

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TARGET CORPORATION
Petitioner

v.

DESTINATION MATERNITY CORPORATION
Patent Owner

Patent RE43,531

Case No. IPR 2013-00530

Case No. IPR 2013-00531

Patent RE43,653

Case No. IPR 2013-00532

Case No. IPR 2013-00533

Date: May 5, 2014

Declaration of David Brookstein, Sc.D.

I, David Brookstein, Sc.D., declare as follows:

1. I have been retained by counsel for the Patent Owner, Destination Maternity Corporation, to offer technical opinions with respect to U.S. Patent No. RE43,531 E (“the ‘531 patent”) and U.S. Patent No. RE43,563 E (“the ‘563 patent”), and prior art references cited in the *Inter Partes Review* proceedings for the ‘531 patent and the ‘563 patent.
2. I was awarded a Bachelor of Textile Engineering from the Georgia Institute of Technology (“Georgia Tech”) in 1971, a Master of Science in Textile Technology from the Massachusetts Institute of Technology (“MIT”) in 1973, and a Doctor of Science in the field of mechanical engineering from MIT in 1976. My current *curriculum vita* is attached hereto as Exhibit 1.
3. I was a professor of Textile Engineering at Georgia Tech from 1975-1980. I was Associate Director of Albany International Research Co. (formerly Fabric Research Laboratories) from 1980-1994. I was Dean of the School of Engineering and Textiles and Executive Director of Research at Philadelphia University (formerly Philadelphia College of Textiles and Science) from 1994 to 2010. In 2010, I was appointed Executive Dean for University Research at Philadelphia University and served in that position through June 2012. In July 2012, I resigned from Philadelphia University to become Dean of the Science, Technology, Engineering, and Mathematics Division of Montgomery County Community College in Pennsylvania. In May 2013, I retired from academia and I now serve as an independent consultant.

4. At Philadelphia University I was the Principal Investigator for a US Army 8-year funded research and development program titled “Laboratory for Engineered Human Protection”. The Laboratory’s charter was to create garments that protect American servicemen and women against battlefield hazards, which were also sufficiently comfortable to wear for time periods required by the mission. One of the objectives of the research and development program was to design, develop and produce prototype chemically protective garments with the required comfort using the latest materials produced in collaboration with selected suppliers.
5. I was elected a Fellow of the American Society of Mechanical Engineers in 1995 and a Fellow of the Textile Institute in 1992.
6. I am a named inventor on 12 U.S. Patents dealing with textile materials and textile manufacturing.
7. I have reviewed the following documents for preparation of this declaration:
 - the ‘531 patent
 - the ‘563 patent
 - PTAB Case No. IPR2013-00530 Patent RE43,563 - CORRECTED PETITION FOR *INTER PARTES* REVIEW UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. § 42.100 *ET SEQ.*
 - PTAB Case No. IPR2013-00531 Patent RE43,563 - CORRECTED PETITION FOR *INTER PARTES* REVIEW UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. § 42.100 *ET SEQ.*

- PTAB Case No. IPR2013-00532 Patent RE43,563 - CORRECTED PETITION FOR *INTER PARTES* REVIEW UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. § 42.100 *ET SEQ.*
- PTAB Case No. IPR2013-00532 Patent RE43,531 - CORRECTED PETITION FOR *INTER PARTES* REVIEW UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. § 42.100 *ET SEQ.*
- PTAB Case No. IPR2013-00532 Patent RE43,531 - CORRECTED PETITION FOR *INTER PARTES* REVIEW UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. § 42.100 *ET SEQ.*
- PTAB Case No. IPR2013-00530 Patent RE43,563-PATENT OWNER'S PRELIMINARY RESPONSE TO CORRECTED PETITION FOR INTER PARTES REVIEW OF U.S. PATENT NO. RE43,563
- PTAB Case No. IPR2013-00531 Patent RE43,563-PATENT OWNER'S PRELIMINARY RESPONSE TO CORRECTED PETITION FOR INTER PARTES REVIEW OF U.S. PATENT NO. RE43,563
- PTAB Case No. IPR2013-00532 Patent RE43,531-PATENT OWNER'S PRELIMINARY RESPONSE TO CORRECTED PETITION FOR INTER PARTES REVIEW OF U.S. PATENT NO. RE43,531
- PTAB Case No. IPR2013-00533 Patent RE43,531-PATENT OWNER'S PRELIMINARY RESPONSE TO CORRECTED PETITION FOR INTER PARTES REVIEW OF U.S. PATENT NO. RE43,531

- PTAB Case No. IPR2013-00530 Patent RE43,563 – Decision
Institution of *Inter Partes Review*
 - PTAB Case No. IPR2013-00531 Patent RE43,563 – Decision
Institution of *Inter Partes Review*
 - PTAB Case No. IPR2013-00532 Patent RE43,531 – Decision
Institution of *Inter Partes Review*
 - PTAB Case No. IPR2013-00533 Patent RE43,531 – Decision
Institution of *Inter Partes Review*
 - US Patent No. 6,276, 175 (“the Browder patent”)
 - US Patent No. 6,669,064 (“the ’064 patent”)
 - US Patent No. 5,034,999 (“the ‘999 patent”)
 - US Patent No. 7,089.597 (“the ‘597 patent”)
 - Catalog excerpts from JC Penney *ontrend Maternity, Fall/Winter Catalog* (2005) (“JCP-A”)
 - Merriam-Webster’s Collegiate Dictionary, 11th Ed. , 2007
 - Clothing Technology, English Edition 1, Verlag Europe-Nourney, Vollmer GmbH & Co, 1996, p. 134.
 - Textiles, 5th Edition, Macmillan Publishing, Co., Inc., 1979, p. 188.
 - Handbook of Technical Textiles, Woodhead Publishing Ltd., 2000, p. 106
 - The Modern Textile Dictionary, Little Brown, 1954.
8. I am being compensated by counsel for the Patent Owner at the rate of \$400/hour and my compensation is not dependent on the outcome of either my opinions or the proceedings.

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