

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

National Federation of the Blind, the National Federation of the Blind of California, on behalf of their members, and Bruce F. Sexton, on behalf of himself and all others similarly situated,
 Plaintiffs,
 vs. Case No. 06-01802 MHP
 Target Corporation,
 Defendant.

Deposition of Charlotte Czarnecki
 June 18, 2007

Carol Brausen Engels, RPR, Iowa CSR, CRR
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CHARLOTTE CZARNECKI 06/18/07 2

Deposition of Charlotte Czarnecki, taken pursuant to Notice and agreement under the California Rules of Civil Procedure at the Law Firm of Faegre & Benson, 2200 Wells Fargo Bank Building, 90 South Seventh Street, in the City of Minneapolis, County of Hennepin, State of Minnesota, on the 18th day of June, 2007, at 1:08 o'clock p.m., before Carol Brausen Engels as notary public in and for the County of Ramsey, State of Minnesota.

* * * * *

A P P E A R A N C E S

RACHEL BRILL, Attorney at Law, Schneider & Wallace, Suite 2000, 180 Montgomery Street, San Francisco, California 94104, appeared on behalf of the Plaintiff. (415-421-7100)

MATTHEW KREEGER, Attorney at Law, of the Law Firm of Morrison & Forester, 425 Market Street, San Francisco, California 94105, appeared on behalf of the Defendant. (415) 268-7000

JASON WALBOURN, Attorney at Law, Target Corporation, also appeared on behalf of the Defendant. (612)

Examination by Mr. Kreeger 3
 (No Exhibits.)
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June 18, 2007
 1:08 o'clock p.m.

Charlotte Czarnecki,
 having been first duly sworn, was examined and testified under oath as follows:

EXAMINATION

BY MR. KREEGER:

Q. Good afternoon. Miss Czarnecki, my name is Matthew Kreeger, and I represent the Target Corporation, and I'm here today to take your deposition. Have you ever had your deposition taken before?

A. No.

Q. I'm going to ask a series of questions, and you are to answer the questions. There's a court reporter here who is going to take down everything we say. So it's important that we speak one at a time. I'll do my best to let you finish your answer before I ask another question. Please try to let me finish the question before you begin your answer. If at any time I ask a question that you consider unclear, please let me know; and I'll try to clarify.

You'll have a chance after we're done to review the transcript to make sure it's accurate. Do you have any questions about what we're doing today?

A. No.

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Q. If you ever need a break, just let me know. We'll stop. Could you just state your name for the record?

A. My name is Charlotte Czarnecki.

Q. And I noted that you've submitted two declarations in this case. I want to ask you some questions about those; but before I do, can you just tell me what is your -- well, start again.

How long have you been using a computer with a screen reader?

A. I have been using a computer with a screen reader with windows since about 1997.

Q. Okay. And what screen reader or screen readers have you used?

A. I've used Jaws for Windows.

Q. Is that the only one?

A. Yes. In my -- I didn't say in my declaration because it was a DOS computer, but years ago my very first computer was around '95. I had a computer that had a screen reading software called Master Touch, and it was a DOS program, and I didn't do anything with the Internet with that computer. It was basically I used it for word processing. But I started using the computer with Jaws in 1997, and that's been the only screen reader I've used since

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1 that time.

2 Q. Have you used multiple versions of Jaws over time?

3 A. Yes.

4 Q. Approximately how many versions of Jaws do you think

5 you've used?

6 A. I have used -- well, I started using Jaws at

7 Version 2.0, and now it's at Version 8.0, and I've

8 upgraded from every version, so that's probably

9 between six to eight versions.

10 Q. And throughout the time that you've been using Jaws,

11 have you used it to access the Internet?

12 A. Yes.

13 Q. Have you noticed any difference in the capability of

14 Jaws and accessing the Internet over time?

15 A. I have. There have been some improvements.

16 Q. How so?

17 A. Freedom Scientific has made it easier for, you know,

18 they've developed various shortcut keys so that you

19 can access different portions of the Internet

20 easier. The forms mode feature, for example, if you

21 need to fill out a form online, they have a feature

22 where it organizes that so you can use it a lot

23 easier. So, yeah, those are the things that I would

24 say that make it easier.

