

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: **500-06-001132-212**

SUPERIOR COURT
(Class Actions)

GABRIEL BOURGEOIS

Plaintiff

v.

ELECTRONIC ARTS INC.
-and-
ELECTRONIC ARTS (Canada)
-and-
ACTIVISION BLIZZARD INC.
-and-
ACTIVISION PUBLISHING INC.
-and-
BLIZZARD ENTERTAINMENT INC.
-and-
**TAKE TWO INTERACTIVE SOFTWARE
INC.**
-and-
**TAKE TWO INTERACTIVE CANADA
HOLDINGS INC.**
-and-
2K GAMES INC.
-and-
ROCKSTAR GAMES INC.
-and-
WARNER BROS. ENTERTAINMENT INC.
-and-
**WARNER BROS ENTERTAINMENT
CANADA INC.**
-and-
**WARNER BROS. HOME
ENTERTAINMENT INC.**
-and-
UBISOFT ENTERTAINMENT SA
-and-
UBISOFT INC.
-and-
**UBISOFT ENTERTAINMENT
INC./UBISOFT DIVERTISSEMENTS INC.**
-and-
MICROSOFT CORPORATION
-and-

MICROSOFT CANADA INC.
-and-
EPIC GAMES INC.
-and-
EPIC GAMES CANADA ULC
-and-
SCOPELY INC.
-and-
NIANTIC INC.
-and-
KING DIGITAL ENTERTAINMENT
GROUP INC.
-and-
KING.COM LTD.
-and-
ZYNGA INC.
-and-
ZYNGA GAME CANADA LTD.

Defendants

**APPLICATION (2) BY THE TAKE-TWO DEFENDANTS FOR LEAVE TO
ADDUCE RELEVANT EVIDENCE
(Art. 574, para. 3 C.C.P.)**

TO THE HONOURABLE JUSTICE SYLVAIN LUSSIER, J.S.C. OF THE SUPERIOR COURT, SITTING IN AND FOR THE DISTRICT OF MONTRÉAL, THE DEFENDANTS TAKE-TWO INTERACTIVE SOFTWARE INC., TAKE-TWO INTERACTIVE CANADA HOLDINGS INC., 2K GAMES INC. AND ROCKSTAR GAMES INC. RESPECTFULLY SUBMIT AS FOLLOWS:

I. INTRODUCTION

1. Defendants Take-Two Interactive Software Inc., Take-Two Interactive Canada Holdings Inc., 2K Games Inc. and Rockstar Games Inc. (collectively referred to as the “**Take-Two Defendants**”) hereby seek leave from this Honourable Court to adduce new relevant evidence made necessary by the Plaintiff’s filing of a third amended application for authorization to institute a class action and to obtain the status of representative plaintiff.

II. PROCEDURAL BACKGROUND

2. On March 2, 2021, Plaintiff Gabriel Bourgeois (the “**Plaintiff**”) filed the *Application for Authorization to Institute a Class Action & to Obtain the Status of*

Representative Plaintiff (the “**Application for Authorization**”) seeking leave to institute a class action against, *inter alia*, the Take-Two Defendants.

