

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

DOGGIE DENTAL INC., and
PETER DERTSAKYAN,

Plaintiffs,

v.

GO WELL, AHUI, CENTER SPORT LIFE,
CLEVER MARKET, CUBE STORE,
ESSENTIALSTORE, LESHIONLIFE, LOMEVE,
MANSGOODS, MATFAPERO, MOONIA NO. 1
STORE, MS HONG, NIUWORLD,
POUNCE 'N' PLAY SHOP, SOLCLAIR,
VERY HAPPY SHOP, WJASI, YASLIN, and
YIWU LANJIE TRADING CO., LTD.,
Defendants.

Civil Action No.

FILED UNDER SEAL

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Doggie Dental, Inc. (“Doggie Dental”), a California corporation, and Peter Dertsakyan (“Dertsakyan”), an individual (collectively, Doggie Dental and Dertsakyan are hereinafter referred to as “Plaintiffs”), hereby sue Defendants, the Individuals, Partnerships, and Unincorporated Associations identified in the Caption and which are set forth in **Schedule “A”** hereto (collectively “Defendants”). Defendants have offered for sale, sold, and distributed knock-off versions of Plaintiffs’ BRISTLY[®] dog toothbrush which closely mimic the appearance of Plaintiffs’ genuine product within this district and throughout the United States by operating e-commerce stores established at least via the Amazon.com Internet marketplace using their respective Store Names and Seller Names set forth on **Schedule “A”** hereto (collectively, the “Seller IDs”). As set forth below, Defendants are promoting, selling, offering for sale and distributing goods bearing and/or using counterfeits and confusingly similar imitations of

Plaintiff's registered BRISTLY[®] trademark; using Plaintiffs' copyrighted photographs while marketing their knock-off products in a willful attempt to pass off their knock-off products as genuine BRISTLY[®] products; and infringed upon Plaintiffs' common law trade dress rights. In support of their claims, Plaintiffs allege as follows:

NATURE OF THE ACTION

1. Dertsakyan is the inventor of the BRISTLY[®] dog toothbrush and the owner of intellectual property related thereto; Doggie Dental is the exclusive licensee of such intellectual property. In 2016 Dertsakyan developed the idea behind the BRISTLY[®] dog toothbrush. June 2017 saw the launch of the BRISTLY[®] dog toothbrush for beta testing. Over 50,000 dog owners experienced effortless daily tooth brushing of their dogs with BRISTLY. In early 2018, development and testing of a new version of the BRISTLY[®] dog toothbrush occurred. In June 2018 a crowdfunding campaign was launched on kickstarter.com. In less than two months, \$466,000 was raised with the assistance of nearly 11,000 backers and reached its funding goal in one day; the campaign was featured on the homepage of kickstarter.com as one of its successful campaigns. The crowdfunding campaign was continued on indiegogo.com where an additional \$534,000 was raised with the assistance of over 11,000 additional backers. The crowdfunding campaign for the BRISTLY[®] dog toothbrush is the campaign with the highest number of backers and the highest amount raised of any pet campaigns. The new version of the BRISTLY[®] dog toothbrush went on sale in October 2018.

2. Defendants have offered for sale, sold, and distributed knock-off versions of the BRISTLY[®] dog toothbrush (the "Counterfeit Product") which closely mimic the appearance of Plaintiffs' product. Defendants are promoting, selling, offering for sale and distributing goods bearing and/or using counterfeits and confusingly similar imitations of Plaintiff's

registered BRISTLY® trademark. Defendants' have also used Plaintiffs' copyrighted photographs and/or common law BRISTLY trademark to market their knock-off products in a willful attempt to pass off their knock-off products as genuine BRISTLY™ products.

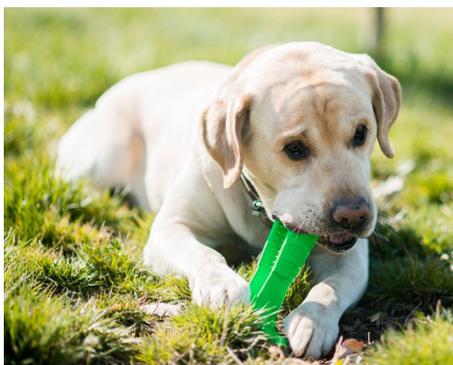
Defendants have also infringed upon Plaintiffs' common law trade dress rights

3. Defendants' sale, distribution, and advertising of the Counterfeit Product are highly likely to cause consumers to believe that Defendants are offering genuine BRISTLY® dog toothbrushes when in fact they are not. To illustrate, below are several examples which vividly show that the Counterfeit Product itself and the manner in which it is marketed is designed to confuse and mislead consumers into believing that they are purchasing Plaintiffs' BRISTLY® Product or that the Counterfeit Product is otherwise approved by or sourced from Plaintiffs:

Plaintiffs' Registered Trademark

BRISTLY®

Plaintiffs' Copyrighted Image



Defendant Go Well's Listing

gowell Dog Toothbrush Puppy Pal Doggy Toothbrush - Dog Brushing Stick for Teeth - Bristly Brushing Stick Dog - Serry Medium Dog Toothbrush
by gowell
★★★★☆ 10 ratings

Image Used by Defendant Center Sport Life



Plaintiffs' Copyrighted Image



Image Used by Defendant Pounce 'n' Play Shop



4. Defendants' actions have resulted in actual confusion in the marketplace between Defendants' Counterfeit Product and genuine BRISTLY[®] dog toothbrushes. Numerous purchasers of Defendants' Counterfeit Product have contacted Plaintiffs to complain about the performance of the Infringing Product believing same to be a genuine BRISTLY[®] dog toothbrush. Examples of such complaints include "my dog destroyed your teeth cleaning thing in 10 seconds" and "I was so worried my dog may have eaten parts of it that I had to check him over at the vet." Such complaints and negative comments are not just made directly to Plaintiffs, but are also posted by members of the public on various websites and social media sites for all the world to see.

5. Defendants' Counterfeit Products are substantially inferior to the genuine product. Plaintiffs' genuine BRISTLY[®] dog toothbrush is made of natural rubber. Defendants' Counterfeit Products are made with silicone or other materials. With poorly designed and manufactured products, Defendants' Counterfeit Products create serious public safety risks and threaten to destroy the reputation of high quality that Plaintiffs' BRISTLY[®] products have earned. A graphic illustration of the significant danger that counterfeit BRISTLY[®] products

present to animals was brought to the Plaintiffs' attention by a pet owner who believed that Doggie Dental sold a faulty and defective product when in actuality the pet owner purchased a knock-off off masquerading as an authentic BRISTLY[®] dog toothbrush. The dog had chewed apart the fake product, swallowed a portion, and underwent corrective surgery to remove the piece. The pet owner provided the photographs below.

