

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class Action Division)

Nº: 500-06-001352-257

ILANA KRIEF

Plaintiff

v.

APPLE CANADA INC.

- and -

APPLE INC.

Defendants

**APPLICATION BY DEFENDANTS FOR PARTICULARS AND FOR LEAVE
TO ADDUCE RELEVANT EVIDENCE
(Article 574 CCP)**

**TO THE HONOURABLE JUSTICE MARTIN F. SHEEHAN OF THE SUPERIOR COURT
OF QUEBEC, SITTING IN AND FOR THE DISTRICT OF MONTREAL, DEFENDANTS
RESPECTFULLY SUBMIT THE FOLLOWING:**

I. INTRODUCTION

1. Defendants Apple Canada Inc. ("**Apple Canada**") and Apple Inc. ("**Apple USA**", collectively, "**Apple**") seek particulars and leave to adduce relevant evidence in order to establish facts that are necessary to enable this Court to undertake an informed analysis, in light of the criteria set out in article 575 of the Code of Civil Procedure (the "**CCP**") regarding the authorization to institute class action proceedings.
2. On or around January 3, 2025, Plaintiff filed an *Application for Authorization to Institute a Class Action* (the "**Application for Authorization**"), as appears from the record of this Honourable Court.
3. Plaintiff alleges unlawful and intentional interception and recording of individuals' confidential communications without their consent and subsequent unauthorized disclosure of those communications to third parties, and seeks compensatory, moral and punitive damages.

4. As appears from paragraph 1 of the Application for Authorization, Plaintiff seeks to represent a class comprised of the following persons:

“All persons in Canada who purchased, owned, used or possessed a Siri Device, and members of their households, whose conversations were obtained by Apple and/or were shared with third parties without their consent from at least as early as October 12, 2011 to the present (the **"Class Period"**), or any other Group(s) or Sub-Group(s) to be determined by the Court;”

5. Many of the allegations contained in the Application for Authorization are vague and unsubstantiated by any evidence, even where the allegations purport or appear to quote evidence. Accordingly, Apple requests particulars in respect of allegations that are incomplete.
6. In addition, Apple requests leave to adduce relevant evidence at the authorization hearing in support of its submissions that the Application for Authorization fails to meet the threshold conditions set out in Article 575 CCP.

II. INCOMPLETE ALLEGATIONS AND PARTICULARS SOUGHT

7. The Application for Authorization contains numerous allegations that are excessively vague and repeatedly alleges facts, sometimes purporting to quote unnamed documents, without specifying the source of the information it relies on.
8. Specifically:
 - (a) At paragraph 13, Plaintiff appears to quote some unknown source: “As of January 2018, Apple claimed that Siri was "actively used on over half a billion devices."”;
 - (b) At paragraph 15, Plaintiff refers to television commercials in which Apple supposedly made declarations about privacy, without identifying these commercials or providing evidence of them;
 - (c) At paragraphs 21 and 38, Plaintiff states that Apple assured, and continues to assure, its customers that Siri devices will only listen to, record, and share their conversations with their consent and describes how such consent may be given, without specifying the source of this statement;
 - (d) At paragraphs 23 and 42, Plaintiff states that “On January 3, 2025, Plaintiff and many other Class Members (unsuspecting consumers) learned that despite Apple's assurances, Apple has intercepted, recorded, disclosed, and misused private conversations of thousands of individuals, including minors, without consent”. However, Plaintiff fails to explain how and where she and other class members allegedly learned this;
 - (e) At paragraphs 25 and 26, Plaintiff makes several factual assertions about actions by Apple, without specifying the source of these assertions;

- (f) At paragraph 29, Plaintiff states that Apple made concessions “in the U.S.A.”, specifically that “Siri “collects and stores certain information from [users' device]” and “relies on ... audio recording of a [users'] request and a computer-generated transcription of it” to improve Siri's reliability”, without specifying the source of this alleged concession;
 - (g) At paragraph 30, Plaintiff again appears to quote an unknown statement: “After admitting that Apple's conduct fell below “[its] high ideals,” Apple announced the temporary suspension of its quality improvement program”, without identifying or providing the source of this statement;
 - (h) At paragraph 31, Plaintiff makes further factual assertions (e.g., “using the content of conversations which Apple obtains without consent or authorization”), without specifying the source of these assertions; and
 - (i) At paragraph 32, Plaintiff again appears to quote an unidentified statement: “As Apple has publicly admitted, improvements in Siri's speech recognition gave Apple an “incredible advantage” in the space”, without identifying or providing the source of this statement.
9. In light of the vagueness, unattributed statements, and supposed admissions and facts, and the general lack of substantiation of the allegations as described above, Apple requests that particulars be provided by Plaintiff.