3. In his Application for Authorization, Plaintiff claims that the Take-Two Defendants as well as numerous other video game publishers and developers operate an unlicensed and illegal gaming system through the loot boxes that are allegedly offered in certain video games that they make available to the public.
4. Plaintiff claims that the Take-Two Defendants committed the following faults related to the alleged offering of loot boxes in their video games:
 - (a) The Take-Two Defendants would have operated an unlawful gaming system by “offering and operating the loot boxes in breach of the [Canadian] *Criminal Code*”;
 - (b) The Take-Two Defendants would have concealed the odds of winning for their loot boxes;
 - (c) The Take-Two Defendants would have failed to implement safeguards to prevent minors from playing the loot boxes;
 - (d) The Take-Two Defendants would have made high-value items that affect gameplay available exclusively from loot boxes, thereby forcing the proposed class members to play the loot boxes;
 - (e) The Take-Two Defendants would have advertised an illegal internet gaming site;
 - (f) The Take-Two Defendants would have failed to promote responsible gaming;
 - (g) The Take-Two Defendants would have used various methods to encourage the use of the loot boxes by the proposed class members, namely dynamic difficulty adjustment, matchmaking optimization and dynamic pricing.
5. In his Application for Authorization, Plaintiff seeks from the Take-Two Defendants restitution of the sums allegedly spent on loot boxes by the proposed class members as well as compensatory damages and punitive damages.
6. The Take-Two Defendants strongly deny these allegations and sought leave to adduce relevant evidence into the record as part of their opposition to the authorization of the class action.
7. On August 7, 2025, the Court authorized the Take-Two Defendants to file evidence for the authorization hearing.
8. On May 1, 2026, following the filing of the evidence pursuant to the August 7, 2025 authorization, the Plaintiff filed a Third Amended Application for Authorization to

Institute a Class Action and to Obtain the Status of Representative Plaintiff (the “**Third Amended Application for Authorization**”). The Third Amended Application for Authorization notably relies on additional exhibits, including Exhibit P-57B, and introduces new or expanded allegations concerning the Take-Two Defendants’ titles.

9. The additional allegations and exhibits advanced in the Third Amended Application for Authorization make it necessary for the Take-Two Defendants to file a further sworn statement from Erick Boenisch, Vice President of NBA Development at Visual Concepts, dated July 10, 2026, a copy of which is filed herewith as **Exhibit TT-3** (the “**Boenisch Affidavit**”), in order to correct incomplete, inaccurate, or misleading allegations regarding the Take-Two Defendants’ titles.

III. EVIDENCE TO RESPOND TO THE THIRD AMENDED APPLICATION FOR AUTHORIZATION

10. The Boenisch Affidavit responds to the Third Amended Application for Authorization and the Plaintiff’s reliance on the sworn declaration of Eamon Garrett and Exhibit P-57B, which pertains to the Take-Two Defendants’ affected titles, including *WWE 2K20*.
11. More specifically, the Boenisch Affidavit explains the nature and operation of the *MyPlayer KickStart* downloadable content for *WWE 2K20*, including the virtual items and bonuses it provided to users. It clarifies that this content could only be redeemed once per game account, a material detail that is not specified in Eamon Garrett’s declaration or in Exhibit P-57B.
12. This evidence is therefore narrowly tailored and directly responsive to incomplete or potentially misleading evidence advanced in support of the Third Amended Application for Authorization, which the Take-Two Defendants had no prior opportunity to address or correct.
13. The Boenisch Affidavit will assist the Court in assessing whether the authorization criteria of article 575 C.C.P. are met, including whether the Plaintiff has demonstrated an arguable case against the Take-Two Defendants in light of the allegations and evidence now contained in the Third Amended Application for Authorization.
14. These clarifications are essential to provide the Court with a fair and accurate understanding of the Take-Two Defendants’ titles and to address the allegations and exhibits newly relied upon by the Plaintiff.
15. The Take-Two Defendants submit that the Boenisch Affidavit falls within the type of limited, useful and contextual evidence that may be adduced at the authorization stage, as already recognized by this Court in its August 7, 2025 judgment authorizing the Defendants to file evidence.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

- A. GRANT** the present *Application (2)* by the *Take-Two Defendants* for *Leave to Adduce Relevant Evidence*;
- B. AUTHORIZE** Take-Two Interactive Software Inc., Take-Two Interactive Canada Holdings Inc., 2K Games Inc. and Rockstar Games Inc. to adduce at the authorization hearing the sworn statement of Erick Boenisch, Vice President of NBA Development at Visual Concepts, dated July 10, 2026 (**Exhibit TT-3**), in addition to the evidence already authorized by the judgment of this Court dated August 7, 2025;
- C. THE WHOLE** without legal costs, save in case of contestation.

