

**UNITED STATES PATENT AND TRADEMARK OFFICE**

---

**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

---

TARGET CORPORATION  
Petitioner

v.

DESTINATION MATERNITY CORPORATION  
Patent Owner

---

Case No. IPR2013-00533  
(U.S. Patent No. RE43,531)

---

Dated: September 2, 2014

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

**PATENT OWNER'S REQUEST FOR ORAL ARGUMENT**

Pursuant to 37 C.F.R. § 42.70(a), Patent Owner, Destination Maternity Corporation (“Patent Owner”) hereby requests oral argument in the present *inter partes* review proceeding. Oral argument is currently scheduled for the following four related instituted cases, including the present case, on October 7, 2014: (1) IPR2013-00530 (U.S. Patent No. RE43,563); (2) IPR2013-00531 (U.S. Patent No. RE43,563); (3) IPR2013-00532 (U.S. Patent No. RE43,531); and (4) IPR2013-00533 (U.S. Patent No. RE43,531). Patent Owner believes these four cases can be grouped for oral argument, and requests two (2) hours of oral argument.

DMC specifies the following issues to be argued (without waiving consideration of any issue not listed below):

1. The appropriate construction to be given to the disputed claim terms including:

- a. "just beneath wearer's breast area";
- b. "just beneath the wearer's breast area";
- c. "an expansible belly panel"; and
- d. "during all stages of pregnancy."

2. The failure of the references to anticipate or render obvious the claims upon which *inter partes* review has been instituted, which are as follows:

- a. IPR2013-00532 (U.S. Patent No. RE43,531)

- i. Claims 1, 2, 5, 10, and 17 as anticipated by JCP fold-over panel jeans;
  - ii. Claims 6 and 11 as obvious over the JCP fold-over panel jeans and JCP maternity bootcut jeans; and
  - iii. Claims 15 and 16 as obvious over the JCP fold-over panel jeans and Stangle.
- b. IPR2013-00533 (U.S. Patent No. RE43,531)
  - i. Claims 1, 24–26, 28, and 29 as anticipated by JCP fold-over panel jeans; and
  - ii. Claims 26 and 27 as obvious over the JCP fold-over panel jeans and JCP maternity bootcut jeans.
- c. IPR2013-00530 (U.S. Patent No. RE43,563)
  - i. Claims 1–3 and 6–8 as anticipated by JCP fold-over panel jeans;
  - ii. Claims 3 and 4 as unpatentable as being directed to subject matter that would have been obvious in light of JCP fold-over panel jeans and JCP maternity bootcut jeans; and
  - iii. Claim 1 as anticipated by Browder.
- d. IPR2013-00531 (U.S. Patent No. RE43,563)
  - i. Claims 1, 10, 11, and 16 as anticipated by JCP fold-over panel jeans;

- ii. Claim 14 as obvious over the JCP fold-over panel jeans and JCP maternity bootcut jeans;
  - iii. Claims 12 and 13 as obvious over the JCP fold-over panel jeans and Lauren Sara; and
  - iv. Claims 1 and 20 as anticipated by Browder.
3. Secondary considerations of nonobviousness including commercial success;
4. Patent Owner's Motion for Observation Regarding Cross-Examination of Reply Witness and Petitioner's response thereto;
5. Patent Owner's Motion In The Alternative To Amend Claim 1 Of U.S. Patent No. RE43,563, filed on May 5, 2014, and Petitioner's opposition thereto;
6. Reply to arguments raised in Petitioner's Petitions for *Inter Partes* Review;
7. Reply to arguments raised in Petitioner's Replies to Patent Owner Responses to Petitions;
8. Patent Owner's Motion to Exclude Evidence and Petitioner's response thereto;
9. Petitioner's Motion to Exclude Evidence and Patent Owner's response thereto;

10. Response to any issues properly specified by Petitioner in its request for oral argument;
11. Response to Petitioner's presentation on all matters; and
12. Any other issues briefed or presented by the parties throughout this trial.

For oral argument, Patent Owner requests to use audio/visual equipment to display demonstrative exhibits, including a computer, projector and screen for a display. Patent Owner also requests a court reporter for oral argument. In accordance with the Trial Practice Guide, 77 Fed. Reg. at 48768, Patent Owner will contact the Board Trial Division paralegal to discuss these requests.

# 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.