

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

APR 30 2008

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

CHRIS M. OHMAN, an individual, )  
resident of the State of Oklahoma )

Plaintiff, )

vs. )

LANCE ARMSTRONG )  
FOUNDATION, a Texas non-profit )  
corporation, LANCE ARMSTRONG )  
ENDOWMENT FUND, a Texas )  
non-profit corporation, Yellow Dog )  
Designs Inc, a New Jersey for-profit )  
corporation, Mortimer H. Nase, a )  
individual resident of the State of )  
New Jersey )

Defendants. )

**08 CV - 251 GKF PJC**

Case No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT**

COMES NOW the Plaintiff, CHRIS M. OHMAN ("Plaintiff")  
and for complaint against: Lance Armstrong Foundation ("LAF") and  
Lance Armstrong Endowment Foundation ("LAEF"), Yellow Dog designs  
Inc., Mortimer H. Nase ("Nase"), collectively and each of them, hereafter  
referred to as ("Defendants") except otherwise noted, state and allege as  
follows:

(fcs  
p)

### **JURISDICTION AND VENUE**

1. This is an action for willful patent infringement under 35 U.S.C. § 271 *et seq.* This Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. §§ 1338(a) and 1331.

2. Venue is proper pursuant to 28 U.S.C. §§ 1391(d) and 1400(b).

3. On information and belief, Defendants have placed infringing products into the stream of commerce by shipping products into this District or knowing that the devices would be shipped into this District.

### **THE PARTIES**

4. Plaintiff, Chris M. Ohman, is an individual having a place of business in this judicial district at 2751 S. 96<sup>th</sup> E. Avenue Tulsa, Oklahoma, 74129. Plaintiff licenses and develops animal collars, primarily used to adorn pets, which depict inspirational messages to encourage charitable contributions.

5. Plaintiff is the owner of the entire right, title, and interest to United States Design Patent No. D556,389 (the “389 Patent”), entitled “Pet Collar With an Embossed Slogan for Encouraging Charitable Contributions,” the ‘389 patent was issued November 27, 2007 to Chris M. Ohman. A copy of the ‘389 patent is attached hereto as Exhibit “1.”

6. Defendants, “LAF” and “LAEF” are a Texas Non-Profit organizations having a common place of business at 1221 S. MoPac Expressway, suite 400, Austin, TX, 78746 USA. Defendants, Mortimer H. Nase dba Yellow Dog Design Inc., a New Jersey for-profit corporation, are listed by the New Jersey State corporate and business information service as having a principal business address of 2410 Beech St., Point Pleasant Beach, NJ., 08742. Defendants have directly and/or through its subsidiaries and affiliates, produce and market a number of products, including products to adorn animals to various world-wide markets and throughout the United States, including this judicial district. In particular, LAF, directly and/or through its subsidiaries and affiliates, further markets and sells pet collars with inspirational messages to encourage charitable contributions.

**FIRST CLAIM FOR RELIEF**  
**Patent Infringement of the '389 Patent**

7. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 6 of this Complaint as if fully set forth herein.

8. Defendants have infringed and continue to infringe the '389 Patent in violation of 35 U.S.C. § 271(a) through their conduct with regard to the manufacture and sale of pet collars depicting the message LIVESTRONG as claimed by the '389 Patent.

9. Defendant's infringement of the '389 Patent is and has been willful and deliberate.

10. Plaintiff has been injured and damaged, and will continue to be injured and damaged, by Defendants infringement of the '389 Patent. Defendant's infringement of the '389 Patent has caused, and will continue to cause, irreparable harm to plaintiff unless and until enjoined by this Court.

**SECOND CLAIM FOR RELIEF**  
**Unfair Trade Practice**

11. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 26 of this Complaint as if fully set forth herein.

12. Defendants conduct constitutes unfair competition and a *prima facie* tort under Oklahoma law and 76 O.S. § 1.

13. Defendants conduct, acts or practices have substantially interfered with Plaintiff's ability to compete in the industry on the merits of the parties products and compete in the marketplace.

14. Plaintiff has been damaged as a direct result of such violations.

15. Defendant's conduct is bad faith, malicious and intentional and/or in reckless disregard of the rights of others.

16. As a proximate result of Defendants violations and conduct as set forth above, Plaintiff has been injured in that it has lost

customers, sales and profits which it would have made but for Defendants unlawful activity, and have lost and continue to lose goodwill and suffer diminution in value as a growing concern and are entitled to recover damages to be proven at trial.

