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

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

10 Plaintiffs,

v.

11 AMAZON.COM INC. and STARBUCKS
12 CORPORATION,

13 Defendants.

NO. 2:23-cv-852

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

14
15 Plaintiffs Suzanne Mallouk, Alfredo Rodriguez Perez, and Arjun Dhawan (together,
16 “Plaintiffs”), by and through their attorneys, make the following allegations against Defendants
17 Amazon.com Inc. (“Amazon”) and Starbucks Corporation (“Starbucks”) (collectively,
18 “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 information¹ (referred to at times as “biometrics”)—their hand geometry
2 (“hand geometry” or “palm scans” or “palm prints”) 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).

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22 ¹ “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, so that consumers can decide for themselves whether they want to shop at
4 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” technology possible, the Amazon Go stores constantly collect and use customers’
16 biometric identifier information, including by scanning the palms of some customers to identify
17 them and by applying computer vision, deep learning algorithms, and sensor fusion that measure
18 the shape and size of each customer’s body to identify all customers, track where they move in
19 the stores, and determine what they have purchased.

20 7. Amazon also utilizes Amazon One palm scanners in additional stores in New York
21 City, including Whole Foods Markets, that are owned and operated by Amazon. And Amazon
22 provides Amazon One palm scanner devices and databases to third-party businesses across the
23 nation, from Starbucks–Amazon Go stores in New York City to T-Mobile Stadium in Seattle.

1 8. In November 2021, Starbucks opened its first Starbucks–Amazon Go store at 111
2 E. 59th Street, New York, NY; and in July 2022, opened its second Starbucks–Amazon Go store
3 at 620 8th Avenue, New York, NY. Under an agreement with Amazon, for each customer
4 entering Starbucks’ gated marketplace / lounge area, which provides a cashier-less experience,
5 Starbucks uses Amazon’s “Just Walk Out” technology to collect and then share each customer’s
6 biometric identifier information with Amazon, who can then use such information for its own
7 purposes. In exchange, Starbucks receives a range of benefits, including: (a) the ability to use
8 Amazon’s “Just Walk Out” technology at marginal or discounted rate; (b) Amazon’s insights and
9 “Just Walk Out Analytics,” which are each aimed at increasing Starbucks’ revenues for its
10 Starbucks–Amazon Go stores; (c) the ability to operate these Starbucks stores with fewer
11 employees, allowing Starbucks to save and retain money that would otherwise be spent on
12 employee salaries, benefits, training, and management of such employees; and (4) an increase in
13 customers and sales. Through this arrangement with Amazon, Starbucks sells, trades, and shares
14 customers’ biometric identifier information with Amazon in exchange for various things of value,
15 and otherwise profits from the transaction of biometric identifier information.

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

1 10. Despite constantly collecting customers’ biometric identifier information in
2 Amazon Go and Starbucks–Amazon Go stores (together, the “Stores”) in New York City,
3 Amazon and Starbucks have not complied with the simple disclosure requirements of the
4 Biometric Identifier Information Law.

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

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

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

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

1 15. Instead, on or around March 14, 2023, several days after the New York Times
2 published a story on Amazon’s failure to post a sign about its collection of biometric identifier
3 information in its Amazon Go stores in New York City,² Amazon and Starbucks first posted signs
4 outside of the Amazon Go and Amazon Go-Starbucks stores in New York City.

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

17 17. Similarly, Starbucks’ new signage woefully fails to comply with the disclosure
18 mandate of the Biometric Identifier Information Law. The new sign fails to adequately disclose
19 that Starbucks collects, retains, converts, stores, and shares biometric identifier information. Even
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22 ² See Kashmir Hill, *Which Stores Are Scanning Your Face? No One Knows*, N.Y. Times (Mar.
23 10, 2023), <https://www.nytimes.com/2023/03/10/technology/facial-recognition-stores.html>
24 (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 worse, the sign informs customers that Starbucks will not collect their biometric identifier
2 information unless they use the Amazon One palm scanner to enter the gated areas of the
3 Starbucks–Amazon Go store, even though such stores do collect biometric identifier information
4 on every customer who enters the gated area of the store, including information on the size and
5 shape of every customer’s body. Nor is the sign clear and conspicuous, as the sign’s color, style,
6 and font are designed to avoid attracting customers’ attention.

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

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

1 gave rise to this cause of action occurred here.

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

5 **PARTIES**

6 25. Plaintiff Alfredo Rodriguez Perez is a resident of Kings County, New York, and
7 has resided in New York City since 2015.

8 26. Plaintiff Suzanne Mallouk is a resident of Sullivan County, New York. She
9 maintains an office for her business in Manhattan.

10 27. Plaintiff Arjun Dhawan is a resident of New York County, New York.

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

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

18 **FACTUAL BACKGROUND**

19 **I. The New York City Biometric Identifier Information Law**

20 30. The use of a biometric scanning system in commercial establishments entails
21 serious risks. Unlike payment cards—which can be changed or replaced if stolen or
22 compromised—a consumer's fingerprints and palmprints are permanent biometric identifiers that
23 cannot. Accordingly, consumers are subject to serious and irreversible privacy risks. For example,
24 if a device or database containing employees' palmprints data is hacked, breached, or otherwise

1 exposed, consumers have no means by which to prevent identity theft and unauthorized tracking.

2 31. Recognizing the need to protect citizens from these risks, New York City enacted
3 the Biometric Identifier Information Law, N.Y.C. Admin. Code § 22-1201, *et seq.* (“NYC BIIIL”
4 or “Biometric Identifier Information Law”) in 2021, to regulate companies that collect and store
5 biometric information. *See* New York City Council Committee on Consumer Affairs and
6 Business Licensing, Transcript December 10, 2020.

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

17 33. The Biometric Identifier Information Law defines the term “biometric identifier
18 information” as “a physiological or biological characteristic that is used by or on behalf of a
19 commercial establishment, singly or in combination, to identify, or assist in identifying, an
20 individual, including, but not limited to: (i) a retina or iris scan, (ii) a fingerprint or voiceprint,
21 (iii) a scan of hand or face geometry, or any other identifying characteristic.” N.Y.C. Admin.
22 Code § 22-1201. The specific examples of “biometric identifier information” identified in § 22-
23 1201 are illustrative and not exhaustive.

