

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

AQUAPAW BRANDS LLC,  
Plaintiff,

v.

PUSIFCA, *et al.*,  
Defendants.

Civil Action No.

(Judge Wiegand)

**FILED UNDER SEAL**

**[PROPOSED] 1) TEMPORARY RESTRAINING ORDER; 2) ORDER RESTRAINING ASSETS AND MERCHANT STOREFRONTS; 3) ORDER TO SHOW CAUSE WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE; AND 4) ORDER AUTHORIZING EXPEDITED DISCOVERY**

This matter is before the Court upon Plaintiff's *Ex Parte* Application for the following: 1) a temporary restraining order; 2) an order restraining assets and Merchant Storefronts (as defined *infra*); 3) an order to show cause why a preliminary injunction should not issue; and 4) an order authorizing expedited discovery against the Defendants identified on **Schedule "A"** to the Complaint and attached hereto (collectively, the "Defendants"). The Court has considered the Application, the evidence in the record, and the applicable law.

By the instant Application, Plaintiff AquaPaw Brands LLC moves *ex parte* pursuant to 35 U.S.C. § 283, Federal Rules of Civil Procedure 64 and 65, and The All-Writs Act, 28 U.S.C. § 1651(a), for entry of a temporary restraining order and an order restraining assets and Merchant Storefronts, for violations of the Patent Act. Because Plaintiff has satisfied the requirements for the issuance of a temporary restraining order, and good cause is shown, the Court grants Plaintiff's Application.

## FACTUAL FINDINGS & CONCLUSION OF LAW

1. Plaintiff, AquaPaw Brands LLC, is likely to prevail on its Patent Act claim at trial.
2. Plaintiff sells its dog soothing product under the U.S. registered trademark Slow Treater<sup>®</sup>.
3. The innovative features of Plaintiff's Product are the subject of U. S. Patent No. 10,834,894 entitled "Animal Feeder System and Method of Use" (the "Plaintiff's Patent").
4. Defendants, by operating Internet based e-commerce stores, and fully interactive, commercial Internet websites operating under Defendants' respective seller identities set forth on Schedule "A" hereto (the "Seller IDs"), have advertised, promoted, sold, and offered for sale that Plaintiff has determined is not a genuine Slow Treater<sup>®</sup> product and infringe at least one claim of the Plaintiff's Patent.
5. Through the e-commerce marketplace platform, Plaintiff accessed all the e-commerce stores operating under Defendants' Seller IDs and captured the Defendants' listings at issue on the e-commerce stores. At the conclusion of the process, the detailed webpages and photographs were inspected by Plaintiff's representative who confirmed that each Defendant is offering for sale products and infringe upon at least one claim of the Plaintiff's Patent ("Infringing Products").
6. Plaintiff, as well as consumers and animal owners, are likely to suffer immediate and irreparable losses, damages and injuries before Defendants can be heard in opposition, unless Plaintiff's Application for *ex parte* relief is granted. There is good cause to believe that the unauthorized and unlicensed offering for sale and sale of Infringing Products will continue in

the marketplace; that consumers are likely to be misled, confused, and disappointed by the quality of the products so advertised, and that Plaintiff may suffer loss of sales for their genuine products and an unnatural erosion of the legitimate marketplace in which they operate. There is also good cause to believe that if Plaintiff proceed on notice to Defendants of this Application, Defendants can easily and quickly change the ownership or modify e-commerce store account data and content, change payment accounts, redirect consumer traffic to other seller identification names, and transfer assets and ownership of Seller IDs, thereby thwarting Plaintiff's ability to obtain meaningful relief. As other courts have recognized, proceedings against those who deliberately traffic in infringing merchandise are often useless if notice is given to the adverse party.

7. The balance of potential harm to Defendants of being prevented from continuing to profit from their illegal and infringing activities if a temporary restraining order is issued is far outweighed by the potential harm to Plaintiff, their reputation, and their goodwill as a manufacturer and distributor of quality products, if such relief is not issued.

8. The public interest favors issuance of the temporary restraining order in order to protect Plaintiff's interests and protect the public from being deceived and defrauded by the passing off Defendants substandard goods as Plaintiff's genuine goods.

