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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CENTRAL DISTRICT

MADELEINE CHEN and MARCIAL
CASTANEDA,

Plaintiffs,

v.

AMAZON.COM, INC., a Delaware
corporation, and A2Z DEVELOPMENT
CENTER, INC., a Delaware corporation,

Defendants.

CASE NO.

19STCV33082

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

Plaintiffs Madeleine Chen and Marcial Castaneda ("Plaintiffs") bring this Complaint and Demand for Jury Trial against Defendants Amazon.com, Inc., and a2z Development Center, Inc. d/b/a Amazon Lab126 (collectively "Amazon" or "Defendants") to obtain redress for Defendants' unlawful recording of Plaintiffs' private household communications, in violation of Cal. Penal Code § 632. Plaintiffs allege the following upon personal knowledge as to Plaintiffs'

FILED
Superior Court of California
County of Los Angeles

SEP 17 2019

Sherri R. Carter, Executive Officer/Clerk of Court
By Isaac Lovg Deputy

own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by Plaintiffs' attorneys:

NATURE OF THE ACTION

1. Millions of Americans use Defendants' Alexa smart-speaker technology in their homes. People speak to Alexa-enabled devices such as the Echo or Echo Dot about everything from the mundane ("Alexa, what's the weather") to the deeply personal ("Alexa, what are the symptoms of depression?").

2. Most people believe that when they speak to Alexa, it converts their voice into a set of digital computer instructions. They expect that digital query to be sent over the internet for processing, a digital response to be returned, and for Alexa to then convert that response into speech. They do not expect Alexa to create and store a permanent recording of their voice, nor should they: numerous other voice-recognition technologies function without creating durable recordings of users' interactions.

3. Unbeknownst to those users, however, Alexa does just that. After Alexa processes a user's command, Defendants save a permanent recording of the interaction to their own servers. Defendants then analyze and use those recordings for their own commercial benefit. These uses include allowing workers around the world to listen to the voice recordings, and creating voiceprints of users, which can be used to identify them across devices in other locations.

4. Alexa's recordings violate California law, which prohibits the recording of private oral communications without the consent of all parties to the communication. That prohibition recognizes the unique privacy interest implicated by voice recordings, which is all the more powerful in light of modern voiceprinting technology and the potentially invasive uses of that data by a company like Amazon.

5. Plaintiffs bring this suit seeking redress for Defendants' repeated invasions of privacy and violations of California law.

1 **PARTIES**

2 6. Plaintiff Madeleine Chen is a natural person and citizen of the State of California,
3 residing in the County of Los Angeles.

4 7. Plaintiff Marcial Castaneda is a natural person and citizen of the State of
5 California, residing in the County of Los Angeles.

6 8. Defendant Amazon.com, Inc. is a Delaware corporation with its headquarters and
7 principal place of business at 410 Terry Avenue North, Seattle, Washington.

8 9. Defendant a2z Development Center, Inc., d/b/a Amazon Lab126, is a Delaware
9 corporation with its headquarters and principal place of business located at 1120 Enterprise Way,
10 Sunnyvale, California. Amazon Lab126 employs thousands of individuals, many of whom work
11 on Alexa-enabled devices and software at its Sunnyvale headquarters.

12 **JURISDICTION AND VENUE**

13 10. This Court has personal jurisdiction over Defendants because they maintain
14 offices in California and have registered to do business therein. Additionally, Defendants
15 engaged in a substantial part of the events and conduct giving rise to Plaintiffs' claims in this
16 State and have knowingly placed Alexa Devices into California's stream of commerce.

17 11. Venue is proper in this county because Plaintiffs reside herein, and Plaintiffs'
18 injuries were sustained in this county.

19 **FACTUAL BACKGROUND**

20 *Amazon and the Alexa Device*

21 12. After starting as an online book retailer, Amazon has grown into a dominant force
22 in the retail, internet, and technology sectors. Amazon operates the world's leading e-commerce
23 platform, with net sales of \$232 billion in 2018.¹ Amazon is also the world's largest provider of
24 cloud-computing services. According to some reports, 42% of the internet is powered by
25

26
27 ¹ Form 10-K, Amazon.com, Inc., [https://www.sec.gov/Archives/edgar/data/1018724/](https://www.sec.gov/Archives/edgar/data/1018724/000101872419000004/amzn-20181231x10k.htm)
28 000101872419000004/amzn-20181231x10k.htm.

