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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE WESTERN DISTRICT OF WASHINGTON**

8 SUZANNE MALLOUK, ALFREDO  
RODRIGUEZ PEREZ, ARJUN  
9 DHAWAN, and WILLIAM NOVOLT,

10 Plaintiffs,

v.

11 AMAZON.COM INC. and STARBUCKS  
12 CORPORATION,

13 Defendants.

NO. 2:23-cv-852

**FIRST AMENDED CLASS ACTION  
COMPLAINT**

**JURY TRIAL DEMANDED**

14  
15 Plaintiffs Suzanne Mallouk, Alfredo Rodriguez Perez, Arjun Dhawan, and William  
16 Novolt (together, “Plaintiffs”), by and through their attorneys, make the following allegations  
17 against Defendants Amazon.com Inc. (“Amazon”) and Starbucks Corporation (“Starbucks”)  
18 (collectively, “Defendants”):

19 **NATURE OF THE ACTION**

20 1. Plaintiffs bring this action for damages and other legal and equitable remedies  
21 resulting from the illegal actions of Amazon and Starbucks in collecting, retaining, storing,  
22 converting, using, sharing, and profiting from Plaintiffs’ and other similarly situated individuals’  
23  
24

1 biometric identifier information<sup>1</sup> (referred to at times as “biometrics”)—their hand geometry  
2 (“hand geometry” or “palm scans” or “palmprints”) and/or body geometry (“physiological  
3 characteristics concern[ing] the shape or composition of the body”)—in direct violation of the  
4 New York City Biometric Identifier Information Law (“NYC BIIL” or “Biometric Identifier  
5 Information Law”), N.Y.C. Admin. Code § 22-1201 *et seq.*

6       2.       On January 11, 2021, the City of New York enacted a new law that requires  
7 retailers and other commercial establishments that collect, retain, convert, store, or share  
8 customers’ “biometric identifier information” to notify their customers of these practices before  
9 customers enter those establishments. *See* N.Y.C. Admin. Code § 22-1201 *et seq.* The type of  
10 information the law applies to includes any physiological or biological characteristic that is used  
11 to identify (or assist in identifying) a person, such as facial recognition, retina scans, fingerprints,  
12 handprints, or any other identifying characteristic like the shape or size of a person’s body.

13       3.       The NYC BIIL creates a simple mandate for commercial establishments that  
14 collect customers’ biometric identifier information: they must “plac[e] a clear and conspicuous  
15 sign near all of the commercial establishment’s customer entrances notifying customers in plain,  
16 simple language, in a form and manner prescribed by the commissioner of consumer and worker  
17 protection by rule, that customers’ biometric identifier information is being collected, retained,  
18 converted, stored or shared, as applicable.” N.Y.C. Admin. Code § 22-1202(a).

19  
20  
21 \_\_\_\_\_  
22 <sup>1</sup> “The Term ‘biometric identifier information’ means a physiological or biological characteristic  
23 that is used by or on behalf of a commercial establishment, singly or in combination, to identify,  
24 or assist in identifying, an individual, including, but not limited to: (i) a retina or iris scan, (ii) a  
fingerprint or voiceprint, (iii) a scan of hand or face geometry, or any other identifying  
characteristic.” N.Y.C. Admin. Code § 22-1201.

1           4.       By adopting this basic mandate, the City of New York has made it clear that  
2 consumers have a right to know when commercial establishments are collecting their biometric  
3 identifier information. This way, consumers can decide for themselves whether they want to shop  
4 at such establishments or further investigate those establishments’ practices before allowing their  
5 biometric identifier information to be collected.

6           5.       The NYC BIIL also makes it unlawful for companies like Amazon and Starbucks  
7 “to sell, lease, trade, share in exchange for anything of value or otherwise profit from the  
8 transaction of biometric identifier information.” N.Y.C. Admin. Code § 22-1202(b).

9           6.       Since 2019, when Amazon first opened several Amazon Go stores in New York  
10 City, Amazon has collected, converted, retained, and stored the biometric identifier information  
11 of all customers who enter its Amazon Go stores. Unlike traditional grocery or convenience stores  
12 where cashiers scan what customers are purchasing and charge them for the goods, an Amazon  
13 Go customer typically leaves the store with the goods they want and is automatically charged for  
14 such goods without waiting in line, scanning, or interacting with a cashier. To make this “Just  
15 Walk Out” (“JWO”) technology possible, a customer enters an Amazon Go store’s marketplace  
16 area in one of three ways: an Amazon One palm scan, a credit card, or using a QR code generated  
17 from an app. The Amazon Go store then constantly collects and uses each customer’s biometric  
18 identifier information, by applying computer vision, deep learning algorithms, and sensor fusion  
19 that measure the shape and size of each customer’s body to identify all customers, track where  
20 they move in the stores, and determine what they have purchased.

21           7.       Amazon also utilizes Amazon One palm scanners in stores in New York City,  
22 including Whole Foods Market locations that are owned and operated by Amazon. Amazon  
23 further provides Amazon One palm scanner devices and databases to third-party businesses in  
24

1 New York City and beyond—e.g., to Starbucks—Amazon Go stores in New York City, to T-  
2 Mobile Stadium in Seattle, and to Panera Bread stores across the nation.

3 8. Amazon One is marketed as “A fast, FREE identity service that allows you to  
4 enter, identify, and pay using only your palm.”

5 9. Amazon states that “[w]e created Amazon One to put the power in your hands and  
6 help you move seamlessly through your day.”

7 10. Customers are told: “The arrival of Amazon One in stores and other venues means  
8 you’ll move through checkouts and entry gates faster than ever,” and “Ditch your wallet and  
9 breeze through checkouts and entry gates with ease. Just hover your palm over an Amazon One  
10 device and get going.”

11 11. Amazon One appears to be part of a broader push into biometric retail solutions  
12 offered by Amazon. For example, Amazon also offers Amazon Rekognition, a tool that includes  
13 “face recognition APIs,” allowing Amazon’s business partners to “detect, analyze, and compare  
14 faces for a wide variety of use cases, including user verification, cataloging, people counting, and  
15 public safety.”<sup>2</sup> Rekognition can be used by stores to “optimize workforce utilization” and  
16 monitor the “flow of people in a store.”<sup>3</sup>

17 12. This push has been plainly evident with Amazon One. In November 2021,  
18 Starbucks opened its first Starbucks—Amazon Go store at 111 E. 59th Street, New York, NY, and  
19 in July 2022, opened its second Starbucks—Amazon Go store at 620 8th Avenue, New York, NY.

21 \_\_\_\_\_  
22 <sup>2</sup> “What is Amazon Rekognition?”, aws.amazon.com (2023),  
<https://docs.aws.amazon.com/rekognition/latest/dg/what-is.html>.

23 <sup>3</sup> Kayla Jing and Laura Reith, “Optimize workforce in your store using Amazon Rekognition,”  
24 aws.amazon.com (July 9, 2021), <https://aws.amazon.com/blogs/machine-learning/optimize-workforce-in-your-store-using-amazon-rekognition/>.

1 Under an agreement with Amazon, for each customer entering Starbucks' gated marketplace /  
2 lounge area, which provides a cashier-less experience, Starbucks uses Amazon's "Just Walk Out"  
3 technology to collect and then share each customer's biometric identifier information with  
4 Amazon, who can then use such information for its own purposes. In exchange, Starbucks  
5 receives a range of benefits, including: (a) the ability to use Amazon's "Just Walk Out"  
6 technology at marginal or discounted rate; (b) Amazon's insights and "Just Walk Out Analytics,"  
7 which are aimed at increasing Starbucks' revenues for its Starbucks–Amazon Go stores; (c) the  
8 ability to operate these Starbucks stores with fewer employees, allowing Starbucks to save and  
9 retain money that would otherwise be spent on employee salaries, benefits, training, and  
10 management of such employees; and (d) an increase in customers and sales. Through this  
11 arrangement with Amazon, Starbucks sells, trades, and shares customers' biometric identifier  
12 information with Amazon in exchange for various things of value, and otherwise profits from the  
13 transaction of biometric identifier information.

14 13. Thus, at each of these two Starbucks–Amazon Go stores, Starbucks has collected,  
15 converted, retained, stored, and shared the biometric identifier information of all customers who  
16 enter its marketplace or lounge seating areas using Amazon's "Just Walk Out" technology.  
17 Starbucks constantly collects and uses the biometric identifier information of each customer who  
18 enters the gated area of the stores, by applying computer vision, deep learning algorithms, and  
19 sensor fusion that measure the shape and size of each customer's body to identify customers, track  
20 where they move within the gated area, and determine what they have purchased. In addition,  
21 Starbucks scans the palms of some customers to identify them.

22 14. Despite constantly collecting customers' biometric identifier information in  
23 Amazon Go and Starbucks–Amazon Go stores (together, the "Stores") in New York City,  
24

1 Amazon and Starbucks have not complied with the simple disclosure requirements of the  
2 Biometric Identifier Information Law.

3 15. From January 15, 2022, when the law’s implementing rule went into effect,  
4 through March 13, 2023, Amazon failed to post any signs at the entrances of any Amazon Go  
5 stores in New York City—including the two Starbucks–Amazon Go stores—that would notify  
6 customers that those stores collect, retain, convert, and store consumers’ biometric identifier  
7 information.

8 16. From January 15, 2022, when the law’s implementing rule went into effect,  
9 through March 13, 2023, Starbucks failed to post any signs at the entrances of any Starbucks–  
10 Amazon Go stores in New York City that would notify customers that those stores collect, retain,  
11 convert, store, and share consumers’ biometric identifier information.

12 17. On February 7, 2023, Plaintiff Alfredo Rodriguez Perez notified Amazon in  
13 writing that he had visited the Amazon Go store at 80 Pine Street, that the store was collecting  
14 customers’ biometric identifier information, that Amazon has an obligation to post a sign  
15 notifying customers about collecting such information, and that Amazon was not complying with  
16 that obligation.

17 18. Amazon did not respond to Mr. Rodriguez Perez’s letter at all, let alone provide  
18 him with an express written statement within 30 days that the violation had been cured and that  
19 no further violations would occur in the future, as the Biometric Identifier Information Law  
20 required Amazon to do to prevent Mr. Rodriguez Perez from filing suit. Nor did Amazon cure the  
21 violation.

22 19. Instead, on or around March 14, 2023, several days after The New York Times  
23 published a story on Amazon’s failure to post a sign about its collection of biometric identifier  
24

1 information in its Amazon Go stores in New York City,<sup>4</sup> Amazon and Starbucks first posted signs  
2 outside of the Amazon Go and Amazon Go-Starbucks stores in New York City.

3         20. Amazon’s new signage woefully fails to comply with the disclosure mandate of  
4 the Biometric Identifier Information Law. The new sign fails to disclose that Amazon converts,  
5 retains, and shares biometric identifier information. Even worse, the sign informs customers that  
6 Amazon will not collect customers’ biometric identifier information unless they use the Amazon  
7 One palm scanner to enter the Amazon Go store, even though Amazon Go stores do collect  
8 biometric identifier information on every single customer, including information on the size and  
9 shape of every customer’s body. Nor is the sign clear and conspicuous, as the sign’s color, style,  
10 and font are designed to avoid attracting customers’ attention. And at Amazon Go’s 30  
11 Rockefeller Plaza location—a store with six customer entrance doors, placed side-by-side—  
12 Amazon placed just a single small sign at the furthest end, making it all but impossible that a  
13 customer entering from the opposite side (*i.e.*, five doors down) will ever see, much less read, the  
14 sign.

15         21. Similarly, Starbucks’ new signage woefully fails to comply with the disclosure  
16 mandate of the Biometric Identifier Information Law. The new sign fails to adequately disclose  
17 that Starbucks collects, retains, converts, stores, and shares biometric identifier information. Even  
18 worse, the sign informs customers that Starbucks will not collect their biometric identifier  
19 information unless they use the Amazon One palm scanner to enter the gated areas of the  
20

21 \_\_\_\_\_  
22 <sup>4</sup> See Kashmir Hill, *Which Stores Are Scanning Your Face? No One Knows*, The New York  
23 Times (Mar. 10, 2023), [https://www.nytimes.com/2023/03/10/technology/facial-recognition-  
24 stores.html](https://www.nytimes.com/2023/03/10/technology/facial-recognition-stores.html) (stating that a reporter visited an Amazon Go store in Manhattan that “was awash in  
cameras, sensors and palm scanners” but did not have a sign disclosing that the store collects  
customers’ biometric identifier information).

1 Starbucks–Amazon Go store, even though such stores do collect biometric identifier information  
2 on every customer who enters the gated area of the store, including information on the size and  
3 shape of every customer’s body. Nor is the sign clear and conspicuous, as the sign’s color, style,  
4 and font are designed to avoid attracting customers’ attention.

5 22. By posting these signs, Defendants’ compliance with the Biometric Identifier  
6 Information Law has gone from bad to worse: instead of leaving customers in the dark about their  
7 collection of biometric information, as Defendants did for 14 months, Defendants are now  
8 affirmatively offering false assurances that they will not collect any biometric information from  
9 most customers.

10 23. On March 21, 2023, Plaintiff Mallouk notified Starbucks and Amazon in separate  
11 letters about her November 2022 visit to the Starbuck-Amazon Go store at 111 E. 59th Street,  
12 each company’s obligation to post a sign notifying customers about its collection of biometric  
13 identifier information in light of each company’s collection of information about the size and  
14 shape of each customer’s body and the palm scans of some customers, and Starbucks’ and  
15 Amazon’s failure to *comply* with that obligation. Starbucks did not respond to Ms. Mallouk’s  
16 letter, much less cure the identified violation. Amazon responded to Ms. Mallouk’s letter, but  
17 stated that it would only post signage disclosing its collection of palm scans and refused to post  
18 signage disclosing its biometric collection through measuring the size and shape of customers’  
19 bodies.

20 24. On May 22, 2023, Plaintiff Novolt, in a letter sent by his counsel, notified Amazon,  
21 on behalf of himself and a class of similarly-situated individuals, that he had made multiple visits  
22 throughout 2022 and 2023 to the Amazon Go store located at 110 Maiden Lane, New York, NY  
23 10005, and that he had scanned his palm to enter the gates of the store. On behalf of himself and  
24



1 “all other customers who have entered Amazon Go stores in New York City, or will in the future,”  
2 Plaintiff Novolt requested that Amazon “post clear and conspicuous signs at every entrance of  
3 the stores disclosing that the stores collect, retain, convert, store, and share biometric identifier  
4 information of customers, including through the palm scans of customers who choose to enter  
5 with their palms and by collecting information and taking measurements on the size and shape of  
6 each customer’s body who enters the store.” Plaintiff Novolt notified Amazon that while he  
7 understood “that Amazon has recently posted signs that disclose that Amazon Go stores collect  
8 biometric identifier information from customers who choose to scan their palms to enter the  
9 stores,” that “the signs do not properly disclose that Amazon is collecting, retaining, converting,  
10 or storing biometric identifier information by collecting information and taking measurements on  
11 the size and shape of each customer’s body (or in any other way besides the palm scans).” Plaintiff  
12 Novolt also notified Amazon that “the signs themselves are not clear and conspicuous, as required  
13 by New York Administrative Code § 22-1202(a).”

14 25. Amazon responded to Plaintiff Novolt in a June 20, 2023 letter to his counsel  
15 stating that the JWO technology “does not collect or store customers’ biometric identifier  
16 information,” and therefore “New York law does not require Amazon to display any sign about  
17 the JWO technology.” In addition, Amazon stated that “Mr. Novolt—like all users of the Amazon  
18 One palm scanner—expressly consented to Amazon’s collection and storage of his biometric  
19 information when he signed up for Amazon One.” Amazon refused to take any future action to  
20 disclose that Amazon’s JWO technology collects or stores customers’ biometric identifier  
21 information or otherwise complies with the legal requirement to post clear and conspicuous signs  
22 at every entrance of the Amazon Go stores disclosing the collection or storage of customers’  
23 biometric identifier information. Finally, Amazon asserted that “Amazon does not share palm  
24



1 and the aggregate amount in controversy with respect to each Defendant exceeds \$5,000,000.00,  
2 exclusive of interest, fees, and costs, and at least one Class member is a citizen of a state different  
3 from Defendants.

4 29. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391, because both  
5 Defendants reside in the State of Washington and because a substantial portion of the events that  
6 gave rise to this cause of action occurred here.

7 30. This court has personal jurisdiction over Defendants because both Defendants  
8 reside in the State of Washington and in this District, and also because a substantial portion of the  
9 events that gave rise to this cause of action occurred in this District.

10 **PARTIES**

11 31. Plaintiff Alfredo Rodriguez Perez is a resident of Kings County, New York, and  
12 has resided in New York City since 2015.

13 32. Plaintiff Suzanne Mallouk is a resident of Sullivan County, New York, and  
14 maintains an office for her business in Manhattan.

15 33. Plaintiff Arjun Dhawan is a resident of New York County, New York.

16 34. Plaintiff William Novolt is a resident of Kings County, New York.

17 35. Defendant Amazon.com, Inc. is a publicly-traded company headquartered in  
18 Seattle, Washington and incorporated in Delaware. Amazon is the world's largest retailer and  
19 serves its consumers through both online and physical stores, including in the City of New York.

