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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.
AMAZON.COM, INC.,

Defendant.

AMAZON.COM, INC.,

Cross-Complainant,

v.
THE PEOPLE OF THE STATE OF CALIFORNIA,

Cross-Defendant

Case No. CGC-22-601826

THE PEOPLE OF THE STATE OF CALIFORNIA'S REPLY IN SUPPORT OF THE DEMURRER TO DEFENDANT AMAZON.COM, INC.'S CROSS-COMPLAINT

Cross-Complaint Filed: May 30, 2023
Department: 304
Judge: Hon. Ethan P. Schulman
Hearing: October 6, 2023
Hearing Time: 1:30pm

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1 Amazon is entitled to declaratory relief in this litigation only where there is an actual,
2 present, and concrete controversy with the People. Because Amazon fails to allege any controversy
3 with the People outside of the context of the People’s Complaint, Amazon’s Cross-Complaint
4 should be dismissed.

5 *First*, declaratory relief is not available without an actual and cognizable issue for final
6 determination. While the Opposition tries to redefine the Cross-Complaint to cover only the
7 Cartwright Act and the California Unfair Competition Law, the actual relief requested is not limited
8 to those statutes. To the contrary, the Cross-Complaint seeks declaratory relief that Amazon’s
9 conduct is “lawful.” Amazon’s request exceeds the matters of actual controversy in the Complaint.

10 *Second*, Amazon would not face significant and imminent hardship in the absence of its
11 requested declaratory relief. Because the only concrete dispute alleged in the Cross-Complaint is
12 the People’s Complaint, Amazon’s actual disputes with the People will be resolved with that
13 Complaint. Amazon would not suffer any hardship if its requests beyond the Complaint—based in
14 conjecture, as opposed to actual facts—were denied judicial consideration.

15 *Third*, Amazon is not entitled to litigate the lawfulness of each of its contract terms and
16 policy provisions in isolation. The anticompetitive purpose and effect of Amazon’s price parity
17 conduct is not based on a single isolated provision, but rather the overall purpose and effect of
18 Amazon’s challenged conduct. The People’s claims are not appropriately adjudicated as to each
19 contested practice related to that conduct. By requesting separate determinations, the Cross-
20 Complaint would unnecessarily complicate the litigation with new issues beyond the People’s
21 Complaint. Amazon cannot avoid the People’s case by inventing a new one.

22 *Fourth*, Amazon’s requested declaratory relief would restrict future law enforcement,
23 especially on matters subject to the UCL. Amazon stakes its claim for relief on allowing its
24 ecommerce business to operate without the scrutiny of California competition law enforcement.
25 But this court cannot lawfully constrain the Attorney General and other law enforcers from
26 upholding their statutory law enforcement duties.

27 For these reasons, Amazon has failed to state a claim for declaratory relief, and the
28 Demurrer should be sustained.

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ARGUMENT

A. Amazon Has Not Alleged an Actual Controversy Aside from the Complaint.

The only “actual controversy” identified in Amazon’s Opposition is the People’s lawsuit. (Opposition at 8, 15-16.) Now that Amazon has conceded that its case is confined to the scope of the People’s Complaint, the actual and present controversy supporting any declaratory relief is limited to those contested issues.

Yet Amazon seeks in its Cross-Complaint resolution of issues well outside the scope of the Complaint—issues over which Amazon does not have a “concrete” controversy with the People. The concrete controversy requirement is the first prong of the test for a ripe claim for declaratory relief. (*Stonehouse Homes LLC v. City of Sierra Madre* (2008) 167 Cal.App.4th 531, 540.) Courts generally decline to adjudicate claims for declaratory relief that are too abstract or that require the court to resolve “hypothetical situations.” (*Id.*) With the Cross-Complaint, Amazon seeks the type of abstract and hypothetical relief that courts typically decline to adjudicate.