1 Amazon Web Services, which is more than double Microsoft, Google, and IBM combined.² And
2 Amazon also develops technology products including Alexa, the world's leading voice-
3 responsive personal-assistant technology.

4 13. Amazon Lab126, headquartered in Sunnyvale, California, began engineering the
5 Echo "smart speaker" in 2010, eventually leading to Amazon.com, Inc. launching the product
6 and the Alexa voice assistant (also developed by Amazon Lab126) on November 6, 2014, with
7 sales commencing shortly thereafter. Since then, Amazon Lab 126 has developed, and Amazon
8 has launched, various additional Echo products, including the Echo Dot, Echo Plus, Echo Sub,
9 Echo Show, and Echo Input. Each Echo device contains a speaker, microphones, a small
10 computer, internet connectivity, and the Alexa program.

11 14. Amazon subsequently added the Alexa program to other Amazon products such
12 as the Amazon Fire TV digital media player. Amazon also allows manufacturers of devices as
13 varied as electrical outlets, lightbulbs, thermostats, and security cameras to offer Alexa
14 integration, allowing users to control those third-party devices through Alexa. And Amazon also
15 now allows manufacturers to offer devices with Alexa "built-in," essentially allowing other
16 speakers and devices to offer much of the functionality of an Echo or Echo Dot (collectively, all
17 devices featuring Alexa integration or functionality are referred to herein as "Alexa Devices").

18 15. Amazon Lab 126 was responsible for overseeing the integration of Alexa into
19 each of the devices identified above.

20 16. As of October 2018, Amazon had sold approximately 47 million Echo devices. In
21 January 2019, Amazon reported that over 100 million total devices had been sold with Alexa
22 pre-installed.

23 17. In the years since the Echo launched, Amazon Lab 126 has played an integral role
24 in the development of new Alexa Devices, including the integration of Alexa into the devices
25

26 ² Matt Ward, *Amazon Eats the World*, thinkgrowth.org (Jan. 29, 2018),
27 <https://thinkgrowth.org/the-big-4-part-one-amazon-the-company-that-consumes-the-world-fb4679f10708>.
28

1 identified above.³ Additionally, Amazon Lab126 continues to develop software updates for
2 Alexa, which incorporate the natural-language processing improvements gained through
3 Defendants' analysis of its unlawful recordings of Alexa interactions.

4 18. Alexa is a natural-language processing system. Alexa "listens" to people's verbal
5 communications and responds to those communications in a simulated human voice. People
6 most frequently interact with Alexa in their homes.

7 19. Using Alexa on an Alexa Device, whether an Amazon device such as an Echo, or
8 a third-party device like a Sonos One speaker, is relatively simple. Once an individual has an
9 Alexa Device, the person needs two more things: a WiFi internet connection, and the Alexa
10 mobile application (the "Alexa App") installed on his or her smartphone or tablet.

11 20. To use the Alexa App, the individual must have an account with Amazon. The
12 individual must then follow the set-up process on the Alexa Device, which eventually includes
13 pairing the Alexa Device with the Alexa App. For third-party Alexa Devices, the device itself
14 will function even without being paired to the Alexa App, but the Alexa functionality will be
15 disabled.

16 21. Once the individual has paired the Alexa Device to the Alexa App, the Alexa
17 Device is ready for use by anyone, including people who have not set up the Alexa App.

18 22. Alexa Devices are designed to record and respond to communications
19 immediately after an individual says a wake word (typically "Alexa" or "Echo").⁴ Alexa
20 Devices accomplish this by storing a second or two of audio in short-term, random-access
21 memory (RAM), analyzing that temporary audio recording for the presence of a wake word, and
22
23

24 ³ Ry Crist, *Behind the scenes at Alexa's laboratory*, CNet (Apr. 23, 2018, 4:44 pm PDT),
25 <https://www.cnet.com/news/behind-the-scenes-at-amazon-alexa-laboratory-lab126>.

26 ⁴ Matt Day, Giles Turner, and Natalia Drozdiak, *Amazon Workers Are Listening to What*
27 *You Tell Alexa*, Bloomberg (Apr. 10, 2019, 5:34 p.m. CDT),
28 <https://www.bloomberg.com/news/articles/2019-04-10/is-anyone-listening-to-you-on-alexa-a-global-team-reviews-audio>.

