she's not

8 our infringement expert.

9 MR. CARTER: I'm just trying to

10 establish she isn't going to be.

11 MS. DUVDEVANI: She's not going to

12 be our infringement expert.

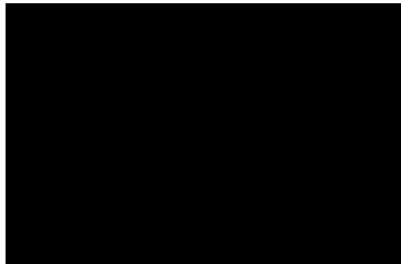
13 Q. Have you ever looked at the words

14 of these claims compared to a product?

15 A. Specifically, no.

16 Q. Okay. Generally?

17 A. No.

18 

19

20

21

22

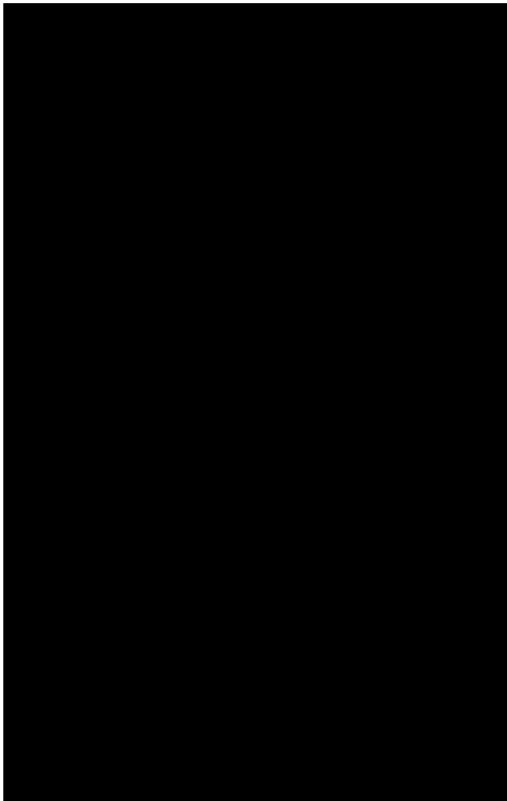
23

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4 Q. Do you have designer jeans with
5 maternity belly panels?

6 A. Those are in our Pea in the Pod
7 brand.

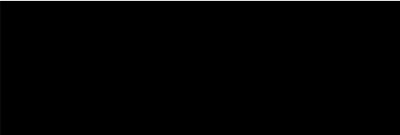


15 Q. But you aren't sure?

16 A. I don't know what Target considers
17 us -- what brands they consider competition.

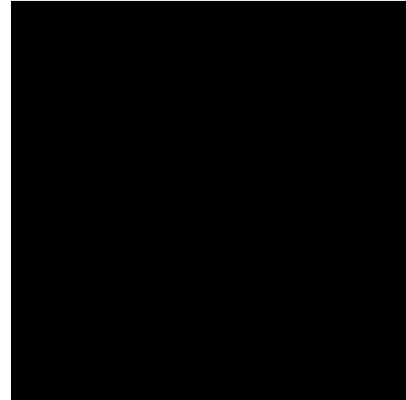
18 Q. Well I'm asking what DMC or what
19 you consider.

20 A. You asked me what Target -- what
21 Target feels is a competitor.



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14 Q. Based on price point?

15 A. Correct.

16 Q. Anything else?

17 A. Not that I can think of.

18 (Exhibit 70, document Bates
19 stamped DMC0002803 through '804,
20 marked for identification, as of this
21 date.)

22 BY MR. CARTER:

23 Q. I hand you a document marked as
24 Exhibit 70. Do you recognize Exhibit 70?

25 A. It's an e-mail from Sarah Keller.

2 Q. To you and several other people?

3 A. I'm copied on it, yes.

4 Q. It talks about the final sloper for
5 the secret belly?

6 A. It does.

7 Q. So, it is the sloper attached on
8 the second page?

9 A. It is.

10 Q. The nine-and-a-half inch
11 measurement, is that the center front
12 measurement for the Secret Fit Belly?

13 A. It is the raw measurement of the
14 center front of the Secret Fit Belly.

15 Q. Okay. What do you mean by, raw
16 measurement?

17 A. It's before it's attached to the
18 pant.

19 Q. Okay. So once it's attached to the
20 pant, then what will the height of this panel
21 be?

22 A. Approximately nine inches.

23 Q. So, a half an inch higher than the
24 product that we looked at earlier in, I
25 believe it was Exhibit 63, the orange Pea in