1 34. As the New York City Council’s Committee on Consumer Affairs and Business
2 Licensing stated in its December 10, 2020 Committee Report (at p. 3) on the Biometric Identifier
3 Information Law, “physiological characteristics concern the shape or composition of the body”.
4 In other words, information on the size or shape of a customer’s body is an “identifying
5 characteristic” that qualifies as “biological identifier information” under § 22-1201.

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

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

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

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

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.

II. Amazon Go Stores in New York City Collect, Use, Retain, Convert, And Store Consumers' Biometric Identifying Information, Including The Shape And Size Of Every Customer's Body And A Palm Image Of Many Customers

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

1 39. 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 40. 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.” Amazon, Just Walk Out technology
8 by Amazon FAQs, <https://perma.cc/X5EB-FFY6>.

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

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

22 43. Person Detection starts the moment that a customer enters the store, which is when
23 Amazon connects each person’s body to the person’s Amazon account.

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

9 45. First, the customer can scan a code in their Amazon app, which allows Amazon to
10 know which person is entering the store and to charge that person through the same method of
11 payment saved in their Amazon app.

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



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

3 48. Third, the customer can use Amazon One, a technology that links an image of the
4 customer's palm to their Amazon account, and then allows the customer to enter the store simply
5 by hovering their palm over a scanner. Amazon's proprietary imaging and computer vision
6 algorithms capture and encrypt the customer's palm image, and after that the person's palm serves
7 as a unique palm signature that can be read by Amazon's scanners. Thus, when a person enters
8 the Amazon Go store with their Amazon One palm signature, Amazon knows who that person is
9 and will charge that person's Amazon account for any goods that person takes from the store.
10 Amazon's website explains how Amazon One works. *See* Amazon, How it works: Meet Amazon
11 One, <https://perma.cc/AL8T-JFYD>.

12 How does Amazon One work?



19 Your hands are uniquely yours

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

22 The Amazon One device
is designed to read them

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

24 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.

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

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



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



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

53. One of the first indications that Just Walk Out technology uses body measurements to identify customers emerged in a 2015 United States patent application by Amazon. As described by a Vox article that links to these patent applications, the Just Walk Out technology would “allow shoppers to pick items and leave without stopping at a cashier station or kiosk”; would use cameras to identify “when a person entered the facility, when she removed something from a shelf and when she left with an item in her hand”; and would distinguish between users through “user-identifying information (e.g., *images of the user, height of the user, weight of the user*), a user name and password, user biometrics, purchase history, payment instrument information (e.g., credit card, debit card, check card), purchase limits, and the like.” Jason Del Rey, *We May Have Just Uncovered Amazon’s Vision for a New Kind of Retail 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>.

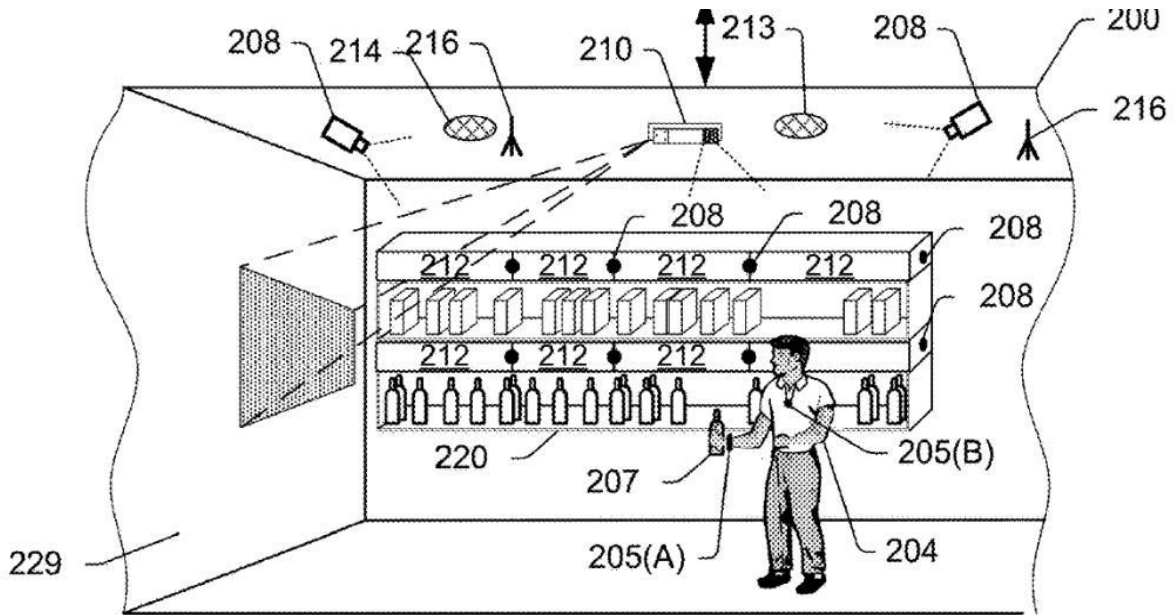
1 54. Later patents obtained by Amazon appear to confirm that the Just Walk Out
2 technology uses various techniques “to identify a user. For example, image capture and facial
3 cognition may be used.” US Patent No. US 11,301,783 B1 at 12:7–8 (Apr. 12, 2022).³

4 55. Likewise, “other unique and/or temporary identifiers (e.g., the color of the user’s
5 shirt, shoes, hat, pants, the user’s skeletal structure) may be identified and used to assist in
6 identifying the user as they move around the materials handling facility. For example, if the user
7 is wearing a bright yellow shirt, that shirt may be identified and used as a temporary identifier for
8 the use in identifying the user as they move around the materials handling facility that day. As
9 another example, images representative of user skeletal structure may be captured.” *Id.* at 12:24–
10 33 (emphasis added).

11 56. Similarly, “other user characteristics and/or features may be considered when
12 disambiguating between multiple potential users to determine which one performed an item
13 action. For example, images of the user performing the item action may be processed to determine
14 the hand used to perform the action item, the posture, size and/or shape of the user, the movement
15 and/or gate [sic] of the user as they approached the item, the orientation of the user relative to the
16 item, the skeletal structure of the user that performed the item action and/or other temporary or
17 permanent characteristics of the user, etc. Such information may be compared with information
18 associated with the user as a factor in determining the probability that the user performed the item
19 action.” *Id.* at 13:41–54 (emphasis added).

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³ U.S. Patent No. US 11,301,783 B1 (Apr. 12, 2022),
<https://patentimages.storage.googleapis.com/92/c8/62/2423c75bf3ab3b/US11301783.pdf>.



