

**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>)	
)	
v.)	HON. ANITA B. BRODY
)	
TARGET CORPORATION, CHEROKEE INC., and ELIZABETH LANGE LLC,)	
)	
<i>Defendants.</i>)	
)	
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**DEFENDANT’S FIRST SET OF REQUESTS FOR PRODUCTION
TO PLAINTIFF DESTINATION MATERNITY CORPORATION**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and Local Rule 26.1, defendant Target Corporation hereby serves its First Set of Requests for Production to Plaintiff, as follows:

I. CONSTRUCTIONS

The following constructions shall apply throughout this Discovery Request:

A. Defined words and terms, and the words that comprise defined phrases, are capitalized. If a word that would otherwise constitute a defined word or term, or a constituent of a defined phrase, is not capitalized, then that word should be accorded its ordinary meaning in view of the context in which it is used. All other words, whether or not capitalized, should be accorded their ordinary meaning in view of the context in which they are used.

B. All definitions pertain equally to the singular, plural, and possessive forms of the defined words, terms, and phrases.

C. The words “and” and “or” shall be construed conjunctively or disjunctively as necessary in order to bring within the scope of Any request herein Any responses that might otherwise be construed to be outside the scope of such request.

II. DEFINITIONS

The following definitions shall apply throughout this Discovery Request:

A. The words “Any” and “All” may be used interchangeably herein and mean “any,” “all,” “each and every,” as well as “any one.”

B. The terms “Relate to,” “Related to,” “Relating to,” “in Relation to,” “Relate,” and “Related” mean comprising, mentioning, describing, underlying, containing, enumerating, involving, regarding, or in Any way concerning, identified in, pertaining, corresponding, or referring to, being connected with, reflecting on or resulting from, in whole or in part, directly or indirectly, the stated subject matter.

C. The terms “This Matter,” “This Lawsuit,” and “This Action” are used interchangeably herein and mean and Relate to the case in which this Discovery Request is being served, *Destination Maternity Corporation v. Target Corporation, Cherokee Inc., and Elizabeth Lange LLC*, No. 2:12-cv-5680-AB (E.D. Pa. filed Oct. 4, 2012).

D. The terms “Destination Maternity Corporation,” “DMC,” “Plaintiff,” “You,” “Your,” and “Yours” mean and Relate to the plaintiff in This Matter, Destination Maternity Corporation, and include Mothers Work, Inc. and Cave Springs Inc., as well as Destination Maternity Corporation’s present and former divisions; subsidiaries; affiliates; parents; predecessors, successors, and assigns (by operation of law or otherwise); officers; directors; principals; employees; representatives; investors; sureties; indemnitors; insurers; inspectors; agents; attorneys; auditors; accountants; consultants; advisors; investigators; and Any other Person acting or purporting to act on its behalf, presently or in the past.

E. The terms “Target Corporation,” “Target,” “Defendant,” and “Requesting Party” are used interchangeably herein and mean and Relate to defendant Target Corporation, the defendant in This Matter who has served this Discovery Request on You.

F. The term “Parties” means and Relates to any named party in This Matter, including, but not limited to, Destination Maternity Corporation, Target Corporation, Cherokee Inc., and Elizabeth Lange LLC.

G. The term “Third Party” means a Person other than the Parties.

H. The term “Discovery Request” means and Relates to this discovery request, Target’s First Set of Requests for Production to Plaintiff.

I. The term “Complaint” means and Relates to the most current filed document containing Plaintiff’s claims against Target in This Matter, which, as of the date of this Discovery Request, is Plaintiff’s Complaint (Doc. No. 1, filed Oct. 4, 2012).

J. The term “Answer” means and Relates to the most current filed document containing Target’s defenses in This Matter, which, as of the date of this Discovery Request, is Defendant’s Answer and Defenses to Plaintiff’s Complaint (Doc. No. 17, filed Dec. 3, 2012).

