

CANADA

SUPERIOR COURT
(Class Action Chambers)

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-06-000938-189

PANAGIOTIS LEVENTAKIS [REDACTED]
[REDACTED]
[REDACTED]

Applicant

v.

FACEBOOK, INC., legal person having
its principal place of business at 1
Hacker Way, Menlo Park, California,
94025, USA

Defendant

APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION
AND TO OBTAIN THE STATUS OF REPRESENTATIVE
(ART 574 C.C.P. AND FOLLOWING)

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING
IN THE CLASS ACTION CHAMBERS IN THE DISTRICT OF MONTREAL, YOUR
APPLICANT STATES AS FOLLOWS:

I. GENERAL PRESENTATION

1. The Applicant wishes to institute a class action on behalf of the following Class, of which the Applicant himself is a member, namely:

“All persons residing in Québec who used Facebook mobile applications on a smartphone running the Android operating system (“Class Members”), or any other class to be determined by the Court, between 2011 and 2018 (“Class Period”).

A. Overview

2. Over several years, Facebook, Inc. ("**Facebook**") scraped call and text message data from users of its applications on the Android mobile operating system ("**Android OS**"). Facebook surreptitiously collected call and text message data from users under the guise of accessing their contacts to supply its friend recommendation algorithm. Facebook deliberately employed secret workarounds to collect the data without a user's informed permission or knowledge. Facebook collected, used, retained and commercialised the call and text message data it obtained from users, and profited from that collection. Facebook's wrongful acts violated the provisions of *An Act Respecting the Protection of Personal Information in the Private Sector*, the *Consumer Protection Act*, the *Civil Code of Québec* and the *Québec Charter of Human Rights and Freedoms* and unjustly enriched it at the expense of its users. Through this suit, Québec users seek to hold Facebook accountable for this unlawful conduct;

B. The Parties

3. The Defendant Facebook is a Delaware company with its principal place of business located at 1 Hacker Way, Menlo Park, CA 94025, USA, the whole as appears from a copy of the corporate search results for Facebook, Inc. disclosed, *en liasse*, as **Exhibit P-1**. Facebook carries on business worldwide, including in Québec and across Canada and has a registered agent for service at Corporation Service Company, 2710 Gateway Oaks Drive, Suite 150N Sacramento, CA 95833-3505 USA;
4. The Applicant, Panagiotis "Peter" Leventakis, is a resident of [REDACTED], Québec. At all material times, he owned a smartphone running the Android OS. At all material times, the Applicant had a Facebook account and Facebook mobile applications installed on his smartphone;

C. Facebook

5. Facebook operates a social networking website at www.facebook.com. Facebook is the world's leading social networking platform. At the time this claim is filed, Facebook had approximately 2.2 billion monthly active users, including tens of millions in Canada and millions in Québec, as appears from an excerpt of the Defendant's website regarding its company info and an infographic issued by the Defendant, disclosed, *en liasse*, as **Exhibit P-2**;
6. After registering with Facebook, users can create a customized profile indicating, *inter alia*, their name, occupation, interests and schools attended. Users can add other users as "friends," exchange messages, post status updates, read current events in a "News Feed", share photos, videos and links, use various software applications and receive notifications of other users' activity on the Facebook platform. Additionally, users may join common-interest user groups organized by workplace, school, hobbies or other topics;
7. As a core component of its business, Facebook collects and compiles data from its users. Facebook does so by offering free services, in exchange for the collection of user data. Facebook then monetises user data by selling advertising space on its platforms and services. Advertisers are enticed to place ads with Facebook due to its ability to target specific demographics and interest groups through the company's collection and manipulation of user data;
8. The Facebook platform may be accessed by a large range of devices with internet connectivity, such as desktops, laptops, tablet computers, and smartphones. Users can access the Facebook platform by visiting the website www.facebook.com using their web browser on their desktop computer, laptop, phone, or tablet. Alternatively, users can access the Facebook platform by installing smartphone applications developed by Facebook for the Android OS, including Facebook for Android, Facebook Messenger and Facebook Lite;

