

ESTTA Tracking number: **ESTTA490935**

Filing date: **08/24/2012**

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.
Granted to Date of previous extension	08/26/2012
Address	1155 Battery St. San Francisco, CA 94111 UNITED STATES

Attorney information	Marie C. Seibel, Esq. Kilpatrick Townsend and Stockton 2 Embarcadero Center, 8th Floor San Francisco, CA 94111 UNITED STATES mseibel@kilpatricktownsend.com, aPhillips@kilpatricktownsend.com, choffman@kilpatricktownsend.com Phone:415-576-0200
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Applicant Information

Application No	85430953	Publication date	02/28/2012
Opposition Filing Date	08/24/2012	Opposition Period Ends	08/26/2012
Applicant	Spooner, Lionell O P.O. Box 13271 Greensboro, NC 27415 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Body linen; Shirts; T-shirts

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1552985	Application Date	10/24/1988
Registration Date	08/22/1989	Foreign Priority Date	NONE
Word Mark	501		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1893/00/00 First Use In Commerce: 1898/00/00 JEANS

U.S. Registration No.	1313554	Application Date	08/22/1983
Registration Date	01/08/1985	Foreign Priority Date	NONE
Word Mark	505		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1983/06/27 First Use In Commerce: 1983/06/27 Pants		

U.S. Registration No.	1319462	Application Date	08/22/1983
Registration Date	02/12/1985	Foreign Priority Date	NONE
Word Mark	517		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1983/06/27 First Use In Commerce: 1983/06/27 Pants		

U.S. Registration No.	2503976	Application Date	10/17/2000
Registration Date	11/06/2001	Foreign Priority Date	NONE
Word Mark	569		
Design Mark	569		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1998/05/00 First Use In Commerce: 1998/05/00 Jeans and pants		

Attachments	76150442#TMSN.gif (1 page)(bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/marie c seibel/
Name	Marie C. Seibel, Esq.
Date	08/24/2012

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

In re Application No. 85/430,953
Filed: September 23, 2011
Published: February 28, 2012, in the *Official Gazette*
For: 5·7·5

LEVI STRAUSS & CO.,

Opposer,

vs.

LIONELL O. SPOONER,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

Sir or Madam:

Levi Strauss & Co. (“Opposer” or “LS&Co.”) believes it will be damaged by the registration of the 5·7·5 mark covered by Application Serial No. 85/430,953, filed on September 23, 2011, by Lionell O. Spooner (hereinafter “Applicant’s Mark”), and hereby opposes such registration.

LS&Co. is a Delaware corporation with its headquarters and principal place of business at Levi’s Plaza, 1155 Battery Street, San Francisco, California 94111. Applicant is, upon information and belief, an individual with a mailing address of P.O. Box 13271, Greensboro, North Carolina 27415. This Notice of Opposition has been timely filed. As grounds of opposition, LS&Co. alleges as follows:

1. As illustrated in the Official Gazette dated February 28, 2012, Applicant seeks to register the 5·7·5 mark that is the subject of Application Serial No. 85/430,953 in International Class 25 for “Body linen; Shirts; T-shirts.”

2. LS&Co. is the owner of the distinctive trademarks 501®, 505®, 517®, and 569® (collectively the “500 Trademarks”), as reflected in the representative registrations issued on the Principal Register, which presently are in full force and effect:

<u>Trademark</u>	<u>Registration No.</u>	<u>Registration Date</u>	<u>First Use Date</u>
501	1,552,985	August 22, 1989	December 31, 1969
505	1,313,554	January 8, 1985	June 27, 1983
517	1,319,462	February 12, 1985	June 27, 1983
569	2,503,976	November 6, 2001	May 1, 1998

The above registrations are incontestable under 15 U.S.C. § 1065, as shown by the records of the United States Patent and Trademark Office. True and correct copies of these Registrations are attached as Exhibit A. Since at least as early as the first use dates listed above, LS&Co. continuously has used its 500 Trademarks on jeans and pants. In addition, LS&Co. has -- without registration of each individual mark it has used -- used many other three digit, 500 series marks within its family of 500 Trademarks to identify other styles of its casual apparel products.

3. LS&Co.’s 500 Trademarks and other uses of 500 series trademarks are all undisputedly prior to the 5·7·5 mark proposed by Applicant. LS&Co.’s first uses all long precede the date of Applicant’s intent to use application for the 5·7·5 mark and Applicant’s date of first use, if any.

