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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

ANDREA SEBERSON,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

Case No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Andrea Seberson brings this Complaint against Defendant Amazon.com, Inc. (“Amazon” or “Defendant”), on behalf of herself and all others similarly situated, based upon personal knowledge and upon information, investigation, and belief of counsel.

INTRODUCTION

1. This case is about a betrayal of trust. Since its inception in 1994 as an online bookseller operating out of founder Jeff Bezos’s garage, Amazon—today a tech behemoth worth \$1.77 trillion¹—has cultivated a relationship with consumers that has garnered the company “astounding” customer loyalty.² Ultimately, however, Amazon’s nominal mission of “striv[ing] to offer ... customers the lowest possible prices, the best available selection, and the utmost

¹ *Amazon Net Worth 2006–2021* | AMZN, MACROTRENDS (last visited July 6, 2021), <https://www.macrotrends.net/stocks/charts/AMZN/amazon/net-worth>.

² Pamela N. Danziger, *Amazon’s Astounding Customer Loyalty Is Astounding*, FORBES (Jan. 10, 2018), <https://www.forbes.com/sites/pamdanziger/2018/01/10/amazons-customer-loyalty-is-astounding/?sh=f42c81511fe3>.

1 convenience” came into direct conflict with Amazon’s ambition to dominate every sector of the
2 economy. Faced with a choice between doing right by its customers or gaining market power in
3 one of the many industries it seeks to control, Amazon made the wrong choice, jettisoning its
4 promise of the “lowest possible prices” and violating the antitrust laws in a way that has injured—
5 and continues to injure—hundreds of millions of its loyal customers.

6 2. To understand how and why Amazon broke the antitrust laws and betrayed the trust
7 of its customers, one must begin with Amazon Prime, the company’s first ever membership
8 program, unveiled in February 2005.³ At the program’s inception, an annual membership fee of
9 \$79 provided Prime members with unlimited two-day shipping at no extra cost and one-day
10 shipping for \$3.99 per item.⁴

11 3. Amazon CEO Jeff Bezos touted Prime as “all-you-can-eat express shipping.”⁵ At
12 the time, Amazon’s annual revenues were \$8.49 billion⁶—only 2.2% of what they are today. Bezos
13 assured investors that, “[t]hough expensive for the Company in the short-term,” Prime would pay
14 off in the long-run because “it’s a significant benefit and more convenient for customers.
15 With Amazon Prime, there’s no minimum purchase to think about, and no consolidating orders—
16 two-day shipping becomes an everyday experience rather than an occasional indulgence.”⁷

17 4. Since its inception, Amazon Prime has been “the linchpin of [the company’s]
18 growth strategy,” playing a large part in Amazon’s attaining control of about 65% to 70% of all
19

20 ³ *Amazon.com Announces Record Free Cash Flow Fueled by Lower Prices and Free Shipping; Introduces New Express Shipping Program – Amazon Prime*, BUSINESS WIRE (Feb. 2, 2005) (accessed via LEXISNEXIS).

21 ⁴ *Id.*

22 ⁵ *Id.* (internal quotation marks omitted).

23 ⁶ Laurie J. Flynn, *In a Well-Worked Pattern, Amazon’s Revenue Rises and Its Profit Drops*, NY TIMES, at C4 (Feb. 2, 2007) (accessed via LEXISNEXIS).

24 ⁷ *Id.* (internal quotation marks omitted).

