

CANADA

SUPERIOR COURT
(Class Action Chambers)

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

SERGIO LIMA, residing and domiciled
at _____

No.: 500-06-000941-183

Applicant

v.

GOOGLE LLC, legal person, having its
head office at 1600 Amphitheatre
Parkway, Mountain View, California
94043, 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 class hereinafter described and of which the Applicant is a member, namely:

“All persons residing in Québec who owned or used a smartphone running the Android operating system in 2017, or any other group to be determined by the Court.”

A. Overview

2. In 2017, Google LLC (“Google”) began collecting location data from users of the Android mobile operating system (“Android OS”). Google collected the data from all users of all smartphones running the Android OS. Google collected the information

even when users had not enabled or had disabled location services and even when users' smartphones did not contain a SIM card and despite the fact that Google does not have a contractual relationship with users for the use of the Android OS. Google collects, uses, retains and commercialises the location data it takes from users and profits from it. Google's wrongful acts violated *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 Google accountable for this unlawful conduct.

B. The Parties

3. The Defendant Google is a Delaware limited liability company with its principal place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043, USA. Google carries on business worldwide, including in Québec and Canada. Google is a subsidiary of Alphabet Inc., the whole as appears from the corporate search results disclosed as **Exhibit P-1**.
4. The Applicant, Sergio Lima, is a resident of [REDACTED] Québec. At all material times, he used a Samsung Galaxy S7 Edge smartphone that runs the Android OS.

C. Android OS

5. Smartphones require software to operate. Google's Android OS is the mobile platform software employed by a majority of handset original equipment manufacturers ("**OEMs**") to provide an operating system and user interface. Smartphones made by OEMs, including but not limited to, Samsung, LG, Sony, HTC, Blackberry, and Google itself, all run the Android OS. A majority of smartphones in Canada run the Android OS.
6. Google develops and maintains the Android OS. Google retains control over and responsibility for the development and maintenance of the Android OS. However, the Android OS is distributed under a free (*libre*) and open-source license. Users acquire copies of the Android OS from their cellular carrier or handset OEM and not from Google. OEMs or other intermediaries are free to make some modifications to the Android OS installed on a particular handset, although certain parts of the Android OS can be modified only by Google or with its permission.
7. Google does not have a direct contractual relationship with users of the Android OS covering the terms of use for that software. If users choose to run Google services on their smartphones, such as Gmail, the Google Play store, Google Maps or other applications, the use of those services may be governed by Google's Terms of

Service. The use of the Android OS itself by an end-user on a smartphone manufactured by a company other than Google is not covered by Google's Terms of Service or its Privacy Policy.

D. The Unauthorized Collection of Location Data by Google

8. In early 2017, Google began a program of mass user surveillance by collecting the addresses of nearby cellular towers from smartphone users using the Android OS and sending that data back to Google using a sophisticated communication protocol.
9. The data collected by Google enabled it to identify an individual user's locations and movements ("**Location Data**"). While information about a single cellular tower can only offer an approximation of where a mobile handset actually is, data from multiple towers can be used to triangulate a smartphone's location. Google collected Location Data about persons in Québec, including the Applicant and Class Members.
10. The Location Data was collected when users were not using applications and even when location services were disabled on users' smartphones. Handsets with a cellular data or WIFI connection sent the Location Data to Google each time they came within range of a new cellular tower. When handsets were connected to a WIFI network, they would send the Location Data to Google even if they did not have SIM cards installed.
11. Google's decision to collect the Location Data was planned and deliberate and was made knowing that users had not consented to, and were not aware of, its collection.
12. Consumers cannot disable the transmission of this information by their smartphones.
13. Google collected, retained and used the data for its own benefit.
14. Consumers had no notice or knowledge that Google was collecting, retaining, or using the Location Data. The wrongdoing was ultimately reported to the public by journalists in *Quartz* and *Mashable*, as appears from news articles dated November 21, 2017 and disclosed, *en liasse*, as **Exhibit P-2**. Google has since confirmed it collected the data, but denies any misconduct, as appears from its letter dated January 12, 2018 to the United States Senate Office, Attachment 2 of documents submitted by the Senate to the Federal Trade Commission, disclosed as **Exhibit P-3**.
15. The collection, retention and use of Location Data by Google were unauthorized. As Google does not have a direct contractual relationship with users of the Android OS

for their use of the software itself, users have not given permission to Google to collect any data about them from the use of their smartphones acquired from third-party carriers and OEMs. At no time have users consented to the collection, retention or use of the Location Data by Google.

