

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TARGET CORPORATION,  
Petitioner,

v.

DESTINATION MATERNITY CORPORATION,  
Patent Owner.

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Cases IPR2013-00531 (Patent RE43,563 E)<sup>1</sup>  
IPR2013-00533 (Patent RE43,531 E)<sup>2</sup>

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Before LORA M. GREEN, JONI Y. CHANG, THOMAS L. GIANNETTI,  
JENNIFER S. BISK, MICHAEL J. FITZPATRICK, and  
MITCHELL G. WEATHERLY, *Administrative Patent Judges*.

GREEN, *Administrative Patent Judge*.

ORDER<sup>3</sup>  
Conduct of the Proceeding  
37 C.F.R. § 42.5

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<sup>1</sup> Case IPR2014-00508 has been joined with this proceeding.

<sup>2</sup> Case IPR2014-00509 has been joined with this proceeding.

<sup>3</sup> This order addresses issues that are the same in both cases. We exercise our discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style heading in subsequent papers.

IPR2013-00531 (Patent RE43,563 E)

IPR2013-00533 (Patent RE43,531 E)

A conference call was held on Monday, March 2, 2015, among Michael Burns and Stuart Pollack, representing Patent Owner; Trevor Carter and Daniel Lechleiter, representing Petitioner; and Judges Green, Chang, Giannetti, Bisk, Fitzpatrick, and Weatherly.

The purpose of the call was to establish DUE DATES for the joined proceedings, to allow for the schedule of the joined proceedings to be expedited. By e-mail dated February 26, 2015, the parties stated that they had agreed to DUE DATES 1 and 2, with DUE DATE 1 being April 10, 2015, and DUE DATE 2 being June 10, 2015. The parties noted further in the e-mail that they may request a telephonic status conference with the Board on or after June 17, 2015, to discuss whether additional due dates would be necessary.

In response, we noted that any oral hearing in the proceedings, if requested, would be held no later than six (6) months after institution, which would be on or about August 14, 2015. We do not disagree with the parties' suggested DUE DATES 1 and 2, but noted that any additional motions that a party may wish to file, as well as any associated oppositions and replies, would have to be filed before a possible oral hearing date of August 14, 2015.

In that regard, we note that both Patent Owner and Petitioner filed a list of proposed motions. Papers 83 and 82, respectively, in IPR2013-00531.<sup>4</sup> Patent Owner listed only a possible motion to seal, while Petitioner listed a possible motion to exclude evidence, which would implicate the

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<sup>4</sup> The lists of proposed motions filed by the parties in IPR2014-00533 were essentially the same as those filed in IPR2013-00531. *See* Papers 79 and 78 in IPR2013-00531.

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possibility of a need for DUE DATES 4, 5, and 6. Patent Owner did state, however, that it was not going to file a motion to amend, thus obviating any need for DUE DATE 3.

Finally, we informed the parties that if they request an oral hearing to be held in Alexandria, they should let us know as soon as possible dates on which they may be available for that hearing, in order to coordinate the schedules of the expanded panel and the availability of the hearing room. The parties may wish to consider a telephonic hearing, as any oral hearing would be limited to a discussion of the claims and grounds on which the joined proceedings were instituted.

It is:

ORDERED, that DUE DATE 1, which is the due date of Patent Owner's response to the petition, is set to APRIL 10, 2015;

FURTHER ORDERED, that DUE DATE 2, which is the due date of Petitioner's reply to Patent Owner's response to the petition, is set to JUNE 10, 2015;

FURTHER ORDERED, that the parties should contact the Board if additional due dates are needed;

FURTHER ORDERED that oral hearing, if requested, will be held no later than AUGUST 14, 2015.

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IPR2013-00533 (Patent RE43,531 E)

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