



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

AMAZON.COM, INC., a Delaware corporation,

Plaintiff,

v.

JOHN DOES 1-20, d/b/a spamming-stoper.com

Defendants.

No. **04-2-25665-8** SEA

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Jury Trial Demanded

Plaintiff Amazon.com, Inc. ("Amazon.com"), through its attorneys, alleges as follows:

**I. JURISDICTION AND VENUE**

1. This is a Complaint for an injunction, damages and other appropriate relief to prevent unknown Defendants from "phishing"—a practice of creating websites to impersonate Amazon.com and to illegally obtain personally identifying information from Amazon.com customers. This is an action for unfair business practices, trespass to chattels, intentional interference with business expectancy, conversion and for violations of the Washington Consumer Protection Act (RCW Ch. 19.86), sections 32 and 43 of the Lanham Act, 15 U.S.C. § 1114 (1) (Trademark Infringement), 15 U.S.C. § 1125(a) (False

1 Designation of Origin, Unfair Competition / False Advertising), and 15 U.S.C. § 1125(d)  
2 (Cyberpiracy Protection).

3 2. This Court has personal jurisdiction over the Defendants, who have  
4 engaged in business activities in and directed to Washington, have committed a tortious  
5 act within the state, and have used personal property in the state.

6 3. Venue is proper in this Court pursuant to RCW 4.12.020-.025 in that a  
7 substantial part of the events or omissions giving rise to the claims pled herein occurred in  
8 King County, the causes of action arose in King County, and work was performed in King  
9 County.

## 10 II. THE PARTIES

11 4. Amazon.com is a Delaware corporation with its principal place of business  
12 in Seattle, Washington. On or about July 15, 1997, Amazon.com registered the trademark  
13 AMAZON.COM® with the United States Patent and Trademark Office.

14 5. Amazon.com is unaware of the true names and capacities of Defendants  
15 sued herein as DOES 1-20, and therefore sues these Defendants by such fictitious names.  
16 Amazon.com will amend this complaint to allege their true names and capacities when  
17 ascertained. Amazon.com is informed and believes and therefore alleges that each of the  
18 fictitiously named Defendants is responsible in some manner for the occurrences herein  
19 alleged, and that Amazon.com's injuries as herein alleged were proximately caused by  
20 such Defendants.

21 6. The actions alleged herein to have been undertaken by the Defendants were  
22 undertaken by each Defendant individually, were actions that each Defendant caused to  
23 occur, were actions that each Defendant authorized, controlled, directed, or had the ability  
24 to authorize, control or direct, and/or were actions in which each Defendant assisted,  
25 participated or otherwise encouraged, and are actions for which each Defendant is liable.  
26 Each Defendant aided and abetted the actions of the Defendants set forth below, in that

1 each Defendant had knowledge of those actions, provided assistance and benefited from  
2 those actions, in whole or in part. Each of the Defendants was the agent of each of the  
3 remaining Defendants, and in doing the things hereinafter alleged, was acting within the  
4 course and scope of such agency and with the permission and consent of other  
5 Defendants.

### 6 III. THE AMAZON.COM® TRADEMARK

7 7. The term "Amazon.com" is not only the name of Plaintiff's company, but  
8 the most important and easily recognized identifier of the goods and services it offers.  
9 There is a particularly close association among consumers between Amazon.com the  
10 business, the AMAZON.COM® mark, and the products and services offered under the  
11 Amazon.com designation. For millions of consumers, the name "Amazon.com" has come  
12 to represent wide selection, fast delivery, fair pricing, and excellent security for Internet  
13 transactions. Courts in the United States and Greece have entered judgments for  
14 Amazon.com that attest to the fame and/or the strong association between the  
15 AMAZON.COM® mark and the services offered by Amazon.com.

16 8. AMAZON.COM® mark is one of the best known trademarks on the  
17 Internet. The AMAZON.COM® mark is famous by virtue of its inherent distinctiveness  
18 and substantial secondary meaning as a designation of the source of the products  
19 Amazon.com sells and by its continuous and broad use for virtually the entire life of the  
20 Internet as a commercial medium. The AMAZON.COM® mark is registered in over 125  
21 individual countries, and has hundreds of additional registration applications pending all  
22 over the world. AMAZON.COM® is a registered trademark with the United States Patent  
23 and Trademark Office for a variety of services including, but not limited to, auctioneering,  
24 automated and computerized trading of goods and services for others provided over a  
25 global communication information network, and online retail store services featuring  
26 books, music, videotapes and more.



