

LEVI'S:

Popular retail store copies pocket design.

Relevance of LEVI'S trademark and its popular distinctive mark

LEVI'S is an American company founded in San Francisco, California in 1853 by Levi Strauss and a tailor named Jacob Davis. This wholesale business, which became known as Levi Strauss & Co, created the first pair of jeans, after realizing people needed a pair of sturdy work pants that could resist the hardest conditions.

LEVI'S is nowadays one of the largest branded clothing companies in the world, and a global leader brand for jeans, which designs and sells not only jeans, but also casual wear clothes and accessories for men, women and kids.

The firm is a pioneer in the manufacturing of jeans, and it is worldwide known for its pockets bearing an arched stitching and a red label.

The arc-stitched pocket is known under the name of "Arcuate", and it was registered as a trademark in 1943. Its uniformed "diamond" shaped design formed where the two seams converge is made by a two-needle-machine.

Client	LEVI'S
Trademarks	Mixed N°. 451.328 Figurative N°. 435.113 Figurative N°. 438.201 Figurative N°. 470.480

Mixed, applied for before the National Industrial Property Office under number **451.328**, which protects products included in international class number 25.



Figurative, applied for before the National Office of Industrial Property under number **435.113**, which protects products included in international class number 25.



Figurative, applied for before the National Office of Industrial Property under number **438.201**, which protects products included in international class number 25.



Figurative, applied for before the National Office of Industrial Property under number **470.480**, which protects products included in international class number 25.



The story says that it was inspired by a bird that flew into the store and landed in the pockets of the jeans, a double flying bird that represents the spirit of freedom.

At present times in Uruguay, both the Arcuate Design and the Red label are duly registered as figurative marks before the National Office of Industrial Property, so they are protected under the Trademark Law N° 17.011.

Background

In April 2019, it was discovered that an important clothing and accessories store in Uruguay was commercializing products bearing LEVI'S trademarks. The products involved were jeans with the same arched pocket, which was the iconic distinctive sign of the trademark. In view of this situation, LEVI'S sent a notary notice to the store, requesting to cease the use and commercialization of infringing products and the immediate removal from sale.



Infringing formal store

The infringing products found are locally manufactured in Uruguay, and they were commercialized by a company located in one of the most important commercial districts of Montevideo with stores in other areas of the country.

The infringer is a brand from Uruguay that creates its own illustrations and textile prints, and its owner states that they are always seeking for new trends and resources.

The company is known for the originality of its brand, and for the design of clothes that have created its own identity by offering a wide variety of clothing products: jeans, coats, T-shirts and swimwear.

Consumers who usually shop in this type of stores look for trendy stuff and wish to have a unique touch by wearing original clothes to be distinguished from those found in the rest of the market.

Due to the fact that this is a company that manufactures its own designs, it must comply with the diligence of a “*prudent businessman*”, as it must know what kind of goods can be commercialized and which ones cannot, by respecting other brand owners’ rights.

Selling products such as jeans bearing the same design of an iconic and worldwide known brand as LEVI’S, implies the violation of the intellectual property rights owned by the brand, and it also involves a big offense against talent and creativity.

Thus, it is important to provide an immediate and effective protection, in order to act against those who seek to exploit other parties’ success and prestige.

Negotiations and agreement

After several negotiations, an extrajudicial agreement was reached through which the infringer recognized LEVI’S’s prior right over its figurative marks with respect to the pocket agreed not to commercialize any of the trademarks owned by LEVI’S or similar in the future; to remove the stitching from the pockets of the jeans, and to reimburse and pay expenses.



Above it can be seen the new model after the removal of the seam from the pocket.

Conclusions

1) When in front of a worldwide known figurative mark protected by regulations in force, its registration and defense are allowed.

2) No need to mention the denomination “LEVI’S” when referring to the brand, as it deserves the same level of protection that word brands have.

3) Whenever a formal store is also a designer, enforcement standards in relation with the protection of rights must be higher.

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