20 36. Defendant Starbucks Corporation is a publicly traded company headquartered in  
21 Seattle, Washington and incorporated in Washington. Starbucks is the world's largest coffeehouse  
22 chain and serves its consumers through more than 35,000 stores globally, including nearly 16,000  
23 stores in the United States and nearly 200 stores in New York City.

**FACTUAL BACKGROUND**

**I. Evolving Techniques for Collecting Customers’ Biometric Information and the Risks That Stem From Collecting and Sharing Biometric Information Lead the New York City Council to Enact the Biometric Identifier Information Law**

37. In 2021, the New York City Council enacted the Biometric Identifier Information Law to address the rapidly evolving use of biometric identifier information in a wide range of settings, the major risk of data breaches and hacks involving biometric and other personal information, and privacy-related issues related to collecting and sharing biometric information.

38. In enacting the law, the City Council expressed their concern that stores and other commercial establishments are increasingly collecting biometric information about customers, that the types of biometric information being collected are expanding, and that the collection and sharing of such information creates a significant risk to customers’ privacy and their ability to control their personal information.

39. For example, in describing the problem that the Council was addressing, the Council’s Committee Report explained that “As with all technology, that used to identify individuals is rapidly evolving, and used for a variety of both security and for-profit purposes. Biometric identification techniques have expanded from simply revealing basic physical attributes to now include fingerprint, iris and retinal scans, voice recognition, DNA tests, and facial recognition. Additionally, biometric identification methods are expanding in real-time to include measures, such as brain signal identification, and heart pattern and finger vein pattern recognition.” The Council of the City of New York, Comm. Rpt. of the Governmental Affairs Division, Prop. Int. No. 1170-A, at 2 (Dec. 10, 2020) (“NYC 2020 Comm. Rpt.”). In other words, the Council was not just concerned about the use of facial recognition, but a range of biometric identification methods that are growing every day. As a result, as described below, the Council adopted a broad definition of “biometric identifier information” that the new law would regulate.

1           40. In examining the risk posed by the collection of biometric information, the Council  
2 noted that this collection resulted in the “creation of numerous private and public databases of  
3 information, which may be sold, shared, or used in ways that the consumer does not necessarily  
4 understand or consent to.” NYC 2020 Comm. Rpt. at 12. “These databases are vulnerable to  
5 security failures and breaches, information leaks by careless or corrupt employees, hackers, or  
6 even foreign intelligence agency break-ins.” *Id.* And “[b]iometric data is often collected and  
7 stored in large databases that, if not properly protected, are susceptible to hacking.” *Id.* at 13.

8           41. The City Council’s concern about data breaches is well-founded. In our  
9 increasingly digital economy, data breaches are unfortunately all too common and are considered  
10 by many to be “inevitable and imminent.”<sup>5</sup>

11           42. At a 2012 cybersecurity conference, former FBI director Robert Mueller declared  
12 “there are only two types of companies: those that have been hacked and those that will be. And  
13 even they are converging into one category: companies that have been hacked and will be hacked  
14 again.”<sup>6</sup> A 2017 report by the Ponemon Institute, an independent research and education institute,  
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17 <sup>5</sup> Infosecurity Magazine, Security Breaches are Inevitable, Not Illimitable (Jan. 20, 2023),  
18 <https://www.infosecurity-magazine.com/opinions/security-breaches-inevitable-1/>. *See also*  
19 Cybersecurity & Infrastructure Security Agency, Ransomware Activity Targeting the Healthcare  
20 and Public Health Sector (Nov. 2, 2020) (noting that government agencies “have credible  
21 information of an increased and imminent cybercrime threat to U.S. hospitals and healthcare  
22 providers”), <https://www.cisa.gov/news-events/cybersecurity-advisories/aa20-302a>; Federal  
23 Trade Commission, FTC Warns About Misuses of Biometric Information and Harm to  
24 Consumers (May 18, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-warns-about-misuses-biometric-information-harm-consumers> (noting that “Large databases of  
biometric information could also be attractive targets for malicious actors who could misuse such  
information.”).

<sup>6</sup> Robert S. Mueller, III, Dir., Fed. Bureau of Investigation, Speech at the RSA Cyber Security  
Conference in San Francisco (Mar. 1, 2012),  
[https://archives.fbi.gov/archives/news/speeches/combating-threats-in-the-cyber-  
worldoutsmarting-terrorists-hackers-and-spies](https://archives.fbi.gov/archives/news/speeches/combating-threats-in-the-cyber-worldoutsmarting-terrorists-hackers-and-spies) [<https://perma.cc/4ND8-2UZK>].

1 underscored Mueller’s claim, estimating that in 2017, on average, there were 130 successful  
2 breaches per company.<sup>7</sup>

3 43. Such breaches include those relating to biometric information. In 2019, for  
4 example, the U.S. Customs and Border Protection (“CBP”) discovered that one of its  
5 subcontractors had been subject to a cyberattack.<sup>8</sup> As a result, roughly 184,000 “traveler images  
6 from CBP’s facial recognition pilot” program were compromised, of which at least 19 were  
7 posted to the dark web.

8 44. That same year, a biometric database company that had described itself as a  
9 “global Powerhouse in biometrics, security and identify solutions” was found to have exposed on  
10 a publicly accessible database, “the fingerprints of over 1 million people, as well as facial  
11 recognition information, unencrypted usernames and passwords, and personal information of  
12 employees[.]”<sup>9</sup> That breach was the subject of the New York City’s 2020 report and motivated  
13 the New York City Council to enact its biometric identifier law. *See* NYC 2020 Comm. Rpt. at  
14 13.

15 45. Since the issuance of the City Council’s 2020 Committee Report, the number of  
16 breaches on record has been roughly the same. The Identity Theft Resource Center’s 2022 annual  
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19 <sup>7</sup> Ponemon Inst. & Accenture, 2017 Cost Of Cyber Crime Study: Insights In The Security  
20 Investments That Make A Difference, 4 (2017),  
[https://www.accenture.com/t20171006T095146Z\\_\\_w\\_/us-en/\\_acnmedia/PDF-62/Accenture-2017CostCybercrime-USFINAL.pdf](https://www.accenture.com/t20171006T095146Z__w_/us-en/_acnmedia/PDF-62/Accenture-2017CostCybercrime-USFINAL.pdf) [<https://perma.cc/7E2N-MZUV>].

21 <sup>8</sup> *See* Office of Inspector General, Review of CBP’s Major Cybersecurity Incident during a 2019  
22 Biometric Pilot (Dept. 21, 2020), <https://www.oig.dhs.gov/sites/default/files/assets/2020-09/OIG-20-71-Sep20.pdf>.

23 <sup>9</sup> The Guardian, Major breach found in biometrics system used by banks, UK police and defence  
24 firms (Aug. 14, 2019), <https://www.theguardian.com/technology/2019/aug/14/major-breach-found-in-biometrics-system-used-by-banks-uk-police-and-defence-firms>.

1 report on Data Breaches found that in 2022, there were 1,802 publicly reported data compromises  
2 in the United States.<sup>10</sup> This was the second highest year on record and only marginally smaller  
3 than the highest year on record, 2021, which was found to have 1,862 publicly reported data  
4 compromises.

5 46. Amazon is no stranger to such breaches and misuse of customers' data.

6 47. In 2021, WIRED published an investigation into Amazon's data privacy  
7 practices.<sup>11</sup> WIRED and Reveal from the Center for Investigative Reporting reviewed documents,  
8 including "some of the confidential six-pagers that Amazon's information security chiefs  
9 prepared for submission to Jeff Wilke, then the CEO of Amazon's global consumer operation,  
10 along with general counsel David Zapolsky and chief financial officer Brian Olsavsky, between  
11 2016 and 2018 . . . along with numerous other internal Amazon documents and communications  
12 dating back to 2015." The reporters also conducted interviews with former Amazon staffers. The  
13 article found that, "Amazon's data security problems kept amassing through 2018 as the company  
14 grew":

15 **Amazon's vast empire of customer data ... had become so**  
16 **sprawling, fragmented, and promiscuously shared within the**  
17 **company that the security division couldn't even map all of it,**  
18 **much less adequately defend its borders.**

19 ...

20 Amazon had given broad swathes of its global workforce  
21 extraordinary latitude to tap into customer data at will. It was, as  
22 **former Amazon chief information security officer Gary Gagnon**

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21 <sup>10</sup> Identify Theft Resource Center, "2022 Data Breach Report" (January 2023),  
22 [https://www.idtheftcenter.org/wp-content/uploads/2023/01/ITRC\\_2022-Data-Breach-Report\\_Final-1.pdf](https://www.idtheftcenter.org/wp-content/uploads/2023/01/ITRC_2022-Data-Breach-Report_Final-1.pdf).

23 <sup>11</sup> Will Evans, "Amazon's Dark Secret: It Has Failed to Protect Your Data," Wired Magazine  
24 (November 18, 2021), <https://www.wired.com/story/amazon-failed-to-protect-your-data-investigation/>.

1           **calls it, a “free-for-all” of internal access to customer**  
2           **information.** And as information security leaders warned, that free-  
3           for-all left the company wide open to “internal threat actors” while  
4           simultaneously making it inordinately difficult to track where all of  
5           Amazon’s data was flowing.

6           ...

7           [A]bout the [Amazon] online retail platform used by hundreds of  
8           millions of ordinary consumers ..., InfoSec [Amazon] staffers  
9           warned of an **unnerving “inability to detect security incidents.”**

10          ...

11          Across Amazon, some low-level employees were using their data  
12          privileges to snoop on the purchases of celebrities, while others were  
13          taking bribes to help shady sellers sabotage competitors’ businesses,  
14          doctor Amazon’s review system, and sell knock-off products to  
15          unsuspecting customers. Millions of credit card numbers had sat in  
16          the wrong place on Amazon’s internal network for years, with the  
17          security team unable to establish definitively whether they’d been  
18          unduly accessed. And a program that allowed sellers to extract their  
19          own metrics had become a backdoor for third-party developers to  
20          amass Amazon customer data. In fact, not long before September’s  
21          hearing, Amazon had discovered that a Chinese data firm had been  
22          harvesting millions of customers’ information in a scheme  
23          reminiscent of Cambridge Analytica.

24          48.       Also in 2021, three former, high-level, information security employees (two from  
the United States and one from the European Union) detailed further the data risks at Amazon.<sup>12</sup>  
The whistleblowers told Politico that “they had repeatedly tried to alert senior leadership in the  
company’s Seattle HQ, only to be sidelined, dismissed or pushed out of the company in what they  
saw as professional retaliation.” Due largely to Amazon’s rapid expansion and gargantuan, high-  
turnover staff, the two U.S. employees revealed that “data is at risk because Amazon has a poor  
grasp of what data it has, where it is stored and who has access to it.”

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<sup>12</sup> ‘Millions of people’s data is at risk’ – Amazon insiders sound alarm over security (Feb. 24, 2021), <https://www.politico.eu/article/data-at-risk-amazon-security-threat/>.



1           49. One of the whistleblowers reported that **“The quality of the controls that**  
2 **Amazon has in place is appalling. We found hundreds of thousands of accounts where the**  
3 **employee is no longer there but they still have system access.”** Furthermore, “According to  
4 internal security reports from 2016 and 2017 seen by one of the former employees, **the company**  
5 **declared that it was managing to patch between 55 to 70 percent of its systems.** The first  
6 former U.S.-based employee likened that to leaving a house with several windows and doors  
7 open.”

8           50. As a result, Amazon’s customer data and web services have each found themselves  
9 subject to a range of far-ranging breaches and exposure by customer information. As detailed in  
10 part by the Firewall Times<sup>13</sup>, Amazon has inadvertently revealed customer data on numerous  
11 occasions, including the following:

- 12           • In January 2012, a hacker breached the server of Amazon-owned Zappos,  
13 exposing the personal information of its 24 million users.
- 14           • In December 2014, a group of hackers leaked 13,000 usernames and passwords  
15 for accounts on various sites including Amazon.
- 16           • In May 2017, Amazon employees discovered a cache of up to 24 million  
17 American Express credit card numbers left unsecured on Amazon’s internal  
18 network. “Because their audit logs only went back 90 days, it is unclear whether  
19 this openly available data was abused while sitting in the open.”
- 20           • In September 2018, a Wall Street Journal report<sup>14</sup> found that Amazon employees  
21 in the U.S. and China had been leaking customer data, including personal  
22 information, in exchange for bribes.

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23 <sup>13</sup> Michael X. Heiligenstein, “Amazon Data Breaches: Full Timeline Through 2023,” Firewall  
24 Times (March 17, 2023), <https://firewalltimes.com/amazon-data-breach-timeline/>.

<sup>14</sup> Jon Emont et al., “Amazon Investigates Employees Leaking Data for Bribes,” The Wall Street  
Journal (September 16, 2018), <https://www.wsj.com/articles/amazon-investigates-employees-leaking-data-for-bribes-1537106401>.

- 1 • In November 2018 (two days before Black Friday), Amazon announced that a  
2 technical issue had made the names and email addresses of customers available on  
its website.
- 3 • In late September 2019, some Amazon Japan users were briefly able to view the  
4 order histories, purchase details, names, and addresses of other shoppers.
- 5 • In January 2020, a group of Amazon employees were found to have shared an  
6 undisclosed number of customer email addresses and phone numbers with third  
7 parties.
- 8 • In October 2020, disgruntled Amazon employees voluntarily released an  
9 undisclosed number of Amazon customer email addresses to third parties.
- 10 • And in July 2021, the Luxembourg National Commission for Data Protection  
11 issued a 746 million euro fine to Amazon for allegedly violating the European  
12 Union’s General Data Protection Regulation (“GDPR”). According to the  
13 Commission, Amazon mishandled personal data in violation of the legal standards  
14 set by the GDPR. Amazon appealed the fine, which a court only partially granted,  
15 leaving the fine pending.

16 51. Amazon’s vaunted web services have fared no better<sup>15</sup>:

- 17 • In July 2019, Capital One, an Amazon web service customer, disclosed that a  
18 former Amazon employee had hacked its servers. **This hack affected over 100  
19 million customers, “exposing sensitive personal information like Social  
20 Security Numbers, bank account numbers, credit card transaction records,  
21 credit scores, and more.”**
- 22 • In February 2020, a large, unsecured Amazon web service database was found to  
23 contain highly sensitive data on millions of European shoppers. “It appears that  
24 the database belonged to a company that was conducting a value-added tax (VAT)  
analysis. This company has not been identified by media reports. Not only was  
the core incident concerning, but it also showcased **how much data can end up  
in the hands of third parties, often without the shopper’s knowledge.”**
- Between fall 2020 and summer 2021, ethical hackers and watchdogs identified  
that sensitive data on 3 million senior citizens, at least 80 municipalities, 50,000  
COVID test customers, more than 500,000 Turkish customers, and over 10  
million hotel reservations were exposed.

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<sup>15</sup> Michael X. Heiligenstein, “Amazon Web Services (AWS) Data Breaches: Full Timeline Through 2023,” Firewall Times (Apr. 6, 2023), <https://firewalltimes.com/amazon-web-services-data-breach-timeline/>.

- 1 • In December 2021, a hacker group exploited Flexbooker’s Amazon web service configuration and breached the booking data of approximately 3 million users.
- 2 • In May 2022, **23 million** Pegasus Airline files held by Amazon’s web service
- 3 were exposed including navigation information, proprietary software, and
- 4 personal information pertaining to Pegasus Airlines crew members.

5 52. In short, the use of biometric scanning systems in commercial establishments—  
6 particularly by a company like Amazon that has a long history of data breaches—entails serious  
7 risks. Unlike payment cards, which can be changed or replaced if stolen or compromised, a  
8 consumer’s biometric information are permanent and cannot be easily changed (if at all), much  
9 less replaced. Accordingly, consumers are subject to serious and irreversible privacy risks. For  
10 example, if a device or database containing consumers’ palmprints data is hacked, breached, or  
11 otherwise exposed, consumers have no means by which to prevent identity theft and unauthorized  
12 tracking.

13 53. These same privacy-related concerns were identified by the New York City  
14 Council, which explained that commercial establishments often do not inform customers what  
15 software they are using to collect biometric information “and it is unclear what companies or  
16 businesses do with the data once it is collected. Information on customers, their behaviors and  
17 their purchasing histories can be valuable, and there have been numerous incidents of companies  
18 collecting this information and either selling it to, or having it harvested by third parties, without  
19 the knowledge or consent of consumers.” NYC 2020 Comm. Rpt. at 13.

20 54. The same City Council 2020 report noted that data from consumer-based  
21 surveillance software such as Ring (which uses cameras to monitor a person’s doorbell and/or  
22 entryway), is also being shared with law enforcement. *See id.* at 15. Ring, which is now owned  
23 by Amazon, has partnered with more than 400 local police departments to send requests for  
24 footage to Ring users, on behalf of the police. *See id.* Users can deny the request, but if the request

1 is granted, police can obtain consumer-recorded video footage, without the need for a warrant. In  
2 exchange, the police departments promote Ring as an important security device. *See id.*

3 55. More recently in 2022, Amazon launched a new “Store Analytics” service based  
4 on the biometric information of customers at stores using Amazon’s Just Walk Out technologies  
5 (e.g., at Amazon Go and Starbucks-Amazon Go store locations). Through this service, brands  
6 will have access to details on how their products are discovered, considered, and purchased in  
7 stores to help them make informed decisions related to the selection of promotions and ad  
8 campaigns.<sup>16</sup> Specifically, Amazon’s technology “track[s] in-person consumer behavior,”  
9 “monitor[] the consumer shopping experience from start to finish, and aggregate it [i.e., the data  
10 collected by Amazon’s services] before allowing brands to access it.”<sup>17</sup>

11 56. And Amazon promoted a similar service for retailers to learn related insights from  
12 their customers’ biometric information:

13 [W]hat if you could get more granular data about your customers’  
14 behavior? **What if you could tell the dwell time per category,**  
15 **could map the physical journey of each customer through your**  
16 **store, and even put them into broad demographic categories,**  
17 **including those who leave the store without purchasing**  
18 **anything.** What’s more, we are talking about *every* customer who  
19 walks through your door, not just those who have joined your  
20 loyalty program and dutifully dig out their membership card at the  
21 checkout.

