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10 **UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

12 eBay Inc.,

13 Plaintiff

14 vs.

15 Sonja Boch, Amanda Sullivan Hedger, and
16 Ernest Arambula,

17 Defendants.

CASE NO. _____

**EBAY'S COMPLAINT AND DEMAND
FOR A JURY TRIAL**

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INTRODUCTION

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2 1. Over the past several years, a group of Amazon managers, including Defendants
3 Sonja Boch, Amanda Sullivan Hedger, and Ernest Arambula¹ have conducted the affairs of
4 Amazon.com, Inc. (“Amazon”) through a pattern of racketeering activity—a conspiracy designed
5 to infiltrate and exploit eBay’s internal member email system using fraud and false pretenses, in
6 violation of 18 U.S.C. § 1343. The managers did this to illegally recruit high-value eBay sellers to
7 Amazon.

8 2. The breadth and scope of the racketeering activity are startling. Amazon managers
9 and others at Amazon directed dozens of Amazon sales representatives in the U.S. and overseas to
10 set up and use eBay member accounts to access eBay’s “M2M” email system to solicit many
11 hundreds of eBay sellers to sell on Amazon’s platform.

12 3. This exploitation of eBay’s M2M system has been coordinated, targeted, and
13 designed to inflict harm on eBay. One Amazon sales representative described the team he worked
14 on as a “hunter/recruiter team which actively searches for sellers.” The Defendants and other
15 Amazon managers trained sales representatives on how to solicit eBay sellers using the M2M
16 system—referred to internally as “prospecting”—and instructed sales representatives to open eBay
17 accounts if they did not already have them, so that the representatives could get access to the M2M
18 system.

19 4. The scheme violated eBay’s User Agreement and policies, and it induced eBay sellers
20 to do the same. These rules prohibit eBay members from using the M2M system to solicit people to
21 sell off the platform. Such controls are critical to the success of a company like eBay that operates a
22 virtual platform bringing buyers and sellers together. To protect privacy and further maintain the
23 integrity of the platform, these rules also prohibit users from exchanging personal contact information
24 over the M2M system (which could otherwise be used to move discussions regarding transactions off
25 the platform, exposing eBay customers to increased fraud risk).

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27 ¹ The identities of some Amazon managers who engaged in the racketeering conspiracy
28 described herein are currently unknown to eBay. eBay plans to amend its complaint to add additional
managers who were involved to the case as defendants once it learns their identities.

1 5. In furtherance of the racketeering conspiracy, and at the direction of the Defendants
2 and other Amazon managers, Amazon sales representatives opened eBay accounts with no intent of
3 ever using them to conduct legitimate business on eBay’s platform. One Seattle-based Amazon
4 representative opened three accounts in the course of a few weeks, sending solicitation emails to
5 eBay sellers within minutes of opening each separate account. Another opened an account using what
6 appears to be a fake name and address thousands of miles away from the representative’s actual
7 location in Seattle, and began using the account the same day to send solicitation messages. Others
8 waited less than five minutes between opening an account and sending solicitation messages. Still
9 others opened accounts, waited for a “quiet period” without conducting any legitimate activity with
10 the accounts, and then used them to unlawfully solicit sellers. To get access to such accounts, Amazon
11 representatives fraudulently promised to abide by the User Agreement and policies, without any
12 intent to ever do so.

13 6. The Defendants and other Amazon managers, as well as the representatives they
14 directed, knew that the scheme was wrong, as evidenced by systematic efforts used to avoid detection.
15 eBay, like many websites, has automated programs designed to detect and prevent unauthorized use
16 of its M2M system. The Defendants and other Amazon managers trained sales representatives about
17 eBay detection techniques and how to avoid them, and Amazon representatives were diligent
18 students, observing that (in the words of one such representative) “eBay monitors their messages
19 pretty well for contact info,” that “eBay doesn’t allow phone numbers in these messages,” and that
20 “ebay will not allow the exchange of email addresses in these messages[.]”

21 7. Based on training provided by the Defendants and other Amazon managers, the sales
22 representatives used various anti-detection techniques. The representatives changed the presentation
23 of Amazon email addresses, for example: “You can write me at jdoe AT amazon DOT com,”
24 “DoeJohn at Amazon dot com,” and “JDoe at amazon dot com.”² They also provided
25 unconventional phone number formats, again, solely for the purpose of evading detection – telling
26

27 ² Amazon representatives’ email addresses, phone numbers, last names, and postal addresses
28 have been changed to generic ones throughout this Complaint.

1 eBay sellers, for example, that “you can write down 2.0.6. – 5.5.5. – 5.5.5.5. and then delete this
2 message if you so choose.”³

3 8. Amazon representatives virtually always sought to immediately move discussions
4 off the eBay M2M system, observing, for example, that “Ebay does scan for key terms and they
5 don’t exactly like us poking around. Honestly the easiest way to communicate about this would be
6 on the phone.” And they acknowledged that they were doing so to avoid getting caught: “For my
7 own security purposes I would rather not do that over Ebay though.” Amazon representatives even
8 sought to disguise the company’s own name in messages so as to avoid detection, instead using
9 variations on the Amazon name, such as “a-m-a-z-o-n,” “A.M.Z.N,” and “AMZ.”

10 9. The Defendants and other Amazon managers incentivized representatives to engage
11 in the racketeering scheme. Representatives were given quotas for recruiting sellers, and were
12 expected to satisfy large chunks of those quotas by targeting and illegally recruiting eBay sellers. The
13 Defendants and other Amazon managers directed and encouraged sales representatives to target
14 certain types of eBay sellers who could supply trending items or fill holes in Amazon’s swath of
15 product offerings. The Defendants and other Amazon managers provided lead lists to representatives
16 filled with eBay sellers for the representatives to target.

17 10. These illegal efforts to lure eBay sellers appear to be part of a larger pattern of
18 aggressive, unscrupulous conduct. Just last year, for example, media outlets documented Amazon’s
19 attempts to poach employees from one of its own customers, an insurance start-up that purchased
20 Amazon’s cloud computing services. Eugene Kim, Amazon’s aggressive poaching tactics in Israel
21 have start-ups threatening to abandon AWS, *CNBC* (Jan. 10, 2018, 5:00 PM),
22 [https://www.cnbc.com/2018/01/10/amazons-poaching-tactic-leads-lemonade-to-consider-ditching-](https://www.cnbc.com/2018/01/10/amazons-poaching-tactic-leads-lemonade-to-consider-ditching-aws.html)
23 [aws.html](https://www.cnbc.com/2018/01/10/amazons-poaching-tactic-leads-lemonade-to-consider-ditching-aws.html). “Like an 800-pound gorilla with a hand grenade,” media outlets have reported that Amazon
24 sellers face an industry giant out for itself and providing “no justice for sellers.” Lydia DePhillis, The
25 high-risk, high-reward world of selling stuff on Amazon, *CNN* (Oct. 9, 2018, 8:14 AM).

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28 ³ As noted above, Amazon representatives’ phone numbers have been changed to generic ones
throughout this Complaint.

1 11. The racketeering conspiracy that the Defendants and other Amazon managers
2 directed was a success. Amazon representatives satisfied significant portions of their seller
3 recruitment quotas through the illegal activity, and filled holes in Amazon's product offerings that
4 provide network benefits far beyond the fees generated by a single seller. Amazon representatives
5 discussed the success of their scheme with eBay seller prospects to persuade more to sell on
6 Amazon. Defendants, other Amazon managers, and Amazon representatives also succeeded in
7 keeping the orchestrated scheme concealed from eBay until its recent discovery.

8 12. eBay brings this action to put a stop to the Defendants' racketeering conspiracy, to
9 identify others who perpetrated it, to ensure that it does not happen again, and to obtain redress for
10 the damage it has caused.

11 **JURISDICTION AND VENUE**

12 13. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C.
13 § 1331 based on the federal claims asserted under the Racketeer Influenced and Corrupt
14 Organizations Act, 18 U.S.C. §§ 1961 *et seq.*, and 18 U.S.C. §§ 1343, 1962, and 1964.

