

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class Action Division)

N°: 500-06-001223-235

MARGARET SAKHRANI

Petitioner

v.

L'ORÉAL CANADA INC. ET AL.

Respondents

APPLICATION FOR A DECLINATORY EXCEPTION BY
THE RESPONDENT DABUR INTERNATIONAL LTD.
(art. 167 C.C.P and art. 3148 C.C.Q)

TO THE HONOURABLE JUSTICE MARIE-CHRISTINE HIVON, SITTING IN AND FOR THE DISTRICT OF MONTRÉAL AS DESIGNATED JUDGE FOR THE PRESENT INSTANCE, THE RESPONDENT DABUR INTERNATIONAL LTD. RESPECTFULLY SUBMITS THE FOLLOWING:

I. INTRODUCTION

1. On or around February 2, 2023, the Petitioner Margaret Sakhrani filed an *Application for Authorization to Institute a Class Action and to Obtain the Status of Representative* (the "**Application for Authorization**") against several Respondents, including Dabur International Ltd. ("**Dabur International**"), arising out of the Respondents' alleged failure to conduct reasonable research and testing into the harmful side effects of chemical hair straightening products designed, manufactured, marketed, promoted and/or sold by them in Canada (the "**Hair Straightening Products**");
2. On November 13, 2023 and on grounds similar to those cited in paragraphs 8 to 14 of the present Application, Justice Mary M. Rowland, United States District Judge for the Northern District of Illinois, Eastern Division, dismissed Dabur International from the Multidistrict Litigation, Case No. 3060, for lack of personal jurisdiction on the grounds that Dabur International has (and had) no involvement with hair relaxer products sold anywhere in the United States and "did not manufacture, market, distribute, sell, or make representations about any hair relaxer products underlying Plaintiffs' claims anywhere in the United States," as appears on pp. 23-25 of Justice Rowland's Memorandum Opinion and Order, filed in support hereof as **Exhibit D-DI-1**;
3. In the present file, the Petitioner alleges that as a result of the Respondents' alleged misrepresentations and failure to warn of the risk of uterine, ovarian, and breast cancer as well as fibroids associated with the use of Hair Straightening

Products, the Petitioner and the class members suffered serious physical, psychological, financial and moral injury;

4. On March 2, 2023, the Petitioner amended the Application for Authorization to remove the former Respondent Dabur Style Ltd. and allegations pertaining to Dabur Style Ltd. (the "**Amended Application**"), although the amendments have not yet been approved by the Court;
5. In the Amended Application, the Petitioner alleges that the Respondents, directly or indirectly, researched, designed, developed, manufactured, formulated, compounded, produced, processed, tested, inspected, packaged, promoted, marketed, licenced, assembled, labelled, advertised, distributed, imported/exported, and/or sold Hair Straightening Products to distributors and retailers for resale and to the general public throughout Canada (the "**Impugned Activities**");
6. More specifically, at paragraph 6 of the Amended Application, the Petitioner alleges that Dabur International's Impugned Activities relate to the following purported Hair Straightening Products: Olive Oil Relaxer, Olive Oil Girls, Organic Root Stimulator, Original Roots Stimulator, Organic Root Stimulator, Olive Oil Relaxer and ORS (the "**ORS Olive Oil branded products**");
7. For the reasons detailed below, Dabur International respectfully submits that Québec courts do not have jurisdiction over it and that consequently, the Amended Application should be dismissed against Dabur International;

II. THE SUPERIOR COURT OF QUÉBEC LACKS JURISDICTION OVER DABUR INTERNATIONAL IN THE PRESENT INSTANCE

8. Dabur International is a moral person incorporated under the laws of the Isle of Man, with its branch office and the vast majority of its senior executives located in Dubai in the United Arab Emirates;
9. Dabur International does not develop, test, make, market, manufacture, distribute, or sell any Hair Straightening Products or conduct any Impugned Activities related to any Hair Straightening Products in Québec or in Canada at large;
10. In addition, Dabur International has never had a domicile, a residence, an establishment or place of business in Québec, it has never been registered to do business in Québec and it has never had any commercial activities in Québec;
11. Furthermore, the Amended Application does not contain any allegations to this effect.
12. As it concerns Dabur International, Petitioner only alleges that Dabur International is a corporation duly incorporated pursuant to the laws of New Jersey, USA, with its principal place of business at 5 Independence Way, Suite 300, Princeton, NJ, 08540 (Amended Application, para. 26);
13. In North America, Dabur International's presence is limited to a representative office in New Jersey, which employs three-to-four marketing employees who do not conduct any commercial activities other than identifying business development opportunities in the United States and Canada for Dabur-branded

products. None of these activities relate to ORS Olive Oil branded products or any other Hair Straightening Products;

14. In sum, Dabur International has not been involved in any of the Impugned Activities concerning the Hair Straightening Products - or the ORS Olive Oil branded products more specifically - in Canada, including within the Province of Québec;
15. As such, Dabur International could not have committed any fault in Québec;
16. Consequently, the Petitioner and/or putative class members have not suffered any injury in Québec attributable to Dabur International;
17. Finally, Dabur International never agreed to submit to the jurisdiction of Québec courts;
18. In light of the foregoing, Dabur International has no connection to the province of Québec, and the Superior Court of Québec lacks jurisdiction to rule on the Amended Application as it concerns Dabur International;
19. Dabur International therefore asks this honourable Court to:

GRANT Respondent Dabur International Ltd.'s *Application for a Declinatory Exception*;

DISMISS Petitioner's *Modified Motion for Authorization to Institute a Class Action and to Obtain the Status of Representative dated March 2, 2023* against Dabur International Ltd.; and

THE WHOLE with judicial costs against the Petitioner.

MONTREAL, February 5, 2024

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