First, the relief sought by Amazon would require the Court to issue an unbounded ruling on the lawfulness of Amazon’s policies, far beyond the scope of any controversy with the People. In an attempt to remedy that defect, Amazon re-characterizes its declaratory relief claim as requesting “that specific Amazon business practices *do not violate the Cartwright Act or the UCL,*” even though the Cartwright Act and the UCL are not even referenced in the Cross-Complaint. (Opposition at 18 [italics added].) But Amazon’s Cross-Complaint seeks multiple declarations that certain terms or practices are “lawful,” with no limitations. (*See, e.g.,* Cross-Complaint at 17 [requesting relief declaring that “Amazon’s Selling Policies and Seller Code of Conduct are lawful,” that “Amazon’s Marketplace Fair Pricing Policy is lawful,” that “Amazon’s Standard for Brands Policy is lawful” and that “Amazon’s Business Solutions Agreement is lawful”]). And while Amazon now concedes that the scope of its Cross-Complaint does not exceed Amazon’s violations of the Cartwright Act and the UCL described in the Complaint, Amazon cannot avoid having its Cross-Complaint dismissed by recharacterizing its allegations and the relief it seeks.

Further, by seeking declarations that each of its policies is “lawful,” the Cross-Complaint

1 is insufficiently particular as to the relevant law subject to its declaratory relief requests. By
2 admitting that its declaratory relief claims are necessarily limited to the Cartwright Act and the
3 UCL, Amazon implicitly acknowledges that its vague and overbroad declaratory relief claims, as
4 pleaded, are unsuitable for judicial determination.¹ Indeed, the overbroad and undefined relief
5 requested in Amazon’s Cross-Complaint suffers from a similar defect as the relief requested in
6 *Meyer v. Sprint Spectrum L.P.* (2009) 45 Cal.4th 634, 648, cited by Amazon. (Opposition at 9-10.)
7 The *Meyer* court sustained the demurrer because the plaintiffs did not allege with particularity any
8 practical consequences of the relief sought. (45 Cal.4th at p. 638.)² As established in the Demurrer,
9 Amazon’s requests in the Cross-Complaint are too inconclusive and indefinite for judicial
10 determination in this litigation. (Demurrer at 7-9.)

11 *Second*, the facts pleaded in the Cross-Complaint do not put the People or the Court on
12 sufficient notice of the actual conduct that Amazon seeks to be declared lawful. Amazon’s Cross-
13 Complaint covers the entirety of various Amazon agreements and business practices, including the
14 Seller Code of Conduct, the Marketplace Fair Pricing Policy, Guaranteed Minimum Margin
15 Agreements, the Matching Compensation Program, the Standards for Brands, Featured Offer
16 Eligibility, and the Business Solution Agreement. (Opposition at 16.) Yet besides naming the titles
17 of those contracts and policies, the Cross-Complaint does not include the facts that would actually
18 identify the conduct Amazon wants declared lawful. The Cross-Complaint would have the Court
19 deem all of those regularly changing terms and practices as “lawful,” without defining the relevant
20 conduct, including how Amazon has enforced these contracts and policies over time. This is the
21 type of “abstract” and “hypothetical” relief that *Stonehouse* cautions against.

22 Amazon does not dispute that its requested relief would govern conduct not at issue in the
23

24 ¹ Amazon cites *People v. Vitol*, even though the parties in *Vitol* expressly limited their lawfulness
25 declarations to conduct and claims “as alleged in the complaint.” (Declaration of J. Davidson in
26 Support of Amazon’s Request for Judicial Notice, Ex. A [Order in *People v. Vitol*] at 2-3.) There
27 is no such qualifier in Amazon’s Cross-Complaint.

28 ² Several of the cases cited in the Opposition denied declaratory relief. (Opposition at 9, 14, 15.)
Amazon relies on *DeLaura v. Becket* (2006) 137 Cal.App.4th 542, 547, but in that case the
appeals court affirmed the sustaining of the demurrer. In *Sunset Scavenger Corp v. Oddou* (1936)
11 Cal.App.2d 92, 98, the court found that declaratory relief was not appropriate. And the court in
City of Santa Monica v. Stewart (2005) 126 Cal.App.4th 43, 65, found no actual controversy.