9. Under Pennsylvania law this Court may issue a prejudgment asset restraint where Plaintiff's complaint asserts a claim for money damages. Therefore, this Court has the authority to grant Plaintiff's request for a prejudgment asset freeze to preserve the relief sought by Plaintiff and preserve the Defendants' ability to satisfy a judgment at least partially.

10. Similarly, if Defendants are given notice of the Application, they are likely to destroy, move, hide or otherwise make inaccessible to Plaintiff the records and documents

relating to Defendants' illegal and infringing activities. Therefore, Plaintiff have good cause to be granted expedited discovery.

## **ORDER**

Based on the foregoing findings of fact and conclusions of law, Plaintiff's Application is hereby **GRANTED** as follows (the "Order"):

### **I. Temporary Restraining Order**

A. IT IS HEREBY ORDERED, as sufficient cause has been shown, that each Defendant, its officers, directors, employees, agents, subsidiaries, distributors, and all persons in active concert or participation with any Defendant having notice of this Order are hereby restrained as follows:

- (1) from (a) their unauthorized and unlicensed use of Plaintiff's Patent, distribution, marketing, advertising, offering for sale, or sale of any Infringing Products; and (b) shipping, delivering, holding for sale, transferring, or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner products that infringe upon at least one claim of the Plaintiff's Patent;
- (2) from secreting, concealing, destroying, altering, selling off, transferring, or otherwise disposing of and/or dealing with any computer files, data, business records, documents or any other records or evidence relating to their User Accounts,<sup>1</sup> Merchant Storefronts<sup>2</sup> or

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<sup>1</sup> As defined in the Complaint, a "User Account" is any and all accounts with online marketplace platform, including, Amazon.com, eBay.com, aliexpress.com, Walmart.com, and wish.com, as well as any and all as yet undiscovered accounts with additional online marketplace platforms held by or associated with Defendants, their respective officers, employees, agents, servants and all other persons in active concert with any of them.

<sup>2</sup> As defined in the Application, a "Merchant Storefront" is any and all User Accounts through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them operate storefronts to manufacture, import, export, advertise, market, promote, distribute, display, offer

any money, securities or other property or assets of Defendants (hereinafter collectively referred to as “Defendants’ Assets”);

- (3) effecting assignments or transfers, forming new entities or associations, or creating and/or utilizing any other platform, User Account, Merchant Storefront or any other means of importation, exportation, advertising, marketing, promotion, distribution, and/or display for the purposes of circumventing or otherwise avoiding the prohibitions set forth in this Order;
- (4) each Defendant, its officers, directors, employees, agents, subsidiaries, distributors, and all persons in active concert or participation with any Defendant having notice of this Order shall immediately cease offering for sale the Infringing Products within metatags or other markers within website source code, from use on any web page (including as the title of any product listing), from any advertising links to other websites, from search engines’ databases or cache memory, and any other form of use such terms or works which is visible to a computer user or serves to direct computer searches to Internet based e-commerce stores owned, or operated by each Defendant, including the Merchant Storefronts operating under the Seller IDs;
- (5) each Defendant shall not transfer ownership of the User Accounts or Merchant Storefronts associated with the Seller IDs;
- (6) each Defendant shall preserve copies of all computer files relating to the use of any User Accounts and/or Merchant Storefronts under the Seller IDs and shall take steps necessary

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for sale, sell and/or otherwise deal in products which are held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them.

to retrieve computer files relating to the use of the User Accounts and/or Merchant Storefronts under their Seller IDs that may be deleted before the entry of this Order;

(7) upon receipt of notice of this Order, Defendants and all financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, including but not limited to Alibaba.com US LLC d/b/a Aliexpress.com (“Aliexpress”), Amazon.com, Inc. and its affiliate, Amazon Services LLC d/b/a Amazon.com (“Amazon”), eBay, Inc. d/b/a eBay.com (“eBay”), and Context Logic, Inc d/b/a wish.com (“Wish”), Walmart.com USA LLC and Walmart, Inc. (“Walmart”) (“Third Party Service Provider(s)”) and AliPay US Inc. d/b/a Alipay.com (“Alipay”), Amazon Payments, Inc. d/b/a pay.amazon.com, Walmart d/b/a Walmart Pay and PayPal, Inc. d/b/a paypal.com (“PayPal”) (“Financial Institution(s)”), and their related companies and affiliates, shall immediately identify and restrain all funds, as opposed to ongoing account activity, in or which are hereafter transmitted into the accounts related to the Defendants as identified on Schedule “A” hereto, as well as all funds in or which are transmitted into (i) any other accounts of the same customer(s); (ii) any other accounts which transfer funds into the same financial institution account(s), and/or any of the other accounts subject to this Order; and (iii) any other accounts tied to or used by any of the Seller IDs identified on Schedule “A” hereto;<sup>3</sup>