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 the Pod pants?
 3 A. Yes. As in all production, it's
 4 not a perfect science so not everything comes
 5 in exactly how it's specked.
 6 Q. And for this product that would
 7 have a nine-inch panel, do you believe that
 8 that DMC product is covered by the patents
 9 in-suit?
 10 A. I would guess so, yes. I mean,
 11 that's what we made our sloper at this time.
 12 Q. You say you guess so. Do you know
 13 anymore than guessing?
 14 A. You can ask me the question again.
 15 Q. I said for this product that would
 16 have a nine-inch high center front panel, do
 17 you believe the DMC product with that panel
 18 would be covered by the patents in-suit?
 19 A. Yes, based on this was the sloper
 20 that we had given at the time we first
 21 produced the pant, yes.
 22 Q. Okay. Has the height of the DMC
 23 panel changed over time?
 24 A. Yes.
 25 Q. In what way?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 A. We've gone up. We've gone down.
 3 We've changed the back height.
 4 Q. So, how high have you gone?
 5 A. I don't remember.
 6 Q. How low have you gone?
 7 A. I don't know.
 8 Q. But lower than the raw
 9 nine-and-a-half inch panel?
 10 A. I don't know that for a fact.
 11 We've gone lower in the back. I don't know
 12 that we've -- I don't believe we've gone lower
 13 in the front, but I don't know for a fact.
 14 Q. How would we determine that?
 15 A. Looking at specs.
 16 Q. That would be in the PLM database?
 17 A. Correct.
 18 Q. If the height of the panel went
 19 lower than the nine inches that we just looked
 20 at for that sloper, would that product, in
 21 your opinion, still be covered by the patents
 22 in-suit?
 23 A. It could. It depends on the
 24 material of the belly, which I've said
 25 earlier, if the -- there are different kinds

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 of yarns that are even stretchier than the
 3 current yarns that you might be able to do a
 4 shorter belly because the fabric stretched
 5 even further.
 6 Q. Okay. Anything else?
 7 A. Not that I can think of right now.
 8 (Exhibit 71, document Bates
 9 stamped DMC0116314, marked for
 10 identification, as of this date.)
 11 BY MR. CARTER:
 12 Q. I handed you a document marked as
 13 Exhibit 71. Have you seen Exhibit 71?
 14 A. I'm looking at it now.
 15 Q. You see that there is a pair of
 16 maternity pants shown in Exhibit 71?
 17 A. Yes.
 18 Q. Do you believe that those maternity
 19 pants are covered by the patents in-suit?
 20 MS. DUVDEVANI: Objection.
 21 A. I have to see the pant in person.
 22 Q. Okay. So here you have the pant on
 23 somebody's body?
 24 A. It is a photocopy of a picture off
 25 a website.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 Q. And you aren't able to determine
 3 whether it's covered?
 4 A. To determine, no. I'm not able to
 5 do it from the picture.
 6 Q. Okay. Can you look at the person
 7 in Exhibit 71 and determine the location of
 8 the top of the belly?
 9 A. (Witness complies.)
 10 Q. Okay. You want to mark that,
 11 please?
 12 A. (Witness complies.)
 13 Q. Okay. And can you see the breast
 14 area of the woman wearing the maternity pants
 15 in Exhibit 71?
 16 A. I cannot from the picture.
 17 Q. Okay. So, they are above the
 18 photograph?
 19 A. It's hard to say. She's in a white
 20 T-shirt.
 21 Q. You can at least see the top left
 22 edge and can you see the breast area of the
 23 woman there?
 24 A. In the top left edge, no, I do not
 25 see.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. You don't see the breast area?

3 A. From the cropping of the picture,

4 no.

5 Q. Okay. What is earlier you

6 received to as the ampire area --

7 A. Correct.

8 Q. -- where is the ampire area on the

9 woman on Exhibit 71?

10 A. I would say approximately there

11 (indicating).

12 Q. Okay. So the maternity pants shown

13 in Exhibit 71 don't come up to the top of the

14 belly?

15 MS. DUVDEVANI: Objection.

16 A. From the picture on this particular

17 person, no, they do not.

18 Q. Okay, thank you. Can you sign and

19 date that, please?