25 Q. When did this forms feature get added to Jaws?

1 MS. BRILL: Object to the extent it calls for

2 expert information, but you can answer.

3 THE WITNESS: I can guesstimate on that.

4 Probably around Version 4.5.

5 BY MR. KREEGER:

6 Q. Which was approximately when?

7 A. Oh, I don't know. I can't remember. Probably

8 around 2001 or '2. I don't know. I'm not an expert

9 on that.

10 Q. In your use of the Jaws screen reader with Internet

11 sites, have you found that some sites are easier to

12 use than others?

13 MS. BRILL: Objection, vague and ambiguous,

14 overbroad. You can answer.

15 THE WITNESS: I can answer?

16 MS. BRILL: Yes, you can.

17 THE WITNESS: What I would like to say about

18 Jaws and the use of the Internet is that Jaws has

19 changed over the years. But the Internet has also

20 changed over the years.

21 So I think every Web site is very unique in its

22 appearance, and every Web site has its own

23 challenges. And I would say that, yes, there are

24 some Web sites that are easier to use than others.

25

1 BY MR. KREEGER:

2 Q. And I believe in your declaration, the original

3 declaration you've filed a couple months ago, you

4 said that the majority of Web sites that you visited

5 are more accessible than you found Target.com to be.

6 A. Yes.

7 Q. What are some examples of sites that you found to be

8 less accessible than Target.com?

9 A. They're not shopping Web sites. There are some

10 newspaper Web sites that are rather confusing. I

11 found some -- I'm interested in some science-related

12 things, and those Web sites were pretty confusing,

13 but I would say that Target is one of the more

14 confusing of the shopping Web sites.

15 Q. What are some other Web sites that you've visited

16 using a screen reader? I mean shopping Web sites in

17 particular.

18 A. Well, I do my grocery shopping online. So I go to

19 like Simon Delivers, and I go to Lunds and Byerly's.

20 I've been to the Walgreens Web site.

21 Q. Any others?

22 A. I've been to the mall, so I've been to like JC

23 Penney and some of the other stores in like

24 Southdale Mall or something like that, but I don't

25 frequent that very often.

1 Q. Besides Target.com, have you visited any other

2 shopping sites and found them to be not useful?

3 A. I've been able to get through them. I don't think

4 they're perfect, but I've been able to use them.

5 Q. When was it that you visited Target.com and

6 encountered problems?

7 A. I have been to Target. Now, you know, trying to

8 pull these dates out of your memory is hard.

9 Q. To the best of your recollection.

10 A. You know, I've been in Target, you know, for the

11 past couple of years on and off. And I've had

12 struggles with the Web site.

13 Q. You mentioned in your declaration one incident that

14 happened in 2005 when you tried to access a wedding

15 registry. I'll ask you about that later. Can you

16 think of any other instances in which you visited

17 Target.com?

18 A. Yes, I often go to view the weekly ad or just to

19 browse around.

20 Q. How often would you say that you go to view the

21 weekly ad or browse around?

22 A. Well, I would say it varies. I mean I could go once

23 a month, but it varies.

24 Q. When was the last time that you visited Target.com?

25 A. Actually, I visited it this past week.

1 Q. Okay. What did you do when you visited it last
 2 week?
 3 A. I went, and I tried to look at the weekly ad, and I
 4 was just browsing around the clothing section.
 5 Q. Were you able to view the weekly ad last week?
 6 A. I was able to view some of it. The key to the ad, I
 7 think, is I know when I'm at a particular product,
 8 but then when you press "enter" on that product,
 9 then it gets to be pretty confusing because not only
 10 is that product there, but it's advertising other
 11 products.
 12 And so it's the divide in between, you know,
 13 where is the product that you're looking at, versus
 14 where is the other stuff they're advertising is a
 15 little bit confusing. Also, I found that there were
 16 other links on there that were, they were links, but
 17 they were all numbers and images and things like
 18 that. I didn't know what they were.
 19 Q. You said that last week you also browsed for some
 20 clothing?
 21 A. Yeah, I did.
 22 Q. Were you able to find the clothes you were looking
 23 for?
 24 A. Again, I was able to find the product. But then to
 25 know -- like I made a shopping cart, and I wasn't

