

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

DESTINATION MATERNITY CORPORATION,	)	)
	)	CASE NO. 2:12-cv-05680-AB
<i>Plaintiff,</i>	)	
	)	HON. ANITA B. BRODY
v.	)	
	)	
TARGET CORPORATION, CHEROKEE INC., and ELIZABETH LANGE LLC,	)	<b>JURY DEMAND</b>
	)	
<i>Defendants.</i>	)	
	)	
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**PLAINTIFF DESTINATION MATERNITY CORPORATION'S  
OBJECTIONS AND RESPONSES TO DEFENDANT'S  
FIRST SET OF INTERROGATORIES**

Plaintiff, Destination Maternity Corporation (“DMC”), by and through its attorneys, pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and the local Civil Rules of the United States District Court for the Eastern District of Pennsylvania, hereby sets forth its objections and responses to the First Set of Interrogatories from Defendant Target Corporation (“Target”) to DMC (“Interrogatories”).

**GENERAL OBJECTIONS TO INTERROGATORIES**

1. DMC objects to the Constructions, Definitions and Instructions to the Interrogatories to the extent they attempt to impose obligations extending beyond those imposed or authorized by the Federal Rules of Civil Procedure or this Court’s Local Rules.

2. DMC objects to each and every interrogatory to the extent it attempts to impose obligations extending beyond those imposed or authorized by the Federal Rules of Civil Procedure or this Court’s Local Rules.

3. These responses represent DMC’s good faith effort to respond based on

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information available at this time. DMC's investigation of this matter is continuing, and DMC specifically reserves the right to amend, supplement, correct, or clarify its responses in accordance with the Federal Rules of Civil Procedure and this Court's Local Rules.

4. DMC objects to each and every interrogatory to the extent that it seeks information or documents that are neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

5. DMC objects each and every interrogatory to the extent that it seeks information protected, privileged, immune or otherwise exempt from discovery by the attorney-client privilege, the attorney-work-product doctrine, joint defense privilege, or any other applicable privilege. Nothing contained in the responses below is intended to be, nor should be considered, a waiver of any attorney-client privilege or work-product doctrine, right of privacy, or any other applicable privilege or doctrine.

6. DMC objects to each and every interrogatory to the extent that it seeks information not within DMC's possession, custody, and/or control.

7. DMC objects to each and every interrogatory to the extent that it is overly broad, unduly burdensome, vague, and/or ambiguous.

8. DMC objects to each and every interrogatory to the extent that it seeks information to which Target has equal or superior access, or information that is a matter of public record.

9. DMC objects to each and every interrogatory to the extent that it seeks information to which DMC is under an obligation to third parties not to disclose.

10. DMC objects to each and every interrogatory to the extent that it seeks information or documents that are confidential, proprietary, and/or competitively sensitive. To

the extent that any interrogatory seeks documents or information that contain or constitute confidential, proprietary, or trade secret information, DMC shall only produce such information or documents pursuant to the terms of an appropriate protective order.

11. DMC objects to each and every interrogatory to the extent that it seeks information or documents protected from disclosure by non-disclosure agreements, confidentiality agreements, protective orders, joint-defense agreements, or similar agreements and documents, or would violate the privacy rights of persons not parties to this action.

12. DMC objects to these interrogatories to the extent they are compound and contain multiple subparts that count separately toward the total number of individual interrogatories allowed to Target.

13. DMC objects to each and every interrogatory to the extent that it is misleading, presumes the existence of facts not in evidence, or attempts to mischaracterize the evidence.

14. DMC objects to each and every interrogatory to the extent that it seeks information for time periods beyond those relevant to the issues in this lawsuit.

15. DMC objects to Target's definitions of "Relate to," "Related to," "Relating to," "in Relation to," "Relate," and "Related" because, as defined, such terms render each request overly broad, vague and ambiguous.

16. DMC objects to Target's definition of "Destination Maternity Corporation," "DMC," "Plaintiff," "You," "Your," and "Yours" as vague, ambiguous, and overbroad, and inconsistent with the Federal Rules of Civil Procedure; and DMC further objects to the extent that it incorporates individuals and entities that are separate and distinct from the DMC parties named to this suit.

17. The fact that DMC has responded to part or all of any particular interrogatory is

not intended and shall not be construed as a waiver by DMC of any part of any objection to such an interrogatory. DMC's agreement to furnish any information or identify documents in response to any interrogatory shall not be deemed to constitute an admission as to the relevance, competency, materiality or admissibility of any document or information sought or produced, and reserves all rights with respect thereto.

18. DMC incorporates each of these General Objections into its responses to each of Target's Interrogatories, whether or not each such General Objection is expressly referred to in DMC's response to a specific interrogatory

## I. INTERROGATORIES

**INTERROGATORY NO. 1** Identify and describe in detail the dates, All persons involved with, and All Documents supporting the first conception, the first reduction to practice, any diligence between the first conception and the first reduction to practice, the first private use, the first public use, and the first sale of the subject matter of each of the Asserted Claims in the Patents-in-Suit.

### **Response to Interrogatory No. 1:**

In addition to its General Objections, DMC objects to this Interrogatory as compound and containing multiple discrete subparts. DMC further objects to this Interrogatory as overly broad, unduly burdensome and seeking information that is neither relevant to any claim or defense in this action nor reasonably calculated to lead to the discovery of admissible evidence. DMC further objects on the grounds that it calls for legal determinations and seeks information protected by the attorney-client privilege and/or work product doctrine. Subject to and without waiving any of the foregoing objections, DMC responds as follows:

Lisa A. Hendrickson, James H. Gardner, and Richard Adelman conceived of the invention of the Patents-in-Suit. On May 31, 2007, U.S. Patent No. 7,814,575 (the "575 Patent") was filed.

In addition, and pursuant to Federal Rule of Civil Procedure 33(d), DMC will produce relevant, responsive, non-privileged non-work product documents in its possession, custody, and control that can be located with reasonable diligence. DMC will supplement this response to specify such records in sufficient detail at the time of its document production.

**INTERROGATORY NO. 2** Identify and describe in detail the dates, All persons involved with, and All Documents supporting (by Bates number) of All use(s), sale(s), offer(s) for sale, knowledge, description(s), invention(s), event(s), occurrence(s), circumstance(s), and Any other activities Relating to the subject matter of the Patents-in-Suit or Any Pertinent Maternity Product(s) or other product embodying or practicing Any claim of the Patents-in-Suit, which took place or occurred prior to May 31, 2007 (the filing date of U.S. Patent Application No. 11/756,242), whether or not Any such activities took place within the U.S., including, but not limited to, the dates of Any such activities, the type of Any such activities (e.g., use(s), sale(s), offer(s) for sale, knowledge, description(s), invention(s), etc.), Any system(s), product(s), and/or service(s) involved in Any such activities, and the names of All Persons involved in Any such activities.

**Response to Interrogatory No. 2:**

In addition to its General Objections, DMC objects to this Interrogatory as compound and containing multiple discrete subparts. DMC further objects to this Interrogatory as overly broad, unduly burdensome and seeking information that is neither relevant to any claim or defense in this action nor reasonably calculated to lead to the discovery of admissible evidence. DMC further objects on the grounds that it calls for legal determinations and seeks information protected by the attorney-client privilege and/or work product doctrine. Subject to and without waiving any of the foregoing objections, DMC responds as follows:

Pursuant to Federal Rule of Civil Procedure 33(d), DMC will produce relevant, responsive, non-privileged non-work product documents in its possession, custody, and control that can be located with reasonable diligence. DMC will supplement this response to specify such records in sufficient detail at the time of its document production.

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