D. Android Smartphones

9. Smartphones play a central role in modern society. Approximately 80% of all Canadians own a smartphone. In addition to making and receiving telephone calls and text messages, smartphones offer internet connectivity, store contact information, and run applications. Smartphones are catalysts for personal life in the 21st century and are the key means through which intimate and private relationships are mediated;
10. Google LLC ("**Google**") develops and maintains the Android OS. Google's Android OS is the mobile platform software employed by most of the major smartphone manufacturers to provide an operating system and user interface. Smartphones made by companies including but not limited to Samsung, LG, Sony, HTC, Blackberry, and Google itself, all run the Android OS. Approximately half of all smartphones in Canada run the Android OS;
11. To enable third-party applications or apps to work on the Android OS, Google makes application programming interfaces ("**APIs**"). In computer programming, APIs are tools used by apps to interact with the underlying operating system. On a smartphone, apps "call on" APIs to perform certain functions, such as playing video or music, loading a program, or displaying and permitting the manipulation of information on the screen. Google offers a software development kit ("**SDK**") to third-party app developers to permit them to build apps using Android OS APIs;
12. Google regularly releases new versions of the Android OS. For example, version 1.0 was released on September 23, 2008, while more recent versions 8.0 and 8.1 were released on August 21, 2017. Google also routinely modifies its APIs and releases new ones. APIs are designated by levels. For example, Android OS version 1.0 ran API level 1, while Android OS version 8.1 runs API level 26;

E. Facebook Apps

13. Over the years, Facebook has made available various apps to users to access its services. These applications included Facebook for Android, Messenger and Lite (collectively, the “**Facebook Apps**”);
14. Messenger was released in August 2011, as appears from the Defendant’s press release dated August 9, 2011, disclosed as **Exhibit P-3**. Facebook for Android, formerly known as “Facebook Home”, was first released in April 2013, as appears from the Defendant’s press release dated April 4, 2013 and disclosed as **Exhibit P-4**. Lite was released on June 4, 2015, as appears from the Defendant’s press release of the same date, disclosed as **Exhibit P-5**. The Facebook Apps all run on the Android OS;
15. At all material times, Facebook Apps have been distributed through the Google Play Store. The Google Play Store is owned and managed by Google. App creators, including Facebook, contractually agree to respect Google Play Store policies in order to be distributed through the Google Play Store (the “**Play Store Policies**”). At all material times, the Play Store Policies prohibited deceptive behavior by apps for the Android OS, including deceptive device setting changes, as appears from a copy of the Play Store Policies, disclosed as **Exhibit P-6**;

F. Unauthorised Collection of Call and Text Data by Facebook

16. Beginning at least as early as 2015, but possibly as early as 2011, and continuing until about October 2017, Facebook began to “scrape” call and text data without permission from users of the Facebook Apps running on Android smartphones. In particular, Facebook collected and retained information about users’ calls (including the identities of the sender and recipient, and their phone numbers), date and time of call, call length, and whether a call was incoming or outgoing or missed, along with text SMS and MMS message metadata (collectively, users’ “**Call & Text Data**”);

17. Facebook scraped users' call logs and text data by exploiting a software vulnerability in the permission settings of the Android OS. Specifically, when users installed the Facebook Apps for Android, they were prompted to grant the Facebook Apps access to the user's "Contact List" on the Android device. Contact list entries include information inputted by the user, including names, phone numbers, and other personal identifiers and facts. Facebook purports to use contact data, in part, as a component of its friend recommendation algorithm;
18. However, prior to Android version 4.1 in July 2012, further described in an excerpt from Developers' website and disclosed as **Exhibit P-7**, granting the Facebook Apps access to a user's "Contact List" also granted the Facebook Apps access to users' call and text logs by default. This additional access to and collection of Call & Text Data was not disclosed by Facebook to its users;
19. Google patched this vulnerability in its release of Android OS version 4.1 and API level 16 on about July 9, 2012. Accordingly, apps calling on API level 16 or later could not access users' call and text logs by default when access was given to the contact list; specific permission was required to enable such access, the whole as appears from excerpts of Google's Developers' website disclosed, *en liasse*, as **Exhibit P-8**;
20. Rather than accept this state of affairs, Facebook deliberately chose to obscure from users that it was seeking permission to access both users' contacts and collect Call & Text Data. Facebook did so to avoid asking users for specific, informed permission to access and collect their Call & Text Data. Facebook achieved this by means of its application user interface, the manipulation of default settings, and by employing so-called "dark patterns" to compel users to give it access to users' Call & Text Data;
21. These deceptive device-setting changes were deceptive behavior, within the meaning of the Play Store Policies. Facebook thereby breached its agreement with Google to respect the Play Store Policies, Exhibit P-6. Through its actions, Facebook intended to cause harm to the Applicant and Class Members through

the collection, retention, and use of the Call & Text Data as a necessary means of enriching itself at their expense;

