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Counsel for Plaintiff Hernandez

12 UNITED STATES DISTRICT COURT
13
14 FOR THE CENTRAL DISTRICT OF CALIFORNIA
15
16 EASTERN DIVISION

17
18 STEVEN HERNANDEZ, Individually
19 And on Behalf of All Others Similarly
20 Situated,

21 Plaintiff,

22 v.

23 RADIO SYSTEMS CORPORATION,
24
25 Defendant.

Case No. 5:22-cv-01861-JGB-KK

**SECOND AMENDED CLASS
ACTION COMPLAINT**

DEMAND FOR JURY TRIAL

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Plaintiff Steven Hernandez (“Plaintiff”), on behalf of himself and all others similarly situated, by and through undersigned counsel, hereby brings this action against Defendant Radio Systems Corporation (“Radio Systems”), and alleges the following upon his own knowledge, or where he lacks personal knowledge, upon information and belief based upon the investigation of his counsel.

INTRODUCTION

1. This is a consumer class action arising out of misrepresentations and omissions by Radio Systems in connection with its manufacture, sale, marketing, and advertising of shock collar products under the brand name PetSafe® (the “Shock Collar Products”).¹ Shock Collar Products are devices that deliver electric shocks to household pets via a collar worn around the pets’ necks. In an effort to extract money from unsuspecting consumers concerned over the well-being of their pets, Radio Systems manufactures, markets, distributes, and sells twenty-four Shock Collar Products through its websites and nationwide retailers’ physical stores and websites, while falsely claiming that the Shock Collar Products are “safe” and “harmless” tools for preventing unwanted behaviors.

2. To conceal the true nature of the Shock Collar Products, Radio Systems

¹ The Shock Collar Products are defined as the following products sold under the PetSafe® brand: (1) Wireless Fences—Stay & Play® Wireless Fence with Replaceable Battery Collar; Stay & Play® Wireless Fence for Stubborn Dogs; Stay & Play® Compact Wireless Fence; Wireless Pet Containment System™; (2) Pet Proofing Products—Pawz Away® Mini Pet Barrier; Pawz Away® Indoor Pet Barrier; Pawz Away® Outdoor Pet Barrier; Pawz Away® Threshold Barrier; Indoor Radio Fence®; ScatMat® Indoor Pet Training Mats; (3) In-Ground Fences—In-Ground Fence™; Stubborn Dog In-Ground Fence™; Elite Little Dog In-Ground Fence™; In-Ground Cat Fence™; YardMax® Rechargeable In-Ground Fence™; Basic In-Ground Fence™ System; Rechargeable In-Ground Fence™ System; YardMax® Cordless In-Ground Fence™; Classic In-Ground Fence™; Classic In-Ground Fence™, 2 Dog; (4) Bark Collars—Rechargeable Bark Control Collar; Lite Rechargeable Bark Collar; Bark Collar; Basic Bark Control Collar.

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1 uses neutral euphemisms to describe what being electrocuted by a shock collar feels
2 like for a pet. Among the most popular terms that it uses to falsely describe a painful
3 electric shock are “static correction,” “surprise,” “tickle,” and “stimulation.” Indeed,
4 on the packaging of the Shock Collar Products, as well as on its website, Radio
5 Systems prominently displays false claims regarding the safety of its products, while
6 purportedly relying on scientific and empirical testing in claiming that the Shock
7 Collar Products have been “proven safe,” and are purportedly recommended by
8 veterinarians and professional dog trainers.

9 3. In reality, Shock Collar Products are far from safe and harmless. In fact,
10 the use of electric shocks is gravely dangerous to the pets’ physical and
11 psychological well-being. Hundreds of documented cases—which Defendant is
12 aware of—reveal that the use of shock collars can cause pets severe injuries,
13 including, *inter alia*, skin ruptures, bruising, inflammations, skin burns, and
14 infections. It has been tested, proven, and documented that the use of Shock Collar
15 Products leads to psychological stress, anxiety, and depression caused by the
16 repeated painful shocks administered in response to the pets’ completely natural
17 behaviors.

18 4. Scientific literature further demonstrates that the use of Shock Collar
19 Products leads to increased aggression and other significant and irreversible
20 behavioral changes, rendering dogs less obedient, and even dangerously defiant.
21 Unfortunately for unsuspecting consumers, Radio Systems has for years concealed
22 the harsh truth about Shock Collar Products. Instead of telling consumers the truth,
23 Defendant failed to disclose the dangerous properties of Shock Collar Products on its
24 packaging, websites, and other marketing and advertising materials, which it uses to
25 promote its products.

26 5. Additionally, instead of being recommended by veterinarians and
27 professional dog trainers—as Radio Systems falsely claims—the use of Shock
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Collar Products has been uniformly condemned by professional dog behaviorists, experts, trainers, and veterinarians as a cruel, dangerous, and ineffective way of modifying animal behavior. Indeed, countless domestic and international animal advocacy groups, including the People for the Ethical Treatment of Animals (“PETA”) and the Humane Society of America, have issued public statements harshly criticizing the use of Shock Collar Products.

6. For example, PETA publicly denounced² the use of shock collars, by stating that: “[t]hese cruel devices physically hurt animals and can cause severe psychological problems as well.”³ The Pet Professional Guild (“PPG”), America’s leading animal advocacy group, likewise decried the use of electric shocks, opining that “electric shock in the guise of training constitutes a form of abuse towards pets[.]”⁴ Due to the “unacceptable harm and suffering” that shock collars cause to animals, these devices have been outlawed in a number of countries, including Wales, Scotland, Denmark, Switzerland, Germany, Sweden, Finland, Austria, and certain parts of Australia and New Zealand, and in some cases their use is subject to significant monetary fines and even prison sentences.

7. To be sure, Radio Systems has known for years that the Shock Collar Products are not “safe” and “harmless,” as they claim, yet it puts its own financial interests before the welfare and well-being of consumers’ household pets. Over the years, hundreds of complaints have been reported on Defendant’s websites, informing it of the dangerous nature of the Shock Collar Products, including complaints of skin ruptures, burn marks, inflammation and skin infections developed

² *Do you approve of electric fences and shock collars*, available at <https://www.peta.org/about-peta/faq/do-you-approve-of-electric-fences-and-shock-collars/> (last accessed on Sept. 14, 2022).

³ *Id.* Here and hereinafter, all emphasis is added, unless otherwise stated.

⁴ Pet Professional Guild, *The Use of Shock in Animal Training*, N. Tudge and S. Nilson, 2016, available at <https://www.petprofessionalguild.com/shockcollars> (last accessed on Sept. 14, 2022) (“PPG Statement on Shock Collars”).

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1 as a result of the use of Shock Collar Products, as well as psychological traumas
2 suffered by pets as a result of being electrocuted. Many of the complaining
3 consumers included graphic images of their pets' injuries.

4 8. Instead of disclosing the grave dangers and risks of using shock collars,
5 Radio Systems actively concealed these facts, while continuing to promote, via
6 implied and express representations, that Shock Collar Products are "safe" and
7 "harmless." In its marketing campaigns, Radio Systems fails to inform consumers of
8 the physical and psychological dangers that Shock Collar Products pose to animals.
9 As a result of its misrepresentations and omissions, Plaintiff Steven Hernandez and
10 the proposed Class have purchased products that are different than those which they
11 thought they were purchasing and ones which are not fit for their intended purpose.
12 Had Radio Systems disclosed these material facts, Hernandez would not have
13 purchased Shock Collar Products. Radio Systems was able to charge more than what
14 its Shock Collar Products would have cost had it disclosed the truth about them.

15 9. Plaintiff Hernandez brings this action on behalf of himself and other
16 consumers who have purchased Shock Collar Products, in order to: (a) end the
17 dissemination of Defendant's deceptive advertising messages; (b) correct the false
18 and misleading perception Defendant has created in the minds of reasonable
19 consumers through its misrepresentations and omissions; and (c) secure redress for
20 consumers who have purchased one or more Shock Collar Products.

21 22 JURISDICTION AND VENUE

23 10. This Court has jurisdiction over the subject matter of this action
24 pursuant to 28 U.S.C §1332(d) because the amount in controversy for the Class
25 exceeds \$5,000,000 exclusive of interest and costs, there are more than 100 putative
26 Class members, and minimal diversity exists because some members of the proposed
27 class and the Defendant are citizens of different states.

28 11. This Court has personal jurisdiction over Defendant pursuant to 18

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U.S.C. § 1965(a) because Defendant was engaged in the manufacturing, labeling, packaging, marketing, and sale of the Shock Collar Products in the State of California. A substantial portion of the wrongdoing alleged in this Complaint took place in California; Defendant conducts business in California and otherwise avails itself of the protections and benefits of California law through the promotion, marketing, and sale of Shock Collar Products in the State; and this action arises out of or relates to these contacts because Plaintiff Hernandez and the Class purchased the Shock Collar Products in California.

12. Venue is proper in this district pursuant to 28 U.S.C. § 1391(a) and (b) because a substantial portion of the events and omissions giving rise to this action occurred in this judicial district including the purchase of Plaintiff Hernandez's Shock Collar Products, which occurred in this District. Venue is also proper under 18 U.S.C. § 1965(a) because Defendant transacts substantial business in this District.