(8) upon receipt of notice of this Order, Defendants and all financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, including but not limited to the Third Party Service Provider(s) and the Financial

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<sup>3</sup> This Order contemplates that discovery may reveal that Defendants may have other user accounts operated by other Third-Party Service Providers and Financial Institutions and that the additionally discovery Third Party Service Providers and Financial Institutions, once identified and provided with notice, shall also be subject to the discovery, restraints and injunctions set forth in this Order.

Institution(s), shall immediately divert to a holding account for the trust of the Court all funds in or which are hereafter transmitted into all accounts related to Defendants identified in Schedule "A" hereto, and associated payment accounts, and any other accounts for the same customer(s) as well as any other accounts which transfer funds into the same financial institution account(s) as any other accounts subject to this Order;

(9) The Third-Party Service Provider(s) and Financial Institution(s) shall further, within five (5) business days of receiving this Order, provide Plaintiff's counsel with all data that details (i) an accounting of the total funds restrained and identifies the financial account(s) which the restrained funds are related to, and (ii) the account transactions related to all funds transmitted into financial account(s) which have been restrained. Such restraining of the funds and the disclosure of the related financial institution account information shall be made without notice to the account holders, until after those accounts are restrained. No funds restrained by this Order shall be transferred or surrendered by any Third-Party Service Provider or Financial Institution for any purpose (other than pursuant to a chargeback made pursuant to that Third Party Service Provider or Financial Institution's security interest in the funds) without express authorization of this Court;

(10) Upon Plaintiff's request, any Internet marketplace who is provided with notice of this Order, including but not limited to the Third-Party Service Provider(s) and Financial Institution(s), shall immediately cease fulfillment of and sequester Defendants' inventory assets corresponding to the Seller IDs identified on Schedule "A" hereto in its inventory, possession, custody, or control, and hold such goods in trust for the Court during pendency of this action;

- (11) this Order shall apply to the Seller IDs, associated Accounts and Merchant Storefronts, and any other seller identification names, Accounts or Merchant Storefronts, Third Party Service Provider or Financial Institution accounts which are being used by Defendants for the purpose of infringing on at least one claim of the Plaintiff's Patent;
- (12) Defendants and all financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, including but not limited to the Third-Party Service Provider(s) and the Financial Institution(s), subject to this Order may petition the Court to modify the asset restraint set out in this Order; and
- (13) this Order shall remain in effect until the date for the hearing to show cause why a preliminary injunction should not be issued as set forth below, or until such further dates as set by the Court or stipulated by the parties.

B. IT IS HEREBY ORDERED, as sufficient cause has been shown, that upon Plaintiff's request, any Internet marketplace who is provided with notice of this Order, including but not limited to the Third-Party Service Providers and Financial Institutions, is hereby restrained and enjoined from engaging in any of the following acts or omissions pending the hearing and determination of Plaintiff's Application for a preliminary injunction, or until further order of the Court:

- (1) secreting, concealing, transferring, disposing of, withdrawing, encumbering, or paying Defendants' Assets from or to financial accounts associated with or utilized by any Defendant or any Defendant's User Accounts or Merchant Storefront(s) (whether said account is located in the U.S. or abroad) ("Defendants' Financial Accounts") until further ordered by this Court; and

(2) within (5) days after receiving notice of this Order, providing services to Defendants, Defendants' User Accounts and Defendants' Merchant Storefronts, including, without limitation, continued operation of Defendants' User Accounts and Merchant Storefronts, and any other listings linked to the same sellers or linked to any other alias seller identification names being used and/or controlled by Defendants.