22. In the alternative, or in addition, Facebook deliberately chose to write its Apps to an older API level of the Android OS to continue scraping the Call & Text Data from users' smartphones. Facebook did so to avoid asking users for permission to access and collect their Call & Text Data, by calling on an old version of the API that did not request specific permission to access and collect their Call & Text Data. Users thereby unwittingly gave Facebook access to their Call & Text Data;

23. In the October 2017 version of the SDK, Google made a change to prevent third-party apps, including the Facebook Apps, from accessing this functionality. Accordingly, Facebook's collection of Call & Text Data stopped in about October 2017. By comparison, Apple's iOS has never allowed silent access to call and text logs;

24. The Applicant installed Facebook Apps on Android prior to October 2017. The Applicant did not consent to the collection, use or retention of his Call & Text Data;

25. Facebook's decision to collect the Call & Text Data was planned and deliberate and was made knowing that users had not consented to, and were not aware of, its collection;

26. Users could not specifically disable the collection of the Call & Text Data by the Facebook Apps, even if they had been aware of it;

27. Facebook collected, retained, and used the Call & Text Data for its own benefit;

28. Consumers had no notice that Facebook was collecting, retaining, or using the Call & Text Data;

29. The collection, retention, and use of Call & Text Data by Facebook were unauthorised. Users did not consent to the collection, retention, or use of the Call & Text Data by Facebook;

30. As a result of the unauthorised collection, retention, and use of the Call & Text Data, the Applicant and Class Members have been deprived by suffering a loss, inconvenience and anxiety and violation of privacy;
31. As a result of the unauthorised collection, retention, and use of the Call & Text Data, Facebook has been enriched by:
- a. selling advertising to third parties on the basis of the Call & Text Data for display to users of the Facebook Apps;
 - b. selling the Call & Text Data to third parties;
 - c. selling customer profiles containing the Call & Text Data to third parties;
 - d. advancing its own research and development agenda, turning users into unwitting test subjects, to profit its own commercial interests; and
 - e. permitting Facebook to track and exploit users who do not otherwise use Facebook services.
32. Collecting, retaining, and using the Call & Text Data was in Facebook's economic interest, and provided it with a competitive advantage in the marketplace;
33. Facebook's wrongdoing became public on about March 24, 2018, when *Ars Technica*, a leading technology industry publication, released a story about it, a copy of which is disclosed as **Exhibit P-9**;
34. On about March 25, 2018, Facebook admitted collecting the Call & Text Data in two of its press releases dated March 25, 2018 and April 4, 2018 and disclosed, *en liasse*, as **Exhibit P-10**. Its own executive has described the impugned conduct as "questionable contact importing practices", as cited in a BuzzFeed news article dated March 29, 2018 and disclosed as **Exhibit P-11**;
35. Facebook has been sued by its users in the United States for its abusive collection of the Call & Text Data, as appears from news articles published by

CNET and The Guardian as well as the civil cover sheet and docket of *Williams et al. v. Facebook, Inc.*, 3:18-cv-01881-RS (U.S. District Court – California Northern District), disclosed, *en liasse*, as **Exhibit P-12**;

G. The Defendant's Liability

Breach of obligations stemming from of An Act Respecting the Protection of Personal Information in the Private Sector and the Civil Code of Québec

36. The information provided by the Applicant and Class Members and collected, retained, used and made available to third parties by the Defendant is « personal information » as provided for by *An Act Respecting the Protection of Personal Information in the Private Sector*;

37. The Defendant was therefore subject to the obligations provided for in said legislation relative to the collection, retention, use and dissemination of the personal information of its users and had the obligation to protect, and not to misuse, said personal information;

38. The Defendant breached its obligations in omitting to protect the Applicant and Class Members' personal information and by collecting, retaining, using and providing to third parties the Applicant and Class Members' personal information. without their consent and without ever disclosing its actions to them;

39. More particularly, the Defendant breached articles 10,13,14 and 17 of *An Act Respecting the Protection of Personal Information in the Private Sector*;

40. Moreover, in making the Applicant and Class Members' personal information available to third parties without their consent and for purposes inconsistent with the purposes for which said information was provided, the Defendant breached its obligations under articles 35 to 37 of the *Civil Code of Québec*;

