

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TARGET CORPORATION
Petitioner

v.

DESTINATION MATERNITY CORPORATION
Patent Owner

Patent No. RE43,563 E
Filing Date: June 15, 2011
Issue Date: August 7, 2012
Title: BELLY COVERING GARMENT

**MOTION FOR JOINDER TO RELATED
INSTITUTED *INTER PARTES* REVIEW (37 C.F.R. § 42.122(b))**

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LIST OF EXHIBITS

- Exhibit 1040: Target's First Set of Requests for Production to DMC (served Mar. 12, 2013)
- Exhibit 1041: Target's First Set of Interrogatories to DMC (served Mar. 12, 2013)
- Exhibit 1042: Pertinent Pages Excerpted from DMC's Objections and Second Supplemental Responses to Target's First Set of Interrogatories (served Oct. 14, 2013)
- Exhibit 1043: Letter from Counsel for DMC, Dated October 11, 2013, Memorializing DMC's Supplemental Production of Documents Bearing Bates Nos. DMC0119316-DMC0119453
- Exhibit 1044: Letter from Counsel for DMC, Dated September 27, 2013, Memorializing DMC's Supplemental Production of Documents Bearing Bates Nos. DMC0064438-DMC0116976
- Exhibit 1045: English Translation and Japanese-Language Version of a Preliminary Notice of Rejection, Dated June 26, 2012, in Japanese Patent Application No. 2010-510393, as Produced by DMC Bearing Bates Nos. DMC0116962-DMC0116968
- Exhibit 1046: Japanese Patent Application No. 2010-510393
- Exhibit 1047: International Publication No. WO 2008/150595
- Exhibit 1048: E-mail from Counsel for DMC, Dated March 7, 2014, Confirming that the Document Produced by DMC Bearing Bates Nos. DMC0116962-DMC0116968 Is Not Confidential
- Exhibit 1049: Declaration of Debbie Cairns in Support of Defendants' Uncontested Motion to Serve Defendants' First Supplemental Invalidity Contentions, Dated October 14, 2013
- Exhibit 1050: E-mail from Park IP Translation Delivery, Dated October 2, 2013, at 11:46 PM, Conveying a Certified English Translation of Japanese Registered Utility Model No. 3086624 ("Asada")

LIST OF EXHIBITS (CONT.)

- Exhibit 1051: Japanese-Language Version and Certified English Translation of a Decision of Rejection Dated December 25, 2013, in Japanese Patent Application No. 2010-510393
- Exhibit 1052: Changes to Implement *Inter Partes* Review Proceedings, Post-Grant Review Proceedings, and Transitional Program for Covered Business Method Patents, 77 Fed. Reg. 48679, 48680 (Aug. 14, 2012)

I. STATEMENT OF RELIEF REQUESTED

Pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b), Petitioner Target Corporation (“Target” or “Petitioner”) seeks with this Motion to have its Petition for *Inter Partes* Review of claims 1-4, 6-8, 10-14, 16, 20, and 21 of U.S. Patent No. RE43,563 (“Third ’563 Petition”), filed contemporaneously herewith, joined with the instituted *inter partes* review, *Target Corp. v. Destination Maternity Corp.*, IPR2013-00531 (Ex. 1029) (“IPR2013-00531”).

Target is also the petitioner in a co-pending instituted *inter partes* review (“IPR”), *Target Corp. v. Destination Maternity Corp.*, IPR2013-00530 (Ex. 1027) (“IPR2013-00530”). IPR2013-00530, IPR2013-00531, and the Third ’563 Petition all seek IPR of claims of U.S. Patent No. RE43,563 (Ex. 1001) (the “’563 Patent”).

II. STATEMENT OF MATERIAL FACTS

1. On October 4, 2012, Patent Owner, Destination Maternity Corporation (“DMC” or “Patent Owner”), filed a presently copending lawsuit against Target involving the ’563 Patent, *Destination Maternity Corp. v. Target Corp., et al.*, Case No. 2:12-cv-5680-AB (E.D. Pa.) (the “’563 Concurrent Litigation”). Target was served with DMC’s complaint that same day.

2. On August 27, 2013, Target filed two petitions seeking IPR of claims of the ’563 Patent. IPR2013-00530 requested review of claims 1-4 and 6-8, and IPR2013-00531 requested review of claims 1, 10-14, 16, 20, and 21. (Exs. 1026,

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