AO 120 (Rev. 2/99)

TO: Mail Stop 8 Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	**REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK**

In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Northern District of California on the following ☐ Patents or X Trademarks:

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
CV 12-04203 MEJ	8/9/12	Northern District of California, 450 Golden Gate Avenue, San Francisco, CA

PLAINTIFF	DEFENDANT
LEVI STRAUSS AND COMPANY	J BRAND INC

PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 1,552,985		
2 3,938,013		
3		
4		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY ☐ Amendment ☐ Answer ☐ Cross Bill ☐ Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK	(BY) DEPUTY CLERK	DATE
Richard W. Wieking	Gloria Acevedo	August 15, 2012

Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

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ORIGINAL FILED 2012 DEC -9 P 1:23

MEJ

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

CV 12 4203

LEVI STRAUSS & CO.,

Plaintiff,

v.

J BRAND INC.,

Defendant.

Case No.

COMPLAINT FOR TRADEMARK INFRINGEMENT, UNFAIR COMPETITION, AND DILUTION (INJUNCTIVE RELIEF SOUGHT)

JURY TRIAL DEMAND

Plaintiff Levi Strauss & Co. ("Levi Strauss") complains against defendant J Brand, Inc. ("J Brand") as follows:

JURISDICTION, VENUE AND INTRA-DISTRICT ASSIGNMENT

1. Plaintiff's first, second and third claims arise under the Trademark Act of 1946 (the Lanham Act), as amended by the Trademark Dilution Revision Act of 2006 (15 U.S.C. §§ 1051, et seq.). This Court has jurisdiction over such claims pursuant to 28 U.S.C. §§ 1338(a) and 1338(b) (trademark and unfair competition), 28 U.S.C. § 1331 (federal question) and 15 U.S.C. § 1121 (Lanham Act). This Court has supplemental jurisdiction over the remaining state law claims under 28 U.S.C. § 1367.

2. Levi Strauss is informed and believes that venue is proper in this Court under 28 U.S.C. § 1391(b) because Defendant transacts affairs in this district and because a substantial part of the events giving rise to the claims asserted arose in this district.

3. Intra-district assignment to any division of the Northern District is proper under Local Rule 3-2(c) and the Assignment Plan of this Court as an "Intellectual Property Action."

PARTIES

4. Levi Strauss & Co. is a Delaware corporation with its principal place of business at Levi's Plaza, 1155 Battery Street, San Francisco, California 94111. Operating since the 1850's, Levi Strauss is one of the oldest and best known apparel companies in the world. It manufactures, markets and sells a variety of products, including its LEVI'S® brand jeans and other apparel.

5. Levi Strauss is informed and believes that defendant J Brand Inc. is a California corporation with its principal place of business at 1201 E. Washington Boulevard, Los Angeles, California 90021. Levi Strauss is informed and believes that J Brand manufactures, distributes and/or sells a line of products, including jeans, under the brand name J BRAND which is offered for sale and sold in this judicial district. Levi Strauss is further informed and believes that J Brand has authorized, directed, and/or actively participated in the wrongful conduct alleged herein.

FACTS AND ALLEGATIONS COMMON TO ALL CLAIMS

Levi Strauss's Use of its Trademarks

6. Levi Strauss marks its LEVI'S® brand products with a set of trademarks that are famous around the world. For many years prior to the events giving rise to this Complaint and continuing to the present, Levi Strauss annually has spent great amounts of time, money, and effort advertising and promoting the LEVI'S® products on which its trademarks are used and has sold many millions of these products all over the world, including throughout the United States and in California. Through this investment and large sales, Levi Strauss has created considerable goodwill and a reputation for quality products. Levi Strauss continuously has used these trademarks to distinguish its products.

7. Most of Levi Strauss's trademarks are federally registered; all are in full force and effect, and exclusively owned by Levi Strauss Levi Strauss continuously has used each of its trademarks, from the registration date or earlier, until the present and during all time periods relevant to Levi Strauss's claims.