41. As a result of the aforementioned breaches by Facebook, the Applicant and Class Members are entitled to damages;

Breach of obligations under the Consumer Protection Act

42. Through its actions as set out above, Facebook breached the *Consumer Protection Act*;

43. The Defendant breached article 219 of the *Consumer Protection Act* by making false or misleading representations to the Applicant and Class Members with regard to the collection, retention and use of their personal information as well as regarding the protection which would be given to said information and omitting to divulge important information regarding the safety and use of their personal information;

44. In addition to the remedies provided for under the *Consumer Protection Act*, said conduct warrants the award of punitive damages under article 272 of the *Consumer Protection Act*;

Breaches of obligations under the Québec Charter of Rights and Freedoms

45. The Defendant's conduct, as set out above, also breached the Applicant and Class Members' right to respect for their private lives as guaranteed by article 5 of the Québec *Charter of Rights and Freedoms*;

46. The Defendant made available and sold its users' personal information to third parties without its users' consent and intentionally omitted to divulge its actions to its users;

47. Facebook chose to put its own interests before the interests of the Applicant and the Class Members. Facebook showed a blatant disregard of its users' rights;

48. It was not the Defendant but rather a third-party publication that divulged Facebook's misconduct to the Applicant and the Class Members;

49. This unlawful and intentional interference with its users' rights warrants an award of punitive damages under article 49 of the Québec *Charter of Human Rights and Freedoms*;

Punitive Damages

50. As stated above, the Applicant is justified in requesting punitive damages in light of the Defendant's malicious, calculated and intentional conduct which departed to a marked degree from ordinary standards of decent behaviour and violated the trust and security of its users;

51. The Defendant's actions constitute a willful disregard of its users' privacy, autonomy and rights and a violation of its obligations and as such, warrant an award of punitive damages under the *Consumer Protection Act* and the Québec *Charter of Human Rights and Freedoms*;

Unjust Enrichment

52. By its conduct set out above, the Defendant has been enriched by the collection, retention, and use of the Call & Text Data from the Applicant and Class Members. Facebook has profited from the commercialisation and use of the Call & Text Data taken from the Applicant and Class Members. In particular, Facebook has been enriched by advertising sold on the basis of the Call & Text Data, as well as the sale of Call & Text Data to third parties. Facebook has also benefitted from the Call & Text Data to advance its own research and development agenda;

53. As set out above, the Applicant and Class Members have been deprived through the loss of their reasonable expectation of privacy and the taking of private data about them. As such, there is a correlation between the Defendant's enrichment and the Applicant and Class Members' impoverishment;

54. There is no justification as to why Facebook should have received or should retain this benefit. The unauthorised collection, retention, and use by Facebook of the

Call & Text Data was carried out in violation of the applicable statutes as set forth above, as well as of the *Criminal Code*;

55. In particular, Call & Text Data falls within the definition of “private communication” under the *Criminal Code*, s 183. The unauthorised collection, retention, and use by Facebook of the Call & Text Data constitute interception within the meaning of the *Criminal Code*, s 184. In addition, or in the alternative, the unauthorised collection, retention, and use by Facebook of the Call & Text Data constitute use and disclosure within the meaning of the *Criminal Code*, s 193;

56. The violations by the Defendant render void or unenforceable any alleged reason for its enrichment and thereby negate any justification as to why it should have received or should retain the benefit of its wrongdoing;

57. As a result, Facebook has been unjustly enriched by the benefits it received from the Applicant and the Class Members. This warrants an order that the Defendant disgorge all profits that it gained in benefitting from the breaches set out above.

II. FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE APPLICANT

58. The facts on which the Applicant's personal claim against the Defendant is based are as follows:

- a. The Applicant is a business analyst for a telecommunications company;
- b. The Applicant joined Facebook on February 21, 2007, as appears from a printout of his Facebook profile, disclosed as **Exhibit P-13**;
- c. He accesses and currently uses his Facebook account through the Facebook application on his Google Pixel 2 XL mobile device, which he purchased on May 25, 2018. Said mobile device uses the Android operating system. The Google Nexus 6P mobile device the Applicant owned prior to his current mobile device, since November 2015, also used

the Android operating system and the prior mobile device he owned also used the Android operating system, the whole as appears from copies of the Applicant's mobile device invoices, disclosed, *en liasse*, as **Exhibit P-14**;