15 14. This Court also has diversity jurisdiction over the subject matter of this action
16 pursuant to 28 U.S.C. § 1332 because eBay and Defendants Boch, Hedger and Arambula are citizens
17 of different states, and the amount in controversy exceeds the sum or value of \$75,000 exclusive of
18 interest and costs. eBay is a Delaware corporation. On information and belief, Defendants Boch,
19 Hedger and Arambula are all citizens of Washington.

20 15. This Court may exercise supplemental jurisdiction over eBay's state-law claims
21 pursuant to 28 U.S.C. § 1367.

22 16. This Court has personal jurisdiction over Defendants Boch, Hedger and Arambula
23 because the subject matter of this dispute arises out of Defendants' contacts with the state of
24 California. Defendants committed intentional torts, including numerous instances of intentional
25 interference, fraud and violations of RICO, purposefully directed at eBay, a resident of California,
26 with knowledge that their actions would harm eBay in its home state; perpetrated a scheme using
27 representatives with eBay accounts tied to California addresses; and have interfered with contracts,
28 business relations, and prospective business relations eBay has with sellers in California. On

1 information and belief, Defendants have also directed representatives to unlawfully send dozens of
2 soliciting messages to eBay sellers located in California.

3 17. Venue is proper in the Northern District of California pursuant to 28 U.S.C. § 1391
4 because a substantial part of the events and omissions giving rise to the claims occurred and were
5 felt in the Northern District of California. Among other things, this district is where Defendants’
6 liability arises, where contracts with which Defendants interfered were made and intended to be
7 performed, and where breaches that Defendants induced occurred.

8 **INTRADISTRICT ASSIGNMENT**

9 18. This action arises in Santa Clara County because a substantial part of the events
10 giving rise to the claim occurred in Santa Clara County. Accordingly, assignment to the San Jose
11 Division is proper pursuant to Local Civil Rule 3-2(c) and (e).

12 **THE PARTIES**

13 **I. EBAY**

14 19. Plaintiff eBay Inc. (“eBay”) is a Delaware corporation, with its principal place of
15 business in San Jose, California.

16 20. eBay connects more than 175 million active buyers with millions of sellers around
17 the world, empowering people and creating opportunity through connected commerce. Founded in
18 1995 in San Jose, California, eBay is one of the world’s largest and most vibrant marketplaces for
19 discovering great value and unique selection. From the outset, it has served as an online community
20 dedicated to bringing together buyers and sellers in an honest and open marketplace. eBay is a pure
21 open marketplace in that it does not own inventory, and thus, does not compete with its sellers. In
22 2018, eBay enabled \$95 billion of gross merchandise volume.

23 21. Sellers on eBay may list items for sale, and when an item is purchased, eBay notifies
24 the buyer and seller of their completed transaction. There are over 1.1 billion items listed on eBay at
25 any given time. Today, approximately 89% of items sold on eBay are fixed price, while 80% of
26 items sold are new.

1 **II. AMAZON’S MANAGERS**

2 22. Defendant Sonja Boch is an individual who, on information and belief, resides in or
3 near King County, Washington and is a current employee of Amazon. Boch has held various
4 supervisory roles at Amazon since 2014, and since March of 2018 has served as Head of Global
5 Seller Recruitment & Success.

6 23. Defendant Amanda Sullivan Hedger is an individual who, on information and belief,
7 resides in or near King County, Washington and is a current employee of Amazon. Hedger has held
8 multiple positions at Amazon since 2013, including a managerial role in Business Development,
9 Merchant Services.

10 24. Defendant Ernest Arambula is an individual who, on information and belief, resides
11 in or near Snohomish County, Washington and is a current employee of Amazon. Arambula has
12 held multiple positions at Amazon since 2013, including serving as Sales Manager/Team Lead –
13 Fashion & Apparel from 2015-2018.

14 **III. FACTS**

15 **A. eBay Membership, User Agreement, and Policies**

16 25. eBay permits potential buyers and sellers to become members on its platform.
17 Membership entitles users to various privileges, including the abilities to sell on eBay and to
18 communicate using eBay’s M2M internal email system. eBay also offers its sellers a number of
19 tools to increase their sales velocity and to monitor and run their online businesses.

20 26. As a condition to becoming an eBay member, a visitor must agree to the eBay User
21 Agreement. The User Agreement sets forth the terms of the agreement between eBay and each of its
22 members and rules for use of eBay that the members agree to follow. It states at the outset that:

23 This User Agreement, the Mobile devices terms, and all policies and
24 additional terms posted on and in our sites, applications, tools and
25 services (collectively “Services”) set out the terms on which eBay
26 offers you access to and use of our Services. You can find an overview
27 of our policies here. All policies and the Mobile devices terms are
28 incorporated into this User Agreement. You agree to comply with all
of the terms of this User Agreement when accessing or using our
Services.

1 27. Elsewhere in the User Agreement, members agree not to “breach or circumvent any
2 laws, third party rights or our systems, policies or determinations of your account status . . . or
3 circumvent any technical measures we use to provide the Services.” Moreover, members also agree
4 not to “distribute or post spam” and “unsolicited or bulk electronic communications.” The
5 agreement explicitly confers in eBay “sole discretion” to limit, suspend, or terminate user accounts
6 belonging to users that eBay believes to be “abusing eBay” and to take “technical and/or legal steps
7 to prevent you from using our Services.”

8 28. Among the policies members agree to follow is the Member-to-member contact
9 policy, which provides in relevant part as follows:

10 Members can send messages to each other through eBay. We
11 encourage open communication between our members but we don’t
12 allow our members to use these options to send spam, offers to buy
13 or sell off eBay, threats, profanity, or hate speech. We also don’t allow
14 members to offer, reference, or request email addresses, phone
15 numbers or other contact information, physical addresses, web
16 addresses, or links within eBay messaging systems (Best Offer, My
17 Messages etc.). eBay may monitor messages sent through eBay and
18 between users for fraud, abuse, spam, and other violations of eBay’s
19 policies.

20 Spam is defined as “an email (or part of an email) that is both
21 unsolicited and commercial in nature.”

22 29. eBay also has a policy about Offers to buy or sell off eBay. That policy provides in
23 relevant part as follows:

24 We don’t allow our members to use eBay to contact each other to
25 make offers to buy or sell items outside of eBay. Also, members can’t
26 use information obtained from eBay or any eBay systems to contact
27 each other about buying or selling outside of eBay.

28

29 Buyers and sellers aren’t allowed to share or request direct contact
30 information prior to completing a sale. They also can’t use
31 information they’ve obtained on eBay to contact each other to buy or
32 sell off eBay.

33 30. eBay explains the purpose behind this policy to members within the policy itself:

34 Offers to buy or sell outside of eBay are a potential fraud risk for both
35 buyers and sellers, and are not protected by the eBay Money Back
36 Guarantee and other buyer protection programs. Additionally, these
37 offers may be an attempt to avoid eBay fees. This is unfair to other
38 sellers and violates our policies.

1 31. eBay’s rules, policies, and restrictions in this regard are commonplace in the
2 industry, and, as described in more detail below, Amazon similarly prohibits members from, among
3 other things, sending commercial solicitations or otherwise seeking “to circumvent the established
4 Amazon sales process or to divert Amazon users to another website or sales process.”

5 **IV. DEFENDANTS’ RACKETEERING SCHEME TO ILLEGALLY POACH EBAY**
6 **SELLERS**

7 32. Amazon is a tech giant that in 2018 generated over \$232 billion in revenues and over
8 \$10 billion in net income. In contrast to eBay, Amazon sells products directly on its marketplace—
9 including through private label businesses—oftentimes competing directly against its third-party
10 sellers.

11 33. The lion’s share of Amazon’s revenues come from product sales, and it is constantly
12 under pressure, and searching, to increase the number of sellers on its platform. As Amazon’s CEO
13 explained in his letter to shareholders in Amazon’s 2017 annual report, Amazon customers “are
14 divinely discontent” and “[t]heir expectations are never static – they go up.” He explained that
15 Amazon “didn’t ascend from our hunter-gatherer days by being satisfied” and it “cannot rest on [its]
16 laurels in this world. Customers won’t have it.” Sales Amazon makes through third-party sellers have
17 become increasingly important in fueling Amazon growth. In 2017, for the first time in Amazon’s
18 history, more than half of the units sold on Amazon worldwide were from third-party sellers, and the
19 percentage of units sold by third-party sellers continued to increase in 2018. Amazon’s 2018 annual
20 shareholder letter touts the growth of its third-party seller business.