1 Complaint. (*See* Demurrer at 8; Opposition at 15-16.) Rather, Amazon emphasizes that the
2 company needs broad relief, citing “the significance of the contested practices to Amazon’s
3 business.” (Opposition at 6.) Amazon’s position confirms the company has chosen to phrase the
4 Cross-Complaint in a deliberately vague manner—alleging only the contract and policy names, no
5 more—in an attempt to broadly immunize a wide range of its conduct from challenge. Now
6 Amazon must face the consequences of that choice. Without the requisite clarity for definitive
7 relief, Amazon’s overbroad requests fail to state a claim.

8 Amazon’s demand for relief beyond the Complaint cannot satisfy the concrete dispute
9 requirement. In the Opposition, Amazon argues that the company is entitled to a determination of
10 lawfulness, in the event the Court determines the People’s case fails for lack of evidentiary support,
11 but does not rule on justifications for its conduct. (Opposition at 10.) But Amazon cannot sidestep
12 the actual controversy requirement. Even though the only dispute alleged with the People is the
13 Complaint, Amazon’s overbroad declaratory relief claims are not confined to the allegations in that
14 Complaint. Instead, they are pleaded as “lawful” determinations extending far beyond its scope.
15 Notably, while Amazon’s affirmative defenses are limited in scope to the Cartwright Act and UCL
16 violations alleged in the Complaint, Amazon has failed to adequately limit its requested declaratory
17 relief in the same fashion. Thus, Amazon’s Cross-Complaint either duplicates its affirmative
18 defense relief, or requests indefinite relief which is unnecessary and improper as a matter of law.

19 The cases cited by Amazon highlight the difference between sufficiently definitive and
20 conclusive requests for declaratory relief and Amazon’s insufficiently vague and overbroad claims.
21 Being delisted from the Proposition 65 list of cancer-causing products is “definitive and conclusive
22 relief.” (*Baxter Healthcare Corp. v. Denton* (2004) 120 Cal.App.4th 333, 361.) Similarly definitive
23 and conclusive is a requested declaration that the Department of Forestry had a policy of ignoring
24 certain violations (*Californians for Native Salmon Ass’n v. Dep’t of Forestry* (1990) 221
25 Cal.App.3d 1419, 1424-25) or that the Department of Consumer Affairs had enacted a policy as a
26 secret regulation (*Cal. Dep’t of Consumer Affairs v. Superior Court* (2016) 245 Cal.App.4th 256,
27 259). In all of these cases, the plaintiffs seeking declaratory relief were asking for definitive and
28 conclusive relief. By contrast, Amazon’s vague request covering an undefined set of conduct does

1 not. Instead of resolving an actual controversy, Amazon’s requested determinations would require
2 the court to “speculate on the resolution of hypothetical situations” in an “abstract posture.”
3 (*Stonehouse Homes LLC, supra*, 167 Cal.App.4th at p. 540.)

4 The significance of the concrete controversy requirement is well illustrated by *Mailand v.*
5 *Burckle* (1978) 20 Cal.3d 367, cited by Amazon in its Opposition. (Opposition at 7, 10.) The
6 plaintiff’s claim was that its contract with the defendant was unlawful under the Cartwright Act.
7 (20 Cal.3d at pp. 371-372.) The defendant responded with cross-claims seeking a determination
8 that they had not violated the Cartwright Act, and for breach of contract. (*Id.* at p. 372.) In *Mailand*,
9 the subject of the cross-complaint—the lawfulness of the contract under the Cartwright Act—did
10 not exceed the scope of the original complaint. In addition, the *Mailand* cross-complaint’s
11 declaratory relief request was required for the defendant’s additional relief for breach of the
12 underlying contract. Amazon cannot make any such claims here.