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21 <sup>16</sup> “Amazon launches new physical retail store analytics service,” Amazon (June 29, 2022),  
22 [https://www.aboutamazon.com/news/retail/amazon-launches-new-physical-retail-store-analytics-](https://www.aboutamazon.com/news/retail/amazon-launches-new-physical-retail-store-analytics-service)  
23 [service](https://www.aboutamazon.com/news/retail/amazon-launches-new-physical-retail-store-analytics-service).

23 <sup>17</sup> Jessica Deyo, “Amazon’s new analytics tool gives brands a front-row seat to in-store  
24 shopping,” Retail Dive (July 6, 2022), [https://www.retaildive.com/news/amazons-analytics-](https://www.retaildive.com/news/amazons-analytics-consumer-insights/626661/)  
[consumer-insights/626661/](https://www.retaildive.com/news/amazons-analytics-consumer-insights/626661/).

1 Well guess what? Now you can get all these insights – and more.<sup>18</sup>

2 57. According to Amazon, this “demographic” data—essentially, biometric  
3 information, such as “gender” and “age group”—“can also be monetized by using it to optimize  
4 the length of time and demographics of customers in a specific zone. It can help you [i.e., the  
5 retailer] place targeted advertising material or higher-margin products in strategic locations. You  
6 now have the data you need to make informed, profitable decisions in your store. For example,  
7 you could create real-time alerts to quickly deploy staff in response to emerging sales  
8 opportunities – like sending your best salesperson to assist the customer who has been looking at  
9 expensive handbags for the last 10 minutes.”

10 58. The City Council has also remarked extensively on how the use of biometric  
11 technology raises “significant concerns about accuracy, especially for women, children, African  
12 Americans, and Asians for whom . . . algorithms are known to be less accurate.”<sup>19</sup> The Council  
13 noted that “AI systems learn what they are taught. If they are not taught with robust and diverse  
14 data sets, accuracy and fairness could be at risk[.]”<sup>20</sup> because “systems that are trained within only  
15 a narrow context of a specific data set will inevitably acquire bias that skews its learning towards  
16 the specific characteristics of that data set.”<sup>21</sup> The NYC BIIL evinces the City Council’s  
17 recognition of how “[s]uch errors can be particularly damaging for individuals[.]” including those  
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20 <sup>18</sup> Duncan Watson, “Smart Store Analytics: Creating Profitable Retail Insights,” Amazon Web  
21 Services (July 13, 2022), <https://aws.amazon.com/blogs/industries/smart-store-analytics-creating-profitable-retail-insights/>.

22 <sup>19</sup> <https://legistar.council.nyc.gov/View.ashx?M=F&ID=7761013&GUID=CAC07AB4-200A-46FC-8F2D-4D0B72E9D9E2>, Committee Report 10/7/19, p. 7.

23 <sup>20</sup> *Id.* at p. 8.

24 <sup>21</sup> *Id.*

1 “who are mistakenly entered into a criminal database, for example, of supposed shoplifters.”<sup>22</sup>

2 One such error that the City Council found to be instructive was “the alleged case for student  
3 Ousmane Bah,” who claimed “his name was mistakenly linked to the face of a thief who stole  
4 products from an Apple store. The flawed facial recognition hit resulted in the NYPD arriving at  
5 Bah’s home to arrest him for crimes he had no part in.”<sup>23</sup>

6 59. Likewise, the City Council expressed apprehension about how biometrics  
7 “companies developing this type of software sometimes resort to shady or deceitful tactics to  
8 expand their databases or improve their product.”<sup>24</sup> Of particular note to the City was how, “in  
9 Atlanta, Google was hiring contractors to deliberately target people of color encouraging them to  
10 scan their faces in exchange for a \$5.00 gift card so that they could improve its new pixel  
11 device.”<sup>25</sup> The Council was distressed at how companies have been known to “conceal the fact  
12 that people’s faces were being recorded and even lie to maximize their data collections[.]”<sup>26</sup> and  
13 noted that “[t]hese kinds of deceptive practices are simply not acceptable.”<sup>27</sup>

14 60. More generally, the NYC BIIL reflects the New York City Council’s disapproval  
15 of the ways in which companies have allegedly been “‘actively profiting’ off information gleaned  
16 from the biometric data” such as by parlaying individuals’ biometrics into “improved security  
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19 <sup>22</sup> <https://legistar.council.nyc.gov/View.ashx?M=F&ID=9168703&GUID=A11149B9-F476-462B-B902-95153CEDC7D2>, Minutes of the Stated Meeting – December 10, 2020, p. 2482.

20 <sup>23</sup> *Id.*

21 <sup>24</sup> <https://legistar.council.nyc.gov/View.ashx?M=F&ID=7786279&GUID=16F7F4CE-9E1B-4629-A11F-232A2BCC31DF>, Hearing Transcript 10/7/19, p. 10.

22 <sup>25</sup> *Id.*

23 <sup>26</sup> *Id.* at p. 10–11.

24 <sup>27</sup> *Id.* at 11.

1 and marketing[.]”<sup>28</sup> Companies already draw upon “customer information to determine the ideal  
2 cost at which a shopper will purchase a particular product”<sup>29</sup> by using, *inter alia*, “the data  
3 obtained by social media platforms, such as shoppers’ e-mail addresses and other personal  
4 information.”<sup>30</sup> This information is voluminous and “enables retailers ‘to develop a broad picture  
5 about a consumer, such as identifying that the individual owns a house, runs marathons, eats  
6 healthy food, has a premium bank card, and is good in financial health.’”<sup>31</sup> In some instances,  
7 “[c]onnecting such data to a customers’ faceprint [or other biometrics] would allow retailers to  
8 inflate the price of a product to consumers in the store willing and able to pay more, while offering  
9 the same product to other consumers for less money.”<sup>32</sup> The NYC BIIL marks the City’s  
10 trepidation about how biometrics may be used to “manipulate the availability, cost, and appeal of  
11 an item[.]”<sup>33</sup> in stores.

### 12 ***The New York City Biometric Identifier Information Law***

13 61. Recognizing the need to protect citizens from these types of data breach,  
14 cybersecurity, and privacy-related concerns, New York City enacted the Biometric Identifier  
15 Information Law, N.Y.C. Admin. Code § 22-1201 *et seq.* (“NYC BIIL” or “Biometric Identifier  
16 Information Law”) in 2021, to regulate companies that collect and store biometric information.  
17 *See* New York City Council Committee on Consumer Affairs and Business Licensing, Transcript  
18

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19 <sup>28</sup> <https://legistar.council.nyc.gov/View.ashx?M=F&ID=9168703&GUID=A11149B9-F476-462B-B902-95153CEDC7D2>, Minutes of the Stated Meeting - December 10, 2020, p. 2484.

20 <sup>29</sup> *Id.*

21 <sup>30</sup> *Id.* at p. 18.

22 <sup>31</sup> *Id.*

23 <sup>32</sup> *Id.*

24 <sup>33</sup> <https://legistar.council.nyc.gov/View.ashx?M=F&ID=7761013&GUID=CAC07AB4-200A-46FC-8F2D-4D0B72E9D9E2>, Committee Report 10/7/19, p. 17.

1 December 10, 2020.

2           62. NYC BIIIL makes it unlawful for a company to, *inter alia*, “sell, lease, trade, share  
3 in exchange for anything of value or otherwise profit from the transaction of biometric identifier  
4 information.” N.Y.C. Admin. Code § 22-1202(b). In addition, the law’s disclosure requirement  
5 provides that “Any commercial establishment that collects, retains, converts, stores or shares  
6 biometric identifier information of customers must disclose such collection, retention, conversion,  
7 storage or sharing, as applicable, by placing a clear and conspicuous sign near all of the  
8 commercial establishment’s customer entrances notifying customers in plain, simple language, in  
9 a form and manner prescribed by the commissioner of consumer and worker protection by rule,  
10 that customers’ biometric identifier information is being collected, retained, converted, stored or  
11 shared, as applicable.”

12           63. The Biometric Identifier Information Law defines the term “biometric identifier  
13 information” as “a physiological or biological characteristic that is used by or on behalf of a  
14 commercial establishment, singly or in combination, to identify, or assist in identifying, an  
15 individual, including, but not limited to: (i) a retina or iris scan, (ii) a fingerprint or voiceprint,  
16 (iii) a scan of hand or face geometry, or any other identifying characteristic.” N.Y.C. Admin.  
17 Code § 22-1201. The specific examples of “biometric identifier information” identified in § 22-  
18 1201 are illustrative and not exhaustive.

19           64. As the New York City Council’s Committee on Consumer Affairs and Business  
20 Licensing stated in its December 10, 2020 Committee Report on the Biometric Identifier  
21 Information Law, “physiological characteristics concern the shape or composition of the body”.  
22 In other words, information on the size or shape of a customer’s body is an “identifying  
23  
24



1 characteristic” that qualifies as “biological identifier information” under § 22-1201. NYC 2020  
2 Comm. Rpt. at 3.

3 65. The Biometric Identifier Information Law states that establishments can comply  
4 with the disclosure requirement of § 22-1202(a) by posting at every entrance the sign prescribed  
5 by the Commissioner of Consumer and Worker Protection. N.Y.C. Admin. Code § 22-1202.

6 66. In 2021, the Commissioner of Consumer and Worker Protection adopted a rule to  
7 implement the Biometric Identifier Information Law. The rule, located in Chapter 8 of Title 6 of  
8 the Rules of the City of New York, states that:

9 To comply with section 22-1202 of Chapter 12 of Title 22 of the New York City  
10 Administrative Code, a commercial establishment covered by such section must  
11 post a sign in a clear and conspicuous manner at every entrance used by customers  
12 in a size of at least 8.5 inches by 11 inches that discloses if customers’ biometric  
13 identifier information is being collected, retained, converted, stored, or shared. The  
14 requirements of this section may be fulfilled by posting a color copy of the  
15 Biometric Identifier Information Disclosure, as made publicly available on the  
16 Department’s website, in a clear and conspicuous manner at every entrance used  
17 by customers in a size of at least 8.5 inches by 11 inches.

18 67. The following image is the Biometric Identifier Information Disclosure sign that  
19 the Department of Consumer and Worker Protection has made publicly available on its website  
20 so that commercial establishments like Amazon and Starbucks could post a color copy of this  
21 sign and comply with the Biometric Identifier Information Law’s sign mandate.  
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## Attention Customers


### Biometric identifier information collected at this location

**Business Name:**


This Business collects, retains, converts, stores, or shares customers' biometric identifier information, which may include:



**facial  
recognition**



**eye scans**



**voiceprints**

This is information that can be used to identify or help identify you.

18 **II. Amazon Go Stores in New York City Collect, Use, Retain, Convert, and Store**  
19 **Consumers' Biometric Identifying Information, Including the Shape and Size of**  
20 **Every Customer's Body and a Palm Image of Many Customers**

21 68. In 2018, Amazon launched its first Amazon Go stores to sell food, drinks, and  
22 other consumer goods in American cities. The key feature that sets Amazon Go stores apart from  
23 traditional stores is that customers walk out of the stores with goods they want to buy without  
24 checking out with a cashier or scanning goods at registers themselves. Amazon calls this "Just  
Walk Out" technology.

1           69.     In 2019, Amazon opened its first of several Amazon Go stores in the City of New  
2 York. Today, Amazon operates eight Amazon Go stores in New York City.

3           70.     As Amazon explains on its own website, “Just Walk Out technology uses a  
4 combination of sophisticated tools and technologies to determine who took what from the store.  
5 When a consumer takes something off the shelf, it’s added to their virtual cart. When the  
6 consumer puts the item back on the shelf, it comes out of their virtual cart. After they leave the  
7 store, they’re charged for the items they left the store with.”<sup>34</sup>

8           71.     Just Walk Out technology relies on computer vision, a field of artificial  
9 intelligence that allows computers to interpret and understand visual information. Common  
10 applications of computer vision include object recognition and detection, surveillance and  
11 security, and facial recognition. Just Walk Out Technology also uses deep learning algorithms, a  
12 subset of machine learning that allows for complex extraction of input data. The technology also  
13 uses “sensor fusion,” which is the process of combining data from cameras and other sensors to  
14 provide a comprehensive understanding of any given environment.

15           72.     Through these technologies, Amazon identifies and tracks the movements of each  
16 person who is shopping from the time they enter the store until they leave. And these technologies  
17 allow Amazon to distinguish each person from all the other people in the store. This process is  
18 called “Person Detection.” When conducting Person Detection during the time a customer is in  
19 the store, Amazon collects, uses, retainers, converts, and stores information on the size and shape  
20 of each customer’s body (as well as the bodies of Amazon’s workers). This information is  
21 sufficient to identify a specific person’s height, weight, gait, stride speed and/or length, the  
22

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23  
24 <sup>34</sup> Amazon, Just Walk Out technology by Amazon FAQs, <https://perma.cc/X5EB-FFY6>.

1 mobility-related medical conditions an individual may have (such as a limp), other potential  
2 medical conditions, and additional information specific to that individual.

3 73. Person Detection starts the moment that a customer enters the store, which is when  
4 Amazon connects each person's body to the person's Amazon account.

5 74. A customer only has three options for entering an Amazon Go store: a credit card,  
6 a QR code generated by the Amazon mobile app on the customer's phone, or a scan of the  
7 customer's palm using "Amazon One technology." *See* Amazon, Shopping at an Amazon Go  
8 Store, <https://perma.cc/MH2P-2PCA>. All of these methods of entry (*i.e.*, credit card, QR code, or  
9 a customer's palm scan) allow Amazon to know the identity of the person who has scanned their  
10 credit card, QR code, or palm when entering the store, when that person enters and leaves the  
11 store, what that person selects, their prior purchase history, and who to charge for any selected  
12 products.

13 75. First, the customer can scan a code in their Amazon app, which allows Amazon to  
14 know which person is entering the store and to charge that person through the same method of  
15 payment saved in their Amazon app.

16 76. For example, in the picture below, a customer at a Midtown Manhattan Amazon  
17 Go store scans a code in his Amazon app, which causes the gates to open and allow him to enter.



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11 77. Second, the customer can scan a credit card, which likewise allows Amazon to  
12 know which person is entering the store and charge that person's credit card.

13 78. Third, the customer can use Amazon One, a technology that links an image of the  
14 customer's palm to their Amazon account, and then allows the customer to enter the store simply  
15 by hovering their palm over a scanner. Amazon's proprietary imaging and computer vision  
16 algorithms capture and encrypt the customer's palm image, after which the person's palm serves  
17 as a unique palm signature that can be read by Amazon's scanners. Thus, when a person enters  
18 the Amazon Go store with their Amazon One palm signature, Amazon knows who that person is  
19 and will charge that person's Amazon account for any goods that person takes from the store.  
20 Amazon's website explains how Amazon One works.<sup>35</sup>

21  
22  
23  
24 <sup>35</sup> See Amazon, How it works: Meet Amazon One, <https://perma.cc/AL8T-JFYD>.

## How does Amazon One work?



Your hands are uniquely yours

Your palm is made up of tiny, distinct features on and below the surface, many that are indiscernible to the human eye or a standard camera.

The Amazon One device is designed to read them

In seconds, a process of proprietary imaging and computer vision algorithms capture and encrypt your palm image.

To create your unique palm signature

Amazon One uses the information embedded in your palm to create a unique palm signature that it can read each and every time you use it.

79. No matter which entry option a customer chooses, Amazon (via JWO technology) immediately identifies that person (upon their entry of the Amazon Go store) based on the size and shape of that person's body, and then continues to track that person and analyze the person's movements based on their size and shape until the person leaves the store. To do this, Amazon uses computer vision, deep learning algorithms, and hundreds of cameras and sensors throughout each store.

80. When customers are shopping in an Amazon Go store, the top-level view of Amazon's system looks like the following image, where each customer is represented by a unique image and a distinct label. This top-level view allows Amazon to track where every customer moves within the store.



9           81. Amazon also applies computer vision to conduct a horizontal-level view of each  
10 customer, which enables Amazon to determine which people are taking what items off shelves or  
11 putting items back on shelves. In this horizontal-level view—shown in the two images below—  
12 Amazon scans the shape and size of each person’s body and creates a skeleton-like figure for each  
13 person that is unique to their size and shape. The movements of these unique figures are closely  
14 tracked by Amazon, so that Amazon can associate each person with the products they touch, and  
15 thus determine which person is removing an item from the shelf or returning it.



1           82. Amazon operates the Just Walk Out technology inside its own Amazon Go stores,  
2 as well as in the stores of other companies like Starbucks.

