

EXHIBIT 4

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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

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5 NATIONAL FEDERATION OF THE) Case No.
6 BLIND, et al.,) C 06-01802 MHP
7 Plaintiffs,)
8 v.)
9 TARGET CORPORATION,)
10 Defendant.)

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13 DEPOSITION OF DR. JAMES THATCHER
14 FRIDAY, JUNE 2, 2006

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22 BY: CHRISTINE L. JORDAN, CSR NO. 12262

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1 Q. What is the purpose of considering a
2 clarification to the alt-text rule?

3 A. What is the purpose of clarifying the rule,
4 to make it clearer.

5 Q. Is it because it's difficult to apply as it
6 is today?

7 A. I don't think it's difficult to apply. I
8 think the problem is that we want -- we want web
9 developers to use accessibility standards and
10 guidelines to guide their work in developing accessible
11 products because they're not going to understand how
12 people with disabilities use their products.

13 Probably many web developers have never seen
14 a blind person use a screen reader on their website.
15 So we use those guidelines and standards to help them
16 do that job. And the clearer those standards and
17 guidelines are to that end, the better job is going to
18 be done.

19 Q. Do you know whether the WCAG standards that
20 were drafted in 1999 are undergoing any revisions?

21 A. Yes, I do.

22 Q. Is there a version --

23 A. They are.

24 Q. -- Version 2.0 of them?

25 A. There's a Version 2.0 of the Web Content

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1 specific, and they want to have guidelines that are
2 more general. The second is to make certain that each
3 of the, let me call them, checkpoints be testable which
4 would throw out the example I used earlier in this
5 deposition about clear and lucid language or whatever
6 the correct phrasing is of that.

7 Let's see, testable. I've forgotten what the
8 third is.

9 Q. Do you know the timeline for the WCAG Version
10 2.0 to be finalized?

11 A. Yes. The timeline for the WCAG 2.0 -- that's
12 how WCAG is, W-C-A-G -- 2.0 has gone into what's called
13 last call, which is the last chance to provide comments
14 on the draft of the guidelines. After that, the Web
15 Content Accessibility Guidelines Working Group will
16 seek and test websites that meet the various levels of
17 Web Content Accessibility Guidelines for two months,
18 approximately.

19 And if all of that is successful, then

20 sometime in September or October they will be -- maybe
21 the end of the year they'll be finalized. It's a

22 process that has been going on for four years.

23 Q. We talked earlier about the combination of
24 guidelines and standards that you use to provide a
25 consultancy service to someone regarding website

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1 Resources of the state use the Section 508 Standards as
2 their model for accessibility of information
3 technology.

4 I don't know about the details of any other
5 states. I know California has a law on accessible --
6 accessibility, electronic and information
7 accessibility. But I don't know the details of it at
8 all.

9 Q. Do you know if there are states who have
10 adopted web accessibility guidelines that differ from
11 Section 508?

12 A. I don't know the answer to that question.
13 If -- if they -- if they do adopt -- if -- if they
14 don't adopt exactly 508 or exactly Web Content
15 Accessibility Guidelines, they may reword them a little
16 bit. But they'll be essentially the same.

17 Q. Have you -- do you know that?

18 A. No.

19 Q. Is it your opinion that there is a consensus
20 regarding the standards for website accessibility?

21 A. I think you already asked that question, but
22 I'll answer it again.

23 Yes, I think there is a consensus, and I
24 think the W3C's Web Content Accessibility Guidelines
25 Version 2 is a manifestation of that consensus.

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1 Q. Are there any other manifestations of that
2 consensus?

3 A. Well, I think another manifestation of that
4 consensus is the work that I do and people like me do
5 in -- in evaluating and -- and suggesting
6 accessibility. We've been doing it long enough that --
7 that we understand the way things should be done. And

8 so the written version, as I said, we've gone five
9 years on Version 1 of the guidelines, and now we're
10 going to have a new one that will help us clarify that,
11 that work.