13 Amazon does not dispute that declaratory relief requires an actual and present controversy.
14 Amazon relies on *Two Jinn, Inc. v. Gov’t Payment Serv., Inc.* (2015) 233 Cal.App.4th 1321, 1330,
15 but that suit involved a cross-claim that the originally challenged conduct (payment processing for
16 bail payments, without a bail agent license) did not violate the UCL—not that some other conduct
17 beyond the original complaint was lawful. Similarly, in *City of Hayward v. United Public*
18 *Employees* (1976) 54 Cal.App.3d 761, 763, the declaratory relief requested was confined to one
19 term of a multi-term agreement. The parties disputed the lawfulness of an “agency shop” agreement
20 term, a provision in an agreement between the city and a city employees union. (*Id.*) The relief did
21 not extend to the lawfulness of all terms in the agreement. (*Id.*) Only for issues in controversy may
22 the parties properly set out their respective positions for judicial determination.

23 Amazon has not alleged a ripe controversy with the People outside the scope of the People’s
24 Complaint.³ Amazon’s cases only further confirm this defect. In *Gopher Oil Co. v. Bunker* (8th Cir

25 _____
26 ³Actual, concrete disputes ready for declaratory relief would certainly include where a party was
27 notified of forthcoming litigation (*Am. Meat Inst. v. Leeman* (2009) 180 Cal.App.4th 728, 742),
28 where multiple actions were already filed (*Cal. Chamber of Com. v. Becerra* (E.D. Cal. Mar. 3,
2020) Case No. 2:19-cv-02019, 2020 WL 1030980 at *1), or when various police enforcement
has already occurred (*Malish v. City of San Diego* (2000) 84 Cal.App.4th 725, 727). But besides
the Complaint, Amazon has not alleged any such controversy with the People in this case.

1 1996) 84 F.3d 1047, 1051, the court of appeals reversed the trial court’s decision on ripeness
2 grounds only because the relevant agency initiated a cost recovery action after the trial court
3 decision, which the appeals court determined made the case ripe. Amazon’s claims beyond the
4 Complaint do not satisfy this present controversy requirement, and should be dismissed.

5 **B. Amazon Has Not Established Any Imminent and Significant Hardship That**
6 **Would Result from the Dismissal of its Declaratory Relief Claims.**

7 Amazon has failed to allege any imminent and significant hardship if its declaratory relief
8 claims were dismissed. (*Stonehouse Homes LLC, supra*, 167 Cal.App.4th at p. 540.) As established
9 in the Demurrer, Amazon cannot support its hardship with conclusory assertions of disputes or
10 controversies between Amazon and the People. (Demurrer at 11.) Amazon argues in response that
11 “Plaintiff’s sweeping allegations that many of Amazon’s essential and commonplace business
12 practices are illegal throws Amazon’s business into a state of uncertainty that, absent the
13 declaratory relief that Amazon seeks, may very well may [*sic*] remain unresolved at the end of this
14 litigation.” (Opposition at 19.) With its response, Amazon confirms it has not pleaded any of the
15 necessary facts supporting its conclusory assertion of hardship. The Opposition does not identify
16 factual allegations supporting Amazon’s claimed hardship. Amazon does not allege the relevant
17 practices, their essentiality and commonality, or the uncertainty caused by the People. Amazon’s
18 alleged “state of uncertainty” ultimately calls for the court speculate as to innumerable Amazon
19 business practices, and a theoretical future enforcement by the People. But the only relevant dispute
20 is a controversy “at the time of the filing,” not an abstract hypothetical scenario (*Wilson v. Transit*
21 *Auth. of City of Sacramento* (1962) 199 Cal.App.2d 716, 724.) By omitting factual allegations of
22 imminent and significant hardship at the time of the Cross-Complaint, Amazon fails to state a claim.