21 34. What Amazon did not disclose in its shareholder letter is that this growth has been
22 fueled in part by illegal tactics. For years, and unbeknownst to eBay, Defendants have conducted
23 the affairs of Amazon through a pattern of racketeering activity – an illegal, systematic, coordinated
24 effort to infiltrate and exploit eBay’s proprietary M2M system on eBay’s platform to lure top eBay
25 sellers to Amazon. The scheme is broad – involving a group of Amazon managers, including
26 Defendants, and large numbers of Amazon representatives (“Amazon reps”), targeting many
27 hundreds of eBay sellers, and spanning several countries overseas and many states in the United
28 States (including California).

1 35. For several years, at the direction of Defendants and other Amazon managers, dozens
2 of Amazon reps have obtained and used eBay M2M accounts to target eBay sellers and solicit them
3 to sell on Amazon, an effort Amazon referred to internally as “prospecting.” Based on training
4 provided by Defendants and other Amazon managers, many of these Amazon reps set up and used
5 their eBay accounts from devices linked to Amazon IP addresses. For example:

- 6 • eBay accounts “alexityrel0”; “arataa-7”; and “kjaneekev” accessed eBay from IP
7 address 54.240.196.170, which is registered to Amazon in Seattle.
- 8 • eBay accounts “bryabec3”; “savvyseller19894”; and “stacsisso0” accessed eBay
9 from IP address 54.240.196.171, which is registered to Amazon in Seattle.
- 10 • eBay accounts “cous141” and “kenmil-7” accessed eBay from IP address
11 54.240.196.185, which is registered to Amazon in Seattle.

12 36. Acting at the direction of Defendants and other Amazon managers, Amazon reps
13 provided false information, including false names and addresses, to eBay when registering for eBay
14 accounts. For example:

- 15 • eBay account “alexityrel0” was registered to a name different from the name of the
16 Amazon rep who used this account to send solicitation messages.
- 17 • eBay account “joelryanlentz” was registered using a fake, nonexistent address.
- 18 • eBay account “savvyseller15-5” was registered using a fake, nonexistent address.

19 37. At the direction of Defendants and other Amazon managers, many Amazon reps
20 began prospecting almost immediately after opening eBay accounts and gaining access to the M2M
21 system, demonstrating they never intended to abide by eBay’s User Agreement. For example:

- 22 • eBay account “arataa-7” (tied to an address in Burlingame, California) was created
23 on October 17, 2016, at 1:35 PM, and sent its first solicitation message that same day,
24 just four minutes later, at 1:39 PM.
- 25 • eBay account “kenmil-7” (tied to an address in Seattle, Washington) was created on
26 August 11, 2016, at 4:33 PM, and sent the first of many solicitation messages that
27 same day, just five minutes later, at 4:38 PM.
- 28 • eBay account “stacsisso-0” (tied to an address in Seattle, Washington) was created
on March 1, 2017, at 4:37 PM, and sent a solicitation message at 4:40 PM, just three
minutes later.

38 38. Acting at the direction of Defendants and other Amazon managers, some Amazon
reps used multiple accounts to exploit the eBay proprietary M2M system. One individual appears

1 to have created at least three accounts, called “savvy11025”; “savvyseller15-5”; and
2 “savvyseller19894” within a few week span in 2016.

- 3 • eBay account “savvy11025” (tied to an address in Seattle, Washington) was created
4 on September 22, 2016, at 4:24 PM, and sent its first solicitation message that same
5 day, just six minutes later, at 4:30 PM.
- 6 • eBay account “savvyseller15-5” (opened in the same name as savvy11025 and tied
7 to a different address in Seattle, Washington) was created on October 2, 2016, at
8 8:28 PM, and sent its first of five solicitation messages that same day, just five
9 minutes later, at 8:33 PM.
- “savvyseller19894” (opened in the same name as the above two “savvy” accounts
and tied to the same Seattle, Washington address as savvy11025) was created on
October 13, 2016, at 3:16 PM, and sent its first message that same day, just eight
minutes later, at 3:24 PM.

10 Collectively, these three “savvy” accounts were most savvy at engaging in illegal conduct – sending
11 more than 120 solicitation emails while making zero bids, zero purchases, zero listings, and zero
12 sales on the eBay platform.

13 39. Amazon reps often described to targeted eBay sellers how they were prospecting as a
14 team led by the Defendants and other Amazon managers. Examples of such communications abound:
15 “I am part of what you would call a hunter/recruiter team which actively searches for sellers we believe
16 can do well on the platform”; “I work for Amazon and we are trying to recruit a couple sellers”; and “I
17 work for a small team here at Amazon that recruits a finite number of high-potential sellers.” Another
18 observed that “[w]e’re recruiting heavily.”

19 40. Further evidencing that Defendants and other Amazon managers coordinated this
20 scheme from Amazon’s headquarters, the team’s solicitation communications often followed a
21 similar pattern. At the direction of Defendants and other Amazon managers, Amazon reps would
22 send a cold-call email to an eBay seller, introducing themselves as Amazon employees. The Amazon
23 rep often would explain to the eBay seller that Amazon has observed and is impressed by the seller’s
24 activity and/or operation, and that the rep would like the seller to consider selling on Amazon. The
25 rep often would explain alleged benefits associated with selling on Amazon. The Amazon rep then
26 often provided his or her contact information (often an Amazon email address), and asked the eBay
27 seller to engage in further communication about selling on the Amazon platform through a means
28 other than the eBay M2M system.

1 41. An example of such a pitch is as follows:

2 Hi there, Hope you are well! I manage the apparel category at Amazon
3 and came across you guys with a really cool selection. I was curious
4 to see – have you looked at selling on Amazon? Because this is a
5 personal invite, I could get you up and running quickly, opening you
6 up to a whole new audience for you guys. Let me know your thoughts
and if you'd like my help in getting started! John Doe Business
Development XXXX XXXX Ave, Seattle, WA 98XXX Direct: (206)
XXX-XXXX jdoe at amazon dot com[.]⁴

7 Another solicitation similarly offers:

8 Hello, My name is John Roe and I am part of the apparel business
9 development team at Amazon.com. I am specifically working to find
10 new selection for our Clothing & Accessories store. I came across
11 your eBay storefront and I believe your apparel selection will lend
12 well to the Amazon Apparel Category. I would like to speak with you
13 to discuss a possible fit for your products on Amazon, so that you can
14 sell directly to our customers. We are providing the integration
support necessary to help our recruited Apparel merchants get up and
running quickly. Please email or call me at XXX-XXX-XXXX as
soon as possible so we can discuss how to get started. I look forward
to hearing from you! John Roe | Amazon Services LLC Business
Development Executive XXXX XXXX Ave. | Seattle, WA | 98XXX
p: 206.XXX.XXXX jroe at amazon dot com[.]

15 42. Indeed, different reps sometimes sent *literally identical* pitch emails, as illustrated
16 below, first by the solicitation email from “Adam”:

17 To whom it may concern, Good afternoon. My name is Adam I work
18 in the shoes category at Amazon. I came across your store and really
19 like the selection that you offer and your fantastic feedback. Have you
20 ever considered selling on Amazon as well? If so, I'd like to chat with
you about the platform. I hope to hear back from you. Best Regards,
Adam

21 – and then by the identical pitch email from “Eric”:

22 To whom it may concern, Good afternoon. My name is Eric I work in
23 the shoes category at Amazon. I came across your store and really like
24 the selection that you offer and your fantastic feedback. Have you
25 ever considered selling on Amazon as well? If so, I'd like to chat with
26 you about the platform. I hope to hear back from you. Best Regards,
27 Eric

28 ⁴ Amazon representatives' email addresses, phone numbers, last names, and postal addresses
have been changed to generic ones throughout this Complaint.

1 43. Amazon reps sought feedback from targeted sellers to share with Defendants and
2 other Amazon managers, in an effort to improve the effectiveness of the scheme. For example, when
3 one target seller declined an Amazon rep's solicitation, the rep responded: "I will make a note in
4 your file with me to reflect that. May I ask why though you would not want to expand to AMZ as
5 well? It will help me explain to my supervisor why I am closing out your file."