PARTIES

13. Plaintiff Steven Hernandez is a natural person and citizen of the State of California. He resides in Rialto, California. Between February 2022 to May 2022, Plaintiff Hernandez purchased the following PetSafe products from the Amazon website: (1) one PetSafe Pet Pawz Away Outdoor Barrier purchased on February 25, 2022, for which he paid \$109.95, (2) one PetSafe Pawz Away Extra Outdoor Pet Barrier Transmitter purchased on April 30, 2022, for which he paid \$78.95, (3) one PetSafe Pawz Away Extra Receiver Collar purchased on April 22, 2022, for which he paid \$54.95, and (4) one PetSafe Pawz Away Extra Indoor Barrier purchased on May 10, 2022, for which he paid \$54.95

14. Plaintiff Hernandez purchased the PetSafe products because he believed that the Shock Collar Products were safe, effective, harmless, and an appropriate tool for training household pets based on the packaging and advertising of the products. Plaintiff Hernandez saw and relied upon Defendant's misrepresentations featured in

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the products’ advertisements, packaging, and user manuals. Specifically, Plaintiff Hernandez relied on Defendant’s repeated representation that its products were “safe.” He observed that the word “safe” was included in the product’s brand name. In addition, he relied on Defendant’s representations that its products provided a “safe correction” to pets. For example, on the Amazon webpage for the PetSafe Pet Pawz Away Outdoor Barrier, plaintiff saw the following representation:

“SAFE CORRECTION: When your pet enters the “off limits” area, the transmitter sends a safe static correction to their receiver collar”

Plaintiff viewed similar representations on the Amazon webpages for the PetSafe Pawz Away Extra Outdoor Pet Barrier Transmitter, PetSafe Pawz Away Extra Receiver Collar,⁵ and the PetSafe Pawz Away Extra Indoor Barrier.⁶ He also noted on the webpages Defendant’s repeated promise to keep customers’ pets “safe, healthy, and happy.”

15. Plaintiff’s understanding that Defendant’s products were a safe and appropriate training tool were reaffirmed by the representations on Defendant’s product packaging and the accompanying product manuals. On the product packaging for the PetSafe Pet Pawz Away Outdoor Barrier, plaintiff saw Defendant’s representation that the product “safely keeps pets away from flower beds, gardens, pools and more[.]” Plaintiff also saw the representation on multiple Products that they were designed to send a “harmless” correction to pets. He also viewed the reassuring representation on the PetSafe logo: “Safe Pets [,] Happy Owners[.]” Defendant’s representations led plaintiff to believe that the Shock Collar

⁵ “SAFE CORRECTION: When your pet enters the barrier area, they feel a safe, progressive static correction, starting at the lowest level; includes automatic safety shutoff.”

⁶ “SAFELY CORRECTS YOUR PET: When your pet enters the boundary area wearing the receiver collar, they will hear a series of beeps and then will receive a safe yet startling static correction.”

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1 Products were safe, harmless, humane, and an appropriate training tool for his pet.
2 At no point in plaintiff's review of the advertising, product packaging, and user
3 manuals for the Shock Collar Products did he observe any messaging that warned
4 him of the risks associated with Defendants' products.

5 16. Plaintiff used the products in accordance with the instructions provided
6 in Defendant's product manuals. He used the Shock Collar Products to train his full-
7 grown Husky, and he followed the guidelines included in the product manual to
8 determine the most comfortable collar fit for his dog. Plaintiff placed the Shock
9 Collar Products on his Husky during plaintiff's workday, which lasted anywhere
10 from nine to ten hours. When plaintiff returned from work, he immediately removed
11 the collar from his dog's neck. On days he was forced to work late, he asked his
12 sister or mother to remove the collar from his dog's neck.

13 17. In late May 2022, plaintiff noticed one day that his dog's personality
14 was more subdued than normal and that she had lost her appetite. The next day, he
15 identified a sticky residue and foul burning smell around the dog's neck, and he saw
16 that a patch of fur was missing from the dog's neck. His veterinarian identified holes
17 in his dog's neck that coincided with the placement of the electrode inserts in the
18 Shock Collar Products. During the week following his dog's injury, plaintiff
19 observed that his dog was more timid and more scared than normal. Immediately
20 after discovering the product's harmful effects, Plaintiff Hernandez stopped using
21 the Shock Collar Products.

22 18. Defendant did not inform Plaintiff Hernandez of the true nature of the
23 Shock Collar Products prior to his purchase. Had Plaintiff Hernandez known that the
24 Shock Collar Product was not safe and harmless, he would either not have purchased
25 the Shock Collar Product or would have paid substantially less for it. At present,
26 Plaintiff Hernandez has concerns about purchasing the Shock Collar Product for his
27 pet as he remains unsure as to whether the representations of the Shock Collar
28

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1 Products are, and will continue to be, false and misleading. In the future, Plaintiff
2 Hernandez would be willing to purchase the Shock Collar Products if the products
3 were in fact safe, harmless, and humane.

4 19. Defendant Radio Systems is a Tennessee corporation with its principal
5 place of business at 10427 Petsafe Way, Knoxville, TN 37932. Radio Systems was
6 founded in 1991. Radio Systems is a manufacturer, marketer, and a seller of a wide
7 variety of pet supplies and accessories, including Shock Collar Products. Over the
8 years, Radio Systems has generated and continues to generate significant revenue
9 through the sale of Shock Collar Products. Radio System owns a variety of brands
10 through which it sells its Shock Collar Products, including PetSafe®, Invisible
11 Fence®, SportDog®, and Premier Pet®. Radio Systems has marketed, distributed,
12 and sold Shock Collar Products to many thousand consumers in the United States
13 through nationwide retailers such as PetSmart and Petco, including through its
14 physical stores as well as its respective websites. Radio Systems also sells the Shock
15 Collar Products directly to consumers nationwide through direct sales websites that
16 are owned by Radio Systems, such as www.petsafe.com, www.invisiblefence.com,
17 www.sportdog.com, and www.premierpet.com. Radio Systems' brands' websites
18 are virtual stores where consumers can view descriptions and pictures of the Shock
19 Collar Products, make purchases, and have items shipped directly to their homes.

20 20. Radio Systems makes occasional changes in product offerings (for
21 example, discontinuing or introducing new products or varieties), and product
22 labeling and packaging. Regardless of such changes, however, Radio Systems has
23 labelled, and continues to label, its Shock Collar Products with various safety claims
24 and claims that deceptively represent that Shock Collar Products are safe and
25 harmless when they are not.

26 21. Radio Systems is a wholly owned subsidiary of investment firm
27 Clayton Dubilier & Rice, a private investment firm incorporated in Delaware with its
28

1 principal place of business at 375 Park Avenue, New York, NY 10152. In May
2 2020, Clayton Dubilier & Rice announced its plan to acquire Radio Systems. In July
3 2020, the acquisition closed whereby Radio Systems became a wholly owned entity
4 of Clayton Dubilier & Rice.

5 6 **SUBSTANTIVE ALLEGATIONS**

7 22. Shock collars, also known as e-collars, bark collars, and remote training
8 collars, are pet collars that deliver electrical shocks of varying intensity and duration
9 to the neck of a household pet via a radio-controlled electronic device incorporated
10 into the collar. The majority of shock collars available on the market fall into three
11 categories: (i) collars that are part of electronic pet containment systems (known as
12 electric fences); (ii) collars used as bark control; and (iii) collars that are controlled
13 remotely with a handheld device.

14 23. Animal shock collars are marketed by Defendant as appropriate tools
15 for animal behavior modification in the context of training, obedience, recall, and
16 hunting and also as containment within certain boundaries, both inside and outside.
17 Shock collars are premised on the idea that when a dog engages in an unwanted
18 behavior—whether it be barking, chasing after other animals, wandering off the
19 owners' property, and/or biting—the owner is able to extinguish that behavior by
20 delivering to the pet an electric shock, either through a handheld remote device or
21 via an automatically generated impulse. After being painfully electrocuted, the pet is
22 expected to associate the unwanted behavior with the pain, and therefore avoid
23 engaging in the shock-triggering behavior.

24 24. Despite that electric shocks have historically been used only in
25 laboratories in the context of animal behavioral studies as a method of inducing pain
26 and stress on the studied animal, in the last decade, they have entered the
27 commercial pet industry in the form of shock collars and are widely sold across the
28 United States for household use.

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25. Large national retailers, including PetSmart and Petco, have sold more than a dozen different types of shock collars, including Shock Collar Products manufactured by Radio Systems. Defendant generates millions of dollars from the marketing and sale of Shock Collar Products through its national retailers and Defendant's websites.

A. Radio Systems' False and Deceptive Marketing Campaign.

26. Radio Systems has engineered a marketing campaign focused on representations that Shock Collar Products are appropriate tools for controlling pets' behavior. In an effort to assuage consumers' concerns over their pets' safety and comfort, in its marketing and advertising materials, it claims Shock Collar Products are "safe" and "harmless" while failing to disclose the grave physical dangers they pose to the health of household pets. To give credence to its false marketing and advertising claims, Radio Systems purports to rely on approval from the scientific community in claiming that Shock Collar Products have "been *proven safe*, comfortable, and effective."

