

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TARGET CORPORATION
Petitioner

v.

DESTINATION MATERNITY CORPORATION
Patent Owner

Case No. IPR2013-00530 (U.S. Patent No. RE43,563)
Case No. IPR2013-00531 (U.S. Patent No. RE43,563)
Case No. IPR2013-00532 (U.S. Patent No. RE43,531)
Case No. IPR2013-00533 (U.S. Patent No. RE43,531)

Dated: August 1, 2014

Before JENNIFER S. BISK, MICHAEL J. FITZPATRICK, and
MITCHELL G. WEATHERLY *Administrative Patent Judges.*

**PATENT OWNER'S OBJECTION TO DOCUMENTS AND OTHER
EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Patent Owner's Objection to Evidence

Pursuant to 37 C.F.R. § 42.64(b)(1), patent owner Destination Maternity Corporation (“DMC”) objects to the documents, exhibits and items set forth in the below table, and contends that they are inadmissible based on the Federal Rules of Evidence (“FRE”) and/or not in compliance with the provisions of 37 CFR § 42.

Exhibit/Paper No.	Title	Objection
Ex. 1058	Crocs v. ITC	FRE 401, 402, 403, 802, 901
Ex. 1059	Deposition Notice to DMC	FRE 401, 402, 403, 802, 901
Ex. 1064	Annotated Brookstein Decl.	FRE 106, 401, 402, 403, 802, 901, 1001, 1002 37 C.F.R. § 42.53(a)
Ex. 1066	Annotated RE43531	FRE 106, 401, 402, 403, 802, 901, 1001, 1002 37 C.F.R. § 42.61(c)
Ex. 1067	Annotated US4590624	FRE 106, 401, 402, 403, 802, 901, 1001, 1002 37 C.F.R. § 42.61 (c)
Ex. 1068	Belly Panel Notes	FRE 106, 401, 402, 403, 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1069	Annotated excerpt of Ex 1002	FRE 106, 401, 402, 403, 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1070	Annotated web page	FRE 106, 401, 402, 403, 802, 901, 1001, 1002
Ex. 1071	DL1961 web page	Foundation FRE 401, 402, 403, 408, 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1072	Annotated Being	FRE 106, 401, 402, 403,

	Pregnant blog	408 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1075	5-19-11 Letter	Foundation FRE 106, 401, 402, 403 (see Institution Decision at pp. 6-7) , 408, 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1076	Annotated 5-19-11 Letter	Foundation FRE 106, 401, 402, 403 (see Institution Decision at pp. 6-7) , 408, 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1077	Annotated 6-20-12 Letter	Foundation FRE 106, 401, 402, 403 (see Institution Decision at pp. 6-7) , 408, 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1080	3-16-11 Letter	Foundation FRE 106, 401, 402, 403 (see Institution Decision at pp. 6-7) , 408, 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1081	Claim Chart LL	Foundation FRE 106, 401, 402, 403, 408, 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1082	3-10-11 Email	Foundation FRE 106, 401, 402, 403 (see Institution Decision at pp. 6-7) , 408, 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1083	Claim Chart Salsa	Foundation

		FRE 106, 401, 402, 403, 408, 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1086	5-17-11 Letter	Foundation FRE 106, 401, 402, 403 (see Institution Decision at pp. 6-7) , 408, 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1087	6-2-11 Letter	Foundation FRE 106, 401, 402, 403 (see Institution Decision at pp. 6-7) , 408, 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1088	Complaint against MChic	Foundation FRE 401, 402, 403, 408, 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1089	4-6-09 Email	Foundation FRE 106, 401, 402, 403, 408, 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1090	MChic product label	Foundation FRE 401, 402, 403, 408, 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1091	US6817034 Smilovic	Foundation FRE 401, 402, 403, 802, 901, 1001, 1002
Ex. 1092	1-16-07 Email	Foundation FRE 106, 401, 402, 403, 408, 802, 901, 1001, 1002 37 C.F.R. § 42.1(b)
Ex. 1093	Piccone Dep Transcript	FRE 401, 402, 403, 802, 901, 1001, 1002

Ex. 1094	Piccone Ex 107	FRE 401, 402, 403, 802, 901, 1001, 1002
Ex. 1095	Piccone Ex 109	FRE 401, 402, 403, 802, 901, 1001, 1002
Ex. 1096	Piccone Ex 123	FRE 401, 402, 403, 802, 901, 1001, 1002
Ex. 1097	Piccone Ex 124	FRE 401, 402, 403, 802, 901, 1001, 1002
Ex. 1098	Macys-Pea	Foundation FRE 401, 402, 403, 802, 901, 1001, 1002
Ex. 1099	BRU Checklist	Foundation FRE 401, 402, 403, 802, 901, 1001, 1002
Ex. 1100	BRU Checklist	Foundation FRE 401, 402, 403, 802, 901, 1001, 1002
Ex. 1101	Macys presentation	Foundation FRE 401, 402, 403, 802, 901, 1001, 1002
Ex. 1102	Promo Sign List 10-17-12	FRE 401, 402, 403, 802, 901, 1001, 1002
Ex. 1103	Promo Sign List 10-24-12	Foundation FRE 401, 402, 403, 802, 901, 1001, 1002
Ex. 1104	Maternity bottoms spreadsheet	Foundation FRE 401, 402, 403, 802, 901, 1001, 1002
Ex. 1105	Sales spreadsheet	Foundation FRE 401, 402, 403, 802, 901, 1001, 1002
Ex. 1106	Confidential memorandum	Foundation FRE 402, 403, 802, 901, 1001, 1002
Ex. 1107	Traffic analysis	Foundation FRE 401, 402, 403, 702, 703, 802, 901, 1001, 1002
Ex. 1108	Visual Update	Foundation

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.