

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class action)

No.: 500-06-001132-212

GABRIEL BOURGEOIS

Plaintiff

v.

ELECTRONIC ARTS INC.

-and-

ELECTRONIC ARTS (Canada) INC.
et al.

Defendants

**APPLICATION BY THE DEFENDANTS ELECTRONIC ARTS INC. AND
ELECTRONIC ARTS (CANADA) INC. FOR LEAVE TO ADDUCE
ADDITIONAL RELEVANT EVIDENCE
(Articles 574, 575, 18 and 19 CCP)**

**TO THE HONOURABLE SYLVAIN LUSSIER, J.S.C., SITTING IN AND FOR THE
DISTRICT OF MONTREAL, THE DEFENDANTS ELECTRONIC ARTS INC. AND
ELECTRONIC ARTS (CANADA) INC. STATE AS FOLLOWS:**

1. The Present Application is made by the Defendants Electronic Arts Inc. and Electronic Arts (Canada) Inc. (collectively, “**EA**”) without any admission and under reserve of all their rights regarding the lack of jurisdiction of the Superior Court of Québec over the class members residing outside of the Province of Québec;
- I. **Introduction**
2. On March 2, 2021, Plaintiff filed *Application for Authorization to Institute a Class Action and to Obtain the Status of Representative Plaintiff* against the Defendants, which was later amended with the Court’s permission on December 7, 2021, June 8, 2022, and May 1, 2026 (the “**Application for authorization**”), the whole as more fully appears from the Court record;
3. As appears from the Application for authorization, the Plaintiff seeks to represent the following Class:

Class:

Canadian customers of the Lootbox Defendants (defined further below) who purchased or otherwise paid directly or indirectly for loot boxes in any of the games set out in Schedule A to this *Third Amended Application for Authorization* between 2008 and the date this action is authorized as a class proceeding, except such Canadian customers otherwise already included in class description in either one of the following cases *Cunningham et al v. Activision Blizzard Inc. et al* SCBC S-2013414, *Lussier et al v. Scopely Inc.*, SCBC S-2013510, *Pechnik et al v. Take Two Interactive Software Inc. et al*, SCBC S-211073, *Sutherland v. Electronic Arts Inc. et al*, SCBC S-209803, *Petty et al v. Niantic Inc. et al*, SCBC S213723.

And

All Quebec customers of the Quebec-class Loot Box Defendants (defined further below) who purchased or otherwise paid directly or indirectly for loot boxes in any of the games set out in Schedule A to this *Third Amended Application for Authorization* between 2008 and the date this action is authorized as a class proceeding.

4. The Plaintiff alleges that the Defendants use Loot Boxes in their games, which would be unlawful and in breach of several laws and regulations;
5. More specifically, the Plaintiff alleges that all Loot Boxes contained in affected titles ("Schedule A" of the Application for Authorization for the list of titles targeted by the Plaintiff) are unlawful and in breach of the *Criminal Code*, most notably sections pertaining to disorderly houses, gaming and betting, as well as provincial gaming licensing statutes;
 - Application for Authorization, paras. 41, 82 and 131;
6. The Plaintiff further alleges that Defendants breached the Quebec *Consumer Protection Act* (CQLR c P-40.1), and its equivalent in other provinces, in that:
 - a) They allegedly offered and operated Loot Boxes in breach of the *Criminal Code*;
 - b) They allegedly concealed the odds for their Loot Boxes;
 - c) They allegedly failed to place safeguards to prevent minors from playing their Loot Boxes; and
 - d) They allegedly made high-value items that affect gameplay available exclusively from loot boxes, thereby forcing playing to obtain Loot Boxes;
 - Application for Authorization, para. 44;

7. The Plaintiff also claims that the Defendants breached the *Competition Act* (RSC 1985, c. C-34) and more specifically sections pertaining to false or misleading representation;
 - Application for Authorization, para. 46;
8. Further, he alleges that the agreements based on which the Defendants collected money from underage players for Loot Boxes purchases are unenforceable;
 - Application for Authorization, para. 47;
9. Through this Application, EA seeks leave to adduce additional evidence for the authorization hearing to address and clarify certain allegations contained in paragraph 70 of the Application for Authorization that are inaccurate or incomplete, and which were introduced by the Plaintiff on May 1, 2026.
10. This evidence is useful and necessary to complete and correct the factual background and to enable the Court to perform its analysis of the criteria set forth in article 575 CCP.