27. To conceal the truth about the harmful propensities of Shock Collar Products, Radio Systems uses neutral euphemisms to describe what being electrocuted feels like for a domestic pet. Some of the terms that it uses to falsely describe a painful electric shock are terms such as "static correction," "vibration," "tickle," and "stimulation." These claims are prominently displayed on the packaging of Shock Collar Products as well as Radio Systems' websites, and further bolster its false claims of safety and harmlessness.

28. Radio Systems conceals from consumers that being electrocuted is a dangerous and painful experience for pets. For example, on the packaging and in its marketing materials, Radio Systems describes the pets' experience of being electrocuted by a shock collar as being "persuaded" or "reminded" of an existing boundary or an unwanted behavior, as opposed to being punished, frightened, or

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otherwise physically hurt. Furthermore, to account for pets' differing pain-thresholds, which allow certain breeds and pets to withstand more pain caused by an electric shock, Radio Systems misleadingly refers to this phenomenon as the dog's "temperament" or "stubbornness." By doing so, it conceals the truth about the level of pain that Shock Collar Products are capable of inducing on a household pet and the pet's ability to mask and withstand different levels of pain.

29. However, an overwhelming body of scientific research confirms that shock collars are not "safe, comfortable, and effective," and instead are dangerous, painful and far less effective than other training methods. To be sure, no scientific basis exists supporting Radio Systems' marketing claims, rendering its marketing statements unsubstantiated and false. In its deceptive marketing campaign, Radio Systems goes as far as to claim that its training methods have purportedly been "recommended by veterinarians, professional dog trainers, behaviorists, and other pet experts." Nothing can be further from the truth. In reality, a consensus exists among dog professionals, veterinarians, dog behaviorists, and domestic and international animal advocacy groups that shock collars "should no longer be part of the current pet industry culture of accepted practices, tools or philosophies."⁷

30. In reality, and unbeknownst to the consumers, the use of Shock Collar Products causes animals severe physical pain and injuries, including skin ruptures and inflammations, infections, skin burns and bruising as well as undue anxiety, confusion, and depression, which can lead to gastrointestinal disorders and irreversible changes in the pets' heart rate and respiration. Among the well-documented negative effects of being electrocuted by Defendant's Shock Collar Products is an increase in aggression in dogs as well as other unwanted behaviors, rendering dogs less obedient and even aggressive, and the training with Shock Collar Products less effective than any positive reinforcement training. Radio Systems fails

⁷ See PPG Statement on Shock Collars.

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1 to disclose these harsh truths about Shock Collar Products on its packaging,
 2 websites, or marketing materials.

3 31. As described herein, Defendant's representations contained on the
 4 packaging of the Shock Collar Products, Defendant's websites, and other marketing
 5 materials are false and misleading because they:

- 6 a. Misrepresent the physical pain, harm, and suffering that Shock
 7 Collar Products cause to household pets;
- 8 b. Misrepresent the dangers and risks of severe physical harm and
 9 injury associated with the use of Shock Collar Products;
- 10 c. Misrepresent the dangers and risks of irreversible psychological
 11 damage, including anxiety, stress, and depression associated with the
 12 use of Shock Collar Products;
- 13 d. Misrepresent the dangers and risks of increased aggression in dogs
 14 and the emergence of behavioral problems associated with the use of
 15 Shock Collar Products;
- 16 e. Misrepresent that Shock Collar Products are considered humane or
 17 are recommended by industry experts.

18 **B. Radio Systems Features Substantially Similar Misrepresentations**
 19 **on Its Packaging and Websites for All Shock Collar Products.**

20 32. Radio Systems manufactures, markets, and sells pet training products
 21 under several brand names, including PetSafe®, Invisible Fence®, SportDog®, and
 22 Premier Pet®. Defendant sells twenty-four Shock Collar Products under the
 23 PetSafe® brand, and these products include boundary training tools designed to keep
 24 pets away from specified areas and bark control tools designed to restrain barking.
 25 The primary purpose of each of defendant's Shock Collar Products is to discourage
 26 pets from engaging in unwanted behaviors by use of a collar that transmits an
 27 electric current onto the pet's skin. And the practical effect of each of defendant's
 28

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Shock Collar Products is to apply a gravely dangerous electric shock through the collar to the pet that may cause severe physical and psychological injury.

33. Radio Systems uniformly labels these products with claims promising safety and comfort and warranties that the use of Shock Collar Products is humane and recommended by industry experts. Moreover, Radio Systems fails to disclose the safety risks, including the physical and psychological harm these devices pose to the household pets, and the cruelty behind the fact that the household pet is being painfully electrocuted. Instead, defendant places the concept of “safety” at the forefront of its marketing and advertising representations and makes claims that obscure the harmful propensities of its products. The following false and deceptive claims appear on the packaging, websites, and advertising of Shock Collar Products manufactured by Radio Systems and sold by nationwide retailers.

34. To start, the concept of safety is central to defendant’s brand name, “Pet**Safe**,” and defendant’s slogan, “**Safe** Pets, Happy People.” (emphasis added)⁸; Defendant’s logo and slogan appears on the product packaging and online advertising for **all** Shock Collar Products and falsely convey to consumers that the products are manufactured with their pets’ safety in mind.

35. The representations on PetSafe’s website also center the concept of “safety” to deceive unsuspecting consumers. For example, the product webpages for defendant’s Shock Collar Products feature misleading representations about Radio Systems’ dedication to manufacturing and selling safe products⁹:

⁸ Exhibit A indicates which Shock Collar Products feature the "PetSafe" name and "Safe Pets, Happy People" slogan representations on the PetSafe website.

⁹ Exhibit A indicates which Shock Collar Products feature representations uplifting PetSafe’s dedication to safety on the PetSafe website.

- 1 • “Trust PetSafe® to keep your pet healthy, *safe* and happy.”
 2 (emphasis added).¹⁰
- 3 • “Our static collars are part of our *ongoing mission to provide the*
 4 *best tools, education and support for pet parents seeking safe,*
 5 *effective, expert-recommended options* they can trust to meet each
 6 dog’s unique training needs” (emphasis added).¹¹

7 36. Further, the product descriptions on PetSafe’s website use the same, or
 8 substantially similar, euphemisms to obscure the painful sensation produced by the
 9 collars.¹² The electric shock produced by the collar is described as:

- 10 • “a *safe (but surprising)* static correction” (emphasis added)¹³
- 11 • “the static feeling is surprising but *harmless*” (emphasis added)¹⁴
- 12 • “a *safe but startling* static correction” (emphasis added)¹⁵

13
 14
 15 ¹⁰ The same representation appears on the product webpages for all products
 16 referenced in FN 1 except the In-Ground Fence™.

17 ¹¹ The same representation, or a substantially similar representation, appears on the
 18 product webpages for all products referenced in FN 1 except the Indoor Radio
 19 Fence® and the ScatMat® Indoor Pet Training Mats.

20 ¹² Exhibit A indicates which Shock Collar Products feature representations that
 21 obscure the harmful sensation produced by the products on the PetSafe
 22 website.

23 ¹³ Pawz Away® Mini Pet Barrier, <https://store.petsafe.net/pawz-away-mini-pet-barrier>;
 24 *see also* Pawz Away® Indoor Pet Barrier,
 25 <https://store.petsafe.net/pawz-away-indoor-pet-barrier>; Pawz Away®
 26 Threshold Barrier, <https://store.petsafe.net/pawz-away-threshold-pet-barrier>;
 27 Indoor Radio Fence®, <https://store.petsafe.net/indoor-radio-fence>.

28 ¹⁴ Bark Collar, <https://store.petsafe.net/bark-collar>.

¹⁵ Classic In-Ground Fence™, [https://store.petsafe.net/classic-in-ground-fence-](https://store.petsafe.net/classic-in-ground-fence-system)
 system; *see also* Rechargeable In-Ground Fence™ System,
<https://store.petsafe.net/petsafe-rechargeable-in-ground-fence>; ScatMat®
 Indoor Pet Training Mats, <https://store.petsafe.net/scatmat-pet-proofing-mats>;
 Pawz Away® Outdoor Pet Barrier, [https://store.petsafe.net/pawz-away-](https://store.petsafe.net/pawz-away-outdoor-pet-barrier)
 outdoor-pet-barrier; Stubborn Dog In-Ground Fence™,
<https://store.petsafe.net/stubborn-dog-in-ground-fence>.

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- “a *safe (but annoying)* static correction” (emphasis added)¹⁶
- “*safe*, static correction” (emphasis added)¹⁷
- “*Safely* deters pets using static correction” (emphasis added)¹⁸

37. The product descriptions on PetSafe’s website feature other substantially similar representations about product safety that reinforce defendant’s messaging that the Shock Collar Products will not harm their pets¹⁹:

- “[pets] can *enjoy safely* playing off-leash” (emphasis added)²⁰
- “...keep your stubborn dog *safe* in his yard...” (emphasis added)²¹
- “...a very effective way to keep your dog *safely* in your yard” (emphasis added)²²
- “[the product will] give you peace of mind knowing your dog is *safe and secure* inside your yard.” (emphasis added)²³

¹⁶ YardMax® Cordless In-Ground Fence™, <https://store.petsafe.net/yardmax-cordless-in-ground-fence>.

