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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 update-information.us

Defendants.

No. **04 - 2 - 25672 - 1** 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 Amazon.com password. *See* Exhibit B. The website was made to look like  
2 Amazon.com's website and included counterfeit Amazon.com trademarks. When the user  
3 inputted his email address and password, that information was sent to Defendants, not to  
4 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 personal  
10 information to the Defendants, and to evade customers' anti-spam filters specifically  
11 designed to permit the receipt of e-mail from 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 website.

16 22. Defendants' use of the AMAZON.COM® mark is likely to lead consumers  
17 to mistakenly conclude that the e-mail from Defendants was exclusively or jointly sent by,  
18 licensed or certified by, or otherwise sponsored or approved by Amazon.com, or that  
19 Defendants' websites are somehow otherwise affiliated, connected, or associated with  
20 Amazon.com. Consumers are likely to be misled as to the true source, sponsorship, or  
21 affiliation of the e-mail and website.

22 23. On information and belief, through their use of the AMAZON.COM®  
23 mark, Defendants have intentionally and with knowledge sought to cause consumer  
24 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 and in email promoting and marketing 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 and in email promoting and marketing 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.



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**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.

29. Defendants' bad faith intent to profit from use of AMAZON.COM®, by sending e-mail messages that state they are from AMAZON.COM® that are confusingly similar to Amazon.com's distinctive marks, constitutes cyberpiracy under 15 U.S.C. § 1125(d). Defendants' cyberpiracy of AMAZON.COM® has caused and will continue to cause damage to Amazon.com, in an amount to be proved at trial, and is causing irreparable harm to Amazon.com for which there is not an adequate remedy at law. Defendants are directly, contributorily, and/or vicariously liable for these actions.

**COUNT IV**

**(Unfair Competition Under Lanham Act 15 U.S.C. § 1125(a))**

30. Amazon.com realleges paragraphs 1-29 of this Complaint as if fully set forth herein.

31. Defendants' use of the AMAZON.COM® mark to promote, market, or sell their products or services, including on their website, constitutes Unfair Competition pursuant to 15 U.S.C. § 1125(a). Defendants' use of the AMAZON.COM® mark is likely to cause confusion, mistake, and deception among consumers. Defendants' unfair competition 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 V**

**(Unfair Business Practice Under Washington State Law)**

32. Amazon.com realleges paragraphs 1-31 of this Complaint as if fully set forth herein.






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DATED this 27th day of September, 2004.

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# EXHIBIT A

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**From:** payments@amazon.com  
**Sent:** Thursday, August 05, 2004 7:13 PM  
**To:** :@yahoo.com  
**Subject:** Immediate Attention Required!

Dear Amazon User,

We're writing to let you know that a buyer has attempted to buy your item. Unfortunately, the payment could not be completed due to seller information. We advise you to follow the link listed below and correct/update our database

If you encounter any problems using our services please do contact us as soon possible. We have updated our system to protect our community against fraudulent usage of credit cards.

You can correct/update information following the link below:

<http://s1.amazon.com/exec/varzea/subst/your-account/correct.html> <<http://www.varzea-update-info.us/varzea/>>

You can find answers to your other questions about selling at Amazon here: [www.amazon.com/seller-help](http://www.amazon.com/seller-help)

Thank you for selling with Amazon.com. Our apologies for any inconvenience caused by this delay--we hope it is resolved quickly.

Amazon.com  
Earth's Biggest Selection  
<http://www.amazon.com>