Montréal, August 31, 2026



Borden Ladner Gervais LLP

Lawyers for Defendants Take-Two
Interactive Software Inc., Take-Two
Interactive Canada Holdings Inc., 2K
Games Inc. and Rockstar Games Inc.

Mtre. Patrick Plante

Mtre. François Grondin

Mtre. Antoine Gamache

1000 De La Gauchetière Street West
Suite 900

Montréal (Québec) H3B 5H4

Tel.: 514.954.3180

Fax: 514.954.1905

Email: pplante@blg.com

fgrondin@blg.com

agamache@blg.com

O/File: 299135.000003

NOTICE OF PRESENTATION

Mtres. Saro Jupiter Turner
Mtre Andrea Roulet
Slater Vecchio LLP
sjt@slatervecchio.com
acr@slatervecchio.com

Lawyers for Plaintiff

Mtre Éric C. Lefebvre
Mtre Henri Barbeau
Norton Rose Fulbright Canada LLP
eric.lefebvre@nortonrosefulbright.com
henri.barbeau@nortonrosefulbright.com

Lawyers for Activision Blizzard Inc.,
Activision Publishing Inc. and Blizzard
Entertainment Inc.

Mtre Margaret Weltrowska
Mtre Érica Shadeed
Dentons Canada LLP
margaret.weltrowska@dentons.com
erica.shadeed@dentons.com

Lawyers for Niantic Inc.

Mtre Simon Jun Seida
Mtre Anthony Cayer
Blake Cassels & Graydon LLP
simon.seida@blakes.com
anthony.cayer@blakes.com

Lawyers for Warner Bros Entertainment
Canada Inc. and Warner Bros Home
Entertainment Inc.

Mtre Karine Chênevert
Mtre Amanda Afeich
Borden Ladner Gervais LLP
kchenevert@blg.com
aafeich@blg.com

Lawyers for Electronic Arts Inc. and
Electronic Arts (Canada) Inc.

Mtre Jean Lortie
Mtre Sajeda Hedaraly
McCarthy Tétrault LLP
jlortie@mccarthy.ca
shedaraly@mccarthy.ca

Lawyers for Scopely Inc.

Mtre Myriam Brixi
Lavery, de Billy, LLP
mbrixi@lavery.ca

Lawyers for Ubisoft Entertainment S.A.,
Ubisoft Inc and Ubisoft Divertissements
Inc.

Mtre Sébastien Richemont
Mtre Mirna Kaddis
Fasken Martineau DuMoulin LLP
srichemont@fasken.com
mkaddis@fasken.com

Lawyers for Microsoft Corporation and
Microsoft Canada Inc.

TAKE NOTICE that the *Application (2) by the Take-Two Defendants for Leave to Adduce Relevant Evidence* shall be presented at the Montréal Courthouse, situated at 1 Notre-Dame Street East, Montréal, on a date and time to be determined.

PLEASE GOVERN YOURSELVES ACCORDINGLY.

Montréal, August 31, 2026



Borden Ladner Gervais LLP

Lawyers for Defendants Take-Two
Interactive Software Inc., Take-Two
Interactive Canada Holdings Inc., 2K
Games Inc. and Rockstar Games Inc.

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class action)

No.: **500-06-001132-212**

GABRIEL BOURGEOIS

Petitioner

v.

ELECTRONIC ARTS INC.

-and-

ELECTRONIC ARTS (Canada)

-and-

ACTIVISION BLIZZARD INC.

-and-

ACTIVISION PUBLISHING INC.

-and-

BUZZARD ENTERTAINMENT INC.

-and-

**TAKE TWO INTERACTIVE SOFTWARE
INC.**

-and-

**TAKE TWO INTERACTIVE CANADA
HOLDINGS INC.**

-and-

2K GAMES INC.

-and-

ROCKSTAR GAMES INC.

-and-

WARNER BROS. ENTERTAINMENT INC.

