

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

IN RE AMAZON.COM, INC. EBOOK  
ANTITRUST LITIGATION

Case Number: 1:21-cv-351-GHW-VF

**SECOND CONSOLIDATED AMENDED  
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. Amazon dominates the retail market for the sale of trade eBooks, accounting for nearly 90% of such sales.<sup>1</sup> Amazon sells its own trade eBooks and the trade eBooks of other publishers,<sup>2</sup> including the Big Five<sup>3</sup> publishers that publish the vast majority of trade books, i.e., “general interest fiction and non-fiction books.”<sup>4</sup>

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<sup>1</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); Investigation of Competition in Digital Markets, Staff Report, 2020, p. 255 n.1561 (stating that in “the eBook market” Amazon accounts “for around 88% of total annual unit sales”) (quoting the Digital Competition Expert Panel Report at 30).

<sup>2</sup> While Amazon is the direct seller of eBooks to consumers on its Kindle platform, the Big Five also are direct sellers. Under the agency agreements between the Big Five and Amazon, the eBooks are sold on Amazon’s Kindle platform, and consumers make their payments on the Kindle platform. But Amazon accepts those payments as an agent of the Big Five, which are responsible for providing the eBook content and setting the price of the transaction. And after deducting its transaction fees in accordance with the agency agreements, Amazon remits the consumers’ payments to the Big Five.

<sup>3</sup> Plaintiffs use the term “Big Five” or “Publisher Defendants” to refer to the five largest publishers in the United States: Defendants Hachette Book Group, Inc. (“Hachette”); HarperCollins Publishers L.L.C. (“HarperCollins”); Macmillan Publishing Group, LLC (“Macmillan”); Penguin Random House LLC (“Penguin”); and Simon & Schuster, Inc. (“Simon & Schuster”). Collectively, the Big Five publishes approximately 80% of all trade books, including 90% of best sellers. Dorany Pineda, Freddy Brewster, *Stephen King testified against publishing’s biggest merger. What you need to know about the antitrust trial*, Los Angeles Times (Aug. 2, 2022) <https://www.latimes.com/entertainment-arts/books/story/2022-08-02/stephen-king-testified-against-publishings-biggest-merger-what-you-need-to-know-about-the-antitrust-trial>; Thad McElroy, *What the Big 5’s Financial Reports Reveal About the State of Traditional Book Publishing*, Book Business (Aug. 5, 2016), <https://www.bookbusinessmag.com/post/big-5-financial-reports-reveal-state-traditional-book-publishing/>.

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

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