- d. The Applicant also installed Facebook Messenger on his mobile devices beginning in or around 2013 for personal use;
- e. Throughout the period of time that the Applicant has been using the Facebook applications on his mobile device, Facebook has been scraping his call and text logs and disclosing his personal information, without his knowledge or consent;
- f. As Facebook never disclosed that it scrapes call and text logs, the Applicant did not and could not know, and had no reason to believe, that Facebook Apps would scrape his call and text logs;
- g. Had the Applicant known that Facebook had a practice of scraping call and text logs, the Applicant would not have installed Facebook Apps or would have done so on different terms;
- h. The Applicant was within his rights to believe that Facebook would protect his personal information according to its legal obligations in this regard;
- i. The Applicant only became aware that Facebook was collecting, using and disseminating his personal information without his authorization and consent on or around April 2018 when he read a CTV News article online;
- j. Although the Applicant never consented to Facebook scraping call and text logs, upon information and belief, Facebook did so and then monetized the personal information collected from him and other Class Members, *inter alia*, in selling said personal information to third parties;
- k. As a result of Facebook's conduct, the Applicant suffered damages, including monetary losses, inconvenience and anxiety;

59. The Applicant's damages are a direct result of the Defendant's conduct;

60. In consequence of the foregoing, the Applicant is justified in claiming damages;

III. FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY EACH OF THE MEMBERS OF THE CLASS

61. The facts giving rise to personal claims by each of the members of the class against the Defendant are as follows:

- a. Every member of the Class has used Facebook Apps on a smartphone running the Android OS;
- b. Class Members' privacy was violated by the Defendant's unlawful, unfair, abusive and/or misleading acts and practices and intentional and malicious conduct;
- c. Class Members each suffered damages, including monetary losses and inconvenience and anxiety;
- d. In consequence of the foregoing, each member of the Class is justified in claiming compensatory, moral and/or punitive damages;

62. The damages to the Class Members are a direct result of the Defendant's conduct;

IV. CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION

A) The composition of the Class makes it difficult or impracticable to apply the rules for mandates to sue on behalf of others or for consolidation of proceedings

63. The Applicant is not privy to the specific number of persons in Québec who used Facebook Apps on smartphones running the Android OS, and whose privacy was violated by Facebook. However, it is safe to estimate that the Class is at least in

the tens of thousands. Further, the Defendant's electronic databases could easily establish the number of Class Members and even all of those Class Members' exact coordinates;

64. Class Members are numerous and are scattered across the entire province;

65. In addition, given the costs and risks inherent in an action before the courts, many people will hesitate to institute an individual action against the Defendant. Even if the Class Members themselves could afford such individual litigation, it would place an unjustifiable burden on the courts and, at the very least, is not in the interests of judicial economy. Furthermore, individual litigation of the factual and legal issues raised by the conduct of the Defendant would increase delay and expense to all parties and to the court system;

66. By their very nature, systematised privacy breaches (data harvesting) affect many individuals and any discrepancies tend to be quite small – if it were not for the class action mechanism which facilitates access to justice, these types of claims would never be heard;

67. It is expected that the majority of Class Members have suffered small losses making it economically unfeasible to finance the litigation expenses inherent in any legal proceeding;

68. This class action overcomes the dilemma inherent in an individual action whereby the legal fees alone would deter recovery and thereby in empowering the consumer, it realizes both individual and social justice as well as rectifies the imbalance and restore the parties to parity;

69. Also, a multitude of actions instituted in either the same or different judicial districts, risks having contradictory judgments on questions of fact and law that are similar or related to all members of the Class;

70. These facts demonstrate that it would be impractical, if not impossible, to contact each and every member of the Class to obtain mandates and to join them together into one action;

71. In these circumstances, a class action is the only appropriate procedure and the only viable means for all of the members of the Class to effectively pursue their respective legal rights and have access to justice;

B) The claims of the members of the Class raise identical, similar or related issues of law or fact

72. Individual issues, if any, pale by comparison to the numerous common issues that are significant to the outcome of the litigation;

73. The damages sustained by the Class Members flow, in each instance, from a common nucleus of operative facts, namely, the Defendant's misconduct;

74. The claims of the members raise identical, similar or related issues of fact or law, namely:

- a. Did the Defendant improperly collect and use the Applicant and Class Members' personal information?
- b. More particularly, did the Defendant make the Applicant and Class Members' personal information available to third parties without their consent?
- c. In so doing, was the Defendant unjustly enriched and if so, should the Defendant disgorge its profits?
- d. In so doing, did the Defendant breach its obligations towards the Applicant and Class Members and this under the *Consumer Protection Act*, the *Civil Code of Québec*, *An Act Respecting the Protection of Personal Information in the Private Sector* and/or the *Québec Charter of Human Rights and Freedoms*?

