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Levi's Turns to Suing Its Rivals



Jim Wilson/The New York Times

Levi's designers worked on jeans at the company's headquarters. More Photos >

By MICHAEL BARBARO and JULIE CRESWELL Published: January 29, 2007

United States Patent and Trademark No. 1,139,254 is not much to look at: a pentagon surrounding a childlike drawing of a seagull in flight.

But the design for a Levi's pocket, first used 133 years ago, has become the biggest legal battleground in American fashion.

Levi Strauss claims that legions of competitors have stolen its signature denim stitches — two intersecting arcs and a cloth label — for their own pockets, slapping them on the seats of high-priced, hip-hugging jeans that have soared in popularity.

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By the Seat of Their Pants

So Levi's is becoming a leader in a new arena: lawsuits. The company, once the undisputed king of denim and now a case study in missed opportunities, has emerged as the most litigious in the apparel industry when it comes to trademark infringement lawsuits, firing off nearly 100 against its competitors since 2001. That's far more than

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Five of the companies Levi Strauss has sued in the last decade.



Sources: Thomson West; court documents

The New York Times

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[General Motors](#), Walt Disney or [Nike](#), according to an analysis by research firm Thomson West.

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The legal scuffles offer a rare glimpse into the sharp-elbowed world of fashion, where the line between inspiration and imitation is razor thin. After all, clothing makers' trade secrets are hung on store racks for all to see, and designs can be quickly copied with small changes to exploit a hot trend.

The lawsuits, which Levi's says it is compelled to file to safeguard the defining features on its jeans, are not about the money — one settled for just \$5,000 in damages. Instead, the company says, they are about removing copycats from stores. Nearly all the cases have settled out of court, with Levi's smaller rivals agreeing to stop making the offending pants and to destroy unsold pairs.

But those competitors say the lawsuits are the last resort of a poor loser, a company that has lost billions in sales, laid off thousands of workers and flirted with bankruptcy as the denim industry exploded.

"They missed the boat," said Tonny Sorensen, chief executive of Von Dutch Originals, a six-year-old denim and clothing manufacturer sued by Levi's six months ago for allegedly borrowing the company's double arcs for a back-pocket design. "Now they want to make a lot of noise and scare people away."

Mr. Sorensen said his pocket design "did not look like Levi's at all" because of subtle differences like placing the arcs "one inch to the left" and stitching a line to resemble "a pirate's hook."

Nevertheless, Von Dutch agreed to remove the jeans from dozens of boutiques and destroy hundreds of unsold pairs. "It was one style and it was not that successful anyway, so we made the decision not to fight it," Mr. Sorensen said.

In the majority of cases, Levi's accuses competitors of copying its design of two arcs that meet in the center of the pocket or its famous Levi's tab, a folded piece of cloth sewn into the vertical seam of the garment.

Robert Hanson, Levi's president for North America, said the company manufactured "a product that a lot of people are copying and copying with a lot of success."

Instead of relying on Levi's designs for what he called a "running start," competitors should "look for other devices that don't come remotely close to the Levi's trademarks,"

Mr. Hanson said. "Be more innovative."

But the privately held Levi's, whose founder sewed together the first pair of jeans in 1873, has been unable to exploit the latest \$200-a-pair denim craze — and now claims scores of smaller competitors are riding high because of what it created. When consumers' tastes shifted toward designer jeans that were bejeweled, torn and frayed, Levi's was still selling basic \$30 pairs at K-Mart.

In this dispute, back-pocket stitching has become the fashion equivalent of ink blots, with plaintiffs and defendants seeing in the new designs what they want, or need, to see. So far, Levi's view is prevailing.

The company's team of denim detectives — there are 40 across the world, scouring boutiques and department stores — has spotted what they considered offending stitches on jeans from the biggest names in the clothing business: Guess, Zegna, [Esprit](#), Lucky Brand and [Zumiez](#), to name a few.

Even companies that have painstakingly worked to avoid infringing on Levi's trademarks have found themselves in the company's crosshairs. At Rock & Republic, one of the country's fastest-growing jeans makers, designers intentionally placed a cloth label on the right hand side of a back pocket, not the left, which would violate a Levi's trademark.

1 | **2** [NEXT PAGE »](#)

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