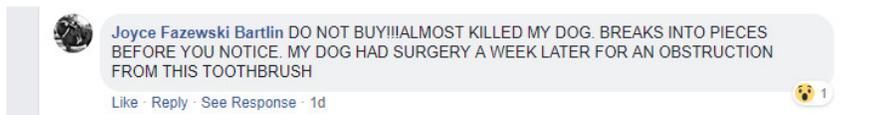
Bristly Knock Off Chewed by Dog



Injured Dog After Surgery



The pet owner wanted Doggie Dental to pay for the damages caused by the fake product. Additionally, the pet owner has previously publicized this post on Doggie Dental's publicly available Facebook page:



This pet owner's experience and posting highlight both the actual confusion between the Counterfeit Products and the genuine BRISTLY[™] dog toothbrush and the immediate and irreparable injury being incurred by the Plaintiffs.

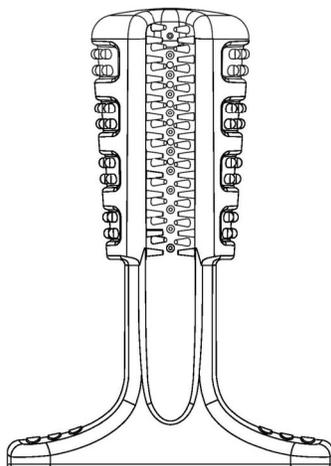
6. Plaintiffs have taken numerous steps to protect the BRISTLY[®] dog toothbrush. Dertsakyan is the owner of U.S. Trademark Registration No. 5,815,298 for BRISTLY directed to "Non-medicated dental preparations for pets, namely, toothpaste and preparations for removing

plaque; Home dental care products for dogs and cats, namely, toothpaste; Dental care and oral hygiene products for pets, namely, tooth cleaning preparations; Non-edible dental chews for pets; Non-medicated oral dental chews for dogs.” A copy of this registration attached hereto as **Exhibit 1**.

7. Dertsakyan is the owner of U.S. Trademark Registration No. 5,844,832 for BRISTLY directed to “Toothbrushes for animals; Toothbrushes for pets; Home dental care products for dogs and cats, namely, toothbrush.” A copy of this registration attached as **Exhibit 2**.

8. Dertsakyan is the owner of U.S. copyright registration VA 2-122-455 directed to various photographs related to the BRISTLYTM dog toothbrush (the “Bristly Works”). A copy of Dertsakyan’s copyright registration certificate, together with copies of the deposit materials, is attached hereto as **Exhibit 3**. Dertsakyan is also the owner of unregistered copyrights related to the BRISTLY[®] dog toothbrush.

9. Dertsakyan is also the owner of various design patent applications directed to the BRISTLY[®] dog toothbrush, including an issued European Registered Community Design (005818606-0001), a pending U.S. design patent application, and a pending Chinese design patent application. A copy of Dertsakyan’s Registered Community Design is attached hereto as **Exhibit 4**. All of the design patent applications have common figures, and one of the figures is set forth below:



10. Dertsakyan is also the owner of currently pending U.S. Patent Application No. 15/472,206 for “Pet chew toy for dental self-cleaning by domestic pets,” which was filed March 28, 2017. A copy of Plaintiffs’ U.S. Patent Application Publication No. 2018/0295811 is attached hereto as **Exhibit 5**. This utility patent application is currently undergoing examination at the U.S. Patent Office.

11. On information and belief, Defendants’ sale of Counterfeit Products gives rise to a plausible expectation that discovery will reveal that Defendants’ actions all arise from the same transaction, occurrence, or series of transactions. Specifically, on information and belief, Defendants are actively participating in a conspiracy to distribute and sell Counterfeit Products. For example, Defendants, on information and belief, are working together to manufacture, arrange the manufacture of and/or sell and otherwise distribute the Counterfeit Products. Moreover, the Counterfeit Products share similar characteristics including, for example, colors, shapes, and sizes.

12. Plaintiffs therefore bring this action for trademark counterfeiting and infringement, copyright infringement of Plaintiffs’ federally registered copyrights in violation of the Copyright

Act of 1976, federal unfair competition in violation of Section 43(a) of the Trademark Act of 1946, as amended, common law unfair competition, and common law trademark infringement pursuant to 15 U.S.C. § 1114, 17 U.S.C. §§ 101 *et seq.*, 15 U.S.C. § 1125(a), and The All Writs Act, 28 U.S.C. § 1651(a).

JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1332, and 1338. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over Plaintiffs' state law claims because those claims are so related to the federal claims that they form part of the same case or controversy.

14. This Court may exercise personal jurisdiction over a non-resident of the State in which the Court sits to the extent authorized by the state's laws. Fed. R. Civ. P. 4(e). Pennsylvania authorizes personal jurisdiction over each Defendant pursuant to 42 Pa. Cons. Stat. § 5322 (a) which provides in pertinent part: "A tribunal of this Commonwealth may exercise personal jurisdiction over a person ... as to a cause of action or other matter arising from such person: (1) Transacting any business in this Commonwealth. Without excluding other acts which may constitute transacting business for the purpose of this paragraph: (ii) The doing of a single act in this Commonwealth for the purpose of thereby realizing pecuniary benefit ... (3) Causing harm or tortious injury by an act or omission in this Commonwealth. (4) Causing harm or tortious injury by an act or omission outside this Commonwealth ... (10) Committing any violation within the jurisdiction of the Commonwealth of any statute, home rule charter, local ordinance or resolution, or rule or regulation promulgated thereunder by any government unit or of any order of court or other government unit." In the alternative, Federal Rule of Civil Procedure 4(k) confers personal jurisdiction over the Defendants because, upon information and

belief, Defendants regularly conduct, transact and/or solicit business in Pennsylvania and in this judicial district, and/or derive substantial revenue from their business transactions in Pennsylvania and in this judicial district and/or otherwise avail themselves of the privileges and protections of the laws of the Commonwealth of Pennsylvania such that this Court's assertion of jurisdiction over Defendants does not offend traditional notions of fair play and due process, and/or Defendants' illegal counterfeiting and infringing actions caused injury to Plaintiffs in Pennsylvania and in this judicial district such that Defendants should reasonably expect such actions to have consequences in Pennsylvania and in this judicial district, for example:

a. Upon information and belief, at all times relevant hereto, Defendants were and/or are systematically directing and/or targeting their business activities at consumers in the United States, including Pennsylvania, through on-line platforms with Merchant Storefronts (as defined *infra*), via on-line marketplace websites, such as Amazon.com, under the Seller IDs, as well as any and all as yet undiscovered accounts with Merchant Storefronts held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them ("User Accounts"), through which consumers in the United States, including Pennsylvania, can view the one or more of Defendants' Merchant Storefronts that each Defendant operates, uses to communicate with Defendants regarding their listings for Counterfeit Products and to place orders for, receive invoices for and purchase Counterfeit Products for delivery in the U.S., including Pennsylvania, as a means for establishing regular business with the U.S., including Pennsylvania.