20 A. (Witness complies.)

21 Q. And then you had also marked the

22 ampire area. If you connote that also,

23 please.

24 A. (Witness complies.)

25 Q. So I just want to make sure I'm

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 clear. So, the maternity pants in

3 Exhibit 71 --

4 A. Yes.

5 Q. -- as they're shown on that person,

6 do you believe that those pants are covered by

7 the patents in-suit?

8 MS. DUVDEVANI: Objection.

9 A. I told you, unless I saw the pant

10 in person, I don't know.

11 Q. Okay. You would want to see the

12 pant in person, on a person?

13 A. Yes.

14 Q. I'm going to hand you a document

15 previously marked as Exhibit 22. Do you

16 recognize Exhibit 22?

17 A. I do not.

18 Q. Okay. Can you turn to the third

19 page that is marked JCP 167? The images in

20 the lower left-hand comer, have you seen that

21 product before?

22 A. Not to my knowledge.

23 Q. You see it has a fold over

24 waistband that lets you adapt to the comfort

25 you require?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. I see that in the pictures.

3 Q. And in one, it says, "over the

4 belly coverage. Two, fold once for mid-rise

5 comfort." And "two, fold twice for low-rise

6 comfort and support"?

7 A. I see.

8 Q. Do any DMC products have that same

9 fold over waist bad feature?

10 MS. DUVDEVANI: Objection.

11 A. We do have fold over bellies.

12 Q. And do the fold over bellies on the

13 DMC products work?

14 A. You can wear it up or you can fold

15 it under the belly.

16 Q. Similar to what's shown here in

17 Exhibit 22?

18 MS. DUVDEVANI: Objection.

19 A. I don't know if they're similar.

20 Q. Is this one of the JCPenney

21 products that you believe infringes on the

22 patents in-suit?

23 MS. DUVDEVANI: Objection.

24 A. I don't know. You don't have a

25 sample to show me.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. Just looking at the drawings, do

3 you have any kind of idea whether what's shown

4 here is the JCPenney patent that you believe

5 infringes?

6 MS. DUVDEVANI: Objection to form.

7 A. I do not know.

8 Q. Okay. Can you draw on the page

9 we're looking at on the left-hand photograph

10 that says "over the belly coverage," can you

11 draw on there where the top of the person's

12 belly is located?

13 A. (Witness complies.)

14 Q. Could I see what you drew?

15 A. (Witness complies.)

16 Q. Okay. And then where is the ampire

17 waist area?

18 A. (Witness complies.) Basically

19 where I drew the line. It's hard to say.

20 There is no bust in this picture, so I can't

21 say definitively where it is.

22 Q. Can you, making notations like you

23 have on the other photographs, draw where you

24 believe the top of the belly is and also where

25 the ampire area is?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 A. I can't draw where I think the
 3 ampire area is because there's nothing to
 4 guide me in this picture, but I can draw.
 5 (Witness complies.)
 6 Q. Could I see what you drew, please?
 7 Thank you for going ahead and
 8 signing and dating it.
 9 A. (Witness complies.)
 10 MS. DUVDEVANI: I'd like to see
 11 that as well.
 12 Q. So, based on what you drew on
 13 Exhibit 22, does part of the panel go above
 14 the top of the belly and part doesn't?
 15 MS. DUVDEVANI: Objection.
 16 A. I can't tell from the photograph.
 17 Q. I'm sorry?
 18 A. From the angle of the photograph,
 19 it's possible. Again, it's a round body, so I
 20 drew a line.
 21 MR. CARTER: Could we go off the
 22 record?
 23 How much time is left?
 24 THE VIDEOGRAPHER: We are now
 25 going off the video record. That

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 concludes tape number five. The time
 3 is 19:10.
 4 (Whereupon, a short break was
 5 held.)
 6 THE VIDEOGRAPHER: We are now back
 7 on the video record, October 15, 2013.
 8 The time, 19:19. Please continue.
 9 BY MR. CARTER:
 10 Q. Ms. Hendrickson, Exhibit 56 through
 11 59, the patent documents --
 12 A. Yes.
 13 Q. -- do you see that on the
 14 right-hand side, and sometimes maybe
 15 continuing to the next page, there's prior art
 16 listed. So, for example, 58 shows references
 17 cited?
 18 A. Yes, I see that.
 19 Q. Have you ever looked at those
 20 references?
 21 A. Not to my knowledge.
 22 Q. All right. So which document are
 23 you looking at?
 24 A. The patent that ends in '563.
 25 Q. Okay. Can you look at the others