3           83. One of the first indications that Just Walk Out technology uses body measurements  
4 to identify customers emerged in a 2015 United States patent application by Amazon. As  
5 described by a Vox article that links to these patent applications, the Just Walk Out technology  
6 would “allow shoppers to pick items and leave without stopping at a cashier station or kiosk”;  
7 would use cameras to identify “when a person entered the facility, when she removed something  
8 from a shelf and when she left with an item in her hand”; and would distinguish between users  
9 through “user-identifying information (e.g., *images of the user, height of the user, weight of the*  
10 *user*), a user name and password, user biometrics, purchase history, payment instrument  
11 information (e.g., credit card, debit card, check card), purchase limits, and the like.”<sup>36</sup>

12           84. Later patents obtained by Amazon appear to confirm that the Just Walk Out  
13 technology uses various techniques “to identify a user. For example, image capture and facial  
14 cognition may be used.”<sup>37</sup>

15           85. Likewise, “other unique and/or temporary identifiers (e.g., the color of the user’s  
16 shirt, shoes, hat, pants, the user’s skeletal structure) may be identified and used to assist in  
17 identifying the user as they move around the materials handling facility. For example, if the user  
18 is wearing a bright yellow shirt, that shirt may be identified and used as a temporary identifier for  
19 the use in identifying the user as they move around the materials handling facility that day. As  
20

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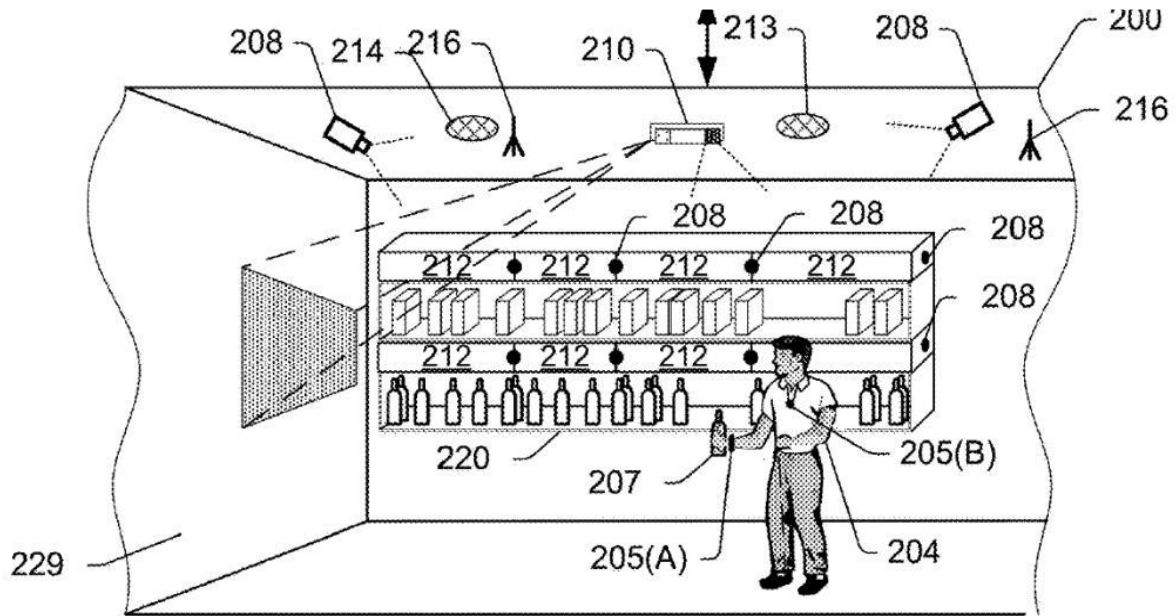
21 <sup>36</sup> Jason Del Rey, *We May Have Just Uncovered Amazon’s Vision for a New Kind of Retail*  
22 *Store*, Vox (Mar. 30, 2015) (emphasis in article), <https://www.vox.com/2015/3/30/11560904/we-may-have-just-uncovered-amazons-vision-for-a-new-kind-of-retail>.

23 <sup>37</sup> U.S. Patent No. US 11,301,783 B1 at 12:7–8 (Apr. 12, 2022),  
24 <https://patentimages.storage.googleapis.com/92/c8/62/2423c75bf3ab3b/US11301783.pdf>.



1 another example, images representative of user skeletal structure may be captured.” *Id.* at 12:24–  
 2 33.

3 86. Similarly, “other user characteristics and/or features may be considered when  
 4 disambiguating between multiple potential users to determine which one performed an item  
 5 action. For example, images of the user performing the item action may be processed to determine  
 6 the hand used to perform the action item, the posture, size and/or shape of the user, the movement  
 7 and/or gate [sic] of the user as they approached the item, the orientation of the user relative to the  
 8 item, the skeletal structure of the user that performed the item action and/or other temporary or  
 9 permanent characteristics of the user, etc. Such information may be compared with information  
 10 associated with the user as a factor in determining the probability that the user performed the item  
 11 action.” *Id.* at 13:41–54.



1 87. In another patent, Amazon suggests that its technology may furthermore  
 2 distinguish customers by “height,” “size,” “width,” “a facial feature,” “length of a body part,”  
 3 “posture,” “pose,” “gait,” or “speed of movement”.<sup>38</sup>

4 88. Beyond identifying people and their movements, the Just Walk Out technology  
 5 can also recognize thousands of products in the real world—which is how the store operating Just  
 6 Walk Out technology knows that a particular person has removed (or returned) a specific product  
 7 from a shelf. Through this “Object Recognition” process, the Just Walk Out technology can  
 8 identify the same yellow package of Bombay Potatoes (shown to the left) or the same green  
 9 package of Pirate’s Bounty, whether the package is standing straight up, crinkled in a ball, or shown  
 10 in different lighting.



17 89. While Amazon initially collects identifying information about customers in the  
 18 Amazon Go stores, including some customers’ palm images and the size and shape of every  
 19 customer’s body, that information is transmitted outside of the stores to Amazon’s cloud services,  
 20

21 <sup>38</sup> U.S. Patent No. US 11,462,005 B1 at 5:57–67 (Oct. 4, 2022),  
 22 <https://patentimages.storage.googleapis.com/b9/ee/61/6b08fe7d94b361/US11462005.pdf>. Other  
 23 patents suggest that “facial recognition” and other “user provided information” including the  
 24 “skin tone” of a customer’s hand are also used to determine when a customer has selected a  
 product. *See* U.S. Patent No. US 10,268,983 B2 at 5:5–6, 6:48–49 (Apr. 23, 2019); U.S. Patent  
 No. US 11,100,463 B2 (Aug. 24, 2021).

1 where Amazon converts, analyzes, and applies the information on a real-time basis to make  
2 decisions about which customers have moved where and what they have removed from and  
3 returned to shelves.

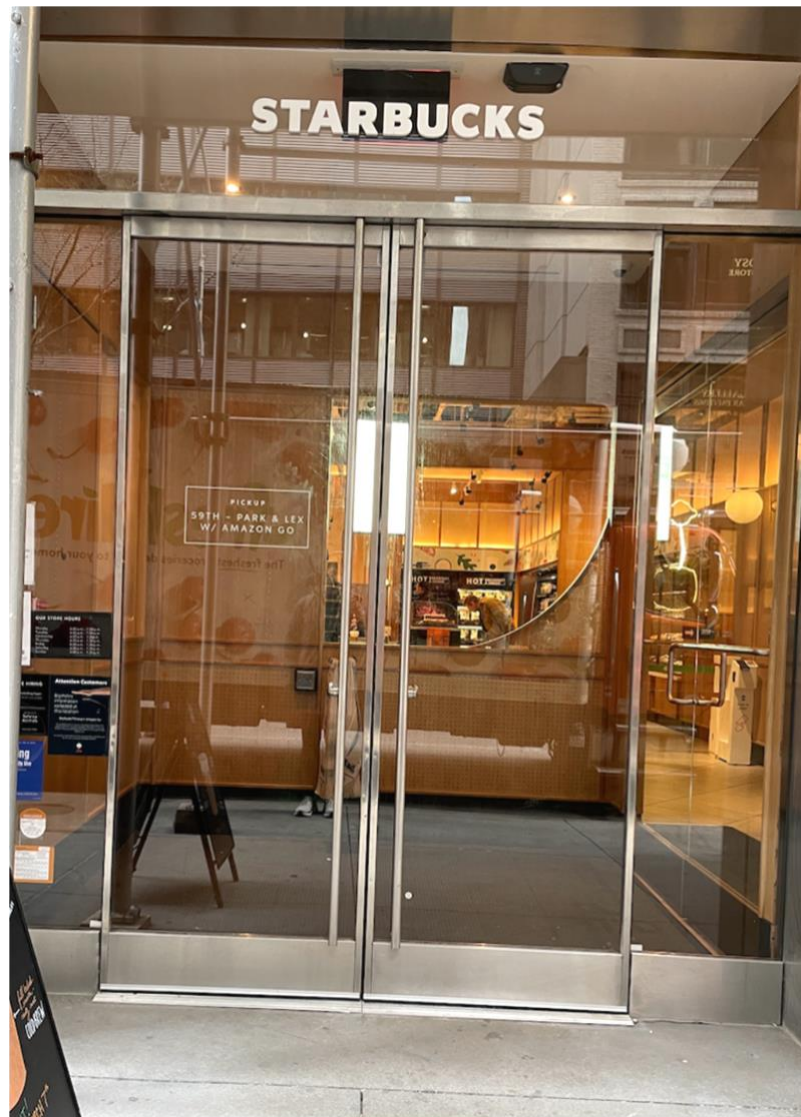
4 90. Upon information and belief, Amazon also retains and stores the biometric  
5 information of each Amazon Go customer, including information on the size and shape of each  
6 customer's body. Amazon then converts, uses, and in some cases, shares or sells this information  
7 for Amazon's own use and profit.

8 91. Amazon's Just Walk Out technology further benefits Amazon financially because,  
9 *inter alia*, it does not have to employ workers in its Amazon Go stores to scan groceries, place  
10 items in bags, or spend large amounts of time accepting payments.

11 92. As alleged herein, Amazon's practices of (1) collecting, retaining, converting,  
12 storing, and/or sharing biometric identifier information without placing clear and conspicuous  
13 signs near all of its commercial establishments' customer entrances, and (2) sharing said biometric  
14 identifier information in exchange for things of value or otherwise profiting from the transaction  
15 of biometric identifier information violated NYC BIIL.

16 **III. Starbucks's Agreement to Collect and then Share the Biometric Identifier**  
17 **Information of Each Starbucks–Amazon Go Customer**

18 93. In November 2021, Starbucks opened its first Starbucks–Amazon Go store at 111  
19 E. 59th Street in Manhattan. The following is an image of the outside of the store:  
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17 94. This Starbucks store was intended to provide an enhanced Starbucks consumer  
18 experience by using Amazon’s “Just Walk Out” technology to provide a more efficient check-out  
19 process for its customer, along with a lounge where Starbucks customers can enjoy their coffee  
20 and food, work, and charge their phones.

21 95. In July 2022, Starbucks opened its second New York City Starbucks–Amazon Go  
22 store at 620 8th Avenue in Manhattan. The following is an image of the outside of the store:  
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96. Both stores share a similar layout. Each store contains a coffee bar and a gated area that includes a cashier-less marketplace and a lounge seating area. Marketplace items include the full Starbucks menu, as well as additional foods and beverages that ordinarily would not be available in a traditional Starbucks stores (*e.g.*, fresh-prepared salads). Starbucks-branded QR codes are on the tables, walls, and backs of the booths within the gated area of the store. Using those QR codes, one can order a range of Starbucks' food items, and then retrieve that order from

1 a counter within the gated area. Starbucks employees maintain and operate each store, including  
2 performing the cleaning, stocking of shelves, and attending to customers, both within and outside  
3 of the gated areas.

4 97. The inside of the Starbucks–Amazon Go store at 59th Street, where customers can  
5 pick up Starbucks coffee and enter a gated area to visit the lounge and marketplace, looks like the  
6 following image:



17 98. The inside of the Starbucks–Amazon Go store at 620 8th Avenue, looks like the  
18 following image:  
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99. According to Starbucks, “The new store integrates the digital and physical retail experience bringing together the connection and comfort of a Starbucks Café and convenience of Amazon Go’s Just Walk Out Shopping experience.”

100. And for customers who enter the store, there is no clear distinction between the parts of the store that serve Starbucks customers or Amazon customers, especially since Starbucks employees direct and attend to customers in all areas of the store, including the food counter, marketplace, and lounge. Thus, even when customers make a purchase that is processed by Amazon, those customers believe that they are making a purchase from Starbucks in a Starbucks

1 store. Both Starbucks and Amazon benefit from this setup, which allows customers to flow freely  
2 within the store location, making purchases of both Starbucks and Amazon products frictionless.

3 101. The gated areas of the Starbucks–Amazon Go stores use and rely on “Just Walk  
4 Out” technology supplied by Amazon to allow Starbucks customers to walk in, select items, and  
5 exit without needing to check-out at a Starbucks register.

6 102. Upon exiting, the Starbucks customers are then charged for any item that they (or  
7 the people in their group) removed.

8 103. Starbucks operates each Starbucks–Amazon Go store pursuant to an agreement  
9 with Amazon: Starbucks collects customers’ biometric identifier information on Starbucks’  
10 premises using Amazon’s Just Walk Out Technology and then shares that information with  
11 Amazon so that Amazon can use the information for its own purposes.

12 104. Under this agreement, Amazon installs the Just Walk Out technology into the  
13 Starbucks store, including (1) the gates where Starbucks’ customers scan their palms, credit cards,  
14 or in-store codes to enter; (2) the dozens of cameras used to measure the shape and size of  
15 customers and track them within the store; and (3) the computer equipment that transmits data  
16 from the Starbucks store to Amazon’s servers outside of Starbucks’ premises. Amazon also  
17 sources some of the food and beverages in the stores.

18 105. Once this Just Walk Out technology is installed, Starbucks and its employees  
19 primarily manage the entire store, including by directing and instructing customers on how to  
20 scan their palms or otherwise enter the gated area, answering customers’ questions, stocking the  
21 shelves with food and items sourced from Starbucks and other suppliers (including local kitchens  
22 and bakeries), preparing hot foods that are served, and cleaning the entire store. In addition, the  
23 furniture and aesthetic of the Starbucks–Amazon Go stores provide customers with the experience  
24



1 of a traditional Starbucks store, except that they have the ability to purchase items without having  
2 to check out at a register.

3 106. Once the Starbucks–Amazon Go stores were fully launched, Amazon’s primary  
4 role in these stores has been limited to checking to make sure that the Just Walk Out technology  
5 is working properly. In that regard, Amazon’s role in the Starbucks–Amazon Go stores is the  
6 same as the role an information technology (“IT”) contractor plays in setting up and managing  
7 video surveillance for a commercial establishment. In that regard, Amazon operates as Starbucks’  
8 agent in collecting biometric information on behalf of Starbucks with Starbucks exercising overall  
9 control over the store and its operations. However, unlike a traditional IT contractor or agent,  
10 Amazon is free to use such Starbucks-collected customer information for Amazon’s own  
11 commercial purposes that are unrelated to the operations of the Starbucks stores.

12 107. After Starbucks collects each customer’s biometric identifier information—  
13 including measurements of the size and shape of each customer’s body and customers’ palm  
14 images—on Starbucks’ premises, Starbucks then shares and transmits that information to  
15 Amazon’s servers located outside of the Starbucks store. Amazon takes that Starbucks customer’s  
16 information and uses it to transact business in stores wholly owned and operated by Amazon or  
17 other third parties.

18 108. Because Amazon is partly responsible for the operation of the Starbucks–Amazon  
19 Go stores, Amazon also collects biometric identifier information of customers at those stores.<sup>39</sup>  
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23 <sup>39</sup> In the alternative, Starbucks and Amazon are acting as joint partners in operating each  
24 Starbucks–Amazon store.

1 **IV. Despite Constantly Collecting, Converting, Retaining, Storing, And Sharing**  
2 **Customers’ Biometric Identifier Information, Defendants Have Failed to Disclose**  
3 **Those Practices or Obtain Meaningful Consent From Customers**

4 109. The information about customers who enter the gated areas of Amazon Go and  
5 Starbucks–Amazon Go stores that Defendants collect, retain, convert, and store to identify those  
6 customers—namely information about the size and shape of each customer’s body and the palm  
7 images of some customers—and that Starbucks shares with Amazon, constitutes “biometric  
8 identifier information” within the meaning of the NYC BILL.

9 110. A “scan of the hand” is considered “biometric identifier information” under  
10 N.Y.C. Admin. Code § 22-1201, which defines the term “biometric identifier information” to  
11 include “a scan of hand or face geometry.”

12 111. Information on the size and shape of each customer’s body is an “other identifying  
13 characteristic” that qualifies as “biometric identifier information” within the meaning of N.Y.C.  
14 Admin. Code § 22-1201.

15 112. As the New York City Council’s Committee on Consumer Affairs and Business  
16 Licensing stated in its December 10, 2020 Committee Report on the Biometric Identifier  
17 Information Law, “physiological characteristics concern the shape or composition of the body”—  
18 in other words, information on the size or shape of a customer’s body is an “identifying  
19 characteristic” that qualifies as “biological identifier information” under N.Y.C. Admin. Code §  
20 22-1201.

