

ESTTA Tracking number: **ESTTA718825**

Filing date: **01/06/2016**

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	Obe, Inc.
Granted to Date of previous extension	01/06/2016
Address	P.O. Box 170482 San Francisco, CA 94117 UNITED STATES

Attorney information	Sophie Cohen Cobalt LLP 918 Parker Street, Building A21 Berkeley, CA 94710 UNITED STATES trademarks@cobaltlaw.com
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Applicant Information

Application No	86601771	Publication date	09/08/2015
Opposition Filing Date	01/06/2016	Opposition Period Ends	01/06/2016
Applicant	Insassy Inc 250 Clary Avenue San Gabriel, CA 91776 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 2014/12/01 First Use In Commerce: 2014/12/01 All goods and services in the class are opposed, namely: Dog whistles; Electric bark control dog collars featuring vibration notification; Electronic animal confinement unit comprising transmitters, electrical transformers, wires, and receiver collars; Electronic transmitters and receivers for dog training

Grounds for Opposition

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

U.S. Application No.	86410683	Application Date	09/30/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OBE		

Design Mark	<h1>OBE</h1>
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 0 First Use In Commerce: 0 Pet fragrances, deodorizers, odor and stain removers; pet shampoo; non-medicated grooming preparations for pets, namely, pet shampoo and conditioner

U.S. Application No.	86410685	Application Date	09/30/2014
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	OBE
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Design Mark	<h1>OBE</h1>
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Description of Mark	NONE
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Goods/Services	<p>Class 007. First use: First Use: 0 First Use In Commerce: 0 Automated pet appliances, namely, feeders and waterers</p> <p>Class 009. First use: First Use: 0 First Use In Commerce: 0 Computer hardware in the field of pet health and fitness; computer software and hardware for wireless data communication for tracking, receiving, processing, transmitting, displaying, and managing information regarding pet health, activity, weight, and nutrition; pet video monitors; computer software for managing information regarding tracking, compliance and motivation with a health and fitness program; electronic devices for animal locating and tracking programmed to use global positioning systems (GPS) and cellular communications</p> <p>Class 041. First use: First Use: 0 First Use In Commerce: 0 Providing an online computer database in the field of pet fitness; Providing information in the field of animal behavior and pet fitness</p> <p>Class 044. First use: First Use: 0 First Use In Commerce: 0 Providing an online computer database in the field of pet health; Providing information in the field of animal behavior and pet health; health and wellness monitoring, namely, providing monitoring of pet health and related information;</p>
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	health and wellness monitoring, namely, providing reports relating to pet health
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U.S. Application No.	86410695	Application Date	09/30/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OBE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 0 First Use In Commerce: 0 Pet accessories, namely, pet collars, pet leashes, pet clothing, pet tags specially adapted for attaching to pet leashes or collars, and specially designed canvas, vinyl or leather bags attached to animal leashes for holding small items such as keys, credit cards, money or disposable bags for disposing of pet waste; accessories for pet collars, namely, charms, bows, pendants, bells and decorative charms as attachments		

U.S. Application No.	86410690	Application Date	09/30/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OBE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 0 First Use In Commerce: 0 Providing referrals for veterinary appointments and pet grooming appointments; providing a website featuring consumer information in the fields of pet boarding, pet day care, pet walking and pet grooming service providers, and pet hospitals; providing an on-line directory information service featuring information regarding pet boarding, pet day care, pet walkers, pet groomers, and pet hospitals		

U.S. Application	86410693	Application Date	09/30/2014
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No.			
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OBE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 045. First use: First Use: 0 First Use In Commerce: 0 Online social networking services in the fields of pets provided via a website		

U.S. Application No.	86482436	Application Date	12/16/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OBE		
Design Mark			
Description of Mark	The mark consists of the word "OBE" with four ovals positioned above the "O".		
Goods/Services	Class 003. First use: First Use: 0 First Use In Commerce: 0 Pet fragrances, deodorizers, odor and stain removers; pet shampoo; non-medicated grooming preparations for pets, namely, pet shampoo and conditioner		