-and-

**WARNER BROS ENTERTAINMENT
CANADA INC.**

-and-

**WARNER BROS. HOME
ENTERTAINMENT INC.**

-and-

UBISOFT ENTERTAINMENT SA

-and-

UBISOFT INC.

-and-

**UBISOFT ENTERTAINMENT
INC./UBISOFT DIVERTISSEMENTS INC.**

-and-

MICROSOFT CORPORATION

-and-

MICROSOFT CANADA INC.
-and-
EPIC GAMES INC.
-and-
EPIC GAMES CANADA ULC
-and-
SCOPELY INC.
-and-
NIANTIC INC.
-and-
**KING DIGITAL ENTERTAINMENT
GROUP INC.**
-and-
KING.COM LTD.
-and-
ZYNGA INC.
-and-
ZYNGA GAME CANADA LTD.

Respondents

SWORN STATEMENT (2) OF ERICK BOENISCH

I, the undersigned, Erick Boenisch, Vice President of NBA Development at Visual Concepts and exercising my profession at 10 Hamilton Landing, Novato, California 94949, United States of America, declare under oath that:

1. As a result of my functions at Visual Concepts, I have personal knowledge of the matters hereinafter deposed to, except where I have obtained information from others, in which case, I believe the information to be true.
 2. I make this sworn statement in response to the *Third Amended Application for Authorization to Institute a Class Action and to Obtain the Status of Representative Plaintiff*, as well as the *Sworn Declaration of Eamon Garrett* (Exhibit P-57), including Exhibit P-57B, which discusses the Affected Titles.
 3. This sworn statement shall be read in conjunction with my sworn statement dated September 15, 2023.
- A. WWE 2K20**
4. Users of WWE 2K20 Standard Edition were able to purchase a DLC add-on called "MyPLAYER KickStart". MyPLAYER KickStart was also included for free as part

of WWE 2K20 Smackdown 20th Anniversary Edition and WWE 2K20 Deluxe Edition.

5. MyPLAYER KickStart provided the user with virtual items and character bonuses in the game's MyCAREER mode. It could only be applied once per MyCAREER playthrough, and it could be re-applied if the user started a new MyCAREER playthrough.
6. MyPLAYER KickStart provided the following virtual items and bonuses:
 - (a) 25 Attribute Points and 8 Skill Points to enhance the attributes of the player's custom character;
 - (b) All Boost Slots are unlocked, plus 15 Boosts, which are consumable virtual items that temporarily boost the custom character's performance; and
 - (c) 2,000 Tokens, 400 Deluxe Tokens, and 25,000 VC.
7. The virtual items and bonuses identified at subparagraphs (a) and (b) above could not be used to obtain card packs.

AND I HAVE SIGNED in Novato, California, on July 10, 2026:

Erick Boenisch

ERICK BOENISCH

Declared under oath remotely before me by
technological means in Chateauguay, QC, on
July 10th, 2026

Elizabeth Clark

222 524
Elizabeth Clark
COMMISSAIRE À
L'ASSERMENTATION
Pour le Québec et pour
l'extérieur du Québec

ELIZABETH CLARK

Commissioner for Oaths for Québec and for outside of Québec # 222,524

Latreille, Linda

De: Latreille, Linda
Envoyé: August 31, 2026 1:53 PM
À: sjt@slatervecchio.com; acr@slatervecchio.com; 'eric.lefebvre@nortonrosefulbright.com'; 'henri.barbeau@nortonrosefulbright.com'; Chênevert, Karine; Afeich, Amanda; 'margaret.weltrowska@dentons.com'; 'erica.shadeed@dentons.com'; 'jlortie@mccarthy.ca'; 'shedaryl@mccarthy.ca'; 'simon.seida@blakes.com'; 'anthony.cayer@blakes.com'; 'mbrixi@lavery.ca'; 'srichemont@fasken.com'; 'mkaddis@fasken.com'
Cc: Grondin, François; Plante, Patrick; Gamache, Antoine
Objet: NOTIFICATION: Application (2) by Take-Two for Leave to Adduce Evidence and Exhibit TT-3 - C.S.: 500-06-001132-212 -
Pièces jointes: 2026-08-31 - Application (2) for Leave to Adduce Evidence.pdf