¹⁷ YardMax® Rechargeable In-Ground Fence™, <https://store.petsafe.net/yardmax-fence-kit>.

¹⁸ Pawz Away® Indoor Pet Barrier, <https://store.petsafe.net/pawz-away-indoor-pet-barrier>; *see also* Indoor Radio Fence®, <https://store.petsafe.net/indoor-radio-fence>.

¹⁹ Exhibit A indicates which Shock Collar Products feature general representations about product safety on the PetSafe website.

²⁰ Stay & Play® Compact Wireless Fence, <https://store.petsafe.net/stay-play-wireless-fence>.

²¹ Stay & Play® Wireless Fence for Stubborn Dogs, <https://store.petsafe.net/stay-play-wireless-fence-for-stubborn-dogs>.

²² In-Ground Fence™, <https://store.petsafe.net/in-ground-fence>.

²³ Classic In-Ground Fence™, <https://store.petsafe.net/classic-in-ground-fence-system>; *see also* Classic In-Ground Fence™, 2 Dog, <https://store.petsafe.net/classic-in-ground-fence-system-2-dog>; In-Ground Cat Fence™, <https://store.petsafe.net/in-ground-cat-fence>.

- “All the basics you need to keep your dog *safe and secure*” (emphasis added)²⁴
- “keep them *safe* inside their yard” (emphasis added)²⁵

38. The packaging for the Shock Collar Products further bolsters the claims made on PetSafe’s website and other retailer websites. Packaging for all Shock Collar Products features the products’ brand name and slogan, which, as noted above, explicitly conveys to consumers that defendant’s products are safe for their pets.²⁶

39. The packaging for certain Shock Collar Products features additional false and misleading claims that reinforce defendant’s claims about product safety. For example, the packaging for the Pawz Away® Outdoor Pet Barrier claims that the product “[s]afely keeps pets away from flower beds, gardens, pools and more.” In addition, the packaging for the PetSafe® In-Ground Fence™ expressly warrants that the Shock Collar Product are “safe,” prominently displaying the following statement on the products’ packaging:

“Will it hurt my pet?”

NO. The correction is delivered when a pet crosses the established boundary zone. It is designed to get your pet’s attention, but not punish him... ***This method has been proven safe and will not harm your pet.*** (emphasis added).

Additional deceptive claims regarding the products’ qualities appear on the product packaging for the In-Ground Fence™, including:

²⁴ Basic In-Ground Fence™ System, <https://store.petsafe.net/basic-in-ground-fence-system>.

²⁵ Stubborn Dog In-Ground Fence™, <https://store.petsafe.net/stubborn-dog-in-ground-fence>.

²⁶ PetSafe’s old slogan, “Safe Pets, Happy Owners,” appears on the product packaging.

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- 1 • “[The electric] sensation is similar to walking across
- 2 carpeting, then touching a door knob. ***This method***
- 3 ***has been proven safe and will not harm your pet.***”
- 4 (emphasis added)
- 5 • “[the pet] receives a ***safe***, but startling static
- 6 correction” (emphasis added)
- 7 • “While ***harmless***, the correction will persuade [the
- 8 pet] to stay in the containment area you have
- 9 established” (emphasis added)

10 40. Product manuals posted on PetSafe’s website do not provide any
 11 clarifying information. Rather, these materials make additional misleading claims
 12 regarding the safety of PetSafe electric containment fences, including:

- 13 • “[the product] ***has been proven safe and effective***”
- 14 (emphasis added)
- 15 • “the collar will issue a ***safe*** static correction [that] will
- 16 be delivered through the contact points...” (emphasis
- 17 added)

18 41. As demonstrated below, Radio Systems’ pervasive advertisements
 19 representing that its Shock Collar Products are “safe” and “harmless” are materially
 20 deceptive, false, and misleading in that they fail to disclose the grave physical and
 21 psychological harm shock collars pose to consumers’ pets. The statements about
 22 safety omitted from the packaging of the Shock Collar Products include, but are not
 23 limited to the following:

- 24 a. The physical pain and suffering caused by being electrocuted by Shock
- 25 Collar Products;
- 26 b. The dangers of severe physical harm and injury associated with the use
- 27 of Shock Collar Products, including the risk of skin burns,
- 28 inflammation, skin ruptures, infections, and other severe physical
- damage;
- c. Psychological suffering and irreversible damage, including stress,

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anxiety, and depression associated with the use of Shock Collar Products;

d. The danger of increased aggression and the emergence of behavioral problems associated with the use of Shock Collar Products;

C. Published Studies Confirm the Dangers and Risks of Shock Collar Products.

42. Contrary to Defendant’s false and misleading marketing claims, peer-reviewed publications and scientific research demonstrate that the use of electric shock collars causes animals physical pain and harm, and carries with it significant risk of injury, ranging from burns, skin ruptures, inflammation, bruising, and skin infections to cardiac fibrillation, inflamed thyroid, and irregular heart rate and salivation. Several peer reviewed studies noted below have concluded that shock collars cause undue anxiety, confusion, and depression caused by repeated shocks, which can lead to changes in a dog’s respiration rate and gastrointestinal disorders.

43. An overwhelming body of scientific research confirms that being trained through electric shock is a stressful and a painful experience for dogs. For example, a 2004 study published in the Applied Animal Behaviors Science by M.B.H. Schilder and J.A.M. van der Borg (“Schilder and Borg 2004 Study”) focused on finding occurrences of pain, fear, avoidance, pain-induced aggression, and submission as well as the long-term impact of shocks.²⁷ Unlike many prior studies, the Schilder and Borg Study observed the effects of electric collars on dogs in real life training scenarios, rather than laboratory simulations.

44. The study concluded that electric “*shocks elicit fear and pain responses*” [that] “*are not just a nuisance, but are really painful*” and “*may*

²⁷ M. Schilder, & J. van der Borg (2004). Training dogs with help of the shock collar: short and long term behavioural effects, Applied Animal Behaviour Science, 85 (3-4), 319-334 DOI: 10.1016/j.applanim.2003.10.004.

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1 *sometimes be perceived as a traumatic event by a dog.*²⁸ The same study concluded
 2 that training with shock collars caused long-lasting stress effects where dogs have
 3 learned “that the presence of their owner (or his commands) announces reception of
 4 shocks, even outside of the normal training context.”²⁹

5 45. Another study conducted in 2006 investigated the levels of stress on
 6 dogs caused by the use of electric shock collars.³⁰ The study concluded that dogs
 7 who received an electric shock after disobeying a recall command exhibited a 160%
 8 increase in relative cortisol values, an established measure of stress in dogs.
 9 Additionally, dogs who received electric shocks arbitrarily, i.e., unpredictably and
 10 out of context, exhibited up to a 327% increase in relative cortisol values.³¹ Thus,
 11 “poor timing in the application of high-level electric pulses [which is frequently
 12 associated with misuse of handheld remote shock collars] means there is a high risk
 13 that dogs will show severe and persistent stress symptoms.”³²

14 46. The use of shock collars has time and again been demonstrated to cause
 15 psychological stress, including severe anxiety and depression. For example, two
 16 wide-ranging animal studies commissioned by the United Kingdom in 2013³³

18 ²⁸ *Id.* at 331, 333.

19 ²⁹ *Id.* at 319.

20 ³⁰ E. Schalke, J. Stichnoth, S. Ott, & R. Jones-Baade, (2007). Clinical signs caused
 21 by the use of electric training collars on dogs in everyday life situations,
 22 Applied Animal Behaviour Science, 105 (4), 369-380 DOI:
 23 10.1016/j.applanim.2006.11.002.

24 ³¹ *Id.* at 379.

25 ³² *Id.*

26 ³³ Defra AW1402 (2013) Studies to assess the effect of pet training aids, specifically
 27 remote static pulse systems, on the welfare of domestic dogs. University of
 28 Lincoln / University of Bristol / Food and Environment Research Agency.
 Final report prepared by Prof. J. Cooper, Dr. H. Wright, Prof. D. Mills
 (University of Lincoln); Dr. R. Casey, Dr. E. Blackwell (University of
 Bristol); K. van Driel (Food and Environment Research Agency); Dr. J. Lines
 (Silsoe Livestock System).

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1 examined the impact of the use of remotely controlled shock collars on the welfare
 2 of dogs. Notably, these studies analyzed the effects of shock collars in the pet
 3 training context, and the shocks were administered using collars from popular e-
 4 collar manufacturers, including PetSafe, Dogtra, and SportDog.³⁴ Consistent with
 5 prior research, these studies confirmed that the use of electric shocks lead to
 6 increased levels of salivary cortisol and “even with best practice as advocated by
 7 collar manufacturers and trainers, there were differences in the behaviour of dogs
 8 that are consistent with more negative emotional states (including anxiety and
 9 aversion) in some dogs trained with e-collars.”³⁵

10 47. A robust body of scientific literature further shows that the use of
 11 electric shock collars is directly linked to increased shock-induced aggression. As
 12 discovered in a 2000 analysis by Richard Polsky,³⁶ dogs who were trained with the
 13 use of shock collars had a higher prevalence of attacking people while an electric
 14 fence system was activated.³⁷ The study also found that shock-induced aggression
 15 was typically intense and vicious with repeated bites, and that aggression induced by
 16 shock tends to be without the warning signals that dogs usually give when prompted
 17 to aggression by external events.³⁸

18 48. Radio Systems fails to disclose any of these dangers associated with
 19 Shock Collar Products.