16. As a result of the unauthorized collection, retention and use of the Location Data, the Applicant and Class Members have been deprived by:

- a. suffering a loss and violation of privacy;
- b. the facilitation of surveillance by hackers or undesirable state actors; and
- c. in the case of persons for whom their location needs to be kept secret, such as victims of abuse, journalists meeting with confidential sources, or undercover police operatives, an increased risk of personal harm from disclosure.

17. As a result of the unauthorized collection, retention and use of the Location Data, Google has been enriched by:

- a. selling advertising to third parties on the basis of the Location Data for display to users of the Android OS;
- b. selling the Location Data to third parties;
- c. selling customer profiles containing the Location 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 Google to track users who do not otherwise use Google services, or to track users who have disabled location services on other Google services that they use.

18. Collecting, retaining and using the Location Data was in Google's economic interest and provided it with a competitive advantage in the marketplace.

19. Google routinely shares information collected about users with government bodies, including U.S. government intelligence agencies.

20. Google has admitted to collecting the Location Data.

21. Once its wrongdoing was uncovered, Google claimed that it would stop collecting the Location Data at the end of November 2017.

22. Google is the subject of proceedings in British Columbia and Ontario in relation to its misconduct, as appears from said proceedings disclosed, *en liasse*, as **Exhibit P-4**.
23. Google's abusive practices are part of a pattern of conduct by it and other technology companies with respect to users' privacy, that have been the subject of negative findings by, *inter alia*, Canada's Privacy Commissioner, as appears from copies of the Commissioner's Findings in 2011 and 2014 and disclosed, *en liasse*, as **Exhibit P-5**.

E. 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

24. The Applicant and Class Members' Location data, 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*.
25. 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.
26. The Defendant breached its obligations in omitting to protect the Applicant and Class Members' personal information and by collecting, retaining, using and providing and selling, to third parties, the Applicant and Class Members' personal information without their consent and without ever disclosing its actions to them.
27. More particularly, the Defendant breached articles 10 and 13, 14 and 17 of *An Act Respecting the Protection of Personal Information in the Private Sector*.
28. 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*.

29. As a result of the aforementioned breaches by Google, the Applicant and Class Members are entitled to damages.

Breach of obligations under the Consumer Protection Act

30. Through its actions as set out above, Google breached the *Consumer Protection Act*.

31. 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.

32. 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

33. 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*.

34. 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.

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

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

37. 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

38. 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.

39. 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

40. By its conduct set out above, the Defendant has been enriched by the collection, retention and use of the Location Data from the Applicant and Class Members. Google has profited from the commercialisation and use of the Location Data taken from the Applicant and Class Members, as set out in more detail at paragraph 17 above.

41. 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.

42. There is no justification as to why Google should have received or should retain this benefit. The unauthorized collection, retention and use by Google of the Location Data were carried out in violation of the applicable legislation as set forth above, as well as of the *Criminal Code*.

43. In particular, Location Data falls within the definition of “private communication” under the *Criminal Code*, s 183. The unauthorized collection, retention and use by Google of the Location Data constitute interception within the meaning of the *Criminal Code*, s 184. In addition, or in the alternative, the unauthorized collection, retention and use by Google of the Location Data constitutes use and disclosure within the meaning of the *Criminal Code*, s 193.

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

45. As a result, Google 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

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

- a. The Applicant is Director of Customer Success for an IT company.
- b. The Applicant used a Samsung Galaxy S7 Edge from May 2016 to early 2018, as appears from an excerpt of the Applicant’s subscriber information from the Rogers website, disclosed as **Exhibit P-6**. Said smartphone uses the Android operating system.
- c. At all material times, while the Applicant has been using Android OS on his smartphone, Google has been collecting his Location Data and disclosing this personal information, and this without his consent.