- e. As a result, did the Applicant and Class Members suffer damages and what is the nature of such damages?
- f. Is the Defendant liable to pay damages to the Applicant and Class Members, including monetary losses incurred, inconvenience, anxiety and other moral and/or punitive damages?
- g. In the affirmative, what is the amount of damages to be paid to the Applicant and Class Members?

V. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

75. The action that the Applicant wishes to institute on behalf of the members of the Class is an action in damages;

76. The conclusions that the Applicant wishes to introduce by way of this application for authorization are:

- a. **GRANT** the class action of the Applicant and each of the members of the Class;
- b. **CONDEMN** the Defendant to pay each of the members of the Class a sum to be determined in compensation of the damages suffered, and **ORDER** collective recovery of those sums;
- c. **CONDEMN** the Defendant to pay to each of the members of the Class punitive damages, in an amount to be determined by the Court, and **ORDER** collective recovery of those sums;
- d. **CONDEMN** the Defendant to pay interest and the additional indemnity on the above sums according to the law from the date of service of the application to authorize a class action;
- e. **ORDER** the Defendant to deposit in the office of this Court the totality of the sums which form part of the collective recovery, with interest and costs;

- f. **ORDER** that the claims of individual Class Members be the object of collective liquidation if the proof permits and, alternately, by individual liquidation;
- g. **CONDEMN** the Defendant to bear the costs of the present action including expert and notice fees;
- h. **RENDER** any other order that this Honourable Court shall determine and that is in the interests of the members of the Class.

A. The Applicant requests that he be attributed the status of representative of the Class

77. The Applicant is a member of the Class;

78. The Applicant is ready and available to manage and direct the present action in the interest of the members of the Class that he wishes to represent and is determined to lead the present action until a final resolution of the matter, the whole for the benefit of the Class, as well as, to dedicate the time necessary for the present action before the Courts and the Fonds d'aide aux actions collectives, as the case may be, and to collaborate with his attorneys;

79. Applicant has the capacity and interest to fairly, properly, and adequately protect and represent the interest of the members of the Class;

80. Applicant has given the mandate to his attorneys to obtain all relevant information with respect to the present action and intends to keep informed of all developments;

81. Applicant, with the assistance of his attorneys, is ready and available to dedicate the time necessary for this action and to collaborate with other members of the Class and to keep them informed;

82. Applicant has given instructions to his attorneys to put information about this class action on its website and to collect the coordinates of those Class Members that

wish to be kept informed and participate in any resolution of the present matter, the whole as will be shown at the hearing;

83. Applicant is in good faith and has instituted this action for the sole goal of having his rights, as well as the rights of other Class Members, recognized and protected so that they may be compensated for the damages that they have suffered as a consequence of the Defendant's conduct;

84. Applicant understands the nature of the action;

85. Applicant's interests do not conflict with the interests of other Class Members and further, Applicant has no interest that is antagonistic to those of other members of the Class;

86. Applicant is prepared to be examined out-of-court on his allegations (as may be authorized by the Court) and to be present for Court hearings, as may be required and necessary;

87. Applicant has spent time researching this issue on the internet and working with his attorneys to prepare this file. In so doing, he is convinced that the problem is widespread;

B. The Applicant suggests that this class action be exercised before the Superior Court of Justice in the district of Montréal

88. A great number of the members of the Class reside in the judicial district of Montréal;

89. The Applicant's attorneys practice their profession in the judicial district of Montréal;

90. The present application is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present application;

AUTHORIZE the bringing of a class action in the form of an application to institute proceedings in damages;

DESIGNATE the Applicant, Panagiotis Leventakis, as representative of the persons included in the Class herein described as:

“All persons residing in Québec who used Facebook mobile applications on a smartphone running the Android operating system between 2011 and 2018.”