21 113. Furthermore, in the late 1800s measurements of the size and shape of people’s  
22 bodies was the first type of biometric information that law enforcement agencies used to uniquely  
23 identify individuals, even before fingerprints were widely used to identify people. Under the so-  
24 called Bertillon System, which was used by New York City and State officials, law enforcement

1 would take precise measurements of criminals’ body parts, as well as their standing height, sitting  
2 height, and the distance between their fingertips and outstretched arms.<sup>40</sup>

3 114. Because Defendants collect, retain, convert, and store such biometric identifier  
4 information about their store customers and because Starbucks shares the same information with  
5 Amazon, Defendants both have an obligation under the N.Y.C. Admin. Code § 22-1202(a) to  
6 “plac[e] a clear and conspicuous sign near all of the commercial establishment’s customer  
7 entrances notifying customers in plain, simple language, in a form and manner prescribed by the  
8 commissioner of consumer and worker protection by rule, that customers’ biometric identifier  
9 information is being collected, retained, converted, stored or shared, as applicable.”

10 115. Despite the fact that each Amazon Go and Starbucks–Amazon Go store in New  
11 York City has collected, retained, converted, and stored biometric identifier information of each  
12 customer who entered its gated areas since 2021, and that Starbucks has shared such information  
13 with Amazon, prior to March 14, 2023, neither Amazon nor Starbucks displayed any signs at the  
14 entrances of its Amazon Go and Starbucks–Amazon Go stores to notify customers that the stores  
15 collect, retain, convert, store, or share customers’ biometric identifier information, including but  
16 not limited to, the standard 8.5 x 11-inch sign authorized by New York City’s Department of  
17 Consumer and Worker Protection.

18 116. Defendants, every step of the way, failed to obtain meaningful consent for their  
19 practices.

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<sup>40</sup> See New York State, Division of Criminal Justice Services, The Bertillon System,  
23 <https://perma.cc/U3DU-65KF>; Selia Cheng, These 100-year-old photos reveal the birth of the  
24 modern mugshot, QZ (Sept. 24, 2016), <https://perma.cc/WZ5F-F5WP>; Cleveland Police  
Museum, Criminal Identification: The Bertillon System, <https://perma.cc/6DH2-DZ36>.

1           117. At no time has Amazon or Starbucks put their customers on notice (i.e., through  
2 signage outside of their New York City stores or through the companies' policies)—let alone  
3 obtained consent from consumers—that the Just Walk Out Technology would take measurements  
4 of the size and shape of each customer's body or that Starbucks would share that information with  
5 a third party.

6           118. None of the Plaintiffs was aware that Amazon or Starbucks would take  
7 measurements of the size and shape of their bodies when they entered an Amazon Go store or a  
8 Starbucks-Amazon Go store in New York City. And while none of the Plaintiffs had read  
9 Amazon's or Starbucks' policies that relate to what information Amazon collects from their  
10 customers before they entered the Amazon Go or Starbucks-Amazon Go stores, none of those  
11 policies could have put the Plaintiffs or other reasonable consumers on notice that the Defendants'  
12 Just Walk Out technology would take measurements of the size and shape of their bodies or that  
13 Starbucks would share that information with a third party. In addition, when those customers  
14 entered the gated areas of the stores, they were not given a reasonable opportunity to review any  
15 policies that would govern Amazon or Starbucks's collection, use, or sharing of their information.  
16 The Starbucks and Amazon workers furthermore do not direct customers' attention to any such  
17 policies and instead encourage them to quickly scan their credit card or Amazon in-store code  
18 and enter the gated area.

19           119. The customers who entered the stores with an Amazon One palm scan also did not  
20 meaningfully consent to the terms that Amazon purports to apply to customers who sign-up for  
21 Amazon One. As shown by Plaintiff Novolt's experience, *infra* § V.D, consumers were given no  
22 reasonable opportunity to review these documents before agreeing to them. Hyperlinks to the  
23 Amazon One Terms of Use and the Amazon Privacy Notice were each presented on a small screen  
24

1 approximately the size of an iPhone in a retail location, often to consumers who were signing up  
2 for the service with a queue of customers waiting behind them and with a limited number of  
3 machines available. More generally, the sign-up process is an experience that in all aspects  
4 pressured Plaintiffs and Class Members to scan their palms and move on. The Amazon One  
5 service is only offered to in-store consumers and is specifically marketed as a fast way to complete  
6 a transaction. Plaintiff and Class Members do not have a reasonable opportunity to read through  
7 multiple long legal documents that affect important rights in a busy and loud New York City  
8 urban retail environment.

9       120. Further, even if a consumer did read either the Amazon One Terms of Service or  
10 the Amazon Privacy Notice, the information in those notices was insufficient to comply with the  
11 NYC BIIIL’s requirements or to put customers on notice of the specific practices that this  
12 complaint challenges, including taking measurements of the size and shape of customers’ bodies  
13 and the sharing of customers’ biometric identifier information with third parties.

14       121. The Amazon One Terms of Use are nearly 1,500 words long and incorporate  
15 multiple additional documents and webpages by reference. Further, the “notice” given therein,  
16 buried in plain text, is certainly not “conspicuous” as required by the BIIIL. Additionally, the  
17 notice in the Terms of Use is ambiguous as to numerous points. For example, the Terms of Use  
18 states that palm signature “information may be stored on servers outside the country in which you  
19 live.”<sup>41</sup> That is effectively the same as saying nothing about where the information is stored.  
20 Finally, the Terms of Use notify consumers that “[b]y agreeing to these Terms of Use you  
21 understand and consent to the collection, use, and storage of your data, including your palm  
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23 \_\_\_\_\_  
24 <sup>41</sup> “Amazon One Terms of Use,” Amazon One, <https://one.amazon.com/terms-of-use>.

1 signature, for the purpose of verifying your identity to access and use the Service.”<sup>42</sup> That consent  
2 is far too narrow to encompass the entirety Defendants’ practices alleged here.

3 122. Meanwhile, the Amazon.com Privacy Notice<sup>43</sup> is where a consumer might find  
4 information about privacy-related matters such as Amazon’s collection and use of biometric  
5 identifier information. But the Privacy Notice, itself over 3,500 words long, contains **no** reference  
6 to biometric collection or sharing, taking measurements of the size and shape of customers’  
7 bodies, palm scans, or customers’ consent to such practices. The only possible purpose it serves  
8 here is a red herring whereby consumers concerned about biometric privacy may review it and  
9 assume (mistakenly) that they are safe.

## 10 **V. Plaintiffs’ Experiences**

### 11 **A. Plaintiff Rodriguez Perez**

12 123. On January 30, 2023, Mr. Rodriguez Perez visited the Amazon Go Store at 80 Pine  
13 Street, New York, NY, 10005. The 80 Pine Street Amazon Go store has an alternate mailing  
14 address of 110 Maiden Lane, New York, NY 10005.

15 124. The Amazon Go store at 80 Pine Street in Manhattan has the same Just Walk Out  
16 technology as the other Amazon Go stores in New York City, including same types of computer  
17 vision, deep learning algorithms, and sensor fusion that Amazon applies at its other Amazon Go  
18 stores and in the cloud.

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21 <sup>42</sup> *Id.*

22 <sup>43</sup> Amazon, Help & Customer Service (last updated January 1, 2023),  
<https://www.amazon.com/gp/help/customer/display.html?nodeId=202056900>; Amazon, Help &  
23 Customer Service (last updated August 11, 2023),  
[https://www.amazon.com/gp/help/customer/display.html?ref=hp\\_bc\\_nav&nodeId=GX7NJQ4Z  
24 B8MHFRNJ#GUID-8966E75F-9B92-4A2B-BFD5-  
967D57513A40\\_SECTION\\_87C837F9CCD84769B4AE2BEB14AF4F01](https://www.amazon.com/gp/help/customer/display.html?ref=hp_bc_nav&nodeId=GX7NJQ4ZB8MHFRNJ#GUID-8966E75F-9B92-4A2B-BFD5-967D57513A40_SECTION_87C837F9CCD84769B4AE2BEB14AF4F01).

1           125. When Mr. Rodriguez Perez entered the 80 Pine Street Amazon Go store, he did  
2 not see any sign at any entrance that notified customers that customers’ biometric identifier  
3 information is being collected, retained, converted, or stored. In particular, he did not see the 8.5  
4 x 11-inch sign that the Department of Consumer and Worker Protection has made available to  
5 commercial establishments like Amazon to comply with § 22-1202(a). See  
6 <https://perma.cc/QX57-G48H>.

7           126. To enter the store, Mr. Rodriguez Perez scanned a code in his Amazon app. He  
8 opted to enter the store this way, instead of scanning his palm with the Amazon One technology,  
9 because he did not want to provide Amazon with such personal information about himself and  
10 his body.

11           127. Upon entering the store, Amazon’s computer vision identified Mr. Rodriguez  
12 Perez through the shape and size of his body and then tracked every single movement that Mr.  
13 Rodriguez Perez made in the store to identify where he went, what items he removed from the  
14 shelves, and what items he put back on the shelves.

15           128. During his visit, Mr. Rodriguez Perez picked out three items—a box of Whole  
16 Foods’ generic Oreo cookies, Annie’s Cheddar Bunnies Baked Snack Crackers, and mango  
17 Kombucha—and walked out of the store. After he left the store, Mr. Rodriguez Perez received a  
18 receipt for \$13.17 from Amazon for purchasing those three items.

19           129. If Mr. Rodriguez Perez had seen the standard 8.5 x 11-inch DCWP-authorized sign  
20 at the entrance of the 80 Pine Street Amazon Go store informing him that the store “collects,  
21 retains, converts, stores, or shares customers’ biometric identifier information” (or a similar  
22 custom sign that complies with the Biometric Identifier Information Law), he would not have  
23  
24

1 entered the store and he would not have made a purchase at the 80 Pine Street Amazon Go store,  
2 or Mr. Rodriguez Perez would not have paid as much for the items he purchased.

3 130. Other than when he visited the 80 Pine Street Amazon Go store on January 30,  
4 2023, Mr. Rodriguez Perez has never entered an Amazon Go store.

5 131. Mr. Rodriguez Perez values his privacy and is concerned that companies track  
6 collect, retain, convert, store, and share too much information that is linked to him and other  
7 people. To limit how much information is tracked to him personally, Mr. Rodriguez Perez, among  
8 other things, maintains an email address that does not contain his name, and generally tries to  
9 prevent companies from tracking his personal information online (e.g., by not accepting cookies  
10 when possible, opting out of sharing analytics).

11 132. Mr. Rodriguez Perez believes that consumers should be fully informed about what  
12 data and information about them companies collect, retain, convert, store, share, and sell before  
13 those companies collect that data and information, so that consumers can understand and  
14 knowingly consent to the collection of that data and information, and was disappointed and  
15 concerned that he was not fully informed of such before entering the Amazon Go store and  
16 making his purchases. Mr. Rodriguez Perez has been the victim of several data breaches (e.g.,  
17 through his employer, phone carrier, and retirement fund), and would be greatly concerned if  
18 there was a data breach involving his biometric information.

19 133. On February 7, 2023, Mr. Rodriguez Perez mailed a letter to the Amazon Go Store  
20 at 80 Pine Street notifying Amazon that he had visited the Amazon Go store at 80 Pine Street,  
21 that the store was collecting biometric identifier information on its customers, including by “using  
22 computer vision and video of bodily characteristics to identify customers,” that Amazon had an  
23 obligation under New York City law to post a sign notifying Mr. Rodriguez Perez and other  
24



1 customers about Amazon’s practice of collecting such biometric information, and that Amazon  
2 was not complying with that disclosure obligation.

3 134. Amazon did not respond to Mr. Rodriguez Perez’s February 7, 2023 letter, despite  
4 the fact that Mr. Rodriguez Perez provided Amazon his home address. Nor did Amazon provide  
5 Mr. Rodriguez Perez with an express written statement that the violation of N.Y.C. Admin. Code  
6 § 22-1202(a) has been cured and that no further violations shall occur.

7 ***B. Plaintiff Mallouk***

8 135. On November 29, 2022, Plaintiff Mallouk visited the Starbucks–Amazon Go Store  
9 at 111 E. 59th Street, New York, NY, 10022. This store has the same Just Walk Out technology  
10 as the other Starbucks–Amazon Go store located at 620 8th Avenue, New York, NY, including  
11 the same types of computer vision, deep learning algorithms, and sensor fusion and the same  
12 Amazon One hardware devices that scan customers’ palms.

13 136. When Ms. Mallouk entered the 111 59th Street Starbucks–Amazon Go store, she  
14 did not see any sign at any entrance that notified customers that their biometric identifier  
15 information was being collected, retained, converted, stored, or shared. In particular, she did not  
16 see the 8.5 x 11-inch sign that the Department of Consumer and Worker Protection has made  
17 available to commercial establishments like Starbucks to comply with § 22-1202(a). *See*  
18 <https://perma.cc/QX57-G48H>.

19 137. To enter the store’s marketplace and lounge seating area, Ms. Mallouk used her  
20 credit card. She opted to enter the store this way, instead of scanning her palm with the Amazon  
21 One technology, because she did not want to provide Starbucks with such personal information  
22 about herself or her body.

1           138. The store then used Amazon’s computer vision technology to identify Ms.  
2 Mallouk (*i.e.*, through the shape and size of her body) and track every single movement that Ms.  
3 Mallouk made in the store to identify where she went, what items she removed from the shelves,  
4 and what items she put back on the shelves.

5           139. During her visit, Ms. Mallouk selected two items—two Buffalo-Style Chicken  
6 Wraps—and walked out of the store. After she left the store, Ms. Mallouk received a receipt for  
7 \$15.24 from Amazon for purchasing those two items.

8           140. If Ms. Mallouk had seen the standard 8.5 x 11-inch DCWP-authorized sign at the  
9 entrance of the 111 E. 59th Street Starbucks–Amazon Go store informing her that the store  
10 “collects, retains, converts, stores, or shares customers’ biometric identifier information” (or a  
11 similar custom sign that complied with the Biometric Identifier Information Law), she would not  
12 have entered the gated area of the Starbucks store or made the purchase, or Ms. Mallouk would  
13 not have paid as much for the items she purchased. Other than when she visited the 111 E. 59th  
14 Street Amazon Go store on November 29, 2022, Ms. Mallouk has never entered the gated area of  
15 a Starbucks–Amazon Go store.

16           141. Ms. Mallouk values her privacy and is concerned that companies track, collect,  
17 retain, convert, store, and share too much information that is linked to her and other people. Ms.  
18 Mallouk believes that consumers should be fully informed about what data and information about  
19 them companies collect, retain, convert, store, share, and sell before those companies collect that  
20 data and information, so that consumers can understand and knowingly consent to the collection  
21 of that data and information, and was disappointed and concerned that she was not fully informed  
22 of such before entering the Starbucks–Amazon Go store and making her purchase. Ms. Mallouk  
23  
24

1 has been the victim of data breaches (e.g., through her retirement fund) and identity theft, and  
2 would be greatly concerned if there was a data breach involving her biometric information.

3 142. On March 21, 2023, Ms. Mallouk mailed a letter to Starbucks on behalf of herself  
4 and other similarly situated individuals to notify the company that she had visited its 111 E. 59th  
5 Street store location, that the store “has collected, retained, converted, and stored biometric  
6 identifier information about me and other customers who entered the store, including by using  
7 computer vision to collect information on the size and shape of each customer’s body and palm  
8 scans for customers who choose to enter the store by scanning their palms,” that Starbucks has an  
9 obligation to post a sign notifying customers about collecting such information, and that  
10 Starbucks was not complying with that disclosure obligation.

11 143. Starbucks did not respond to Ms. Mallouk’s letter.

12 144. On March 21, 2023, Ms. Mallouk mailed a letter to Amazon to notify the company  
13 that she had visited its 111 E. 59th Street store location, that the store “has collected, retained,  
14 converted, and stored biometric identifier information about me and other customers who entered  
15 the store, including by using computer vision to collect information on the size and shape of each  
16 customer’s body and palm scans for customers who choose to enter the store by scanning their  
17 palms,” that Amazon’s practices would affect not only Ms. Mallouk but other customers who  
18 entered the store, that Amazon has an obligation to post a sign notifying customers about  
19 collecting such information, and that Amazon was not complying with the disclosure obligation.

20 145. On April 19, 2023, Amazon sent Ms. Mallouk a letter explaining—on behalf of  
21 Amazon, and not on behalf of Starbucks—that “Amazon’s Just Walk Out technology does not  
22 collect, retain, convert, or store biometric identifier information from customers at the Easter 59th  
23 Street location or other stores deploying it,” although “Amazon does collect and store biometric  
24

1 identifier information from customers who choose to register for and use its Amazon One palm-  
2 scanning technology. Amazon has thus installed . . . placards at customer entrances to the East  
3 59th Street location (and other New York City locations) informing customers before they enter  
4 that the store is equipped with Amazon One palm scanners, which, if used, collect and store  
5 customers' biometric identifier information" and that "no biometric identifier information will be  
6 collected and stored from customers who do not use an Amazon One device." Amazon's letter  
7 did not address or contest the fact that the practices Ms. Mallouk had complained about in her  
8 letter affect all customers of the Amazon Go stores and Starbucks-Amazon Go stores.

9 **C. Plaintiff Dhawan**

10 146. On August 8, 2022, Mr. Dhawan visited the Amazon Go store located at 620 8th  
11 Avenue, New York, New York.

12 147. The Amazon Go store at 620 8th Avenue in Manhattan has the same Just Walk  
13 Out technology as the other Amazon Go stores in New York City, including the same types of  
14 computer vision, deep learning algorithms, and sensor fusion that Amazon applies at its other  
15 Amazon Go stores and in the cloud.

