

ESTTA Tracking number: **ESTTA726618**

Filing date: **02/11/2016**

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

Proceeding	91225714
Party	Defendant Insassy Inc
Correspondence Address	Tommy SF Wang Yang & Wang, P.C. 355 S. Grand Ave. #2450 Los Angeles, CA 90071 yangwanglaw@gmail.com
Submission	Answer
Filer's Name	Tommy SF Wang
Filer's e-mail	twang@yangwanglaw.com, lfan@yangwanglaw.com
Signature	/s/Tommy SF Wang
Date	02/11/2016
Attachments	Answer_02112016.pdf(245409 bytes) Exhibits_02112016.pdf(3653547 bytes)

1 comprising transmitters, electrical transformers, wires, and receiver collars;
2 Electronic transmitters and receivers for dog training.”

3 2. Applicant admits that it filed the application for Applicant’s Mark on
4 April 17, 2015.

5 3. Applicant admits it first used Applicant’s Mark in commerce as early
6 as December 1, 2014.

7 4. Applicant admits its address is 250 Clary Avenue, San Gabriel,
8 California 91776.

9 5. Answering paragraph 1 of the Notice of Opposition, Applicant does
10 not have sufficient knowledge or information to form a belief as to the allegations
11 contained therein and accordingly denies the allegations.

12 6. Answering paragraph 2 of the Notice of Opposition, Applicant does
13 not have sufficient knowledge or information to form a belief as to the allegations
14 contained therein and accordingly denies the allegations.

15 7. Answering paragraph 2(a) of the Notice of Opposition, Applicant does
16 not have sufficient knowledge or information to form a belief as to the allegations
17 contained therein and accordingly denies the allegations.

18 8. Answering paragraph 2(b) of the Notice of Opposition, Applicant
19 does not have sufficient knowledge or information to form a belief as to the
20 allegations contained therein and accordingly denies the allegations.

21 9. Answering paragraph 2(c) of the Notice of Opposition, Applicant does
22 not have sufficient knowledge or information to form a belief as to the allegations
23 contained therein and accordingly denies the allegations.

1 10. Answering paragraph 2(d) of the Notice of Opposition, Applicant
2 does not have sufficient knowledge or information to form a belief as to the
3 allegations contained therein and accordingly denies the allegations.

4 11. Answering paragraph 2(e) of the Notice of Opposition, Applicant does
5 not have sufficient knowledge or information to form a belief as to the allegations
6 contained therein and accordingly denies the allegations.

7 12. Answering paragraph 2(f) of the Notice of Opposition, Applicant does
8 not have sufficient knowledge or information to form a belief as to the allegations
9 contained therein and accordingly denies the allegations.

10 13. Answering paragraph 2(g) of the Notice of Opposition, Applicant
11 does not have sufficient knowledge or information to form a belief as to the
12 allegations contained therein and accordingly denies the allegations.

13 14. Answering paragraph 2(h) of the Notice of Opposition, Applicant
14 does not have sufficient knowledge or information to form a belief as to the
15 allegations contained therein and accordingly denies the allegations.

16 15. Answering paragraph 2(i) of the Notice of Opposition, Applicant does
17 not have sufficient knowledge or information to form a belief as to the allegations
18 contained therein and accordingly denies the allegations.

19 16. Answering paragraph 2(j) of the Notice of Opposition, Applicant does
20 not have sufficient knowledge or information to form a belief as to the allegations
21 contained therein and accordingly denies the allegations.

22 17. Answering paragraph 3 of the Notice of Opposition, Applicant does
23 not have sufficient knowledge or information to form a belief as to the allegations
24 contained therein and accordingly denies the allegations.

1 18. Answering paragraph 4 of the Notice of Opposition, Applicant admits
2 the allegations.

3 19. Answering paragraph 5 of the Notice of Opposition, Applicant does
4 not have sufficient knowledge or information to form a belief as to the allegations
5 contained therein and accordingly denies the allegations.

6 20. Answering paragraph 6 of the Notice of Opposition, Applicant denies
7 each and every allegation contained therein. Applicant and Opposer's marks are
8 entirely different and are visually different. Applicant's Mark is a standard word
9 mark consisting of the word "Obedog" with the "O" being capitalized. Applicant's
10 Mark consists of the additional element "dog" which is not included in Opposer's
11 marks. (See Exhibit 1).