57. In another patent, Amazon suggests that its technology may furthermore distinguish customers by “height”, “size”, “width”, “a facial feature”, “length of a body part”, “posture”, “pose”, “gait”, or “speed of movement”. U.S. Patent No. US 11,462,005 B1 at 5:57–67 (Oct. 4, 2022).⁴

58. Beyond identifying people and their movements, the Just Walk Out technology can also recognize thousands of products in the real world—which is how the store operating Just Walk Out technology knows that a particular person has removed (or returned) a specific product from a shelf. Through this “Object Recognition” process, the Just Walk Out technology can identify the same yellow package of Bombay Potatoes (shown to the left) or the same green

⁴ <https://patentimages.storage.googleapis.com/b9/ee/61/6b08fe7d94b361/US11462005.pdf>. Other patents suggest that “facial recognition” and other “user provided information” including the “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 package of Pirate's Bounty, whether the package is standing straight up, crinkled in a ball, or shown
2 in different lighting.



9 59. While Amazon initially collects identifying information about customers in the
10 Amazon Go stores, including some customers' palm images and the size and shape of every
11 customer's body, that information is transmitted outside of the stores to Amazon's cloud services,
12 where Amazon converts, analyzes, and applies the information on a real-time basis to make
13 decisions about which customers have moved where and what they have removed from and
14 returned to shelves.

15 60. Upon information and belief, Amazon also retains and stores the biometric
16 information of each Amazon Go customer, including information on the size and shape of each
17 customer's body. Amazon then converts, uses, and in some cases, shares or sells this information
18 for Amazon's own use and profit.

19 61. Amazon's Just Walk Out technology benefits Amazon financially because it does
20 not have to employ workers in its Amazon Go stores to scan groceries, place items in bags, or
21 spend large amounts of time accepting payments.

22 62. As alleged below, Amazon's practices of (1) collecting, retaining, converting,
23 storing, and/or sharing biometric identifier information (specifically, palmprints) without placing
24 clear and conspicuous signs near all of its commercial establishments' customer entrances, and

1 (2) sharing palmprints in exchange for things of value or otherwise profiting from the transaction
2 of biometric identifier information violated NYC BIIIL.

3 **III. Starbucks's Agreement To Collect And Then Share The Biometric Identifier**
4 **Information Of Each Starbucks–Amazon Go Customer**

5 63. Starbucks operates its Starbucks–Amazon Go stores pursuant to an agreement with
6 Amazon: Starbucks collects customers' biometric identifier information on Starbucks' premises
7 using Amazon's Just Walk Out Technology and then shares that information with Amazon so that
8 Amazon can use the information for its own purposes.

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

15 65. Once this Just Walk Technology is installed, Starbucks and its employees
16 primarily manage the entire store, including by directing and instructing customers on how to
17 scan their palms or otherwise enter the gated area, answering customers' questions, stocking the
18 shelves with food and items sourced from Starbucks and other suppliers (including local kitchens
19 and bakeries), preparing hot foods that are served, and cleaning the entire store. In addition, the
20 furniture and aesthetic of the Starbucks–Amazon Go store provide customers with the experience
21 of a traditional Starbucks store, except that they have the ability to purchase items without having
22 to check out at a register. *See* Starbucks Pickup and Amazon Go Collaborate to Launch New Store
23 Concept in New York City (Nov. 18, 2021), [https://stories.starbucks.com/press/2021/starbucks-
24 pickup-and-amazon-go-collaborate-to-launch-new-store-concept-in-new-york-city/](https://stories.starbucks.com/press/2021/starbucks-pickup-and-amazon-go-collaborate-to-launch-new-store-concept-in-new-york-city/).

1 66. Once the Starbucks–Amazon Go stores were fully launched, Amazon’s primary
2 role in these stores has been limited to checking to make sure that the Just Walk Out technology
3 is working properly. In that regard, Amazon’s role in the Starbucks–Amazon Go stores is the
4 same as the role an information technology (“IT”) contractor plays in setting up and managing
5 video surveillance for a commercial establishment.

6 67. However, unlike a traditional IT contractor, Amazon is free to use such Starbucks-
7 collected customer information for Amazon’s own commercial purposes that are unrelated to the
8 operations of the Starbucks stores.

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

15 69. Because Amazon is partly responsible for the operation of the Starbucks–Amazon
16 Go stores, Amazon too collects biometric identifier information of customers at those stores.

17 **IV. Despite Constantly Collecting, Converting, Retaining, Storing, And Sharing**
18 **Customers’ Biometric Identifier Information, Defendants Have Failed to Disclose**
19 **Those Practices**

20 70. The information about customers who enter the gated areas of Amazon Go and
21 Starbucks–Amazon Go stores that Defendants collect, retain, convert, and store to identify those
22 customers—namely information about the size and shape of each customer’s body and the palm
23 images of some customers—and that Starbucks shares with Amazon, constitutes “biometric
24 identifier information” within the meaning of the NYC BIIIL.

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

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

7 73. As the New York City Council’s Committee on Consumer Affairs and Business
8 Licensing stated in its December 10, 2020 Committee Report on the Biometric Identifier
9 Information Law, “physiological characteristics concern the shape or composition of the body”—
10 in other words, information on the size or shape of a customer’s body is an “identifying
11 characteristic” that qualifies as “biological identifier information” under N.Y.C. Admin. Code §
12 22-1201.

13 74. Furthermore, in the late 1800s measurements of the size and shape of people’s
14 bodies was the first type of biometric information that law enforcement agencies used to uniquely
15 identify individuals, even before fingerprints were widely used to identify people. Under the so-
16 called Bertillon System, which was used by New York City and State officials, law enforcement
17 would take precise measurements of criminals’ body parts, as well as their standing height, sitting
18 height, and the distance between their fingertips and outstretched arms.⁵

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⁵ See New York State, Division of Criminal Justice Services, The Bertillon System, <https://perma.cc/U3DU-65KF>; Selia Cheng, These 100-year-old photos reveal the birth of the 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 75. Because Defendants collect, retain, convert, and store such biometric identifier
2 information about their store customers and because Starbucks shares the same information with
3 Amazon, Defendants both have an obligation under the N.Y.C. Admin. Code § 22-1202(a) to
4 “plac[e] a clear and conspicuous sign near all of the commercial establishment’s customer
5 entrances notifying customers in plain, simple language, in a form and manner prescribed by the
6 commissioner of consumer and worker protection by rule, that customers’ biometric identifier
7 information is being collected, retained, converted, stored or shared, as applicable.”

