

ESTTA Tracking number: **ESTTA258952**

Filing date: **01/06/2009**

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	Revise Clothing, Inc.
Granted to Date of previous extension	01/07/2009
Address	20 Henry Street Teterboro, NJ 07608 UNITED STATES

Attorney information	Gordon Troy Gordon E. R. Troy, PC PO Box 368 Charlotte, VT 05445 UNITED STATES usptomail@webtm.com Phone:802 425-9060
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Applicant Information

Application No	77449898	Publication date	09/09/2008
Opposition Filing Date	01/06/2009	Opposition Period Ends	01/07/2009
Applicant	Hibbard, James Mitchell 2001 Greebrook Pkwy Matthews, NC 28104 UNITED STATES		

Goods/Services Affected by Opposition

Class 016. All goods and services in the class are opposed, namely: Copy paper; cardboard; printed matter, namely, series of fiction books; bookbinding cloth; photographs; stationery for household purposes; artist's materials, namely, paint brushes; typewriters; printed instructional teaching materials in the field of English literature; printer's type; printing blocks
Class 025. All goods and services in the class are opposed, namely: Clothing, namely, pants and shirts; footwear; headgear, namely, hats, caps, gloves, hat bands, neck bands, sweat bands, wrist bands

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77564828	Application Date	09/08/2008
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	LIVE THE DREAM!		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2007/09/01 First Use In Commerce: 2007/09/01 Beachwear; Belts; Blouses; Coats; Head wear; Jackets; Jeans; Nightwear; Pants; Shirts; Shorts; Skirts; T-shirts		

Attachments	77564828#TMSN.jpeg (1 page)(bytes) 6066838.pdf (5 pages)(90308 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	/Gordon E. R. Troy/
Name	Gordon E. R. Troy
Date	01/06/2009

**United States Patent and Trademark Office
Trademark Trial and Appeal Board**

Our Ref: 1588-018.001

In re Application Serial No. 77449898
Mark: DREAM TO LIVE, LIVE TO DREAM

)	
Revise Clothing, Inc.,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
James Mitchell Hibbard,)	
)	
Applicant.)	
)	

Notice of Opposition

Revise Clothing, Inc., a corporation duly organized and existing under the laws of the State of New Jersey, having its principal place of business at 20 Henry Street, Teterboro, New Jersey 07608 (hereinafter “Opposer”), believes that it will be damaged by the registration of the mark shown in Application Serial No. 77449898, and, pursuant to 37 C.F.R. 2.101(b) and 15 U.S.C. §1052(d), hereby opposes the same. which according to the official records of the Patent and Trademark Office is owned by James Mitchell Hibbard (hereinafter “Applicant”), an individual with an address of 2001 Grebrook Pkwy, Matthews, North Carolina 28104.

As grounds for opposition, Opposer alleges:

1. The official records of the Patent and Trademark Office for Application Serial No. 77449898 shows that it was filed on April 16, 2008 by Applicant, seeking registration on the Principal Register of the trademark DREAM TO LIVE, LIVE TO

DREAM and that the goods identified in said application at the time of publication are: “Copy paper; cardboard; printed matter, namely, series of fiction books; bookbinding cloth; photographs; stationery for household purposes; artist's materials, namely, paint brushes; typewriters; printed instructional teaching materials in the field of English literature; printer's type; printing blocks” in International Class 16 and “Clothing, namely, pants and shirts; footwear, headgear, namely, hats, caps, gloves, hat bands, neck bands, sweat bands, wrist bands” in International Class 25. Said application was filed on the basis of intent-to-use and was published for opposition on September 9, 2008 (hereinafter “Applicant’s mark”).

2. Opposer filed an application for its mark LIVE THE DREAM! on September 8, 2008 for the mark LIVE THE DREAM!, which was assigned Application Serial No. 7756428 by the Patent and Trademark Office, in connection with “Beachwear; Belts; Blouses; Coats; Head wear; Jackets; Jeans; Nightwear; Pants; Shirts; Shorts; Skirts; T-shirts” in International Class 25. Said application was filed on the basis of use and use in interstate commerce, with a date of first use of September 1, 2007 and a date of first use in commerce of September 1, 2007 (hereinafter “Opposer’s mark”).

3. Opposer is a well known company in the clothing industry, and sells its clothing products through many well known stores and store chains throughout the United States.

4. Opposer has invested substantial sums in the development and promotion of Opposer’s Mark.

5. There is a strong likelihood of confusion in the present circumstances for the reasons set forth herein. The marks LIVE THE DREAM! and DREAM TO LIVE,

LIVE TO DREAM have the same connotation and meaning, and are used or intended to be used on the same, similar and related goods.

6. Opposer has priority of right in Opposer's mark by virtue of its first use of its mark predates the filing of the intent to use application by Applicant of Applicant's mark. Opposer's right predominate over that of Applicant.

7. The Application opposed herein was published for opposition on September 9, 2008. Opposer filed an extension request to file a Notice of Opposition which was granted through January 7, 2009. Accordingly, this Notice of Opposition is timely.

8. Opposer has standing to bring the within opposition as it believes that it will be damaged by the existence of the opposed application for the reasons set forth herein. Should Applicant be permitted to register its mark, it will interfere with Opposer's mark, Opposer's present business in its products, as well as Opposer's planned natural business extensions of its product line. Opposer is and will be damaged by the use and registration of the mark opposed herein.

WHEREFORE, Opposer respectfully requests that Application Serial No. 77449898 be denied registration on the ground that it is confusingly similar to Opposer's mark.

Opposer herewith submits the filing fee for opposing the within application in both classes 16 & 25.

Dated: January 6, 2009

Respectfully submitted:
GORDON E. R. TROY, PC



By: _____

Gordon E. R. Troy
Attorney for Opposer
PO Box 368
Charlotte, VT 05445
(802) 425-9060 Phone
(802) 425-9061 Fax
gtroy@webtm.com Email

Certificate of Service

The undersigned hereby certifies that a copy of the foregoing Notice of Opposition has been served on Applicant by depositing same with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to:

James Mitchell Hibbard
2001 Greebrook Pkwy
Matthews, NC 28104

on: January 6, 2009

Respectfully submitted:
GORDON E. R. TROY, PC



By: _____

Gordon E. R. Troy
Attorney for Opposer
PO Box 368
Charlotte, VT 05445
(802) 425-9060 Phone
(802) 425-9061 Fax