

ESTTA Tracking number: **ESTTA108859**

Filing date: **11/09/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Levi Strauss & Co.		
Entity	Corporation	Citizenship	Delaware
Address	Levi's Plaza 1155 Battery St. San Francisco, CA 94111 UNITED STATES		

Attorney information	Gia L. Cincone Townsend & Townsend & Crew LLP Two Embarcadero Ctr., 8th Floor San Francisco, CA 94111 UNITED STATES glcincone@townsend.com Phone:415-576-0200		
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Applicant Information

Application No	78833311	Publication date	10/10/2006
Opposition Filing Date	11/09/2006	Opposition Period Ends	11/09/2006
Applicant	Seattle Pacific Industries, Inc. 1633 Westlake Avenue North Seattle, WA 981096214 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: clothing, namely, jeans
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Related Proceedings	Opposition to Serial Number 78833308
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Attachments	SPI 311 Notice of Opposition.pdf (14 pages)(358234 bytes)
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Signature	/Gia L. Cincone/
Name	Gia L. Cincone
Date	11/09/2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re application of:

Seattle Pacific Industries, Inc.

For: DESIGN ONLY

Serial No.: 78/833,311

Filed: March 9, 2006

Published: October 10, 2006

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Sir or Madam:

Levi Strauss & Co. ("Opposer") believes it will be damaged by the registration of the DESIGN ONLY mark illustrated in and covered by Application Serial No. 78/833,311, filed on March 9, 2006, by Seattle Pacific Industries, Inc. (hereinafter "Applicant's mark"), and hereby opposes such registration.

Opposer is a Delaware corporation having its headquarters and principal place of business at Levi's Plaza, 1155 Battery Street, San Francisco, California 94111. Applicant is, upon information and belief, a Washington corporation with its principal place of business at 1633 Westlake Avenue North, Seattle, Washington 98109. This Notice of Opposition has been timely filed. As grounds of opposition, Opposer alleges as follows:

1. As illustrated in the Official Gazette dated October 10, 2006, Applicant seeks to register the DESIGN ONLY mark illustrated in and covered by Application Serial No. 78/833,311 in International Class 25.

2. Opposer is the owner of the distinctive Arcuate Stitching Design Trademark (hereinafter the "Arcuate Trademark"), as reflected in the following representative registrations issued on the Principal Register, which presently are in full force and effect and are attached hereto as Exhibit A:

<u>Registration No.</u>	<u>Registration Date</u>
404,248	November 16, 1943
1,139,254	September 2, 1980
2,791,156	December 9, 2003
2,794,649	December 16, 2003

Since at least as early as 1873, Opposer continuously has used its Arcuate Trademark on a variety of goods, including but not limited to jeans, pants, jackets, skirts, dresses and shorts.

3. No issue of priority exists with respect to Opposer's Arcuate Trademark and Applicant's mark. Opposer's dates of adoption and first use of its Arcuate Trademark long precede the date of Applicant's first use, if any.

4. Since adoption and first use of Opposer's Arcuate Trademark, Opposer continuously has marketed and is presently marketing its goods nationwide. Opposer has expended and continues to expend substantial time, money, and effort in promoting its Arcuate Trademark to identify Opposer as the source of the goods displaying that trademark. As a result, Opposer's goods are identified as originating from Opposer through the display of Opposer's Arcuate Trademark, and the public has come to recognize Opposer as the source of goods displaying the mark.

5. By virtue of its long use and promotion of the Arcuate Trademark, Opposer has gained a valuable reputation for the mark and has developed exceedingly valuable goodwill in the mark.

6. Registration of Applicant's mark will lead the public to conclude, incorrectly, that Applicant is or has been, and Applicant's goods displaying the mark are or have been, authorized, sponsored, or licensed by Opposer. Issuance of any registration to Applicant for the mark at issue is therefore contrary to the provisions of 15 U.S.C. § 1052(a) and will result in damage to Opposer and the public.

7. Applicant's mark is deceptively similar to Opposer's Arcuate Trademark so as to cause confusion, or to cause mistake or to deceive the public as to the origin of Applicant's goods bearing that trademark. Therefore, registration of said trademark is prohibited by 15 U.S.C. § 1052(d).