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 and look under the references cited column and
 3 let me know if you have seen any of that prior
 4 art?
 5 A. Not that I know of.
 6 Q. Okay. And that's true for all of
 7 Exhibit 56 through 59?
 8 A. Yes. I don't -- I don't know these
 9 patent numbers or the names.
 10 MR. CARTER: So Counsel just to
 11 short circuit this, Ms. Hendrickson
 12 doesn't have any knowledge on any of
 13 the prior art to the patents in-suit.
 14 MS. DUVDEVANI: No.
 15 MR. CARTER: Is this essentially
 16 an expert topic?
 17 MS. DUVDEVANI: I think what
 18 you're getting at is -- sounds like an
 19 expert topic to me.
 20 MR. CARTER: Okay. So if I handed
 21 the witness all the prior art, she
 22 hasn't seen it before, so anything I
 23 would ask her will be opinion
 24 testimony. Is that fair?
 25 MS. DUVDEVANI: That's most likely

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 the case, yes.
 3 MR. CARTER: That is the case?
 4 MS. DUVDEVANI: I would think so,
 5 yes.
 6 MR. CARTER: Thank you. That will
 7 just move things along.
 8 BY MR. CARTER:
 9 Q. All right. Have you ever heard of
 10 anyone by the last name of Stangle?
 11 A. Yes.
 12 Q. What do you know about somebody
 13 with the last name Stangle?
 14 A. I don't know anything.
 15 Q. I'm sorry, but you have heard --
 16 A. My lawyer asked me on Friday if I
 17 had heard of it and I told her no, I did not
 18 know of the name.
 19 MS. DUVDEVANI: That's as far as
 20 we want to go.
 21 MR. CARTER: That's fine.
 22 Q. So, you don't have anything outside
 23 of your conversations with lawyers to say
 24 anything about anyone with the last name of
 25 Stangle?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. No.

3 Q. Or any product made by someone with

4 a company with the last name of Stangle?

5 A. No.

6 Q. You aren't aware of anybody with

7 the last name of Stangle being involved in the

8 Ingrid & Isabel litigation?

9 A. No.

10 Q. Or for this litigation?

11 A. No.

12 Q. Have you had discussions with

13 anyone about Target or Target products related

14 to this case?

15 A. What do you -- can you --

16 Q. Just very generally, high level.

17 A. Ask the question again, please.

18 Q. Have you had discussions with any

19 one about Target, including Target products,

20 as it relates to this lawsuit?

21 A. Yes.

22 MR. CARTER: You're going to

23 object to any conversations with

24 counsel, correct?

25 MS. DUVDEVANI: That's right.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 MR. CARTER: And instruct not to

3 answer?

4 MS. DUVDEVANI: You got it.

5 Q. So outside of any conversations

6 with Counsel, have you had discussions with

7 anyone about Target as it relates to this

8 case, including Target's products?

9 A. No, not to my recollection.

10 Q. We looked at mannequins earlier in

11 some of the exhibits.

12 A. We did.

13 Q. Does DMC have a standard mannequin

14 size it uses --

15 A. We do not.

16 Q. -- for maternity products?

17 A. We do not.

18 Q. What mannequin is used in the

19 exhibits we looked at earlier with products on

20 mannequins?

21 A. I don't know. We've had a variety

22 of mannequins so I don't know what this is.

23 Q. Is there an industry standard

24 mannequin for maternity products?

25 A. I don't believe so.

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 Q. Are you involved in the sourcing or

3 manufacturing of products for DMC?

4 A. I am involved.

5 Q. In what way?

6 A. I have to understand where we are

7 sourcing product. I do not make the decisions

8 about where it is sourced, but I have to

9 understand where it's being made from a

10 time-in-action point of view.

11 Q. So, what do you mean by from a

12 time-in-action point of view?

13 A. If a product is going to be sourced

14 in a long lead time country, then it has to be

15 created further in advance, or if we are

16 trying to chase something quickly, then we

17 would source it in different countries or

18 different places.

19 Q. Okay. Are you involved in sourcing

20 or manufacturing of DMC products in any other

21 way?

22 A. I -- that's a very vague question.

23 Q. For the products -- the DMC

24 products involved in this case, do you know

25 who makes those products for DMC?

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2 A. Do I know every person that makes

3 the products?