12 On the other hand, Opposer's marks with the U.S. Serial Nos.
13 86/410,683, 86/410,685, 86/410,690, 86/410,693, and 86/410,695, consist of "OBE"
14 written in all capitalized letters. (See the Notice of Opposition). Additionally,
15 Opposer's marks with the U.S. Serial Nos. 86/482, 431, 86/482, 432, 86/482, 434,
16 86/482, 436, 86/482, 438 consist of the stylized letters "OBE" written in cursive
17 and with four circles drawn on top of the "O" to make it appear like a paw print.
18 (See the Notice of Opposition). As such, there is no likelihood that Applicant's
19 mark will cause confusion, mistake, or deceive the public, or cause any injury to
20 the Opposer.

21 21. Answering paragraph 7 of the Notice of Opposition, Applicant denies
22 each and every allegation contained therein. Applicant's and Opposer's
23 commercial connotations are entirely different. The connotation of the term
24 "Obedog" relates to Applicant's dog training products. Applicant's mark is
25

1 associated with dog training collars that contain electronic transmitters and
2 receivers used for dog training. (See Exhibit 3). Opposer's marks, on the other
3 hand, are associated with a different product. Opposer's marks are used with a
4 patent pending dog food bowl that measures the amount of food consumed by a
5 dog. (See Exhibit 2). Applicant's product is not used for dog health or dog food
6 products. As such, there is no similar commercial connotation between the two
7 marks.

8 22. Answering paragraph 8 of the Notice of Opposition,
9 Applicant denies each and every allegation contained therein. Applicant's Mark
10 and Opposer's marks are being used in two completely different types of products
11 and services. Applicant's Mark is being used in relation to products involving dog
12 training. In fact, the listed products on its webpage are items such as remote
13 training collars, no bark collars, and replacement parts for the collars. (See Exhibit
14 4). As can be seen from the list above, none of the items involve or relate to
15 Opposer's products of a patent pending dog food bowl that measures the amount of
16 food consumed by a dog. (See Exhibit 2). Applicant's product is not used for dog
17 health or dog food products. As such, Applicant's Mark is not being used in
18 connection with identical and/or related products and services to those used in
19 conjunction with Opposer's marks.

20 23. Answering paragraph 9 of the Notice of Opposition, Applicant denies
21 each and every allegation contained therein. Opposer has not provided any facts to
22 support its allegation that Applicant and Opposer's targeted customer and
23 consumer base overlap. Further, Applicant has used Applicant's mark since
24
25

1 December 1, 2014, and for more than two years, there has been no evidence of
2 confusion between Applicant and Opposer's marks.

3 24. Answering paragraph 10 of the Notice of Opposition, Applicant
4 denies each and every allegation contained therein. Opposer has not provided any
5 facts to support its allegation that Applicant and Opposer's channels of trade
6 overlap. Further, Applicant has used Applicant's mark since December 1, 2014,
7 and for more than two years, there has been no evidence of confusion between
8 Applicant and Opposer's marks.

9 25. Answering paragraph 11 of the Notice of Opposition, Applicant
10 denies each and every allegation contained therein. For the reasons stated above,
11 there is no likelihood of confusion or dilution, and there is no likelihood that
12 Opposer would be damaged by Applicant's Mark. Applicant has used Applicant's
13 mark since December 1, 2014, and for more than two years, there has been no
14 evidence of confusion between Applicant and Opposer's marks.

15 26. Answering paragraph 12 of the Notice of Opposition, Applicant
16 denies each and every allegation contained therein. For the reasons stated above,
17 there is no likelihood that the relevant public is likely to misperceive Applicant's
18 Mark as Opposer's marks. Applicant has used Applicant's mark since December 1,
19 2014, and for more than two years, there has been no evidence of confusion
20 between Applicant and Opposer's marks.

21 27. Answering paragraph 13 of the Notice of Opposition, Applicant
22 denies each and every allegation contained therein. For the reasons stated above,
23 there is no likelihood that the relevant public is likely to misperceive Applicant's
24 Mark as Opposer's marks. Applicant has used Applicant's mark since December 1,

1 2014, and for more than two years, there has been no evidence of confusion
2 between Applicant and Opposer's marks.

3 28. Answering paragraph 14 of the Notice of Opposition, Applicant
4 denies the allegations in part. While registration of Applicant's Mark would be
5 prima facie evidence of the validity and ownership of Applicant's Mark and
6 Applicant's exclusive right to use its mark, there has been no evidence of detriment
7 or damages to Opposer.

8 **AFFIRMATIVE DEFENSES**

9 Applicant asserts that the following affirmative defenses bar Opposer's
10 requested relief in its Notice of Opposition.

11 **First Affirmative Defense**

12 29. Opposer fails to state a claim upon which relief can be granted.

