

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

MINDGEEK USA INCORPORATED

and

MG BILLING LTD

and

FERAS ANTOON

and

DAVID TASSILLO

and

COREY URMAN

and

9279-2738 QUÉBEC INC

and

SOCIÉTÉ DE GESTION FDCO INC

and

9288-1259 QUÉBEC INC.

and

9288-1275 QUÉBEC INC.

Defendants

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

**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 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;”

2. On November 29, 2021, the Applicant filed her Amended application for authorization to institute a class action and obtain the status of representative (hereinafter the “**Amended application for authorization**”), following leave from the Court;
3. On June 9, 2022, the defendants MindGeek s.a.r.l., MG Freesites Ltd, MG Billing Ltd. and MindGeek USA incorporated (hereinafter the “**Foreign entities**”), via LCM Avocats inc., filed a Motion for declinatory exception;
4. On the same day, the defendants 9219-1568 Québec inc., Feras Antoon, David Tassillo, 9279-2738 Québec inc., Société de Gestion FDCO inc., 9288-1259 Québec inc. and 9288-1275 Québec inc., via LCM Avocats inc., filed an Application for leave to file relevant evidence;
5. On October 2, 2023, the defendants Feras Antoon, David Tassillo, 9279-2738 Québec inc., Société de Gestion FDCO inc., 9288-1259 Québec inc. and 9288-1275 Québec inc., substituted their lawyers for INF LLP;
6. On October 27, 2023, the defendants Feras Antoon, David Tassillo, 9279-2738 Québec inc., Société de Gestion FDCO inc., 9288-1259 Québec inc. and 9288-1275 Québec inc., via INF LLP, filed a Motion to strike allegations and exhibits;
7. Following all these proceedings and exchanges between parties, the Applicant’s lawyers announced they would amend the Amended application for authorization no later than March 15, 2024;

II. The removal of defendants

8. The Applicant wishes to remove three (3) defendants;
9. Following discussion with the Foreign entities’ lawyers, it was agreed that the defendants MindGeek s.a.r.l., MG Billing Ltd. and MindGeek USA incorporated would be removed as defendants;
10. It was also agreed that the defendant MG Freesites Ltd would remain a defendant and that it would consent to the jurisdiction of the Superior Court of Quebec, rendering the Motion for declinatory exception moot;
11. Accordingly, the Applicant wishes to remove the paragraphs pertaining to these defendants, as appears from the proposed Second amended application for authorization

to institute a class action and obtain the status of representative, which will be produced as **Exhibit SA-1**;

III. The removal of certain allegations and exhibits

12. Without admission and prejudice as to the reasons for removal, the Applicants wishes to remove some paragraphs and exhibits of her Amended application for authorization, as appears from **Exhibit SA-1** as to limit the debate on the preliminary motions presented by the various defendants and limit the debate at the hearing on authorization to what is necessary;

IV. The addition of certain new facts and exhibits

13. The Applicant wishes to modify, add, and clarify certain facts alleged in the Amended application for authorization in order to reflect new elements that have been brought to her attention since its filing;
14. Since the Amended application for authorization was filed, new information came to light which are relevant to the class action;
15. Therefore, the Applicant wishes to add new allegations pertaining to these new elements, and file new exhibits, as appears from **Exhibit SA-1**;
16. 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;
17. The filing of news exhibits will also support the allegations, and are relevant and related to the facts alleged;
18. The amendments do not affect the theory of the case in any way, and no new claims result from these amendments;
19. The proposed amendments are useful and in the interests of justice;
20. The Applicant believes that the requested amendments are in the best interests of the class members;
21. The proposed amendments are not untimely and do not unduly delay the proceedings;
22. To authorize the amendment of a proceeding is the rule, even in a class action, whereas its refusal by the court remains an exception;

23. Therefore, the Applicant seeks leave to amend the Amended application of authorization to remove three (3) defendants and some paragraphs, to add new facts and exhibits, and to clarified other facts;
24. 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 Amended application for authorization to institute a class action and obtain the status of representative;

ALLOW the amendments of the Amended application for authorization to remove the defendants MindGeek s.a.r.l., MG Billing ltd. and MindGeek USA;

ALLOW the amendments of the Amended application for authorization to remove certain paragraphs and exhibits;

ALLOW the amendments of the Amended application for authorization to add and clarify certain facts, and to file new exhibits;

ALL without cost, except if contested.

Québec, March 15, 2024



SISKINDS DESMEULES AVOCATS

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AFFIDAVIT

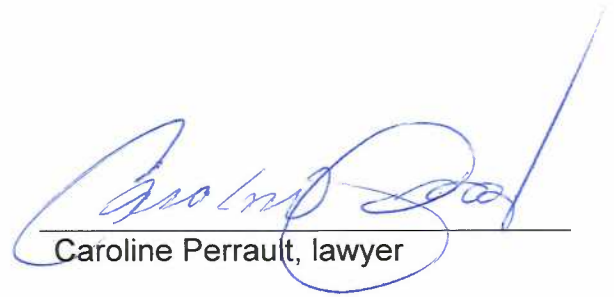
I, the undersigned, Caroline Perrault, lawyer, exercising my profession at Siskinds Desmeules, Avocats, s.e.n.c.r.l., located at 43 rue De Buade, suite 320, Quebec, Quebec, G1R 4A2, do solemnly affirm as follows:

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

AND I HAVE SIGNED in Québec,
this 15th day of March 2024.



Chantal Fortin (#240,756)
Commissioner for Oaths
for all judicial districts of Quebec


Caroline Perrault, lawyer

NOTICE OF PRESENTATION

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TAKE NOTICE that the present *Application for leave to amend the Amended 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, March 15, 2024



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