Levi Strauss's 501® and Other "01" Trademarks

8. Levi Strauss has used its iconic 501® trademark since the 1890's to identify its most famous jeans product. The mark refers to Levi Strauss's flagship 501® button-fly jeans, which are well-known to consumers around the world. Levi Strauss has spent an enormous amount of money advertising the 501® trademark, and has sold millions of pairs of 501® jeans per year for many years. The 501® trademark has been registered since 1989 and the registration, U.S. Reg. No. 1,552,985, has become incontestable under the provisions of 15 U.S.C. § 1065. A copy of LS&Co.'s registration for its 501® trademark is attached as Exhibit A, and examples of LS&Co.'s use of its 501® trademark are attached as Exhibit B.

9. In addition to 501®, Levi Strauss has long used a series of three digit numbers ending in "01" to identify its LEVI'S® brand products, and to denote different fits or styles for its jeans. For example, LS&Co. owns the 201® trademark, which also has been in use since the 1890's. The 201® trademark also is federally registered (U.S. Reg. No. 3,938,013, attached as Exhibit C). Levi Strauss also has used at least 901™ and 701™ to identify different versions of its jeans products.

10. As a result, Levi Strauss has common law rights in a family of three digit trademarks ending in "01" that it regularly uses for its jeans products. This family, which includes the registered 201® and 501® trademarks as well as 701™ and 901™, is referred to in this complaint as the "01 Trademarks." Examples of Levi Strauss's use of its 01 Trademarks are attached as Exhibit D.

11. By virtue of Levi Strauss's use and promotion of its 501® and other 01 Trademarks, the public recognizes Levi Strauss as the source of jeans and other apparel products bearing three-digit "01" numbers.

12. Levi Strauss's 01 Trademarks are famous and recognized around the world and throughout the United States by consumers as signifying authentic, high quality LEVI'S® products. Levi Strauss's 01 Trademarks became famous prior to the commencement of J Brand's conduct that is the subject of this Complaint.

J Brand's Infringement of Levi Strauss's 01 Trademarks

13. Beginning at some time in the past and continuing until the present, J Brand has manufactured, promoted and sold clothing products, including jeans, that infringe and dilute Levi Strauss's 01 Trademarks.

14. In particular, Levi Strauss is informed and believes that J Brand has manufactured, sourced, marketed and/or sold substantial quantities of jeans bearing the designation 901. The J Brand 901 designation is highly similar to Levi Strauss's 01 Trademarks, and is likely to confuse consumers about the source of J Brand's products bearing the designation 901 and/or a relationship between J Brand and Levi Strauss. Images of websites and advertising displaying J Brand's 901 designation are attached as Exhibit E.

15. Levi Strauss is informed and believes that J Brand has manufactured, marketed and sold substantial quantities of garments bearing the designation 901, and has obtained and continues to obtain substantial profits from these sales.

16. J Brand's actions have caused and will cause Levi Strauss irreparable harm for which money damages and other remedies are inadequate. Unless J Brand is restrained by this Court, it will continue and/or expand its illegal activities and otherwise continue to cause great and irreparable damage and injury to Levi Strauss by, among other things:

a. Depriving Levi Strauss of its statutory rights to use and control use of its trademarks;

b. Creating a likelihood of confusion, mistake and deception among consumers and the trade as to the source of the infringing products;

c. Causing the public falsely to associate Levi Strauss with J Brand and/or its products, or vice versa;

d. Causing incalculable and irreparable damage to Levi Strauss's goodwill and diluting the capacity of its trademarks to differentiate LEVI'S® products from others; and

e. Causing Levi Strauss to lose sales of its genuine LEVI'S® brand products.

17. Accordingly, in addition to other relief sought, Levi Strauss is entitled to preliminary and permanent injunctive relief against J Brand, its affiliates, licensees, subsidiaries and all persons acting in concert with it.

FIRST CLAIM
FEDERAL TRADEMARK INFRINGEMENT
(15 U.S.C. §§ 1114-1117; Lanham Act § 32)

18. Levi Strauss realleges and incorporates by reference each of the allegations contained in paragraphs 1 through 17 of this Complaint.

19. Without Levi Strauss's consent, J Brand has used, in connection with the sale, offering for sale, distribution or advertising of its products, designations that infringe upon Levi Strauss's 01 Trademarks.