b. Upon information and belief, certain Defendants are sophisticated sellers, each operating one or more commercial businesses using their respective User Accounts

through which Defendants, their respective officers, employees, agents, servants and all persons in active concert of participation with any of them, operate storefronts to manufacture, import, export, advertise, market, promote, distribute, offer for sale and/or otherwise deal in products, including the Counterfeit 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 (“Merchant Storefront(s)”) in wholesale quantities at significantly below-market prices to consumers worldwide, including to those in the U.S., and specifically Pennsylvania.

c. Upon information and belief, Defendants’ Merchant Storefronts reflect multiple sales to consumers all over the world, including repeat sales to consumers in the U.S. and into this judicial district.

d. Upon information and belief, all Defendants accept payment in U.S. Dollars and offer shipping to the U.S., including to Pennsylvania.

e. Upon information and belief, at all times relevant, Defendants have transacted business with consumers located in the U.S., including Pennsylvania, for the sale and shipment Counterfeit Products.

f. Upon information and belief, Defendants are employing and benefiting from substantially similar, paid advertising and marketing and advertising strategies in order to make their Merchant Storefronts selling illegal goods appear more relevant and attractive to search result software across an array of search words, including but not limited to “BRISTLY”, and “WORLD’S MOST EFFECTIVE DOG TOOTHBRUSH”. By their actions, Defendants are causing concurrent and indivisible harm to Plaintiffs and the consuming public by (i) depriving Plaintiffs of their right to fairly compete for space

within the various on-line marketplace search results and reducing the visibility of the Plaintiffs' genuine BRISTLY[®] dog toothbrush on various on-line marketplaces and/or diluting and driving down the retail market price for the genuine BRISTLY[®] dog toothbrush (ii) causing an overall degradation of the value of the goodwill associated with Plaintiffs' marks and goods; and (iii) increasing Plaintiffs' overall cost to market its goods and educate consumers about its brand and products.

g. Upon information and belief, Defendants have cooperated, communicated their plans with one another, shared information, and coordinated their efforts, all in order to create an illegal marketplace operating in parallel to the legitimate marketplace of Plaintiffs' and the legally authorized resellers of Plaintiffs' genuine goods.

h. Upon information and belief, Defendants are concurrently targeting their counterfeiting and infringing activities toward consumers and causing harm in Allegheny County, Pennsylvania.

i. Upon information and belief, Defendants likely reside and/or operate in foreign jurisdictions with lax trademark and patent enforcement systems and are cooperating by creating an illegal stream of infringing and counterfeit goods.

j. Upon information and belief, Defendants are aware of Plaintiffs, their genuine BRISTLY[®] dog toothbrush product, and are aware that their illegal infringing actions alleged herein are likely to cause injury to Plaintiffs in the United States, in Pennsylvania and in this judicial district specifically, as Plaintiffs conducts substantial business in Pennsylvania.

k. Plaintiffs are suffering irreparable and indivisible injury and suffered substantial damages as a result of Defendants' unauthorized and wrongful sale of counterfeit and infringing goods.

15. Venue is proper, *inter alia*, pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 1400(a) because, for example:

a. Upon information and belief, Defendants conduct, transact, and/or solicit business in this judicial district.

b. Upon information and belief, Defendants or their agent(s) may be found in this district because personal jurisdiction is proper in this district.

c. Upon information and belief, this is a judicial district in which a substantial part of the events or omissions giving rise to the infringement claims occurred, or a substantial part of the property that is the subject of the action is situated.

d. Defendants not resident in the United States may be sued in this judicial district because personal jurisdiction is proper in this district.

THE PLAINTIFFS

16. Plaintiff Doggie Dental, Inc., is a California corporation has a mailing address of 827 Hollywood Way #465, Burbank, California 91505. Doggie Dental is the exclusive licensee of the intellectual property relating to the BRISTLY™ dog toothbrush.

17. Plaintiff Peter Dertsakyan a/k/a Petros Dertsakyan, is an individual who resides in California and has a mailing address of 827 Hollywood Way #465, Burbank, California 91505. Dertsakyan is the inventor of the BRISTLY® dog toothbrush and the owner of the intellectual property relating thereto.

18. Doggie Dental is, in part, engaged in the business of manufacturing and distributing throughout the world, including within this district, the BRISTLY[®] dog toothbrush, through its website, bristly.com, its authorized seller on amazon.com, and various retail establishments, including Petsense. Defendants, through the sale and offer to sell Counterfeit Products are directly, and unfairly, competing with Plaintiffs' economic interest in the Commonwealth of Pennsylvania and causing Plaintiffs harm within this jurisdiction.

19. Like many other brand owners, Plaintiffs suffer ongoing daily and sustained violations of their rights at the hands of infringers, such as Defendants herein, who wrongfully reproduce Plaintiffs' products and use Plaintiffs' copyrighted images and common law trademarks for the twin purposes of (i) duping and confusing the consuming public and (ii) earning substantial profits. The natural and intended byproduct of Defendants' actions is the erosion and destruction of the goodwill associated with Plaintiffs' BRISTLY trademark and the destruction of the legitimate market sector in which Plaintiffs operate.

20. The recent explosion of counterfeiting and infringement over the Internet, including through online marketplace platforms, has created an environment that requires brand owners, such as Plaintiffs, to expend significant time and money across a wide spectrum of efforts in order to protect both consumers and Plaintiffs from the ill effects of confusion and the erosion of the goodwill associated with Plaintiffs' brand.