13 **Second Affirmative Defense**

14 30. Opposer's claims are barred by the equitable defenses of laches,
15 acquiescence, waiver, or estoppel. Applicant has been using its mark and
16 developing consumer recognition and goodwill therein since at least December 1,
17 2014, such use being open, notorious and known to Opposer. During this time,
18 Opposer failed to take meaningful action to assert the claims on which it bases its
19 Opposition, on which inaction Applicant has relied to its detriment. Opposer's
20 claims are consequently barred by the doctrines of laches, acquiescence and
21 estoppel.

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1 **Third Affirmative Defense**

2 31. Applicant affirmatively alleges that there is no likelihood of confusion,
3 mistake, or deception between Applicant's and Opposer's marks because the marks
4 are not similar. It is well established that "likelihood of confusion cannot be
5 predicated on dissection of a mark . . . the ultimate conclusion rests on
6 consideration of the marks in their entireties." In re National Data Corp., 224
7 USPQ 749, 751 (Fed. Cir. 1985); TMEP §1207.01(b)(iv).

8 **Fourth Affirmative Defense**

9 32. Applicant further affirmatively alleges that there is no likelihood of
10 confusion, dilution, mistake, or deception between Applicant and Opposer's marks
11 because the marks are associated with distinct goods, and are carried through
12 different channels of trade.

13 **Fifth Affirmative Defense**

14 33. Applicant hereby gives notice that it may rely on any other defenses
15 that may become available or appear proper during discovery, and hereby reserves
16 its right to amend this Answer to assert any such defenses.

17 **Sixth Affirmative Defense**

18 34. Applicant's mark is not being used to misrepresent the source of the
19 goods or services on or in connection which the mark is used.

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1 WHEREFORE, Applicant requests that the Trademark Trial and Appeals
2 Board dismiss the Notice of Opposition and grant all other appropriate relief to the
3 Applicant as it deems just.

4
5 DATED: 02/11/2016

Respectfully submitted,

6
7 

8 **Songfong Tommy Wang**
9 **Yang & Wang, P.C.**

10 Attorney for Applicant
11 InSassy, Inc.

1 **CERTIFICATE OF SERVICE**

2
3 I am over eighteen (18) years of age, employed in the County of Los
4 Angeles, and not a party to this action. My business address is 355 S. Grand
5 Ave., Suite 2450, Los Angeles, CA 90071. I hereby certify that on February 11,
6 2016, I served the following document(s):

7 ANSWER TO NOTICE OF OPPOSITION

8 On the Parties in this action addressed as:

9 Sophie Cohen
10 Cobalt LLP
11 918 Parker Street, Building A21
12 Berkeley, CA 94710

13 [X] BY MAIL: by placing the document(s) listed above in a
14 sealed envelope(s) and depositing the sealed envelope(s) with the United States
15 Postal Service with the postage fully prepaid.

16 I declare, under penalty of perjury under the laws of the State of
17 California, that the foregoing is true and correct. Executed on February 11,
18 2016, at Los Angeles, California.

19
20 

21 Elizabeth Yang

EXHIBIT 1



United States Patent and Trademark Office

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Obedog

Word Mark OBEDOG

Goods and Services IC 009. US 021 023 026 036 038. G & S: 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. FIRST USE: 20141201. FIRST USE IN COMMERCE: 20141201

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 86601771

Filing Date April 17, 2015

Current Basis 1A

Original Filing Basis 1A

Published for Opposition September 8, 2015

Owner (APPLICANT) Insassy Inc CORPORATION CALIFORNIA 250 Clary Avenue San Gabriel CALIFORNIA 91776

Attorney of Record Tommy SF Wang

Type of Mark TRADEMARK

Register PRINCIPAL

**Live/Dead
Indicator** LIVE

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EXHIBIT 2

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OBE PROBOWL

manages and monitors your dog's food and water so you can rest easy



BUY NOW ([HTTP://IGG.ME/AT/PROBOWL/X/6658644](http://igg.me/at/probowl/x/6658644))

HOW OBE PROBOWL WORKS



[\(/probowl-smart-dog-bowl\)](#)

create a profile [\(/probowl-smart-dog-bowl\)](#)

Tell us about your dog and who takes care of him besides you. Share details like his age, what you feed him, activity level, meal schedule or a goal weight. ProBowl manages the shared care of your dog among your family, friends or sitter so you don't have to worry when away.