C. IT IS HEREBY ORDERED, as sufficient cause has been shown, that, upon Plaintiffs' request, within no later than five (5) calendar days of Plaintiffs' request:

The Plaintiff has demonstrated that the following products as pictured in the attached **Schedule "B"** are either made, used by, offered for sale or sold into the United States contain every element or equivalent of at least one claim of the Plaintiff's Patent; consequently, all online marketplaces, including but not limited to, Amazon.com, ebay.com, aliexpress.com, and wish.com, shall upon receipt of this Order, suspend, block, tombstone, and/or delete any and any product listings identified by the Plaintiff as either identical or substantially similar, to the above-described products in **Schedule "B"**, whether sold by the Defendant or other persons or entities.

## **II. Order to Show Cause Why a Preliminary Injunction Should Not Issue and Service of Order**

A. Defendants are hereby ORDERED to show cause before this Court in the United States District Court for the Western District of Pennsylvania, via ZoomGov videoconference, on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at \_\_\_\_\_ .m. or at such other time that this Court deems appropriate, why a preliminary injunction, pursuant to FRCP 65(a), should not issue.

**Defendants are on notice that failure to appear at the hearing may result in the imposition of a preliminary injunction against them.**

B. Opposing papers, if any, shall be filed electronically with the Court and served on Plaintiff's counsel by delivering copies thereof to the office of Ference & Associates LLC at 409 Broad Street, Pittsburgh, Pennsylvania 15143 before \_\_\_\_\_, 20\_\_\_. Plaintiff shall file any Reply papers on or before \_\_\_\_\_, 20\_\_.

C. After Plaintiff's counsel has received confirmation from the Third Party Service Providers and Financial Institutions or otherwise, regarding the restraint of funds directed herein, Plaintiff shall serve copies of the Complaint, the Application, this Order, and any Discovery on each Defendant via their corresponding email/online contact form provided on the Internet based e-commerce stores operating under the respective Seller IDs, or by providing a copy of this order by e-mail to the marketplace platform, which in turn notifies each Defendant of the Order, or by other means reasonably calculated to give notice which is permitted by the Court. In addition, Plaintiff shall post copies of the Complaint, Application, this Order, any Discovery, and all other pleadings and documents filed in this action on a website designated by Plaintiff,<sup>4</sup> and shall provide the website address to Defendants via e-mail/online contact form, and such notice so given shall be deemed good and sufficient service thereof. Plaintiff shall continue to provide notice of these proceedings and copies of the documents on file in this matter to Defendants by regularly updating the website designated by Plaintiff or by other means reasonably calculated to give notice which is permitted by the Court.

### **III. Order Authorizing Expedited Discovery**

A. IT IS FURTHER ORDERED, as sufficient cause has been shown, that:

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<sup>4</sup> Rule 65 has been interpreted to require that a party have notice of the motion and hearing; perfecting service on a defendant is not a prerequisite to the entry of a preliminary injunction order. *Pate v. Gov't of the Virgin Islands*, 2015 WL 1937701 n.9 (VI Sup. Ct. April 17, 2015); *Corrigan Dispatch Co. v. Casa Guzman, S.A.*, 569 F.2d 300, 302 (5th Cir. 1978).

- (1) Plaintiff may propound interrogatories pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, and Defendants, their respective officers, employees, agents, servants and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Order, shall provide written responses under oath to such interrogatories within fourteen (14) days of service to Plaintiff's counsel.
- (2) Plaintiff may serve requests for the production of documents pursuant to FRCP 26 and 34, and Defendants, their respective officers, employees, agents, servants and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Order, shall produce all documents responsive to such requests within fourteen (14) days of service to Plaintiff's counsel.
- (3) Plaintiff may serve requests for admissions pursuant to FRCP 26 and 36, and Defendants, their respective officers, employees, agents, servants and attorneys, and all persons in active concert or participation with any of them, who receive actual notice of this Order, shall provide written responses under oath to such requests within fourteen (14) days of service to Plaintiff's counsel.

B. IT IS FURTHER ORDERED, as sufficient cause has been shown, that within fourteen (14) days of receiving actual notice of this Order, Defendants and all financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, including but not limited to the Third Party Service Provider(s) and the Financial Institution(s), shall provide to Plaintiff's counsel all documents and records in their possession, custody or control (whether located in the U.S. or abroad) relating to Defendants' User Accounts and Defendants' Merchant Storefronts, including, but not limited to, documents and records relating to:

- (1) any and all User Accounts and Defendants' Merchant Storefronts and account details, including, without limitation, identifying information and account numbers for any and all User Accounts and Defendants' Merchant Storefronts that Defendants have ever had and/or currently maintain with the respective Third-Party Service Provider;
- (2) the identities, location and contact information, including any and all e-mail addresses of Defendants that were not previously provided;
- (3) the Defendants' methods of payment, methods for accepting payment and any and all financial information, including, but not limited to, information associated with Defendants' User Accounts and Defendants' Merchant Storefronts, a full accounting of Defendants' sales history and listing history under such accounts and Defendants' Financial Accounts associated with Defendants' User Accounts and Defendants' Merchant Storefronts; and
- (4) Defendants' unauthorized and unlicensed use of Plaintiff's Patent.

