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

In the Matter of: Serial No. 85330876
Date of Filing: May 26, 2011
Mark: Stylized arrow design stitched along the
outseam of a jeans product
Date of Publication: May 29, 2012

LA Idol Fashion, Inc.)	Opposition No. _____
)	
Opposer,)	
)	
07/09/2012 SWILSON1 00000007 85330876)	
01 FC:6402)	Serial No. 85330876
300.00 OP)	
)	
v.)	
)	
RCRV, Inc.)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

L.A. Idol Fashion, Inc., a California corporation located and doing business at 1100 South San Pedro St., #K8, Los Angeles, California 90015 ("LA Idol"), believes that it will be damaged by registration of the mark described as a three-dimensional design feature consisting of a stylized arrow design stitched along the outseam of a jeans product, shown in Serial No. 85330876, for apparel, namely, jeans, shorts and skirts, in International Class 25, and hereby opposes the same.

The grounds for opposition are as follows:

1. By the application herein opposed, Applicant RCRV, Inc., 4715 S. Alameda Street, Los Angeles, CA 90058 ("Rock Revival") seeks to obtain registration on the Principal Register of the United



States Patent and Trademark Office (“PTO”) of the mark described as a three-dimensional design feature consisting of a stylized arrow design stitched along the outseam of a jeans product of for apparel, namely, jeans, shorts and skirts, in International Class 25. Rock Revival’s application claims first use of its mark described as a three-dimensional design feature consisting of a stylized arrow design stitched along the outseam of a jeans product for apparel, namely, jeans, shorts and skirts anywhere and in interstate commerce on November 23, 2005.

2. Rock Revival’s mark described as a three-dimensional design feature consisting of a stylized arrow design stitched along the outseam of a jeans product for apparel, namely, jeans, shorts and skirts application, which is the subject of this Notice of Opposition, was filed on May 26, 2011, and was published for opposition on May 29, 2012. Accordingly the filing this Notice of Opposition is timely.

3. Rock Revival’s mark described as a three-dimensional design feature consisting of a stylized arrow design stitched along the outseam of a jeans product for apparel, namely, jeans, shorts and skirts is functional because the stitching as described holds the jeans together and is essential to the construction of a pair of jeans, among other things, and therefore not entitled to protection as a registered mark under 15 U.S.C. § 1052(e)(5). Applicant failed to disclose to the Trademark Office that the stylized arrow design stitched along the outseam of a jeans product for apparel, namely, jeans, shorts and skirts is functional and essential to the construction of a pair of jeans.

4. Further, Rock Revival’s mark described as a three-dimensional design feature consisting of a stylized arrow design stitched along the outseam of a jeans product for apparel, namely, jeans, shorts and skirts is non-distinctive since the entire denim jean industry, which Rock Revival is part of, has adopted and uses a three-dimensional design feature consisting of a stylized arrow design stitched along the outseam of a jeans product for apparel, namely, jeans, shorts and skirts identical to the Mark making the Mark generic and therefore not entitled to protection as a registered mark under the Trademark Act section 23. Applicant failed to disclose to the Trademark Office that the entire denim jean industry has adopted and uses a three-dimensional design feature consisting of a stylized arrow design stitched along the outseam of a jeans product for apparel, namely, jeans, shorts and skirts identical to the Mark.

5. Opposer LA Idol is a designer and wholesale distributor of women's denim jeans, and other women's denim apparel. LA Idol has marketed and sold a women's denim jean having a three-dimensional design feature consisting of a stylized arrow design stitched along the outseam of a jeans product for apparel, namely, jeans, shorts and skirts.

6. Opposer believes that it will be damaged by registration of the Mark described as a three-dimensional design feature consisting of a stylized arrow design stitched along the outseam of a jeans product for apparel, namely, jeans, shorts and skirts because such registration will create statutory rights in Rock Revival on violation and derogation of the prior and superior rights of LA Idol and the entire denim jean industry.

7. A duplicate copy of this Notice of Opposition is enclosed herewith. Please charge the fee required in 37 C.F.R. 2.6(a)(17), and any other fees required in connection with this Petition.

WHEREFORE, L.A. Idol Fashion, Inc. prays that this opposition be sustained and that registration of the Application Serial No. 85330876 be denied.

Respectfully Submitted,

By: 

Christopher L. Diener, Esq.
Christopher L. Diener, Esq. (SBN 187890)
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Attorney for Opposer
L.A. Idol Fashion Inc.

DATED: June 27, 2012

CERTIFICATE OF SERVICE

I, Christopher L. Diener, Esq., hereby certify that on June 28, 2012, a true and correct copy of the foregoing Notice of Opposition was served by first class mail upon the following:

JOHN MALTBIE
ARNOLD & PORTER LLP
399 Park Ave., FL 35
New York, NY 10022-4690
Phone Number: 212-715-1000
Fax Number: 212-715-1399

Attorneys for Opposer



Christopher L. Diener, Esq.
Counsel for Opposer L.A. Idol Fashion, Inc.

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