**THIRD CLAIM — COMBINED PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, Chris Ohman pray that judgment be granted in their favor and against all Defendants as follows:

A. That Defendants have infringed the '389 Patent pursuant to 35 U.S.C. § 271;

B. That Defendants and all parties contemplated by Rule 65(d) Fed. R. Civ. P., be permanently enjoined from further infringement of the '389 Patent pursuant to 35 U.S.C. § 283;

C. That Defendants be ordered to account for and pay to Plaintiffs the damages adequate to compensate for the infringement, but in no event less than a reasonable royalty, to which Plaintiffs are

entitled as a result of Defendants' infringement pursuant to 35 U.S.C. § 284;

D. That Defendants be ordered to account for and pay to Plaintiffs the damages adequate to compensate for the profits incurred by the Plaintiffs as a result of Defendants' infringement pursuant to 35 U.S.C. §289;

E. That in view of Defendants' acts of willful, deliberate, and intentional infringement, such damages should be increased up to three times the amount assessed;

F. That this case be deemed exceptional and Plaintiff be awarded attorney fees pursuant to 35 U.S.C. § 285;

G. For all damages Plaintiff has suffered by reason of the aforementioned common law violation;

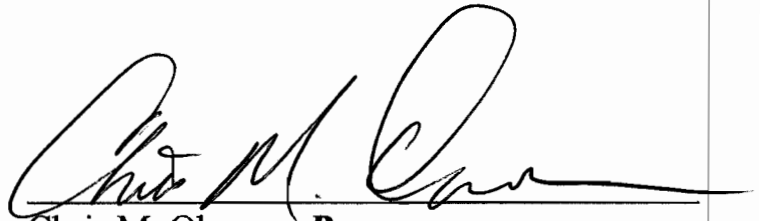
H. Punitive damages as against Defendants under Count IV pursuant to 23 O.S. § 9.1; and

I. Such other and further relief as the Court deems just and proper.

**JURY TRIAL DEMANDED**

Pursuant to Rule 38(a) of the Federal Rules Of Civil Procedure, Plaintiff demands a trial by jury of all issues.

Dated: April 30, 2008

A handwritten signature in black ink, appearing to read "Chris M. Ohman", is written over a horizontal line.

Chris M. Ohman *Pro se*  
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**U.S. Patent**

**Nov. 27, 2007**

**US D556,389 S**





US00D556389S

(12) **United States Design Patent** (10) **Patent No.:** **US D556,389 S**  
**Ohman** (45) **Date of Patent:** **\*\* Nov. 27, 2007**

(54) **PET COLLAR WITH AN EMBOSSED  
 SLOGAN FOR ENCOURAGING  
 CHARITABLE CONTRIBUTIONS**

(76) **Inventor:** **Chris M. Ohman**, 2751 S. 96th East  
 Ave., Tulsa, OK (US) 74129

(\*\*) **Term:** **14 Years**

(21) **Appl. No.:** **29/233,646**

(22) **Filed:** **Jul. 6, 2005**

(51) **LOC (8) Cl.** ..... **30-04**

(52) **U.S. Cl.** ..... **D30/152**

(58) **Field of Classification Search** ..... D30/152,  
 D30/144, 199; 119/850, 855, 856-858, 863-865,  
 119/654, 793; D28/41; D24/189; 283/75,  
 283/900; 235/487, 375; 66/171, 180; D11/3,  
 D11/4, 6, 11, 61, 116; 2/170, DIG. 11; 63/11-13,  
 63/14.1, 1.13, 5.1, 1.1, 2

See application file for complete search history.

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 &track\_id=WEARYELLOW, May 6, 2004. ☐ <http://www.laf.org/>, May 6, 2004.\*

\* cited by examiner

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(74) *Attorney, Agent, or Firm*—Daniel P. Dooley; Fellers,  
 Snider, et al.

(57)

#### CLAIM

I claim the ornamental design for a pet collar with an embossed slogan for encouraging charitable contributions, as shown.

#### DESCRIPTION

The FIGURE is a top plan view of a pet collar with an embossed slogan for encouraging charitable contributions.

The portions shown in broken line are not claimed.

**1 Claim, 1 Drawing Sheet**