6 44. Defendants, other Amazon managers, and the Amazon reps understood that this
7 conduct was wrong, and in violation of eBay's User Agreement and Policies. Defendants Boch and
8 Hedger were eBay members themselves, and personally agreed to abide by eBay's User Agreement
9 and policies. Amazon reps often discussed with eBay sellers the specific eBay policies that the reps
10 knew they were breaking. For example, one eBay seller, cognizant that engaging in negotiations
11 over eBay's M2M interface breached eBay's policies, responded to an Amazon rep's solicitation,
12 "I don't want to receive anything through eBay messages and violate their policies." The rep
13 acknowledged the seller's "reservations." Others similarly acknowledged that "eBay doesn't allow
14 phone numbers in these messages" and that "ebay will not allow the exchange of email addresses in
15 these messages[.]"

16 45. Indeed, Amazon has rules for its own platform to prevent the same misconduct
17 Amazon perpetrated on eBay's platform. For example, Amazon's "Prohibited seller activities and
18 actions" policy states that "[u]nsolicited emails to Amazon customers (other than as necessary for
19 order fulfillment and related customer service) and emails related to marketing communications of
20 any kind are prohibited." That policy further provides that:

21 Any attempt to circumvent the established Amazon sales process or
22 to divert Amazon users to another website or sales process is
23 prohibited. Specifically, any advertisements, marketing messages
24 (special offers) or "calls to action" that lead, prompt, or encourage
25 Amazon users to leave the Amazon website are prohibited. This might
26 include the use of emails, hyperlinks, URLs, or web addresses within
27 any seller-generated confirmation email messages or any
28 product/listing description fields.

26 46. Understanding that they were violating rules that eBay users promise to follow,
27 Defendants and other Amazon managers directed and encouraged Amazon reps to circumvent
28 eBay's detection tools, finding creative ways for Amazon reps to share their contact information with

1 eBay sellers. These anti-detection measures often took the form of spelling out non-word portions of
2 email addresses and using punctuation and other words to break up telephone numbers. For example,
3 one rep acknowledged he could not send a seller his contact information, instead choosing to write
4 his phone number as “2 0 6 - 5 5 5 - 5 5 5 5,” remarking that “the funky typing is because eBay
5 doesn’t allow for info like this to normally be put into messages[.]” That same rep notified another
6 seller that he could be reached at “206 phone 555 number 5555 (read between the words) since eBay
7 doesn’t allow phone numbers in these messages.” One seller was told that “[y]ou can write me at
8 Jdoe AT amazon DOT com. Sorry for the weird format but Ebay looks for things like this in their
9 messages and wont allow me to send if I type out my address regularly.” Other Amazon reps
10 explained the need for these techniques, for example: “Ebay does scan for key terms and they don’t
11 exactly like us poking around.” Defendants and other Amazon managers instructed Amazon reps to
12 register using multiple accounts and/or false information to avoid detection by eBay.

13 47. Defendants and other Amazon managers generated lists of eBay sellers for the
14 representatives to target, and specifically included certain types of eBay sellers who could supply
15 trending items or fill holes in Amazon’s swath of product offerings.

16 48. Defendants and other Amazon managers incentivized representatives to engage in
17 the racketeering scheme. Representatives were given quotas for recruiting sellers, and were expected
18 to satisfy large chunks of those quotas by targeting and illegally recruiting eBay sellers. Defendants
19 saw that Amazon reps were rewarded for meeting their quotas.

20 49. Defendants and other Amazon managers conducted the affairs of Amazon through a
21 pattern of racketeering activity—a conspiracy designed to illegally infiltrate and exploit eBay’s
22 internal member email system using fraud and false pretenses, in violation of 18 U.S.C. § 1343. At
23 the direction of Defendants and other Amazon managers, Amazon reps perpetrated a fraud in
24 opening eBay user accounts for the purpose of violating eBay’s User Agreement and policies, so as
25 to cause eBay sellers to violate their contracts with eBay as well, and move sales to Amazon.
26 Defendants and the reps they directed concealed the fraud and illegal efforts by using various anti-
27 detection techniques.

28

1 50. Defendants' pattern of racketeering activity was far-reaching: on behalf of Amazon,
2 Defendants and other Amazon managers coordinated their prospecting and solicitation activities
3 across various foreign and domestic subsidiaries as part of a global conspiracy. Reps located in the
4 United States, United Kingdom, France, Spain, Italy, Australia, and Singapore participated in these
5 efforts, sending similar messages, employing similar solicitation strategies, and using similar anti-
6 detection measures in furtherance of this common scheme.

7 51. Defendants' efforts have borne fruit. Amazon representatives working at the
8 direction and instruction of Defendants and other Amazon managers satisfied significant portions
9 of their seller recruitment quotas through the illegal activity, bringing eBay sellers over to sell on
10 the Amazon platform, and filling holes in Amazon's product offerings that provide network benefits
11 far beyond the fees generated by a single seller. Amazon's most recent annual letter to shareholders
12 touts the growth of third-party seller activity on Amazon's platform, while failing to note that the
13 Defendants and others have pushed growth through the racketeering scheme. This case seeks to put
14 a stop to the illegal conduct, to recover damages associated therewith, and to ensure that it does not
15 happen again.

16 CAUSES OF ACTION

17 COUNT I:

18 VIOLATION OF 18 U.S.C. §§ 1962(c) and (d)

19 52. eBay realleges each and every allegation set forth in Paragraphs 1 through 51,
20 inclusive, and incorporates them by reference herein.

21 53. 18 U.S.C. § 1962(c) makes it "unlawful for any person employed by or associated
22 with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to
23 conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a
24 pattern of racketeering activity or collection of unlawful debt."

25 54. 18 U.S.C. § 1962(d) makes it "unlawful for any person to conspire to violate any of
26 the provisions of subsection (a), (b), or (c) of this section."

27 55. Defendants are "person[s]" within the meaning of 18 U.S.C. §§ 1961(3) and 1964(d).
28

1 56. eBay is a “person” within the meaning of 18 U.S.C. § 1961(3) because it is an entity
2 capable of holding legal or beneficial interest in property.

3 57. Amazon.com Inc. (“Amazon”) constitutes an “enterprise” within the meaning of
4 18 U.S.C. §§ 1961(4) and 1962(c). Defendants participated, directly and indirectly, in the operation
5 and management of Amazon, by implementing and facilitating a scheme to defraud through the
6 commission of numerous counts of wire fraud as set forth herein (the “RICO Fraud Scheme”). At
7 all relevant times, Amazon had an existence separate and distinct from the pattern of racketeering
8 in which the Defendants engaged.

9 58. Defendants devised and participated in this scheme in order to inflict harm on eBay
10 and generate substantial profit for themselves, others who participated in the scheme, and Amazon,
11 by soliciting eBay member-sellers away from the eBay platform to the Amazon platform.

12 59. Defendants worked with separate third parties, including Amazon reps, to assist in
13 the scheme to defraud and to fulfill necessary roles in the implementation of the RICO Fraud
14 Scheme.

15 60. On information and belief, Defendants have engaged in racketeering and other
16 activities affecting interstate and foreign commerce for several years. Amazon affects both interstate
17 and foreign commerce because it conducts business in multiple states within the United States and
18 foreign countries.

19 61. Defendants have employed a similar pattern of fraudulent activity to unlawfully
20 solicit eBay member-sellers by, among other things, directing and causing the Amazon reps to enter
21 into User Agreements with eBay without any intent of abiding by promises in those Agreements (as
22 described more fully herein), soliciting eBay member-sellers in order to induce them to leave the
23 eBay platform for Amazon in breach of their own User Agreements with eBay, and using detection
24 circumvention techniques to avoid getting caught.

25 62. At Defendants’ direction, Amazon reps opened accounts using fake names and
26 addresses, and falsely promised to abide by the obligations in the User Agreement without intending
27 to do so.

28

1 63. These representations were false and made in furtherance of the RICO Fraud Scheme
2 to induce eBay member-sellers to violate their contracts with eBay, including the promises not to
3 use the M2M system to (1) discuss offers to sell off eBay; or (2) exchange email addresses, phone
4 numbers, or other contact information.