1 then overwriting it if the wake word is not recognized. As a result, no permanent recording is
2 supposed to be made if the wake word is not recognized.⁵

3 23. If the wake word is recognized, the Alexa Device records the ensuing
4 communication and—unlike some other smart devices—transmits the recording to Amazon’s
5 servers for interpretation and processing before receiving the relevant data back in response.

6 24. Once Alexa has responded to a recording sent by an Alexa Device, Amazon
7 indefinitely stores a copy of that recording on its own servers for later use and analysis.

8 25. Amazon uses machine learning to leverage the massive amount of data collected
9 by Alexa Devices—including these permanent voice recordings—to constantly refine the natural
10 language understanding underlying Alexa’s functionality and to develop Alexa updates. Many
11 recordings are individually reviewed by Amazon employees and part-time contractors in
12 locations as far flung as Costa Rica, India, and Romania.⁶

13 26. However, Amazon need not permanently store the audio recordings in order for
14 Alexa Devices to function. Although it would not be as cost-effective or commercially
15 advantageous to Amazon, Alexa Devices could process audio interactions locally on the device
16 and send only a digital query, rather than a voice recording, to Amazon’s servers.

17 27. Indeed, Amazon developed a “Local Voice Control” feature for Alexa Devices
18 that allows individuals “to fulfill a limited set of requests on select [Alexa] devices when the
19 device is not connected to the internet, such as requests to control supported lights, plugs, and
20 switches.”⁷

21 28. Amazon could also upload audio recordings to short-term memory in the cloud
22 and immediately overwrite those recordings after processing, much like Alexa constantly
23

24 ⁵ Recent news reports, however, have revealed that Alexa Devices regularly “inadvertently”
25 record conversations without prompting by a wake word. *See id.*

26 ⁶ *Id.*

27 ⁷ *Alexa and Alexa Device FAQs*, Amazon,
28 <https://www.amazon.com/gp/help/customer/display.html?nodeId=201602230> (last visited
September 3, 2019).

1 overwrites the audio it captures prior to a user saying a wake word. If Amazon did that, it would
2 never possess a permanent recording of any user's communications. And Amazon itself has
3 shown that permanent recordings are not inherently necessary for Alexa's functionality, as it
4 recently launched new functionality allowing Alexa users to delete their recordings *en masse*.

5 29. Many similar "smart speaker" devices are less intrusive than Amazon's Alexa
6 Devices. Apple recently apologized to its users for privacy mishaps relating to its natural-
7 language processing system, "Siri," and announced that it would no longer retain audio
8 recordings of Siri interactions, having previously maintained them for up to two years in
9 anonymized form.⁸

10 30. Amazon has strong commercial incentives to collect as many Alexa recordings as
11 possible. From the outset, Amazon has been a company built on the relentless acquisition of
12 consumer behavioral data, whether through its ubiquitous AWS offerings, its ever-expanding
13 online storefront, its entertainment platforms, and now the Alexa Devices it uses as its ears in
14 every home.

15 31. The collection of Alexa Device recordings is a natural extension of Amazon's
16 *modus operandi*: collect as much consumer data as possible through any means possible,
17 streamline the process so that consumers cannot or will not stop the collection, and use
18 Amazon's massive size to leverage that data more effectively than any of its competitors.

19 32. Simply put, the more data Amazon collects, the more use Amazon has for each
20 incremental data point it collects.

21 33. Amazon's decision to make Alexa integration available to third-party product
22 manufacturers at no cost is entirely consistent with this scheme. While Amazon might have

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24 ⁸ Mark Gurman, *Apple Apologizes Over Siri Privacy and Will No Longer Retain Audio*
25 *Recordings*, Bloomberg (Aug. 28, 2019, 11:52 a.m. EST),
26 [https://www.bloomberg.com/news/articles/2019-08-28/apple-apologizes-will-no-longer-retain-](https://www.bloomberg.com/news/articles/2019-08-28/apple-apologizes-will-no-longer-retain-siri-audio-recordings)
27 [siri-audio-recordings](https://www.bloomberg.com/news/articles/2019-08-28/apple-apologizes-will-no-longer-retain-siri-audio-recordings); Lisa Eadicicco, *Amazon Workers Reportedly Listen to What You Tell*
28 *Alexa – Here's How Apple and Google Handle What You Say to Their Voice Assistants*, Business
Insider (Apr. 15, 2019, 10:39 a.m. EST), [https://www.businessinsider.com/how-amazon-apple-](https://www.businessinsider.com/how-amazon-apple-google-handle-alexa-siri-voice-data-2019-4)
[google-handle-alexa-siri-voice-data-2019-4](https://www.businessinsider.com/how-amazon-apple-google-handle-alexa-siri-voice-data-2019-4).

