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7 **UNITED STATES DISTRICT COURT**
8 **FOR THE WESTERN DISTRICT OF WASHINGTON**
9 **AT SEATTLE**

10 ANGELA LUGO and ANDREW
11 BRYNILDSON, individually and on behalf
12 of all others similarly situated,

13 Plaintiffs,

14 v.

15 AMAZON.COM, INC.

16 Defendant.
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Case No.

CLASS ACTION COMPLAINT

JURY DEMAND

1 Plaintiffs Angela Lugo and Andrew Brynildson, individually and on behalf of all others
2 similarly situated, by and through their attorneys, make the following allegations pursuant to the
3 investigation of their counsel and based upon information and belief, except as to allegations
4 specifically pertaining to themselves, which are based on personal knowledge.

5 **NATURE OF THE ACTION**

6 1. This is a class action suit brought against Defendant Amazon.com Inc. (“Amazon”
7 or “Defendant”) for its unlawful retention of Plaintiffs’ and its other New York and Minnesota
8 customers’ personally identifiable information, including their names, addresses, credit card
9 information, and video rental history in violation of the New York Video Consumer Privacy Act,
10 N.Y. General Business Law (“GBL”) §§ 670-675 (“NYVCPA”) and Minnesota’s M.S.A.
11 § 325I.01-03 (the “Minnesota Statute”).

12 2. Amazon is a leading technology company that rents videos for streaming to
13 consumers through its Amazon Prime Video platform.

14 3. Amazon maintains a digital record system that details the rental histories of every
15 customer that rents a video from Amazon.

16 4. Amazon also maintains records containing its customers’ billing addresses.

17 5. As a result, Amazon maintains a digital dossier on millions of consumers
18 throughout New York and Minnesota. These records contain not only its customers’ credit card
19 numbers and billing/contact information, but also a detailed account of its customers’ video rental
20 histories.

21 6. In recognition of the fact that companies who rent digital media – like Amazon –
22 must collect certain confidential and sensitive consumer information with respect to personal
23 viewing habits, New York and Minnesota law requires such companies to “destroy personally
24 identifiable information as soon as practicable.” GBL § 673(5); M.S.A. § 325I.02(6).

25 7. However, in direct contravention of the protections afforded to New York and
26 Minnesota consumers under the NYVCPA and the Minnesota Statute § 325I.02(6), Amazon
27 maintains and stores its customers’ names, credit card numbers, billing and contact information,
28 and most importantly, sensitive video rental histories for an indefinite period of time.

8. Accordingly, Amazon has knowingly retained the “personally identifiable information” and sensitive video rental histories of millions of New York and Minnesota consumers, in violation of New York and Minnesota law.

9. Plaintiffs bring this action on behalf of themselves and two separate classes of all people in New York and Minnesota whose personally identifiable information and sensitive video rental histories were retained by Amazon.

THE PARTIES

10. Plaintiff Angela Lugo lives and is domiciled in Rochester, New York.

11. Ms. Lugo has an Amazon account and has rented videos through that account.

12. In January 2020, Ms. Lugo rented movies from Amazon.

13. In connection with that rental, Amazon collected Ms. Lugo’s name, address, and credit card information.

14. As of at least June 28, 2022, Ms. Lugo’s account history still displayed the titles of the videos she rented, as well as the date she rented it and the price she paid for it.

15. Plaintiff Andrew Brynildson lives and is domiciled in Minneapolis, Minnesota.

16. Mr. Brynildson has an Amazon account and has rented videos through that account.

17. In March 2021, Mr. Brynildson rented movies from Amazon.

18. In connection with that rental, Amazon collected Mr. Brynildson’s name, address, and credit card information.

19. As of at least June 22, 2022, Mr. Brynildson’s account history still displayed the titles of the videos he rented, as well as the date he rented it and the price he paid for it.

20. Defendant Amazon Inc. is a Delaware corporation with its headquarters in Seattle, Washington. Amazon does business throughout New York and Minnesota.

JURISDICTION AND VENUE

21. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2)(A) because this case is a class action where the aggregate claims of all members of the proposed class

1 are in excess of \$5,000,000.00, exclusive of interest and costs, and at least one member of the
2 proposed class is a citizen of a state different from Defendant.