III. EVIDENCE PROPOSED BY APPLE

- 10. The evidence Apple seeks leave to adduce is eminently relevant and appropriate to the authorization inquiry proposed by Plaintiff.
- 11. In the Application for Authorization, Plaintiff alleges that, on January 3, 2025, she and many other class members learned that Apple had “intercepted, recorded, disclosed, and misused private conversations of thousands of individuals, including minors, without consent.”¹
- 12. These allegations contained in the Application for Authorization are vague, unsubstantiated, and inaccurate with respect to the essential components of the supposed juridical syllogism required to establish a cause of action against Apple.
- 13. To ensure this Court has all of the relevant and accurate evidence necessary to address these issues, Apple requests leave to file the following evidence:

¹ Application for Authorization, para 23.

- (a) A public statement by Apple entitled “Improving Siri’s privacy protections” issued on August 28, 2019², filed herewith both in English and French, *en liasse*, as **Exhibit R-1**;
- (b) Three versions of Apple’s publicly-available webpage and on-device document outlining the default behaviour for Siri, namely:
 - (i) Version entitled “Ask Siri, Dictation & Privacy” dating back to October 2019, filed herewith as **Exhibit R-2**;
 - (ii) Version entitled “Ask Siri, Dictation & Privacy” dating back to September 2021, filed herewith as **Exhibit R-3**; and
 - (iii) Current version, entitled “Siri, Dictation & Privacy”, updated as of December 16, 2024, filed herewith both in English and French, *en liasse*, as **Exhibit R-4**;
- (c) Two versions of Apple’s publicly-available and on-device document entitled “Improve Siri and Dictation & Privacy” for users who opt in to allow Apple to store and have Apple employees review a sample of audio interactions with Siri, namely:
 - (i) Version dating back to October 2019, filed herewith as **Exhibit R-5**; and
 - (ii) Current version applicable when users opt in, updated as of December 16, 2024, filed herewith both in English and French, *en liasse*, as **Exhibit R-6**;
- (d) A public statement by Apple entitled “Our longstanding privacy commitment with Siri”, English version issued on January 9, 2025, and French version issued on January 8, 2025³, filed herewith both in English and French, *en liasse*, as **Exhibit R-7**;
- (e) A representative sample of Apple’s privacy policies over the relevant time period, namely:
 - (i) Apple’s privacy policy as of June 21, 2010, filed herewith as **Exhibit R-8**;

² (Still publicly available on Apple’s website in English at: <https://www.apple.com/ca/newsroom/2019/08/improving-siris-privacy-protections/> and in French at: <https://www.apple.com/ca/fr/newsroom/2019/08/improving-siris-privacy-protections/> .)

³ (Still publicly available on Apple’s website in English at: <https://www.apple.com/ca/newsroom/2025/01/our-longstanding-privacy-commitment-with-siri/> and in French at: <https://www.apple.com/ca/fr/newsroom/2025/01/our-longstanding-privacy-commitment-with-siri/> .)

