

**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,)	JURY DEMAND
)	
<i>Defendants.</i>)	
)	
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**PLAINTIFF DESTINATION MATERNITY CORPORATION'S
OBJECTIONS AND SECOND SUPPLEMENTAL 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 first supplemental responses to the First Set of Interrogatories from Defendant Target Corporation (“Target”) to DMC (“Interrogatories”).

GENERAL OBJECTIONS TO INTERROGATORIES

DMC incorporates herein its General Objections from its November 16, 2011 interrogatory responses.

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.

seeks expert opinion or testimony. DMC will provide its invalidity rebuttal positions, including contentions related to secondary considerations of non-obviousness, in response to relevant Target invalidity contentions. Subject to and without waiving any of the foregoing objections, DMC responds as follows:

The secondary considerations that evidences nonobviousness include commercial success, long-felt-but-unsolved needs, and copying by competitors. For example, various DMC competitors, including Target, copied and sold the design embodied in the Patents-in-Suit.

INTERROGATORY NO. 14 Identify and describe in complete detail All U.S. and Foreign publications, patents, patent applications, inventions by a Third Party, uses, sales or offers of sale, and disclosures including, but not limited to, Any U.S. or Foreign technical papers, product specifications, product manuals, design drawings, and product catalogs that have been considered by, or that have been brought to the attention of, DMC, Any owner, assignee, or licensee of Any of the Patents-in-Suit, or Any U.S. or Foreign patent agent or attorney acting on behalf of DMC or Any owner, assignee, or licensee of Any of the Patents-in-Suit, as being possible or actual Prior Art to one or more of the Patents-in-Suit; and produce All Documents, Things, and ESI Relating to the subject matter of this interrogatory and/or Your response hereto.

Response to Interrogatory No. 14:

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:

Patent Ref. No.	Title	Inventor
3045676	Vein stripper	Slaten

The following is a list of correspondence where alleged prior art was sent to DMC.

To	From	Date	Description	Bates Range
Paul Taufer	Norman Lehrer	06/07/11	Email forwarding images of unidentified alleged prior art	DMC0064433-0064437
Ron Masciantonio	Kayla Owens	03/24/11	Letter forwarding pages from JC Penney 2004 & 2005 catalogs	DMC0064247-0064252
DLA	Landon		Original color pages obtained from the USPTO by Landon. "Artifact color"— Selected pages from the JCPenney Catalog Maternity Collection, published IQ 2004, front and back cover pages, and pp. 4, 22, 30, and 32; and Selected pages from the JCPenney Catalog Maternity Collection, dated Fall/Winter 2005, front and back cover pages, and pp. 14, 15, and 28.	DMC0064237-0064246

The following is a list of alleged prior art received from foreign patent offices.

Date Received	From	Alleged Prior Art	Bates Range
09/23/13	Chinese Patent Office	US 4506390A published 03/26/85	DMC0066481-DMC0066542
09/23/13	Chinese Patent Office	US 2004/0210987A1 Published 10/28/04	DMC0066481-DMC0066542
09/23/13	Chinese Patent Office	US 2006/0010571A1 Published 01/19/06	DMC0066481-DMC0066542
09/23/13	Chinese Patent Office	US 6311333B1 Published 11/06/01	DMC0066481-DMC0066542
09/23/13	Chinese Patent Office	US 3045678A Published 07/24/62	DMC0066481-DMC0066542

Second Supplemental Response to No. 14:

The following is a list of alleged prior art received from foreign patent offices.

Date Received	From	Alleged Prior Art	Bates Range
01/26/10	Shanghai Patent & Trademark Office	Hong Kong Patent Application No. 12111172.3	DMC00117979-DMC00117989
03/23/10	Shanghai Patent & Trademark Office	Patent Application in China No. 200880017950.8	DMC0117990-DMC0118136
07/24/62	Geimer	Page from 3,045,678 filed 02/26/60	DMC0118106-DMC0118110
06/28/13	Japan Patent Office	Japanese Patent Application No. 2010-	DMC0118137-

		510393; International Patent Application No. PCT/US2008/061739	DMC0118250
08/26/08	Argentina Patent Office	Argentinean Patent Application No. P080102231 Based on U.S. Patent Application No. 11/756,242	DMC0118251- DMC0118424
06/26/12	Japan Patent Office	JP-U-3086624 US 4,506,390	DMC0119337- DMC0119345
05/29/08	Chile Patent Office	Patent Application No. 1555-08 in Chile Based on US 11/756,242	DMC0118425- DMC0118545
12/20/12	Chile Patent Office	US 4,506,390 US 2004/0210987 US 2006/0010571 US 6,311,333 US 3,045,678 US 4,280,229 US 2008/0295225	DMC0119346- DMC0119409
05/18/08		National Patent Application in Venezuela No. 2008/001038 claiming priority from US Pa. Appl. No. 11/756,242	DMC0118546- DMC0118597
02/03/10	Canadian Intellectual Property Office	Canadian Patent Application No. 2,689,044/International Patent PCT/US2008/061739	DMC0118598- DMC0118703
05/28/08	Austrian Patent Office	Application No. GCC/P/2008/10911	DMC0118704- DMC0118709
05/28/08	Austrian Patent Office	US 4,506,390 US 2004/0210987 US 2006/0010571 US 6,311,333 US 3,045,678 US 4,280,229	DMC0119346- DMC0119409
06/10/11	Canadian Patent Office	Canadian Patent Application No. 2,689,044/PCT International Application No. PCT/US2008/061739	DMC0118710- DMC0118728
02/17/10	European Patent Office	European Patent Application No. 08754940.8/EP 2160109A	DMC0118729- DMC0118787
07/06/11	Taiwan Intellectual Property Office	Taiwanese Search Report and Office Action for corresponding Taiwanese Application No. 097119420	DMC0118788- DMC0118796
07/04/11	Taiwan Intellectual Property Office	US 4,506,390 US 2004/0210987 US 2006/0010571 US 6,311,333 US 3,045,678	DMC0119346- DMC0119409

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.

Supplemental Response to Interrogatory No. 17:

DMC incorporates its prior objections to this Interrogatory. In accordance with Rule 33(d), DMC identifies the following documents by Bates number produced to Defendants that include information requested by this Interrogatory: See Bates numbers DMC0066238-DMC0066243; DMC0066269-DMC0066381; DMC0066553-DMC0066571; DMC0066614-DMC0066666; DMC0066675-DMC0066688; DMC0066709-DMC0066809; DMC0066909-DMC0066924; DMC0116977-DMC0117009; DMC0117773-DMC0117775; DMC0117559-DMC0117861; DMC0117867-DMC0117918; DMC0119741; DMC0117949; DMC0117957; DMC0117961-DMC0117966; DMC0116276-DMC0116285; DMC0116289-DMC0116398; DMC0116427-DMC0116448; DMC0116450-DMC0116468; DMC0116470-DMC0116485; DMC0116487-DMC0116489; DMC0116492-DMC0116493; DMC0116498-DMC0116512; DMC0116521-DMC0116530; DMC0116547-DMC0116563; DMC0116689-DMC0116742; DMC0116762-DMC0116763; DMC0116845- DMC0116903; DMC0116905- DMC0116909; DMC0116912-DMC0116959; DMC0116971- DMC0116976.

Discovery is ongoing and DMC reserves its right to supplement its response to this Interrogatory at a later date.

DLA PIPER LLP (US)

By: /s/ Paul A. Taufer

Paul A. Taufer (PA 58,935)

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