1 charged some companies a licensing fee for Alexa integration (which its partners would then be
2 able to pass on to consumers who value the extra functionality), it offers that integration free of
3 charge to facilitate the rapid adoption of Alexa Devices, the ubiquitous use of Alexa, and the
4 resulting widespread collection of voice recordings of millions of people.

5 ***Defendants Recorded Plaintiffs without Consent***

6 34. Plaintiff Chen is a citizen of the State of California.

7 35. Plaintiff Chen's home has contained an Echo Dot since December 2018.

8 36. Plaintiff Castaneda is a citizen of the State of California.

9 37. Plaintiff Castaneda's home has contained an Echo Dot since December 2018.

10 38. Alexa Devices respond to any individual who says the wake word, and make a
11 recording of the individual's subsequent instruction, question, or communication. By default,
12 however, Defendants do not obtain any actual, informed consent to such recording from users of
13 Alexa Devices.

14 39. Each time that Plaintiffs used the Alexa Devices identified above, Amazon
15 recorded Plaintiff's communications and stored those recordings on its servers.

16 40. Plaintiffs were unaware that upon speaking a wake word, an Alexa Device would
17 record and store the ensuing private communications.

18 41. Plaintiffs used their Alexa Devices in a variety of ways and expected that their
19 communications with them would be confidential.

20 42. Amazon recorded Plaintiffs' private communications without consent every time
21 Plaintiffs used an Alexa Device.

22 **FIRST CAUSE OF ACTION**
23 **Violation of the California Invasion of Privacy Act**
24 **Cal. Penal Code § 632**

25 43. Plaintiffs incorporate by reference the foregoing allegations as if fully set forth
26 herein.

27 44. Plaintiffs used the Alexa Devices identified above within Plaintiffs' households.
28

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45. When Plaintiffs used the Alexa Devices identified above, Amazon created recordings of Plaintiffs' device interactions, transmitted those recordings to Amazon's cloud servers, and retained copies of those recordings indefinitely.

46. Amazon did not inform Plaintiffs that Amazon would create persistent recordings of their Alexa interactions.

47. Plaintiffs did not expect, and had no reason to expect, that Amazon would create persistent recordings of Alexa interactions.

48. Plaintiffs reasonably expected their Alexa interactions to remain private.

49. Plaintiffs never provided Amazon with consent to record private Alexa interactions.

50. Amazon recorded Plaintiffs intentionally, as Amazon has publicly admitted that Alexa Devices are programmed to record every Alexa interaction.

51. By creating persistent recordings of Plaintiffs' Alexa interactions, Amazon "intentionally and without the consent of all parties to a confidential communication" used an "electronic amplifying or recording device to ... record the confidential communication."

52. Amazon's intentional and unlawful recording violated Plaintiffs' right to privacy in their confidential communications, as protected by Cal. Penal Code § 632.

53. Pursuant to Cal. Penal Code § 637.2, Plaintiffs seek damages of \$5,000 per violation and costs and reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Madeleine Chen and Marcial Castaneda request that the Court enter an order:

A. Awarding damages, including nominal, statutory, and punitive damages where applicable, to Plaintiffs in an amount to be determined at trial;

B. Awarding reasonable litigation expenses and attorneys' fees to Plaintiffs;

C. Awarding Plaintiffs pre- and post-judgment interest, to the extent allowable;

D. Awarding such other and further relief as the Court deems reasonable and just.

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1 **DEMAND FOR JURY TRIAL**

2 Plaintiff demands a trial by jury for all issues so triable.

3 Respectfully submitted,

4 Dated: September 17, 2019

5 **Plaintiffs Madeleine Chen and Marcial**
6 **Castaneda,**

7 By: 
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