1 recipient has a relationship, that the recipient needs to update or validate his billing or  
2 account information to keep his account active. The perpetrator's e-mail then directs the  
3 recipient to a website that imitates the website of the legitimate business with whom the  
4 recipient has a relationship. The imitation website often uses the legitimate business's  
5 trademarks and other unique features. The consumer, misled into believing that the e-  
6 mail is a bona fide request and that the website is actually the legitimate business'  
7 website, unwittingly provides personal and financial information to the perpetrator.

8 15. According to a July 2004 Internet Security Intelligence Briefing from  
9 VeriSign, "[p]hishing attacks targeted 57 million Internet users during [2003]. On average,  
10 three to five percent of all individuals who received a phishing email responded and  
11 became victims to the fraud." See <http://www.verisign.com/corporate/briefing/>.

12 16. Phishing poses a significant threat to consumers who shop or transact  
13 business over the Internet. By obtaining personal and financial information about  
14 consumers, the perpetrators of phishing scams can wreak havoc on these consumers' lives.  
15 Not only do the phishing perpetrators often obtain credit card information, but they also  
16 obtain other personal information such as account names, passwords and social security  
17 numbers. With this information in hand, the phishing perpetrators can pass themselves off  
18 as the consumer.

19 17. Phishing also poses a significant threat to the operation of legitimate on-  
20 line businesses. Consumers who are continually bombarded with phishing scams no  
21 longer know which e-mail messages are legitimate and which messages are trying to steal  
22 their identity. This is especially true when the phishing perpetrators use the legitimate  
23 business's trademarks and service marks in their e-mail or on their websites to steal  
24 consumers' personal and financial information.

1 **V. DEFENDANTS' ILLEGAL ACTS**

2 18. On information and belief, sometime on or before August 19, 2004,  
3 Defendants began conducting a phishing scam directed at internet consumers. As part of  
4 that scam, Defendants, acting together and in concert, created a website that imitates  
5 Amazon.com's website and attempts to deceive consumers into disclosing confidential  
6 information. Defendants sent email messages to lure victims to their imitation website.

7 Those messages stated:

8 Dear Amazon client,

9 We recently reviewed your account, and suspect that your Amazon  
10 account may have been accessed by an unauthorized third party.  
11 Protecting the security of your account and of the Amazon network is out  
12 [sic] primary concern.

12 Therefore, as a preventative measure, we have temporarily limited access  
13 to sensitive Amazon account features.

13 In order to regain access to your account click the link below:

14 [https://www.amazon.com/exec/obidos/credit-card-entry-  
16 edit/A1M0J2T8G4L8F6/002-0775500-2741653](https://www.amazon.com/exec/obidos/credit-card-entry-<br/>15 edit/A1M0J2T8G4L8F6/002-0775500-2741653)

16 You will be asked for some personal information in order to evold [sic]  
17 Credit Card Fraud and establish account ownership.

17 Sincerely,  
18 The Amazon Security Department Team.

19 We apologize for any inconvenience this may cause, and apriate [sic]  
20 your assistance in helping us maintain the integrity of the entire Amazon  
21 system. Thank you for your prompt attention to this matter.

22 Please do not reply to this mail. Mail sent to this address cannot be  
23 answered. For assistance, log in to [sic] your Amazon account and chose  
24 [sic] the "Help" link in the header of any page.

23 The "from" address in the email is made to make the email appear as though it was sent  
24 from "aw-accounts@amazon.com." See Exhibit A. Amazon.com was not involved in any  
25 way in the creation or sending of these email messages. When a recipient clicked on the  
26 hyperlink in the email message, the recipient was taken to the website www.spamming-

1 stoper.com and asked to provide his email address, Amazon.com password, and credit  
2 card information. See Exhibit B. The website was made to look like Amazon.com's  
3 website and included counterfeit Amazon.com trademarks. When the user inputted his  
4 personal information, that information was sent to Defendants, not Amazon.com.