4 Q. The companies, vendor names.

5 A. No, I don't know every vendor name.

6 Q. Do you know any of them who have

7 made the DMC products that are at issue in

8 this case?

9 A. Li & Fung is the agent who handles

10 the manufacturing of the bellies. We have a

11 factory called Armana in Bangladesh who makes

12 pants. We have made pants with many different

13 factories over the years. And I don't

14 necessarily know all the names, and I don't

15 remember every person we've ever made a

16 maternity bottom with.

17 Q. Okay. So nothing more that you

18 know about factories of who has made DMC

19 products in the past?

20 A. I know lots of things about

21 factories. Your question is very vague.

22 Q. Sure. About the factories who make

23 the DMC products at issue in this case.

24 A. What are you asking?

25 Q. Is there anything more than what

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 2 you've testified to?
 3 A. There are many things more about
 4 factories. I can tell you who some of our
 5 people -- our -- how do I want to say? The
 6 people in the factory that we work with. I
 7 have been to some of the factories. Not all,
 8 so, again, your question is extremely vague.
 9 Q. Okay. You've been to some of the
 10 factories?
 11 A. I have.
 12 Q. What do you do when you visit the
 13 factories?
 14 A. Negotiate product.
 15 Q. What do you mean by negotiate
 16 product?
 17 A. Negotiate prices, costs on product.
 18 Q. Do you -- are you involved in the
 19 design process in working with the
 20 manufacturers?
 21 A. Yes.
 22 Q. In what way?
 23 A. I have sketched product in the
 24 past. Sketched product ideas. I have looked
 25 at construction of how garments are

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 manufactured.
 3 Q. Have you ever talked to anyone at a
 4 factory about a competitor's product?
 5 A. Not that I remember.
 6 Q. Do you know for the Target products
 7 that are accused of infringement in this case,
 8 what factories makes Target's products?
 9 A. I do not.
 10 Q. All right. Very early on today we
 11 were talking about your work history.
 12 A. Yes.
 13 Q. And we got as far as Ingram
 14 Collection in 1983, 1984.
 15 A. That was, yes, a very long time
 16 ago, yes.
 17 Q. So, did Ingram Collection sell any
 18 products that had stretchy or expandable
 19 panels?
 20 A. I don't know. I don't remember.
 21 Q. Where did you work following
 22 Ingram?
 23 A. I believe my next job was for a
 24 division of Leslie Fay.
 25 Q. Can you spell that, please?

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 2 A. L-E-S-L-I-E, F-A-Y.
 3 Q. And what did you do for Leslie Fay?
 4 A. I was a design assistant.
 5 Q. For what kind of products?
 6 A. Women's sportswear.
 7 Q. Did that include maternity?
 8 A. No.
 9 Q. Did it include any products with
 10 stretchy panels?
 11 A. No.
 12 Q. What time frame was that?
 13 Approximately is fine.
 14 A. Approximately 1985.
 15 Q. Through?
 16 A. Maybe. I don't even think it was a
 17 year. Maybe it was a year.
 18 Q. Okay. Where did you work next?
 19 A. Where did I work next? I believe I
 20 worked at TOTO n KO next.
 21 Q. Could you spell that, please?
 22 A. T-O-T-O, small N, K-O.
 23 Q. Okay what did you do for TOTO n KO?
 24 A. I was an assistant designer.
 25 Q. In what time frame?

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 2 A. I'm going to guess between two and
 3 three years. I don't remember.
 4 Q. So, '86 to '88, '89; is that fair?
 5 A. Approximately.
 6 Q. What did you do as an assistant
 7 designer? What kind of products did you work
 8 on?
 9 A. Women's sportswear.
 10 Q. Okay. Anything relating to
 11 maternity?
 12 A. No.
 13 Q. Anything relating to stretchy
 14 panels?
 15 A. No.
 16 Q. Where did you work next?
 17 A. I believe I worked at Stephanie
 18 Queller next.
 19 Q. How do you spell Queller?
 20 A. Q-U-E-L-L-E-R.
 21 Q. And from what time frame, say '88,
 22 '89 to?
 23 A. Approximately five years.
 24 Q. So, say '93, '94?
 25 A. Approximately.

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2 Q. What did you do at Stephanie

3 Queller?

4 A. I was a designer.

5 Q. For what kind of products?

6 A. Women's sportswear.

7 Q. Anything relating to maternity?

8 A. No.

9 Q. Anything relating to stretchy

10 panels?

