

THE HONORABLE ROBERT S. LASNIK

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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

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PAGE

INTRODUCTION 1

BACKGROUND 2

LEGAL STANDARD..... 4

ARGUMENT 4

 I. PLAINTIFFS SHOULD BE ORDERED TO PROVIDE COMPLETE, VERIFIED, AND AMENDED INTERROGATORY RESPONSES. 4

 A. Plaintiffs Must Identify Which Interactions with Alexa They Allege Contain the Voice of Each Plaintiff and Which They Allege to Be at Issue. 4

 B. The Court’s Order Should Instruct Each Plaintiff to Provide Verified Amended Responses No Later Than Three Weeks Before Their Deposition. 8

 II. PLAINTIFFS SHOULD BE ORDERED TO COMPLETE THEIR DOCUMENT PRODUCTION. 9

 A. Plaintiffs Should Produce Responsive Documents Regarding Alexa Settings. 9

 B. Plaintiffs Should Be Ordered to Provide Search Term Hit Reports as Required by the ESI Order. 11

 C. The Court’s Order Should Direct Plaintiffs to Complete Their Document Production by September 16, 2022. 11

CONCLUSION..... 12

TABLE OF AUTHORITIES

CASES

PAGE(S)

Bolding v. Banner Bank,
 No. C17-0601RSL, 2020 U.S. Dist. LEXIS 118111 (W.D. Wash. July 6,
 2020)12

Dunford v. Am. DataBank, LLC,
 64 F. Supp. 3d 1378 (N.D. Cal. 2014)10

Famulare v. Gannett Co.,
 No. 2 :20-cv-13991(WJM), 2022 U.S. Dist. LEXIS 47946 (D.N.J. Mar. 17,
 2022)10

Goldman v. Alhadeff,
 No. C89-1061R, 1990 U.S. Dist. LEXIS 11808 (W.D. Wash. Jan. 31, 1990)10

Olympic Air, Inc. v. Helicopter Tech. Co.,
 No. C17-1257RSL, 2020 U.S. Dist. LEXIS 203100 (W.D. Wash. Oct. 30,
 2020)4

Shumpert v. Healthpoint Ctrs. of King Cty.,
 No. C18-1680 TSZ, 2020 U.S. Dist. LEXIS 48839 (W.D. Wash. Mar. 20,
 2020)6, 9

State v. Clark,
 129 Wn.2d 211, 916 P.2d 384 (1996)5

State v. David Smith,
 85 Wn.2d 840, 540 P.2d 424 (1975)5

State v. John Smith,
 189 Wn.2d 655, 405 P.3d 997 (2017)5

State v. Townsend,
 147 Wn.2d 666, 57 P.3d 255 (2002)6

United States ex rel. Dahlstrom v. Sauk-Suiattle Indian Tribe,
 No. C16-0052JLR, 2019 U.S. Dist. LEXIS 147714 (W.D. Wash. Aug. 29,
 2019)9

STATUTES

Cal. Penal Code §§ 631-632, 637.2(a)5

Federal Wiretap Act6

RCW § 9.73.030(1)(b)5

**TABLE OF AUTHORITIES
(CONTINUED)**

OTHER AUTHORITIES

PAGE(S)

1

2

3

4 Fed. R. Civ. P. 2310

5 Fed. R. Civ. P. 264, 10

6 Fed. R. Civ. P. 338, 9

7 Fed. R. Civ. P. 3410, 12

8 Fed. R. Civ. P. 371

9

10

11

12

13

14

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

3 INTRODUCTION

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

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

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