3 22. This Court has personal jurisdiction over Defendant because Defendant has
4 purposefully availed itself of the laws and benefits of doing business in this State, and Plaintiffs'
5 claims arise out of each of Defendant's forum-related activities. Furthermore, a substantial portion
6 of the events giving rise to Plaintiff's claims occurred in this District.

7 23. Pursuant to 28 U.S.C. § 1391, this Court is the proper venue for this action because
8 a substantial part of the events, omissions, and acts giving rise to the claims herein occurred in this
9 District.

10 **STATEMENT OF FACTS**

11 ***The Federal Video Privacy Protection Act and Digital Dossiers***

12 24. The desire to keep video rental history records private led Congress to enact the
13 Video Privacy Protection Act of 1988, 18 U.S.C. § 2710 ("VPPA"). Inspired by the release of
14 video rental records of Supreme Court Justice Nominee Robert H. Bork and his family, Congress
15 promulgated the Act to explicitly preserve United States citizens' right to privacy in their video
16 rental histories.

17 25. When the VPPA was introduced, Senator Paul Simon noted that:
18 There is no denying that the computer age has revolutionized our
19 world. Over the past 20 years we have seen remarkable changes
20 in the way each one of us goes about our lives. Our children learn
21 through computers. We bank by machine. We watch movies in
22 our living rooms. These technological innovations are exciting
23 and as a nation we should be proud of the accomplishments we
24 have made. Yet, as we continue to move ahead, we must protect
25 time honored values that are so central to this society, particularly
26 our right to privacy. The advent of the computer means not only
27 that we can be more efficient than ever before, but that we have
28 the ability to be more intrusive than ever before. *Every day
Americans are forced to provide to businesses and others
personal information without having any control over where that
information goes. These records are a window into our loves,
likes, and dislikes.*

S. Rep. No. 100-599 at 7-8 (1988) (emphasis added).

26 26. One of the original drafters of the VPPA, Senator Patrick Leahy, remarked that "the
27 trail of information generated by every transaction is now recorded and stored in sophisticated
28

1 record-keeping systems is a new, more subtle and pervasive form of surveillance.” S. Rep. No.
2 100-599 at 8 (1988).

3 27. In recognition of the sensitivity of the video renting information, the VPPA requires
4 video tape service providers, like Amazon, to destroy “personally identifiable information as soon
5 as practicable, but no later than one year from the date the information is no longer necessary for
6 the purpose for which it was collected” 18 U.S.C. § 2710(e).

7 28. However, the VPPA differs from the NYVCPA and Minnesota Statute § 325I.02(6)
8 in that it only provides a private right of action for the wrongful *disclosure* of personally
9 identifiable information, and not failure to destroy it. *See* 18 U.S.C. § 2710(c) (providing private
10 right of action for a “violation of this section” immediately after the disclosure prohibitions in
11 section (b), but not listing the destruction requirements until section (e)).

12 ***The New York Video Consumer Privacy Act and Minnesota Statute § 325I.02(6)***

13 29. On the heels of Congress having passed the VPPA, the New York Legislature
14 passed the NYVCPA in 1993 “to protect the personal privacy of individuals and their families who
15 rent video cassette tapes and movies and similar audio visual materials.” GBL § 671.

16 30. In his sponsor memorandum, Assemblyman Anthony J. Genovesi noted:

17 Video lists have enormous commercial utility, which adds to the
18 likelihood that an individual’s entertainment preferences will be
19 disclosed. Mailing lists are easily devised based on categorizing
20 an individual’s viewing habits as documented by video retail
21 establishments’ records. For example, catalog companies and
22 direct mail sales companies are naturally interested in obtaining
23 lists of people who rent children’s films, physical fitness films,
24 adventure films, or adult films.

25 Exhibit A, Sponsor Memo at 3.

26 31. In furtherance of those concerns, like the VPPA, the NYVCPA requires that video
27 tape service provides, like Defendant, “destroy personally identifiable information as soon as
28 practicable, but no later than one year from the date the information is no longer necessary for the
purpose for which it was collected” GBL § 673(5).

32. However, unlike the VPPA, the NYVCPA explicitly provides a private right of

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