1 online marketplace sales in the United States,⁸ and resulting in singular customer loyalty from
2 Prime members,⁹ of which there are currently more than 140 million in the United States.¹⁰ The
3 loyalty of Amazon customers is astounding: 96% of Prime members are more likely to buy
4 products from Amazon than from other online retailers, and 89% of consumers who are *not* Prime
5 members are more likely to make a purchase on Amazon.com than on any other e-commerce
6 website.¹¹

7 5. The “Prime Badge,” which appears next to products on Amazon’s website that are
8 eligible for free, fast shipping to Prime members, conveys a powerful message to the 142.5 million
9 American consumers who currently pay \$12.99 per month for Prime membership: “Trust us. It’s
10 authentic. It will get to your doorstep quickly, at no extra charge. You can buy it with a click.”¹²

17
18 ⁸ *Investigation of Competition in Digital Markets*, Majority Staff Report and Recommendations,
19 House Subcommittee on Antitrust, Commercial and Administrative Law of the Committee on
20 the Judiciary, at 255 (Oct. 6, 2020) [hereinafter House Subcommittee Report], *available at*
21 https://judiciary.house.gov/uploadedfiles/competition_in_digital_markets.pdf.

22 ⁹ Danzinger, *supra* note 2.

23 ¹⁰ *How Many People Have Amazon Prime*, 99 FIRMS (last visited July 4, 2021),
24 <https://99firms.com/blog/how-many-people-have-amazon-prime>.

¹¹ Kiri Masters, *89% Of Consumers Are More Likely To Buy Products From Amazon Than Other E-Commerce Sites: Study*, FORBES (Mar. 20, 2019), <https://www.forbes.com/sites/kirimasters/2019/03/20/study-89-of-consumers-are-more-likely-to-buy-products-from-amazon-than-other-e-commerce-sites/?sh=6471bf5b4af1>.

¹² Ron Knox & Shaoul Sussman, *How Amazon Used the Pandemic to Amass More Monopoly Power*, THE NATION (June 26, 2020), <https://www.thenation.com/article/politics/amazon-bezos-pandemic-monopoly/>.



6. As with traditional brick-and-mortar retail businesses, the biggest factor in running a successful business online is location, location, location. And Amazon has the most valuable online real estate for the millions of Sellers who offer their products through Amazon.com: the “Buy Box,” which is the section on the right side of an Amazon product detail page where customers can add a product to their cart or “buy now”:



1 7. The importance of the Buy Box to Sellers is evidenced by the fact that—rather than
2 comparison shopping to see whether another Seller on Amazon’s website is offering a better deal
3 on a product—90% of consumer purchases on Amazon’s website are made through the Buy Box.¹³
4 This is because consumers trust that the product offer placed in front of them on Amazon.com—
5 namely, the offer in the Buy Box—is the best deal on that product.

6 8. Unfortunately, Amazon has abused the trust and loyalty of the many millions of
7 Americans for whom the company’s website is the first and last stop for purchasing everything
8 from a \$19.99 package of baby diapers to a \$4,999 digital camera.

9 9. Amazon expanded, and ultimately entrenched, its dominant market power in online
10 retail by sustaining losses for much of its first 20 years—losses that resulted from the company’s
11 strategy of engaging in below-cost pricing to engender extreme customer loyalty and ensure that
12 Amazon would become consumers’ one-stop-shop.¹⁴

13 10. But Amazon’s ambitions lay far beyond *just* being the largest online retailer in the
14 world. As Amazon’s market power in online retail grew, the company branched out to become
15 (among other things) a marketing platform, a delivery and logistics network, a payment service, a
16 credit lender, an auction house, a major book publisher, a producer of television and films, a
17 fashion designer, a hardware manufacturer, and a leading provider of cloud server space and
18 computing power.¹⁵

19 11. To drive its aggressive efforts to expand into—and dominate—these and other
20 markets, Amazon leveraged and exploited its most valuable asset: the immense brand loyalty of
21

22 ¹³ Leanna Ziebak, *How to Win the Amazon Buy Box in 2021*, TINUITI (Mar. 25, 2020),
23 <https://tinuiti.com/blog/amazon/win-amazon-buy-box/>.

¹⁴ See Lisa M. Khan, *Amazon’s Antitrust Paradox*, 126 YALE L.J. 564, 747–53 (2017).

24 ¹⁵ Khan, *Amazon’s Antitrust Paradox*, *supra* note 14, at 754.

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