**NOTIFICATION BY ELECTRONIC
COURIER TRANSMISSION SLIP
(ARTICLE 134 C.P.C.)**

DATE:

Montréal, August 31, 2026

SENDER:

Name: Mtres. François Grondin / Patrick Plante / Antoine Gamache
Firm: **BORDEN LADNER GERVAIS LLP**
Address: 1000 De La Gauchetière St. West, Suite 900
Montréal, Québec, H3B 5H4
Lawyers for Respondents, Zynga Inc., Zynga Games Canada Ltd., Take Two Interactive Canada Holdings Inc. Take Two Interactive Software Inc., 2K Games Inc. and Rockstar Games Inc.
Telephone: 514.879.1212
Direct line: 514.954.3153 / 514.954.2527 / 514.954.2519
Email address: fgrondin@blg.com / pplante@blg.com / agamache@blg.com
Our file: 299185.000003

ADDRESSEE(S):

Name: Mtres. Saro Jupiter Turner / Andrea Roulet /
Firm: **SLATER VECCHIO LLP**
Address: 5352 Saint-Laurent Blvd.
Montréal, Québec H2T 1A1
Lawyers for Petitioner
Telephone: 514.534.0962
Email address: sjt@slatervecchio.com
acr@slatervecchio.com

Name: Mtres. Eric Christian Lefebvre / Henri Barbeau
Firm: **NORTON ROSE FULBRIGHT**
Address: 1 Place Ville Marie, Suite 2500
Montréal, Québec H3B 1R4
Lawyers for Respondents Activision Blizzard Inc. Activision Publishing Inc. and Blizzard Entertainment Inc.
Telephone: 514.915.4891 / 514.847.4495
Email address: eric.lefebvre@nortonrosefulbright.com / henri.barbeau@nortonrosefulbright.com

Name: Mtres. Karine Chênevert / Amanda Afeich
Firm: **BORDEN LADNER GERVAIS LLP**
Address: 1000 De La Gauchetière St. West, Suite 900
Montréal, Québec, H3B 5H4
Lawyers for Respondents Electronic Arts, Inc. and Electronic Arts (Canada) Inc.
Telephone: 514.954.3136 / 514.954.3180
Email address: kchenevert@blg.com / aafeich@blg.com

Name: Mtres. Margaret Weltrowska / Erica Shadeed
Firm: **DENTONS CANADA**
Address: 3900-1 Place Ville Marie
Montréal, Québec, H3B 3P4
Lawyers for Respondent Niantic Inc.
Telephone: 514.878-5841 / 514.878.4191
Email address: margaret.weltrowska@dentons.com / erica.shadeed@dentons.com

Name: Mtres. Jean Lortie / Sajeda Hedaraly
Firm: **MCCARTHY TÉTRAULT**
Address: 1000 De La Gauchetière St. West, Suite 3500
Montréal, Québec, H3B 0A2
Lawyers for Respondent Scopely Inc.
Telephone: 514.397.4273 / 514.397.4120
Email address: jlortie@mccarthy.ca / shedaraly@mccarthy.ca

Name: Mtres Simon Seida / Anthony Cayer
Firm: **BLAKE CASSELS & GRAYDON**
Address: 3000-1 Place Ville Marie
Montréal, Québec H3B 4N8
Lawyers for Respondents Warner Bros Entertainment Inc., Warner Bros. Entertainment Canada Inc. and Warner Bros Home Entertainment Inc.
Telephone: 514.982.4014 / 514.982.4103
Email address: simon.seida@blakes.com / anthony.cayer@blakes.com