20
 21 **D. Because of the Dangers Associated with Shock Collars, Animal**
 22 **Advocacy Groups Uniformly Condemn Their Use.**

23 ³⁴ *Id.* at 6-7.

24 ³⁵ *Id.* at 16.

25 ³⁶ R. Polsky (2000), Can Aggression in Dogs Be Elicited Through the Use of
 26 Electronic Pet Containment Systems?, *Journal of Applied Animal Welfare*
 27 *Science*, 3(4), 345-357, [http://www.dogexpert.com/wp-](http://www.dogexpert.com/wp-content/uploads/2012/05/Electronic-fences.pdf)
 28 [content/uploads/2012/05/Electronic-fences.pdf](http://www.dogexpert.com/wp-content/uploads/2012/05/Electronic-fences.pdf).

³⁷ *Id.* at 353-355.

³⁸ *Id.*

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49. In an attempt to assuage consumers' concerns over the welfare of their pets, Defendant falsely promotes the use of Shock Collar Products as "safe" and "harmless." To give credence to these false claims, Defendant points to purported recommendations by dog trainers and other professionals by claiming that Shock Collar Products are "recommended by veterinarians, professional dog trainers, behaviorists, and other pet experts."

50. In reality, however, industry professionals as well as animal advocacy groups and dog experts uniformly condemn the use of shock collars for any purpose due to the risks associated with their use. For example, PETA strongly opposes any forms of electric shock collars and has called for the ban of these devices. On its website,³⁹ PETA explains:

"Electronic fences and shock collars electrically shock dogs when they cross an invisible line, bark, or don't respond to a command. ***These cruel devices physically hurt animals and can cause severe psychological problems as well. Companion animals should not have to live in fear of receiving electric shocks for normal behavior, such as barking.*** Positive training methods, in which dogs are rewarded for what they do right, are kinder and more effective." (emphasis added)

51. The Humane Society of The United States likewise publicly condemned the use of shock collars, stating on its website:⁴⁰

"[C]ollars that rely on physical discomfort or even pain to teach a dog what not to do, are not a humane option. While they may suppress the unwanted behavior, they don't teach the dog what the proper behavior is

³⁹ *Do you approve of electric fences and shock collars?*, PETA, <https://www.peta.org/about-peta/faq/do-you-approve-of-electric-fences-and-shock-collars/> (last accessed on Sept. 15, 2022).

⁴⁰ *Dog collars*, THE HUMANE SOCIETY OF THE UNITED STATES, <https://www.humanesociety.org/resources/dog-collars> (last accessed on Sept. 21, 2022).

1 and *they can create anxiety and fear, which can lead to aggression*.⁴¹
 2 (emphasis added)

3 52. Concerns over the use of shock collars led numerous countries,
 4 including Wales, Scotland, Denmark, Switzerland, Germany, Sweden, Finland,
 5 Austria, and certain parts of Australia and New Zealand, to ban the use of shock
 6 collars in recent years. Many of these countries' legislators have published harsh, but
 7 truthful words regarding the use of shock collars.

8 53. For example, in connection with instituting a "strict guidance" on the
 9 use of shock collars in Scotland in January 2018, Scotland's Environment Secretary
 10 Roseanna Cunningham warned that "Anyone found causing pain to dogs through the
 11 use of collars or other devices can be prosecuted as they deserve."⁴² In the
 12 Netherlands, the ban on shock collars was announced in or about April 2019, and its

16 ⁴¹ Dozens of other domestic and international institutions for the protection of
 17 animals have publicly spoken against the use of shock collars as inconsistent
 18 with animal welfare, including, among others, the following institutions: The
 19 Society for the Prevention of Cruelty to Animals ("ASPCA") ("[h]umane
 20 training does not inflict unnecessary distress or discomfort on the pet.");
 21 British Small Animal Veterinary Association (2019) ("Shocks and other
 22 aversive stimuli received during training may not only be acutely stressful,
 23 painful and frightening for the animals, but may also produce long term
 24 adverse effects on behavioural and emotional responses."); New Zealand
 25 Veterinary Association (2018) ("E-collars have the potential to harm both the
 26 physical and mental health of dogs. They are an aversive training method that
 27 have in some studies been associated with significant negative animal welfare
 28 outcomes."); European Society of Veterinary Clinical Ethology (2017) ("E-
 collar training is associated with numerous well documented risks concerning
 dog health, behavior, and welfare. Any existing behaviour problem is likely to
 deteriorate or an additional problem is likely to emerge, when such a collar is
 used by an unqualified trainer [.]").

⁴² *Scotland to ban electric shock dog collars*, BBC, Jan. 24, 2018,
<https://www.bbc.com/news/uk-scotland-scotland-politics-42807728>.

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use is subject to €20,000.00 fine and three-year prison sentence.⁴³

E. Radio Systems Knows That Shock Collar Products Are Dangerous and Harmful.

54. Radio Systems has known for many years that the Shock Collar Products posed an unreasonable risk of harm to plaintiff's and the proposed Class members' household pets. During all relevant times, hundreds of consumers have complained about the safety of these products, by posting complaints and product reviews after their household pets got injured as a result of being electrocuted by the Shock Collar Products. The following complaints—which represent only a small sample of those submitted on Defendant's websites—evidence the grave dangers that Shock Collar Products pose to household pets, of which Defendant is, and has been, aware, yet failed to inform consumers:

- On July 10, 2019, a dog owner posted the following review and a picture on Amazon website relating to PetSafe Basic Bark Collar: "DO NOT BUY THIS!!!!!! ***Literally it burned a hole in my dogs neck!*** Absolutely horrible product!!! Don't buy!!!"⁴⁴ (emphasis added)

⁴³ *Netherlands to ban shock collars for dogs, limit breeding of 'designer cats'*, NL TIMES, Apr. 4, 2019, <https://nltimes.nl/2019/04/04/netherlands-ban-shock-collars-dogs-limit-breeding-designer-cats>.

⁴⁴ Amazon Customer Review, AMAZON, https://www.amazon.com/gp/customer-reviews/RDH9D3BFE140G/ref=cm_cr_arp_d_rvw_ttl?ie=UTF8&ASIN=B0002C7FHC (last visited Sept. 27, 2022).



- Another dog owner posted a review and a picture on Amazon relating to PetSafe Basic Bark Collar on May 9, 2017, stating: “I am not sure what happened but *this collar physically harmed my dog. I believe the shocks burned her to the point where she is missing hair and was bleeding. The hair around the area is also brown as though it had been burned.* I feel so bad for my dog. I do not recommend buying this.”⁴⁵ (emphasis added)



- A dog owner who purchased PetSafe Wireless containment system left the following review on Amazon on August 16, 2018: “Went through the process to train my GSD with the containment system. When I walked outside the boundaries to talk to some people walking near my property my dog couldn’t resist and attempted to leave the yard. *When she stayed too far*

⁴⁵ Amazon Customer Review, AMAZON, https://www.amazon.com/gp/customer-reviews/R1YFCURFVHFE3W/ref=cm_cr_ar_p_d_rvw_ttl?ie=UTF8&ASIN=B0002C7FHC (last visited Sept. 23, 2022).

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from the boundary the shock kicked in and my dog started crying in pain trying to escape the shocking. Afterwards, I couldn't get her to leave the porch and she just wanted to stay inside the house. She was afraid to go outside. I've used shock collars in training her previously but this collar pretty much shocked her severely and continuously.”⁴⁶ (emphasis added)

- A dog owner who purchased Radio Systems’ SportDog® bark collar left the following review on Amazon on July 6, 2022: “I carefully read the instructions and even tested it according to the directions. I placed this on my 60lb lab and **within an hour of her having it on, (not too tight!) my dog yelped and after looking her over, realized the collar shocked her and burnt her.** I immediately took it off and will NEVER put it back on her! I saw on previous reviews that if you leave this on for long periods of time it could burn but evidently an hour is too long.”⁴⁷ (emphasis added)
- Another dog owner reported on Chewy’s website on March 16, 2022 regarding PetSafe bark collar: “This product **shocked my dog so hard, she looked like she was struck by a car.** She only barked 2x, and flew back 3 ft. yelping. I felt awful. It needs more warnings and less shock or more gradual increases.”⁴⁸ (emphasis added)
- Another dog owner reported on June 12, 2020: “From the description I thought this would not actually shock my dog. Their description is: ‘slowly increasing in static correction levels until he stops barking’ but it did shock her and it must have been severe because she screamed. So, I dragged the collar across the floor as it recommended to see the shock value and I can tell you it was a lot. I have a multi-Pooh and she’s 12 pounds and I have the small collar. Now she is very fearful and runs away from me when I pick up the collar. I will

⁴⁶ Amazon Customer Review, AMAZON, https://www.amazon.com/gp/customer-reviews/R1SPOK2PI5HV7B/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B001ZWZ8O.