16 148. To enter through the gates of the Amazon Go store, Mr. Dhawan scanned his palm  
17 through an Amazon One palm scanner device. Before entering the store, Mr. Dhawan did not see  
18 any sign disclosing that Defendants would collect, retain, convert, store, or share customers'  
19 biometric identifier information. In particular, he did not see the 8.5 x 11-inch sign that the  
20 Department of Consumer and Worker Protection has made available to commercial  
21 establishments like Amazon to comply with § 22-1202(a). *See* <https://perma.cc/QX57-G48H>.

22 149. Upon entering the store, Amazon's computer vision identified Mr. Dhawan  
23 through the shape and size of his body and then tracked every single movement that Mr. Dhawan  
24

1 made in the store to identify where he went, what items he removed from the shelves, and what  
2 items he put back on the shelves.

3 150. After visiting the Amazon Go store on August 8, 2022, Mr. Dhawan learned that  
4 Defendants, through both the palm scanners at the stores and the Just Walk Out technology the  
5 stores use throughout the City of New York, had collected, retained, converted, stored, and/or  
6 shared biometric identifier information about himself and all other customers who have entered  
7 the stores in New York City, including by using computer vision to collect information and take  
8 measurements on the size and shape of each customer's body and by taking palm scans for  
9 customers who choose to enter the store by scanning their palms on the Amazon One palm scanner  
10 device. In addition, Mr. Dhawan learned that Amazon shares palm scan information with third  
11 parties that use the Amazon One palm scanner devices in their own stores, including Starbucks.

12 151. If Mr. Dhawan had known that Defendants would collect, retain, convert, store,  
13 and/or share biometric information about him, including the size and shape of his body, he would  
14 not have entered the Amazon Go store or purchased anything from the store, or would not have  
15 paid as much for the items he purchased.

16 152. Mr. Dhawan values his privacy and is concerned that companies like Defendants  
17 track collect, retain, convert, store, and share too much information that is linked to him and other  
18 people. Mr. Dhawan believes that consumers should be fully informed about what data and  
19 information about them companies collect, retain, convert, store, share, and sell before those  
20 companies collect that data and information, so that consumers can understand and knowingly  
21 consent to the collection of that data and information, and was disappointed and concerned that  
22 he was not fully informed of such before entering the Amazon Go store and making his purchases.  
23 Mr. Dhawan has been a victim of data breaches in the past, and would be greatly concerned if  
24

1 there was a data breach involving his biometric information.

2 ***D. Plaintiff Novolt***

3 153. On multiple occasions in 2022 and 2023, Mr. Novolt visited the Amazon Go store  
4 located at 110 Maiden Lane, New York, NY 10005.

5 154. The Amazon Go store at 110 Maiden Lane, New York, NY 10005 has the same  
6 Just Walk Out technology as the other Amazon Go stores in New York City, including same types  
7 of computer vision, deep learning algorithms, and sensor fusion that Amazon applies at its other  
8 Amazon Go stores and in the cloud.

9 155. The first time Mr. Novolt entered the Amazon Go store, he registered his palm  
10 through an Amazon One kiosk. To do so, he inserted his credit card, then hovered each palm over  
11 the device. He then progressed through a screen that said “by using this service, you agree to  
12 Amazon’s terms, Privacy Notice, and your bank’s terms.” However, Mr. Novolt did not have a  
13 reasonable opportunity to review any of those terms before continuing with registration, as each  
14 of the terms were thousands of words long, but were each presented on a small screen  
15 approximately the size of an iPhone in a retail location with a queue of customers behind him, a  
16 limited number of machines, and no opportunity to consult with an attorney. Mr. Novolt clicked  
17 the “Ok” button without reviewing any of the Terms. He then entered his mobile phone number  
18 to complete his sign-up.

19 156. To enter through the gates of the Amazon Go store, Mr. Novolt scanned his palm  
20 through an Amazon One palm scanner device. Before registering his palm scans or entering the  
21 store, Mr. Novolt did not see any sign disclosing that Amazon would collect, retain, convert, store,  
22 or share customers’ biometric identifier information. In particular, he did not see the 8.5 x 11-  
23 inch sign that the Department of Consumer and Worker Protection has made available to  
24

1 commercial establishments like Amazon to comply with § 22-1202(a). *See*  
2 <https://perma.cc/QX57-G48H>.

3 157. Upon entering the store, Amazon's computer vision identified Mr. Novolt through  
4 the shape and size of his body and then tracked every single movement that Mr. Novolt made in  
5 the store to identify where he went, what items he removed from the shelves, and what items he  
6 put back on the shelves.

7 158. After visiting the Amazon Go store, Mr. Novolt learned that Amazon, through  
8 both the palm scanners at the stores and the Just Walk Out technology the stores use throughout  
9 the City of New York, had collected, retained, converted, stored, and/or shared biometric  
10 identifier information about himself and all other customers who have entered the stores in New  
11 York City, including by using computer vision to collect information and take measurements on  
12 the size and shape of each customer's body and by taking palm scans for customers who choose  
13 to enter the store by scanning their palms on the Amazon One palm scanner device. In addition,  
14 Mr. Novolt learned that Amazon shares palm scan information with third parties that use the  
15 Amazon One palm scanner devices in their own stores, including Starbucks. Mr. Novolt has not  
16 returned to an Amazon Go store since learning these facts.

17 159. If Mr. Novolt had known that Defendants would collect, retain, convert, store,  
18 and/or share biometric information about him, including the size and shape of his body, he would  
19 not have entered the Amazon Go store or purchased anything from the store, or would not have  
20 paid as much for the items he purchased.

21 160. Mr. Novolt values his privacy and is concerned that companies like Defendants  
22 track collect, retain, convert, store, and share too much information that is linked to him and other  
23 people. Mr. Novolt believes that consumers should be fully informed about what data and  
24

1 information about them companies collect, retain, convert, store, share, and sell before those  
2 companies collect that data and information, so that consumers can understand and knowingly  
3 consent to the collection of that data and information, and was disappointed and concerned that  
4 he was not fully informed of such before entering the Amazon Go store and making his purchases.  
5 Mr. Novolt has been a victim of data breaches in the past, and would be greatly concerned if there  
6 was a data breach involving his biometric information.

7           161. On May 22, 2023, Mr. Novolt mailed a letter to Amazon on behalf of himself and  
8 a putative class of similarly situated individuals. The letter notified Amazon that Mr. Novolt had  
9 visited its 110 Maiden Lane store location, that the store “has collected, retained, converted, and  
10 stored biometric identifier information” about him and “all other customers who entered the store,  
11 including by using computer vision to collect information and take measurements on the size and  
12 shape of each customer’s body and by taking palm scans for customers who choose to enter the  
13 store by scanning their palms on the Amazon One device,” that Amazon has an obligation to post  
14 a sign notifying customers about collecting such information, and that Amazon was not  
15 complying with that disclosure obligation.

16           162. Amazon responded to Plaintiff Novolt in a June 20, 2023 letter stating that the  
17 JWO technology “does not collect or store customers’ biometric identifier information,” and  
18 therefore “New York law does not require Amazon to display any sign about the JWO  
19 technology.” In addition, Amazon stated that “Mr. Novolt—like all users of the Amazon One  
20 palm scanner—expressly consented to Amazon’s collection and storage of his biometric  
21 information when he signed up for Amazon One”. Amazon refused to take any future action to  
22 disclose that Amazon’s JWO technology collects or stores customers’ biometric identifier  
23 information or comply with the legal requirement to post clear and conspicuous signs at every  
24



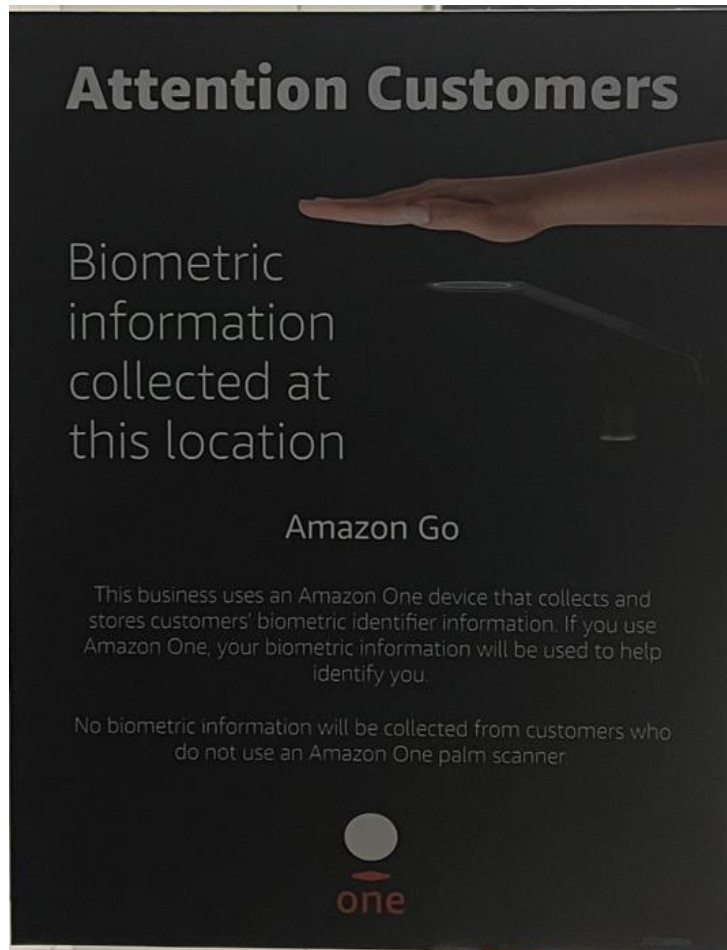
1 entrance of the Amazon Go stores disclosing the collection or storage of customers' biometric  
2 identifier information. Finally, Amazon asserted "Amazon does not share palm prints with  
3 Starbucks." Amazon's letter did not address or contest the fact that Mr. Novolt had notified  
4 Amazon on behalf of a putative class and made clear that Amazon understood that Mr. Novolt  
5 was making a complaint about legal violations that apply to all customers who enter the Amazon  
6 Go stores in New York City, including customers who chose to enter the store through Amazon  
7 One and those who did not.

8 **VI. Defendants Failed to Take Corrective Measures or Provide Plaintiffs with Express**  
9 **Written Statements that the Violations Had Been Cured and that No Further**  
10 **Violations Will Occur**

11 163. As described above, Amazon did not respond to Mr. Rodriguez Perez's letter and  
12 Starbucks did not respond to Ms. Mallouk's letter. And while Amazon did respond to Ms.  
13 Mallouk's and Mr. Novolt's letters, Amazon did not provide them with an express written  
14 statement that the violations of N.Y.C. Admin. Code § 22-1202(a) had been cured and that no  
15 further violations shall occur. Instead, Amazon stated that it would only post signage that states  
16 that the only biometric identifier information that it collects at Amazon Go stores is palm scans  
17 from customers who use the Amazon One device, even though Amazon *does* collect biometric  
18 identifier information from every customer who enters an Amazon Go store, namely information  
19 on the size and shape of each customer's body.

20 164. From the time that Mr. Rodriguez Perez first wrote to Amazon on February 7  
21 through March 13, 2023, Amazon did not post any signs at the 80 Pine Street store to disclose  
22 Amazon's collection of biometric identifier information, and, upon information and belief,  
23 Amazon did not post any signs at the other Amazon Go stores in New York City disclosing its  
24 collection of biometric identifier information.

1           165. On March 14, 2023, Amazon posted the following sign at the 80 Pine Street  
2 Amazon Go store and at least some of the other Amazon Go stores in New York City.



16           166. The sign states as follows: “Biometric information collected at this location.  
17 Amazon Go. This business uses an Amazon One device that collects and stores customers’  
18 biometric identifier information. If you use Amazon One, your biometric information will be used  
19 to help identify you. No biometric information will be collected from customers who do not use  
20 an Amazon One palm scanner.”  
21  
22  
23  
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1           167. On or after March 14, 2023, at the 30 Rockefeller Plaza Go store Amazon posted  
2 a small black sign with the same writing as the sign above. The sign is shown towards the left of  
3 the following image:



14           168. Similarly, Starbucks did not respond to Ms. Mallouk’s March 21, 2023 letter,  
15 despite the fact that Ms. Mallouk provided Starbucks her business address in New York City. Nor  
16 did Starbucks inform Ms. Mallouk in writing that Starbucks’ violation of N.Y.C. Admin. Code §  
17 22-1202(a) had been cured and that no further violations would occur.

18           169. From the time that Ms. Mallouk visited the Starbucks–Amazon Go store on  
19 November 19, 2022 through March 13, 2023, Starbucks did not post any signs at the 111 E. 59th  
20 Street store to disclose Starbucks’s collection, retention, conversion, storage, or sharing of  
21 biometric identifier information, and Starbucks did not post any signs at the other 620 8th Avenue  
22 Starbucks–Amazon Go store location disclosing its collection, retention, conversion, storage, or  
23  
24

1 sharing collection of biometric identifier information.

2 170. On March 14, 2023, Starbucks posted the following sign at its 111 E. 59th Street  
3 Starbucks–Amazon Go store location and its 620 8th Avenue location in New York City.



14 171. The sign states as follows: “Biometric information collected at this location.  
15 Starbucks Pickup® + Amazon Go. This business uses an Amazon One device that collects and  
16 stores customers’ biometric identifier information. If you use Amazon One, your biometric  
17 information will be used to help identify you. No biometric information will be collected from  
18 customers who do not use an Amazon One palm scanner.”

19 172. The signs that Defendants posted at their stores fall woefully short of complying  
20 with the Biometric Identifier Information Law’s disclosure mandate, and accordingly Defendants  
21 have not yet taken corrective action in response to Mr. Rodriguez Perez’s February 7, 2023 notice,  
22 Ms Mallouk’s March 21, 2023 notice, or any notice sent by other customers thereafter. *See* N.Y.C.

1 Admin. Code § 22-1202(a).

2 173. Defendants’ identically-worded signs do not comply with N.Y.C. Admin. Code §  
3 22-1202(a) for three reasons.

4 174. First, the signs are not “clear and conspicuous,” as § 22-1202(a) and its  
5 implementing rule require. The style of the signs is designed to avoid attracting attention—the  
6 very opposite of clear and conspicuous. The color, style, and font size of the sign do not attract  
7 the attention of customers who enter the store. Defendants’ custom signs stand in stark contrast  
8 to the standard sign authorized by New York City’s Department of Consumer and Worker  
9 Protection that has a bright red banner that draws attention by stating “Attention Customers.” In  
10 addition, at least in the case of Amazon’s 30 Rockefeller Plaza location, the small sign has not  
11 been placed at each consumer entrance and has been placed in a location to the far left that makes  
12 it all but impossible that customers entering on the opposite side (*i.e.*, five doors down) will ever  
13 see, much less read, the sign.

14 175. Second, the signs do not identify all of the actions that Defendants take with  
15 respect to customers’ biometric identifier information that § 22-1202(a) requires to be disclosed  
16 on a sign. Section 22-1202(a) and its implementing rule require commercial establishments to  
17 post a sign notifying customers that “customers’ biometric identifier information is being  
18 collected, retained, converted, stored, or shared, as applicable.” N.Y.C. Admin. Code § 22-  
19 1202(a) ; *see also* N.Y.C. Rules, Tit. 6, Ch. 8, § 8-01 (stating that the sign must disclose “if  
20 customers’ biometric identifier information is being collected, retained, converted, stored, or  
21 shared.”). The model sign provided by the Department of Consumer and Worker Protection  
22 references not just the collection of biometric identifier information, but covers the waterfront of  
23 all the relevant types of actions the law requires to be disclosed. By including the words “as  
24

1 applicable” in the phrase “customers’ biometric identifier information is being collected, retained,  
2 converted, stored or shared, as applicable,” § 22-1202(a) makes clear that the signs must disclose  
3 *all* of the relevant types of actions that the commercial establishment takes with respect to  
4 biometric identifier information.

5 176. Instead, Defendants’ signs only mention generally that biometric information is  
6 “collected” at this location and when referencing the Amazon One palm scanner it says that the  
7 device “*collects and stores* customers’ biometric identifier information.” (emphasis added). The  
8 sign, however, does not state that Defendants *convert or retain* customers’ biometric identifier  
9 information, even though Defendants do convert and retain such information, as described above.  
10 Nor do the signs at Starbucks–Amazon Go stores state that Starbucks shares customers’ biometric  
11 identifier information, even though Starbucks *does* share such information with Amazon, as  
12 described above. Likewise, the signs at the Amazon Go stores do not disclose that Amazon shares  
13 customers’ biometric identifier information, namely the palmprints with third parties.

14 177. Third, and most troubling, other than the signs’ references to how the Amazon One  
15 palm scanner collects and stores biometric identifier information from customers who use  
16 Amazon One, the signs expressly deny and disavow that the stores collect customers’ biometric  
17 identifier information. The signs unequivocally state: “No biometric information will be collected  
18 from customers who do not use an Amazon One palm scanner.” In other words, the signs are  
19 telling customers that if they do not use the Amazon One palm scanner, their biometric identifier  
20 information will never be collected. But as described above, the stores always collect, convert,  
21 store, and retain biometric identifier information from every customer who enters the stores—  
22 including those who don’t use the Amazon One palm scanner—by applying computer vision,  
23 deep learning algorithms, and sensor fusion that measure the shape and size of each customer’s  
24

1 body to identify customers, track where they move in the stores, and determine what they have  
2 purchased. An ordinary, reasonable person who reads the signs would thus believe that their  
3 biometric identifier information will not be collected by the stores so long as they don't use the  
4 Amazon One palm scanner to enter, even though Defendants always collect, retain, convert, store,  
5 and in Starbucks's case, share biometric identifier information for each-and-every customer with  
6 Amazon.