[smart dog bowl \(/how-it-works/?category=smart+dog+bowl\)](#)



[\(/how-it-works/2015/8/19/rest-easy\)](#)

get recommendations [\(/how-it-works/2015/8/19/rest-easy\)](#)

Obe's algorithm personalizes meal portions and monitors hydration specifically for your dog's lifestyle. We know many dogs don't



[\(/how-it-works/cbdjuylhd0dp7owkbglel6jkd\)](#)

rest easy [\(/how-it-works/cbdjuylhd0dp7owkbglel6jkd\)](#)

ProBowl monitors real-time and alerts you if there is anything out of the ordinary. It reorders food for you automatically, so you won't run out. And you'll know for sure if your dog has already been fed, no matter how hard he tries to convince you otherwise.

[smart dog bowl \(/how-it-works/?category=smart+dog+bowl\)](#), [obedog \(/how-it-works/?category=obedog\)](#)

just eat dog food. Sprinkle cheese on his meal? Add salmon oil? ProBowl adjusts portions for what your dog **really** eats.

smart dog bowl (/how-it-works/?category=smart+dog+bowl), obedog (/how-it-works/?category=obedog)

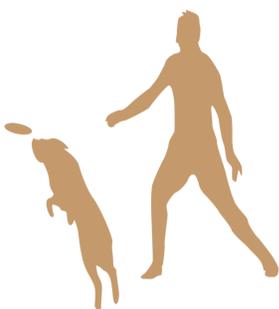


PROBOWL'S SMART FEATURES



(/obeprobowlfeatures/2015/8/29/pevery-meal)

manages meals
(/obeprobowlfeature



(/obeprobowlfeatures/lt5jyr7qpxckc

gives the full picture



(/obeprobowlfeatures/u5zwul118vic

reorders food
(/obeprobowlfeature

every-meal)

personalizes each meal, adjusts meal portions based on activity, age, weight & calories already consumed. sends alerts and glows green to remind others to feed him. has your spouse already fed the dog? probowl will tell you if he has. reorders your dog food automatically so you won't run out



(/obeprobowlfeature

use it with a doggie activity tracker like whistle or add his activity level to get calories in and calories out. probowl dynamically adjusts meal portions as your dog ages or slows down so you can focus on spending time together.



probowl works with wet, freeze dried, raw or dry food and with water. it will reorder your dog's food so you don't run out. sturdy and practical, the bowl is dishwasher and microwave safe. smart base runs off of 4AA batteries so you can put it anywhere. our first partnership is with Amazon DRS, amazon dash replenishment



(/obeprobowlfeatures/mgc6yzgzbj6

(/obeprobowlfeatures/chbxioyn1uq

(/obeprobowlfeatures/n0racn7hw69

problem solves (/obeprobowlfeature

probowl smart dog bowl easily identify sources of allergies or understand what might have caused that stomach issue using the detailed ingredient log. we'll let you know what changed and tell you what might be a trigger.

guides weight loss (/obeprobowlfeature

did your vet tell you your dog needs to lose weight? we are here to help. ProBowl makes it easy to know how much to cut back on calories and guides your dog's gradual weight loss for you. If dogs are overweight it can shorten their life span and contribute to expensive and painful health problems like arthritis or diabetes

monitors real-time (/obeprobowlfeature

when you are away, you just want to know your dog is ok and whether the pet sitter is taking care of him. wonder if the kennel fed him enough? worried your dog sitter forgot to refill the water? now you'll know and probowl will remind them so you don't have to. probowl gives you peace of mind when you are away so you can rest easy.

12345

Obe Inc. Launches Revolutionary "Smart" Dog Bowl

Search

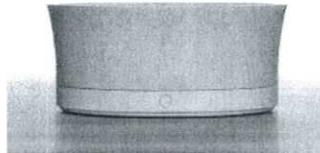
July 8, 2015



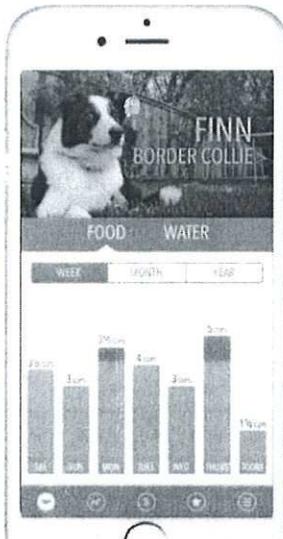
SAN FRANCISCO (July 8, 2015) – Obe Inc. has announced the launch of the Obe ProBowl, a revolutionary new "smart" bowl that makes it easy for pet parents to ensure their dog gets the right amount of food and water, anywhere, anytime. The Obe ProBowl is available for pre-order now, with shipping in time for the holiday season.