Name: Miriam Brix
Firm: **LAVERY DE BILLY**
Address: 4000-1 Place Ville-Marie
Montréal, Québec H3B 4M4
Lawyers for Respondents Ubisoft Entertainment SA, Ubisoft Inc. and Ubisoft Divertissements Inc.
Telephone: 514.878.5449, poste 3308

Email address: mbixi@lavery.ca

Name: Mtres. Sébastien Richemont / Mirna Kaddis
Firm: **FASKEN MARTINEAU LLP**
Address: 800 Victoria Square, Suite 3500
Montréal, Québec H4Z 1E9
Lawyers for Respondents Microsoft Corporation and Microsoft Canada Inc.
Telephone: 514.397.5121 / 514.397.4521 / 514.397.7484
Email address: srichemont@fasken.com / mkaddis@fasken.com

COURT FILE NUMBER AND NATURE OF THE NOTIFIED DOCUMENT:

Record number: 500-06-001132-212
Parties: *Gabriel Bourgeois v. Electronic Arts et al.*
Nature of the document: Application (2) by Take-Two for Leave to Adduce Evidence and Exhibit TT-3

Number of pages: 11
(attachments only)



Linda Latreille

Adjointe à la pratique de / Practice Assistant to
Me Patrick Plante, Me Antoine Gamache et Me Élie Désilets
T 514.954.2555 # 27754 F. 514.954.1905 | LLatreille@blg.com
1000, rue De La Gauchetière Ouest, bureau / suite 900, Montréal, QC, Canada H3B 5H4
notification@blg.com

BLG | Vos avocats au Canada | Canada's Law Firm
Calgary | Montréal | Ottawa | Toronto | Vancouver
blg.com | Pour gérer vos préférences de communications ou vous désabonner, veuillez cliquer sur blg.com/mespreferences/
To manage your communication preferences or unsubscribe, please click on blg.com/mypreferences/

Borden Ladner Gervais S.E.N.C.R.L., S.R.L.

Ce message est destiné uniquement aux destinataires dûment nommés. Il peut contenir de l'information privilégiée ou confidentielle ou encore de l'information exemptée des obligations de divulgation en vertu du droit applicable. Il est strictement défendu à toute personne qui n'est pas un destinataire dûment nommé de diffuser ce message ou d'en faire une copie. Si vous n'êtes pas un destinataire dûment nommé ou un employé ou mandataire chargé de livrer ce message à un destinataire dûment nommé, veuillez nous aviser sans tarder et supprimer ce message ainsi que toute copie qui peut en avoir été faite. Avertissement : Le courriel qui n'est pas chiffré comme il se doit peut ne pas être protégé.

Borden Ladner Gervais LLP

This message is intended only for the named recipients. This message may contain information that is privileged, confidential or exempt from disclosure under applicable law. Any dissemination or copying of this message by anyone other than a named recipient is strictly prohibited. If you are not a named recipient or an employee or agent responsible for delivering this message to a named recipient, please notify us immediately, and permanently destroy this message and any copies you may have. Warning: Email may not be secure unless properly encrypted.

SUPERIOR COURT
(Class Actions)

DISTRICT OF MONTRÉAL
No.: **500-06-001132-212**

GABRIEL BOURGEOIS

Petitioner

v.

ELECTRONIC ARTS INC. ET ALS

Respondents

**APPLICATION (2) BY THE TAKE-TWO
DEFENDANTS FOR LEAVE TO ADDUCE
RELEVANT EVIDENCE AND EXHIBIT TT-3
(Art. 574 para. 3 C.C.P.)**

ORIGINAL

BLG
Borden Ladner Gervais

B.M. 2545

1000, De La Gauchetière Street West
Suite 900

Montréal, QC, Canada H3B 5H4

Tel.: 514.879.1212

Fax: 514.954.1905

fgrondin@blg.com

pplante@blg.com

agamache@blg.com

Mtre. François Grondin

Mtre. Patrick Plante

Mtre. Antoine Gamache

File: 299135-000003