⁴⁷ Amazon Customer Review, AMAZON, https://www.amazon.com/gp/customer-reviews/R999P0CQ274V8/ref=cm_cr_arp_d_rvw_ttl?ie=UTF8&ASIN=B07T4LGXC6.

⁴⁸ Chewy Customer Review, CHEWY, <https://www.chewy.com/petsafe-static-basic-waterproof-dog/dp/48564>.

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find a better way to keep her from barking and change her behavior. ***This seems cruel. Maybe you should call it what it is: a shock collar.***⁴⁹ (emphasis added)

- Another dog owner who purchased the SportDog® bark collar wrote on January 21, 2020 : “At the lowest setting, it shocked my dog so much he wouldn't stop screaming. But, this only further triggered the collar. So there was a continuous loop of screaming and shocking. It only ended because I got the collar off. ***Honestly the worst thing that happened to my dog. Even if you're heartless, how is the sound of screaming better than barking.*** DON'T BUY!⁵⁰ (emphasis added)

55. Countless other consumer reviews revealing the dangerous nature of the Shock Collar Products were posted on Defendant’s websites and on the websites of other national retailers, such as Amazon and Chewy, clearly putting Defendant on notice of the physical and the psychological harm the Shock Collar Products cause to Plaintiff’s and Class members’ household pets as well as the lack of transparency regarding the true nature of the Shock Collar Products.

56. Indeed, many industry experts publicly voiced their concerns over the deceptive nature of Radio Systems’ advertising, marketing, and labelling practices. For example, Dr. Polsky, a renowned animal behavior expert witness, observed that “manufacturers need to acknowledge the risks involved and make consumers aware that the systems are not foolproof and that some dogs could attack a person as a result of having received electric shock.”⁵¹

57. The PPG and the Association for Force Free Pet Professionals made a similar observation:

“[M]arketers like to use neutral euphemisms to disguise the harsh reality of shock collars. They are often called “e-collars,” “remote

⁴⁹ Chewy Customer Review, CHEWY, <https://www.chewy.com/petsafe-static-basic-waterproof-dog/dp/48564>.

⁵⁰ Chewy Customer Review, CHEWY, <https://www.chewy.com/sportdog-nobark-sbc-r-waterproof/dp/158100>.

⁵¹ Polsky, *supra* note 13, at 356.

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collars,” “training collars” and other benign terms. In a similar way, the painful shock delivered to the dog is referred to as a ‘tap,’ a ‘tingle,’ ‘stimulation,’ e-touch’ or anything to ***obscure the fact that an electrical shock is being sent through the skin and nerves of the body.***⁵² " (emphasis added)

58. Additionally, national retailers of Radio Systems’ products have expressed concern over the harmful effects of Shock Collar Products. In 2020, Petco, a well-known, national pet retailer that previously sold Shock Collar Products, banned the sale of these products in its 1,500 retail stores.⁵³ In a statement condemning the use of Shock Collar Products, Petco’s CEO Ron Coughlin stated: “Electricity is fine for your microwave, but not fine for your pets, so we shouldn’t sell these things.”⁵⁴ He also acutely noted that most consumers who purchase Shock Collar Products are just “regular consumers” who may not understand the true harms associated with these products.⁵⁵

59. Despite having knowledge that the Shock Collar Products are inherently dangerous for household pets, Radio Systems nonetheless expressly and impliedly represented that Shock Collar Products were safe and harmless. Unfortunately for unsuspecting consumers, none of the instructions on the Shock Collar Products’ packaging nor in other marketing material informed Plaintiff and the Class that using Shock Collar Products poses a significant risk of serious physical harm and injury. Nowhere does Defendant disclose the truth—that the Shock Collar Products are dangerous products that should not be used on household pets as a method of

⁵² *The Shocking Truth—A PPG Member Educational Resource*, PET PROFESSIONAL GUILD, <http://www.petprofessionalguild.com/resources/Documents/The%20Shocking%20Truth.pdf>.

⁵³ Jen Reeder, *Petco stops selling ‘inhumane’ shock collars and calls on others to join them*, TODAY (Oct. 7, 2020), <https://www.today.com/pets/petco-stops-selling-shock-collars-promotes-stoptheshock-movement-t193573>.

⁵⁴ *Id.*

⁵⁵ *Id.*

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1 training, containing, or punishing a household pet. Instead of properly warning
2 consumers, Defendant continues to falsely represent that the Shock Collar Products
3 are “safe” and “harmless.”

4 60. As a result of Defendant’s omissions and representations, Plaintiff and
5 the Class members purchased an inherently unsafe and dangerous product that is
6 other than as advertised and has caused many Class members, including Plaintiff, to
7 incur costly veterinarian bills and other expenses, including overpaying for the
8 Shock Collar Products, which Plaintiff and the Class would not have bought (or
9 would have paid less for) had they known of their dangerous properties.

10 61. Radio Systems advertised the Shock Collar Products as “safe,”
11 “effective,” and “harmless” and failed to warn consumers that the Shock Collar
12 Products may cause serious and irreversible physical and psychological harm to their
13 pets. Plaintiff and Class members purchased the Shock Collar Products reasonably
14 believing that the products were safe for their intended purpose.

15 62. The danger presented by the Shock Collar Products is a material fact.
16 The defect poses an unreasonable safety risk to consumers’ dogs, and Plaintiff would
17 not have purchased the product had he known that it was dangerous and could cause
18 serious and irreversible physical and psychological harm to his dogs.

19 63. Defendant’s omissions and misrepresentations were a material factor in
20 influencing Plaintiff’s decisions to purchase the Shock Collar Products, and
21 Defendant received, and continues to receive, large profits from its deceptive
22 marketing and sale of the Shock Collar Products.

23 24 **EQUITABLE RELIEF**

25 64. Plaintiff Hernandez has set forth alternate claims for damages under the
26 CLRA and equitable relief (restitution and injunctive relief) under the FAL, UCL,
27 and CLRA. Plaintiff Hernandez and the Class do not have an adequate remedy at
28 law with respect to future harm caused by Radio Systems’ conduct as alleged

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herein.

65. Absent an equitable injunction enjoining Radio Systems' conduct alleged herein, Plaintiff Hernandez, Class members, and the public will be irreparably harmed and denied an effective and complete remedy because they face a real and tangible threat of future harm emanating from Radio Systems' ongoing conduct which cannot be remedied with monetary damages.

66. Plaintiff Hernandez does not know at this juncture whether Plaintiff's CLRA claim will survive through trial, whether the Court will accept a model for legal damages for past harm that Plaintiff will proffer at the appropriate time, or whether the Court will find that any such damages model adequately compensates Plaintiff and the Class for their past losses.

67. Plaintiff Hernandez continues to have use for Radio Systems Products. Yet, he does not and cannot know if Radio Systems' advertising is accurate and truthful. If the Court were to enjoin Radio Systems from making the misrepresentations described herein, Plaintiff Hernandez would want to purchase Radio Systems Products in the future. Without an injunction, Plaintiff Hernandez cannot trust Radio Systems' marketing claims and would not purchase Radio Systems Products.

68. Moreover, damages alone would not prevent Radio Systems from continuing to make false and misleading claims about its products. No amount of money can rectify the harm caused to future purchasers.

CLASS ACTION ALLEGATIONS

69. Plaintiff brings this action individually and on behalf of all others similarly situated pursuant to Rule 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure and seek certification of the following class:

1 All persons who purchased one or more Shock Collar Products in
2 the State of California.⁵⁶

3 70. Within the class there is one subclass for purposes of Plaintiff's claims
4 under the Consumer Legal Remedies Act, defined as follows (the "Subclass"):

5 All persons who purchased one or more Shock Collar Products in
6 the State of California for personal, family or household
7 purposes.

8 71. The Class and Subclass are sufficiently numerous, as they include
9 thousands of persons who have purchased the Shock Collar Products. Thus, joinder
10 of such persons in a single action or bringing all members of the Class before the
11 Court is impracticable for purposes of Rule 23(a)(1) of the Federal Rules of Civil
12 Procedure. The disposition of the Class and Subclass members' claims in this class
13 action will substantially benefit both the parties and the Court.

14 72. The Class and Subclass are readily ascertainable through Defendant's
15 business records. Notice can be provided to Class and Subclass members by
16 publication of notice by the Internet, radio, newspapers, and magazines.

17 73. There are questions of law and fact common to the Class and Subclass
18 for purposes of Federal Rule of Civil Procedure 23(a)(2). Defendant's advertising,
19 marketing, labeling, and promotional practices were supplied uniformly to all
20 members of the Class and Subclass, so that the questions of law and fact are
21 common to all members of the Class and Subclass. All Class and Subclass members
22 were and are similarly affected by having purchased the Shock Collar Products for
23 their intended and foreseeable purpose as promoted, marketed, advertised, packaged,

24
25 ⁵⁶ Specifically excluded from this Class is Defendant; the officers, directors, or
26 employees of Defendant; any entity in which Defendant has a controlling
27 interest; and any affiliate, legal representative, heir or assign of Defendant.
28 Also excluded are any federal, state or local governmental entities, any
judicial officer presiding over this action and the members of his/her
immediate family and judicial staff, and any juror assigned to this action.