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

16 **V. Plaintiffs’ Experiences**

17 **A. *Plaintiff Rodriguez Perez***

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

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

1 79. 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 80. 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 81. 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 82. 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 83. 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 entered the store and he would not have made a purchase at the 80 Pine Street Amazon Go store.
24

1 84. Other than when he visited the 80 Pine Street Amazon Go store on January 30,
2 2023, Mr. Rodriguez Perez has never entered an Amazon Go store.

3 85. Mr. Rodriguez Perez values his privacy and is concerned that companies track
4 collect, retain, convert, store, and share too much information that is linked to him and other
5 people. To limit how much information is tracked to him personally, Mr. Rodriguez Perez
6 maintains an email address that does not contain his name. Mr. Rodriguez Perez generally tries
7 to prevent companies from tracking his personal information online, including by not accepting
8 cookies when possible.

9 86. Mr. Rodriguez Perez believes that consumers should be fully informed about what
10 data and information about them companies collect, retain, convert, store, share, and sell before
11 those companies collect that data and information, so that consumers can understand and
12 knowingly consent to the collection of that data and information.

13 87. On February 7, 2023, Mr. Rodriguez Perez mailed a letter to the Amazon Go Store
14 at 80 Pine Street, notifying Amazon that he had visited the Amazon Go store at 80 Pine Street,
15 that the store was collecting biometric identifier information on consumers, including by “using
16 computer vision and video of bodily characteristics to identify customers,” that Amazon has an
17 obligation to post a sign notifying customers about collecting such information, and that Amazon
18 was not complying with that disclosure obligation.

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

1 **B. Plaintiff Mallouk**

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

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

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

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

21 93. During her visit, Ms. Mallouk selected two items—two Buffalo-Style Chicken
22 Wraps—and walked out of the store. After she left the store, Ms. Mallouk received a receipt for
23 \$15.24 from Amazon for purchasing those two items.

1 94. If Ms. Mallouk had seen the standard 8.5 x 11-inch DCWP-authorized sign at the
2 entrance of the 111 E. 59th Street Starbucks–Amazon Go store informing her that the store
3 “collects, retains, converts, stores, or shares customers’ biometric identifier information” (or a
4 similar custom sign that complies with the Biometric Identifier Information Law), she would not
5 have entered the gated area of the Starbucks store or made the purchase. Other than when she
6 visited the 111 E. 59th Street Amazon Go store on November 29, 2022, Ms. Mallouk has never
7 entered the gated area of a Starbucks–Amazon Go store.

8 95. Ms. Mallouk values her privacy and is concerned that companies track collect,
9 retain, convert, store, and share too much information that is linked to her and other people. Ms.
10 Mallouk believes that consumers should be fully informed about what data and information about
11 them companies collect, retain, convert, store, share, and sell before those companies collect that
12 data and information, so that consumers can understand and knowingly consent to the collection
13 of that data and information.

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

22 97. Starbucks did not respond to Ms. Mallouk’s letter.
23
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1 98. On March 21, 2023, Ms. Mallouk mailed a letter to Amazon to notify the company
2 that she had visited its 111 E. 59th Street store location, that the store “has collected, retained,
3 converted, and stored biometric identifier information about me and other customers who entered
4 the store, including by using computer vision to collect information on the size and shape of each
5 customer’s body and palm scans for customers who choose to enter the store by scanning their
6 palms,” that Amazon has an obligation to post a sign notifying customers about collecting such
7 information, and that Amazon was not complying with that disclosure obligation.

8 99. On April 19, 2023, Amazon sent Ms. Mallouk a letter explaining—on behalf of
9 Amazon, and not on behalf of Starbucks—that “Amazon’s Just Walk Out technology does not
10 collect, retain, convert, or store biometric identifier information from customers at the Easter 59th
11 Street location or other stores deploying it,” although “Amazon does collect and store biometric
12 identifier information from customers who choose to register for and use its Amazon One palm-
13 scanning technology. Amazon has thus installed . . . placards at customer entrances to the East
14 59th Street location (and other New York City locations) informing customers before they enter
15 that the store is equipped with Amazon One palm scanners, which, if used, collect and store
16 customers’ biometric identifier information” and that “no biometric identifier information will be
17 collected and stored from customers who do not use an Amazon One device.”

18 ***C. Plaintiff Dhawan***

19 100. On August 8, 2022, Mr. Dhawan visited the Amazon Go store located at 620 8th
20 Avenue, New York, New York.

21 101. The Amazon Go store at 620 8th Avenue in Manhattan has the same Just Walk
22 Out technology as the other Amazon Go stores in New York City, including same types of
23 computer vision, deep learning algorithms, and sensor fusion that Amazon applies at its other
24

1 Amazon Go stores and in the cloud.

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

8 103. Upon entering the store, Amazon's computer vision identified Mr. Dhawan
9 through the shape and size of his body and then tracked every single movement that Mr. Dhawan
10 made in the store to identify where he went, what items he removed from the shelves, and what
11 items he put back on the shelves.

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

21 105. If Mr. Dhawan had known that Defendants would collect, retain, convert, store,
22 and/or share biometric information about him, including the size and shape of his body, he would
23 not have entered the Amazon Go store or purchased anything from the store.

