

ESTTA Tracking number: **ESTTA470345**

Filing date: **05/02/2012**

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	QS Wholesale, Inc.		
Entity	Corporation	Citizenship	California
Address	1350 Avenue of the Americas c/o Kane Kessler PC New York, NY 10019 UNITED STATES		

Correspondence information	Adam M. Cohen Attorney Kane Kessler, PC 1350 Avenue of the Americas 26th Fl. New York, NY 10019 UNITED STATES trademark@kanekessler.com Phone:212-541-6222
----------------------------	--

### Applicant Information

Application No	85444648	Publication date	04/10/2012
Opposition Filing Date	05/02/2012	Opposition Period Ends	05/10/2012
Applicant	Revise Clothing, Inc. 20 Henry Street Teterboro, NJ 07608 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Denim jackets; Denims; Jackets; Jeans; Pants; Shorts; Skirts
---

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4057724	Application Date	08/04/2010
Registration Date	11/15/2011	Foreign Priority Date	NONE
Word Mark	VSTR		

Design Mark	<h1>VSTR</h1>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2011/06/17 First Use In Commerce: 2011/06/17 Shirts

U.S. Application No.	85100485	Application Date	08/04/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	VSTR		
Design Mark	<h1>VSTR</h1>		
Description of Mark	NONE		
Goods/Services	Class 018. First use: All-purpose carrying bags; Backpacks; Key cases; Luggage; Umbrellas; Wallets Class 025. First use: Belts; Footwear; Gloves; Headwear; Jackets; Pants; Shorts; Socks; Swimwear; Undergarments		

U.S. Application No.	85472288	Application Date	11/14/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	VSTR		

Design Mark	<h1>VSTR</h1>
Description of Mark	NONE
Goods/Services	Class 035. First use: On-line retail store services featuring clothing, footwear, headgear, bags, sporting goods and accessories thereof

Related Proceedings	Opposition No. 91203052
---------------------	-------------------------

Attachments	85975664#TMSN.jpeg ( 1 page )( bytes ) 85100485#TMSN.jpeg ( 1 page )( bytes ) 85472288#TMSN.jpeg ( 1 page )( bytes ) Notice of Opposition - QS Wholesale v Revise - V-STAR BLACK.PDF ( 6 pages )(238336 bytes )
-------------	--

### 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	/brendan p mcfeely/
Name	Brendan P McFeely
Date	05/02/2012

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

QS Wholesale, Inc.,	)	In the Matter of Trademark Application
	)	No. 85/444,648
Opposer,	)	Filed: October 11, 2011
	)	Published in the Official Gazette
v.	)	on April 10, 2012
	)	
	)	Opposition No. _____
	)	
Revise Clothing, Inc.,	)	Mark: V-STAR BLACK
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

Opposer QS Wholesale, Inc. (“Opposer”) believes that it is or will be damaged by registration of the mark V-STAR BLACK (the “Opposed Mark”) as shown in Application Serial No. 85/444,648 (the “Opposed Mark”), filed by Revise Clothing, Inc. (“Applicant”), and hereby opposes the same pursuant to Section 13 of the Trademark Act of 1946, as amended, 15 U.S.C. Section 101 et seq. (the “Trademark Act”) on the following grounds:

**ALLEGATIONS APPLICABLE TO ALL CLAIMS FOR RELIEF**

**The Parties**

1. Opposer is a California corporation with its principal place of business located at 15202 Graham Street, Huntington Beach, CA 92649.
2. Opposer and/or its parent and affiliated companies are internationally famous manufacturers and suppliers of footwear, apparel, accessories and other goods.
3. Opposer’s parent and/or affiliated companies manufacture and distribute goods under the famous brands QUIKSILVER® and ROXY®, among others.

4. Opposer, itself and through its affiliates and licensees, designs and manufactures apparel, footwear, bags and accessories, which are distributed in the United States through various channels including Opposers's own retail stores, department stores and specialty sports, surf, skateboard and snowboard shops.

5. Opposer has invested significant resources developing and launching the VSTR brand.

6. Upon information and belief, Applicant is a New Jersey corporation having a place of business at 20 Henry Street, Teterboro, New Jersey 07608.

**Opposer's Marks**

7. Opposer, by Certificate of Merger recorded at the United States Patent and Trademark Office Reel/Frame 4742/0401, is the owner of the following trademark registration and applications in the United States for the trademark and service mark VSTAR (collectively, the "VSTR Marks"):

MARK	REG. NO. / SERIAL NO.	FILING DATE / REG DATE	GOODS/SERVICES
VSTR	4,057,724	August 4, 2010 / November 15, 2011	Cl 25: shirts
VSTR	85/100,485 (allowed)	August 4, 2010	Cl 18: All-purpose carrying bags; Backpacks; Key cases; Luggage; Umbrellas; Wallets Cl 25: Belts; Footwear; Gloves; Headwear; Jackets; Pants; Shorts; Socks; Swimwear; Undergarments
VSTR	85/472,288	November 14, 2011	Cl 35: On-line retail store services featuring clothing, footwear, headgear, bags, sporting goods and accessories thereof; Retail store services featuring clothing, footwear, headgear, bags, sporting goods and accessories thereof

Copies of the U.S. Patent and Trademark Office's *TESS* printouts of the above-listed registration and applications are attached hereto as **Exhibit A**.