IDENTIFY the principle issues of fact and law to be treated collectively as the following:

- a. Did the Defendant improperly collect and use the Applicant and Class Members' personal information?
- b. More particularly, did the Defendant make the Applicant and Class Members' personal information available to third parties without their consent?
- c. In so doing, was the Defendant unjustly enriched and if so, should the Defendant disgorge its profits?
- d. In so doing, did the Defendant breach its obligations towards the Applicant and Class Members and this under the *Consumer Protection Act*, the *Civil Code of Québec*, *An Act Respecting the Protection of Personal Information in the Private Sector* and/or the *Québec Charter of Human Rights and Freedoms*?
- e. As a result, did the Applicant and Class Members suffer damages and what is the nature of such damages?
- f. Is the Defendant liable to pay damages to the Applicant and Class Members, including monetary losses incurred, inconvenience, anxiety and other moral and/or punitive damages?

- g. In the affirmative, what is the amount of damages to be paid to the Applicant and Class Members?

The interests of justice favour that this application be granted in accordance with its conclusions;

IDENTIFY the conclusions sought by the class action to be instituted as being the following:

- **GRANT** the class action of the Applicant and each of the members of the Class;
- **CONDEMN** the Defendant to pay each of the members of the Class a sum to be determined in compensation of the damages suffered, and **ORDER** collective recovery of those sums;
- **CONDEMN** the Defendant to pay to each of the members of the Class punitive damages, in an amount to be determined by the Court, and **ORDER** collective recovery of those sums;
- **CONDEMN** the Defendant to pay interest and the additional indemnity on the above sums according to the law from the date of service of the application to authorize a class action;
- **ORDER** the Defendant to deposit in the office of this Court the totality of the sums which form part of the collective recovery, with interest and costs;
- **ORDER** that the claims of individual Class Members be the object of collective liquidation if the proof permits and, alternately, by individual liquidation;
- **CONDEMN** the Defendant to bear the costs of the present action including expert and notice fees;

- **RENDER** any other order that this Honourable Court shall determine and that is in the interests of the members of the Class;

DECLARE that all members of the Class that have not requested their exclusion from the Class within the prescribed delay be bound by any judgment to be rendered on the class action to be instituted in the manner provided for by the law;

FIX the delay of exclusion at thirty (30) days from the date of the publication of the notice to the Class Members, date upon which the members of the Class that have not exercised their means of exclusion will be bound by any judgment to be rendered herein;

ORDER the publication of a notice to the members of the Class in accordance with articles 576 and 579 C.C.P. within sixty (60) days from the judgment to be rendered herein in *La Presse*, the *Montreal Gazette* and *Le Soleil*;

ORDER that said notice be sent directly to all Class Members through the use of the Defendant's customer databases, as well as posting the said notice on the Defendant's website at www.facebook.com and its Twitter account(s) with a link stating "*Notice to persons in Québec who have used Facebook apps on a smartphone running the Android operating system between 2011 and 2018*";


RENDER any other order that this Honourable Court shall determine and that is in the interest of the members of the Class;

THE WHOLE with costs, including all publication fees.

TRUE COPY


Klein Avocats Plaideurs Inc.

Montréal, July 31, 2018


Klein Avocats Plaideurs Inc.
500, Place d'Armes, suite 1800
Montréal, Québec, H2Y 2W2
Attorneys for the Applicant

SUMMONS

(articles 145 and following C.C.P.)

Filing of a judicial application

Take notice that the applicant has filed this originating application in the office of the Superior Court in the judicial district of Montréal.

Defendant's answer

You must answer the application in writing, personally or through a lawyer, at the Montréal courthouse situated at 1, Notre-Dame Est, Montréal, Québec, H2Y 1B6 within 15 days of service of the application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the applicant's lawyer or, if the applicant is not represented, to the applicant.

Failure to answer

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgement may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

Content of answer

In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the Code, cooperate with the applicant in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of the summons or, in family matters or if you have no domicile, residence or establishment in Québec, within 3 months after service;
- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

Change of judicial district

You may ask the court to refer the originating application to the district of your domicile or residence, or of your elected domicile or the district designated by an agreement with the applicant.

If the application pertains to an employment contract, consumer contract or insurance contract, or to the exercise of a hypothecary right on an immovable serving as your main residence, and if you are the employee, consumer, insured person, beneficiary of the insurance contract or hypothecary debtor, you may ask for a referral to the district of your domicile or residence or the district where the immovable is situated or the loss occurred. The request must be filed with the special clerk of the district of territorial jurisdiction after it has been notified to the other parties and to the office of the court already seized of the originating application.