23 **C. Amazon’s Conduct Must Be Assessed as a Whole, Not By Considering**
24 **Individual Terms or Provisions in Isolation.**

25 In the Opposition, Amazon proposes a redefinition of the People’s case by adding multiple
26 separate term-by-term adjudications. (Opposition at 11-12.) But the People have made no claims
27 requiring any such determination. The Complaint alleges Amazon’s price parity agreements and
28 enforcement include multiple practices, which together cause third-party sellers and wholesale

1 suppliers to impose higher prices on Amazon’s rivals, to charge higher prices on their own websites
2 and on competing marketplaces, and to withhold selection from these competing stores. (*See, e.g.,*
3 Complaint at 5-6.) The Complaint does not support any live controversy requiring separate
4 lawfulness determinations for Amazon’s various policies and agreements.

5 Amazon’s request for term-by-term adjudication contradicts controlling California
6 authority, which confirms that examining particular contracts or agreements in isolation is not
7 appropriate in antitrust cases. Antitrust cases “are not to be judged by dismembering it and viewing
8 its separate parts, but only by looking at it as a whole.” (*In re Auto. Antitrust Cases I & II* (2016) 1
9 Cal.App.5th 127, 152, citing *Continental Ore Co. v. Union Carbide*, 370 U.S. 690 (1962).) The
10 trial court must view evidence in an antitrust case “in its entirety and without
11 compartmentalization.” (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal. 4th 826, 840.) The Court
12 has long observed that various acts alleged may, by themselves, be lawful, but taken together, may
13 violate the Cartwright Act. (*Overland Publishing Co. v. H.S. Crocker Co.* (1924) 193 Cal.109, 119.)

14 A major reason why antitrust claims are properly analyzed as a whole, rather than in a piece-
15 by-piece manner, is that they frequently require complex, fact-specific analyses of competitive
16 effects. (*E.g., Fisherman’s Wharf Bay Cruise Corp. v. Superior Court of San Francisco* (2003) 114
17 Cal.App.4th 309, 338-339 [“a contract or arrangement may have the practical effect of exclusivity,
18 even though not denominated exclusive”].) These fact-specific determinations required for antitrust
19 cases include whether conduct may be lawful and even procompetitive in some contexts or markets,
20 but anticompetitive in others. (*E.g., Redwood Theatres, Inc. v. Festival Enterprises, Inc.* (1988) 200
21 Cal.App.3d 687, 703-04 [noting that the balancing analysis under the rule of reason “is easier to
22 state than to apply, the effects to be weighed being so difficult to measure or even estimate by the
23 methods of litigation” and that one “shortcut[.]” used by courts “is to say that the balance tips in the
24 defendant’s favor if the plaintiff fails to show that the defendant has significant market power”].)
25 By omitting critical factual context, the isolated determinations requested in the Cross-Complaint
26 would sidestep any such required analysis.

27 Amazon’s claim that the People’s case requires each aspect of the challenged conduct to be
28 separately unlawful is unfounded as a matter of law. California law clearly provides that an

1 aggregation of otherwise lawful contracts or practices may violate the Cartwright Act. In
2 *Fisherman's Wharf Bay Cruise Corp. v. Superior Court of San Francisco* (2003) 114 Cal.App.4th
3 309, 339, the court examined alleged exclusive dealing arrangements by a tour boat operator under
4 the rule of reason and vacated the trial court's summary judgment order in favor of the defendant.
5 The ruling was based in part on the trial court's failure to consider the alleged overall pattern of
6 illegal and anticompetitive conduct, including implied and unwritten exclusive dealing
7 arrangements, in addition to written agreements. (*Id.* at pp. 338-39.) And in *Chavez v. Whirlpool*
8 *Corp.* (2001) 93 Cal.App.4th 363, 372, the court held that the manufacturer's unilaterally-
9 announced "resale price policy and its refusal to deal with dealers who do not comply" may, on its
10 own, be lawful, but that the circumstances surrounding its enforcement of the policy and its
11 communications with dealers about the policy may give rise to "an unlawful combination" under
12 the Cartwright Act.⁴ The People's case does not require each isolated aspect of the challenged
13 conduct to be itself unlawful.