5 64. Contrary to their representations, Amazon reps – acting at the instruction of the
6 Defendants and with Defendants’ knowledge – never intended to abide by the obligations in the
7 User Agreement. As described in more detail herein, Amazon reps opened eBay accounts for the
8 express purpose of prospecting eBay member-sellers; began soliciting eBay member-sellers
9 immediately after opening eBay accounts; provided false information regarding their identities and
10 addresses to eBay; opened multiple accounts to exploit the eBay proprietary M2M system; and used
11 circumvention techniques to avoid detection by eBay.

12 65. Defendants violated 18 U.S.C. § 1961(1) by engaging in a pattern of “racketeering
13 activity” including wire fraud, in violation of 18 U.S.C § 1343.

14 66. In violation of 18 U.S.C. § 1962(c) Defendants conducted and/or participated in the
15 conduct of Amazon’s affairs, directly or indirectly, through a pattern of racketeering activity.
16 Defendants participated in the operation or management of Amazon by, among other things:

- 17 • Directing Amazon reps to illegally use the eBay member-to-member system to
18 prospect sellers to move to Amazon;
- 19 • Providing training and instructing Amazon reps on how to abuse eBay accounts in
20 order to prospect for eBay member-sellers and avoid detection by eBay;
- 21 • Generating lead lists of eBay sellers for the representatives to target, with a
22 particular emphasis on certain types of eBay sellers that could supply trending
23 items or fill holes in Amazon’s swath of product offerings; and
- 24 • Incentivizing Amazon reps to engage in the racketeering activity by giving reps
25 quotas for recruiting sellers, expecting reps to satisfy large chunks of those quotas
26 by targeting and illegally recruiting eBay sellers, and rewarding Amazon reps for
27 meeting their quotas.

28 67. Defendants engaged in a scheme or artifice to defraud eBay out of money by means
of false or fraudulent pretenses, representations, or promise, including but not limited to by directing
and encouraging Amazon reps to open and use eBay accounts for the express purpose of prospecting
eBay member-sellers; to provide false information regarding their identities and addresses to eBay;

1 to open multiple accounts to exploit the eBay proprietary M2M system; and to use circumvention
2 techniques to avoid detection by eBay.

3 68. Defendants voluntarily and intentionally devised and participated in the scheme or
4 artifice to defraud. On information and belief Defendants knew that Amazon reps were making false
5 promises to get access to eBay's M2M system, and that soliciting eBay sellers from eBay's platform
6 was wrong and in violation of eBay's User Agreement and policies, but Defendants nevertheless
7 directed and encouraged Amazon reps to do so. Defendants helped developed methods to avoid
8 eBay's detection, for example by using variations on the Amazon name, such as "a-m-a-z-o-n,"
9 "A.M.Z.N," and "AMZ," and trained and encouraged Amazon reps to use these anti-detection
10 techniques.

11 69. In furtherance of the scheme to defraud, it was reasonably foreseeable that interstate
12 wire communications would be used, and interstate wire communications were in fact used. Over a
13 period of at least three years, Defendants caused to be transmitted by means of wire communication
14 in interstate commerce numerous communications that were designed to defraud eBay and/or
15 eBay's member-sellers out of money, including but not limited to:

- 16 • On April 7, 2016, an Amazon rep opened an eBay user account in the name
17 bryabec3 and falsely promised to abide by the terms of the User Agreement without
18 any intent to do so. In the month between the time of opening the account and
19 sending the first solicitation message, the Amazon rep did not use eBay to buy, sell,
20 or list any item.
- 21 • On May 6, 2016, 30 days after opening an eBay account, bryabec3 sent a
22 solicitation message to an eBay member-seller stating in part: "I hope you are well!
23 My name is XXX, an account executive at Amazon.com, and I am reaching out to
24 marine sports sellers to be their account manager all year long! You have a
25 fantastic product selection that would do great on Amazon, so if you are open to a
26 conversation I would love to talk about how I can help you get more sales this year
27 through Amazon.com. We only work with 1% of all Sellers. The fees upfront are
28 \$39.99/month and a 15% revenue share at the time of sale. –That's all it will
require to grow your business with Amazon, and again reach millions of additional
buyers each month. You get your first month for free to test out how this works.
The only difference with this opportunity is you will have an account executive
walking you through this test. I am confident that once you start you and I will be
working together all year."
- On June 24, 2016, kjaneekev sent a solicitation message to an eBay member-seller
stating in part: "Hi there, I wanted to see – are you interested in selling your items

1 on Amazon? I work in apparel and came across your site looking for businesses I
2 think could do well. Because this is a personal invite I could get you up and
3 running in 20 minutes or so and get you your first month free.”

- 4 • On August 11, 2016, an Amazon rep opened an eBay user account in the name
5 kenmil-7 and falsely promised to abide by the terms of the User Agreement without
6 any intent to do so.
- 7 • The same day, on August 11, 2016, kenmil-7 sent a solicitation message to an eBay
8 member-seller stating in part: “Hello, I would like to partner with XXX to offer the
9 widest selection of dental supplies and equipment to our professional dental
10 customers. Our focus is to provide the best of both worlds when it comes to
11 purchasing professional dental products: a trusted e-commerce platform that
12 delivers A+ content and discoverability and trusted, reputable brands for all areas
13 of the dental practice. In short, my goal is buy inventory from XXX to bring
14 products onto Amazon.”
- 15 • On August 18, 2016, seminole1351 sent a solicitation message to an eBay member-
16 seller stating in part: “I am part of what you would call a hunter/recruiter team
17 which actively searches for sellers we believe can do well on the platform.
18 Assuming your items are new, authentic, and you havent [sic] had a blocked seller
19 account in the past, I should be able to get you on.”
- 20 • On August 20, 2016, drwerm sent a solicitation message to an eBay member-seller
21 stating in part: “My name is XXX, I represent the Patio, Lawn and Garden
22 category at Amazon.com. I am using my personal ebay account to contact you, so
23 pardon the informality. I would like to see if you have any interest of adding your
24 products to the Amazon.com marketplace. I launch new businesses to the Amazon
25 marketplace and act as account manager to help your business grow through the
26 end of this year. Please let me know if this opportunity is of interest to you. You
27 can call me directly at XXX-XXX-XXXX. Ebay does not allow me to send my
28 email address but I assure you, I work for Amazon.com directly. If you send me
your direct contact information, we can connect via email.”
- On September 14, 2016, 2012savyseller sent a solicitation message to an eBay
member-seller stating in part: “Hello, My name is XXX and I am part of the
business development team at Amazon.com in the Marketplace division. We have
done some research and are interested in your products for a possible fit in our
website. We’re interested in your shoe inventory. We have a few gaps we need to
fill this year in 2016 and are looking for motivated sellers to bring on board to help
fill our variation gaps.”
- On September 22, 2016, an Amazon rep opened an eBay user account in the name
savvy11025 and falsely promised to abide by the terms of the User Agreement
without any intent to do so.
- That same day, on September 22, 2016, savvy11025 sent a solicitation message to
an eBay member-seller stating in part: “Hello, My name is XXX and I am part of

1 the business development team at Amazon.com in the Marketplace division. We
2 have done some research and are interested in your products for a possible fit in our
3 website. We're interested in your shoe inventory. We have a few gaps we need to
4 fill this year in 2016 and are looking for motivated sellers to bring on board to help
5 fill our variation gaps."