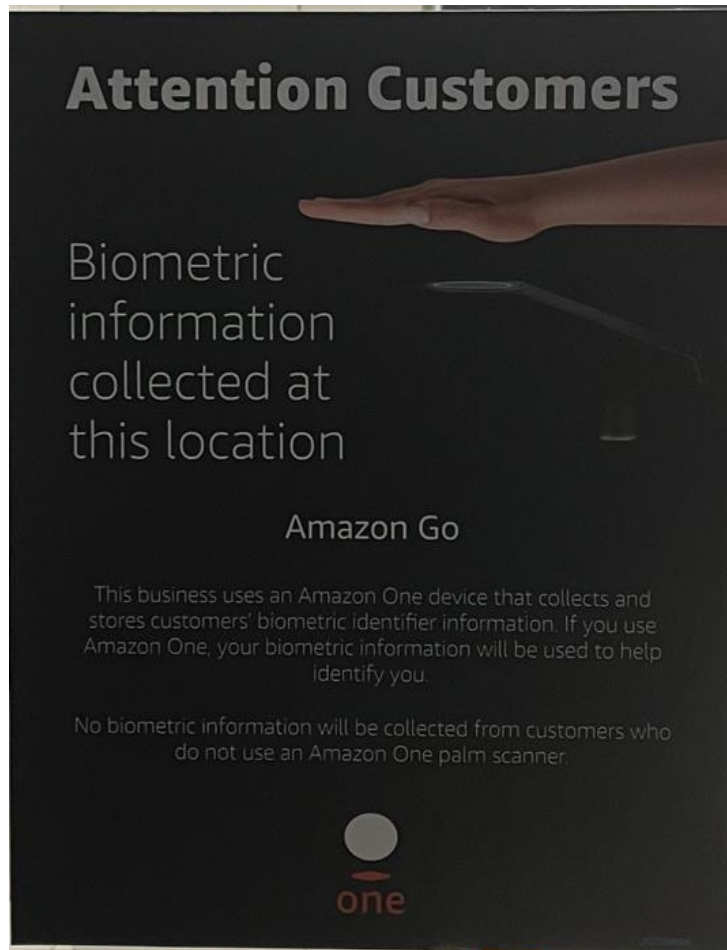
1 106. Mr. Dhawan values his privacy and is concerned that companies like Defendants
2 track collect, retain, convert, store, and share too much information that is linked to him and other
3 people. Mr. Dhawan believes that consumers should be fully informed about what data and
4 information about them companies collect, retain, convert, store, share, and sell before those
5 companies collect that data and information, so that consumers can understand and knowingly
6 consent to the collection of that data and information.

7 **VI. Defendants Failed To Take Corrective Measures Or Provide Plaintiffs With**
8 **Express Written Statements That The Violations Had Been Cured And That No**
9 **Further Violations Will Occur**

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

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

1 109. 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.



17 110. The sign states as follows: “Biometric information collected at this location.
18 Amazon Go. This business uses an Amazon One device that collects and stores customers’
19 biometric identifier information. If you use Amazon One, your biometric information will be used
20 to help identify you. No biometric information will be collected from customers who do not use
21 an Amazon One palm scanner.”
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1 111. 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:

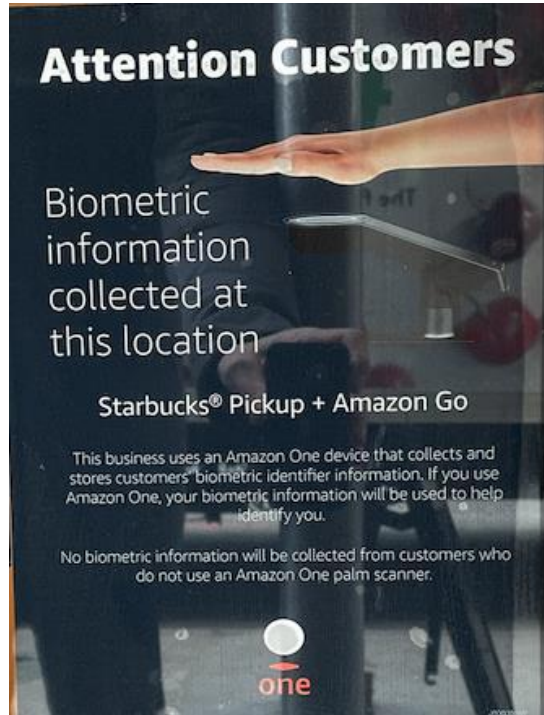


14 112. Similarly, Starbucks did not respond to Ms. Mallouk’s March 21, 2023 letter,
15 despite the fact that Ms. Mallouk provided Starbucks her business address in New York City. Nor
16 did Starbucks inform Ms. Mallouk in writing that Starbucks’ violation of N.Y.C. Admin. Code §
17 22-1202(a) had been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

18 113. 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
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1 sharing collection of biometric identifier information.

2 114. 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.



14 115. 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.”

19 116. 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 Mallouck’s March 21, 2023 notice, or any notice sent by other customers thereafter. *See*
23

1 N.Y.C. Admin. Code § 22-1202(a).

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

4 118. 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.

14 119. 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) (emphasis added); *see also* N.Y.C. Rules, Tit. 6, Ch. 8, § 8-01 (stating that the sign must
20 disclose “if customers’ biometric identifier information is being collected, retained, converted,
21 stored, or shared.”). The model sign provided by the Department of Consumer and Worker
22 Protection references not just the collection of biometric identifier information, but covers the
23 waterfront of all the relevant types of actions the law requires to be disclosed. By including the
24

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

5 120. 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.

14 121. 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 the company shares biometric identifier information for each-and-every
6 customer with Amazon.

7 122. 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**

16 123. Defendants have also violated the provision of the NYC BILL that makes it
17 unlawful to “unlawful to sell, lease, trade, share in exchange for anything of value or otherwise
18 profit from the transaction of biometric identifier information.” N.Y.C. Admin. Code § 22-
19 1202(b).

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

3 125. 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.

6 126. 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.

14 127. Prominently displayed on the website for Amazon One, 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.”⁶ Businesses are encouraged to click on the “contact us”
18 words therein, which hyperlink to the email address 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
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22
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24 ⁶ <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.”⁷

3 128. 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.⁸ But Amazon has
6 already provided Amazon One to a number of third-party retailers, including Starbucks’ locations
7 with Amazon Go,⁹ sports and entertainment arenas,¹⁰ casinos, airports, and other venues, from
8 New York City to Chicago to Dallas to Seattle.¹¹

9 129. 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; (c) enabling and encouraging third-party retailers to collect palmprints
15 from additional customers and provide them to Amazon in order to grow Amazon’s database of
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18 ⁷ [https://aws.amazon.com/blogs/industries/make-convenience-stores-even-more-convenient-
19 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/).

20 ⁸ <https://one.amazon.com/>.

21 ⁹ *E.g.* [https://www.starbucks.com/store-locator/store/1032137/59th-park-lex-w-amazon-go-111-
22 east-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).

23 ¹⁰ [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 ¹¹ <https://one.amazon.com/>.

1 biometric and other personal data, which Amazon, in turn, markets, sells, leases, shares, and
2 otherwise provides to other companies in exchange for money or other things of value.

3 130. Under its agreement with Amazon, Starbucks also additionally benefits and profits
4 from its collection, conversion, retention, storage, sharing, selling, and/or trading of its customers’
5 biometric identifier information with Amazon.