K. The term “‘575 Patent” means and Relates to U.S. Patent No. 7,814,575 issued October 19, 2010 and surrendered on July 24, 2012. The term “‘276 Patent” means and Relates to U.S. Patent No. 7,900,276 issued March 8, 2011 and surrendered on August 7, 2012. The term “‘531 Patent” means and Relates to U.S. Patent No. RE43,531 issued on July 24, 2012. The term “‘563 Patent” means and Relates to U.S. Patent No. RE43,563 issued on August 7, 2012. The term “Patents-in-Suit” means and Relates to both the ‘563 Patent and the ‘531 Patent entitled “Belly Covering Garment” as well as Any parent, grandparent, or predecessor applications, whether pending, issued, or abandoned, and Any divisional, continuation, or

continuation-in-part applications, and Any surrendered or foreign patents and patent applications disclosing or claiming subject matter which is substantially the same as that claimed in either the '563 Patent or the '531 Patent.

L. The term “Accused Product(s)” means and Relates to All product(s) of Target that You believe Infringe Any claim of the Patents-in-Suit.

M. The term “Pertinent Maternity Product(s)” means and includes, but is not limited to, All of Your current or past maternity products that are similar to the Accused Product(s) or that are similar to, or that embody, the subject matter disclosed and/or claimed in the Patents-in-Suit. For example, the term “Pertinent Maternity Product(s)” means and Relates to All maternity pants, trousers, jeans, shorts, and skirts of any style, material, or length that have a flexible panel (1) at, near, and/or above the waist line, and (2) that encircles all or part of the wearer’s waist, stomach, and/or torso. For purposes of this definition, the articles of clothing described above— pants, trousers, jeans, shorts, and skirts—should be consider for “maternity” wear if You have ever advertised, sold, or otherwise identified them as such.

N. The term “U.S.” means and Relates to The United States of America and its territories.

O. The term “Foreign” means and Relates to Any nation or territory outside of the U.S., and includes Any governmental, quasi-governmental, trade-Related, or treaty-Related organization, or Any other such organization that is not controlled exclusively by the U.S.

P. The term “Person” means and Relates to each of the Parties, as well as Any other natural person or entity, including, but not limited to, and regardless of whether “not-for-profit,” Any proprietorships; partnerships; firms; corporations; limited liability companies; trusts; joint ventures; independent establishments; public, municipal, or government agencies or corporations

(federal, state, local, Foreign, or otherwise) and Any departments and agencies thereof; governments (federal, state, local, Foreign, or otherwise) and Any departments and agencies thereof; Any other governmental agencies, political subdivisions, groups, associations, organizations, boards, firms, funds, or bodies of Any kind; Any divisions or subsidiaries of Any group or a combination acting as an entity; and Any other legally recognized entity of Any description whatsoever. Unless otherwise stated, the term “Person” also includes Any individuals and/or entities which are separately defined in these Definitions. Any reference to Any Person that is not a natural person, including the Parties, shall also include that Person’s present and former divisions; subsidiaries; affiliates; parents; predecessors, successors, assigns, and heirs (by operation of law or otherwise); officers; directors; principals; employees; representatives; investors; sureties; indemnitors; insurers; inspectors; agents; attorneys; auditors; accountants; consultants; advisors; investigators; and Any other Person acting or purporting to act on its behalf, presently or in the past.

Q. The term “Communication” means and Relates to Any transmission, conveyance, or exchange of information, whether by oral, written, printed, recorded, filmed, electronic, or other means.

R. The term “Document” is used in the broadest sense permissible under the Federal Rules of Civil Procedure, and includes, but is not limited to, documents and electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations stored in Any medium from which information can be obtained—and translations thereof, and means and Relates to Any written, printed, recorded, filmed, or electronically stored words, data, or information of Any type or description, whether so written, printed, recorded, filmed, or electronically stored using mechanical, electronic,

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