

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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DESTINATION MATERNITY  
CORPORATION

Plaintiff,

v.

TARGET CORPORATION, CHEROKEE  
INC. AND ELIZABETH LANGE LLC

Defendants.

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CASE NO.: 2:12-cv-05680-AB

JURY TRIAL DEMANDED

**PLAINTIFF DESTINATION MATERNITY CORPORATION'S  
DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS**

Plaintiff Destination Maternity Corporation (“DMC”), by and through its attorneys and pursuant to the Court’s January 31, 2013 Scheduling Order (“Scheduling Order”), hereby serves its Disclosure of Asserted Claims and Infringement Contentions (“Infringement Contentions”) on Defendants Target Corporation (“Target”), Cherokee Inc. (“Cherokee”) and Elizabeth Lange LLC (“ELL”) (collectively, the “Defendants”).

Discovery is ongoing and Defendants have not yet produced certain documentation and other relevant design, development, and manufacturing information for the Accused Instrumentalities identified herein. Accordingly, DMC’s Infringement Contentions are based upon the information and documents regarding the Accused Instrumentalities that DMC was able to obtain from public sources. DMC thus reserves the right to amend and supplement these Infringement Contentions pursuant to the Scheduling Order. DMC also incorporates by reference its Complaint (Dkt. No. 1) as if set forth fully herein.

**(a) Each claim of each patent in suit that is allegedly infringed by each opposing party**

The Defendants allegedly infringe at least claims 1-4, 6-8, 10, 12, 14, 16, and 20-21 of U.S. Patent No. RE43563 (the “563 Patent”) and at least claims 1-2, 5-6, 10-11, 15-18, and 24-29 of U.S. Patent No. RE43531 (the “531 Patent) (the ‘563 Patent and ‘531 Patent collectively, the “Patents-in-Suit”).

**(b) Separately for each asserted claim, each accused apparatus, product, device, process, method, act, or other instrumentality (“Accused Instrumentality”) of each opposing party of which the party is aware. This identification shall be as specific as possible. Each product, device, and apparatus must be identified by name or model number, if known. Each method or process must be identified by name, if known, or by any product, device, or apparatus which, when used, allegedly results in the practice of the claimed method or process**

At least the following are the Accused Instrumentalities.<sup>1</sup>

- Liz Lange® for Target® Maternity Beige Band Bootcut Jeans Kalena Blue
  - <http://www.target.com/p/liz-lange-for-target-maternity-beige-band-bootcut-jeans-kalena-blue/-/A-14173765>
  - Online Item #: 14171094
  - Store Item Number (DPCI): 243-29-3367
  - SKU#: 14171087
  - UPC #: 492432933696
- Liz Lange® for Target® Maternity Blue Band Bootcut Jeans Kalena Blue
  - <http://m.target.com/p/liz-lange-for-target-maternity-blue-band-bootcut-jeans-kalena-blue/-/A-14173764>
  - Store Item Number (DPCI): 029-07-0743
  - SKU#: 14170942
  - UPC #: 490290707435
- Liz Lange® for Target® Maternity Straight-Leg Pants Light Peet
  - <http://www.target.com/p/liz-lange-for-target-maternity-straight-leg-pants-light-peat/-/A-14138500>
  - Store Item Number (DPCI): 029-07-0082
  - SKU#: 14138496
  - UPC#: 490290700825
- Liz Lange® for Target® Maternity Extended-Sizes Flare Jeans - Standard Blue Wash
  - <http://www.target.com/p/liz-lange-for-target-maternity-extended-sizes-flare-jeans-standard-blue-wash/-/A-13771641>
  - Store Item Number (DPCI): 029-07-0832

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<sup>1</sup> Although product color may be specified in certain instances, DMC accuses all colors of each product.