- (ii) Apple's privacy policy as of August 29, 2019, filed herewith both in English and French, *en liasse*, as **Exhibit R-9**;
 - (iii) Apple's privacy policy as of December 31, 2019, filed herewith both in English and French, *en liasse*, as **Exhibit R-10**;
 - (iv) Apple's privacy policy as of January 31, 2025, filed herewith both in English and French, *en liasse*, as **Exhibit R-11**; and
 - (f) A copy of Apple Canada Inc.'s statement of information from Québec's Enterprise Register, filed herewith as **Exhibit R-12**.
14. The evidence Apple wishes to adduce is limited and serves to remedy some of the vague, incomplete, and inaccurate allegations of the Application for Authorization by demonstrating, *inter alia*:
- (a) that Plaintiff and class members knew, or ought to have known, since as early as August 28, 2019, that Apple had publicly stated that changes were made to its Siri quality evaluation process, including that (1) by default, Apple no longer retained audio recordings of Siri interactions, but continued to use computer-generated transcripts to help Siri improve; (2) users could opt in to help Siri improve by learning from the audio samples of their requests; and (3) when customers opt in, only Apple employees would be allowed to listen to audio samples of Siri interactions;
 - (b) that Plaintiff and class members knew, or ought to have known, since as early as August 28, 2019, that Apple had publicly stated that before it changed its Siri quality evaluation process, this process involved reviewing a small sample of audio from Siri requests — less than 0.2 percent — and their computer-generated transcripts, to measure how well Siri was responding and to improve its reliability, including to determine whether the user intended to wake Siri;
 - (c) how Siri functions, including how audio recordings are handled when users opt in to help Siri improve as compared to when they do not;
 - (d) that Apple has consistently publicly disclosed what data it collects from its users and how it treats such data; and
 - (e) that Plaintiff and class members knew that they could disable Siri at any time.
15. To the extent that the Application for Authorization suggests that Plaintiff and other class members only "learned" of certain allegations on January 3, 2025, this is plainly contradicted by public statements, publicly-available documents, and contracts and policies that Plaintiff and class members had notice of and/or agreed to over many years.

16. Where Plaintiff makes allegations without support and fails to provide the relevant contracts and policies, the Court should allow the filing of this evidence before conducting its analysis of the Application for Authorization under the criteria of Article 575 CCP.
17. In addition, Apple wishes to adduce evidence showing that it is not domiciled in Quebec, which is relevant to the scope of the proposed class.
18. For these reasons, Apple respectfully submits that such evidence is relevant at the authorization stage to fully appreciate if Plaintiff has met her burden.
19. The evidence that Apple is hereby seeking to adduce is both useful and necessary to demonstrate that the facts alleged by Plaintiff are inaccurate and do not justify the conclusions sought, such that the proposed class action is untenable and doomed to fail.
20. The evidence proposed is limited in scope and is thus consistent with the authorization process and the principle of proportionality.
21. This application for particulars and for leave to adduce relevant evidence is well-founded in fact and in law.

WHEREFORE MAY IT PLEASE THIS COURT TO:

GRANT the present *Application for Particulars and for Leave to Adduce Relevant Evidence*;

ORDER Plaintiff to provide particulars with respect to paragraphs 13, 15, 21, 23, 25, 26, 29, 30, 31, 32, 38 and 42 of the *Application for Authorization*;

AUTHORIZE the Defendants to file Exhibits R-1 to R-12;

ALL OF WHICH IS REQUESTED without costs, except in the event of contestation.

MONTREAL, May 9, 2025



OSLER, HOSKIN & HARCOURT LLP

1000 De La Gauchetière Street West, Suite 2100

Montréal, Québec H3B 4W5

Tel: 514.904.8100

Fax: 514.904.8101

Lawyers for Defendants, **APPLE CANADA INC.** and
APPLE INC.

c/o Me Kristian Brabander / Me Alexandra Romcea
Emails: kbrabander@osler.com / aromcea@osler.com
Notification by e-mail: notificationosler@osler.com
Our file: 1264878

NOTICE OF PRESENTATION

TO: **Mtre David Assor**
Lex Group Inc.
4101 Sherbrooke St. West
Westmount, Quebec
H3Z 1A7
Lawyers for the Plaintiff

TAKE NOTICE that the *Application by Defendants for Leave to Adduce Relevant Evidence* will be presented for hearing and allowance at a date and time to be determined by the Honourable Justice Martin F. Sheehan of the Superior Court of Québec, 1 Notre-Dame Street East, Montreal, Quebec.