7 178. Customers who read Defendants' signs but do not use the Amazon One palm  
8 scanner are placed in a worse position for having read the signs than if they had not seen the signs  
9 in the first place—because they have been led to falsely believe that Defendants will not collect  
10 any of their biometric identifier information. And even customers who choose to use the Amazon  
11 One palm scanner would reasonably believe that the Amazon One palm scanner is the only way  
12 in which their biometric identifier information is being collected, although that is not true.

13 **VII. Defendants Further Violated The New York City Biometric Identifier Information**  
14 **Law by Sharing Biometric Identifier Information for Things of Value or Otherwise**  
15 **Profiting from the Transaction of Such Information**

16 179. Defendants have also violated the provision of the NYC BILL that makes it  
17 “unlawful to sell, lease, trade, share in exchange for anything of value or otherwise profit from  
18 the transaction of biometric identifier information.” N.Y.C. Admin. Code § 22-1202(b).

19 180. Amazon has shared palmprints with third parties, by collecting customers'  
20 palmprints at Amazon Go and Whole Foods locations in New York City, and then making its  
21 Amazon One device and database of palmprints available to third-party retailers like Starbucks,  
22 in exchange for things of value and profit. And Starbucks has shared with Amazon information  
23  
24

1 about the size and shape of each customer’s body who enters the gated areas of the Starbucks–  
2 Amazon Go stores and palmprints of customers who enter the gated areas with a palm scan.

3 181. Both Amazon and Starbucks have received things of value for sharing such  
4 biometric identifier information of Plaintiffs and the Class Members and have profited from the  
5 transaction of such biometric identifier information.

6 182. Amazon shares, leases, trades, and sells palmprints, a form of biometric identifier  
7 information, with third-party retailers like Starbucks. Amazon does this by collecting palmprints  
8 of its customers at Amazon Go and Whole Foods stores in New York City, storing those  
9 palmprints in its Amazon One database, and then making Amazon One hardware devices and  
10 databases of palmprints available to Starbucks and other third-party retailers. Through this sharing  
11 of biometric identifier information, Amazon enables third-party retailers to sign-in customers via  
12 the Amazon One device, and those retailers across the United States can access the biometric  
13 identifier information of people who provided their palmprints to Amazon in New York City.

14 183. Prominently displayed on the website for Amazon One, [one.amazon.com](https://one.amazon.com), Amazon  
15 advertises: “Bring Amazon One to your business. If you’re a business that wants to provide your  
16 customers a seamless service, faster payments, and a personalized experience - contact us to learn  
17 more about how Amazon One can help.”<sup>44</sup> Businesses are encouraged to click on the “contact us”  
18 words therein, which hyperlink to the email address [AmazonOneSales@amazon.com](mailto:AmazonOneSales@amazon.com). On the  
19 page, mentioned above that describes its “Just Walk Out” technology, Amazon also advertises  
20 that, “[w]ith Just Walk Out technology and Amazon One-enabled stores, employees can spend  
21  
22

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23  
24 <sup>44</sup> “Amazon One,” One, <https://one.amazon.com/>.



1 more time assisting shoppers, answering questions, helping them find items, and stocking shelves  
2 as needed, rather than operating checkouts and manually processing payments.”<sup>45</sup>

3 184. Currently, Amazon One is primarily used in Amazon’s own brick-and-mortar  
4 locations, including, but not limited to, Amazon Go stores, Amazon Campus Cafes, Amazon  
5 Fresh grocery stores, Amazon Style clothing stores, and at Whole Foods.<sup>46</sup> But Amazon has  
6 already provided Amazon One to a number of third-party retailers, including Starbucks’ locations  
7 with Amazon Go,<sup>47</sup> sports and entertainment arenas,<sup>48</sup> casinos, airports, and other venues, from  
8 New York City to Chicago to Dallas to Seattle.<sup>49</sup>

9 185. Amazon has received things of value, gained, and profited from sharing, leasing,  
10 trading, or selling its Amazon One devices and databases with third-party retailers, including,  
11 upon information and belief: (a) monetary compensation from third-party retailers; (b) installing  
12 and operating Amazon One at high-profile retailers and events that serve as an advertising tool  
13 and proof-of concept for selling, renting, and/or leasing Amazon One to a large number of  
14 companies in the future; and (c) enabling and encouraging third-party retailers to collect  
15  
16

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17 <sup>45</sup> Jennifer Maul, “Make convenience stores even more convenient with Amazon’s Just Walk Out  
18 technology and Amazon One,” Amazon Web Services (September 29, 2022),  
[https://aws.amazon.com/blogs/industries/make-convenience-stores-even-more-convenient-with-  
amazons-just-walk-out-technology-and-amazon-one/](https://aws.amazon.com/blogs/industries/make-convenience-stores-even-more-convenient-with-amazons-just-walk-out-technology-and-amazon-one/).

19 <sup>46</sup> “Amazon One,” One, <https://one.amazon.com/>.

20 <sup>47</sup> *E.g.*, “59th - Park & Lex w/ Amazon Go,” Starbucks Store Locator,  
[https://www.starbucks.com/store-locator/store/1032137/59th-park-lex-w-amazon-go-111-east-  
21 59th-st-space-1-new-york-ny-10022-us](https://www.starbucks.com/store-locator/store/1032137/59th-park-lex-w-amazon-go-111-east-59th-st-space-1-new-york-ny-10022-us).

22 <sup>48</sup> James Vincent, “Amazon One’s palm-scanning tech makes first move into entertainment  
23 venues,” The Verge (September 14, 2021),  
[https://www.theverge.com/2021/9/14/22673238/amazon-one-palm-scanning-tech-entertainment-  
venue-red-rock-amphitheatre](https://www.theverge.com/2021/9/14/22673238/amazon-one-palm-scanning-tech-entertainment-venue-red-rock-amphitheatre); <https://aws.amazon.com/just-walk-out/>.

24 <sup>49</sup> “Amazon One,” One, <https://one.amazon.com/>.

1 palmprints from additional customers and provide them to Amazon in order to (i) grow Amazon’s  
2 database of biometric and other personal data, which Amazon, in turn, markets, sells, leases,  
3 shares, and otherwise provides to other companies in exchange for money or other things of value;  
4 (ii) allow Amazon to improve and train its Amazon One system, through increased opportunities  
5 for machine learning and AI training, which Amazon similarly markets, sells, leases, shares, and  
6 otherwise provides to other companies in exchange for money or other things of value, and (iii)  
7 allow Amazon to link individual’s biometric information to other valuable forms of information  
8 (i.e., consumers’ phone numbers, credit or debit card numbers, and in-store activities like  
9 purchase history), thereby allowing Amazon (or other third parties willing to pay Amazon for  
10 such packaged data) to make more targeted advertising, marketing, pricing, and promotional  
11 decisions.<sup>50</sup>

12 186. Under its agreement with Amazon, Starbucks also benefits and profits from its  
13 collection, conversion, retention, storage, sharing, selling, and/or trading of its customers’  
14 biometric identifier information with Amazon.

15 187. First, Starbucks shares, sells, and trades its customers’ biometric information with  
16 and to Amazon in exchange for the ability to use Amazon’s “Just Walk Out” technology for a  
17 marginal or discounted rate. In other words, because Starbucks is allowing Amazon to receive  
18 and use Starbucks customers’ biometric identifier information for Amazon’s own commercial  
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20

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21 <sup>50</sup> For example, Amazon’s Store Analytics service “provides brands with aggregated and  
22 anonymized insights about the performance of their products, promotions, and ad campaigns in  
23 Just Walk Out technology and Amazon Dash Cart-enabled Amazon Go and Amazon Fresh stores  
24 in the U.S.” See “Amazon launches new physical retail store analytics service,” Amazon (June  
29, 2022), <https://www.aboutamazon.com/news/retail/amazon-launches-new-physical-retail-store-analytics-service>. Of course, Amazon sells these “insights” at a profit.

1 purposes, Starbucks receives a cost savings from the usual cost of Amazon’s “Just Walk Out”  
2 technology.

3 188. Second, Starbucks’ shares, sells, and trades its customers’ biometric information  
4 with and to Amazon in exchange for the use and receipt of Amazon’s “Just Walk Out  
5 Analytics”—*i.e.*, Amazon’s insights showing how products within the Starbucks’ stores are being  
6 considered, picked up, returned to shelf, and/or purchased by its customers who enter Starbucks’  
7 marketplace and lounge seating areas.<sup>51</sup> These Just Walk Out Analytics that Amazon provides to  
8 Starbucks are created with and rely on the biometric identifier information of customers that  
9 Starbucks collects at the Starbucks–Amazon Go stores and provides, shares, sells, and trades with  
10 and to Amazon. As a result, Starbucks can forego relying on expensive customer surveys that  
11 only provide data from a snapshot in time, and instead use the Just Walk Out Analytics to drive  
12 Starbucks’ decision-making into product displays, whether particular items should be added or  
13 removed, and whether promotions of certain products drive additional sales. Each of these  
14 insights helps to drive more sales, revenues, and profits for Starbucks.

15 189. Third, Starbucks’ sharing, selling, and trading of its customers’ biometric  
16 information allows Starbucks to employ fewer workers at its Starbucks–Amazon Go locations  
17 than it otherwise would employ. As a result, Starbucks saves significant labor costs through this  
18 arrangement.

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21 <sup>51</sup> See Jon Jenkins, Uncover store opportunities, drive efficiencies, and improve the consumer  
22 experience with Amazon’s Just Walk Out Analytics, [aws.amazon.com](https://aws.amazon.com) (Jan. 4, 2023),  
23 <https://perma.cc/NYX3-GTRK>; In the news: Leveling up convenience in the c-store,  
24 <https://perma.cc/MS2L-HMFJ>; Learn how the Just Walk Out technology experience works, Just  
Walk Out technology by Amazon (Apr. 2023),  
<https://www.youtube.com/watch?v=j9iNEhn4NmE>.

1           190. Finally, Starbucks' sharing, selling, and trading of its customers' biometric  
2 information allows Starbucks to distinguish itself from other coffee and convenience stores,  
3 thereby giving it a competitive edge in attracting new customers to its Starbucks–Amazon Go  
4 stores, based on both their convenience and novelty. For example, upon its November 2021  
5 opening, the first location made national and local headlines and was the subject of video tours  
6 on YouTube promoting the store.

7           191. Thus Starbucks has “otherwise profited from” transactions of its customers'  
8 biometric identifier information with Amazon, including by (1) having Just Walk Out technology  
9 installed and operated in Starbucks' stores for a marginal or discounted price in exchange for  
10 sharing customers' biometric identifier information; (2) receiving Just Walk Out Analytics and  
11 insights from Amazon in return, thereby allowing Starbucks to increase its revenues and profits;  
12 (3) allowing Starbucks to staff its Starbucks–Amazon Go stores with fewer Starbucks employees,  
13 thereby causing Starbucks to save additional monies in the form of reduced employee salaries and  
14 benefits; and (4) driving additional customers to Starbucks stores who are interested in Starbucks'  
15 new concept and an expanded marketplace and lounge area.

16           192. Plaintiffs and other members of the Class have suffered injuries and been harmed  
17 by Defendants' misconduct, including but not limited to (1) making purchases at Amazon Go and  
18 Starbucks–Amazon Go stores that they otherwise would not have made had Amazon and/or  
19 Starbucks provided them the required notification, (2) having their biometric identifier  
20 information collected, retained, converted, stored and shared without their knowledge, consent,  
21 or adequate compensation, (3) losing the ability and power to make informed decisions about the  
22 collection, retention, conversion, storage, sharing, and use of their biometric information,  
23 including which third parties Amazon and Starbucks can share their biometric information with,  
24

1 (4) having their privacy rights and interests violated, including by creating a risk that their  
2 biometric information will be misused or shared by Amazon, Starbucks, and other parties with  
3 which Amazon transacts business and a risk that information about the size and shape of their  
4 bodies could be used to identify customers' medical conditions or diseases, (5) having Defendants  
5 profit from the collection, retention, conversion, storage, and sharing of their biometric  
6 information without providing them just compensation, and (6) the denial of their statutory rights  
7 under the NYC BIIIL.

8 193. Each injury was caused by Amazon's and Starbucks' failure to provide the  
9 required notice under N.Y.C. Admin. Code § 22-1202(a) and the actions Defendants took to  
10 violate N.Y.C. Admin. Code § 22-1202(b), which prohibits sharing, selling, or trading customers'  
11 biometric identifier information for anything of value, or otherwise profiting from customers'  
12 biometric identifier information. These injuries can be redressed through the payment of damages  
13 to the Plaintiffs and the members of the proposed Class.

#### 14 CLASS ALLEGATIONS

15 194. **Class Definition:** Plaintiffs bring this action pursuant to N.Y.C. Admin. Code §  
16 22-1201, *et seq.* on behalf of a class of similarly situated individuals, defined as follows (the  
17 "Signage Class"):

18 All individuals who on or after January 15, 2022 through the date of judgment in this  
19 action entered an Amazon Go or Starbucks–Amazon Go store in the City of New York.

20 195. Plaintiff Suzanne Mallouk additionally brings this action on behalf of a subclass  
21 of similarly situated individuals, defined as follows (the "Starbucks Subclass"):

22 All members of the Class who entered a Starbucks–Amazon Go store in the City of New  
23 York.

1           196. Plaintiffs William Novolt and Arjun Dhawan additionally bring this action on  
2 behalf of a Class of similarly situated individuals, defined as follows (the “Palmprint Class”):

3           All individuals who on or after July 9, 2021 through the date of judgment in this action  
4 had their palmprints collected, captured, received or otherwise obtained and/or stored  
while using an Amazon One palm scanner in the in New York City.

5           197. The aforementioned Classes and Subclass shall collectively be referred to as the  
6 “Classes.”

7           198. **Numerosity:** The number of persons within the Classes is substantial and believed  
8 to amount to tens of thousands of persons. It is, therefore, impractical to join each member of the  
9 Classes as a named Plaintiff. Further, the size and relatively modest value of the claims of the  
10 individual members of the Classes renders joinder impractical. Accordingly, use of the class  
11 action mechanism is the most economically feasible means of determining and adjudicating the  
12 merits of this litigation. Moreover, the Classes are ascertainable and identifiable from Defendants’  
13 records.

14           199. **Commonality and Predominance:** There are well-defined common questions of  
15 fact and law that exist as to all members of the Classes and that predominate over any questions  
16 affecting only individual members of the Classes. These common legal and factual questions,  
17 which do not vary from Class member to Class member, and which may be determined without  
18 reference to the individual circumstances of any class member, include, but are not limited to, the  
19 following:

20           (a) whether Defendants collected, retained, converted, stored and/or shared  
21 Plaintiffs’ and the Classes’ biometric identifier information;

22           (b) whether Defendants placed a clear and conspicuous sign near all of the  
23 commercial establishment’s customer entrances notifying customers in  
24 plain, simple language, in a form and manner prescribed by the  
Commissioner of Consumer and Worker Protection by rule, that

1 Plaintiffs' and the Classes' biometric identifier information was being  
2 collected, retained, converted, stored or shared;

3 (c) whether Defendants sold, leased, traded, shared in exchange for  
4 anything of value, or otherwise profited from the transaction of  
5 Plaintiffs' and the Classes' biometric identifier information;

6 (d) whether Defendants have violated N.Y.C. Admin. Code § 22-1202(a)  
7 and (b); and

8 (e) whether Defendants' violations were negligent, reckless, and/or  
9 intentional.

10 200. **Typicality:** The Plaintiffs' claims are typical of the claims of the Classes they seek  
11 to represent, because during the relevant period Plaintiffs and the Class Members were subjected  
12 to the same pattern or practice or course of conduct and their claims arise from the same pattern  
13 or practice or course of conduct that forms the basis of the Class Members' claims. In addition,  
14 the Plaintiffs bring the same legal claims as the Class Members for violation of the NYC BILL  
15 and for unjust enrichment based on the same legal theory as the other Class Members.

16 201. **Adequate Representation:** Plaintiffs have retained and are represented by  
17 qualified and competent counsel who are highly experienced in complex consumer and privacy  
18 class action litigation. Plaintiffs and their counsel are committed to vigorously prosecuting this  
19 class action. Moreover, Plaintiffs are able to fairly and adequately represent and protect the  
20 interests of the Classes. Neither Plaintiffs nor their counsel have any interest adverse to, or in  
21 conflict with, the interests of the absent members of the Classes. Plaintiffs have raised viable  
22 statutory claims of the type reasonably expected to be raised by members of the Classes, and will  
23 vigorously pursue those claims. If necessary, Plaintiffs may seek leave of this Court to amend this  
24 Class Action Complaint to include additional Class representatives to represent the Classes,  
additional claims as may be appropriate, or to amend the Class definition(s) to address any steps  
that Defendants took.





