

**UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION**

In the Matter of Amazon.com, Inc.,  
  
Respondent.

CPSC Docket No. 21-2

Hon. James E. Grimes  
Presiding Officer

**RESPONDENT AMAZON’S MOTION TO DISMISS OR, IN THE  
ALTERNATIVE, CROSS-MOTION FOR SUMMARY DECISION**

Respondent Amazon.com, Inc. (“Amazon”) hereby moves to dismiss the Complaint, or, in the alternative, for a summary decision in Amazon’s favor to be entered, on the following grounds:

1. The U.S. Consumer Product Safety Commission (“Commission”) lacks the power under the Consumer Product Safety Act to issue the 15 U.S.C. § 2064(c) or (d) order sought by the Complaint (Doc. No. 1) because Amazon is a third-party logistics provider, not a distributor, with respect to the products identified in the Complaint that were manufactured and sold by third parties (the “Third-Party Products”). Accordingly, the Commission lacks subject-matter jurisdiction to enter an order against Amazon with respect to the Third-Party Products.

2. The Complaint’s attempt to use an adjudication to effect a new and unprecedented expansion of the definition of “distributor” (and narrowing of the definition of “third-party logistics provider”) violates the Administrative Procedure Act and Due Process Clause and amounts to an unlawful attempt to impose retroactive liability on past conduct.

3. The proceeding is constitutionally and prudentially moot in light of the actions that Amazon has already taken, including directly notifying all purchasers of the Third-Party Products of the specific hazard; instructing all purchasers to immediately stop using, and to dispose of, the product; and providing a full refund to all purchasers.

Amazon's Memorandum in Support of Motion to Dismiss or, in the Alternative, Cross-Motion for Summary Decision, which is consolidated into a single brief along with Amazon's Opposition to Complaint Counsel's Motion for Partial Summary Decision, is being simultaneously filed with this Motion.

Dated: November 2, 2021

Respectfully submitted,




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*Counsel for Respondent*

**CERTIFICATE OF SERVICE**

Pursuant to the Order Following Prehearing Conference entered by the Presiding Officer on October 19, 2021, I hereby certify that on November 2, 2021, a true and correct copy of the foregoing document was:

- filed by email to the Secretary of the U.S. Consumer Product Safety Commission, Alberta Mills, at amills@cpsc.gov, with a copy to the Presiding Officer at alj@sec.gov and to all counsel of record; and
- served to Complaint Counsel by email at jeustice@cpsc.gov, lwolf@cpsc.gov, and sanand@cpsc.gov.

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Sarah L. Wilson