6 131. First, Starbucks shares, sells, and trades its customers’ biometric information with
7 and to Amazon in exchange for the ability to use Amazon’s “Just Walk Out” technology for a
8 marginal or discounted rate. In other words, because Starbucks is allowing Amazon to receive
9 and use Starbucks customers’ biometric identifier information for Amazon’s own commercial
10 purposes, Starbucks receives a cost savings from the usual cost of Amazon’s “Just Walk Out”
11 technology.

12 132. Second, Starbucks’ shares, sells, and trades its customers’ biometric information
13 with and to Amazon in exchange for the use and receipt of Amazon’s “Just Walk Out
14 Analytics”—*i.e.*, Amazon’s insights showing how products within the Starbucks’ stores are being
15 considered, picked up, returned to shelf, and/or purchased by its customers who enter Starbucks’
16 marketplace and lounge seating areas.¹² These Just Walk Out Analytics that Amazon provides to
17 Starbucks are created with and rely on the biometric identifier information of customers that
18 Starbucks collects at the Starbucks–Amazon Go stores and provides, shares, sells, and trades with
19 and to Amazon. As a result, Starbucks can forego relying on expensive customer surveys that

21
22 ¹² See Jon Jenkins, Uncover store opportunities, drive efficiencies, and improve the consumer
23 experience with Amazon’s Just Walk Out Analytics, aws.amazon.com (Jan. 4, 2023),
24 <https://perma.cc/NYX3-GTRK>; In the news: Leveling up convenience in the c-store,
<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 only provide data from a snapshot in time, and instead use the Just Walk Out Analytics to drive
2 Starbucks' decision-making into product displays, whether particular items should be added or
3 removed, and whether promotions of certain products drive additional sales. Each of these
4 insights helps to drive more sales, revenues, and profits for Starbucks.

5 133. Third, Starbucks' sharing, selling, and trading of its customers' biometric
6 information allows Starbucks to employ fewer workers at its Starbucks–Amazon Go locations
7 than it otherwise would employ. As a result, Starbucks saves significant labor costs through this
8 arrangement.

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

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

3 136. Plaintiffs and other members of the Class have suffered injuries and been harmed
4 by Defendants' misconduct, including but not limited to (1) making purchases at Amazon Go and
5 Starbucks–Amazon Go stores that they otherwise would not have made had Amazon and/or
6 Starbucks provided them the required notification, (2) having their biometric identifier
7 information collected, retained, converted, stored and shared without their knowledge, consent,
8 or adequate compensation, (3) losing the ability and power to make informed decisions about the
9 collection, retention, conversion, storage, sharing, and use of their biometric information,
10 including which third parties Amazon and Starbucks can share their biometric information with,
11 (4) having their privacy rights and interests violated, including by creating a risk that their
12 biometric information will be misused or shared by Amazon, Starbucks, and other parties with
13 which Amazon transacts business and a risk that information about the size and shape of their
14 bodies could be used to identify customers' medical conditions or diseases, (5) having Defendants
15 profit from the collection, retention, conversion, storage, and sharing of their biometric
16 information without providing them just compensation, and (6) the denial of their statutory rights
17 under the NYC BIIIL.

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

CLASS ALLEGATIONS

1
2 138. **Class Definition:** Plaintiffs bring this action pursuant to N.Y.C. Admin. Code §
3 22-1201, *et seq.* on behalf of a class of similarly situated individuals, defined as follows (the
4 “Signage Class”):

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

7 139. Plaintiff Suzanne Mallouk additionally brings this action on behalf of a subclass
8 of similarly situated individuals, defined as follows (the “Starbucks Subclass”):

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

11 140. Plaintiff Arjun Dhawan additionally brings this action on behalf of a Class of
12 similarly situated individuals, defined as follows (the “Palmprint Class”):

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

16 141. The aforementioned Classes and Subclass shall collectively be referred to as the
17 “Classes.”

18 142. **Numerosity:** The number of persons within the Classes is substantial and believed
19 to amount to tens of thousands of persons. It is, therefore, impractical to join each member of the
20 Classes as a named Plaintiff. Further, the size and relatively modest value of the claims of the
21 individual members of the Classes renders joinder impractical. Accordingly, use of the class
22 action mechanism is the most economically feasible means of determining and adjudicating the
23 merits of this litigation. Moreover, the Classes are ascertainable and identifiable from
24 Defendant’s records.

1 143. **Commonality and Predominance:** There are well-defined common questions of
2 fact and law that exist as to all members of the Classes and that predominate over any questions
3 affecting only individual members of the Classes. These common legal and factual questions,
4 which do not vary from Class member to Class member, and which may be determined without
5 reference to the individual circumstances of any class member, include, but are not limited to, the
6 following:

- 7 (a) whether Defendants collected, retained, converted, stored and/or shared
8 Plaintiffs' and the Classes' biometric identifier information;
- 9 (b) whether Defendants placed a clear and conspicuous sign near all of the
10 commercial establishment's customer entrances notifying customers in
11 plain, simple language, in a form and manner prescribed by the
12 commissioner of consumer and worker protection by rule, that
13 Plaintiffs' and the Classes' biometric identifier information was being
14 collected, retained, converted, stored or shared;
- 15 (c) whether Defendants sold, leased, traded, shared in exchange for
16 anything of value, or otherwise profited from the transaction of
17 Plaintiffs' and the Classes' biometric identifier information;
- 18 (d) whether Defendants have violated N.Y.C. Admin. Code § 22-1202(a)
19 and (b); and
- 20 (e) whether Defendants' violations were negligent, reckless, and/or
21 intentional?

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

1 145. **Adequate Representation:** Plaintiffs have retained and are represented by
2 qualified and competent counsel who are highly experienced in complex consumer and privacy
3 class action litigation. Plaintiffs and their counsel are committed to vigorously prosecuting this
4 class action. Moreover, Plaintiffs are able to fairly and adequately represent and protect the
5 interests of the Classes. Neither Plaintiffs nor their counsel has any interest adverse to, or in
6 conflict with, the interests of the absent members of the Classes. Plaintiffs have raised viable
7 statutory claims of the type reasonably expected to be raised by members of the Classes, and will
8 vigorously pursue those claims. If necessary, Plaintiffs may seek leave of this Court to amend
9 this Class Action Complaint to include additional Class representatives to represent the Classes,
10 additional claims as may be appropriate, or to amend the Class definition(s) to address any steps
11 that Defendants took.