#### **V. Security Bond**

IT IS FURTHER ORDERED that Plaintiff shall place security (corporate surety bond, cash, certified check, or attorney's check) in the amount of \$ \_\_\_\_\_ Dollars ( \_\_\_\_\_ ) with the Court, which amount is determined adequate for the payment of any damages any person may be entitled to recover as a result of an improper or wrongful restraint ordered hereunder.

#### **VI. Summons**

IT IS FURTHER ORDERED that the Clerk of the Court shall issue a single original summons in the name of "PUSIFCA and all other Defendants identified in the Complaint" that will apply to all Defendants.

**SO ORDERED.**

SIGNED this \_\_\_\_\_ day of March, 2023, at \_\_\_\_\_ .m.  
Pittsburgh, Pennsylvania

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Christy Criswell Wiegand  
UNITED STATES DISTRICT JUDGE


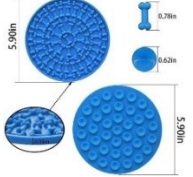






**Schedule “A”**  
**Defendants with Store Name and Seller ID**



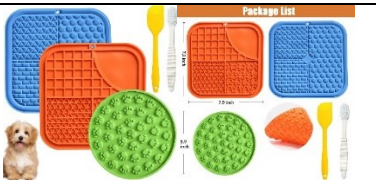


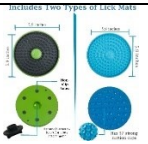



<b>Defendant No.</b>	<b>Defendant/Store Name</b>	<b>Seller ID</b>
1	Pusifca	A1AS4L2OX06CR6
2	Acidea	A1EGR3EIMECZXZ
3	AFfeco	A2PEMV5KQ9SKOY
4	aijun2001	A1SFUI357APDX4
5	Anna&Palm	A3SUKPT48HPUZT
6	BaiZhiJiaBaiHuoDian	A257DG0LT8499X
7	buyhere365	A27TH73KA6N3D8
8	Cimoon	A1VH1AD2449QN9
9	Cuddlez_productz	AB8QEYENNM259
10	Cute Chic	A26P2CLPUM4UJP
11	fayashangmao	A2BJ1RYLMF9OBY
12	GUANGZHOURUYINSHANGMAOYOUXIANGONGSI	A1KVU24YSX3UXO
13	jdiejcdo	A2QBDVHFMM8XRH
14	jinghongyoubailiriyongbaihuodian	A3P53MQ1KM7ITK
15	Kairong Trade	A4EG2B3VHBATQ
16	KANGKANGDIAN	A3JI3UKMFK96E6
17	kunmingjuhuangshangmaoyouxiangongsi	A3GAR8WJUSDU9P
18	KUON HOME	A3JI3UKMFK96E6
19	LB MBAIC	A16HKZD41NGX67
20	llqyafe	A1DXC2AG744LK1
21	Loki Plays	A2CCX77UPPYNFW
22	LYISVDENG	A2WM6SJP0Z7FPC
23	MIEDEON	A11NN9YKWQA5RD
24	Niceha	AJG55NPQFN1WC
25	QDAN	A2LMWJ6KXSF6K
26	Qqy store	AKJHB7YE0U9YO
27	Superior Gallery US	A254R20ELCHJHX
28	The Superior-US	A2WF8BZRCKQTD8
29	TIZGO	A2LY0SPUGGPX11
30	wanzaixianmangquanbaihuoshanghang	ARUWZP3ROXSR
31	Xueye Shop	AGNOM1YJ971F9






