THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON

AT SEATTLE

KAELI GARNER, *et al.*,

Plaintiffs,

vs.

AMAZON.COM, INC., *et al.*,

Defendants.

No. 2:21-cv-00750-RSL

CONSOLIDATED COMPLAINT-CLASS ACTION

COMPLAINT FOR VIOLATIONS OF THE CALIFORNIA, FLORIDA, ILLINOIS, MARYLAND, MASSACHUSETTS, MICHIGAN, NEW HAMPSHIRE, PENNSYLVANIA, AND WASHINGTON WIRETAPPING STATUTES; THE WASHINGTON CONSUMER PROTECTION ACT; THE FEDERAL WIRETAP ACT; AND THE STORED COMMUNICATIONS ACT

DEMAND FOR JURY TRIAL

I. INTRODUCTION

1. This class action lawsuit arises out of Amazon's practice of using smart-speaker technology ("Alexa") to surreptitiously: (a) ***intercept***; (b) ***eavesdrop***; (c) ***record***; (d) ***disclose***; or (e) ***use*** millions of Americans' voices and communications, all without their knowledge or consent. Such conduct blatantly violates Washington's wiretapping law, which applies nationwide to Plaintiffs and all members of the Class. The conduct also violates the laws of Florida, New Hampshire, Massachusetts, California, Maryland, Pennsylvania, Illinois, and Michigan (collectively, with Washington, "State Wiretapping laws") – all of which prohibit either the ***interception***, ***eavesdropping***, ***recording***, ***disclosure***, or ***use*** of communications without the consent of all parties to the communications. Defendants here, Amazon.com, Inc. and Amazon.com Services LLC (collectively, "Amazon" or "Defendants"), are therefore liable as a result of their egregious violations of the State Wiretapping laws – and are also liable for their violations of the Washington Consumer Protection Act ("CPA"), the Electronic Communications Privacy Act of 1986 ("Federal Wiretap Act"), and the Stored Communications Act of 1986 ("SCA"). Plaintiffs Kaeli Garner, Mark Fladd, Stephanie Fladd, Jodi Brust, John Dannelly, Diane McNealy, Michael McNealy, Lisa Hovasse, Sandra Mirabile, Ricky Babani, Susan Lenehan, Jeffrey Hoyt, Lorlie Tesoriero, James Robinson, Rosa Comacho, Eric Dlugoss, Julie Dlugoss, Ronald Johnson, Selena Johnson, Caron Watkins, and Kelly Miller (collectively, "Plaintiffs") bring this action individually, and on behalf of a Class of similarly situated individuals (defined below), to redress those violations of law.

2. The State Wiretapping laws are united in the prohibition of Amazon's conduct alleged herein.

State	Conduct Prohibited	Statute
Washington	Interception or Recording	Wash. Rev. Code §9.73.030
Florida	Interception or Disclosure or Use; or "Endeavors" to Intercept or Disclose or Use	Fla. Stat. §934.03
New Hampshire	Interception or Disclosure or Use; or "Endeavors" to Intercept or Disclose or Use	N.H. Rev. Stat. §570-A:2
Massachusetts	Interception or Disclosure or Use; or "Attempts" to Intercept or Disclose or Use	Mass. Gen. Laws ch. 272, §99
California	"Tap[ping]" or Reading or Use; or "Attempts" to Read or Use	Cal. Penal Code §631
California	Eavesdropping or Recording	Cal. Penal Code §632
Maryland	Interception or Disclosure or Use; or "Endeavor[s]" to Intercept or Disclose or Use	Md. Code Ann., Cts. & Jud. Proc. §10-402
Pennsylvania	Interception or Disclosure or Use; or "Endeavors" to Intercept or Disclose or Use	18 Pa. Cons. Stat. §5703
Illinois	Overhearing or Transmitting or Recording or Interception or Use or Disclosure	720 Ill. Comp. Stat. §5/14-2
Michigan	Eavesdropping	Mich. Comp. Laws §750.539c