11 A. No.

12 Q. Where did you work next?

13 A. Nash & Company.

14 Q. Okay. What did you do at

15 Nash & Company?

16 A. I was a designer.

17 Q. For what time frame, '93 through --

18 starting '93, '94, approximately, through?

19 A. A year and a half, perhaps.

20 Q. So, say, '95, '96?

21 A. Yes.

22 Q. What kind of products did you work

23 on?

24 A. Women's sportswear.

25 Q. Anything relating to maternity?

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

2 A. No.

3 Q. Anything relating to stretchy

4 panels?

5 A. No.

6 Q. Or stretchy products of any kind?

7 A. That's pretty vague. Yes, I worked

8 on knits. Knit tops have stretchy fabric.

9 Q. I mean, you talked about shapewear

10 earlier.

11 A. I've not worked on shapewear.

12 Q. Any of these women's sports

13 products, did you ever work on shapewear?

14 A. I did not.

15 Q. Okay. How about after

16 Nash & Company?

17 A. I worked -- I started at

18 Destination Maternity.

19 Q. Okay. And then what have your

20 various roles been at Destination Maternity?

21 A. For approximately five years, I was

22 the head of motherhood design. Approximately

23 five years, I was the vice president of

24 corporate design. Approximately three years,

25 I was the chief merchandising officer.

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2 Q. I'm sorry; five years head of

3 motherhood design. Five years VP of corporate

4 design, three years as?

5 A. Chief merchandising officer.

6 Q. Okay. And I take it this is

7 chronological order?

8 A. Yes.

9 Q. Okay.

10 A. And the last two as a senior

11 vice-president of merchandising and design for

12 the leased businesses.

13 Q. Who do you report to today?

14 A. Chris Daniel.

15 Q. And what is Mr. Daniel's title?

16 A. President.

17 Q. So, in 2006, 2007, were you VP of

18 corporate design?

19 A. I didn't write down the dates so

20 I'm going to assume yes from your --

21 Q. In the time frame we looked at

22 documents at the end of 2006, so Exhibit 51

23 that talked about the belly notes panel

24 through 2007 with your invention disclosure

25 form, what was your position at that time?

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2 A. The vice president of design.

3 Q. Of corporate design?

4 A. Yes.

5 Q. Who did you report to?

6 A. David Mangini.

7 Q. What was David Mangini's title?

8 A. President.

9 Q. And who reported to you in 2006,

10 2007?

11 A. Technically nobody.

12 Q. Did you have dotted line reports?

13 A. I was involved in -- with the

14 design teams of the different brands, but they

15 did not technically report to me.

16 Q. The Gap panel that we talked about

17 quite a bit in Exhibit 51 --

18 A. Yes.

19 Q. -- that was referred to as being

20 quite stretchy, does that mean that that panel

21 is expandable?

22 MS. DUVDEVANI: Objection.

23 A. Yes.

24 MR. CARTER: I have no further

25 questions.

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2 MS. DUVDEVANI: I might have a

3 couple redirect.

4 MR. CARTER: Let me, just for the

5 record, note that we want to keep this

6 deposition open based on the products

7 and documents that have not been

8 produced. I think those have been

9 made apparent during the deposition.

10 We'll follow up with a letter.

11 And also we believe that privilege

12 has been waived and we'll follow up

13 with that also. So, we're keeping the

14 deposition open for those two reasons.

15 MS. DUVDEVANI: Obviously, I

16 object to everything you just said,

17 but as expected.

18 EXAMINATION BY

19 MS. DUVDEVANI:

20 Q. Good evening, Ms. Hendrickson. If

21 you could, just pull out Exhibit 49. That was

22 the exhibit, the e-mail from you to all e-mail

23 at Corp.

24 A. Okay, yes.

25 MR. CARTER: Can you give me one

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2 second, please?

3 MS. DUVDEVANI: Sure.

4 MR. CARTER: Go ahead, please.

5 Thanks.

6 Q. If you can take a look at the last

7 sentence of your e-mail it states, "I am

8 sending this message to all company members.

9 If the information does not relate to your

10 areas, then please delete this message."

11 Do you see that?

12 A. I do.

13 Q. Do you know who, if anyone, deleted

14 the message?

15 A. I do not.

16 Q. Do you know who, if anyone, didn't

17 delete the message?