THE DEFENDANTS

21. The Defendants are individuals and/or business entities of unknown makeup, each of whom, upon information and belief, either reside or operate in foreign jurisdictions, or redistribute products from the same or similar sources in those locations. Defendants have the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b). Defendants target their

business activities toward consumers throughout the United States, including within this district, and conduct pervasive business through the operation of, at least, one fully interactive commercial Internet based e-commerce store via, at least, the Internet based online marketplace Amazon.com under the Seller IDs.

22. Upon information and belief, the Defendants use aliases in conjunction with the operation of their businesses as set forth in **Schedule “A”** hereto.

16. Defendants are the past and present controlling forces behind the sale of products bearing and/or using infringements of Plaintiffs’ trade dress, common law trademark, and federally registered copyright as described herein using at least the Seller IDs.

17. Upon information and belief, Defendants directly engage in unfair competition with Plaintiffs and their authorized resellers by advertising, offering for sale and selling goods bearing and/or using infringements of Plaintiffs’ trade dress, common law trademark, and federally registered copyright to consumers within the United States and this district through several fully interactive, commercial Internet websites and Internet based e-commerce stores operating under, at least, the storefronts, the Seller IDs, and any additional domain names, websites and corresponding website URLs or seller identifications and store URL aliases not yet known to Plaintiffs. Defendants have purposefully directed some portion of their illegal activities towards consumers in the Commonwealth of Pennsylvania through the advertisement, offer to sell, sale, and/or shipment of Counterfeit Products into the Commonwealth.

18. Defendants have registered, established or purchased, and maintained the on-line marketplace website storefronts and Seller IDs. Upon information and belief, Defendants have engaged in fraudulent conduct with respect to the registration of the storefronts and Seller IDs by providing false and/or misleading information to the Internet based e-commerce platforms where

they offer for sale and/or sell, during the registration or maintenance process related to their respective Seller ID. Upon information and belief, Defendants have anonymously registered and maintained some of the Seller IDs for the sole purpose of engaging in illegal infringing activities.

19. Upon information and belief, Defendants will continue to register or acquire new seller identification aliases for the purpose of selling and offering for sale goods bearing and/or using confusingly similar imitations of Plaintiffs' trade dress and trademark and infringing Plaintiffs' federally registered copyright unless preliminarily and permanently enjoined.

20. Defendants' Internet-based businesses amount to nothing more than illegal operations established and operated in order to infringe the intellectual property rights of Plaintiffs.

21. Defendants' business names, i.e., the Seller IDs, associated payment accounts, and any other alias seller identification names used in connection with the sale of infringing goods bearing and/or using Plaintiffs' respective trade dress, trademark, and copyrighted images are essential components of Defendants' online activities and are the means by which Defendants further their infringement scheme and cause harm to Plaintiffs. Moreover, Defendants are using Plaintiffs' trademark to drive Internet consumer traffic to their e-commerce stores operating under the Seller IDs, thereby creating and increasing the value of the Seller IDs and decreasing the size and value of Plaintiffs' legitimate consumer marketplace at Plaintiffs' expense.

COMMON FACTUAL ALLEGATIONS

Plaintiffs and Their BRISTLY Dog Toothbrush

22. Plaintiffs developed and sell a unique and revolutionary product under the BRISTLY[®] ("Bristly Mark") that safely and easily permits dogs to brush their own teeth

removing plaque and tarter (“BRISTLY[®] Product”). Plaintiffs identified the need for this product and created the market for this product. Below is an image of one of Plaintiffs’ BRISTLY[®] Products, which retails for \$16.99:



The Bristly Mark is inherently distinctive, as recognized by the U.S. Patent and Trademark Office in issuing two trademark registrations on the Principal Register.

23. BRISTLY[®] Products have a unique and distinctive trade dress, which is characterized by the ornamental features shown and described in Plaintiffs’ design patent applications and variations thereof (the “BRISTLY[®] Trade Dress”). The arrangement and combination of these features are arbitrary, non-functional, and fanciful and constitute legally protectable trade dress. The BRISTLY[®] Trade Dress has acquired secondary meaning identifying Plaintiffs as the source of products bearing it. This secondary meaning was acquired prior to use of the BRISTLY[®] Trade Dress by Defendants.

24. Plaintiffs’ Bristly Mark and Bristly Trade Dress have been used in interstate commerce to identify and distinguish Plaintiffs’ goods.

25. Plaintiffs’ Bristly Mark and Bristly Trade Dress have been used by Plaintiffs prior in time to Defendants’ use of this mark and trade dress. The Bristly Mark and Bristly Trade Dress has never been assigned or licensed to any of the Defendants in this matter. Plaintiffs have provided actual notice of the trademark registrations for BRISTLY.

26. The Bristly Mark and Bristly Trade Dress is a symbol of Plaintiffs' quality, reputation, and goodwill and have never been abandoned.

27. Plaintiffs' Bristly Product has been featured in videos or articles by numerous media outlets, including MSN (<https://www.msn.com/en-sg/lifestyle/lifestylegeneral/a-new-chew-toy-will-help-your-dog-brush-its-own-teeth/ar-AAA8pvh>), Pet Lover Geek (<https://www.facebook.com/petlovergeek/videos/613996128985404>), Askmen (https://www.askmen.com/entertainment/guy_gear/best-new-kickstarters-for-june-28-2018.html), Interesting Engineering (<https://interestingengineering.com/this-chew-stick-for-dogs-helps-them-achieve-good-oral-health>), Awesome Stuff 365 (<https://awesomestuff365.com/bristly-toothbrush-for-dogs/>), star2.com (<https://www.star2.com/living/2018/07/28/toothbrushing-stick-dogs-clean-teeth/>), Dude (<http://www.dudeiwantthat.com/household/pets/bristly-toothbrush-for-dogs.asp>), Gaget flow (<https://thegadgetflow.com/blog/bristly-is-the-chew-toy-that-cleans-your-dogs-teeth/> and <https://thegadgetflow.com/portfolio/dog-tooth-brushing-stick/>), The Gadgeteer (<https://thegadgeteer.com/2018/07/20/micro-veggie-growing-tray-tiny-edc-pen-a-toothbrush-for-dogs-and-more-notable-crowdfunding-campaigns/>), Steemit (<https://steemit.com/steemhunt/@adarshagni/bristly-chew-stick-for-dogs>), New Atlas (<https://newatlas.com/bristly-dog-toothbrush/55401/>), TheThings.com (<https://www.thethings.com/chew-toy-helps-dogs-brush-teeth>), slashpets (<https://www.slashpets.com/bristly-toothbrush/>), Cool Business Ideas (<https://www.coolbusinessideas.com/archives/toothbrush-for-your-doggy/>), Cool Hunting (<https://coolhunting.com/design/bristly-dog-toothbrush/>), MNN (<https://www.mnn.com/family/pets/stories/answer-dog-toothbrushing-struggle>), Gismo Review

(<https://www.gismoreview.com/bristly-the-toothbrush-for-dog/>), Product Watch (<https://productwatch.co/hate-brushing-your-dogs-teeth-meet-bristly-and-forget-your-tribbles/>), Mental Floss (<http://mentalfloss.com/article/551054/new-chew-toy-will-help-your-dog-brush-its-own-teeth>), and Trend Hunter (<https://www.trendhunter.com/trends/bristly>).