8. Because Applicant's mark is not associated with Applicant and creates the same, or essentially the same, commercial impression as Opposer's Arcuate Trademark, registration of Applicant's mark is likely to cause confusion, or to cause mistake or to deceive the public as to the source of Applicant's goods, to the harm and damage of Opposer and the public. Therefore, registration of Applicant's mark is prohibited by 15 U.S.C. § 1052(d).

9. Opposer's Arcuate Trademark is distinctive and famous within the meaning of 15 U.S.C. § 1125(c). Applicant's mark has or is likely to cause dilution of the distinctive quality of Opposer's Arcuate Trademark, in violation of 15 U.S.C. § 1125(c), to the harm and damage of Opposer and the public. Therefore, registration of Applicant's mark may be refused under 15 U.S.C. §§ 1052 and 1063(a).

10. Registration of Applicant's mark would constitute prima facie evidence of the validity of such registration, Applicant's ownership of the mark, and Applicant's exclusive right to use the mark pursuant to the provisions of 15 U.S.C. § 1057(b). Such registration would be a source of damage and injury to Opposer and the public, and would be contrary to the principles of registration set out in 15 U.S.C. §§ 1051 et seq.

WHEREFORE, Opposer prays that this Opposition be sustained, and that registration to Applicant for the DESIGN ONLY mark illustrated in and covered by Application Serial No. 78/833,311 in International Class 25 be denied.

Please charge any necessary fee regarding this Opposition to the Deposit Account of Townsend and Townsend and Crew LLP, No. 20-1430, and credit any overpayment to such deposit account.

Please direct all notices, pleadings and process regarding this matter to:

Gia L. Cincone, Esq.
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834
Telephone: (415) 576-0200
Facsimile: (415) 576-0300

Respectfully submitted,

TOWNSEND *and* TOWNSEND *and* CREW LLP

Dated: November 9, 2006

By: /s/ Gia L. Cincone
Gia L. Cincone
Attorneys for Opposer
Levi Strauss & Co.

Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834
Telephone: (415) 576-0200
Facsimile: (415) 576-0300

60913047 v1

Exhibit A

428326



THE UNITED STATES OF AMERICA

**TO ALL TO WHOM THESE PRESENTS SHALL COME:
UNITED STATES DEPARTMENT OF COMMERCE**

United States Patent and Trademark Office

July 16, 2001

**THE ATTACHED U.S. TRADEMARK REGISTRATION 404,248 IS
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE.**

**REGISTERED FOR A TERM OF 20 YEARS FROM *November 16, 1943*
2nd RENEWAL FOR A TERM OF 20 YEARS FROM *November 16, 1983*
SECTION 8 & 15**

REPUBLISHED SECTION 12C

SAID RECORDS SHOW TITLE TO BE IN:

STRAUSS, LEVI & CO.



**By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS**

H. Phillips
H. PHILLIPS
Certifying Officer

Registered Nov. 16, 1943

Trade-Mark 404,248

Republished, under the Act of 1946, April 27, 1948, by
Levi Strauss & Company, San Francisco, Calif.

Affidavit under Section 8 accepted.

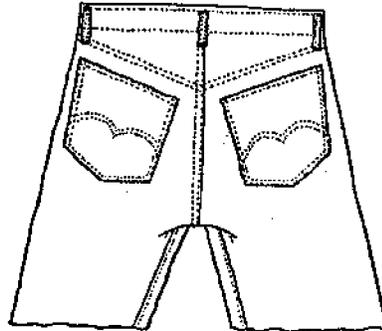
Affidavit under Section 15 received, Aug. 31, 1953.

UNITED STATES PATENT OFFICE

Levi Strauss & Company, San Francisco, Calif.

Act of February 20, 1905

Application September 25, 1942, Serial No. 455,769



STATEMENT

To the Commissioner of Patents:

Levi Strauss & Company, a corporation duly organized under the laws of the State of California and located at the city and county of San Francisco, State of California, and doing business at 98 Battery Street, San Francisco, California, has adopted and used the trade-mark shown in the accompanying drawing, for **WAISTRAND TYPE OVERALLS**, in Class 39, Clothing, and presents herewith five facsimiles showing the trade-mark as actually used by applicant upon the goods, and requests that the same be registered in the United States Patent Office in accordance with act of February 20, 1905. The trade-mark has been continuously used and applied to said goods in applicant's business since the year 1873. The trade-mark consists of double arcuate designs of orange color displayed on the hip pockets of the overalls as shown on the drawing. The mark is applied to the overalls

by stitching the double arcuate designs on the hip pockets with orange colored thread, or by painting the lines of said design on the hip pockets with orange colored paint.