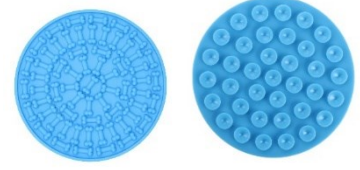
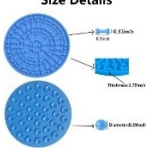
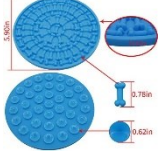
32	YaoXinChungShiYaoZhenShan	A1VKYJ2XFSLBI4
33	yonzhen	A30XSVBONICD9V
34	yuanbaoshanquchaoleibaihuoshangdian	A1JPTNUKELXMKI
35	YuGtcen	A3N9JA9ADVLPW4
36	yunxiaoxiantongmeibaihuodian	A3NILFTB6AQZ3V
37	YYDSLiuHongyan	AO93YVNPDP8P7D
38	ZABBOW	A2VBL35MYKT7ZN
39	Zamire	A25R5NDZJ8ZRVI
40	zhangweiamz	A2V1ZRHEVAXA3L
41	BDH Co.Ltd.	101130159
42	Beijiate Boutique	101220148
43	Caper Bro.	101105556
44	CHENGDUWEIYUEZHENYUSHANGMAOYOUXIANGONGSI	101198309
45	Fancy seller	101274350
46	Flancler	101173893
47	JN Co,Ltd	101211303
48	lenbest Joy	101111109
49	Royal Voinne	101318216
50	Shen Zhen Shi Niu Fang Ke ji You Xian Gong Si	101240265
51	su zhou ben he feng dian zi shang wu you xian gong si	101261970
52	WGR LLC	101092880
53	XiamenXiFangTradingCo.,Ltd	101127266
54	Xincheng TEC	101105303

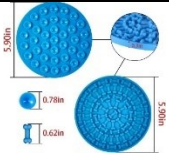



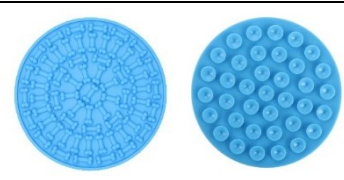
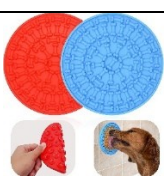
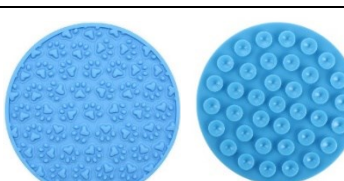

**Schedule “B”  
Defendant/Store Names and Infringing Products**

Defendant No.	Defendant/Store Name	Screen shot
1	Pusifca	
2	Acidea	
3	AFfeco	
4	aijun2001	
5	Anna&Palm	
6	BaiZhiJiaBaiHuoDian	 <p>The circular rear section cup design is firm, non-slip, and matches with the square shape to meet the needs of different scenes.</p>
7	buyhere365	

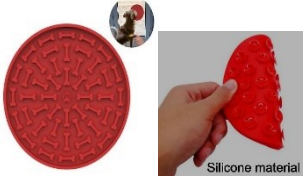




8	Cimoon	
9	Cuddlez_product	
10	Cute Chic	
11	fayashangmao	
12	GUANGZHOURUYINSHANGMAOYOUXIANGONGSI	
13	jdiejcdo	
14	jinghongyoubailiriyongbaihoudian	
15	Kairong Trade	

16	KANGKANGDIAN	
17	kunmingjuhuangshangmaoyouxiangongsi	
18	KUON HOME	
19	LBMBAIC	
20	Ilqyafe	
21	Loki Plays	
22	LVISVDENG	
23	MIEDEON	
24	Niceha	

25	QDAN	
26	Qqy store	
27	Superior Gallery US	
28	The Superior-US	
29	TIZGO	
30	wanzaixianmangquanbaihuoshanghang	
31	Xueye Shop	
32	YaoXinChungShiYaoZhenShan	

33	yonzhen	
34	Yuanbaoshanquchaoleibaihuoshangdian	
35	YuGtcen	
36	yunxiaoxiantongmeibaihuodian	
37	YYDSLiuHongyan	
38	ZABBOW	
39	Zamire	
40	zhangweiamz	



49	Royal Voinne	
50	Shen Zhen Shi Niu Fang Ke ji You Xian Gong Si	
51	su zhou ben he feng dian zi shang wu you xian gong si	
52	WGR LLC	
53	XiamenXiFangTradingCo.,Ltd	
54	Xincheng TEC	