- 6 • On October 2, 2016, an Amazon rep opened an eBay user account in the name
7 savvyseller15-5 and falsely promised to abide by the terms of the User Agreement
8 without any intent to do so.
- 9 • That same day, on October 2, 2016, savvyseller15-5 sent a solicitation message to
10 an eBay member-seller stating in part: "To whom it may concern, Good afternoon.
11 My name is XXX I work in the shoes category at Amazon. I came across your store
12 and really like the selection that you offer and your fantastic feedback. Have you
13 ever considered selling on Amazon as well? If so, I'd like to chat with you about
14 the platform."
- 15 • On October 3, 2016, 2012savvyseller sent a solicitation message to an eBay
16 member-seller: "Yes I noticed the great feedback and that's what sparked my
17 interest in reaching out to you. I'm in the seller recruitment department and on-
18 baord [sic] new shoes sellers on the platform. My email at Amazon is: XXX at
19 amazon.com."
- 20 • On October 7, 2016, earbudexpert sent a solicitation message to an eBay member-
21 seller stating in part: "My name is XXX, and I lead business development efforts
22 for the Tools, Lighting, and Home Improvement categories here at Amazon. I
23 noticed your low prices on this product and would like to speak with you directly
24 about selling your products on Amazon.com. This was one of #1 the top sellers last
25 season for home improvement and we want to see what kind of supply you have at
26 this price. If you're interested in learning about all the benefits and how you can
27 combine our traffic and e-commerce skills with your product selection, please reply
28 to this email and let me know the best way to contact you. If you call me I can
send you an email, but ebay wont let me send you an email via there messaging
system."
- On October 13, 2016, an Amazon rep opened an eBay user account in the name
savvyseller19894 and falsely promised to abide by the terms of the User
Agreement without any intent to do so.
- That same day, on October 13, 2016, savvyseller19894 sent a solicitation message
to an eBay member-seller stating in part: "To whom it may concern, Good
afternoon. My name is XXX I work in the shoes category at Amazon. I came across
your store and really like the selection that you offer and your fantastic feedback.
Have you ever considered selling on Amazon as well? If so, I'd like to chat with
you about the platform. I hope to hear back from you."
- On October 17, 2016, an Amazon rep opened an eBay user account in the name
arataa-7 and falsely promised to abide by the terms of the User Agreement without

1 any intent to do so.

- 2
- 3 • The same day, on October 17, 2016, arataa-7 sent a solicitation message to an eBay member-seller stating in part: “Hello - My name is XXX. I am with the Business Development team on Amazon. Have you ever considered selling with us?”
 - 4
 - 5 • On October 27, 2016, savvyseller19894 sent a solicitation message to an eBay member-seller stating in part: “To whom it may concern, My name is XXX I work in the shoes category at Amazon. I came across your store and really like the selection that you offer and your fantastic feedback. Have you ever considered selling on Amazon as well? If so I’d like to discuss coming on board as a Amazon managed account. You will have an assigned rep to help you scale your business.”
 - 6
 - 7
 - 8
 - 9 • On November 2, 2016, arataa-7 sent a solicitation message to an eBay member-seller stating in part: “Hello, I am with the business development team at Amazon and think your selection would also do well with heading into the holiday season. Have you ever considered selling with us?”
 - 10
 - 11
 - 12 • On November 15, 2016, savvy11025 sent a solicitation message to an eBay member-seller stating in part: “To whom it may concern, Good afternoon. My name is XXX I work in the shoes category at Amazon. I came across your store and really like the selection that you offer and your fantastic feedback. Have you ever considered selling on Amazon as well? If so I’d like to discuss coming on board as a Amazon managed account. You will have an assigned rep to help you scale your business.”
 - 13
 - 14
 - 15
 - 16 • On December 18, 2016, joelryanlentz sent a solicitation message to an eBay member-seller stating in part: “Do you sell similar items on Amazon.com? I am an account representative for computers. We now have a certified refurbished program.”
 - 17
 - 18
 - 19 • On January 16, 2017, an Amazon rep opened an eBay user account in the name 3rjoel and falsely promised to abide by the terms of the User Agreement without any intent to do so.
 - 20
 - 21
 - 22 • That same day, on January 16, 2017, 3rjoel sent a solicitation message to an eBay member-seller stating in part: “If you have other certified refurbished items I can help you sell them on Amazon.com.”
 - 23
 - 24 • On January 17, 2017, joelryanlentz sent a solicitation message to an eBay member-seller stating in part: “Any interest in selling on Amazon.com? I am an account manager for new sellers and can help you.”
 - 25
 - 26 • On February 26, 2017, joelryanlentz sent a solicitation message to an eBay member-seller: “If you are not already selling on Amazon.com, I can help you get started. I am an account representative for business development [sic] and I can be reached at XXX@amazon.com.”
 - 27
 - 28

- 1
- 2 • On March 22, 2017, an Amazon rep opened an eBay user account in the name alexityre10 and falsely promised to abide by the terms of the User Agreement without any intent to do so.
 - 3
 - 4 • The same day, on March 22, 2017, alexityre10 sent a solicitation message to an eBay member-seller stating in part: “Hi , I’m with the Business Development team here at Amazon and would like to speak with you about a specific opportunity (invite only) to launch your products as an Amazon seller we’ve recruited. Please contact me directly at XXX-XXX-XXXX or reply to me here so we can arrange a time for a brief conversation if this is of interest. I look forward to speaking with you in detail about my team and how we can help you maximize your online sales presence.”
 - 5
 - 6
 - 7
 - 8
 - 9 • On April 10, 2017, seminole1351 sent a solicitation message to an eBay member-seller stating in part: “Thank you for the quick response! Because of the email moderators on here, would you be willing to speak on the phone tomorrow? My direct line is X.X.X.-X.X.X.-X.X.X.X. Sorry about the formatting, but again eBay doesnt exactly like us putting phone numbers in here. I am located in Seattle and on PST. I am usually in from around 730am-430pm. Would that work for you at all?”
 - 10
 - 11
 - 12
 - 13 • On April 18, 2017, an Amazon rep opened an eBay user account in the name matenglesb-0 and falsely promised to abide by the terms of the User Agreement without any intent to do so. In the roughly three week period between the opening of the account and sending the first solicitation message, the Amazon rep did not use eBay to buy, sell, or list any item.
 - 14
 - 15
 - 16 • On May 9, 2017, 22 days after opening an eBay account, matenglesb-0 sent a solicitation message to an eBay member-seller stating in part: “Hello, My category team would like to discuss listing any aligned products and services your company offers that might be a great fit for Amazon’s new Business Marketplace, an online procurement platform and dedicated product marketplace designed exclusively for b2b bulk purchasing and enterprise-class buyer transactions. Please let me know if you are interested, and who the appropriate person at your Company would be to learn more about this opportunity.”
 - 17
 - 18
 - 19
 - 20
 - 21 • On June 14, 2017, alexityre10 sent a solicitation message to an eBay member-seller stating in part: “You are a successful seller on eBay so I want to let you know about an opportunity to launch as a recruited seller on Amazon should you have a business case for it. I work for a small team here at Amazon that recruits a finite number of high-potential sellers to the marketplace each year and feel you’d be a great fit based on your product selection. Our recruited sellers receive a lot of support and perks that our ‘normal’ sellers don’t get and, given the amount of revenue our sellers are capturing for themselves and how flexible the program is, I felt it was worth bringing to your attention to discuss a bit further. Please let me know if you have some time to discuss further.”
 - 22
 - 23
 - 24
 - 25
 - 26
 - 27
 - 28 • On August 10, 2017, 3rjoel sent a solicitation message to an eBay member-seller stating in part: “I work at Amazon and would be interested to know if you’d like

1 help getting re-established as a seller on our marketplace. You can reach me
2 directly at two zero six, six XX, three three XX.”

- 3 • On September 24, 2017, seminole1351 sent a solicitation message to an eBay
4 member-seller stating in part: “To whom it may concern at XXX, Good afternoon. I
5 apologize about the intrusive message but I wanted to hopefully speak with you
6 about possibility of expanding your online presence to selling on Amazon as well
7 as eBay. I work directly for Amazon and our Shoes and Softlines department is still
8 looking for great sellers like yourself to help ‘fill in the gaps’ in our 3P
9 marketplace. I would very much like the chance to explain the process to you and
10 being directly recruited means you can bypass the fees other ‘self-service’ sellers
11 have to pay in order to sell brands like Adidas, Nike, Under Armour, etc. Please let
12 me know.”
- 13 • On October 3, 2017, seminole1351 sent a solicitation message to an eBay member-
14 seller: “I am not sure if ebay will allow this to go through, but I will try... Direct
15 to desk: 2 0 6 - X X X - X X X X By computer: XXX at amazon dot com XXX
16 :-)”
- 17 • On March 1, 2018, matenglesb-0 sent a solicitation message to an eBay member-
18 seller stating in part: “My name is XXX and I work in business development here
19 at Amazon and Amazon Business. I would like to speak with someone about a go
20 to market strategy here on Amazon.com. I am recruiting companies that are serious
21 about growing their business utilizing Amazon’s marketplace as a new or
22 additional sales channel. I have some bandwidth to offer my services as a dedicated
23 account manager and an Amazon support POC. As a managed seller you will have
24 access to all of the Amazon.com marketplace (B2C & B2B) and our PRIME
25 program (FBA).”
- 26 • On March 28, 2018, earbudexpert sent a solicitation message to an eBay member-
27 seller stating in part: “Hello, My name is XXX and I work for Amazon. I am
28 wanting to speak with your company about selling your certified refurbished
products on Amazon under our new Renewed program. I can be reached at XXX
AT Amazon dot com.”