20. These acts of trademark infringement have been committed with the intent to cause confusion, mistake, or deception, and are in violation of 15 U.S.C. § 1114.

21. As a direct and proximate result of J Brand's infringing activities, Levi Strauss has suffered substantial damage.

22. J Brand's infringement of Levi Strauss's 01 Trademarks as alleged herein is an exceptional case and was intentional, entitling Levi Strauss to treble its actual damages and to an award of attorneys' fees under 15 U.S.C. §§ 1117(a) and 1117(b).

SECOND CLAIM
FEDERAL UNFAIR COMPETITION
(False Designation of Origin and False Description)
(15 U.S.C. § 1125(a); Lanham Act § 43(a))

23. Levi Strauss realleges and incorporates by reference each of the allegations contained in paragraphs 1 through 22 of this Complaint.

24. J Brand's conduct constitutes the use of symbols or devices tending falsely to describe the infringing products, within the meaning of 15 U.S.C. § 1125(a)(1). J Brand's conduct is likely to cause confusion, mistake, or deception by or in the public as to the affiliation, connection, association, origin, sponsorship or approval of the infringing products to the detriment of Levi Strauss and in violation of 15 U.S.C. § 1125(a)(1).

25. As a direct and proximate result of J Brand's infringing activities, Levi Strauss has suffered substantial damage.

THIRD CLAIM
FEDERAL DILUTION OF FAMOUS MARKS
(Trademark Dilution Revision Act of 2006)
(15 U.S.C. § 1125(c); Lanham Act § 43(c))

26. Levi Strauss realleges and incorporates by reference each of the allegations contained in paragraphs 1 through 25 of this Complaint.

27. Levi Strauss's 01 Trademarks are distinctive and famous within the meaning of the Trademark Dilution Revision Act of 2006, 15 U.S.C. § 1125(c).

28. J Brand's activities as alleged herein have diluted or are likely to dilute the distinctive quality of Levi Strauss's 01 Trademarks in violation of the Trademark Dilution Revision Act of 2006, 15 U.S.C. § 1125(c).

29. Levi Strauss is entitled to injunctive relief pursuant to 15 U.S.C. § 1125(c).

30. Because J Brand willfully intended to trade on Levi Strauss's reputation and/or to cause dilution of Levi Strauss's famous 01 Trademarks, Levi Strauss is entitled to damages, extraordinary damages, fees and costs pursuant to 15 U.S.C. § 1125(c)(2).

FOURTH CLAIM
CALIFORNIA TRADEMARK INFRINGEMENT AND DILUTION
(Cal. Bus. & Prof. Code §§ 14245, 14247, 14250)

31. Levi Strauss realleges and incorporates by reference each of the allegations contained in paragraphs 1 through 30 of this Complaint.

32. J Brand's infringement of Levi Strauss's 01 Trademarks is likely to cause consumer confusion and dilution of Levi Strauss's trademarks in violation of California Business & Professions Code Sections14245 and 14247.

33. J Brand infringed and diluted Levi Strauss's 01 Trademarks with knowledge and intent to cause confusion, mistake or deception.

34. J Brand's conduct is aggravated by that kind of willfulness, wantonness, malice and conscious indifference to the rights and welfare of Levi Strauss for which California law allows the

imposition of exemplary damages.

35. Pursuant to California Business & Professions Code §§ 14247 and 14250, Levi Strauss is entitled to injunctive relief and damages in the amount of three times J Brand's profits and three times all damages suffered by Levi Strauss by reason of J Brand's manufacture, use, display or sale of infringing goods.

FIFTH CLAIM
CALIFORNIA UNFAIR COMPETITION
(Cal. Bus. & Prof. Code § 17200)

36. Levi Strauss realleges and incorporates by reference each of the allegations contained in paragraphs 1 through 35 of this Complaint.

38. J Brand's conduct as alleged in this Complaint constitutes "unlawful, unfair or fraudulent business act[s] or practice[s] and unfair, deceptive, untrue or misleading advertising" within the meaning of California Business & Professions Code Section 17200.

