

**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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Case No. IPR2013-00533  
Patent RE43,531

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Dated: September 2, 2014

**PATENT OWNER'S MOTION FOR OBSERVATION REGARDING  
CROSS-EXAMINATION OF REPLY WITNESS**

## TABLE OF CONTENTS

	<b>Page</b>
I. INTRODUCTION .....	1
II. OBSERVATIONS .....	1
A. Mr. Thomas's Legal Opinions Should Be Given No Weight.....	1
B. Mr. Thomas Did Not Consider Limitations Recited In The Independent Claims Portion Of The Dependent Claims.....	1
C. Mr. Thomas Did Not Opine that Patent Owner's Patented Products Are Not Commercially Successful.....	4
D. Mr. Thomas Provided No Evidence To Rebut Patent Owner's Prima Facie Showing of Commercial Success .....	12
E. Mr. Thomas Did Not Know What Factors to Consider .....	13
F. Mr. Thomas Misquotes Deposition Testimony To Support His Positions .....	15

## LIST OF EXHIBITS

- EXHIBIT 1110 Declaration of Vincent Thomas (Sealed)
- EXHIBIT 1116 Public Version of Declaration of Vincent Thomas
- EXHIBIT 2022 UNDER SEAL Declaration of Philip Green
- EXHIBIT 2029 REDACTED Declaration of Philip Green
- EXHIBIT 2099 UNDER SEAL Deposition Transcript of Vincent Thomas
- EXHIBIT 2100 REDACTED Deposition Transcript of Vincent Thomas

## TABLE OF AUTHORITIES

CASES	PAGE(S)
<i>Applied Materials v. Advadnced Semi. Materials</i> , 98 F. 3d 1563, 1570 (Fed. Cir. 1996) .....	4
<i>Demaco Corp. v. F. Von Langsdorff Licensing Ltd.</i> , 851 F.2d 1387, 1392, 1393 (Fed. Cir. 1988) .....	3, 12
<i>Honeywell Int'l Inc. v. Hamilton Sundstrand</i> , 370 F. 3d 1131 (Fed. Cir. 2004) .....	4
<i>In re Mettke</i> , 570 F. 3d 1356, 1361 (Fed. Cir. 2009) .....	11, 12
<i>Jones v. Hardy</i> , 727 F.2d 1524, 1528 (Fed. Cir. 1984) .....	4

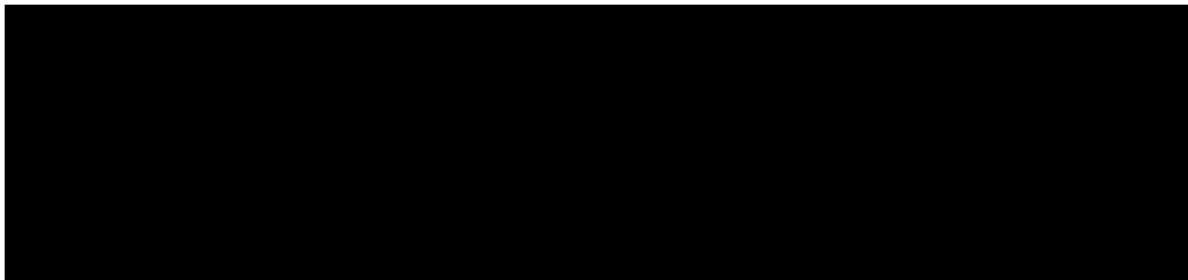
## **I. Introduction**

Pursuant to the Board's July 30, 2014 e-mail, Patent Owner hereby provides observations on the August 22, 2014 deposition of Vincent A. Thomas.

## **II. Observations**

### **A. Mr. Thomas's Legal Opinions Should Be Given No Weight**

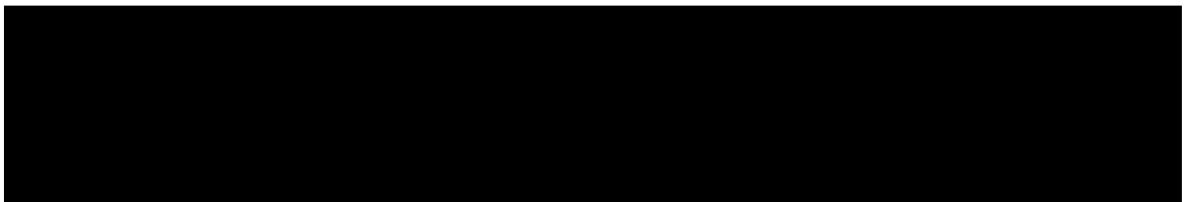
In Exhibit 2099, on page 12, lines 8-9, Mr. Thomas testified:



This testimony is relevant to the Declaration of Vincent Thomas Regarding Commercial Success (the "Thomas Declaration") filed as Exhibits 1110 and 1116 on at least paragraphs 10-12. The testimony is relevant because it shows that the legal opinions from the Thomas Declaration should be given no weight if admissible.

### **B. Mr. Thomas Did Not Consider Limitations Recited In The Independent Claims Portion Of The Dependent Claims**

Mr. Thomas testified:



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