U.S. Application No.	86482432	Application Date	12/16/2014
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	OBE		
Design Mark			
Description of Mark	The mark consists of the word "OBE" with four ovals positioned above the "O".		
Goods/Services	<p>Class 007. First use: First Use: 0 First Use In Commerce: 0 Automated pet appliances, namely, feeders and waterers</p> <p>Class 009. First use: First Use: 0 First Use In Commerce: 0 Computer hardware in the field of pet health and fitness; computer software and hardware for wireless data communication for tracking, receiving, processing, transmitting, displaying, and managing information regarding pet health, activity, weight, and nutrition; pet video monitors; computer software for managing information regarding tracking, compliance and motivation with a health and fitness program; electronic devices for animal locating and tracking programmed to use global positioning systems (GPS) and cellular communications</p> <p>Class 041. First use: First Use: 0 First Use In Commerce: 0 Providing an online computer database in the field of pet fitness; Providing information in the field of animal behavior and pet fitness</p> <p>Class 044. First use: First Use: 0 First Use In Commerce: 0 Providing an online computer database in the field of pet health; Providing information in the field of animal behavior and pet health; health and wellness monitoring, namely, providing monitoring of pet health and related information; health and wellness monitoring, namely, providing reports relating to pet health</p>		
U.S. Application No.	86482431	Application Date	12/16/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OBE		

Design Mark	
Description of Mark	The mark consists of the word "OBE" with four ovals positioned above the "O".
Goods/Services	<p>Class 018. First use: First Use: 0 First Use In Commerce: 0</p> <p>Pet accessories, namely, pet collars, pet leashes, pet clothing, pet tags specially adapted for attaching to pet leashes or collars, and specially designed canvas, vinyl or leather bags attached to animal leashes for holding small items such as keys, credit cards, money or disposable bags for disposing of pet waste; accessories for pet collars, namely, charms, bows, pendants, bells and decorative charms as attachments</p>

U.S. Application No.	86482434	Application Date	12/16/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OBE		
Design Mark			
Description of Mark	The mark consists of the word "OBE" with four ovals positioned above the "O".		
Goods/Services	<p>Class 035. First use: First Use: 0 First Use In Commerce: 0</p> <p>Providing referrals for veterinary appointments and pet grooming appointments; providing a website featuring consumer information in the fields of pet boarding,</p>		

	pet day care, pet walking and pet grooming service providers, and pet hospitals; providing an on-line directory information service featuring information regarding pet boarding, pet day care, pet walkers, pet groomers, and pet hospitals		
U.S. Application No.	86482438	Application Date	12/16/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	OBE		
Design Mark			
Description of Mark	The mark consists of the word "OBE" with four ovals positioned above the "O".		
Goods/Services	Class 045. First use: First Use: 0 First Use In Commerce: 0 Online social networking services in the fields of pets provided via a website		

Attachments	86410683#TMSN.png(bytes) 86410685#TMSN.png(bytes) 86410695#TMSN.png(bytes) 86410690#TMSN.png(bytes) 86410693#TMSN.png(bytes) 86482436#TMSN.png(bytes) 86482432#TMSN.png(bytes) 86482431#TMSN.png(bytes) 86482434#TMSN.png(bytes) 86482438#TMSN.png(bytes) OBE-ntc-opp-01-06-2016-final.pdf(378818 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	/vijay k. toke/
Name	Vijay K. Toke
Date	01/06/2016

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

In the matter of Trademark Application

Serial. No.: 86601771
Filing Date: April 17, 2015
Publication Date: September 8, 2015
By: Insassy Inc.
For the Trademark: OBEDOG

Obe, Inc.,

Opposer,

v.

Insassy Inc.,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Opposer, Obe, Inc. (“Obe” or “Opposer”), a Delaware corporation, having its principal place of business at P.O. Box 170482, San Francisco, California, 94117, United States, will be damaged by the issuance of a registration for the mark OBEDOG (“Applicant’s Mark” or “OBEDOG Mark”), as applied for in Application Serial No. 86/601,771, filed on April 17, 2015 by Applicant, Insassy Inc., a California corporation, located at 250 Clary Avenue, San Gabriel, California, 91776, United States (“Insassy” or “Applicant”). Obe therefore opposes registration of the OBEDOG Mark on the following grounds:

1. Obe has produced and marketed products and/or services for pet owners under the OBE brand since at least as early as November 9, 2014.