39. As a consequence of J Brand's actions, Levi Strauss is entitled to injunctive relief and an order that J Brand disgorge all profits from the conduct alleged in this Complaint.

PRAYER FOR JUDGMENT

WHEREFORE, Levi Strauss prays that this Court grant it the following relief:

40. Adjudge that Levi Strauss's 01 Trademarks have been infringed by J Brand in violation of Levi Strauss's rights under common law, 15 U.S.C. § 1114, and/or California law;

41. Adjudge that J Brand has competed unfairly with Levi Strauss in violation of Levi Strauss's rights under common law, 15 U.S.C. § 1125(a), and/or California law;

42. Adjudge that J Brand's activities are likely to, or have, diluted Levi Strauss's famous 01 Trademarks in violation of Levi Strauss's rights under common law, 15 U.S.C. § 1125(c), and/or California law;

43. Adjudge that J Brand and its agents, employees, attorneys, successors, assigns, affiliates, and joint venturers and any person(s) in active concert or participation with it, and/or any person(s) acting for, with, by, through or under it, be enjoined and restrained at first during the pendency of this action and thereafter permanently from:

a. Manufacturing, producing, sourcing, importing, selling, offering for sale, distributing, advertising, or promoting any goods that display any words or symbols that so resemble Levi Strauss's 01 Trademarks as to be likely to cause confusion, mistake or deception, on or in connection with any product that is not authorized by or for Levi Strauss, including without limitation any product that bears the designation 901 or any other approximation of Levi Strauss's trademarks;

b. Using any word, term, name, symbol, device or combination thereof that causes or is likely to cause confusion, mistake or deception as to the affiliation or association of J Brand or its products with Levi Strauss or as to the origin of J Brand's goods, or any false designation of origin, false or misleading description or representation of fact, or any false or misleading advertising;

c. Further infringing the rights of Levi Strauss in and to any of its trademarks in its LEVI'S® brand products or otherwise damaging Levi Strauss's goodwill or business reputation;

d. Otherwise competing unfairly with Levi Strauss in any manner; and

e. Continuing to perform in any manner whatsoever any of the other acts complained of in this Complaint;

44. Adjudge that J Brand be required immediately to supply Levi Strauss's counsel with a complete list of individuals and entities from whom or which it purchased, and to whom or which it sold, offered for sale, distributed, advertised or promoted, infringing products as alleged in this Complaint;

45. Adjudge that J Brand be required immediately to deliver to Levi Strauss's counsel its entire inventory of infringing products, including without limitation pants and any other clothing, packaging, labeling, advertising and promotional material and all plates, patterns, molds, matrices and other material for producing or printing such items, that are in its possession or subject to its control and that infringe Levi Strauss's trademarks as alleged in this Complaint;

46. Adjudge that J Brand, within thirty (30) days after service of the judgment demanded herein, be required to file with this Court and serve upon Levi Strauss's counsel a written report under oath setting forth in detail the manner in which it has complied with the judgment;

47. Adjudge that Levi Strauss recover from J Brand its damages and lost profits in an amount to be proven at trial;

48. Adjudge that J Brand be required to account for any profits that are attributable to its illegal acts, and that Levi Strauss be awarded the greater of (1) three times J Brand's profits or (2) three times any damages sustained by Levi Strauss, under 15 U.S.C. § 1117, plus prejudgment interest;

49. Order an accounting of and impose a constructive trust on all of J Brand's funds and assets that arise out of its infringing activities;

50. Adjudge that Levi Strauss be awarded its costs and disbursements incurred in connection with this action, including Levi Strauss's reasonable attorneys' fees and investigative expenses; and

51. Adjudge that all such other relief be awarded to Levi Strauss as this Court deems just and proper.

DATED: August 9, 2012

Respectfully submitted,

By: _____

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DEMAND FOR JURY TRIAL

Levi Strauss demands that this action be tried to a jury.

DATED: August 9, 2012

Respectfully submitted,

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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEVI STRAUSS & CO., Plaintiff, v. J BRAND INC., Defendant.	Case No. **CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other than the named parties, there is no such interest to report.

DATED: August 9, 2012

Respectfully submitted,

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