28. Plaintiffs have extensively used, advertised, and promoted the Bristly Mark and Bristly Trade Dress in the United States in association with pet products. As a result of Plaintiffs' efforts, members of the consuming public readily identify merchandise bearing or sold under the Bristly Mark and Bristly Trade Dress as being high quality goods sponsored and approved by Plaintiffs.

29. Genuine goods bearing the Bristly Mark and Bristly Trade Dress are widely legitimately advertised and promoted by Plaintiffs, their authorized distributors, and unrelated third parties via the Internet. Over the past several years, visibility on the Internet, particularly via Internet search engines such as Google, Yahoo!, and Bing has become increasingly important to Plaintiffs' overall marketing. Thus, Plaintiffs and their authorized distributors expend significant monetary resources on Internet marketing, including search engine optimization ("SEO") strategies. Those strategies allow Plaintiffs and their authorized retailers to fairly and legitimately educate consumers about the value associated with Plaintiffs' brand and the goods sold thereunder. Similarly, Defendants' individual seller stores are indexed on search engines and compete directly with Plaintiffs for space in the search results.

Defendants' Wrongful and Infringing Conduct

30. Upon information and belief, Defendants are, through at least the Internet based e-commerce stores operating under the Seller IDs, promoting, selling, offering for sale and distributing goods bearing and/or using counterfeits and confusingly similar imitations of

Plaintiff's registered BRISTLY[®] trademark; using Plaintiffs' copyrighted photographs while marketing their knock-off products in a willful attempt to pass off their knock-off products as genuine BRISTLY[®] products; and infringed upon Plaintiffs' common law trade dress rights.

31. Upon information and belief, Defendants' Counterfeit Products are of a quality substantially and materially different than that of Plaintiffs' genuine goods. Defendants, upon information and belief, are actively using, promoting and otherwise advertising, distributing, selling, and/or offering for sale substantial quantities of their Counterfeit Products with the knowledge and intent that such goods will be mistaken for the genuine high quality goods offered for sale by Plaintiffs despite Defendants' knowledge that they are without authority to use the Bristly Mark, Plaintiffs' copyrighted photographs, and the Bristly Trade Dress. The net effect of Defendants' actions will cause confusion of consumers, at the time of initial interest, sale, and in the post-sale setting, who will believe Defendants' Counterfeit Products are genuine goods originating from, associated with, and approved by Plaintiff.

32. Defendants advertise their Counterfeit Products for sale to the consuming public via Internet based e-commerce stores on, at least, one Internet marketplace using at least the Seller IDs. In so advertising these goods, Defendants improperly and unlawfully use the Bristly Mark, Plaintiffs' copyrighted photographs, and/or the Bristly Trade Dress without Plaintiffs' permission.

33. As part of their overall infringement and counterfeiting scheme, Defendants are, upon information and belief, concurrently employing and benefitting from substantially similar, advertising and marketing strategies based, in large measure, upon an illegal use of infringements of the Bristly Mark, Bristly Works, and Bristly Trade Dress,. Specifically, Defendants are using infringements of Plaintiffs' Bristly Trade Dress, Bristly Mark, and Bristly

Works in order to make their e-commerce stores selling illegal goods appear more relevant and attractive to consumers online. By their actions, Defendants are contributing to the creation and maintenance of an illegal marketplace operating in parallel to the legitimate marketplace for Plaintiffs' genuine goods. Defendants are causing, individual, concurrent and indivisible harm to Plaintiffs and the consuming public by (i) depriving Plaintiffs and other third parties of their right to fairly compete for space within search engine results and reducing the visibility of Plaintiffs' genuine goods on the World Wide Web, (ii) causing an overall degradation of the value of the goodwill associated with the Bristly Mark, Bristly Works, and Bristly Trade Dress, and (iii) increasing Plaintiffs' overall cost to market its goods and educate consumers about its brand via the Internet.

34. Upon information and belief, Defendants are concurrently targeting their infringing activities toward consumers and causing harm within this district and elsewhere throughout the United States. As a result, Defendants are defrauding Plaintiffs and the consuming public for Defendants' own benefit.

35. Plaintiffs confirmed that Defendants were and/or are still currently offering for sale and/or selling Counterfeit Products for sale to the consuming public via Internet based e-commerce stores on, at least, one Internet marketplace using at least the Seller IDs and that Defendants provide shipping and/or have actually shipped Counterfeit Products to customers located within this judicial district.

36. There is no question that the Counterfeit Product itself and the manner in which it is marketed is designed to confuse and mislead consumers into believing that they are purchasing Plaintiffs' BRISTLY[®] Product or that the Counterfeit Product is otherwise approved by or sourced from Plaintiffs, thereby trading on the goodwill and reputation of Plaintiffs by engaging

in the unauthorized use of at least one of the Bristly Mark, Bristly Works, and Bristly Trade Dress.

37. Upon information and belief, at all times relevant hereto, Defendants in this action had full knowledge of Plaintiffs' ownership of Bristly Mark, Bristly Works, and the Bristly Trade Dress, including their exclusive right to use and license such intellectual property and the goodwill associated therewith.

38. Defendants' use of the Bristly Mark, Bristly Works, and Bristly Trade Dress, including the promotion and advertisement, reproduction, distribution, sale, and offering for sale of their Counterfeit Products, is without Plaintiffs' consent or authorization.

39. Defendants are engaging in the above-described illegal infringing activities knowingly and intentionally or with reckless disregard or willful blindness to Plaintiffs' rights for the purpose of trading on Plaintiffs' goodwill and reputation. If Defendants' intentional infringing activities are not preliminarily and permanently enjoined by this Court, Plaintiffs and the consuming public will continue to be harmed.