2. Obe has filed and is the owner of the following United States trademark applications for the mark OBE for various pet-related products and services, collectively referred to herein as the "OBE Marks":

a. U.S. Application Serial No. 86/410,683 for the standard character mark OBE in International Class 03 for "Pet fragrances, deodorizers, odor and stain removers; pet shampoo; non-medicated grooming preparations for pets, namely, pet shampoo and conditioner,"

b. U.S. Application Serial No. 86/410,685 for the standard character mark OBE in International Class 07 for "Automated pet appliances, namely, feeders and waterers," International Class 009 for "Computer hardware in the field of pet health and fitness; computer software and hardware for wireless data communication for tracking, receiving, processing, transmitting, displaying, and managing information regarding pet health, activity, weight, and nutrition; pet video monitors; computer software for managing information regarding tracking, compliance and motivation with a health and fitness program; electronic devices for animal locating and tracking programmed to use global positioning systems (GPS) and cellular communications," International Class 41 for "Providing an online computer database in the field of pet fitness; Providing information in the field of animal behavior and pet fitness," and International Class 44 for "Providing an online computer database in the field of pet health;

Providing information in the field of animal behavior and pet health; health and wellness monitoring, namely, providing monitoring of pet health and related information; health and wellness monitoring, namely, providing reports relating to pet health,”

- c. U.S. Application Serial No. 86/410,695 for the standard character mark OBE for the word mark OBE in International Class 18 for “Pet accessories, namely, pet collars, pet leashes, pet clothing, pet tags specially adapted for attaching to pet leashes or collars, and specially designed canvas, vinyl or leather bags attached to animal leashes for holding small items such as keys, credit cards, money or disposable bags for disposing of pet waste; accessories for pet collars, namely, charms, bows, pendants, bells and decorative charms as attachments,”
- d. U.S. Application Serial No. 86/410,690 for the standard character mark OBE in International Class 35 for “Providing referrals for veterinary appointments and pet grooming appointments; providing a website featuring consumer information in the fields of pet boarding, pet day care, pet walking and pet grooming service providers, and pet hospitals; providing an on-line directory information service featuring information regarding pet boarding, pet day care, pet walkers, pet groomers, and pet hospitals,”
- e. U.S. Application Serial No. 86/410,693 for the standard character mark OBE in International Class 45 for “Online social networking services in the fields of pets provided via a website,”

- f. U.S. Application Serial No. 86/482,436 for the mark OBE & Design in International Class 03 for “Pet fragrances, deodorizers, odor and stain removers; pet shampoo; non-medicated grooming preparations for pets, namely, pet shampoo and conditioner,”
- g. U.S. Application Serial No. 86/482,432 for the mark OBE & Design in International Class 007 for “Automated pet appliances, namely, feeders and waterers,” International Class 009 for “Computer hardware in the field of pet health and fitness; computer software and hardware for wireless data communication for tracking, receiving, processing, transmitting, displaying, and managing information regarding pet health, activity, weight, and nutrition; pet video monitors; computer software for managing information regarding tracking, compliance and motivation with a health and fitness program; electronic devices for animal locating and tracking programmed to use global positioning systems (GPS) and cellular communications,” International Class 41 for “Providing an online computer database in the field of pet fitness; Providing information in the field of animal behavior and pet fitness,” and International Class 44 for “Providing an online computer database in the field of pet health; Providing information in the field of animal behavior and pet health; health and wellness monitoring, namely, providing monitoring of pet health and related information; health and wellness monitoring, namely, providing reports relating to pet health,”

- h. U.S. Application Serial No. 86/482,431 for the mark OBE & Design in International Class 18 for “Pet accessories, namely, pet collars, pet leashes, pet clothing, pet tags specially adapted for attaching to pet leashes or collars, and specially designed canvas, vinyl or leather bags attached to animal leashes for holding small items such as keys, credit cards, money or disposable bags for disposing of pet waste; accessories for pet collars, namely, charms, bows, pendants, bells and decorative charms as attachments,”
- i. U.S. Application Serial No. 86/482,434 for OBE & Design in International Class 35 for “Providing referrals for veterinary appointments and pet grooming appointments; providing a website featuring consumer information in the fields of pet boarding, pet day care, pet walking and pet grooming service providers, and pet hospitals; providing an on-line directory information service featuring information regarding pet boarding, pet day care, pet walkers, pet groomers, and pet hospitals,” and
- j. U.S. Application Serial No. 86/482,438 for the mark OBE & Design in International Class 45 for “Online social networking services in the fields of pets provided via a website.”

