

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TARGET CORPORATION
Petitioner

v.

DESTINATION MATERNITY CORPORATION
Patent Owner

Case No. IPR2014-00509
(U.S. Patent No. RE43,531)

Dated: June 24, 2014

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

**PATENT OWNER'S OPPOSITION TO PETITIONER'S MOTION FOR
JOINDER TO RELATED INSTITUTED *INTER PARTES* REVIEW**

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LIST OF EXHIBITS

Evidence Filed with Patent Owner's Opposition to Petitioner's Motion for Joinder

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| Exhibit 2107 | PTAB Scheduling Order for IPR2013-00530 dated February 14, 2014 |
| Exhibit 2108 | PTAB Scheduling Order for IPR2013-00531 dated February 14, 2014 |
| Exhibit 2109 | PTAB Scheduling Order for IPR2013-00532 dated February 19, 2014 |
| Exhibit 2110 | PTAB Scheduling Order for IPR2013-00533 dated February 19, 2014 |
| Exhibit 2113 | Motion for Joinder for IPR2014-00508 dated March 14, 2014 |
| Exhibit 2114 | Patent Owner's Preliminary Response for IPR2013-00533 dated December 4, 2013 |

Petitioner's Filed Exhibits Cited in Patent Owner's
Opposition to Petitioner's Motion for Joinder

- Exhibit 1002: *J.C. Penney ontrend Maternity Catalog*, dated Fall/Winter 2005, cover and pages 15 and 19 (“JCP”)
- Exhibit 1018 Hendrickson et al. US Patent No. RE43,531 (“the ’531 Patent”)
- Exhibit 1027: PTAB Decision for IPR2013-00530 dated February 14, 2014
- Exhibit 1029: PTAB Decision for IPR2013-00531 dated February 14, 2014
- Exhibit 1031: PTAB Decision for IPR2013-00532 dated February 19, 2014
- Exhibit 1033: PTAB Decision for IPR2013-00533 dated February 19, 2014
- Exhibit 1034: Japanese Utility Model Patent No. 3,086,624 to Asada
- Exhibit 1035 Certified Translation of Asada
- Exhibit 1037: US Patent No. 8,185,970 to Summers

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I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.23, Patent Owner Destination Maternity Corporation ("Patent Owner") opposes the Petitioner Target Corporation ("Petitioner") Motion for Joinder to Related Instituted *Inter Partes* Review ("Motion"). See Joinder Mot., Paper No. 3. Petitioner moves to join its Petition for *Inter Partes* Review ("Petition") with IPR2013-00533.¹ *Id.*; Petition and Corrected Petition, Paper Nos. 1 and 9 at 1. The Motion should be denied because (a) the Petition presents substantial new patentability analysis and substantive arguments that go well beyond those in IPR2013-00533; (b) Petitioner did not explain adequately the impact of the new substantive issues on the Patent Owner and the trial schedule; and (c) Petitioner did not establish that joinder would promote efficient resolution of the unpatentability issues.

II. MATERIAL FACTS IN DISPUTE

For the purpose of responding to this Motion, Patent Owner only disputes the following:

3. Patent Owner disputes "but on new grounds—i.e., in view of Japanese Registered Utility Model No. 3086624 ("JP U3086624" or "Asada") (Ex. 1034 and

¹ Petitioner filed a Motion to Limit the Petition on March 25, 2014. See Motion to Limit the Petition, Paper No. 7. Because the Motion was not granted, Patent Owner is responding to the full Corrected Petition.

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