40. Defendants' above identified infringing activities are likely to cause confusion, deception, and mistake in the minds of consumers before, during, and after the time of purchase. Moreover, Defendants' wrongful conduct is likely to create a false impression and deceive customers, the public, and the trade into believing there is a connection or association between Plaintiffs' genuine goods and Defendants' Counterfeit Goods, which there is not.

41. Upon information and belief, Defendants' payment and financial accounts are being used by Defendants to accept, receive, and deposit profits from Defendants' infringing and unfairly competitive activities connected to their Seller IDs and any other alias e-commerce

stores, photo albums, seller identification names, domain names, or websites being used and/or controlled by them.

42. Further, upon information and belief, Defendants are likely to transfer or secret their assets to avoid payment of any monetary judgment awarded to Plaintiffs.

43. Plaintiffs have no adequate remedy at law.

44. Plaintiffs are suffering irreparable injury and have suffered substantial damages as a result of Defendants' unauthorized and wrongful use of the Bristly Mark, Bristly Works, and Bristly Trade Dress. If Defendants' infringing and unfairly competitive activities are not preliminarily and permanently enjoined by this Court, Plaintiffs and the consuming public will continue to be harmed.

45. The harm and damages sustained by Plaintiffs have been directly and proximately caused by Defendants' wrongful reproduction, use, advertisement, promotion, offers to sell, and sale of their Counterfeit Products.

**COUNT I - TRADEMARK COUNTERFEITING AND INFRINGEMENT
PURSUANT TO § 32 OF THE LANHAM ACT (15 U.S.C. § 1114)**

44. Plaintiff hereby adopts and re-allege the allegations set forth in the preceding paragraphs as if set forth herein.

45. This is an action for trademark counterfeiting and infringement against Defendants based on their use of counterfeit and confusingly similar imitations of Plaintiffs' BRISTLY[®] Mark in commerce in connection with the promotion, advertisement, distribution, offering for sale, and sale of the Counterfeit Goods.

46. Specifically, Defendants are promoting and otherwise advertising, selling, offering for sale, and distributing products bearing and/or using counterfeits and/or infringements of one or more of Plaintiffs' BRISTLY[®] Marks. Defendants are continuously infringing and inducing others to infringe Plaintiffs' BRISTLY[®] Marks by using them to advertise, promote, offer to sell, and/or sell goods bearing and/or using Plaintiffs' BRISTLY[®] Marks.

47. Defendants' concurrent counterfeiting and infringing activities are likely to cause and actually are causing confusion, mistake and deception among members of the trade and the general consuming public as to the origin and quality of Defendants' Counterfeit Goods.

48. Defendants' unlawful actions have caused and are continuing to cause unquantifiable damages to Plaintiff and are unjustly enriching Defendants with profits at Plaintiffs' expense.

49. Defendants' above-described illegal actions constitute counterfeiting and infringement Plaintiffs' BRISTLY[®] Marks in violation of Plaintiff's rights under § 32 of the Lanham Act, 15 U.S.C. § 1114.

50. Plaintiffs have suffered and will continue to suffer irreparable injury and damages due to Defendants' above described activities if Defendants are not preliminarily and permanently enjoined. Additionally, Defendants will continue to wrongfully profit from their illegal activities.

51. Based on Defendants' actions as alleged herein, Plaintiffs are entitled to injunctive relief, damages for the irreparable harm that Plaintiff has sustained, and will sustain, as a result of Defendants' unlawful and infringing actions, as alleged herein, and all gains, profits and advantages obtained by Defendants as a result thereof, enhanced discretionary damages, treble

damages and/or statutory damages up to \$2,000,000 per counterfeit mark per type of goods sold, offered for sale or distributed and reasonable attorneys' fees and costs.

COUNT II – FEDERAL COPYRIGHT INFRINGEMENT (17 U.S.C. § 501(a))

46. Plaintiffs hereby adopt and re-allege the allegations set forth in the preceding paragraphs as if set forth herein.

47. Plaintiffs are the exclusive owner and licensee of the Bristly Works.

48. Defendants had actual notice of Plaintiffs' exclusive rights in and to the Bristly Works.

49. Defendants did not attempt and therefore inherently failed to obtain Plaintiffs' consent or authorization to use, manufacture, reproduce, copy, display, prepare derivative works of, distribute, sell, transfer, rent, perform and/or market Plaintiffs' Bristly Works.

50. Without permission, Defendants knowingly and intentionally reproduced, copied, and displayed the Bristly Works by manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale and/or selling products that utilize artwork that is, at a minimum, substantially similar to the Bristly Works.

51. Defendants' unlawful and willful action as alleged herein constitute infringement of the Bristly Works, including Plaintiffs' exclusive rights to reproduce, distribute and/or sell such Bristly Works in violation of 17 U.S.C. § 501(a).

52. Defendants' knowing and intentional copyright infringement, as alleged herein, has caused substantial and irreparable harm to Plaintiffs in an amount as yet unknown but to be proven at trial, for which Plaintiffs have no adequate remedy at law, and unless enjoined, Defendants will continue to cause substantial and irreparable harm to Plaintiff.

53. Based on Defendants' wrongful conduct, Plaintiffs are entitled to injunctive relief, Plaintiffs' actual damages and Defendants' profits in an amount to be proven at trial, enhanced discretionary damages for willful copyright infringement, and reasonable attorneys' fees and costs.

COUNT III – FEDERAL UNFAIR COMPETITION (15 U.S.C. § 1125(a))

54. Plaintiffs hereby adopt and re-allege the allegations set forth in the preceding paragraphs as if set forth herein.

55. Upon information and belief, Defendants' Counterfeit Products bearing, offered for sale, and sold using copies of at least one of the Bristly Mark, Bristly Works, and Bristly Trade Dress have been widely advertised and offered for sale throughout the United States via at least one fully interactive Internet marketplace.

56. Defendants' Counterfeit Products bearing, offered for sale, and sold using copies of at least one of the Bristly Mark, Bristly Works, and Bristly Trade Dress are virtually identical in appearance to Plaintiffs' genuine goods. Defendants' Counterfeit Products, however, are different and likely inferior in quality. Accordingly, Defendants' activities are likely to cause confusion in the trade and among the general public as to at least the origin or sponsorship of their Counterfeit Products.

