

THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KAELI GARNER, *et al.*,  
Plaintiffs,  
v.

AMAZON.COM, INC., a Delaware  
Corporation, and AMAZON.COM  
SERVICES LLC, a Delaware Limited  
Liability Company,  
Defendants

Case No.: 2:21-cv-00750-RSL

**DEFENDANTS' MOTION TO COMPEL**

**NOTE ON MOTION CALENDAR:**  
**September 2, 2022**

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Pursuant to Fed. R. Civ. P. 37(a), Amazon moves to compel responses to its First Set of Requests for Production and First and Second Set of Interrogatories.

### **INTRODUCTION**

Plaintiffs are 21 individuals who initiated this lawsuit and seek to be certified to represent both a nationwide class and 17 subclasses in claims based on their interactions with Alexa. *See* Complaint (Dkt. 59) ¶¶ 1, 125. Although the Court dismissed many of those claims (*see* Dkt. 91), for those remaining, the nature of each Plaintiff's interactions with Alexa presents critical issues as to typicality, commonality, adequacy, superiority, and manageability. Fact discovery is scheduled to close on December 16, 2022, with Plaintiffs' (and other witnesses') depositions to begin around October 3. Timely completion of discovery requires Plaintiffs to promptly deliver their long-delayed responses to Amazon's discovery.

Amazon first served discovery requests more than five months ago in March 2022. In response to Amazon's requests for production, Plaintiffs have produced to date only 149 documents from four custodians. Plaintiffs also have not provided any ESI search term hit report (identifying the number of records for each search term) or disclosed required information about their search methodology. In response to Amazon's interrogatories, Plaintiffs have provided incomplete or non-responsive answers, or Plaintiffs have simply refused to answer. After months of meeting and conferring, Plaintiffs continue to refuse to identify the particular recordings that form the basis of their claims. To ease any burden, Amazon proposed that, instead of written interrogatory responses, Plaintiffs could simply annotate Alexa transcripts to identify which recordings they contend (1) contain a Plaintiff's voice, (2) contain an alleged "conversation" subject to the Washington statute (rather than a word or indiscernible sounds), (3) are confidential or private (as also required subject to statute), (4) correspond to certain Plaintiffs' allegations of recording in the Complaint, and/or (5) are not directed at the Alexa Voice Service. Plaintiffs have refused to provide this critical information, even though they are the only ones who can do so. Without it, Amazon does not know the universe of recordings at issue, and consequently cannot prepare its defenses or address Plaintiffs' suitability as class representatives. Indeed, Plaintiffs' identification of which recordings contain their voices and are the subject of their claims is

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