12 146. **Superiority:** A class action is superior to other available methods for the fair and
13 efficient adjudication of this controversy because individual litigation of the claims of all Class
14 members is impracticable. Even if every member of the Classes could afford to pursue individual
15 litigation, the Court system could not. It would be unduly burdensome to the courts in which
16 individual litigation of numerous cases would proceed. Individualized litigation would also
17 present the potential for varying, inconsistent or contradictory judgments, and would magnify the
18 delay and expense to all parties and to the court system resulting from multiple trials of the same
19 factual issues. By contrast, the maintenance of this action as a class action, with respect to some
20 or all of the issues presented herein, presents few management difficulties, conserves the
21 resources of the parties and of the court system and protects the rights of each member of the
22 Class. It is desirable to concentrate the litigation of the claims in this forum, because Amazon and
23 Starbucks both reside and have corporate headquarters in this District. Plaintiffs anticipate no
24

1 difficulty in the management of this action as a class action. Class-wide relief is essential to
2 compliance with NYC BIIIL.

3
4 **COUNT I**

5 **Violations of N.Y.C. Admin. Code § 22-1202(a)**
6 **On Behalf of Plaintiffs and the Signage Class Against Amazon and**
7 **On Behalf of Plaintiff Mallouk and the Starbucks Subclass Against Starbucks**

8 147. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.

9 148. Plaintiffs bring this claim on behalf of the Signage Class against Amazon and
10 Plaintiff Mallouk brings this claim on behalf of the Starbucks Subclass against Starbucks.

11 149. Defendants have engaged in a pattern or practice of violating N.Y.C. Admin. Code
12 § 22-1202(a).

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

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

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

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

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

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

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

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

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

13 159. Although on March 14, 2023, Starbucks placed a sign at the 111 E. 59th Street
14 store—and its other Starbucks–Amazon Go store in New York City—stating that the store
15 collects biometric identifier information, that sign does not comply with N.Y.C. Admin. Code §
16 22-1202(a).

17 160. As described above, the signs at the Amazon Go and Starbucks–Amazon Go stores
18 are not “clear and conspicuous,” because they are designed to avoid attracting the attention of
19 customers entering the store. The signs also do not disclose that the stores convert or retain
20 biometric identifier information, as required by § N.Y.C. Admin. Code § 22-1202(a), when the
21 commercial establishment does convert or retain such information. And the signs expressly deny
22 and disavow that the stores are collecting customers’ biometric identifier information except for
23 customers who use the Amazon One palm scanner, even though the stores do collect, retain,
24

1 convert, store, and/or share biometric identifier information from all customers, including the
2 ones who do not use the Amazon One palm scanner. Rather than informing all customers that
3 their biometric identifier information will be collected—as well as retained, converted, and
4 stored—as required by § N.Y.C. Admin. Code § 22-1202(a), the signs communicate to customers
5 that their biometric identifier information *will not* be collected.

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

10 162. Plaintiffs and other members of the Class have been injured by Amazon and
11 Starbucks’ failure to provide them with the notification required by N.Y.C. Admin. Code § 22-
12 1202(a), as described above.

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

19 164. Defendants’ actions were intentional, deliberate, reckless, and indifferent to the
20 rights of Plaintiffs and the Class Members.

21 165. Plaintiffs and the putative class furthermore did not consent—meaningfully,
22 expressly, or otherwise—to Defendants’ collection, sale, lease, trading, sharing in exchange for
23 anything of value and/or otherwise profiting from Plaintiffs’ and Class members’ biometric
24

1 identifier information.

2 166. Plaintiffs seek their attorneys' fees and costs related to this lawsuit and
3 Defendants' violations of N.Y.C. Admin. Code § 22-1202(a).

4 167. Because Amazon failed to provide Plaintiff Rodriguez Perez with an express
5 written statement that the violation of § 22-1202(a) has been cured and that no further violations
6 shall occur within 30 days of Plaintiff Rodriguez Perez providing written notice to Amazon of its
7 violation of N.Y.C. Admin. Code § 22-1202(a), and because Amazon has continued to violate
8 N.Y.C. Admin. Code § 22-1202(a) after Plaintiff Rodriguez Perez provided Amazon with notice
9 of the violation of N.Y.C. Admin. Code § 22-1202(a), Plaintiffs have a right to initiate an action
10 against Amazon. *See* N.Y.C. Admin. Code § 22-1203.

11 168. Because Amazon and Starbucks failed to provide Plaintiff Mallouk with an
12 express written statement that the violation of § 22-1202(a) has been cured and that no further
13 violations shall occur within 30 days of Plaintiff Mallouk providing written notice to Amazon and
14 Starbucks of their violation of N.Y.C. Admin. Code § 22-1202(a), and because Amazon and
15 Starbucks have continued to violate N.Y.C. Admin. Code § 22-1202(a) after Plaintiff Mallouk
16 provided them with notice of the violation of N.Y.C. Admin. Code § 22-1202(a), Plaintiff
17 Mallouk has a right to initiate an action against Amazon and Starbucks. *See* N.Y.C. Admin. Code
18 § 22-1203.

COUNT II

**Violations of N.Y.C. Admin. Code § 22-1202(b)
On Behalf of Plaintiff Dhawan and the Palmprint Class Against Amazon and
On Behalf of Plaintiff Mallouk and the Starbucks Subclass Against Starbucks**

169. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.

170. Plaintiff Dhawan brings this claim on behalf of the Palmprint Class against Amazon and Plaintiff Mallouk brings this claim on behalf of the Starbucks Subclass against Starbucks.

171. NYC BIIIL states that “[i]t shall be unlawful to sell, lease, trade, share in exchange for anything of value or otherwise profit from the transaction of biometric identifier information.” N.Y.C. Admin. Code § 22-1202(b).

172. As described above, Amazon has shared, sold, leased and traded biometric identifier information with third parties, by collecting customers’ palmprints at Amazon Go and Whole Foods locations in New York City and then making its Amazon One device and database of palmprints available to third-party retailers like Starbucks, in exchange for things of value and profit.

173. Amazon has received things of value, gained, and profited from sharing, leasing, trading, or selling its Amazon One devices and databases with third-party retailers, including, upon information and belief: (a) monetary compensation from third-party retailers; (b) installing and operating Amazon One at high-profile retailers and events that serve as an advertising tool and proof-of concept for selling, renting, and/or leasing Amazon One to a large number of companies in the future; and (c) enabling and encouraging third-party retailers to collect palmprints from additional customers and provide them to Amazon in order to grow Amazon’s database of biometric and other personal data, which Amazon, in turn, markets, sells, leases, shares, and otherwise provides to other companies in exchange for money or other things of value.