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1 and labeled by Defendant as set forth in detail herein, and the relief sought herein is
2 for the benefit of Plaintiff and other members of the Class and Subclass.

3 74. Plaintiff asserts claims that are typical of the claims of the entire Class
4 and Subclass for purposes of Federal Rule of Civil Procedure 23(a)(3). Plaintiff and
5 all Class and Subclass members have been subjected to the same wrongful conduct
6 because they have purchased Shock Collar Products that do not possess the benefits
7 that Defendant represents. Plaintiff and the Class and Subclass have thus all overpaid
8 for Shock Collar Products and/or purchased the Shock Collar Products that they
9 otherwise would not have.

10 75. Plaintiff will fairly and adequately represent and protect the interests of
11 the other Class and Subclass members for purposes of Federal Rule of Civil
12 Procedure 23(a)(4). Plaintiff has no interests antagonistic to those of other Class or
13 Subclass members. Plaintiff is committed to the vigorous prosecution of this action
14 and has retained counsel experienced in litigation of this nature to represent him.
15 Plaintiff anticipates no difficulty in the management of this litigation as a class
16 action.

17 76. Class certification is appropriate under Federal Rule of Civil Procedure
18 23(b)(2) because Defendant has acted on grounds that apply generally to the Class
19 and Subclass, so that final injunctive relief or corresponding declaratory relief is
20 appropriate respecting the Class and Subclass as a whole. Defendant's advertising,
21 marketing, labeling, and promotional practices were supplied uniformly to all
22 members of the Class and Subclass.

23 77. Class certification is appropriate under Federal Rule of Civil Procedure
24 23(b)(3) because common questions of law and fact substantially predominate over
25 any questions that may affect only individual members of the Class and Subclass.
26 Among these common questions of law and fact are:
27
28

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- a. Whether Defendant's Shock Collar Products are unmerchantable because they present a danger and physical hazard when used in accordance with their label instructions;
- b. Whether Defendant knew or should have known the Shock Collar Products cause harm to Class and Subclass members and their dogs;
- c. Whether Defendant knew or should have known that the Shock Collar Products are inherently dangerous and can cause serious injury in the normal course of use;
- d. Whether Defendant has a duty to inform Plaintiff and Class and Subclass members that the Shock Collar Products may cause harm to Class and Subclass members and their dogs;
- e. Whether Defendant's omissions or representations concerning the safety and appropriate uses of the Shock Collar Products is likely to deceive;
- f. Whether Defendant's alleged conduct violates public policy;
- g. Whether the alleged conduct constitutes violations of the laws asserted herein;
- h. Whether Defendant engages in false or deceptive advertising;
- i. Whether Plaintiff and Class and Subclass members have sustained monetary loss and the proper measure of that loss;
- j. Whether Plaintiff and Class and Subclass members are entitled to restitution, disgorgement of Defendant's profits, declaratory or injunctive relief; and
- k. Whether Plaintiff and Class and Subclass members are entitled to an award of compensatory damages.

78. Proceeding as a class action provides substantial benefits to both the parties and the Court because this is the most efficient method for the fair and

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1 efficient adjudication of the controversy. Class and Subclass members have suffered
 2 and will suffer irreparable harm and damages as a result of Defendant's wrongful
 3 conduct.

4 79. Because of the nature of the individual Class or Subclass members'
 5 claims, few, if any, could or would otherwise afford to seek legal redress against
 6 Defendant for the wrongs complained of herein, and a representative class action is
 7 therefore appropriate, the superior method of proceeding, and essential to the
 8 interests of justice insofar as the resolution of Class or Subclass members' claims is
 9 concerned. Absent a representative class action, Class and Subclass members would
 10 continue to suffer losses for which they would have no remedy, and Defendant
 11 would unjustly retain the proceeds of its ill-gotten gains.

12 80. Even if separate actions could be brought by individual members, the
 13 resulting multiplicity of lawsuits would cause undue hardship, burden and expense
 14 for the Court and the litigants, as well as create a risk of inconsistent rulings which
 15 might be dispositive of the interests of the other Class or Subclass members who are
 16 not parties to the adjudications and/or may substantially impede their ability to
 17 protect their interests.

18 CLAIMS FOR RELIEF

19 FIRST CLAIM FOR RELIEF

20 Violation of the Consumers Legal Remedies Act

21 Cal. Civ. Code § 1750, *et seq.*

22 *On Behalf of Plaintiff Hernandez and the Subclass*

23 81. Plaintiff re-alleges and incorporate by reference the allegations
 24 contained in the paragraphs above as if fully set forth herein.

25 82. Plaintiff brings this claim individually and on behalf of the Subclass
 26 against Defendant.

27 83. This claim is brought under the Consumers Legal Remedies Act,
 28 California Civil Code § 1750, *et seq.* ("CLRA"). Plaintiff is a "consumer" as defined

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1 by California Civil Code § 1761(d), who purchased one or more Shock Collar
 2 Products. The Shock Collar Products are “goods” within the meaning of the CLRA.

3 84. Defendant is a “person” under Cal. Civ. Code § 1761(c).

4 85. The CLRA prohibits deceptive practices in connection with the conduct
 5 of a business that provides goods, property, or services primarily for personal,
 6 family, or household purposes.

7 86. Defendant’s policies, acts, and practices were designed to, and did,
 8 result in the purchase and use of the products primarily for personal, family, or
 9 household purposes, and violated and continue to violate the following sections of
 10 the CLRA:

- 11 a. § 1770(a)(5): representing that goods have characteristics, uses, or
 12 benefits which they do not have;
- 13 b. § 1770(a)(7): representing that goods are of a particular standard,
 14 quality, or grade if they are of another;
- 15 c. § 1770(a)(9): advertising goods with intent not to sell them as
 16 advertised; and
- 17 d. § 1770(a)(16): representing the subject of a transaction has been
 18 supplied in accordance with a previous representation when it has
 19 not.

20 87. Defendant violated and continues to violate the CLRA by making
 21 express and implied representations and by failing to disclose material facts as
 22 described above when they knew, or should have known, that the purchase and use
 23 of the Shock Collar Products cause harm to Class members’ household pets.

24 88. Defendant further violated the CLRA by representing on the product
 25 packaging and other marketing materials that the Shock Collar Products are “safe
 26 and effective” and are “harmless” for household pets.

27 89. Plaintiff Hernandez, individually and on behalf of the Class, demands
 28

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judgment against Radio Systems under the CLRA for declaratory and injunctive relief. Pursuant to § 1782(d) of the CLRA, Plaintiff and the Class seek a court order enjoining Defendant's above-described wrongful acts and practices and for restitution and disgorgement. Any purely legal remedy is inadequate because no amount of monetary damages alone could fully compensate Plaintiff and the Subclass for the severe harm to household pets likely to be caused by Defendant's Shock Collar Products, including the risk of severe physical pain and injuries, including skin ruptures and inflammations, infections, skin burns and bruising, as well as undue anxiety, confusion, and depression, which can lead to gastrointestinal disorders and irreversible changes in the pets' heart rate and respiration. Without adequate disclosures of these extraordinary risks to Plaintiff and the Class's household pets, continued marketing and sale of Defendant's Shock Collar Products are nearly certain to cause severe harm to Plaintiff and the Class's household pets.

90. Pursuant to Cal. Civ. Code § 1782(a), Plaintiff Hernandez served Radio Systems with notice of its alleged violations of the CLRA by certified mail return receipt requested on October 21, 2022. Because Radio Systems failed to remedy its unlawful conduct within the requisite time period, Plaintiff Hernandez and the Class seek compensatory damages and relief to which they are entitled.

91. Pursuant to § 1780(d) of the CLRA, attached as Exhibit B is the affidavit providing that this action has been commenced in the proper forum.

SECOND CLAIM FOR RELIEF
Violation of the California False Advertising Law
Cal. Bus. & Prof. Code §§ 17500, et seq.
On Behalf of Plaintiff Hernandez and the Class

92. Plaintiff re-alleges and incorporate by reference the allegations contained in the paragraphs above as if fully set forth herein.

93. Plaintiff brings this claim individually and on behalf of the Class against Defendant.

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1 94. The California False Advertising Law (“FAL”) prohibits any statement
2 in connection with the sale of goods “which is untrue or misleading.”

3 95. Plaintiff, individually and on behalf of the Class, has standing to pursue
4 this claim because he suffered injury in fact and has lost money or property as a
5 result of Defendant’s actions, as described above.

6 96. Defendant’s conduct with respect to the labeling, advertising, and sale
7 of Shock Collar Products that such products are “safe and effective” and “harmless”
8 are false and deceptive statements in light of the overwhelming evidence of the
9 unreasonable dangers that Shock Collar Products pose to Plaintiff and the Class
10 members’ pets.

11 97. Defendant knew, or reasonably should have known, that the challenged
12 safety and effectiveness claims were untrue or misleading.