- SKU#: 13728830
  - UPC#: 490290708326
- Liz Lange® for Target® Maternity Extended-Sizes Pants (Black)
  - <http://www.target.com/p/liz-lange-for-target-maternity-extended-sizes-pants-black/-/A-13634126>
  - Store Item Number (DPCI): 029-07-1142
  - SKU#: 13547634
  - UPC#: 490290711425
- Liz Lange® for Target® Maternity Denim Crop Pants (Green and Denim Blue)
  - <http://www.target.com/p/liz-lange-for-target-maternity-denim-crop-pants-assorted-colors/-/A-14342907>
  - Store Item Number (DPCI): 029-07-0247
  - SKU#: 14326640
  - UPC#: 490290702478
- Liz Lange® for Target® Maternity Dark Denim Shorts
  - <http://www.target.com/p/liz-lange-for-target-maternity-dark-denim-shorts-blue/-/A-14329422>
  - Store Item Number (DPCI): 029-07-0043
  - SKU#: 14326649
  - UPC#: 490290700436
- Liz Lange® for Target® Maternity Bootcut Pants (Black)
  - <http://www.target.com/p/liz-lange-for-target-maternity-bootcut-pants-black/-/A-14143005>
  - Store Item Number (DPCI): 029-07-0094
  - SKU#: 14143003
  - UPC#: 490290700948
- Liz Lange® for Target® Maternity Bootcut Pants (Brown Pinstripe)
  - <http://www.target.com/p/liz-lange-for-target-maternity-bootcut-pants-brown-pinstripe/-/A-14143051>
- Liz Lange® for Target® Maternity Trouser Pants (Gray)
  - <http://www.target.com/p/liz-lange-for-target-maternity-trouser-pants-gray/-/A-14342792>
  - Store Item Number (DPCI): 029-07-0160
  - SKU#: 14340399
  - UPC#: 490290701600
- Liz Lange® for Target® Maternity Extended-Sizes Jeans – Medium Blue
  - <http://www.target.com/p/liz-lange-for-target-maternity-extended-sizes-bootcut-jeans-blue/-/A-13189095>
  - ASIN: B00415ZH62
  - Catalog #: 12973264
- Liz Lange® for Target® Maternity Straight-Leg Dress Pants – Black
  - <http://www.target.com/p/Liz-Lange-for-Target-Maternity-Straight-Leg-Dress-Pants-Black/-/A-13336614>
    - No longer available online
- Liz Lange® for Target® Maternity Extended Sizes Boot-Cut Denim Jeans –Blue (Beige Band)

- ASIN: B004CENGY2
- Catalog #: 13197264
- Liz Lange® for Target® Maternity Extended Sizes Cropped Jeans – Blue
  - <http://www.target.com/p/liz-lange-for-target-maternity-extended-sizes-cropped-jeans-blue/-/A-13197263>
    - No longer available online
- Liz Lange® for Target® Maternity 3-in-1 Extended-Sizes Pants – Ebony
  - ASIN: B003OGB9LQ
  - Catalog #: 12719699
- Liz Lange® for Target® Maternity Ponte Extended-Sizes Pant – Ebony
  - UPC: 0490290707831

Discovery is ongoing and DMC reserves its right to supplement this Contention at a later date.

**(c) A chart identifying specifically where each element of each asserted claim is found within each Accused Instrumentality, including for each element that such party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in the Accused Instrumentality that performs the claimed function**

Attached hereto as Exhibits 1-2 are charts showing each element of each asserted claim is found within each Accused Instrumentality for the Patents-in-Suit.

**(d) Whether each element of each asserted claim is claimed to be literally present or present under the doctrine of equivalents in the Accused Instrumentality**

Each element of each asserted claim is claimed to be literally present in the Accused Instrumentalities.

**(e) For any patent that claims priority to an earlier application, the priority date to which each asserted claim allegedly is entitled**

The Patents-in-Suit claim priority to U.S. Patent No. 7,814,575, filed May 31, 2007.

**(f) If a party claiming patent infringement wishes to preserve the right to rely, for any purpose, on the assertion that its own apparatus, product, device, process, method, act, or other instrumentality practices the claimed invention, the party must identify, separately for each asserted claim, each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim**

DMC has various products that include the branded Secret Fit Belly® feature as shown on DMC's website (<http://www.motherhood.com/maternity/secret-fit-belly.asp>;

<http://www.motherhood.com/maternity/secret-fit-belly-all.asp>). These products practice the claimed invention in the asserted claims of the Patents-in-Suit.

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Dated: May 6, 2013

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