II. The evidence EA seeks leave to adduce

11. Through his latest amendment to the Application for Authorization, the Plaintiff added new allegations concerning the operation of certain game modes in EA Sports franchise titles and the alleged necessity of obtaining items from Loot Boxes in order to participate in competitive gameplay.
12. In particular, paragraph 70 of the Authorization Application now alleges that, in certain EA Sports franchise titles, competitive gameplay is not possible without obtaining items from Loot Boxes and that opening Loot Boxes is therefore a condition *sine qua non* to engaging in the game.
13. These new allegations are incomplete and require clarification regarding, among other things, the operation of Ultimate Team mode in EA Sports franchise titles, the various means by which users may obtain player items and Packs (i.e. Loot Boxes), and the extent to which users engage in Real Money Transactions.
14. As a result, clarifications from EA are required in order to assist the Court in determining whether the authorization criteria set out at article 575 CCP are met and, in particular, whether the Plaintiff has demonstrated an arguable case pursuant to article 575(2) CCP. The proposed evidence is also relevant to the Court's assessment of whether the Plaintiff has established common issues pursuant to article 575(1) CCP.
15. The affidavit is limited to addressing the new allegations introduced in paragraph 70 of the Amended Authorization Application and consists of evidence relating to:

- a) the various game modes available in the EA Sports titles referred to in the Amended Authorization Application, including Ultimate Team mode;
- b) the manner in which users participate in Ultimate Team mode;
- c) the various means through which users may obtain player items and Packs, including through gameplay and other in-game activities;
- d) factual information drawn from EA's business records concerning users' engagement in Real Money Transactions and the means by which Packs are acquired within Ultimate Team mode; and
- e) the operation of Ultimate Team mode and the extent to which users may participate in that mode without purchasing Packs or otherwise spending real money.

16. This Application is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THIS HONOURABLE COURT TO:

- A. GRANT** the present *Application by the Defendants Electronic Arts Inc. and Electronic Arts (Canada) Inc. for Leave to Adduce Additional Relevant Evidence*;
- B. ALLOW** the Defendants Electronic Arts Inc. and Electronic Arts (Canada) Inc. to adduce the evidence described in the present Application into the Court record:
 - An additional affidavit from Kerry Hopkins, Senior Vice-President, Global Affairs at EA, filed in support of the present application as **Exhibit EA-2**, in order to complete, clarify or rectify incomplete or erroneous statements made by the Plaintiff with respect to the EA Defendants;
- C. THE WHOLE**, with cost to follow suit.

Montréal, August 28, 2026



BORDEN LADNER GERVAIS LLP

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

Mtre. Karine Chênevert

Mtre. Amanda Afeich

1000 De La Gauchetière Street West,
Suite 900

Montréal, QC H3B 5H4

Tel.: 514.954.3180 / 514.395.3888

Fax: 514.954.1905
kchenevert@blg.com
aafeich@blg.com

CANADA
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Defendants

**LIST OF EXHIBITS IN SUPPORT OF THE APPLICATION BY THE
DEFENDANTS ELECTRONIC ARTS INC. AND ELECTRONIC ARTS
(CANADA) INC. FOR LEAVE TO ADDUCE ADDITIONAL RELEVANT
EVIDENCE**

Exhibit EA-2: Affidavit of Kerry Hopkins, dated August 28, 2026.

Montréal, August 28, 2026



BORDEN LADNER GERVAIS LLP

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

NOTICE OF PRESENTATION

ADDRESSEES:

Mtre Saro Turner
Mtre Andrea Roulet
Slater Vecchio

slt@slatervecchio.com
acr@slatervecchio.com

Lawyers for Plaintiff Gabriel Bourgeois

Mtre Margaret Weltrowska
Mtre Érica Shadeed
Mtre Matthias Heilke
Dentons Canada

Margaret.weltrowska@dentons.com
Erica.shadeed@dentons.com
Matthias.heilke@dentons.com

Lawyers for Niantic Inc.

Mtre François Grondin
Mtre Patrick Plante
Mtre Antoine Gamache
Borden Ladner Gervais

fgrondin@blg.com
pplante@blg.com
agamache@blg.com

Lawyers for Zynga Inc., Zynga Games
Canada Ltd., Take Two Interactive
Software Inc., Take Two Interactive
Canada Holdings Inc., 2k Games Inc.,
Rockstar Games Inc.

Mtre Éric C. Lefebvre
Mtre Henri Barbeau
**Norton Rose Fulbright Canada
s.e.n.c.r.l, s.r.l.**

Eric.lefebvre@nortonrosefulbright.com
henri.barbeau@nortonrosefulbright.com

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

Mtre Jean Lortie
Mtre. Sajeda Hedaraly
Mtre Kevin Pinkoski
McCarthy Tétrault

jlortie@mccarthy.ca
shedaraly@mccarthy.ca
kpinkoski@mccarthy.ca

Lawyers for Scopely Inc.

