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15 Attorneys for Defendant  
 16 TARGET CORPORATION

17 UNITED STATES DISTRICT COURT  
 18 NORTHERN DISTRICT OF CALIFORNIA  
 19 SAN FRANCISCO DIVISION

21 NATIONAL FEDERATION OF THE BLIND,  
 the NATIONAL FEDERATION OF THE  
 22 BLIND OF CALIFORNIA, on behalf of their  
 members, and Bruce F. Sexton, on behalf of  
 23 himself and all others similarly situated,

24 Plaintiffs,

25 v.

26 TARGET CORPORATION,

27 Defendant.

Case No. C06-01802 MHP

**DECLARATION OF TRISH PERRY  
 IN SUPPORT OF TARGET  
 CORPORATION'S OPPOSITION  
 TO PLAINTIFFS' MOTION FOR  
 PRELIMINARY INJUNCTION**

Date: July 24, 2006

Time: 2:00 p.m.

Judge: The Honorable Marilyn Hall Patel

**DECLARATION OF TRISH PERRY**

1  
2 I, Trish Perry, have personal knowledge of the facts set forth below, and if called as a  
3 witness, I could and would testify under oath to the following:

4 1. I am Target.com's Group Manager for Business Operations. I have held this  
5 position for the past three years. Before becoming Group Manager, I served for three years as  
6 Target.com's Senior Manager for Front-End Operations.

7 2. As Group Manager for Business Operations at Target.com, I am responsible for  
8 overseeing both Target.com's front-end and back-end functionality. Thus, I not only oversee the  
9 content published on Target.com's website, but also serve as a liaison between the website and  
10 the business functions carried out by Target.com. My duties also include serving as a liaison  
11 between Target.com and the representatives who staff Target.com's 1-800 number.

12 3. Target.com was created in 1999. Target.com is a merchandising channel through  
13 which Target Corporation offers goods and services for sale to the public through a website  
14 located at www.target.com. Target.com's website does not exist in any physical location.  
15 Internet users can visit Target.com's website through their computers from anywhere in the  
16 United States. By doing so, Target.com's guests can view and purchase goods from Target.com's  
17 website without ever visiting one of Target Corporation's brick and mortar retail stores ("Target's  
18 retail stores").

19 4. I understand that Plaintiffs in this action have argued that Target.com is a service  
20 of Target's retail stores. This is not true. While Target Corporation works hard to make sure that  
21 the look and feel of Target.com and Target's retail stores are similar — both utilize similar color  
22 schemes, display Target's trade name and trademarks, sell some of the same merchandise, and  
23 pursue similar marketing strategies — Target.com and Target's retail stores are nonetheless two  
24 separate merchandising channels of Target Corporation. Indeed, if Target Corporation were to  
25 close its retail stores tomorrow, Target.com could still continue with its operations.

26 5. To illustrate, Target.com has its own president and management team who do not  
27 make any decisions for Target's retail stores. Target Corporation also employs approximately  
28 400 employees who work exclusively for Target.com, and who do *not* provide any services for

1 Target's retail stores. Target.com also has its own human resources department and its own  
2 employee incentive plan.

3 6. Target.com also has its own buyers, who are different than the buyers for Target's  
4 retail stores. Target.com also has its own logistics system (*i.e.*, a system for receiving, storing,  
5 packaging, and shipping out merchandise), which is different than the one used by Target's retail  
6 stores. 45% of Target.com's merchandise is also offered at Target's retail stores, but 55% of its  
7 merchandise is exclusive to Target.com. To cite a couple of examples, Target.com does not offer  
8 any of the food, detergents, or other low dollar amount personal items carried at Target's retail  
9 stores, but Target.com does offer a wider selection of furniture, rugs, clothing, and electronics  
10 than is available at Target's retail stores. The decision of what to sell on Target.com's website is  
11 made by Target.com, *not* Target's retail stores.

12 7. Target.com has established alternative means to assist guests who, for whatever  
13 reason, might experience difficulties in making purchases from our website. In particular,  
14 Target.com posts on its website a toll-free 1-800 number, which is staffed 24 hours a day, 7 days  
15 a week, 365 days a year by Target.com representatives who can provide whatever assistance the  
16 caller requires. For example, Target.com representatives can conduct searches (or help our guests  
17 conduct searches) for merchandise sold on our website; provide verbal descriptions of various  
18 items of merchandise in which the caller expresses an interest; help our guest select appropriate  
19 items for purchase; and, if requested, assist the caller to purchase merchandise either over the  
20 telephone, or through the Target.com website.

21 8. Target.com representatives can also assist guests obtain and use other features of  
22 our website. For example, if asked, Target.com's 1-800 number representative would run a  
23 search on the wedding or baby registry, and assist the guest in purchasing an item listed in the  
24 registry, if the item is sold through Target.com.

25 9. Target.com's 1-800 number also has an automated store locator, which also  
26 provides store hours and store telephone numbers. Using these telephone numbers, the guest can  
27  
28

1 call his or her local store to place a refill prescription request with the pharmacy, or to place an  
2 order with the service deli for in-store pick up.

3 I declare under penalty of perjury under the laws of the United States that the foregoing is  
4 true and correct.

5 Executed on June 12, 2006, at Minneapolis, Minnesota.

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Trish Perry

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