70. eBay was directly injured and suffered damages to its business and property as a
result of Defendants’ acts of wire fraud including, *inter alia*, lost revenue from sales and fees it
would have realized had Defendants not conducted the affairs of Amazon through a pattern of
racketeering activity, as well as costs associated with investigating and rectifying Defendants’
conduct.

71. The acts of racketeering activity referred to in the previous paragraphs constitute a
“pattern of racketeering activity” within the meaning of 18 U.S.C. § 1961(5). The acts alleged were
related to each other by virtue of common participants, similarly situated victims, a common method

1 of commission, and the common purpose and common result of inducing eBay's member-sellers to
2 breach their User Agreements with eBay and move to the Amazon platform. For example, as
3 described in more detail herein,

- 4 • The relevant communications took place over the course of several years;
- 5 • The communications abused the M2M system in the same way;
- 6 • Amazon reps often described to targeted eBay sellers how they were prospecting as
7 a team;
- 8 • The solicitation communications often followed a similar pattern;
- 9 • The solicitation communications employed similar anti-detection techniques;
- 10 • Different reps sometimes sent literally identical pitch emails; and
- 11 • Amazon reps sought to improve the effectiveness of the scheme by learning from
12 mistakes and spreading that learning back to Defendants and other Amazon
managers.

13 72. As a direct and proximate result of Defendants' violations of 18 U.S.C. § 1962(c),
14 eBay has been damaged in an amount to be proven at trial, including *inter alia*, lost revenue from
15 sales and fees it would have realized had Defendants not conducted the affairs of Amazon through
16 a pattern of racketeering activity, as well as costs associated with investigating and rectifying
17 Defendants' conduct.

18 73. Defendants also willfully, knowingly, and unlawfully did conspire, combine,
19 confederate, and agree together to violate 18 U.S.C. § 1962(c) by conducting the affairs of Amazon
20 through a pattern of racketeering activity.

21 74. Defendants specifically intended and foresaw that Amazon would engage in, and
22 conduct activities that affected, interstate commerce, as described above.

23 75. eBay has been injured in its business or property as a direct and proximate result of
24 Defendants' violations of 18 U.S.C. § 1962(d), including injury by reason of wire fraud, the
25 predicate act constituting the pattern of racketeering activity, as described above.

26 76. As a result of the conspiracy between and among Defendants to violate 18 U.S.C. §
27 1962(c), eBay has suffered substantial damages, in an amount to be proved at trial including *inter*
28 *alia*, lost revenue from sales and fees it would have realized had Defendants not conspired to conduct

1 the affairs of Amazon through a pattern of racketeering activity, as well as costs associated with
2 investigating and rectifying Defendants' conduct.

3 77. As a result of Defendants' violation of 18 U.S.C. §§ 1962(c) and (d) and 1964(c),
4 eBay is entitled to three-fold its damages and the costs of suit, including a reasonable attorney's fee.

5 **COUNT II:**

6 **INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS**

7 78. eBay realleges each and every allegation set forth in Paragraphs 1 through 77,
8 inclusive, and incorporates them by reference herein.

9 79. As described in more detail herein, to become an eBay member, a visitor must agree
10 to the eBay User Agreement. The User Agreement sets forth, in writing, rules and policies for use
11 of eBay that the members agree to follow, thereby creating written contracts between eBay and its
12 members. eBay's User Agreements with its members are valid and enforceable.

13 80. Defendants directed and encouraged Amazon reps to create eBay member accounts
14 and, in doing so, agree to the terms of the eBay User Agreement. Defendants, on information and
15 belief, and the Amazon reps were thus aware of the existence and terms of the User Agreement
16 between eBay and its members.

17 81. Defendants caused Amazon reps to prevent performance by eBay's member-sellers
18 under their User Agreements with eBay; make eBay's member-sellers' performance under such
19 agreements more difficult; and cause eBay member-sellers to breach such contracts. Amazon reps
20 intentionally encouraged and induced eBay member-sellers to breach by, among other things,
21 encouraging them to use the M2M system to share "email addresses, phone numbers or other contact
22 information" and "to make offers to buy or sell items outside of eBay." Amazon reps prevented
23 performance by eBay's member-sellers as directed.

24 82. Defendants and the Amazon reps intended to disrupt performance of eBay member-
25 sellers' contracts with eBay, and they intended to cause eBay member-sellers to breach those
26 contracts. These actions have caused eBay member-sellers to breach their contracts with eBay and
27 have disrupted performance under those contracts.

28

1 83. eBay has suffered harm as a result of the coordinated efforts of Defendants and the
2 Amazon reps, including a loss of business and property interest, and this conduct was a substantial
3 factor in causing this harm.

4 84. Defendants coordinated, supported, and ratified the scheme under which Amazon
5 reps committed these acts.

6 85. The conduct of Defendants and the Amazon reps was fraudulent, malicious,
7 oppressive, and in willful disregard of eBay's rights.

8 **COUNT III:**

9 **INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS**

10 86. eBay realleges each and every allegation set forth in Paragraphs 1 through 85,
11 inclusive, and incorporates them by reference herein.

12 87. eBay has an ongoing economic relationship with its member-sellers that probably
13 would have resulted in economic benefit to eBay. When sellers sell items on eBay, eBay receives a
14 fee for facilitating the transaction.

15 88. Defendants and the Amazon reps were aware of eBay's economic relationship with
16 its member-sellers.

17 89. Defendants directed and encouraged Amazon reps to engage in wrongful conduct by,
18 among other things, fraudulently entering into User Agreements with eBay without any intent of
19 abiding by promises in those Agreements (as described more fully herein) and using fake names and
20 addresses to register; breaching their own User Agreements with eBay; and/or engaging in conduct
21 that violated Cal. Penal Code § 502(c)(3) (as described more fully herein). Amazon reps engaged in
22 this wrongful conduct as directed.

23 90. By and through the wrongful conduct of its reps, Defendants and the Amazon reps
24 intended to disrupt eBay's relationship with its member-sellers, or they knew that disruption of the
25 relationship was certain or substantially certain to occur.

26 91. eBay's relationship with its member-sellers was disrupted.
27
28

1 92. eBay has suffered harm as a result of the coordinated efforts of Defendants to disrupt
2 eBay's relationship with eBay's member-sellers, and this conduct was a substantial factor in causing
3 this harm.

4 93. Defendants coordinated, supported, and ratified the scheme under which Amazon
5 reps committed these acts.

6 94. Defendants' conduct was fraudulent, malicious, oppressive, and in willful disregard
7 of eBay's rights.

8 **COUNT IV:**

9 **FRAUD**

10 95. eBay realleges each and every allegation set forth in Paragraphs 1 through 94,
11 inclusive, and incorporates them by reference herein.

12 96. To carry out Defendants' scheme, Amazon reps made misrepresentations and/or
13 omissions regarding use of the eBay M2M messaging system at the direction and urging of
14 Defendants. As discussed in more detail herein, Defendants directed and encouraged Amazon reps
15 to open eBay accounts for the specific purpose of targeting eBay sellers as part of a scheme to solicit
16 them to sell on Amazon, and the Amazon reps opened eBay accounts as directed. Defendants, on
17 information and belief, and the Amazon reps knew that their planned activities would violate the
18 terms of eBay's User Agreement. As a condition to becoming eBay members and thereby gaining
19 access to the M2M system, Amazon reps promised to abide by the terms of eBay's User Agreement,
20 despite never intending to do so. On information and belief, Defendants understood Amazon reps
21 would be making such promises and using fake identity and address information to open accounts.
22 Amazon reps failed to inform eBay that they really intended to misuse and abuse the M2M system
23 for the purpose of attempting to move sellers to Amazon.

