

C A N A D A

(Class Action)
SUPERIOR COURT

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

NO : 500-06-001115-209

JANE DOE

Applicant

c.

9219-1568 QUÉBEC INC.

and

MINDGEEK S.A.R.L.

and

MG FREESITES LTD

and

MG FREESITES II LTD

and

MG CONTENT RT LIMITED

Defendants

**APPLICATION FOR LEAVE TO AMEND THE APPLICATION FOR AUTHORIZATION TO
INSTITUTE A CLASS ACTION AND TO OBTAIN THE STATUS OF REPRESENTATIVE
(Articles 101 and 585 C.p.c.)**

**TO THE HONOURABLE JUSTICE DONALD BISSON, S.C.J., DESIGNATED TO HEAR ALL
PROCEEDINGS IN THE PRESENT ACTION, THE APPLICANT STATES AS FOLLOWS :**

I. Preamble

1. On December 29, 2020, the Applicant filed an Application for authorization to institute a class action and obtain the status of representative (hereinafter the “**Application for authorization**”) for the following class :

“Since 2007, all natural persons whose intimate videos or photos, (including child sexual abuse material, images of sexual assault and non-consensual intimate images) were posted without their consent on a website owned or operated by the defendants, directly or indirectly;

or, subsidiarily:

Since 2007, all natural persons in Canada whose intimate videos or photos, (including child sexual abuse material, images of sexual assault and non-consensual intimate images) were posted without their consent on a website owned or operated by the defendants, directly or indirectly;

(hereinafter referred to as the “**Class**”)

2. On August 5, 2021, the honorable Justice Donald Bisson was designated to ensure the particular management of the case and to hear all the proceedings relating to this class action;
3. On September 3, 2021 the Applicant’s lawyers announced they would amend the Application for authorization no later than November 1, 2021, in particular to add defendants and new facts;

II. The addition and removal of Defendants

4. The Applicant wishes to remove two (2) Defendants and to add nine (9) new others;
5. Following the filing of the Application for authorization, the Applicant learn through the Defendants’ lawyers that the Defendants MG Freesites II Ltd and MG Content RT Limited are dissolved or in the process of being dissolved;
6. Also, since the filing of the Application, new information has emerged suggesting to the Applicant that new entities should be added to the action, namely MindGeek USA Incorporated, MG Billing Ltd., Feras Antoon, David Tassillo, Corey Urman, 9279-2738 Québec Inc., Société de gestion FDCO Inc., 9288-1259 Québec Inc. and 9288-1275 Québec Inc.;
7. These new entities are relevant to the allegations stated in the Application for authorization and to ensure a complete resolution of the action, as appears from the proposed Amended application for authorization to institute a class action and obtain the status of representative, which will be produced as **Exhibit R-1**;

III. The addition and clarification of certain facts and the addition of exhibits

8. The Applicant wishes to add and clarify certain facts alleged in the Application for authorization in order to reflect the new elements that have been brought to its attention since it was filed;
9. Since the Application for authorization was filed, several events have occurred generating a large amount of new information, for example :
 - The meeting of the Standing Committee on Access to Information, Privacy and Ethics of the House of Commons (“ETHI”) on the “Protection of privacy and reputation on platforms such as Pornhub”;
 - The report of the ETHI on the “Protection of privacy and reputation on platforms such as Pornhub”;
 - The publication of numerous articles on MindGeek and its inadequate measures to ensure that no non-consensual content could be posted on its offending websites;
 - The publication of numerous articles reporting the stories of victims;
 - The filing of lawsuits in the United States against MindGeek for similar causes of action;
10. The added facts and clarifications can be found in the proposed Amended application for authorization, Exhibit R-1;
11. The amendments will allow for better correlation with the existing allegations and the conclusions sought;
12. Moreover, the amendments will allow the Court to have a more complete picture of the allegations related to the non-consensual contents on the offending websites, and of the reproaches formulated with regard to the Defendants;
13. The filing of thirty-nine (39) news exhibits will also support the allegations, and are relevant and related to the facts alleged;
14. The amendments do not affect the theory of the case in any way, and no new claims result from these amendments;
15. The proposed amendments are useful and in the interests of justice;
16. The Applicant believes that the requested amendments are in the best interests of the class members;
17. The proposed amendments are not untimely and do not unduly delay the proceedings, since most of the new Defendants reside in Quebec, and service will be made promptly;

18. To authorize the amendment of a proceeding is the rule, even in a class action, whereas its refusal by the court remains an exception;
19. Therefore, the Applicant seeks leave to amend the Application of authorization to remove two (2) Defendants, to add nine (9) new others and to add new facts and exhibits, and to clarified other facts;
20. The present application is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present Application for leave to amend the Application for authorization to institute a class action and obtain the status of representative;

ALLOW the amendments of the Application for authorization to remove the Defendants MG Freesites II Ltd and MG Content RT Limited;

ALLOW the amendments of the Application for authorization to add nine (9) new Defendants, namely MindGeek USA Incorporated, MG Billing Ltd., Feras Antoon, David Tassillo, Corey Urman, 9279-2738 Québec Inc., Société de gestion FDCO Inc., 9288-1259 Québec Inc. and 9288-1275 Québec Inc.;

ALLOW the amendments of the Application for authorization to add and clarify certain facts, and to file thirty-nine (39) new exhibits;

ALL without cost, except if contested.

Québec, November 1, 2021



SISKINDS DESMEULES AVOCATS

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AFFIDAVIT

I, the undersigned, Caroline Perrault, lawyer, exercising my profession at Siskinds Desmeules, Avocats, s.e.n.c.r.l., located at 43 rue De Buade, Quebec, Quebec, G1R 4A2, do solemnly affirm as follows:

1. I am one of the lawyers for the Applicant;
2. All of the facts alleged in the Application for leave to amend the Application for authorization to institute a class action and obtain the status of representative are true.

AND I HAVE SIGNED in Québec,
this 1st day of November 2021.



Carole Ouellet (#88,822)
Commissioner for Oaths
for all judicial districts of Quebec



Caroline Perrault, lawyer

NOTICE OF PRESENTATION

To : Me Sébastien C. Caron
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Freesites Ltd.

TAKE NOTICE that the present *Application for leave to amend the Application for authorization to institute a class action and obtain the status of representative* will be presented for adjudication before the Honourable Justice Donald Bisson of the Superior Court, at the Montreal Courthouse, located at 1, Notre –Dame Street East, at a date and time to be set by the Court.

PLEASE ACT ACCORDINGLY

Québec, November 1, 2021



SISKINDS DESMEULES AVOCATS

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OBTAIN THE STATUS OF
REPRESENTATIVE, AFFIDAVIT AND NOTICE
OF PRESENTATION
(ARTICLES 101 AND 585 C.p.c.)**

BB-6852

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