13 98. Defendant’s advertising and marketing representations were false,
14 misleading, and deceptive as set forth in detail above. Defendant also concealed
15 material information from consumers. Defendant’s misrepresentations and omissions
16 alleged herein deceive or have the tendency to deceive the general public regarding
17 the Shock Collar Products fitness for ordinary consumer use.

18 99. Defendant’s misrepresentations and omissions alleged herein were the
19 type of misrepresentations that are material, *i.e.*, a reasonable person would attach
20 importance to them and would be induced to act on the information in making
21 purchase decisions.

22 100. Defendant’s misrepresentations and omissions alleged herein are
23 objectively material to a reasonable consumer, and therefore reliance upon such
24 misrepresentations may be presumed as a matter of law.

25 101. At the time Defendant made the misrepresentations and omissions
26 alleged herein, Defendant knew or should have known that they were untrue or
27 misleading and acted in violation of the FAL.
28

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102. Unless restrained by this Court, Defendant will continue to engage in untrue and misleading advertising in violation of California law.

103. As a result, Plaintiff and each member of the Class has been injured, has lost money or property, and is entitled to relief. Plaintiff and the Class seeks restitution, injunctive relief, and all other relief permitted under the FAL.

THIRD CLAIM FOR RELIEF
Violation of the California Unfair Competition Law
Cal. Bus. & Prof. Code §§ 17200, *et seq.*
On Behalf of Plaintiff Hernandez and the Class

104. Plaintiff re-alleges and incorporates by reference the allegations contained in the paragraphs above as if fully set forth herein.

105. Plaintiff brings this claim individually and on behalf of the Class against Defendant.

106. Plaintiff has standing to pursue this claim because he has suffered injury in fact and has lost money or property as a result of Defendant's actions as described above. All Class Members overpaid for the Shock Collar Products due to Defendant's misrepresentations or concealment that such products are not "safe and effective" and "harmless."

107. The California Unfair Competition Law ("UCL") prohibits any "unlawful, unfair or fraudulent business act or practice."

108. Defendant engaged in business acts and practices deemed "unlawful" under the UCL, because Defendant falsely advertised the Shock Collar Products as "safe and effective" and "harmless" to household pets, when in fact the Shock Collar Products damage Plaintiff and the Class and are dangerous to their pets, in violation of the False Advertising Law, Cal. Bus. & Prof. Code §§ 17500 *et seq.*; the Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750 *et seq.*; The Federal Food, Drug, and Cosmetic Act, 28 U.S.C. §§ 301 *et seq.* and 21 C.F.R. §§ 101 *et seq.*; and the California Sherman Food, Drug, and Cosmetic Law, Cal. Health & Safety Code

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1 §§ 109875, *et seq.*

2 109. Defendant's actions as alleged herein constitute a "fraudulent" practice
3 because, by representing that the Shock Collar Products are "safe and effective" and
4 "harmless" to household pets, Defendant's conduct was likely to deceive consumers.
5 Defendant's failure to disclose these facts constitutes a material omission in
6 violation of the UCL.

7 110. Defendant's actions as alleged herein constitute an "unfair" practice
8 because they offend established public policy and are immoral, unethical,
9 oppressive, unscrupulous, and substantially injurious to Radio Systems' customers.
10 The harm caused by Defendant's wrongful conduct outweighs any utility of such
11 conduct and has caused, and will continue to cause, substantial injury to Plaintiff and
12 the Class (and their household pets). Defendant could and should have chosen one of
13 many reasonably available alternatives, including disclosing that the Shock Collar
14 Products are harmful to household pets, eliminating the harm caused by the Shock
15 Collar Products, or removing the Shock Collar Products from the market.

16 111. Additionally, Defendant's conduct was "unfair" because it violated
17 public policy as declared by specific constitutional, statutory or regulatory
18 provisions, including the False Advertising Law, the Federal Food, Drug, and
19 Cosmetic Act, and the California Sherman Food, Drug, and Cosmetic Law.

20 112. Had Plaintiff and other Class members known of the dangerous
21 properties of the Shock Collar Products, they would not have purchased the Shock
22 Collar Products, would have paid less for them, or would have discontinued their
23 use. Plaintiff and Class members have a property interest in their household pets.

24 113. Plaintiff, individually and on behalf of the Class, seeks an injunction
25 enjoining Defendant from engaging in the unlawful conduct alleged in this claim and
26 requiring Defendant to fully disclose the risks associated with the use of Shock
27 Collar Products, to discontinue their sale with the deceptive and misleading claims,
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1 and other appropriate equitable relief, including but not limited to improving its
 2 safety and effectiveness disclosures. Any purely legal remedy is inadequate because
 3 no amount of monetary damages alone could fully compensate Plaintiff and the
 4 Class for the severe harm to household pets likely to be caused by Defendant's
 5 Shock Collar Products, including the risk of severe physical pain and injuries,
 6 including skin ruptures and inflammations, infections, skin burns and bruising, as
 7 well as undue anxiety, confusion, and depression, which can lead to gastrointestinal
 8 disorders and irreversible changes in the pets' heart rate and respiration. Without
 9 adequate disclosures of these extraordinary risks to Plaintiff and the Class's
 10 household pets, continued marketing and sale of Defendant's Shock Collar Products
 11 are nearly certain to cause severe harm to Plaintiff and the Class's household pets.

12 114. Plaintiff and the Class also seek restitution of all money and property
 13 lost as a result of Defendant's acts in violation of the UCL.

14 PRAYER FOR RELIEF

15 115. Wherefore, Plaintiff, on behalf of himself, all others similarly situated,
 16 and the general public, prays for judgment against Defendant as to each and every
 17 cause of action, and the following remedies:

18 A. An Order certifying this as a class action, appointing Plaintiff and
 19 their counsel to represent the class, and requiring Defendant to pay the costs of class
 20 notice;

21 B. An Order enjoining Defendant from labeling, advertising, or
 22 packaging the Shock Collar Products identified herein as "safe and effective" and
 23 "harmless" as alleged herein;

24 C. An Order compelling Defendant to conduct a corrective
 25 advertising campaign to inform the public that its Shock Collar Products were
 26 deceptively marketed;
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 28

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1 D. An Order requiring Defendant to pay restitution to restore funds
2 acquired by means of any act or practice declared by this Court to be an unlawful,
3 unfair, or fraudulent business act or practice, untrue or misleading advertising, or a
4 violation of the UCL, FAL, or CLRA, plus pre- and post-judgment thereon;

5 E. A Judgment awarding Plaintiff and the Class compensatory
6 damages in an amount to be proven at trial;

7 F. Pre- and post-judgment interest;

8 G. Costs, expenses, and reasonable attorneys' fees; and

9 H. Any other and further relief the Court deems necessary, just, or
10 proper.

11 **JURY DEMAND**

12 Plaintiff hereby demands a trial by jury on all issues so triable.
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1 Dated: March 20, 2023

SCHUBERT JONCKHEER & KOLBE LLP

2 /s/ Amber L. Schubert

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4 ROBERT C. SCHUBERT (S.B.N. 62684)

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16 *Counsel for Plaintiff Hernandez*

EXHIBIT A

	Uses "PetSafe" name and "Safe Pets, Happy People" or "Safe Pets, Happy Owners" slogan	Highlights PetSafe's dedication to safety (e.g. "Trust PetSafe to keep your pet healthy, safe, and happy.")	Obscures the harmful sensation produced by the products (e.g. "safe, static correction")	Makes general representations about product safety (e.g. "[pets] can enjoy safely playing off-leash")
Wireless Fences				
Stay & Play® Wireless Fence with Replaceable Battery Collar	✓	✓		
Stay & Play® Wireless Fence for Stubborn Dogs	✓	✓		✓
Stay & Play® Compact Wireless Fence	✓	✓		✓
Wireless Pet Containment System™	✓	✓		
Pet Proofing				
Pawz Away® Mini Pet Barrier	✓	✓	✓	
Pawz Away® Indoor Pet Barrier	✓	✓	✓	
Pawz Away® Outdoor Pet Barrier	✓	✓	✓	
Pawz Away® Threshold Barrier	✓	✓	✓	
Indoor Radio Fence®	✓	✓	✓	
ScatMat® Indoor Pet Training Mats	✓	✓	✓	
In-Ground Fence				
In-Ground Fence™	✓	✓		✓
Stubborn Dog In-Ground Fence™	✓	✓	✓	✓
Elite Little Dog In-Ground Fence™	✓	✓		
In-Ground Cat Fence™	✓	✓		✓
YardMax® Rechargeable In-Ground Fence™	✓	✓	✓	
Basic In-Ground Fence™ System	✓	✓		✓
Rechargeable In-Ground Fence™ System	✓	✓	✓	✓
YardMax® Cordless In-Ground Fence™	✓	✓	✓	
Classic In-Ground Fence™	✓	✓	✓	✓
Classic In-Ground Fence™, 2 Dog	✓	✓	✓	✓
Bark Collars				
Rechargeable Bark Control Collar	✓	✓		
Lite Rechargeable Bark Collar	✓	✓		
Bark Collar	✓	✓	✓	
Basic Bark Control Collar	✓	✓		