12 Q. Is Version 2.0 currently being used by those
13 who evaluate website accessibility?

14 A. I think a fair answer is no because it --
15 it's not official yet. But implicitly yes because the
16 example that I used, which I think is a good one,
17 rather than just say provide a text equivalent, we
18 separate out the kinds of text equivalent because we
19 know for an active image we want the equivalent to be
20 what the function of the image is for information,
21 varying the images. We want the -- the alt-text or
22 text equivalent to convey that information.

23 We do that. We understand that web
24 developers understand that. That's now being put into
25 the standard rather than just -- or guideline rather

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1 THE WITNESS: I applied a combination of
2 Section 508 and the Web Content Accessibility
3 Guidelines to look at the con- -- the code of
4 Target.com to find whether there were -- whether
5 alt-text had -- whether images had text equivalence,
6 whether forms were labeled, whether navigation was
7 possible, in-page navigation was possible, and whether
8 you could use the site with a keyboard.

9 BY MR. PLUNKETT:

10 Q. Is it correct, then, that you looked for
11 violations of the four guidelines we just talked about
12 to determine if Target.com was accessible or not?

13 A. That's true.

14 Q. Can a website violate one of those four
15 guidelines yet still be accessible?

16 MR. PARADIS: Objection; incomplete
17 hypothetical.

18 THE WITNESS: Yes, a website can violate one
19 of those four and be accessible.

20 BY MR. PLUNKETT:

21 Q. If a website does violate one of those
22 standards, what guidelines do you apply to determine
23 whether the website is nonetheless accessible?

24 MR. PARADIS: Objection; incomplete
25 hypothetical.

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1 THE WITNESS: I don't have a standard to
2 apply to a website that doesn't -- what I judge
3 websites on is basically compliance. And if a website
4 is missing alt-text on unimportant images, I say you've
5 got to fix that. But in fact, the alt-text on those
6 unimportant images is not important for access by
7 screen readers.

8 BY MR. PLUNKETT:

9 Q. Did you form an opinion about whether
10 Target.com is compliant with the standards and
11 guidelines that you applied?

12 A. Yes, I did.

13 Q. And what was your opinion?

14 A. It is not.

15 Q. Did you form an opinion about whether or not
16 Target.com is accessible to blind users?

17 A. Yes, I did.

18 Q. What is your opinion?

19 A. It's not.

20 Q. What is your opinion that it is not
21 accessible based on?

22 A. Well, based first on -- on my looking at
23 approximately 15 pages and analyzing them specifically
24 in -- I looked at four categories. One is whether or
25 not the images had text equivalence, whether or not

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1 forms were labeled, whether or not you could use the
2 keyboard and whether there was any facility for in-page
3 navigation. And, basically, Target fails on all four
4 of those.

5 Q. If you learned that blind users of Target.com
6 were able to complete purchases of the products they
7 were seeking, would that change your opinion?

8 A. No, it would not change my opinion.

9 Q. Why not?

10 A. Because the -- if it -- because if a -- if a
11 blind person were able to complete a purchase on
12 Target.com, which I really doubt, but if they were, it
13 would only be in the face of incredible difficulties
14 and in the face of the combination of very frustrating
15 and very annoying imagemaps that have no text
16 equivalence, in the face of having to tab 50 times in
17 order to find a Continue Checkout button that is
18 labeled Proceed to Checkout button, in the face of not
19 being able to activate that button with the normal
20 procedures, and in the face of having to fill out forms
21 with your personal and financial information, having
22 no -- no sense of -- of security that the forms are
23 properly labeled so when you're putting in your credit
24 card or address or telephone number you're not positive
25 you're putting that information in the correct place.

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1 MR. PLUNKETT: Those are all the questions I
2 have. Thank you very much for your time.