The patent pending ProBowl is designed to add to your home's décor and to be practical and user-friendly, even with some of the most powerful technology behind it. The smart base provided with the ceramic bowl connects to Wi-Fi and measures the amount of food and water consumed in real-time, and also features a convenient "Say When" light to let pet parents know when to stop filling the bowl for a personalized serving size.

The smart iOS app lets pet parents monitor and manage how much and when their dog eats and drinks, from home or while away. When set to "home" mode, pet parents will receive alerts if there is a change in eating or drinking habits, and can also be sent as reminders for feeding (and to prevent double feeding). The app can also be set to "away" mode to allow others – such as pet-sitters – to receive alerts and reminders as well.



Hilary Jensen Wade, CEO and founder of Obe Inc., founded the company last year after noticing her 10-year-old 'muttweiler,' DJ, had gained weight even though she was feeding him the label's recommended serving size.



"I care about what I feed him, but that's just as important as how much," Wade said. "I also wanted to monitor his water intake, because if it changes, that can be an early indicator of an underlying health problem."

Wade adds, "I want my dog to live the healthiest, longest life possible, and the convenience and practicality of ProBowl takes the guesswork out of proper meal and water management when I'm traveling or home, providing much-needed peace of mind."

The ProBowl is available in three different sizes: Small (for dogs under 20lbs., \$94); Medium (for dogs 20-50lbs., \$96); and Large (for dogs over 50lbs., \$98). All ProBowls work with wet, dry, raw and freeze-dried food, as well as water, and feature a dishwasher and microwave safe ceramic bowl made in the USA. The durable, rubberized smart base secures to the ceramic bowl and can easily be wiped clean.

The ProBowl is powered by (4) AA batteries and is portable



for travel. The smart app currently works with iOS, and an Android version will be coming soon. For more information about the Obe ProBowl or to take advantage of early bird pricing and pre-order now in time for the holidays, please visit www.obedog.com.

About Obe Inc.

Obe Inc. is passionate about creating beautifully designed, practical products that help people take better care of themselves and their treasured family members. Founded by Hilary Jensen Wade in 2014, the company is based in San Francisco, Calif. For more information, please visit <http://www.obedog.com> or connect with us on [Facebook](#).

###

Media Contact:

Hilary Jensen Wade
(415) 215-0579
hilary@hilaryjensen.com

G+

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EXHIBIT 3

Who is ObeDog | ObeDog - Safe Dog Training Collars & Accessories

ObeDog

Safe . Effective . Humane

ObeDog a Division of InSassy Inc. which manufacture and import quality branded products in various markets. As the owner of InSassy Inc. and a dog lover, I decided to partner with a manufacturer of dog training products to develop a line of safe, effective and humane training aids for all dog lovers. Hence the brand **ObeDog** was born.

ObeDog, Division of InSassy Inc.

ObeDog a Division of InSassy Inc. which manufacture and import quality branded products in various markets. As the owner of InSassy Inc. and a dog lover, I decided to partner with a manufacturer of dog training products to develop a line of safe, effective and humane training aids for all dog lovers. Hence the brand ObeDog was born.

Our main focus is to provide safe, effective, and humane training solutions to our customers straight from the manufacturing process. Our products are all tested for defects and QC to the highest levels of expectations. We made sure that an Auto-Protect Mode is present in all of our products to protect our best friends from over corrections like other inferior products.

ObeDog offers a complete line of training collars for all dogs from small toy breeds to large size dogs. We offer different solutions from No-Bark Collars to Remote Trainers.

Safety

ObeDog's Training Collars are all Dog Friendly and Safe. Our goal is to manufacture a safe product for our beloved companion and best friend. Our entire line of training collars have Auto-Protect feature which ensure safety to our beloved best friend.

Effective

ObeDog Products are meant to be effective when used with proper training techniques. This will eliminate any unwarranted behavior from your best friend and will not over-correct like other inferior products on the market today.

Humane

We believe in humane training of our best friends. ObeDog products have excellent features which uses

different forms of stimulation to keep training as humane and pain free as possible to our pals. And most of our models have intensity and sensitivity level of adjustments to ensure the right stimulation are delivered in the most humane manner possible.

EXHIBIT 4



OBEDOG™ VITAL

\$56.99

+ ADD TO CART



OBEDOG™ VITAL DUAL

\$66.99

+ ADD TO CART



OBEDOG™ ULTRA

\$75.99

+ ADD TO CART



OBEDOG™ ULTRA DUAL

\$86.99

+ ADD TO CART

Categories

All Replacement Parts

Collar

No Bark Collars

Receiver Unit

Remote Trainers

Remote Transmitter