- d. As Google never disclosed that it collects Location Data, the Applicant did not and could not know, and had no reason to believe, that his Location Data would be collected and used by Google without his knowledge and consent.
- e. Had the Applicant known that Google had a practice of collecting his Location Data, the Applicant would have used his phone on different terms.
- f. The Applicant was within his rights to believe that Google would protect his personal information according to its legal obligations in this regard.
- g. Although the Applicant never consented to Google collecting, using and selling his Location Data, upon information and belief, Google 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.
- h. As a result of Google's conduct, the Applicant suffered damages, including monetary losses, inconvenience and anxiety.

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

48. 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 GROUP

49. 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 a smartphone running the Android operating system in 2017;
- b. Each Class Member's privacy was violated by the Defendant's unlawful, unfair, abusive and/or misleading acts and practices and intentional and malicious conduct;
- c. The 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:

50. All of these 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

51. The Applicant is not privy to the specific number of persons residing in Québec who owned or used a smartphone running the Android operating system in 2017. However, given that the Android operating system is used by approximately half of Canadians, it is reasonable to assume that the class number is 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.

52. Class Members are numerous and are scattered across the entire province.

53. 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.

54. By their very nature, wrongdoing in the smartphone market affects 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.

55. 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.

56. 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 restores the parties to parity.

57. 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.

58. 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.

59. 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

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

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

62. 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. 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

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

64. The conclusions that the Applicant wishes to introduce by way of an application to institute proceedings 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

- 65. The Applicant is a member of the Class.
- 66. 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.
- 67. Applicant has the capacity and interest to fairly, properly, and adequately protect and represent the interest of the members of the Class.
- 68. 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.
- 69. 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.
- 70. 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.
- 71. 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.
- 72. Applicant understands the nature of the action.
- 73. 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.

74. 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.

75. Applicant has spent time researching this issue on the internet and meeting 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 in the district of Montréal

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

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

78. 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, Sergio Lima, as representative of the persons included in the Class herein described as:

"All persons residing in Québec who owned or used a smartphone running the Android operating system in 2017."

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. 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, within the specified timeframe, 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 group 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 database, as well as posting the said notice on the Defendant's website at www.google.ca and at www.android.com;

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.

Montréal, August 15, 2018



Klein Avocats Plaideurs Inc.

500, Place d'Armes, suite 1800

Montréal, Québec

H2Y 2W2

Attorneys for the Applicant

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Klein Avocats Plaideurs Inc.

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 Montreal 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:	Corporate search results for Google LLC
EXHIBIT P-2:	<i>En liasse</i> , news articles published by Quartz and Mashable both dated November 21, 2017
EXHIBIT P-3:	Letter dated January 12, 2018 from Google to the United States Senate Office, Attachment 2 of documents submitted by the Senate to the Federal Trade Commission
EXHIBIT P-4:	<i>En liasse</i> , proceedings in <i>Warner v. Google</i> (BCSC) and <i>Emond et al. v. Google</i> (ONSC)
EXHIBIT P-5:	<i>En liasse</i> , reports of the Office of the Privacy Commissioner of Canada concerning Google's use of sensitive health information (PIPEDA Report of Findings #2014-001) and Google's collection of WiFi data (PIPEDA Report of Findings #2011-001)
EXHIBIT P-6:	Excerpt of the Applicant's subscriber information from the Rogers website

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

SERGIO LIMA

Applicant

No: 500-06-000941-183

v.

GOOGLE LLC, legal person, having its
head office at 1600 Amphitheatre
Parkway, Mountain View, California
94043, USA

Defendant

NOTICE OF PRESENTATION

(ART 146 and 574 al. 2 C.C.P.)

TO : **GOOGLE LLC**, legal person
having its head office at
1600 Amphitheatre Parkway,
Mountain View, California 94043, 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 Montreal Courthouse located at 1, Notre-Dame Est, at a date and time to be determined by the Class Action Chambers coordinator.

GOVERN YOURSELF ACCORDINGLY.

Montréal, August 15, 2018



Klein Avocats Plaideurs Inc.
Attorneys for the Applicant

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Klein Avocats Plaideurs Inc.

CANADA

SUPERIOR COURT
(Class Action Chambers)

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

SERGIO LIMA

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No: 500-06-000941-183

v.

GOOGLE LLC, legal person, having its
head office at 1600 Amphitheatre
Parkway, Mountain View, California
94043, 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, August 15, 2018



Klein Avocats Plaideurs Inc.
Attorneys for the Applicant

TRUE COPY


Klein Avocats Plaideurs Inc.