Transfer of application to Small Claims Division

If you qualify to act as an applicant under the rules governing the recovery of small claims, you may also contact the clerk of the court to request that the application be processed according to those rules. If you make this request, the applicant's legal costs will not exceed those prescribed for the recovery of small claims.

Calling to a case management conference

Within 20 days after the case protocol mentioned above is filed, the court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing this, the protocol is presumed to be accepted.

Exhibits supporting the application

In support of the originating application, the Applicant intends to use the following exhibits:

EXHIBIT P-1:	Facebook, Inc. corporate search results, <i>en liasse</i>
EXHIBIT P-2:	Excerpt of the Defendant's website regarding its company info and infographic released by the Defendant, <i>en liasse</i>
EXHIBIT P-3:	Defendant's press release dated August 9, 2011
EXHIBIT P-4:	Defendant's press release dated April 4, 2013
EXHIBIT P-5:	Defendant's press release dated June 4, 2015

EXHIBIT P-6:	Google Play Store Policies
EXHIBIT P-7:	Excerpt from Developers' website on Android Version 4.1
EXHIBIT P-8:	Excerpts of Developers' website on Android OS version 4.1, API level 16 and manifest permission, <i>en liasse</i>
EXHIBIT P-9:	Ars Technica publication dated March 24, 2018 and updated March 25, 2018
EXHIBIT P-10:	Defendant's press releases dated March 25, 2018 and April 4, 2018, <i>en liasse</i>
EXHIBIT P-11:	BuzzFeed news article dated March 29, 2018
EXHIBIT P-12:	News articles published by CNET and The Guardian and civil cover sheet and docket of <i>Williams et al. v. Facebook, Inc.</i> , 3:18-cv-01881-RS (U.S. District Court – California Northern District), <i>en liasse</i>
EXHIBIT P-13:	Printout of the Applicant's Facebook profile
EXHIBIT P-14:	Copies of the Applicant's mobile device receipts, <i>en liasse</i>

These exhibits are available on request.

Notice of presentation of an application

If the application is an application in the course of a proceeding or an application under Book III, V, excepting an application in family matters mentioned in article 409, or VI of the Code, the establishment of a case protocol is not required; however, the application must be accompanied by a notice stating the date and time it is to be presented.

CANADA

SUPERIOR COURT
(Class Action Chambers)

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-06-000938-189

PANAGIOTIS LEVENTAKIS [REDACTED]
[REDACTED]
[REDACTED]

Applicant

v.

FACEBOOK, INC., legal person having
its principal place of business at 1
Hacker Way, Menlo Park, California,
94025, USA

Defendant

NOTICE OF PRESENTATION
(ART 146 and 574 al. 2 C.C.P.)

TO : Facebook, Inc., legal person
having its principal place of business
at 1 Hacker Way, Menlo Park,
California, 94025, USA
Defendant

TAKE NOTICE that the *Application for authorization to institute a class action and to obtain the status of representative* will be presented before one of the honourable judges of the Superior Court at the Montréal Courthouse located at 1, Notre-Dame Est, at a date and time to be determined by the Class Action Chambers coordinator.

GOVERN YOURSELF ACCORDINGLY.

TRUE COPY

Montréal, July 31, 2018

Klein Avocats Plaideurs Inc.
Klein Avocats Plaideurs Inc.

Klein Avocats Plaideurs Inc.
Klein Avocats Plaideurs Inc.
Attorneys for the Applicant

CANADA

SUPERIOR COURT
(Class Action Chambers)

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-06-000938-189

PANAGIOTIS LEVENTAKIS [REDACTED]
[REDACTED]
[REDACTED]

Applicant

v.

FACEBOOK, INC., legal person having
its principal place of business at 1
Hacker Way, Menlo Park, California,
94025, USA

Defendant

ATTESTATION OF ENTRY IN THE NATIONAL CLASS ACTION REGISTER
(ART 55 of the *Regulation of the Superior Court of Québec in civil matters*)

The Applicant, through his attorneys, attests that the *Application for authorization to institute a class action and to obtain the status of representative* will be entered into the national class action register.

Montréal, July 31, 2018


Klein Avocats Plaideurs Inc.
Attorneys for the Applicant

TRUE COPY


Klein Avocats Plaideurs Inc.