1 174. Starbucks has sold, traded, and/or shared biometric identifier information of its
2 customers who entered the gated areas of its Starbucks–Amazon Go stores in exchange for things
3 of value, by (1) collecting palm images from some of its customers and information on the size
4 and shape of all of the customers’ bodies in the gated areas, (2) providing those palm images and
5 information on the size and shape of customers’ bodies to Amazon, and (3) receiving monetary
6 and non-monetary benefits and consideration from Amazon in exchange for sharing the biometric
7 identifier information, including having Just Walk Out technology installed and operated in
8 Starbucks’ stores for a marginal or discounted price, receiving Amazon’s Just Walk Out
9 Analytics, obtaining the ability to use Just Walk Out Technology that allows Starbucks to reduce
10 the number of employees in its stores and lower its labor costs, and increasing Starbucks’
11 customer base, sales, and profit and reducing its costs.

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

21 176. Plaintiffs’ and the members of the Classes’ biometric identifiers were used to
22 identify them and, therefore, constitute “biometric identifier information” as defined by NYC
23 BIIL. *See* N.Y.C. Admin. Code § 22-1201.

1 177. Plaintiffs and the putative class furthermore did not consent—meaningfully,
2 expressly, or otherwise—to Defendants’ collection, sale, lease, trading, sharing in exchange for
3 anything of value and/or otherwise profiting from Plaintiffs’ and Class members’ biometric
4 identifier information.

5 178. Plaintiffs and the other members of the Starbucks Subclass and Palmprint Class
6 have been aggrieved by Defendants’ violations of § 22-1202(b), because, *inter alia*, their
7 biometric identifier information was shared, traded, or sold by the Defendants in exchange for
8 things of value or Defendants otherwise profited from such information.

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

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

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

15 182. Under N.Y.C. Admin. Code § 22-1203, Defendants are liable to the Plaintiffs and
16 each member of the Palmprint Class and Starbucks Subclass for damages of at least \$500 for each
17 negligent violation of § 22- 1202(b) and \$5,000 for each intentional or reckless violation of § 22-
18 1202(b).

19 183. A violation has occurred each time that Plaintiff Mallouk or a member of the
20 Starbucks Class entered the gated area of a Starbucks–Amazon Go store in New York City on or
21 after July 9, 2021 at a time when Starbucks operated Just Walk Out technology in the gated area,
22 or each time that Plaintiff Dhawan or a member of the Palmprint Class scanned their palm at an
23 Amazon One device in New York City on or after July 9, 2021.

COUNT III

Unjust Enrichment

**Alleged in the Alternative to Claims One and Two
On Behalf of Plaintiffs and the Classes**

1
2
3 184. The Plaintiffs, on behalf of themselves and the members of the Classes,
4 incorporate by reference all preceding paragraphs.

5 185. In the alternative to alleged Claims One and Two, Plaintiffs allege a claim for
6 unjust enrichment and that they have no adequate remedy at law for this claim. Alternatively,
7 legal remedies available to Plaintiff are inadequate because they are not “equally prompt and
8 certain and in other ways efficient” as equitable relief. *American Life Ins. Co. v. Stewart*, 300 U.S.
9 203, 214 (1937); *see also U.S. v. Bluit*, 815 F. Supp. 1314, 1317 (N.D. Cal. Oct. 6, 1992) (“the
10 ‘mere existence’ of a possible legal remedy is not sufficient to warrant denial of equitable
11 relief”); *Quist v. Empire Water Co.*, 2014 Cal. 646, 643 (1928) (“The mere fact that there may be
12 a remedy at law does not oust the jurisdiction of a court of equity. To have this effect, the remedy
13 must also be speedy, adequate, and efficacious to the end in view It must reach the whole
14 mischief and secure the whole right of the party in a perfect manner at the present time and not in
15 the future”). Furthermore:

16 a. To the extent damages are available here, damages are not equally certain as
17 restitution because the standard that governs ordering restitution is different
18 than the standard that governs damages. Hence, the Court may award
19 restitution even if it determines that Plaintiff fails to sufficiently adduce
20 evidence to support an award of damages.

21 b. Damages and restitution are not necessarily the same amount. Unlike damages,
22 restitution is not limited to the amount of money Defendants wrongfully
23 acquired plus the legal rate of interest. Equitable relief, including restitution,
24

1 entitles the plaintiff to recover all profits from the wrongdoing, even where the
2 original funds taken have grown far greater than the legal rate of interest would
3 recognize. Plaintiffs seek such relief here.

4 c. Legal claims for damages are not equally certain as restitution because unjust
5 enrichment claims entail few elements.

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

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

12 187. Because Defendants failed to provide notice to customers that they collect, retain,
13 convert, store, and share their biometric identifier information, including information on the size
14 and shape of each customer's body, Plaintiffs and other members of the Classes entered the store
15 and made purchases that they otherwise would not have made if Defendants had properly
16 provided that notice, or would not have agreed to pay the same price for the goods they purchased
17 if Defendants had properly provided that notice. Those purchases enriched Defendants at the
18 expense of the Plaintiffs and the members of the Classes. And because Defendants—without each
19 customer's knowledge or consent—shared customers' biometric identifier information with other
20 parties, Plaintiffs and the other members of the Classes entered the store and made purchases that
21 they otherwise would not have made if Starbucks had properly provided that notice or obtained
22 each customer's consent, or would not have agreed to pay the same price for the goods they
23 purchased if Defendants had properly provided that notice and consent. Those purchases enriched
24

1 Defendants at the expense of the Plaintiffs and members of the Classes. It is against equity and
2 good conscience to permit Starbucks to retain the money that it received from the Plaintiffs and
3 the members of the Classes under these circumstances.

4 188. Defendants are liable to the Plaintiffs and the members of the Classes for the profit
5 that Defendants earned from the sales in the Amazon Go and Starbucks–Amazon Go stores during
6 the period of time that Defendants did not notify customers that the stores collect, retain, convert,
7 store, and otherwise profited from the sharing of their biometric identifier information.

8 **PRAYER FOR RELIEF**

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

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

JURY DEMAND

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

Dated: June 7, 2023

Respectfully submitted,

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**SURVEILLANCE TECHNOLOGY
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