Mtre Simon Seida
Blake Cassels & Graydon

Simon.seida@blakes.com
Cristina.cataldo@blakes.com

Lawyers for Warner Bros Entertainment
Canada inc., Warner Bros Home
Entertainment Inc.

Mtre Myriam Brixi
Lavery, de Billy, s.e.n.c.r.l.

mbixi@lavery.ca

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

Mtre Sébastien Richemont
Mtre Noah Michael Boudreau
Mtre Mirna Kaddis
Fasken Martineau LLP

srichemont@fasken.com
nboudreau@fasken.com
mkaddis@fasken.com

Lawyers for Microsoft Corporation ,
Microsoft Canada inc.

TAKE NOTICE that the foregoing *Application by the Defendants Electronic Arts Inc. and Electronic Arts (Canada) Inc. for Leave to Adduce Additional Relevant Evidence* will be presented for hearing and adjudication before the Honourable justice Sylvain Lussier, J.S.C. of the Superior Court, sitting in and for the District of Montréal, at the Montréal Courthouse, in a room and date to be determined by the Court.

KINDLY GOVERN YOURSELF ACCORDINGLY.

Montréal, August 28, 2026



BORDEN LADNER GERVAIS LLP

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

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class action)

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GABRIEL BOURGEOIS

Petitioner

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ELECTRONIC ARTS INC.

-and-

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et al.

Respondents

ADDITIONAL AFFIDAVIT OF KERRY HOPKINS

I, the undersigned, I, Kerry Hopkins, businessperson, of 209 Redwood Shores Parkway, Redwood City, California, in the United States of America, declare under oath that:

1. I am employed by the defendant Electronic Arts Inc. (“EA”), as a Senior Vice President, Global Affairs.
2. As a result of my employment, I have personal knowledge of the matters hereinafter deposed to, except where I have obtained information from others. Where I have obtained information from others, I verily believe that information to be true.
3. I have reviewed the Applicant’s *Third Amended Application for Authorization to Institute a Class Action & to Obtain the Status of Representative Plaintiff* (the “**Amended Authorization Application**”) filed in this proceeding.
4. For ease of reference, I adopt and incorporate by reference all defined terms and capitalized expressions used in my affidavit sworn on September 3, 2024 (the “**First Affidavit**”). Accordingly, I will refer to virtual containers with randomized game content that is not specifically known to the user before opening as “Packs”, and to a transaction involving the exchange of real money as a “Real Money Transaction”.

5. Paragraph 70 of the Amended Authorization Application alleges that “[i]n some games, like the EA Defendants’ sport franchise titles such as NHL or FIFA, (...), competitive game play is not possible without obtaining items (such as sports players (...)) from Loot Boxes. Opening Loot Boxes is thus a condition sine qua non to engaging in the game in the first place.” I understand the allegation to refer to Packs (loot boxes) obtained through Premium Virtual Currency acquired by way of Real Money Transactions. However, in EA’s games, including EA Sports franchise titles, it is not essential to successful gameplay to acquire Packs purchased with Premium Virtual Currency, and most players do not.
6. The Amended Authorization Application appears to focus on Ultimate Team (“**UT**”) mode in certain EA Sports franchise titles. For example, in the EA SPORTS FIFA titles at issue, UT mode is one of several game modes available to users. Participation in UT mode is entirely optional. Users may choose instead to engage in numerous other game modes and features, whether online, offline, or both, many of which do not involve Packs.
7. For users who choose to engage in FIFA UT mode, the objective is to build and compete with a virtual squad of current and former professional footballers in the form of in-game cards or items (“**FUT player items**”). Upon entering UT mode, each user receives a starter team containing sufficient FUT player items to assemble a team and begin playing. Users are therefore able to participate in UT mode from the outset and without first obtaining additional FUT player items through Packs.
8. Users can obtain additional FUT player items in multiple ways, including by trading on the in-game transfer market using Earned Virtual Currency or by opening Packs. As I explained in my First Affidavit, Packs may also be obtained in several ways, including as rewards for gameplay or completion of in-game objectives, through the use of Earned Virtual Currency, or through the use of Premium Virtual Currency acquired through Real Money Transactions. Thus, users may obtain both Packs (and the FUT player items they contain) without spending real money.
9. Based on my review of EA’s records relating to the sports franchise titles that include UT mode, the substantial majority of users do not engage in Real Money Transactions (to purchase Packs or Premium Virtual Currency). EA’s records also show that a substantial majority of Packs are obtained through gameplay and other in-game activities rather than through Real Money Transactions or with Premium Virtual Currency. In FIFA UT mode, for example, approximately 8 out of 10 Packs are awarded through in-game engagement.
10. For these reasons, the allegation set out at paragraph 70 of the Amended Authorization Application does not accurately describe how UT mode operates. Participation in UT mode does not require a user to spend real money. Moreover, opening Packs is not a prerequisite to engaging with EA’s sports franchise titles generally, as users may choose among numerous game modes, including modes that do not involve Packs.