5 19. Amazon.com did not provide permission to Defendants to use its  
6 AMAZON.COM® trademark for any reason, including their phishing activities.

7 20. On information and belief, Defendants intentionally adopted the  
8 AMAZON.COM® mark to trade on the fame and goodwill associated with the  
9 AMAZON.COM® mark, to deceive Amazon.com customers into providing and to evade  
10 customers' anti-spam filters specifically designed to permit the receipt of e-mail from  
11 Amazon.com.

12 21. Defendants' use of the AMAZON.COM® mark is likely to cause  
13 consumer confusion, mistake, and deception. This likelihood of confusion, mistake, and  
14 deception is even greater because Defendants' website is made to look like Amazon.com's  
15 email and website.

16 22. Defendants' use of the AMAZON.COM® mark is likely to lead consumers  
17 to mistakenly conclude that the imitation website is the actual Amazon.com website,  
18 sponsored or approved by Amazon.com, or that Defendants' websites are somehow  
19 otherwise affiliated, connected, or associated with Amazon.com. Consumers are likely to  
20 be misled as to the true source, sponsorship, or affiliation of the email and website.

21 23. On information and belief, through their use of the AMAZON.COM®  
22 mark, Defendants have intentionally and with knowledge sought to cause consumer  
23 confusion, mistake, and deception.

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**COUNT I**

**(Trademark Infringement Under Lanham Act 15 U.S.C. § 1114)**

24. Amazon.com realleges paragraphs 1-23 of this Complaint as if fully set forth herein.

25. Defendants' use of the AMAZON.COM® on their imitation website constitutes trademark infringement pursuant to 15 U.S.C. § 1114. Defendants' intentional and willful infringement of the AMAZON.COM® registered trademark has caused and will continue to cause damage to Amazon.com, and is causing irreparable harm to Amazon.com for which there is no adequate remedy at law. Defendants are directly, contributorily, and/or vicariously liable for these actions.

**COUNT II**

**(False Designation of Origin Under Lanham Act 15 U.S.C. § 1125(a))**

26. Amazon.com realleges paragraphs 1-25 of this Complaint as if fully set forth herein.

27. Defendants have used and continue to use the AMAZON.COM® mark in commerce in connection with their imitation website, in a manner that is likely to cause confusion, mistake, or deception as to the origin, sponsorship, or approval of their goods or services. Defendants are directly, contributorily, and/or vicariously liable for these actions. Amazon.com has been damaged by these acts in an amount to be proved at trial. Amazon.com is also entitled under the Lanham Act to injunctive and equitable relief against Defendants.

**COUNT III**

**(Cyberpiracy Prevention Under Lanham Act 15 U.S.C. § 1125(d))**

28. Amazon.com realleges paragraphs 1-27 of this Complaint as if fully set forth herein.





1 caused injury to Amazon.com. Defendants' unfair business practice has caused and will  
2 continue to cause damage to Amazon.com, and is causing irreparable harm to  
3 Amazon.com for which there is no adequate remedy at law.

4 **COUNT VI**

5 **(Trespass to Chattels)**

6 34. Amazon.com realleges paragraphs 1-33 of this Complaint as if fully set  
7 forth herein.

8 35. The computers, computer networks and computer services that host and  
9 process information relating to Amazon.com's website are the personal property of  
10 Amazon.com.

11 36. Defendants were aware that their actions were specifically prohibited by  
12 Amazon.com's Terms of Use and/or were on notice that their actions were not authorized  
13 by Amazon.com in any way.

14 37. Defendants have knowingly, intentionally and without authorization used  
15 and intentionally trespassed upon Amazon.com's property.

16 38. As a result of Defendants' actions, Amazon.com has been damaged in an  
17 amount to be proven at trial.

18 **COUNT VII**

19 **(Conversion)**

20 39. Amazon.com realleges paragraphs 1-38 of this Complaint as if fully set  
21 forth herein.

22 40. Defendants have willfully interfered with and converted Amazon.com's  
23 personal property, without lawful justification, as a result of which Amazon.com has been  
24 deprived of possession and use of its property.

25 41. As a result of Defendants' actions, Amazon.com has been damaged in an  
26 amount to be proven at trial.