3. Amazon utilized Alexa technology to ***willfully*** and ***intentionally intercept*** and ***eavesdrop*** upon the confidential conversations of Plaintiffs and the Class. Amazon then ***recorded*** those conversations, permanently storing them in the process. Shockingly, Amazon then ***disclosed*** those conversations to third parties, including third-party contractors. Amazon did all this to ***use*** those conversations for its own financial benefit, including to provide personalized ads for consumers. Plaintiffs thereby bring this action on behalf of both registered users and unregistered persons, who never consented to any interception, recording, disclosure, or use of their communications.[1]

4. Alexa is an omnipresent feature in Amazon's products. In addition to Amazon products utilizing Alexa – such as Echo Dot, Echo Plus, Echo Sub, Echo Show, Echo Input, Echo Frames eyeglasses, Amazon Fire TV digital media player, Amazon Fire TV sticks, Amazon Alexa Auto, and Amazon Fire tablets – Amazon has authorized several third-party device manufacturers to offer products that either come with Alexa capability built-in or that are easily integrated with Alexa (collectively, "Alexa Devices").

5. Millions of Americans use Alexa Devices in their homes. People speak to Alexa about a variety of topics, ranging from prosaic, such as asking Alexa to play music or create a to-do list, to profoundly private, such as asking Alexa about medical conditions. Most people believe that when they speak to an Alexa Device, their voice is temporarily processed so that Alexa can generate a response or carry out the user's command. No one expects that Alexa is creating permanent recordings of their voices for Amazon to use for its own commercial gain. Worse, Amazon records and permanently stores these recordings regardless of whether someone was intentionally or unintentionally talking to an Alexa Device.

6. The mechanics of Amazon's illegal conduct work as follows. Alexa Devices are designed to record and respond to human commands in a simulated voice. While an Alexa Device

[1] "Registered users" refers to Alexa Device users who set up the Alexa Device through the use of their Alexa App, as outlined below. "Unregistered persons" refers to people who did not set up the Alexa Device, nor registered it.

is "always on,"[2] it is only supposed to respond to commands after an individual says a "wake" word, which is usually "Alexa" or "Echo." Once the Alexa Device recognizes the wake word, it then records the ensuing communication. Because Alexa Devices were created to capture voices "from anywhere in the room,"[3] they record ***anything spoken in its vicinity***. The Alexa Device then transmits that recording to Amazon's servers for interpretation and processing before receiving the relevant data back in response. ***Amazon then permanently stores a copy of that recording on its own servers for later use and commercial benefit, warehousing billions of private conversations in the process***.[4] This practice becomes all the more sinister when one considers the widespread proliferation of Alexa Devices, which underscores the magnitude of information Alexa is impermissibly capturing and storing.

7. Critically, Alexa does not discriminate between registered users and non-registered persons for recording purposes. It simply records voices – all of them. This means Alexa routinely captures unintentional communications without the knowledge or consent of the individuals speaking. This is true regardless of whether someone is talking directly to Alexa, to another person, or even to themselves. Anyone within the vicinity of an Alexa Device will have their voice recorded.

8. In light of Alexa's eavesdropping capabilities, it is unsurprising that Alexa Devices capture a host of extremely personal and private conversations, including conversations about one's family, medical conditions, religious beliefs, political affiliations, confidential professional communications, and other personal or private matters. Tellingly, former Amazon executive

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[2] Smart Home, *Introducing Amazon Echo*, YOUTUBE (Aug. 5, 2016), https://www.youtube.com/watch?v=CYtb8RRj5r4.

[3] *Id.* (discussing Alexa's use of "far field technology").

[4] Geoffrey A. Fowler, *Alexa has been eavesdropping on you this whole time*, WASH. POST (May 6, 2019), https://www.washingtonpost.com/technology/2019/05/06/alexa-has-been-eavesdropping-you-this-whole-time/; *see also* Ry Crist, *Amazon and Google are listening to your voice recordings. Here's what we know about that*, CNET (July 13, 2019), https://www.cnet.com/home/smart-home/amazon-and-google-are-listening-to-your-voice-recordings-heres-what-we-know/ (discussing how Amazon stated that it if you make a purchase via Alexa, it may be used to "provide personalized ads").

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