18 A. I did not.

19 Q. Did you in any way take a poll of

20 any department at Destination Maternity to

21 determine if this message was read?

22 A. I did not.

23 Q. Do you know if, for example,

24 individuals in legal read this message or

25 deleted this message?

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2 A. I do not.

3 Q. Okay. Going to Exhibit 54, your

4 invention disclosure form.

5 MR. CARTER: Once again, I'm going

6 to need a minute please.

7 MS. DUVDEVANI: Sure.

8 Q. Before I ask any questions about

9 that document, can you repeat how long you've

10 been in the maternity industry?

11 A. Fifteen years.

12 Q. Fifteen years. And in those

13 15 years, was it in the scope of your

14 profession to understand the industry --

15 strike that.

16 To understand what competitors were

17 selling?

18 A. Yes.

19 Q. To understand what competitors were

20 doing in terms of maternity bottoms?

21 A. Yes.

22 Q. Did you feel like you had a good

23 picture of what Destination Maternity's

24 competition was doing in the maternity

25 industry?

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2 A. Yes.

3 Q. Okay.

4 MS. DUVDEVANI: Are you -- let me

5 know when you have the exhibit in

6 front of you, Trevor?

7 MR. CARTER: There you go,

8 Mr. Ennis has put it up on the screen.

9 I'm fine. Thank you.

10 Q. Turning to page 5 of your invention

11 disclosure form, you'll recall earlier in the

12 day Mr. Carter asked you several questions

13 about this form. You write or you wrote and

14 you testified that you wrote at the top of

15 this form in response to the question, do you

16 know of any other ideas, products or things

17 which are similar to or disclose any feature

18 of the invention. And you wrote, "Belly band,

19 Tummy Tube/Tummy Sash and most maternity

20 bottoms have a belly panel of some kind

21 attached at the waist."

22 Do you see that?

23 A. I do.

24 Q. When you wrote "most maternity

25 bottoms have a belly panel of some kind

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 2 attached at the waist," were you -- what were
 3 you basing that statement on?
 4 MR. CARTER: Objection to form.
 5 MS. DUVDEVANI: Strike that.
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 [REDACTED]
 3 [REDACTED]
 4 Q. Okay. Based on everything that you
 5 had seen from all of those competitors, did
 6 you believe that there was anything that was
 7 similar to the invention disclosed in
 8 Exhibit 54?
 9 MR. CARTER: Objection; leading.
 10 A. I did not think there was anything
 11 in our competition that was similar to the
 12 Secret Fit Belly.
 13 Q. Okay. And why is that?
 14 A. Because the circumference of the
 15 belly, the height of the belly, the
 16 fabrications of the belly, the bellies had
 17 elastic up at the top of them and this did
 18 not.
 19 Q. And when you say, "this did not" --
 20 A. Secret Fit did not or does not.
 21 Q. Okay.
 22 MS. DUVDEVANI: No further
 23 questions.
 24 MR. CARTER: No further questions,
 25 but we do reserve the right to keep

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 the dep open for the reasons stated
 3 earlier.
 4 MS. DUVDEVANI: That's all she
 5 wrote.
 6 THE VIDEOGRAPHER: That now
 7 concludes this video deposition and
 8 tape number six. The time is 19:44.
 9 (Whereupon, at 7:44 p.m., the
 10 Examination of this Witness was
 11 concluded.)
 12
 13
 14 _____
 15 LISA HENDRICKSON
 16 Subscribed and sworn to before me
 17 This _____ day of _____, 2013.
 18
 19 _____
 20 NOTARY PUBLIC
 21
 22
 23
 24
 25

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 -----I N D E X-----
 3 WITNESS EXAMINATION BY PAGE
 4 LISA HENDRICKSON MR. CARTER 5
 5 MS. DUVDEVANI 350
 6
 7 DIRECTIONS: [None]
 8 MOTIONS: [None]
 9 REQUESTS: [None]
 10
 11 -----EXHIBITS-----
 12 EXHIBIT FOR I.D.
 13 Exhibit 40,
 14 Defendant's Notice of Rule 30(b)(6),
 15 Deposition of Lisa Hendrickson.....7
 16 Exhibit 41,
 17 Defendant Target's Notice of the
 18 Deposition of Plaintiff Destination
 19 Maternity Corporation Pursuant to
 20 Fed.R.Civ.P.30(b)(6).....7
 21 Exhibit 42,
 22 Drawing made by Ms. Hendrickson.....72
 23 Exhibit 43,
 24 Document Bates stamped DMC0059984
 25 through '985.....78