No claim is made to the exclusive use of the representation of a pair of overalls.

The undersigned hereby appoints Castberg & Roemer, a firm composed of Thomas Castberg and Irving C. Roemer, whose address is 807 Crocker Building, San Francisco, California, and whose registration number is 15,030, as its attorneys, with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to receive the certificate of registration, and to transact all business in the Patent Office connected therewith.

LEVI STRAUSS & COMPANY,
By DANIEL E. KOSHLAND,
Vice President.

438326



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME;

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

July 16, 2001

THE ATTACHED U.S. TRADEMARK REGISTRATION 1,139,254 IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 20 YEARS FROM *September 02, 1980*

SECTION 8 & 15

SAID RECORDS SHOW TITLE TO BE IN:

LEVI STRAUSS & CO.

A DE CORP



By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS

H. Phillips
H. PHILLIPS
Certifying Officer

Int. Cl.: 25

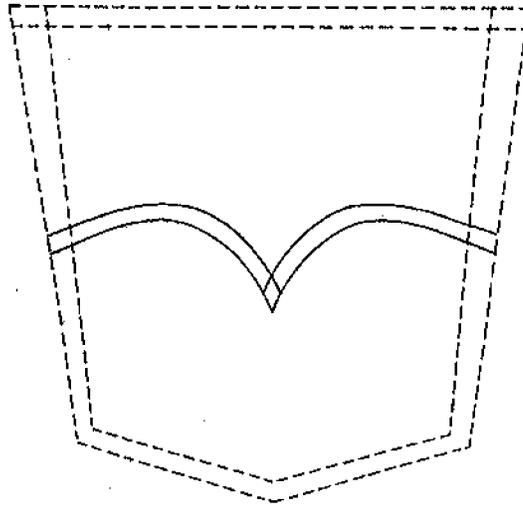
Prior U.S. Cl.: 39

Reg. No. 1,139,254

United States Patent and Trademark Office

Registered Sep. 2, 1980

TRADEMARK
Principal Register



Levi Strauss & Co. (Delaware corporation)
Two Embarcadero Ctr.
San Francisco, Calif. 94106

For: PANTS, JACKETS, SKIRTS, DRESSES AND
SHORTS, in CLASS 25 (U.S. CL. 39).
First use 1873; in commerce 1873.
Owner of U.S. Reg. No. 404,248.

Ser. No. 169,399. Filed May 8, 1978.

M. J. LEAHY, Primary Examiner



UNITED STATES DEPARTMENT OF COMMERCE
 Patent and Trademark Office
 OFFICE OF ASSISTANT COMMISSIONER FOR TRADEMARKS
 2900 Crystal Drive
 Arlington, Virginia 22202-3513

REGISTRATION NO: 1139254 SERIAL NO: 73169399 MAILING DATE: 08/06/2001
 REGISTRATION DATE: 09/02/1980
 MARK: MISCELLANEOUS DESIGN
 REGISTRATION OWNER: LEVI STRAUSS & CO.
 CORRESPONDENCE ADDRESS:

SARAH R. FULLER
 LEGAL STRATEGIES GROUP
 5905 CHRISTIE AVENUE
 EMERYVILLE, CA 94608-1925

NOTICE OF ACCEPTANCE

15 U.S.C. Sec. 1058(a)(3)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 8 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE SECTION 8 AFFIDAVIT IS ACCEPTED.

NOTICE OF RENEWAL

15 U.S.C. Sec. 1059(a)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 9 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE REGISTRATION IS RENEWED.

THE REGISTRATION WILL REMAIN IN FORCE FOR CLASS(ES):
 025.

HARPER, BARBARA A
 PARALEGAL SPECIALIST
 POST-REGISTRATION DIVISION
 (703)308-9500

PLEASE SEE THE REVERSE SIDE OF THIS NOTICE FOR INFORMATION CONCERNING REQUIREMENTS FOR MAINTAINING THIS REGISTRATION

7004650



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

April 06, 2006

**THE ATTACHED U.S. TRADEMARK REGISTRATION 2,791,156 IS
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE.**

REGISTERED FOR A TERM OF 10 YEARS FROM *December 09, 2003*

SAID RECORDS SHOW TITLE TO BE IN:

LEVI STRAUSS & CO.