4. Since adoption and first use of LS&Co.'s 500 Trademarks, LS&Co. continuously has marketed and presently is marketing its goods nationwide. LS&Co.'s goods are identified as originating from LS&Co. through the display and advertising -- by LS&Co. and retailers selling its products -- of LS&Co.'s 500 Trademarks. LS&Co. has expended and continues to expend substantial time, money, and effort promoting its 500 Trademarks to identify LS&Co. as the source of the goods displaying the marks. As a result, the public has come to recognize LS&Co. as the source of goods displaying the 500 Trademarks.

5. By virtue of its long use and promotion of the 500 Trademarks and the high quality of its goods, LS&Co. has gained a valuable reputation for its 500 Trademarks and has developed exceedingly valuable goodwill with respect to those marks.

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 LS&Co. 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 LS&Co. and the public.

7. Applicant's Mark is deceptively similar to LS&Co.'s 500 Trademarks 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, to the harm and damage of LS&Co. and the public. Therefore, registration of Applicant's mark is prohibited by 15 U.S.C. § 1052(d).

9. LS&Co.'s 500 Trademarks are distinctive and famous within the meaning of 15 U.S.C. § 1125(c), and were famous before Applicant filed the Application at issue and before Applicant began use, if any, of the 5·7·5 mark. Applicant's Mark has or is likely to cause

dilution of the distinctive quality of LS&Co.'s 500 Trademarks, in violation of 15 U.S.C. § 1125(c), to the harm and damage of LS&Co. 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 LS&Co. and the public, and would be contrary to the principles of registration set out in 15 U.S.C. §§ 1051 *et seq.*

WHEREFORE, LS&Co. prays that this Opposition be sustained, and that registration to Applicant for the 5·7·5 mark covered by Application Serial No. 85/430,953 be denied.

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

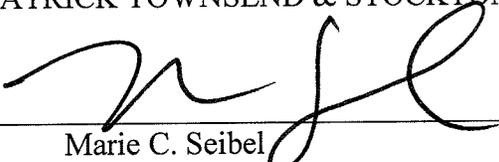
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Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

Dated: August 24, 2012

By: _____


Marie C. Seibel
*Attorneys for Opposer
Levi Strauss & Co.*

Kilpatrick Townsend & Stockton LLP

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San Francisco, CA 94111-3834
Telephone: (415) 576-0200
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CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2012, I served the foregoing **NOTICE OF OPPOSITION** on the parties in said action by depositing a true copy thereof with the United States Postal Service as first class mail, postage prepaid, at San Francisco, California, enclosed in a sealed envelope addressed as follows:

Lionell O. Spooner
P.O. Box 13271
Greensboro, NC 27415

Dated: August 24, 2012

By: 
Christiana Hoffman

EXHIBIT A

Int. Cl.: 25

Prior U.S. Cl.: 39

United States Patent and Trademark Office **Reg. No. 1,552,985**
Registered Aug. 22, 1989

**TRADEMARK
PRINCIPAL REGISTER**

501

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

FOR: JEANS, IN CLASS 25 (U.S. CL. 39).

FIRST USE 12-31-1969; IN COMMERCE
12-31-1969.

SER. NO. 768,165, FILED 10-24-1988.

CHRIS A. F. PEDERSEN, EXAMINING ATTOR-
NEY

Int. Cl.: 25

Prior U.S. Cl.: 39

United States Patent and Trademark Office

Reg. No. 1,313,554

Registered Jan. 8, 1985

TRADEMARK
Principal Register

505

Levi Strauss & Co. (Delaware corporation)
1155 Battery St.
San Francisco, Calif. 94106

For: PANTS, in CLASS 25 (U.S. Cl. 39).
First use Jun. 27, 1983; in commerce Jun. 27, 1983.

Ser. No. 440,370, filed Aug. 22, 1983.

STEWART J. BELLUS, Examining Attorney

Int. Cl.: 25

Prior U.S. Cl.: 39

United States Patent and Trademark Office

Reg. No. 1,319,462

Registered Feb. 12, 1985

TRADEMARK
Principal Register

517

Levi Strauss & Co. (Delaware corporation)
1155 Battery St.
San Francisco, Calif. 94106

For: PANTS, in CLASS 25 (U.S. Cl. 39).
First use Jun. 27, 1983; in commerce Jun. 27, 1983.

Ser. No. 440,371, filed Aug. 22, 1983.

LUCY A. MARINO, Examining Attorney

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 2,503,976

United States Patent and Trademark Office

Registered Nov. 6, 2001

**TRADEMARK
PRINCIPAL REGISTER**

569

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

FIRST USE 5-0-1998; IN COMMERCE 5-0-1998.

SER. NO. 76-150,442, FILED 10-17-2000.

FOR: JEANS AND PANTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

BILL DAWE, EXAMINING ATTORNEY

EXHIBIT B

5.7.5