24 97. The true of intent of Defendants and Amazon reps when making these material
25 misstatements and/or omissions is evidenced by, among other things, the following, which is
26 described in further detail above: (1) Defendants encouraged and directed Amazon reps to illegally
27 use eBay's M2M system to prospect sellers to move to Amazon; (2) Defendants provided training
28 and instruction to Amazon reps on how to open and use eBay accounts in order to prospect for eBay

1 member-sellers and avoid detection by eBay; (3) with Defendants' encouragement, Amazon reps
2 provided false information, including false names and addresses, to eBay when registering for eBay
3 accounts; (4) Defendants provided lead lists with eBay sellers for the representatives to target, with
4 a particular emphasis on certain types of eBay sellers that could supply trending items or fill holes in
5 Amazon's swath of product offerings; (5) Defendants incentivized Amazon reps to engage in the
6 racketeering activity by giving reps quotas for recruiting sellers, expecting reps to satisfy large
7 chunks of those quotas by targeting and illegally recruiting eBay sellers, and rewarding Amazon reps
8 for meeting their quotas; (6) Amazon reps began solicitation activity within minutes of opening eBay
9 accounts and gaining access to the M2M system; (7) Amazon reps used multiple accounts to exploit
10 the M2M system; (8) Amazon reps used their M2M accounts solely to target eBay members, never
11 buying or selling goods on the eBay platform; (9) Amazon reps worked as a coordinated team, often
12 sending similar—and sometimes identical—solicitation messages to different eBay members; (10)
13 Amazon reps' explicit and stated goal was to recruit high-value eBay sellers away from eBay to
14 Amazon; (11) Amazon reps used particular, often similar methods to circumvent eBay's detection
15 systems, for example by using non-conventional methods of writing out email addresses and phone
16 numbers; (12) Amazon reps regularly sought to move discussions off of eBay's M2M system, to
17 avoid detection; and (13) Amazon reps consistently violated eBay's User Agreement, for example
18 by sharing "email addresses, phone numbers or other contact information" and by "us[ing] eBay to
19 contact each other to make offers to buy or sell items outside of eBay" in violation of the eBay User
20 Agreement and related policies (and using systematic efforts to circumvent eBay's detection tools
21 as they were doing so).

22 98. Defendants caused Amazon reps to make the above-described misrepresentations
23 and/or omissions knowingly, or with reckless disregard for the truth, at the time they were made.

24 99. Defendants and the Amazon reps intended that eBay would rely on the above-
25 described misrepresentations and omissions.

26 100. eBay reasonably relied on Amazon reps' misrepresentations and/or omissions.

27 101. eBay has suffered harm as a result of the coordinated efforts of Defendants and the
28 Amazon reps, and this conduct was a substantial factor in causing this harm.

1 102. Defendants coordinated, supported, and ratified the scheme under which Amazon
2 reps committed these acts.

3 103. The conduct of Defendants and the Amazon reps was fraudulent, malicious,
4 oppressive, and in willful disregard of eBay's rights.

5 **COUNT V:**

6 **AIDING AND ABETTING FRAUD**

7 104. eBay realleges each and every allegation set forth in Paragraphs 1 through 103,
8 inclusive, and incorporates them by reference herein.

9 105. At all relevant times, on information and belief, Defendants had actual knowledge
10 that Amazon reps were making misrepresentations and/or omissions regarding their eBay accounts
11 and use of the eBay M2M messaging system.

12 106. Defendants gave substantial assistance and encouragement to Amazon reps to open
13 eBay M2M accounts for the specific purpose of targeting eBay sellers as part of a scheme to solicit
14 eBay sellers to sell on Amazon. On information and belief, Defendants did so knowing and intending
15 that the Amazon reps would not abide by the terms of eBay's User Agreement.

16 107. Defendants directed and encouraged Amazon reps to violate the terms of eBay's User
17 Agreement. Defendants trained and advised Amazon reps on how to use the eBay platform to recruit
18 sellers and avoid detection, in contravention of the terms of eBay's User Agreement. Defendants
19 provided Amazon reps with lists identifying eBay sellers to target.

20 108. Defendants acted with the intent and purpose of committing and encouraging and
21 facilitating the Amazon reps' fraud.

22 109. As a direct and proximate result of Defendants' substantial assistance and
23 encouragement to Amazon reps, eBay suffered harm in the form of, *inter alia*, lost revenue from
24 sales and/or fees it would have realized had Defendants not directed and encouraged Amazon reps
25 to carry out Defendants' fraudulent scheme, as well as costs associated with investigating and
26 rectifying Defendants' conduct. Defendants' conduct was a substantial factor in causing this harm
27 to eBay.

28

1 **COUNT VI:**

2 **VIOLATION OF CALIFORNIA PENAL CODE § 502(c)**

3 110. eBay realleges each and every allegation set forth in Paragraphs 1 through 109,
4 inclusive, and incorporates them by reference herein.

5 111. To facilitate transactions on eBay's e-commerce platform, eBay allows interested
6 buyers and sellers to communicate using eBay's M2M system, on the condition that those buyers
7 and sellers become eBay members and agree to eBay's User Agreement.

8 112. eBay's M2M system constitutes "computer services" under Cal. Penal Code §
9 502(b)(4). eBay owns and operates one or more computers, computer systems, computer networks,
10 computer programs, and data that facilitate and permit operation of the M2M system.

11 113. Defendants caused Amazon reps to knowingly and without permission use the M2M
12 system, in violation of California Penal Code § 502(c)(3).

13 114. Defendants, by and through the Amazon reps, willfully violated the provisions of
14 California Penal Code § 502(c).

15 115. The conduct of Defendants and the Amazon reps was fraudulent, malicious,
16 oppressive, and in willful disregard of eBay's rights.

17 116. eBay has suffered irreparable harm as a result of Amazon's activities and will
18 continue to suffer irreparable injury that cannot be adequately remedied at law.

19 **COUNT VII:**

20 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200**

21 117. eBay realleges each and every allegation set forth in Paragraphs 1 through 116,
22 inclusive, and incorporates them by reference herein.

23 118. Defendants, by and through the unlawful conduct of the Amazon reps, violated Cal.
24 Pen Code § 502(c)(3) and, in doing so, engaged in unlawful business acts and practices in violation
25 of the Unfair Competition Law ("UCL").

26 119. Defendants and the Amazon reps engaged in fraudulent business acts and practices
27 by, among other things, fraudulently gaining use of eBay's M2M system by agreeing to eBay's User
28 Agreement without intending to comply with its terms; providing false information to gain such

1 access; thereafter using eBay's M2M system to send communications designed to solicit eBay
2 member-sellers to move to Amazon, in violation of the User Agreement; inducing eBay member-
3 sellers to breach their User Agreements with eBay; and using deceptive techniques to evade
4 detection of the scheme by eBay.

5 120. As a direct and proximate result of the above mentioned acts in violation of section
6 17200, eBay has suffered harm. These acts were a substantial factor in causing this harm.

7 121. eBay is informed and believes, and on that basis alleges, Defendants have been
8 unjustly enriched at eBay's expense.

9 122. eBay has suffered irreparable harm as a result of Defendants' activities and will
10 continue to suffer irreparable injury that cannot be adequately remedied at law absent injunctive
11 relief.

12 **PRAYER FOR RELIEF**

13 WHEREFORE eBay prays that this Court enter judgment in its favor on each and every
14 claim for relief set forth above and award it relief, including but not limited to an Order:

- 15 1. Permanently enjoining Defendants, their subsidiaries, affiliates, successors,
16 transferees, assignees and the respective officers, directors, partners, agents, and
17 employees and all other persons acting in concert or in participation with them from
18 misusing the M2M system or eBay platform to solicit eBay member-sellers;
- 19 2. Awarding eBay monetary relief, including damages sustained by eBay in an amount
20 to be determined at trial;
- 21 3. Restitution of Defendants' unlawful proceeds, including an accounting of any and
22 all revenue derived from any sellers recruited as a result of Defendants' scheme
23 described herein;
- 24 4. Awarding eBay treble damages;
- 25 5. Awarding eBay punitive and exemplary damages in such amount as may be awarded
26 at trial;
- 27 6. Awarding attorneys' fees;
- 28 7. Awarding interest according to law; and

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8. Awarding such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

DATED: July 31, 2019

QUINN EMANUEL URQUHART &
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By 

David M. Grable
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