1 really sure what I had all in my shopping cart
 2 because it said this thing on the bottom that said
 3 "continue shopping," and it was just a little bit
 4 confusing.
 5 Q. I'm sorry. You couldn't tell what was in your
 6 shopping cart? That was the problem?
 7 A. Right, right. I was just, I was confused.
 8 Q. In your declaration, you mentioned certain specific
 9 issues that you had with Target.com back in 2003, '4
 10 and '5. You mentioned links and images without
 11 labels as to what they are.
 12 A. Uh-huh.
 13 Q. Have you noticed any improvement in Target.com on
 14 that score?
 15 A. Not 100 percent. There are still links and images
 16 and labels there that are not properly labeled.
 17 Q. Okay. But have you noticed any improvement?
 18 A. Slight improvement.
 19 Q. And what has improved?
 20 A. It's hard for me to say just because I haven't
 21 really analyzed it and really thought about it. But
 22 I think that especially since the National
 23 Federation of the Blind has made Target aware of the
 24 problem, Target has done some improvement, but there
 25 are still links on there that are not labeled. And

1 to know where you're at in your site, if you're in
 2 your cart versus the other list of products is still
 3 very unclear and confusing.
 4 Q. You mentioned in your declaration inexplicable code
 5 and garbled text. Has there been any improvement at
 6 Target.com on that issue?
 7 A. There still is that garbled text there, as I said.
 8 I don't know that there has been much improvement
 9 with that.
 10 Q. You also mentioned an issue with the forms and
 11 unlabeled or incorrectly labeled form fields.
 12 A. And maybe it's just my confusion; but, yeah, there
 13 are -- I've just had, you know, where I'm trying to
 14 fill out a form or go into a comma box, and it just
 15 gets all confusing. And on my other web sites, I
 16 don't have that problem. I do shop online, and I
 17 don't have that problem.
 18 Q. So you still see problems with the performance of
 19 the Target Web site?
 20 A. Yes, yes.
 21 Q. Have you managed to shop online at Target.com?
 22 A. I've gotten -- I've never bought anything online at
 23 Target.com. I've just browsed and looked and wasn't
 24 very comfortable purchasing because I wasn't sure
 25 what I was going to get. I would like to buy from

1 Target.com, though, because I am a customer of
 2 Target.
 3 Q. Have you been able to browse for information about
 4 products that are available at Target through using
 5 their web site?
 6 A. I have been able to find the title of a product, but
 7 to go in and get like a description of what that
 8 product is, it's a little bit -- it's confusing.
 9 Q. You regularly shop at the Target retail store, is
 10 that right?
 11 A. Yes.
 12 Q. One of them is near where you work?
 13 A. Yes.
 14 Q. How often would you say you visit a Target retail
 15 store?
 16 A. Probably once or twice a month.
 17 Q. Do you ask for assistance from Target employees when
 18 you visit a Target retail store?
 19 A. Yes.
 20 Q. And do you receive assistance?
 21 A. I receive the assistance.
 22 Q. Let me ask you about this wedding registry issue.
 23 In 2005, you wanted to buy a gift off of a wedding
 24 registry of a friend of yours?
 25 A. Yes.