11. All the facts alleged in the present declaration are true.

AND I HAVE SIGNED in Redwood City, California, USA

Kerry Hopkins

KERRY HOPKINS

Declared under oath remotely before me by
technological means
in Ste-Julie, QC, on August 28, 2026

Nathalie Angers



NATHALIE ANGERS

Commissioner for Oaths for Québec and for
outside of Québec # 137908

Angers, Nathalie

De: Angers, Nathalie
Envoyé: August 31, 2026 2:02 PM
À: 'sjt@slatervecchio.com'; Andrea Roulet; 'Eric.lefebvre@nortonrosefulbright.com'; 'henri.barbeau@nortonrosefulbright.com'; 'Simon.seida@blakes.com'; 'mbrixi@lavery.ca'; 'jlortie@mccarthy.ca'; 'shedaraly@mccarthy.ca'; 'kpinkoski@mccarthy.ca'; 'margaret.weltrowska@dentons.com'; 'erica.shadeed@dentons.com'; 'matthias.heilke@dentons.com'; Grondin, François; 'Plante, Patrick'; Gamache, Antoine; 'mkaddis@fasken.com'; 'srichemont@fasken.com'; 'nboudreau@fasken.com'; Notifications-mtl@nortonrosefulbright.com; notifications-mtl@lavery.ca; notification@mccarthy.ca
Cc: Chênevert, Karine; Afeich, Amanda
Objet: NOTIFICATION | 500-06-001132-212 - Gabriel Bourgeois v. Electronic Arts Inc. et al. | Application by the Defendants Electronic Arts Inc. and Electronic Arts (Canada) Inc. for Leave to Adduce Additional Relevant Evidence and... [BLG-DOCUMENTS.FID7806690]
Pièces jointes: 2026-08-28 Application for leave to adduce additional relevant evidence (EA).pdf; EA-2 Additional Affidavit of Kerry Hopkins.pdf

Suivi:

Destinataire

Réception

'sjt@slatervecchio.com'

Andrea Roulet

'Eric.lefebvre@nortonrosefulbright.com'

'henri.barbeau@nortonrosefulbright.com'

'Simon.seida@blakes.com'

'mbrixi@lavery.ca'

'jlortie@mccarthy.ca'

'shedaraly@mccarthy.ca'

'kpinkoski@mccarthy.ca'

'margaret.weltrowska@dentons.com'

'erica.shadeed@dentons.com'

'matthias.heilke@dentons.com'

Grondin, François

Remis: 2026-08-31 2:02 PM

'Plante, Patrick'

Remis: 2026-08-31 2:02 PM

Gamache, Antoine

Remis: 2026-08-31 2:02 PM

'mkaddis@fasken.com'

'srichemont@fasken.com'

'nboudreau@fasken.com'

Notifications-mtl@nortonrosefulbright.com

notifications-mtl@lavery.ca

notification@mccarthy.ca

Chênevert, Karine

Remis: 2026-08-31 2:02 PM

Afeich, Amanda

Remis: 2026-08-31 2:02 PM

'295754_000007 _ Electronic Arts _Canada_ Inc._ _
Class Action _ Gabriel Bourgeois vs_ Electronic Arts
Inc_ and als_ COURT OTHER'

**NOTIFICATION BY ELECTRONIC
COURIER TRANSMISSION SLIP**
(Article 134 C.p.c.)

DATE:

Montréal, August 31, 2026

SENDER:

Name:	Mtre. Karine Chênevert; Me Amanda Afeich
Firm:	BORDEN LADNER GERVAIS LLP 1000 De La Gauchetière Street West, suite 900, Montréal, QC, H3B 5H4
Represented Party:	Lawyers for Defendants Electronic Arts Inc. and Electronic Arts (Canada), Inc.
Email address:	kchenevert@blg.com ; aafeich@blg.com ; notification@blg.com
Our file:	295754.000007

ADDRESSEE(S):