14 **D. Amazon Is Not Entitled to Declaratory Relief that Would Effectively Prohibit**
15 **Public Officials from Carrying Out Their Law Enforcement Duties.**

16 The Opposition also confirms Amazon is attempting to secure the "get out of jail free" card
17 described in the Demurrer. (Demurrer at 11-13.) In the Opposition, Amazon claims that the
18 People's lawsuit "throws Amazon's business into a state of uncertainty that, absent the declaratory
19 relief Amazon seeks, may very well remain unresolved at the end of this litigation," making it
20 "exceedingly difficulty for Amazon to conduct its business." (Opposition at 19.) With this
21 argument, Amazon has acknowledged that the company is pursuing a judicial declaration that
22 would prevent future law enforcement from challenging its conduct.

23 Although Amazon does now clarify that its requested relief is limited to California

24 ⁴ Similarly, in *Kolling v. Dow Jones & Co.* (1982) 137 Cal.App.3d 709, 719-720, the court found
25 that the viability of a Cartwright Act claim did not depend upon the terms of a terminable
26 distributorship alone, but instead depended upon the evidence of a conspiracy, and the
27 anticompetitive purpose and effect of termination. It noted that while a unilateral refusal to deal
28 may not violate the Cartwright Act on its own, such conduct is a violation if a party coerces a
distributor in a manner constituting a restraint of trade—a fact-intensive inquiry. (*Id.* at 720-
23.) And in *UAS Management, Inc. v. Mater Misericordiae Hospital*, (2008) 169 Cal.App.4th
357, 370-71, the court held that the trial court erred in granting summary judgment on the basis
that the agreements are not unlawful.

1 competition laws, the requested relief would still shield a range of conduct well beyond the
2 Complaint. The risk of shielding is most acute with respect to the UCL. Amazon’s various policies
3 involve a range of practices that may violate California’s UCL. (Demurrer at 9-11.) The UCL is a
4 broad statute that governs unlawful, unfair, or fraudulent practices, and may be enforced by
5 multiple law enforcement authorities, including the Attorney General. A declaration that Amazon’s
6 policies do not violate the UCL would risk prohibiting other law enforcement authorities from
7 exercising their statutory UCL enforcement duties, such as for fraudulent business acts or practices
8 or false advertising. Amazon offers no response to this argument. (*See* Opposition at 19.)

9 A similar issue arose in *People v. Hy-Lond Enterprises, Inc.* (1979) 93 Cal.App.3d 734. The
10 court vacated a stipulated judgment entered by a district attorney that would have prevented any
11 future UCL enforcement action based upon the same conduct. (*Id.* at p. 739) The court found that
12 the judgment would have “secure[d] concessions which would limit the powers of other state agents
13 or entities,” including the Attorney General’s ability to carry out his statutory duties to enforce the
14 UCL. (*Id.* at p. 752.) Thus, the district attorney lacked the authority to enter into such a judgment.
15 (*Id.* at p. 753.) These concerns are heightened here, because Amazon’s Cross-Complaint requests
16 not only a judgment that it has not violated the law as set forth in the Complaint, but a broader
17 statement that would prevent other enforcers from bringing any action under unspecified laws.

18 The cases that Amazon relies upon do not hold otherwise. In *Baxter*, the court did not
19 address whether the requested relief would violate public policy set forth in Section 526(b) of the
20 Code of Civil Procedure and Section 3423(d) of the Civil Code. (*Baxter, supra*, 10 Cal.App.4th at
21 p. 358-60.) Indeed, the court explicitly noted that the proceeding was not an enforcement
22 proceeding because the Attorney General was representing the Office of Environmental Health
23 Hazard Assessment, which was not responsible for enforcement actions, rather than bringing an
24 enforcement action on behalf of the People pursuant to his statutory duty. (*Id.* at pp. 358, 360.)
25 Moreover, the scope of the relief in *Baxter* was narrower and more specific than Amazon seeks
26 here: whether a particular component of medical devices caused a risk of cancer in humans as
27 encompassed by Proposition 65. (*Id.* at 344.) And in *Vitol*, the court held that the relief requested
28 would not enjoin any future enforcement actions by the Attorney General. (Davidson Decl., Ex. A