3 THE WITNESS: Thank you very much.

4 MR. PARADIS: I have a few questions.

5 EXAMINATION

6 BY MR. PARADIS:

7 Q. Dr. Thatcher, Mr. Plunkett asked you a number
8 of questions about Section 508 Guidelines or Standards
9 and WCAG Guidelines or Standards, Versions 1 and
10 Versions 2. To what extent does Target.com comply with
11 any of these standards?

12 MR. PLUNKETT: Objection; vague.

13 THE WITNESS: Target.com does not comply with
14 any of those standards. And you asked to what extent,
15 I would say to really an extreme extent.

16 BY MR. PARADIS:

17 Q. Mr. Plunkett asked you whether your analysis
18 was more quantitative rather than qualitative. To what
19 extent have you reached a qualitative opinion about the
20 usability of the Target.com website?

21 MR. PLUNKETT: Objection; vague.

22 THE WITNESS: I think that -- that there are
23 in my report and in my declaration both quantitative
24 and qualitative aspects of my assessment. And it's
25 kind of easier just to talk about the quantitative

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1 ones. They're so overwhelming, but there are
2 qualitative problems too. Like the character of the
3 alt-text on the Proceed to Checkout button is a
4 qualitative item.

5 **BY MR. PARADIS:**

6 Q. To what extent does the number of
7 quantitative problems become a qualitative issue?

8 A. That's the -- having seen screen reader users
9 access the web and software for years, I -- they are
10 constantly dealing with -- with problems that are lack
11 of accessibility and do every day on the web, even the
12 sites that some of the -- of the people have indicated
13 they're willing to do things at. There will be
14 accessibility errors there. But when the site is
15 replete with those errors, it becomes a worse -- even a
16 worse situation.

17 Q. You mentioned three different ways that blind
18 people strategically access web pages. In terms of
19 your analysis of the accessibility of Target.com, does
20 it matter which way a blind person tries to access the
21 web page?

22 A. I think I mentioned three strategies: One
23 was using a links list, the second was basically
24 tabbing through the page, the third was linking to the
25 page. Those are to set up the process of tacking up a

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1 given page. And in all three of those cases, the home
2 page of Target is a real, very serious problem.

3 Q. Mr. Plunkett asked you whether the experience
4 of a blind user may vary depending upon the type of
5 screen reader used. Are there any screen readers
6 available that a blind user could use that would make
7 the Target.com web page easily usable?

8 A. No, there aren't.

9 Q. Mr. Plunkett also asked you about different
10 types of operating systems. Are there any operating
11 systems currently available that a blind user could
12 employ that would make Target.com easily usable?

13 A. No.

14 Q. Mr. Plunkett asked you about different types
15 of web browsers. Are there any web browsers currently
16 available that a blind user can employ that would make
17 Target.com easily usable?

18 A. No.

19 Q. Mr. Plunkett asked you about various types of
20 screen readers, and you talked about JAWS and
21 Window-Eyes. Are there any screen readers currently
22 available that a blind user could employ that would
23 make Target.com readily or easily usable?

24 A. No.

25 Q. Mr. Plunkett asked you about different

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1 versions of JAWS. Are there any versions of JAWS
2 available that a blind user could employ that would
3 make Target.com easily usable?

4 A. No, there aren't.

5 Q. Based on your evaluation of Target.com, how
6 easy or difficult is it for a blind person using screen
7 access software to browse the site?

8 A. I believe it's impossible.

9 Q. Based on your evaluation, how difficult or
10 easy is it for a blind person to find a particular item
11 that person may wish to buy?

12 A. A person might be able to find a particular
13 item if they were lucky and chose the right strategy.

14 Q. And based on your evaluation of Target.com,
15 how difficult or easy would it be for a blind person to
16 independently complete a purchase?

17 A. Impossible.

18 MR. PARADIS: No further questions.

19 MR. PLUNKETT: No questions.

20 (At 12:50 P.M., the deposition proceedings
21 concluded.)

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DR. JAMES THATCHER