PLEASE GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, May 9, 2025



OSLER, HOSKIN & HARCOURT LLP

1000 De La Gauchetière Street West, Suite 2100
Montréal, Québec H3B 4W5
Tel: 514.904.8100
Fax: 514.904.8101

Lawyers for Defendants, **APPLE CANADA INC.** and
APPLE INC.

c/o Me Kristian Brabander / Me Alexandra Romcea
Emails: kbrabander@osler.com / aromcea@osler.com
Notification by e-mail: notificationosler@osler.com
Our file: 1264878

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LIST OF EXHIBITS OF DEFENDANTS APPLE CANADA INC. AND APPLE INC.
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Exhibit R-1:	Public statement by Apple entitled “Improving Siri’s privacy protections”, dated August 28, 2019, English and French versions, <i>en liasse</i>
Exhibit R-2:	Document entitled “Ask Siri, Dictation & Privacy”, dated October 2019
Exhibit R-3:	Document entitled “Ask Siri, Dictation & Privacy”, dated September 2021
Exhibit R-4:	Document entitled “Siri, Dictation & Privacy”, dated December 16, 2024, English and French versions, <i>en liasse</i>
Exhibit R-5:	Document entitled “Improve Siri and Dictation & Privacy”, dated October 2019
Exhibit R-6:	Document entitled “Improve Siri and Dictation & Privacy”, dated December 16, 2024, English and French versions, <i>en liasse</i>
Exhibit R-7:	Public statement by Apple entitled “Our longstanding privacy commitment with Siri”, English version dated January 9, 2025, and French version dated January 8, 2025, <i>en liasse</i>
Exhibit R-8:	Apple’s privacy policy as of June 21, 2010

Exhibit R-9:	Apple's privacy policy as of August 29, 2019, English and French versions, <i>en liasse</i>
Exhibit R-10:	Apple's privacy policy as of December 31, 2019, English and French versions, <i>en liasse</i>
Exhibit R-11:	Apple's privacy policy as of January 31, 2025, English and French versions, <i>en liasse</i>
Exhibit R-12:	Statement of information - Apple Canada Inc. (<i>État de renseignements d'une personne morale au registre des entreprises</i>)

MONTREAL, May 9, 2025



OSLER, HOSKIN & HARCOURT LLP

1000 De La Gauchetière Street West, Suite 2100

Montréal, Québec H3B 4W5

Tel: 514.904.8100

Fax: 514.904.8101

Lawyers for Defendants, **APPLE CANADA INC.** and **APPLE INC.**

c/o Me Kristian Brabander / Me Alexandra Romcea

Emails: kbrabander@osler.com / aromcea@osler.com

Notification by e-mail: notificationosler@osler.com

Our file: 1264878

De: Ciciotti, Fabiola
Envoyé: 9 mai 2025 15:47
À: 'davidassor@lexgroup.ca'
Cc: Brabander, Kristian; Romcea, Alexandra
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Pièces jointes: Exhibits R-1 to R-12.zip; Application for Particulars and for Leave to Adduce Relevant Evidence.pdf

Suivi:	Destinataire	Réception
	'davidassor@lexgroup.ca'	
	Brabander, Kristian	Remis: 2025-05-09 15:48
	Romcea, Alexandra	Remis: 2025-05-09 15:48

NOTIFICATION BY EMAIL
(Art. 134 CCP)

SENDER

Names: Me Kristian Brabander / Me Alexandra Romcea
OSLER, HOSKIN & HARCOURT LLP
Address: 1000 De La Gauchetière St. West
Suite 1100
Montréal, Québec H3B 4W5
Phone: 514-904-8100
Fax: 514-904-8101
Notification: kbrabander@osler.com /
aromcea@osler.com notificationosler@osler.com

ADDRESSEE

Name: Me David Assor
LEX GROUP INC.
Email address: davidassor@lexgroup.ca

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Fabiola Ciciotti

Legal Assistant to Éric Préfontaine, Julien Ranger-Musiol
Jeremy Perron, Sophie Courville-Le Bouyonnec,
Rachelle Saint-Laurent and Alexandra Romcea
514.904.5808 | fciciotti@osler.com
Osler, Hoskin & Harcourt LLP | osler.com

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ORIGINAL

BO 0323

O/F: 1264878

Me Kristian Brabander

Me Alexandra Romcea

Osler, Hoskin & Harcourt LLP

1000 De La Gauchetière Street West, Suite 2100

Montréal, Québec, Canada, H3B 4W5

E-mails: kbrabander@osler.com /

aromcea@osler.com

Tel.: 514.904.8100

Fax: 514.904.8101

Notification by e-mail: notificationosler@osler.com