

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 IPR2014-00508 (RE43,563)  
Case IPR2014-00509 (RE43,531)

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

BISK, *Administrative Patent Judge*.

ORDER  
Conduct of the Proceedings  
*37 C.F.R. § 42.5*

Case IPR2014-00508 (RE43,563)

Case IPR2014-00509 (RE43,531)

On March 20, 2014, a telephone conference call was held between respective counsel for the parties and Judges Bisk, Fitzpatrick, and Weatherly. The conference call was initiated by the Board in response to a communication received from the Patent Owner's counsel.

In these cases, Petitioner has filed motions to join IPR2014-00508 and IPR2014-00509 with IPR2013-000530/ IPR2013-00531 and IPR2013-000532/IPR2013-00533, respectively. Patent Owner seeks permission to file an opposition to these joinder motions. Petitioner does not oppose the request, but also requests a reply. Patent Owner does not oppose Petitioner's request for a reply. During the call we discussed the timing of the requested briefing. We explained that because the petitions in these cases contain many newly asserted grounds and references, it would be unfair to limit the time afforded Patent Owner in preparing its preliminary response. Therefore, we were not inclined to expedite the timing of any briefing to the joinder motions, which are not even relevant unless the petitions are granted. During the call, we did not rule on whether we would authorize either an opposition or a reply in support of the motions for joinder. After deliberation, we have decided that we will authorize Patent Owner to file an opposition, due concurrently with the preliminary response. At this time, however, we do not authorize a reply.

We further discussed, on the issue of timing, the potential effect on the existing schedule, should these proceedings be joined, as requested. Under these circumstances, we will give Petitioner an opportunity, in the form of a motion, to limit the petitions to a subset of claims and grounds to reduce Patent Owner's burden in responding.

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Accordingly, it is

ORDERED that Petitioner is authorized to file a motion in each proceeding to limit the respective petition to a subset of the grounds and claims therein;

FURTHER ORDERED that Petitioner shall file such motions no later than March 27, 2014 and that they shall be limited to 5 pages;

FURTHER ORDERED that no oppositions to these motions by Patent Owner are authorized;

FURTHER ORDERED that Patent Owner's opposition to each motion for joinder shall be due on the same date as its preliminary response to the respective petition. No reply by Petitioner is authorized.

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For PETITIONER:

Norman Hedges  
[Norman.hedges@faegrebd.com](mailto:Norman.hedges@faegrebd.com)

Trevor Carter  
[Trevor.carter@faegrebd.com](mailto:Trevor.carter@faegrebd.com)

Daniel Lechleiter  
[Daniel.lechleiter@faegrebd.com](mailto:Daniel.lechleiter@faegrebd.com)

For PATENT OWNER:

IP Group of DLA Piper, LLC  
One Liberty Place  
1650 Market Street  
Suite 4900  
Philadelphia, PA 19103

Paul A. Taufer  
[Paul.taufer@dlapiper.com](mailto:Paul.taufer@dlapiper.com)

Michael.Burns  
[Michael.burns@dlapiper.com](mailto:Michael.burns@dlapiper.com)