57. Defendants, upon information and belief, have used in connection with their advertisement, offer for sale, and sale of their Counterfeit Products, false designations of origin and false descriptions and representations, including words or other symbols and trade dress, which tend to falsely describe or represent such goods and have caused such goods to enter into

with full knowledge of the falsity of such designations of origin and such descriptions and representations, all to Plaintiffs' detriment.

58. Defendants have authorized infringing uses of at least one of the Bristly Mark, Bristly Works, Bristly Trade Dress in Defendants' advertisement and promotion of their Counterfeit Products. Defendants have misrepresented to members of the consuming public that the Counterfeit Products being advertised and sold by them are genuine, non-infringing goods.

59. Additionally, Defendants are using infringements of the Bristly Mark, Bristly Works, and Bristly Trade Dress in order to unfairly compete with Plaintiffs and others for space within search engine organic results, thereby jointly depriving Plaintiffs of a valuable marketing and educational tool which would otherwise be available to Plaintiffs and reducing the visibility of Plaintiffs' genuine goods on the World Wide Web.

60. Defendants' above-described actions are in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

61. Plaintiffs have no adequate remedy at law, and have sustained indivisible injury and damage caused by Defendants' concurrent conduct. Absent an entry of an injunction by this Court, Defendants will continue to wrongfully reap profits and Plaintiffs will continue to suffer irreparable injury to its goodwill and business reputation, as well as monetary damages.

62. Based on Defendants' wrongful conduct, Plaintiffs are entitled to injunctive relief, Plaintiffs' actual damages and Defendants' profits in an amount to be proven at trial, enhanced discretionary damages for willful infringement, and reasonable attorneys' fees and costs.

COUNT IV - COMMON LAW UNFAIR COMPETITION

63. Plaintiffs hereby adopt and re-allege the allegations set forth in the preceding paragraphs as if set forth herein.

64. This is an action against Defendants based on their promotion, advertisement, distribution, sale, and/or offering for sale of goods bearing and/or using marks that are virtually identical, both visually and phonetically, to one or more of the Bristly Mark, Bristly Works, and Bristly Trade Dress in violation of Pennsylvania's common law of unfair competition.

65. Specifically, Defendants are promoting and otherwise advertising, selling, offering for sale, and distributing goods bearing and/or using infringements of one or more of the Bristly Mark, Bristly Works, and Bristly Trade Dress. Defendants are also using infringements of one or more of the Bristly Mark, Bristly Works, and Bristly Trade Dress to unfairly compete with Plaintiffs and others on Internet marketplaces, for space in search results across an array of search terms, and visibility on the World Wide Web.

66. Defendants' infringing activities are likely to cause and actually are causing confusion, mistake, and deception among members of the trade and the general consuming public as to the origin and quality of Defendants' products by their use of one or more of the Bristly Mark, Bristly Works, and Bristly Trade Dress.

67. Plaintiffs have no adequate remedy at law and are suffering irreparable injury and damages as a result of Defendants' actions.

68. As a result of Defendants' actions alleged herein, Plaintiffs are entitled to injunctive relief, an order granting Plaintiffs' damages and Defendants' profits stemming from their infringing activities, and exemplary or punitive damages for Defendants' intentional misconduct.

COUNT V - COMMON LAW TRADEMARK INFRINGEMENT

69. Plaintiffs hereby adopt and re-allege the allegations set forth in the preceding paragraphs as if set forth herein.

70. This is an action for common law trademark infringement against Defendants based on their promotion, advertisement, offering for sale, and sale of their Counterfeit Products bearing and/or using at least one of the Bristly Mark and Bristly Trade Dress. Plaintiffs are the exclusive licensee and owner of all common law rights in and to the Bristly Mark and Bristly Trade Dress.

71. Specifically, Defendants, upon information and belief, are manufacturing, promoting and otherwise advertising, distributing, offering for sale, and selling goods bearing and/or using infringements of at least one of the Bristly Mark and Bristly Trade Dress.

72. Defendants' infringing activities are likely to cause and actually are causing confusion, mistake and deception among members of the trade and the general consuming public as to the origin and quality of Defendants' Products bearing and/or using at least one of the Bristly Mark and Bristly Trade Dress.

73. Plaintiffs have no adequate remedy at law and is suffering damages and irreparable injury as a result of Defendants' actions.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demands judgment on all Counts of this Complaint and an award of equitable relief and monetary relief against Defendants as follows:

a. Entry of temporary, preliminary and permanent injunctions pursuant to 15 U.S.C. § 1116, and 17 U.S.C. § 502, and Federal Rule of Civil Procedure 65 enjoining Defendants, their

agents, representatives, servants, employees, and all those acting in concert or participation therewith, from manufacturing or causing to be manufactured, importing, advertising or promoting, distributing, selling or offering to sell their Counterfeit Products; from infringing, or diluting the Bristly Mark, Bristly Works, and Bristly Trade Dress; from using the Bristly Trade Dress, Bristly Mark, and Bristly Works, or any mark or trade dress similar thereto, in connection with the sale of any unauthorized goods; from using any logo, trade name or trademark or trade dress that may be calculated to falsely advertise the services or goods of Defendants as being sponsored by, authorized by, endorsed by, or in any way associated with Plaintiffs; from falsely representing themselves as being connected with Plaintiffs, through sponsorship or association, or engaging in any act that is likely to falsely cause members of the trade and/or of the purchasing public to believe any goods or services of Defendants are in any way endorsed by, approved by, and/or associated with Plaintiffs; from using any reproduction, counterfeit, infringement, copy, or colorable imitation of the Bristly Mark, Bristly Works, and Bristly Trade Dress or substantially similar copy of the Bristly Work in connection with the publicity, promotion, sale, or advertising of any goods sold by Defendants; from affixing, applying, annexing or using in connection with the sale of any goods, a false description or representation, including words or other symbols tending to falsely describe or represent Defendants' goods as being those of Plaintiffs, or in any way endorsed by Plaintiffs and from offering such goods in commerce; from engaging in search engine optimization strategies using colorable imitations of the Bristly Mark, Bristly Works, and Bristly Trade Dress; from further infringement, or use of a substantially similar copy of the Bristly Work; and from otherwise unfairly competing with Plaintiffs.