Name:	Mtre. Saro Turner; Mtre. Andrea Roulet
Firm:	SLATER VECCHIO 5352 Saint-Laurent Blvd., Montréal (QC) H2T 1S1
Represented Party:	Lawyers for Plaintiff Gabriel Bourgeois
Email address:	slt@slatervecchio.com ; acr@slatervecchio.com
Our file:	295754.000007

Name:	Mtre Éric Lefebvre; Mtre Henri Barbeau
Firm:	NORTON ROSE FULBRIGHT 1 Place Ville-Marie, suite 2500, Montreal, QC, H3B 1R1
Represented Party :	Lawyers for Activision Blizzard Inc., Activision Publishing Inc., Blizzard Entertainment Inc, King Digital Entertainment Group Inc. and King.Com Ltd.
Email address:	Eric.lefebvre@nortonrosefulbright.com ; henri.barbeau@nortonrosefulbright.com

Name:	Mtre Simon Seida
Firm:	BLAKE, CASSELS & GRAYDON SENCRL/SRL 1 Place Ville-Marie, suite 3000, Montreal, QC, H3B 4N8
Represented Party :	Lawyers for Warner Bros Entertainment Canada Inc., Warner Bros Entertainment Canada Inc. and Warner Bros Home Entertainment Inc.
Email address:	Simon.seida@blakes.com
Your file:	n/a

Name:	Mtre Myriam Brix
Firm:	LAVERY DE BILLY, S.E.N.C.R.L. 1 Place Ville-Marie, suite 4000, Montréal, QC, H3B 4M4
Represented Party :	Lawyers for Defendants Ubisoft Entertainment S.A., Ubisoft Inc. and Ubisoft Entertainment Inc
Email address:	mbrix@lavery.ca

Name: Mtre Jean Lortie; Mtre Sajeda Hedaraly; Me Kevin Pinkoski
MCCARTHY TÉTRAULT
Firm: 1000 De La Gauchetière Street West, suite MZ400, Montréal, QC, H3B 0A2
Represented Party : **Lawyers for Defendant Scopely Inc.**
Email address: jlortie@mccarthy.ca; shedaraly@mccarthy.ca; kpinkoski@mccarthy.ca

Name: Mtre Margaret Weltrowska; Mtre Erica Shadeed, Mtre Matthias Heilke
DENTONS
Firm: 1, Place Ville-Marie, suite 3900, Montréal, QC H3B 4M7
Represented Party : **Lawyers for Defendant Niantic Inc.**
Email address: margaret.weltrowska@dentons.com; erica.shadeed@dentons.com; matthias.heilke@dentons.com

Name: Mtre François Grondin; Mtre Patrick Plante; Mtre Antoine Gamache
BORDEN LADNER GERVAIS LLP
Firm: 1000 De La Gauchetière Street West, suite 900, Montréal, QC, H3B 5H4
Represented Party : **Lawyers for Defendants Zynga Inc., Zynga Games Canada Ltd., Take Two Interactive Software Inc., Take Two Interactive Canada Holdings Inc., 2k Games Inc. and Rockstar Games Inc.**
Email address: fgrondin@blg.com; pplante@blg.com; agamache@blg.com
File: n/a

Name: Mtre Mirna Kaddis; Mtre Sébastien Richemont; Mtre Noah Michael Boudreau
FASKEN MARTINEAU DUMOULIN LLP
Firm: 800 Square Victoria, suite 3500, Montréal, QC, H4Z 1E9
Represented Party : **Lawyers for Defendants Microsoft Corporation and Microsoft Canada inc.**
Email address: mkaddis@fasken.com; srichemont@fasken.com; nboudreau@fasken.com

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Parties: Gabriel Bourgeois v. Electronic Arts Inc. and al.
Nature of the document: **Application by the Defendants Electronic Arts Inc. and Electronic Arts (Canada) Inc. for Leave to Adduce Additional Relevant Evidence and EA-2**

Number of pages: -9-(excluding exhibit)
(attachments only)



Nathalie Angers

Adjointe à la pratique / Practice Assistant

T 514.954.2555 #23206 | NAngers@blg.com

1000, rue De La Gauchetière Ouest, bureau / suite 900, Montréal, QC, Canada H3B 5H4
notification@blg.com

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WITH AFFIDAVIT
(Articles 574, 575, 18 and 19 CCP)**

ORIGINAL

BLG 1000, De La Gauchetière Street
West
Suite 900
Montréal, QC, Canada H3B 5H4
Borden Ladner Gervais Tel.: 514.879.1212
Fax: 514.954.1905
B.M. 2545 kchenevert@blg.com
aafeich@blg.com

Mtre. Karine Chênevert
Mtre. Amanda Afeich
File: 295754.000007