1 [Order in *People v. Vitol*] at 6-7.) By contrast here, future bars on enforcement are not merely
2 speculative. The Cross-Complaint’s declarations could impair the FTC’s ability to enforce the FTC
3 Act in a lawsuit recently filed against Amazon. (Demurrer at 10.) Amazon’s silence on this point
4 in the Opposition speaks volumes about its intent in obtaining such relief.

5 Amazon’s only response on these points is that its declaratory relief requests are not express
6 injunctions. (Opposition at 19.) But the fact that Amazon requests a declaration of lawfulness, and
7 not an express injunction, does not alter the impropriety of such relief. California courts apply
8 Section 526(b) of the Code of Civil Procedure and Section 3423(d) of the Civil Code to actions
9 other than express injunctions, including declaratory relief. (*See* Demurrer at 12-13.)

10 Amazon even acknowledges that the law prohibits injunctions that prevent the execution of
11 a public statute by law enforcement, but asserts that its requested relief is not tantamount to an
12 injunction. (Opposition at 19.) This conclusory statement ignores the commonsense reasoning that
13 “ordinarily a declaratory judgment will result in precisely the same interference with and disruption
14 of state proceedings that the longstanding policy limiting injunctions was designed to avoid.”
15 (*Samuels v. Mackell* (1971) 401 U.S. 66, 72.) As the *Samuels* Court noted, the same equitable
16 principles underlie both injunctive relief and declaratory judgments. (*Id.*)

17 Amazon’s requested relief would prevent later enforcement, which is why Amazon claims
18 it needs “certainty” to continue its practices. (Opposition at 1.) But it would not be necessary or
19 proper for Amazon to file a cross-claim in a single case to fully immunize its ecommerce
20 marketplace from California competition law enforcement. Such declaratory relief would
21 potentially interfere with other competition law enforcement proceedings, in contravention of
22 *Samuels* and other longstanding California case law protecting the execution of future law
23 enforcement. (*See* Demurrer at 12-13.) Amazon is not entitled to that form of relief.

24 CONCLUSION

25 For these reasons, the Court should sustain the People’s demurrer to the Cross-Complaint.
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Dated: September 27, 2023

Respectfully Submitted,

THE PEOPLE OF THE STATE OF CALIFORNIA

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PROOF OF SERVICE

I, Wendy Cornell, declare:

I am a citizen of the United States and employed in the City and County of San Francisco, California by Shartsis Friese LLP at One Maritime Plaza, Eighteenth Floor, San Francisco, California 94111. I am over the age of eighteen years and am not a party to the within-entitled action.

On September 27, 2023, pursuant to California Rules of Court, Federal Rules of Civil Procedure, Civil Code of Procedure, and local rules, I served on the interested parties in said cause a copy of the within document(s):

• **THE PEOPLE OF THE STATE OF CALIFORNIA’S REPLY IN SUPPORT OF DEMURRER TO DEFENDANT AMAZON.COM, INC.’S CROSS-COMPLAINT**

- by consigning the document(s) listed above to an express delivery service for guaranteed delivery on the next business day to the person(s) at the address(es) set forth below.
- by E Service in conjunction with E Filing the document(s) listed above through an e filing vendor approved by this Court. The name of the vendor and the transaction receipt I.D. are given in the vendor’s emailed Notification of Service.
- by electronically delivering the document(s) listed above on this date from electronic address sflaw.com, and after which transmission I did not receive within a reasonable time any electronic message or other indication that the transmission was unsuccessful, to electronic mail address(es) set forth below:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 27, 2023 at San Rafael, California.



WENDY CORNELL

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