A DELAWARE CORPORATION

**By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office**

L. Edelen

**L. EDELEN
Certifying Officer**



Int. Cl.: 25

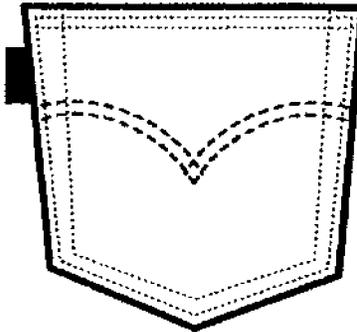
Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 2,791,156

Registered Dec. 9, 2003

TRADEMARK
PRINCIPAL REGISTER



LEVI STRAUSS & CO. (DELAWARE CORPORATION)
1155 BATTERY STREET
SAN FRANCISCO, CA 94111

FOR: PANTS, JEANS, SHORTS, SHIRTS, T-SHIRTS, BLOUSES, SKIRTS AND JACKETS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 9-1-1936; IN COMMERCE 9-1-1936.

OWNER OF U.S. REG. NOS. 1,041,846, 1,135,196, AND 1,139,254.

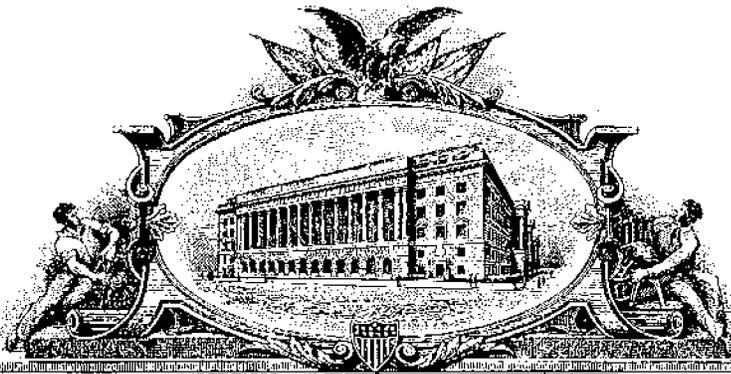
THE LINING AND SHADING SHOWN IN THE DRAWING ARE FEATURES OF THE MARK AND NOT INTENDED TO INDICATE COLOR.

THE MARK CONSISTS OF THE COMBINATION OF A DOUBLE ARCUATE AND TAB DESIGN SHOWN ON THE SHAPE OF A POCKET, AS INDICATED BY A SOLID LINE.

SER. NO. 78-144,339, FILED 7-16-2002.

ELLEN B. AWRICH, EXAMINING ATTORNEY

7096659



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

April 06, 2006

THE ATTACHED U.S. TRADEMARK REGISTRATION 2,794,649 IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 10 YEARS FROM *December 16, 2003*

SAID RECORDS SHOW TITLE TO BE IN:

LEVI STRAUSS & CO.

A DELAWARE CORPORATION

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office

L. EDELEN
Certifying Officer



Int. Cl.: 25

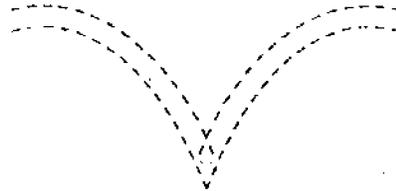
Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 2,794,649

Registered Dec. 16, 2003

**TRADEMARK
PRINCIPAL REGISTER**



LEVI STRAUSS & CO. (DELAWARE CORPORATION)
1155 BATTERY STREET
SAN FRANCISCO, CA 94111

THE MARK CONSISTS OF A DOUBLE ARCUATE DESIGN.

FOR: PANTS, JEANS, SHORTS, SHIRTS, T-SHIRTS, BLOUSES, SKIRTS AND JACKETS, IN CLASS 25 (U.S. CLS. 22 AND 39).

SER. NO. 78-142,765, FILED 7-10-2002.

FIRST USE 0-0-1873; IN COMMERCE 0-0-1873.

GINNY ISAACSON, EXAMINING ATTORNEY