c. Entry of an Order that, upon Plaintiffs' request, any Internet marketplace website operators and/or administrators that are provided with notice of the injunction, including but not limited to the online marketplaces hosted by Amazon.com, identify any e-mail address known to be associated with Defendants' respective Seller ID, and cease facilitating access to any or all e-commerce stores through which Defendants engage in the promotion, offering for sale, and/or sale of goods bearing and/or using counterfeits and/or infringements of the Bristly Mark, Bristly Works, and Bristly Trade Dress, and/or a substantially similar copy of the Bristly Works.

d. Entry of an Order that, upon Plaintiffs' request, any Internet marketplace website operators and/or administrators who are provided with notice of the injunction, including but not limited to online marketplaces hosted by Amazon.com, permanently remove any and all listings and associated images of goods bearing and/or using counterfeits and/or infringements of the Bristly Mark, Bristly Works, and Bristly Trade Dress, or substantially similar copies of the Bristly Works via the e-commerce stores operating under the Seller IDs, including any and all listings and images of goods bearing and/or using counterfeits and/or infringements of the Bristly Mark, Bristly Works, and Bristly Trade Dress, and/or a substantially similar copy of the Bristly Works linked to the same seller or linked to any other alias seller identification name being used and/or controlled by Defendants to promote, offer for sale and/or sell goods bearing and/or using counterfeits and/or infringements of the Bristly Mark, Bristly Works, Bristly Trade Dress, and/or substantially similar copy of the Bristly Works.

e. Entry of an Order that, upon Plaintiffs' request, any Internet marketplace website operators and/or administrators who are provided with notice of the injunction, including but not limited to online marketplaces hosted Amazon.com, immediately cease fulfillment of and sequester all goods of each Defendant or other Seller under a Seller ID bearing and/or using one

or more of the Bristly Mark, Bristly Works, Bristly Trade Dress, and/or a substantially similar copy of the Bristly Works in its inventory, possession, custody, or control, and surrender those goods to Plaintiffs.

f. Entry of an order requiring Defendants to account to and pay Plaintiffs for all profits and damages resulting from Defendants' counterfeiting, infringing and unfairly competitive activities and that the award to Plaintiffs be trebled, as provided for under 15 U.S.C. §1117, or, at Plaintiff's election with respect to Count I, that Plaintiffs be awarded statutory damages from each Defendant in the amount of two million dollars (\$2,000,000.00) per each counterfeit trademark used and product sold, as provided by 15 U.S.C. §1117(c)(2) of the Lanham Act.

g. Entry of an award pursuant to 15 U.S.C. § 1117 (a) and (b) of Plaintiffs' costs and reasonable attorneys' fees and investigative fees associated with bringing this action.

h. For an award of Plaintiffs' actual damages and Defendants' profits, pursuant to 17 U.S.C. § 504(b), in an amount to be proven at trial for willful copyright infringement of the Bristly Works under § 501(a).

i. In the alternative to Plaintiffs' actual damages and Defendants' profits for copyright infringement of the Bristly Works pursuant to 17 U.S.C. § 504(b), for statutory damages of \$150,000.00 per infringement pursuant to 17 U.S.C. § 504(c) for willful copyright infringement, which Plaintiffs may elect prior to rendering of final judgment, together with Plaintiffs' costs and reasonable attorneys' fees and investigative fees associated with bringing this action.

j. Entry of an Order that, upon Plaintiffs' request, any financial institutions, payment processors, banks, escrow services, money transmitters, or marketplace platforms, including but not limited to, Amazon, LLC. d/b/a Amazon.com ("Amazon") and Amazon Payments, Inc . d/b/a

Amazon.com (“Amazon Pay”), and their related companies and affiliates, identify and restrain all funds, up to and including the total amount of judgment, in all financial accounts and/or sub-accounts used in connection with the Seller IDs or other domain names, alias seller identification names, or e-commerce store names or store URLs used by Defendants presently or in the future, as well as any other related accounts of the same customer(s) and any other accounts which transfer funds into the same financial institution account(s), to be surrendered to Plaintiffs in partial satisfaction of the monetary judgment entered herein.

k. Entry of an award of pre-judgment interest on the judgment amount.

l. Entry of an order for any further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs respectfully demand a trial by jury on all claims.

Respectfully submitted,

October 8, 2019

/s/ Stanley D. Ference III

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Peter Dertsakyan

Schedule “A”

Defendants With Store Name and Seller ID

Def. No.	Defendant/ Amazon Store Name	Amazon Seller ID	Amazon ASIN
1	Go Well	A1EI53ECSEE358	B07MLH1W35
2	Ahui	A3U2CPCPJ050N8	B07TX92ZLNQ
3	Center Sport Life	ANNI75IPFOMB8	B07MLH29KL
4	Clever Market	A2G8CPMFVS1839	B07MLH29KL
5	Cube Store	A4KLC6JANYKEQ	B07TRQBNVJ
6	Essentialstore	A3TGAHL4LATVYC	B07S3V85B7
7	LeshionLife	AQZVMFU5EDRRJ	B07MXNNPXV
8	Lomeve	A352GYI24QCF3Z	B07STV2VTS
9	Mansgoods	A3LGEKSF23N94S	B07VJ5JDMY
10	Matfapero	ATCV9G5EHHD4B	B07WMNVQHQ
11	Moonia No. 1 Store	A1NT1LLAH3SCVB	B07QR1V93V
12	MS Hong	A1MQ17GQ2699WZ	B07S4FY7HM
13	Niuworld	A3DOF2HOZYWW1W	B07QXDB4YV
14	Pounce'n' Play shop	A23EEJ69XLPF6I	B07S9SSVT3
15	Solclair	A3CE0WUVA70I2S	B07QQLM9V8
16	Very Happy Shop	AYRFLCGTWYPMK	B07KVF9CTZ
17	WJASI	A2BLL18GQ2VK41	B07SSXM6FK
18	Yaslin	AOTR5BEXCZ5V6	B07MWWVZ69
19	Yiwu Lanjie Trading Co., Ltd.	A6LZWYNZ7QGCD	B07RJTXGJ3

LISTING OF EXHIBITS

- Exhibit 1.....U.S. Trademark Reg. No. 5,815,298 for BRISTLY
- Exhibit 2.....U.S. Trademark Reg. No. 5,844,832 for BRISTLY
- Exhibit 3.....U.S. Copyright Reg. No. VA 2-122-455 for “Photos of In Use
Pet/Dog Toy for Oral Hygiene”
- Exhibit 4.....European Registered Community Design No. 005818606-0001
- Exhibit 5.....U.S. Patent Application Publication No. 2018/0295811