1 Q. And you weren't able to access the wedding registry
 2 online?
 3 A. It was very confusing at the time.
 4 Q. Okay. Have you tried a wedding registry more
 5 recently?
 6 A. No.
 7 Q. So after you couldn't succeed on the Web site, you
 8 went to the store?
 9 A. I went to the store.
 10 Q. And you asked for help at the store?
 11 A. Yes, I did.
 12 Q. And the Target employee at the store printed out the
 13 registry for you?
 14 A. Yes, they printed out the -- she printed out the
 15 registry for me, all thirty-some odd pages of it.
 16 Q. Thirty-some odd pages?
 17 A. There was a lot of pages.
 18 Q. Your friend had a lot of items on the wedding
 19 registry?
 20 A. Yes.
 21 Q. And the clerk read the list to you?
 22 A. The clerk looked at the list, was very overwhelmed
 23 by the list and asked me what I wanted. But I had
 24 no idea what I wanted to get my friend. And I had
 25 no idea of the price range of the things on the

1 list. And to stand there or go sit down and read
 2 the whole list would have been very -- it would have
 3 taken a long time. And that wouldn't have been a
 4 good idea, both on my time and on her time because I
 5 was shopping during my lunch hour.
 6 The -- so I decided to pick a category, and
 7 even under that category there were a lot of things.
 8 And this person didn't seem comfortable reading all
 9 of the items.
 10 One of the things that happens when you go to
 11 Target is that they find you the most -- the first
 12 available person to help you. That doesn't mean
 13 that this person is a trained reader. It doesn't
 14 mean that this person likes to read out loud. It
 15 doesn't even mean that this person has even helped a
 16 blind or vision impaired person ever before.
 17 So for her to read that gift registry list,
 18 even a portion of it, she stumbled over the words.
 19 And so I just on a whim picked out a couple of soap
 20 and lotion holders, just to buy something for my
 21 friend. I needed to get it done.
 22 Q. I see. You mentioned in your declaration that the
 23 clerk seemed reluctant to be reading the entire
 24 list?
 25 A. Yes.

1 Q. Did you ask a supervisor for someone else to assist
 2 you?
 3 A. That day when I went to Target to purchase the gift
 4 for my friend, I was on my lunch hour. And I went
 5 to Target, and it was actually 1:00 o'clock. I took
 6 a late lunch thinking that, you know, the store
 7 would be pretty well cleared out by then. And they
 8 provided me with a person, and this person was also
 9 a person with a disability. And he couldn't read.
 10 And he was very uncomfortable helping me.
 11 And so I asked the supervisor to find me
 12 somebody else. And so they found -- I had to wait
 13 about five or ten minutes, and they found another
 14 person. So, you know, by the time I got the person
 15 to help me, I'm on a timeframe, too. So for me to
 16 go back to the supervisor to complain or whatever, I
 17 just didn't think it was fair, and I didn't think it
 18 was fair that somebody, supervisor or not, should
 19 have to read me all the categories or X number of
 20 items from a list. It would have helped if I could
 21 have browsed at that and got a good idea of what I
 22 was looking for online before I went to the store.
 23 Q. Understood. Did you try calling the Target 800
 24 number to ask them to read you the list over the
 25 phone?

1 A. I didn't know there was a Target 800 number.
 2 Q. Have you successfully used the Target Web site to
 3 locate products that you were interested in and then
 4 gone and bought them at the store?
 5 A. Yes.
 6 Q. Have you done that frequently?
 7 A. I've done it occasionally. I would like to do it
 8 more.
 9 Q. I may have asked you this, and I apologize if I'm
 10 repeating myself. Have you successfully been able
 11 to access the weekly advertisement on the Web site?
 12 A. I have been able to access the products in the
 13 weekly ad, some of the products.
 14 Q. So you've been able to see what the products are and
 15 what the price is?
 16 A. I -- yeah.
 17 MR. KREEGER: Let's just take a quick break
 18 here.
 19 (Short break taken.)
 20 MR. KREEGER: Back on.
 21 BY MR. KREEGER:
 22 Q. I would like to go back to this issue you mentioned
 23 about continuing problems in your more recent visits
 24 to the Target Web site. And you mentioned that
 25 you're still seeing issues with the forms, for