8. Opposer's priority dates for its Class 18 and Class 25 VSTR Marks precede any priority date Applicant has asserted or may assert.

### **Applicant's Mark**

9. The application for the Opposed Mark was filed on October 11, 2011 for "Denim jackets; Denims; Jackets; Jeans; Pants; Shorts; Skirts" in Class 25 (the "Application"). "Black" is disclaimed. The Application was filed under Section 1(B) based on intent to use the Opposed Mark in commerce in the United States. The Application was published for opposition on April 10, 2012.

10. Opposer believes that it would be damaged by registration of the Opposed Mark, and therefore has standing to interpose this Notice of Opposition, for the reasons asserted below. Opposer has rights in the VSTR Marks that predate Applicant's filing date of the Application and any alleged date of first use of the Opposed Mark. Opposer has a registration and/or pending trademark applications for at least three (3) marks that are confusingly similar to the Opposed Mark. Therefore, Opposer has standing to interpose this Notice of Opposition.

### **COUNT I: LIKELIHOOD OF CONFUSION**

11. Opposer repeats and realleges each and every allegation set forth in paragraphs 1 through 10 of this Notice of Opposition as if fully set forth here.

12. Applicant's use and/or intended use of the Opposed Mark is likely to cause confusion among an appreciable number of reasonably prudent purchasers, who may mistakenly assume that Applicant's goods emanate from, or are licensed, sponsored or otherwise authorized by Opposer, whereas in fact they are not.

13. The Opposed Mark so closely resembles the VSTR Marks as to be likely, when applied to Applicant's goods, to cause confusion or mistake or to deceive members of the

trade and public, who are likely to believe that Applicant's goods originated with Opposer or are somehow connected to Opposer.

14. The Opposed Mark and the VSTR Marks are confusingly similar in appearance as the Opposed Mark merely adds one letter to Opposer's VSTR Marks, and/or pronunciation, and/or connotation and commercial impression, and the goods of Opposer and Applicant are identical as both include apparel in International Class 25 and are otherwise related.

15. In light of the foregoing, the use and registration of the Opposed Mark by Applicant is likely to damage and destroy the distinctiveness, goodwill and reputation built by Opposer in the VSTR Marks by virtue of the confusion, mistake and deception likely to occur between the Opposed Mark and the VSTR Marks.

16. The Opposed Mark is confusingly and deceptively similar to Opposer's VSTR Marks as applied to its goods, such that the use and registration of Applicant's mark is likely to cause confusion and mistake and will deceive the public into believing that Applicant's goods originate or are in some way sponsored, licensed, associated or otherwise authorized by Opposer.

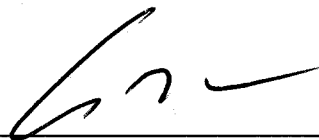
17. Pursuant to Section 2(d) of the Trademark Act, Applicant is not entitled to registration of the Opposed Mark because the current use in commerce and registration of the Opposed Mark and the VSTR Marks is likely to cause confusion or to cause mistake and/or to deceive.

**WHEREFORE**, Opposer respectfully requests that the Notice of Opposition be sustained, that the registration of the Opposed Mark, Application Serial No. 85/444,648, to Applicant be refused and that the Board grant such other and further relief as the Board deems proper.

Dated: New York, New York  
May 2, 2012

Respectfully submitted,

KANE KESSLER, P.C.



Adam M. Cohen, Esq. ([acohen@kanekessler.com](mailto:acohen@kanekessler.com))

Brendan P. McFeely, Esq. ([bmcfeely@kanekessler.com](mailto:bmcfeely@kanekessler.com))

1350 Avenue of the Americas

New York, NY 10019

(212) 541-6222

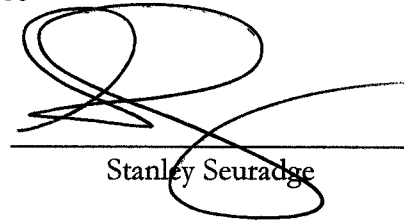
*Attorneys for Opposer QS Wholesale, Inc.*



**CERTIFICATE OF SERVICE**

This is to certify that on the 2<sup>nd</sup> day of May 2012, the undersigned served the foregoing NOTICE OF OPPOSITION via Electronic Mail and First Class Mail, postage prepaid, on the Applicant's attorney of record as follows:

Gordon E. R. Troy, Esq. (gtroy@webtm.com)  
Gordon E. R. Troy, PC  
PO Box 368  
Charlotte, VT 05445-0368



Stanley Seuradge