3. Opposer’s U.S. Applications Serial Nos. 86/410,683, 86/410,685, 86/410,690, 86/410,693, and 86/410,695 bear a priority date of September 30, 2014. Obe has consistently and continually marketed pet products and/or services under the OBE Marks since at least as early as November 9, 2014. Moreover, by virtue of its marketing, the excellence of the underlying product, consumer and industry press recognition, and

sales of its pet products, the public has come to know, rely on, and recognize the OBE Marks as a source identifier for Obe's pet products.

4. Upon information and belief, Obe alleges that on April 17, 2015, Applicant filed an application to register the mark OBEDOG, for "Dog whistles; Electric bark control dog collars featuring vibration notification; Electronic animal confinement unit comprising transmitters, electrical transformers, wires, and receiver collars; Electronic transmitters and receivers for dog training," in International Class 09, claiming a first use date of December 1, 2014.

5. Opposer's first use date of its OBE Marks and the priority dates for the applications for the standard character mark for the OBE Mark pre-date Applicant's claimed first use date. Therefore, Opposer owns senior rights to Applicant over the OBE Marks.

6. Applicant's Mark is likely to be confused with, and mistaken for, Opposer's OBE Marks as to its pet products developed and marketed under the OBE Marks because Applicant's Mark is confusingly similar in sight, sound, and meaning to Obe's OBE Marks. Applicant's Mark and Obe's OBE Marks share the identical and dominant "OBE" mark component and the additional component "Dog" in the context of pet-related.

7. Applicant's OBEDOG Mark creates the same or a very similar commercial connotation as Obe's OBE Marks.

8. Applicant's Mark is used on and in connection with identical and/or related products and services to those used in conjunction with Obe's OBE Marks.

9. Applicant's targeted customer and consumer base overlaps with the customers and consumers of Obe's pet products.

10. As Applicant's goods description contains no restrictions or limitation as to Applicant's channels of trade, Obe may assume that Applicant's Mark, like Obe's own OBE Marks, will be used in all accepted channels of trade. Therefore, in addition to overlapping consumer bases, Applicant's channels of trade for its pet products overlaps with the channels of trade used by, or exist within the natural sphere of expansion available to, Obe for marketing, selling, and otherwise distributing its OBE pet products.

11. If Applicant is permitted to register its OBEDOG Mark for the goods specified in the Application herein opposed, confusion resulting in damage and injury to Obe is likely to occur. Persons familiar with Obe's OBE Marks would likely perceive Applicant's products as associated, affiliated with, or sponsored by Obe. Such confusion would inevitably result in damage to Obe.

12. Obe's customers and the relevant public are likely to misperceive Applicant's Mark as Obe's mark rather than as a mark of Insassy Inc. and/or believe in error that goods offered under the Applicant's Mark are offered by, in association with, or under license from Obe.

13. Any defect, objection to, or fault found with Applicant's goods marketed under its Applicant's Mark would necessarily reflect on and seriously injure the reputation that Obe has established for its premium pet products. In fact, Opposer is aware of significant amounts of actual consumer confusion confusing Applicant's Mark with Opposer's OBE Marks, believing that both parties' products originate from the same source. For instance, Opposer is aware of numerous consumers who were dissatisfied

with Applicant's products and complained to Opposer about the poor quality of, or defects in, Applicant's products, thinking that Opposer was in fact the source of Applicant's products.

14. Registration of Applicant's Mark would give Applicant *prima facie* evidence of the validity and ownership of Applicant's Mark and of Applicant's exclusive right to use its OBEDOG Mark, all to the detriment of Obe.

WHEREFORE, Obe prays that this Opposition be sustained and that Application Ser. No. 86/601,771 be denied and refused registration.

Respectfully Submitted,

COBALT LLP

Date: January 6, 2016,

By: /s/ Vijay K. Toke
Vijay K. Toke
Sophie Cohen

Attorneys for Opposer

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 6th day of January, 2016, a true and correct copy of the foregoing Notice of Opposition was deposited in a U.S. Mailbox to be served upon Applicant by U.S. First Class Mail in an envelope, postage pre-paid, addressed as follows:

Tommy SF Wang
Yang & Wang, P.C.
355 S. Grand Ave. #2450
Los Angeles, CA 90071

With a courtesy copy to:

Insassy Inc.
Attention: Mr. Phung Diep, President
250 Clary Avenue
San Gabriel, CA 91776


Nikki Abdallah