

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SHANNON FREMGEN, MARY  
CHRISTOPHERSON-JUVE, DENISE  
DELEON, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

AMAZON.COM, INC.,

Defendant.

No. 1:21-cv-351

**CLASS ACTION COMPLAINT**

**DEMAND FOR JURY TRIAL**

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Plaintiffs allege the following upon personal knowledge as to themselves and their own acts, and as to all other matters upon information and belief, based upon the investigation made by and through their attorneys.

## I. INTRODUCTION

1. Defendant Amazon.com, Inc. (“Amazon”) operates the Amazon.com retail platform, which is the largest retail eBooks seller in the United States. It sells over half of all books purchased at retail in the United States.<sup>1</sup> Almost 90% of all eBooks are sold through its online retail platform.<sup>2</sup>

2. Defendant’s Co-conspirators Hachette Book Group (“Hachette”); HarperCollins Publishers L.L.C. (“HarperCollins”); Macmillan Publishing Group, LLC (“Macmillan”); Penguin Random House LLC (“Penguin”); Simon & Schuster, Inc.; and Simon & Schuster Digital Sales, Inc. (collectively “Simon & Schuster”) are the five largest publishers in the United States, otherwise known collectively as the “Big Five.” The Big Five produce “trade books,” a term of art referring to “general interest fiction and non-fiction books,” as “distinguished from ‘non-trade’ books such as academic textbooks, reference materials, and

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<sup>1</sup> House Judiciary Committee, Investigation of Competition in Digital Markets, Oct. 5, 2020 at 295, [https://judiciary.house.gov/uploadedfiles/investigation\\_of\\_competition\\_in\\_digital\\_markets\\_majority\\_staff\\_report\\_and\\_recommendations.pdf](https://judiciary.house.gov/uploadedfiles/investigation_of_competition_in_digital_markets_majority_staff_report_and_recommendations.pdf) (“House Report”).

<sup>2</sup> Matt Day and Jackie Gu, *The Enormous Numbers Behind Amazon’s Market Reach*, Bloomberg (Mar. 27, 2019), <https://www.bloomberg.com/graphics/2019-amazon-reach-across-markets/> (estimating that Amazon controls 88.9% of the eBooks market).

other texts.”<sup>3</sup> Collectively, the Big Five’s books account for about 80% of the trade books sold in the United States.<sup>4</sup>

3. Plaintiffs are consumers and direct purchaser plaintiffs from several states who frequently shop for electronic books (“eBooks”) published by the Big Five. The Big Five typically sell their eBooks to consumers through booksellers’ online retail platforms, like Amazon, Barnes & Noble, Kobo, and Apple Books. Co-conspirator HarpersCollins also sells eBooks to consumers through its own website. When selling eBooks through an online retail platform, the Big Five typically rely on the agency model.<sup>5</sup> Under that model, the sales transaction occurs directly between the publisher and the retail consumer, while the eBook retailer serves merely as the publisher’s sales agent in the transaction and takes a commission on every book sold.<sup>6</sup> Plaintiffs purchased one or more eBooks directly from the Big Five through a retail platform other than Amazon.com.

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<sup>3</sup> *United States v. Apple Inc.*, 952 F. Supp. 2d 638, 648 n.4 (S.D.N.Y. 2013).

<sup>4</sup> Constance Grady, *Milo Yiannopoulos’s book deal with Simon & Schuster, explained*, Vox (Jan. 3, 2017), <https://www.vox.com/culture/2017/1/3/14119080/milo-yiannopoulos-book-deal-simon-schuster-dangerous-boycott>.

<sup>5</sup> Constance Grady, *The 2010s were supposed to bring the ebook revolution*, Vox (Dec. 23, 2019), <https://www.vox.com/culture/2019/12/23/20991659/ebook-amazon-kindle-ereader-department-of-justice-publishing-lawsuit-apple-ipad>; *For the Big Five, Agency Now Holds Sway Across the Board*, Author’s Guild (Sep. 9, 2015), <https://www.authorsguild.org/industry-advocacy/for-the-big-five-agency-now-holds-sway-across-the-board/>; *Amazon, HarperCollins reach multi-year publishing deal*, First Post (Apr. 14, 2015), <https://www.firstpost.com/tech/news-analysis/amazon-harpercollins-reach-multi-year-publishing-deal-report-3666709.html>; Laura Owen, *Macmillan, too, returns to agency pricing with Amazon*, Gigaom (Dec. 18, 2014), <https://gigaom.com/2014/12/18/macmillan-too-returns-to-agency-pricing-with-amazon/>.

<sup>6</sup> Grady; CASE AT.40153 EBook MFNs and related matters (Amazon), [https://ec.europa.eu/competition/antitrust/cases/dec\\_docs/40153/40153\\_4392\\_3.pdf](https://ec.europa.eu/competition/antitrust/cases/dec_docs/40153/40153_4392_3.pdf) (“5.4.2017 EU Commission Decision”) at 8.

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