1 example. Can you give me an example of a form that
 2 you tried to fill out where you still were
 3 encountering difficulties in recent visits?
 4 A. I think, you know, just selecting when you get a
 5 product to ensure that you have the right size, the
 6 right color, that type of thing.
 7 Q. I'm sorry. I'm just not following. Can you maybe
 8 explain, for example?
 9 A. For example, let's say you were to pick out a tank
 10 top. Well, you're going to have to get the right
 11 size; medium, large, et cetera. Then you're going
 12 to have to get the right color. And that's a little
 13 bit -- I mean it's -- that can be a little bit -- I
 14 think I do it, but I'm not really sure when I make
 15 my selections if it's the right thing because again
 16 when you put it on your cart, you have your cart,
 17 and you're not sure if, where the cart is at.
 18 A lot of shopping Web sites that I go to, the
 19 cart is in its own separate frame, its own separate
 20 window, whereas this cart is sort of in the midst of
 21 everything else. So I'm not really sure if -- you
 22 know, when the cursor comes on -- when you say
 23 "select" or whatever it is that you say, your cursor
 24 always jumps to some -- your point of focus always
 25 jumps to some -- it's not a standard spot when the

1 new page comes up. It's hard for me to explain. I
 2 apologize.
 3 Q. I think I get it. When you made a selection for a
 4 particular size and color, you're not getting
 5 feedback from the site that makes you sure you
 6 picked the right one?
 7 A. Yes.
 8 Q. But you haven't gone all the way to buy it to see if
 9 in fact you had the right one?
 10 A. No. I should.
 11 Q. Okay. You also mentioned that you're seeing some
 12 issues with -- actually, let me stop there. Are all
 13 the problems you experience with forms, do they
 14 involve attempts to use the shopping cart and
 15 purchase things?
 16 A. To put things into the shopping cart. And I haven't
 17 bought because I -- I don't want to essentially buy
 18 something, you know.
 19 Q. Right. Understood.
 20 A. I'm very insecure about that. However, I would like
 21 to get a Web site to be able to use the Target Web
 22 site to purchase things and feel very comfortable
 23 with it because I do shop online with other Web
 24 sites without problem. And I think I can do the
 25 same thing with Target.

1 Q. Understood. Okay. You also mentioned issues with
 2 garbled text and numbers instead of descriptions.
 3 Can you give me an example of where you've seen that
 4 in your recent visits to Target.com?
 5 A. As you see a list of products, there is a -- well,
 6 there are links scattered all throughout the pages
 7 of the site, but let's say I'm looking at food.
 8 I've seen it at food. I've seen them at clothes.
 9 I've seen them everywhere where there is a link. I
 10 don't know what that link is. I don't know if it's
 11 an "add to shopping cart" link or what it is.
 12 It's on -- like it's the garbled, it's the
 13 first thing that I see usually is the garbled text
 14 link. And then I see the name of the product. And
 15 then I don't remember what else I see.
 16 Q. And this was a recent visit, you say?
 17 A. Uh-huh, it was.
 18 Q. Can you maybe give me a specific product that you
 19 were looking for where you encountered this
 20 difficulty.
 21 A. I'll go back to that tank top.
 22 Q. Okay.
 23 A. I was looking at the ads, and I saw the women's tank
 24 top. And right up above that if you press your up
 25 arrow, you would find that link where it's the

1 garbled text. I don't know that link is. It might
 2 be a "buy" link. It might be an "add to cart" link.
 3 How I added it to the cart, because I was just
 4 conducting an experiment, was I went into the
 5 description of the product itself, and I think I
 6 added -- I think I added it to the cart, but I'm not
 7 sure because I don't know where the cart was.
 8 Q. So if I understand correctly, your major problem
 9 with completing the purchase at Target.com is your
 10 uncertainty as to what's in the cart?
 11 A. Yes.
 12 Q. Have you tried calling the 800 number to see if they
 13 could assist you on that issue?
 14 A. No. I haven't. And I would like to say that I
 15 would like to purchase the things online
 16 independently. I shouldn't have to call an 800
 17 number. I think that's a nice service, but I
 18 shouldn't have to -- I shouldn't have to do that.
 19 MR. KREEGER: Okay. That's all we have.
 20 Thanks for your time.
 21 THE WITNESS: Thank you very much.
 22 (Deposition concluded at 1:41 p.m.)
 23 * * * * *
 24
 25