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2 -----EXHIBITS-----

3 EXHIBIT FOR I.D.

4 Exhibit 44,

5 Document Bates stamped DMC0055277.....86

6 Exhibit 45,

7 Document Bates stamped DMC0116526

8 through '527.....105

9 Exhibit 46,

10 Maternity Pants webpage printout.....122

11 Exhibit 46A,

12 Document Bates stamped DMC0116949

13 through '950.....131

14 Exhibit 47,

15 Sample of maternity pants.....133

16 Exhibit 48,

17 Document Bates stamped DMC0066709

18 through '711.....136

19 Exhibit 49,

20 Document Bates stamped DMC0110373.....143

21 Exhibit 50,

22 Document Bates stamped

23 TAR060_00002265.....179

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2 -----EXHIBITS-----

3 EXHIBIT FOR I.D.

4 Exhibit 50A,

5 Marked up copy of Exhibit 42.....222

6 Exhibit 51,

7 Document Bates stamped DMC0110376

8 through '377.....197

9 Exhibit 52,

10 Document Bates stamped DMC0007395....243

11 Exhibit 53,

12 Document Bates stamped DMC0066543....245

13 Exhibit 54,

14 Document Bates stamped DMC0018139

15 through '145.....247

16 Exhibit 55,

17 Marked up copy of Exhibit 42.....254

18 Exhibit 56,

19 Document Bates stamped

20 TAR060_00002238 through '249.....283

21 Exhibit 57,

22 Document Bates stamped

23 TAR060_0000285 through '296.....283

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2 -----EXHIBITS-----

3 EXHIBIT FOR I.D.

4 Exhibit 58,

5 United States Reissued Patent

6 US RE43,531E.....283

7 Exhibit 59,

8 United States Reissued Patent

9 US RE43,563E.....283

10 Exhibit 60,

11 Document Bates stamped DMC0002927

12 through '929.....287

13 Exhibit 61,

14 Prosecution history for the '575

15 patent.....297

16 Exhibit 62,

17 Prosecution history for the '276

18 patent.....298

19 Exhibit 63,

20 Pea in the Pod pant.....306

21 Exhibit 64,

22 Document Bates stamped DMC0002963....313

23 Exhibit 65,

24 Document Bates stamped DMC0002964....314

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2 -----EXHIBITS-----

3 EXHIBIT FOR I.D.

4 Exhibit 66,

5 Document Bates stamped DMC0002967....314

6 Exhibit 67,

7 Document Bates stamped DMC0002966....314

8 Exhibit 68,

9 Document Bates stamped DMC0002965....314

10 Exhibit 69,

11 Document Bates stamped DMC0002961

12 through '962.....314

13 Exhibit 70,

14 Document Bates stamped DMC0002803

15 through '804.....324

16 Exhibit 71,

17 Document Bates stamped DMC0116314....328

18

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25

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 2 C E R T I F I C A T E
 3
 4 STATE OF NEW YORK)
 : SS.:
 5 COUNTY OF RICHMOND)
 6
 7 I, AYLETTE GONZALEZ, a Notary Public
 8 for and within the State of New York, do
 9 hereby certify:
 10 That the witness, LISA HENDRICKSON,
 11 whose examination is hereinbefore set forth
 12 was duly sworn and that such examination is a
 13 true record of the testimony given by that
 14 witness.
 15 I further certify that I am not
 16 related to any of the parties to this action
 17 by blood or by marriage and that I am in no
 18 way interested in the outcome of this matter.
 19 IN WITNESS WHEREOF, I have hereunto
 20 set my hand this 17th day of October, 2013.
 21
 22 _____
 AYLETTE GONZALEZ
 23
 24
 25

1 HENDRICKSON - HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
 2 ERRATA SHEET FOR THE TRANSCRIPT OF:
 Case Name: Destination Maternity Corporation v.
 3 Target Corporation
 Dep. Date: October 15, 2013
 4 Deponent: LISA HENDRICKSON
 Pg. Ln. Now Reads Should Read Reason
 5 _____
 6 _____
 7 _____
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 LISA HENDRICKSON
 21
 SUBSCRIBED AND SWORN BEFORE ME,
 22
 This ___ day of _____, 2013.
 23

 24 Notary Public
 25 My Commission Expires: _____

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