1           206. N.Y.C. Admin. Code § 22-1202(a) provides that “[a]ny commercial establishment  
2 that collects, retains, converts, stores or shares biometric identifier information of customers must  
3 disclose such collection, retention, conversion, storage or sharing, as applicable, by placing a clear  
4 and conspicuous sign near all of the commercial establishment’s customer entrances notifying  
5 customers in plain, simple language, in a form and manner prescribed by the commissioner of  
6 consumer and worker protection by rule, that customers’ biometric identifier information is being  
7 collected, retained, converted, stored or shared, as applicable.”

8           207. N.Y.C. Admin Code § 22-1201 provides that “[t]he term ‘biometric identifier  
9 information’ means a physiological or biological characteristic that is used by or on behalf of a  
10 commercial establishment, singly or in combination, to identify, or assist in identifying, an  
11 individual, including, but not limited to: (i) a retina or iris scan, (ii) a fingerprint or voiceprint,  
12 (iii) a scan of hand or face geometry, or any other identifying characteristic.”

13           208. The Amazon Go and Starbucks–Amazon Go stores in the City of New York are  
14 “commercial establishment[s]” within the meaning of § 22-1201, because each store is a “retail  
15 store” and a “food and drink establishment.” Each store is a “retail store” because it is an  
16 establishment that sells consumer commodities. And each store is a “food and drink  
17 establishment” because it sells food or beverages to the public for consumption off of the  
18 premises. *See* N.Y.C. Admin. Code § 22-1201.

19           209. As described above, Amazon and Starbucks, by operating Amazon’s Just Walk  
20 Out technology, collect, retain, convert, and store, biometric identifier information about each  
21 customer who enters the store, including but not limited to information about the size and shape  
22 of each customer’s body and palm images of consumers who use the Amazon One technology to  
23 sign into the store. And Starbucks shares such information about customers with Amazon.

1           210. Information about the size and shape of each customer’s body is biometric  
2 identifier information within the meaning of N.Y.C. Admin. Code § 22-1201, because that  
3 information constitutes a physiological or biological characteristic used by Amazon, singly or in  
4 combination, to identify the customer, and that information is an “identifying characteristic” of  
5 each customer. As the New York City Council’s Committee on Consumer Affairs and Business  
6 Licensing stated in its December 10, 2020 Committee Report (at p. 3) on Local Law 3,  
7 “physiological characteristics concern the shape or composition of the body.”

8           211. The palm images that Amazon Go and Starbucks–Amazon Go stores scan are also  
9 biometric identifier information within the meaning of N.Y.C. Admin. Code § 22-1201. A “scan  
10 of [the] hand” is one of the enumerated examples of “biometric identifier information” in N.Y.C.  
11 Admin. Code § 22-1201.

12           212. Upon information and belief, from January 15, 2022, when Section 22-1202(a) of  
13 the Biometric Identifier Information Law became effective, through March 13, 2023, none of the  
14 Amazon Go or Starbucks–Amazon Go stores in New York City placed any sign near the entrances  
15 of the stores to notify customers that customers’ biometric information is being collected,  
16 retained, converted, stored, and/or shared.

17           213. By failing to post any sign notifying consumers that their biometric information is  
18 being collected, retained, converted or stored by all of the Amazon Go and Starbucks–Amazon  
19 Go stores in New York City from January 15, 2022 through March 13, 2023, Amazon and  
20 Starbucks violated N.Y.C. Admin. Code § 22- 1202(a).

21           214. Although on March 14, 2023, Amazon placed a sign at the 80 Pine Street store—  
22 and other Amazon Go stores in New York City—stating that the store collects biometric identifier  
23 information, that sign does not comply with N.Y.C. Admin. Code § 22-1202(a).

1           215. Although on March 14, 2023, Starbucks placed a sign at the 111 E. 59th Street  
2 store—and its other Starbucks–Amazon Go store in New York City—stating that the store  
3 collects biometric identifier information, that sign does not comply with N.Y.C. Admin. Code §  
4 22-1202(a).

5           216. As described above, the signs at the Amazon Go and Starbucks–Amazon Go stores  
6 are not “clear and conspicuous,” because they are designed to avoid attracting the attention of  
7 customers entering the store. The signs also do not disclose that the stores convert or retain  
8 biometric identifier information, as required by § N.Y.C. Admin. Code § 22-1202(a), when the  
9 commercial establishment does convert or retain such information. And the signs expressly deny  
10 and disavow that the stores are collecting customers’ biometric identifier information except for  
11 customers who use the Amazon One palm scanner, even though the stores do collect, retain,  
12 convert, store, and/or share biometric identifier information from all customers, including the  
13 ones who do not use the Amazon One palm scanner. Rather than informing all customers that  
14 their biometric identifier information will be collected—as well as retained, converted, and  
15 stored—as required by § N.Y.C. Admin. Code § 22-1202(a), the signs communicate to customers  
16 that their biometric identifier information *will not* be collected.

17           217. Plaintiffs and the other Class Members have been aggrieved by Defendants’  
18 violations of § 22-1202(a), because Defendants failed to provide them with the proper notification  
19 that is required by § 22-1202(a) when they approached and then entered the Stores in New York  
20 City.

21           218. Plaintiffs and other members of the Class have been injured by Amazon and  
22 Starbucks’ failure to provide them with the notification required by N.Y.C. Admin. Code § 22-  
23 1202(a), as described above.

1           219. Under N.Y.C. Admin. Code § 22-1203, Defendants are liable to the Plaintiffs and  
2 each member of the Classes for damages of at least \$500 for each violation of § 22-1202(a). A  
3 violation has occurred each time that the Plaintiffs or a member of the Classes entered one of the  
4 Amazon Go or Starbucks–Amazon Go stores in New York City on or after January 15, 2022 at a  
5 time when Defendants did not place a sign near each customer entrance of said Store, in  
6 accordance with § N.Y.C. Admin. Code § 22- 1202(a).

7           220. Defendants’ actions were intentional, deliberate, reckless, and indifferent to the  
8 rights of Plaintiffs and the Class Members.

9           221. Plaintiffs and the putative class furthermore did not consent—meaningfully,  
10 expressly, or otherwise—to Defendants’ collection, sale, lease, trading, sharing in exchange for  
11 anything of value and/or otherwise profiting from Plaintiffs’ and Class members’ biometric  
12 identifier information.

13           222. Plaintiffs seek their attorneys’ fees and costs related to this lawsuit and  
14 Defendants’ violations of N.Y.C. Admin. Code § 22-1202(a).

15           223. Because Amazon failed to provide Plaintiff Rodriguez Perez with an express  
16 written statement that the violation of § 22-1202(a) has been cured and that no further violations  
17 shall occur within 30 days of Plaintiff Rodriguez Perez providing written notice to Amazon of its  
18 violation of N.Y.C. Admin. Code § 22-1202(a), and because Amazon has continued to violate  
19 N.Y.C. Admin. Code § 22-1202(a) after Plaintiff Rodriguez Perez provided Amazon with notice  
20 of the violation of N.Y.C. Admin. Code § 22-1202(a), Plaintiffs have a right to initiate an action  
21 against Amazon. *See* N.Y.C. Admin. Code § 22-1203. Amazon likewise failed to provide  
22 Plaintiff Novolt with the same upon receipt of the letter sent by Plaintiff Novolt’s counsel.  
23  
24



1 trading, or selling its Amazon One devices and databases with third-party retailers, including,  
2 upon information and belief: (a) monetary compensation from third-party retailers; (b) installing  
3 and operating Amazon One at high-profile retailers and events that serve as an advertising tool  
4 and proof-of concept for selling, renting, and/or leasing Amazon One to a large number of  
5 companies in the future; and (c) enabling and encouraging third-party retailers to collect  
6 palmprints from additional customers and provide them to Amazon in order to (i) grow Amazon's  
7 database of biometric and other personal data, which Amazon, in turn, markets, sells, leases,  
8 shares, and otherwise provides to other companies in exchange for money or other things of value;  
9 (ii) allow Amazon to improve and train its Amazon One system, through increased opportunities  
10 for machine learning and AI training, which Amazon similarly markets, sells, leases, shares, and  
11 otherwise provides to other companies in exchange for money or other things of value, and (iii)  
12 allow Amazon to link individual's biometric information to other valuable forms of information  
13 (i.e., consumers' phone numbers, credit or debit card numbers, and in-store activities like  
14 purchase history), thereby allowing Amazon (or other third parties willing to pay Amazon for  
15 such packaged data) to make more targeted advertising, marketing, pricing, and promotional  
16 decisions.

17         230. Starbucks has sold, traded, and/or shared biometric identifier information of its  
18 customers who entered the gated areas of its Starbucks–Amazon Go stores in exchange for things  
19 of value, by (1) collecting palm images from some of its customers and information on the size  
20 and shape of all of the customers' bodies in the gated areas, (2) providing those palm images and  
21 information on the size and shape of customers' bodies to Amazon, and (3) receiving monetary  
22 and non-monetary benefits and consideration from Amazon in exchange for sharing the biometric  
23 identifier information, including having Just Walk Out technology installed and operated in  
24

1 Starbucks' stored for a marginal or discounted price, receiving Amazon's Just Walk Out  
2 Analytics, obtaining the ability to use Just Walk Out technology that allows Starbucks to reduce  
3 the number of employees in its stores and lower its labor costs, and increasing Starbucks'  
4 customer base, sales, and profit and reducing its costs.

5 231. Starbucks has otherwise profited from transactions of its customers' biometric  
6 identifier information with Amazon, including by (a) having Just Walk Out technology installed  
7 and operated in Starbucks' stores for a marginal or discounted price in exchange for sharing  
8 customers' biometric identifier information; (b) receiving Just Walk Out Analytics and insights  
9 from Amazon in return, thereby allowing Starbucks to increase its revenues and profits; (c)  
10 allowing Starbucks to staff its Starbucks–Amazon Go stores with fewer Starbucks employees,  
11 thereby causing Starbucks to save additional monies in the form of reduced employee salaries and  
12 benefits; and (d) driving additional customers to Starbucks stores who are interested in Starbucks'  
13 new concept and an expanded marketplace and lounge area.

14 232. Plaintiffs' and the members of the Classes' biometric identifiers were used to  
15 identify them and, therefore, constitute "biometric identifier information" as defined by NYC  
16 BIIL. *See* N.Y.C. Admin. Code § 22-1201.

17 233. Plaintiffs and the putative class furthermore did not consent—meaningfully,  
18 expressly, or otherwise—to Defendants' collection, sale, lease, trading, sharing in exchange for  
19 anything of value and/or otherwise profiting from Plaintiffs' and Class members' biometric  
20 identifier information.

21 234. Plaintiffs and the other members of the Starbucks Subclass and Palmprint Class  
22 have been aggrieved by Defendants' violations of § 22-1202(b), because, *inter alia*, their  
23  
24

1 biometric identifier information was shared, traded, or sold by the Defendants in exchange for  
2 things of value or Defendants otherwise profited from such information.

3 235. Plaintiffs and other members of the Class have been injured by Amazon’s and  
4 Starbucks’ violations of § 22-1202(b), as described above.

5 236. Defendants’ actions and violations were negligent, intentional, and/or reckless to  
6 the rights of Plaintiffs and the Class Members under N.Y.C. Admin. Code § 22-1202(b).

7 237. Plaintiffs seek their attorneys’ fees and costs related to this lawsuit and  
8 Defendants’ violations of N.Y.C. Admin. Code § 22-1202(b).

9 238. Under N.Y.C. Admin. Code § 22-1203, Defendants are liable to the Plaintiffs and  
10 each member of the Palmprint Class and Starbucks Subclass for damages of at least \$500 for each  
11 negligent violation of § 22- 1202(b) and \$5,000 for each intentional or reckless violation of § 22-  
12 1202(b).

13 239. A violation has occurred each time that Plaintiff Mallouk or a member of the  
14 Starbucks Class entered the gated area of a Starbucks–Amazon Go store in New York City on or  
15 after July 9, 2021 at a time when Starbucks operated Just Walk Out technology in the gated area,  
16 or each time that Plaintiffs Novolt or Dhawan or a member of the Palmprint Class scanned their  
17 palm at an Amazon One device in New York City on or after July 9, 2021.

18 **COUNT III**  
19 **Unjust Enrichment**  
20 **Alleged in the Alternative to Claims One and Two**  
21 **On Behalf of Plaintiffs and the Classes**

22 240. The Plaintiffs, on behalf of themselves and the members of the Classes,  
23 incorporate by reference all preceding paragraphs.

24 241. In the alternative to alleged Claims One and Two, Plaintiffs allege a claim for  
unjust enrichment and that they have no adequate remedy at law for this claim. Alternatively,



1 legal remedies available to Plaintiff are inadequate because they are not “equally prompt and  
2 certain and in other ways efficient” as equitable relief. *American Life Ins. Co. v. Stewart*, 300 U.S.  
3 203, 214 (1937); *see also U.S. v. Bluitt*, 815 F. Supp. 1314, 1317 (N.D. Cal. Oct. 6, 1992) (“the  
4 ‘mere existence’ of a possible legal remedy is not sufficient to warrant denial of equitable  
5 relief”); *Quist v. Empire Water Co.*, 2014 Cal. 646, 643 (1928) (“The mere fact that there may be  
6 a remedy at law does not oust the jurisdiction of a court of equity. To have this effect, the remedy  
7 must also be speedy, adequate, and efficacious to the end in view .... It must reach the whole  
8 mischief and secure the whole right of the party in a perfect manner at the present time and not in  
9 the future”). Furthermore:

- 10           a. To the extent damages are available here, damages are not equally certain as  
11           restitution because the standard that governs ordering restitution is different  
12           than the standard that governs damages. Hence, the Court may award  
13           restitution even if it determines that Plaintiffs fail to sufficiently adduce  
14           evidence to support an award of damages.
- 15           b. Damages and restitution are not necessarily the same amount. Unlike damages,  
16           restitution is not limited to the amount of money Defendants wrongfully  
17           acquired plus the legal rate of interest. Equitable relief, including restitution,  
18           entitles the plaintiff to recover all profits from the wrongdoing, even where the  
19           original funds taken have grown far greater than the legal rate of interest would  
20           recognize. Plaintiffs seek such relief here.
- 21           c. Legal claims for damages are not equally certain as restitution because unjust  
22           enrichment claims entail few elements.

1 d. And, a claimant otherwise entitled to a remedy for unjust enrichment,  
2 including a remedy originating in equity, need not demonstrate the inadequacy  
3 of available remedies at law. Restatement (Third) of Restitution, § 4(2).

4 242. A plaintiff has a claim for unjust enrichment when the defendant was enriched at  
5 the plaintiff's expense, and it is against equity and good conscience to permit the defendant to  
6 retain what is sought to be recovered.

7 243. Because Defendants failed to provide notice to customers that they collect, retain,  
8 convert, store, and share their biometric identifier information, including information on the size  
9 and shape of each customer's body, Plaintiffs and other members of the Classes entered the store  
10 and made purchases that they otherwise would not have made if Defendants had properly  
11 provided that notice, or would not have agreed to pay the same price for the goods they purchased  
12 if Defendants had properly provided that notice. Those purchases enriched Defendants at the  
13 expense of the Plaintiffs and the members of the Classes. And because Defendants—without each  
14 customer's knowledge or consent—shared customers' biometric identifier information with other  
15 parties, Plaintiffs and the other members of the Classes entered the store and made purchases that  
16 they otherwise would not have made if Defendants had properly provided that notice or obtained  
17 each customer's consent, or would not have agreed to pay the same price for the goods they  
18 purchased if Defendants had properly provided that notice and consent. Those purchases enriched  
19 Defendants at the expense of the Plaintiffs and members of the Classes. It is against equity and  
20 good conscience to permit Defendants to retain the money that they received from the Plaintiffs  
21 and the members of the Classes under these circumstances.

22 244. Defendants are liable to the Plaintiffs and the members of the Classes for the profit  
23 that Defendants earned from the sales in the Amazon Go and Starbucks–Amazon Go stores during  
24

1 the period of time that Defendants did not notify customers that the stores collect, retain, convert,  
2 store, and otherwise profited from the sharing of their biometric identifier information.

3 **PRAYER FOR RELIEF**

4 **WHEREFORE**, Plaintiffs, on behalf of themselves and the proposed Classes,  
5 respectfully requests that this Court enter an Order:

- 6 a. For an order certifying the Classes under Rule 23 of the Federal  
7 Rules of Civil Procedure, naming Plaintiffs as representative of the  
8 Classes and their respective subclasses, and naming Plaintiffs’  
9 attorneys as Class Counsel to represent the Class members;
- 10 b. For an order declaring that Defendants’ conduct violates the statutes  
11 referenced herein;
- 12 c. For an order finding in favor of Plaintiffs and the Classes on all  
13 counts asserted herein;
- 14 d. For compensatory, statutory, and punitive damages in amounts to be  
15 determined by the Court and/or jury;
- 16 e. For prejudgment interest on all amounts awarded;
- 17 f. For an order of restitution and all other forms of equitable monetary  
18 relief;
- 19 g. For an order enjoining Defendants from continuing the illegal  
20 practices detailed herein and compelling Defendants to undertake a  
21 corrective advertising campaign; and
- 22 h. For an order awarding Plaintiffs and the Classes their reasonable  
23 attorneys’ fees and expenses and costs of suit.

24 **JURY DEMAND**

Plaintiffs hereby demand a trial by jury on all issues so triable.

Dated: September 8, 2023

Respectfully submitted,

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