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WHEREFORE, plaintiff respectfully prays that this Court:

1. Issue a permanent injunction, enjoining and prohibiting Defendants, or their agents, servants, employees, officers, attorneys, successors and assigns from:

(A) Using AMAZON.COM® trademark, or any version thereof, in connection with their imitation website or email advertising their imitation website; and

(B) Infringing Amazon.com's AMAZON.COM® trademark;

2. Order an award of damages in an amount to be determined at trial; and

3. Order an award of treble damages, in an amount to be determined at trial, pursuant to R.C.W. Ch. 19.86, and

4. Order an award of treble damages as provided by Section 35(a) of the Lanham Act;

5. Order an award of statutory damages for violations of 15 U.S.C. §1125(d)(1) or for use of counterfeit marks; and

6. Order an award of attorney's fees and costs as provided by Section 35(a) of the Lanham Act and R.C.W. 19.86, and

7. Order an award of punitive damages to be determined at trial; and

8. Any other or further relief that the Court deems appropriate.

**VI. JURY DEMAND**

Plaintiff hereby demands a trial by jury of all issue in this case.

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DATED this 27th day of September, 2004.

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# EXHIBIT A

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**From:** aw-accounts@amazon.com  
**Sent:** Thursday, August 19, 2004 5:06 PM  
**Subject:** Amazon Fraud Verification Process

Dear Amazon client,

We recently reviewed your account, and suspect that your Amazon account may have been accessed by an unauthorized third party. Protecting the security of your account and of the Amazon network is our primary concern.

Therefore, as a preventative measure, we have temporarily limited access to sensitive Amazon account features.

In order to regain access to your account click the link below:

<https://www.amazon.com/exec/obidos/credit-card-entry-edit/A1M0J2T8G4L8F6/002-0775500-2741653>

You will be asked for some personal information in order to avoid Credit Card Fraud and establish account ownership.

Sincerely,  
The Amazon Security Department Team.

We apologize for any inconvenience this may cause, and appreciate your assistance in helping us maintain the integrity of the entire Amazon system. Thank you for your prompt attention to this matter.

Please do not reply to this mail. Mail sent to this address cannot be answered. For assistance, log in to your Amazon account and choose the "Help" link in the header of any page.

# EXHIBIT B



amazon.com

VIEW CART | WISH LIST | YOUR ACCOUNT | HELP

WELCOME YOUR STORE BOOKS APPAREL & ACCESSORIES ELECTRONICS TOYS & GAMES MUSIC KITCHEN & HOUSEWARES SEE MORE YOUR STORES

### Sign In

What is your e-mail address?

My e-mail address is \_\_\_\_\_

Do you have an Amazon.com password?

- No, I am a new customer.
- Yes, I have a password: \_\_\_\_\_

[Sign in using our secure server](#)

- [Forgot your password? Click here](#)
- [Has your e-mail address changed since your last order?](#)

The secure server will encrypt your information. If you received an error message when you tried to use our secure server, sign in using our [standard server](#).

#### Where's My Stuff?

- Track your [recent orders](#).
- View or change your orders in [Your Account](#).
- See our [animated demo!](#)

#### Shipping & Returns

- See our [shipping rates & policies](#).
- [Return](#) an item (here's our [Returns Policy](#)).

#### Need Help?

- New customer? [Click here](#) to learn about searching, browsing, and shopping at Amazon.com.
- Forgot your password? [Click here](#).
- [Redeem](#) or [buy](#) a gift certificate.
- [Visit our Help department](#).

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Navigation bar with buttons: [x] S'S STORE [x] [x] [x] [x] [x] [x]

**Your Account > Edit or Delete a Credit Card > Edit a Credit Card**

Click the Confirm button when you are finished. Please note that any changes made here will affect future orders only. If you want to edit the method of payment for an order that has already been placed, [click here](#).

**Cardholder Name:** \_\_\_\_\_

**Bank Name:** \_\_\_\_\_

**Billing Zip:** \_\_\_\_\_

**Type:** Select Credit Card

**Card Number:** \_\_\_\_\_

**Exp. Date:** --  --

**Pin** \_\_\_\_\_

**Code:** \_\_\_\_\_

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