

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

SUPERIOR COURT
(Class Actions)

N°: 500-06-001252-234

ALEX LAFRANCE

Applicant

v.

LENOVO (CANADA) INC.
and

WAL-MART CANADA CORP.
and

BEST BUY CANADA LTD.

Defendants

**APPLICATION BY DEFENDANT LENOVO (CANADA) INC. FOR LEAVE
TO ADDUCE RELEVANT EVIDENCE AND FOR LEAVE TO
EXAMINE THE CLASS REPRESENTATIVE**
(Sections 574 and 575 C.C.P.)

TO THE HONOURABLE JUSTICE MARIE-CHRISTINE HIVON OF THE SUPERIOR COURT
OF QUEBEC, SITTING IN THE JUDICIAL DISTRICT OF MONTREAL, THE DEFENDANT
LENOVO (CANADA) INC. SUBMITS THE FOLLOWING:

I. INTRODUCTION

1. In addition to its Application for Declinatory Exception and for Partial Dismissal of the Application for Authorization, the Defendant Lenovo (Canada) Inc. ("**Lenovo Canada**") seeks leave to adduce relevant evidence and to examine the class representative for the purpose of the authorization hearing 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 section 575 of the *Code of Civil Procedure* ("**CCP**"), regarding the authorization sought by the Applicant to institute class action proceedings against Lenovo Canada;

II. PROCEDURAL BACKGROUND

2. On or about July 21, 2023, the Applicant filed the *Application for Authorization to Institute a Class Action and Appoint Applicant as Class Representative* against Lenovo Canada, Wal-Mart Canada Corp. ("**Wal-Mart**") and Best Buy Canada Ltd.'s ("**Best Buy**") on behalf of the following purported class:

All individual and legal persons in the province of Quebec who
purchased one or more Lenovo Laptops from Lenovo, Walmart

and/or Best Buy at a price lower than the represented Regular Price, including a subclass of consumers who purchased one or more Lenovo Laptops for their own personal use (the "Consumer Subclass") from the date Lenovo Laptops were first offered for sale in Quebec until the date that this action is authorized as a class action.

3. Around the same time, a similar class action was instituted in British Columbia on behalf of all individuals and legal persons in Canada, with the exception of those in Quebec;
4. On or about September 10, 2024, the Applicant was authorized by this Honorable Court to file its *Amended Application for Authorization to Institute a Class Action and Appoint Applicant as Class Representative* ("**Amended Application**") against the three Defendants;
5. As indicated in paragraph 2 of the Amended Application, the Applicant now seeks to authorize a class action on behalf of the following class:

All individual and legal persons in the province of Quebec who purchased one or more Lenovo Laptops manufactured and sold online by Lenovo through www.lenovo.com/ca/ [the "**Website**"], www.walmart.ca/, and/or www.bestbuy.ca/ from Lenovo, Walmart and/or Best Buy at a price lower than the represented Regular Price, including a subclass of consumers who purchased one or more Lenovo Laptops for their own personal use (the "Consumer Subclass") from the date Lenovo Laptops were first offered for sale in Quebec until the date that this action is authorized as a class action.

6. On March 4, 2025, this Honorable Court ordered a partial temporary stay of these proceedings as they relate to Wal-Mart and Best Buy, in accordance with the terms of the Standstill Agreement concluded between Walmart, Best Buy and the purported class representatives of the Quebec and British Columbia proposed class actions;
7. In essence, the Applicant claims that the Defendants participated in alleged prohibited business practices in violation of Section 225, or alternatively Sections 219 and/or 228, of the Quebec *Consumer Protection Act* (the "**CPA**"), and that they also allegedly made misleading representations regarding the "Regular Price", "Discount Price" and "Discount Value" (as defined in the Amended Application) of the Lenovo Canada laptops in violation of Section 52(1) of the *Competition Act*;
8. The Applicant is therefore seeking (i) an amount for compensatory damages under the CPA and Section 36 of the *Competition Act*; (ii) a reduction of his and the purported class members' obligations equivalent to a portion of the amount gained by the Defendants as a result of their alleged faults; and (iii) an aggregate amount for punitive damages under Section 272 of the CPA;

III. APPLICATION FOR LEAVE TO ADDUCE RELEVANT EVIDENCE

9. For the purposes of contesting the authorization of the class action, Lenovo Canada seeks leave from this Honourable Court to submit relevant evidence, copies of which are communicated with the present Application and consisting of:
- **Exhibit R-1:** the draft sworn statement of Tamara Lang (the “**Lang Affidavit**”);
 - **Exhibit R-2:** the draft sworn statement of Tamara Lang in support of the Application by Defendant Lenovo (Canada) Inc. for Declinatory Exception and for Partial Dismissal of the Application for Authorization (the “**Declinatory Exception Lang Affidavit**”);
 - **Exhibit R-3:** screenshot of where the “Sales Terms and Conditions” are accessible on the Website;
 - **Exhibit R-4:** a copy of the current version of the Lenovo Sales Agreement;
 - **Exhibit R-5:** current screenshot of the Checkout Cart;
 - **Exhibit R-6:** a copy of the current version of the Arbitration Agreement;
 - **Exhibit R-7:** snapshots from the Wayback Machine Website of the previous versions of the Lenovo Sales Agreement, *in a bundle*;
 - **Exhibit R-8:** a copy of the current version of the Payment & Price Protection Policy and snapshots from the Wayback Machine Website of the previous versions of the Payment & Price Protection Policy, *in a bundle*;
10. The Lang Affidavit, Exhibit R-1, sets out the factual context for some of Lenovo Canada’s various laptop lines and families (paragraphs 7–14), details the respective target markets and distinguishes laptops promoted principally for business or professional users from those directed toward personal or consumer purchasers (paragraphs 15–21), and includes information on the option to customize these laptops (paragraphs 22–27).
11. The Lang Affidavit, Exhibit R-1, also outlines other types of discounts available to Website purchasers that can impact the price of any given online purchase (paragraphs 29–30), as well as the timing during which the Est Value of Lenovo Canada’s laptops and an explanation of same has been displayed on the Website (paragraph 31);
12. The facts presented in the Lang Affidavit, Exhibit R-1, will primarily assist the Court in determining whether the claims of the purported members of the class raise identical, similar or related issues of law or fact, particularly in respect of the Quebec consumer claims compared to the non-consumer claims;
13. Furthermore, should it be required, the Lang Affidavit, Exhibit R-1, will allow the Court to properly assess and circumscribe an appropriate class description as required by Section 576 CCP;
14. The Declinatory Exception Lang Affidavit, Exhibit R-2, as well as Exhibits R-3 to R-7 pertain to the *Application for Declinatory Exception and for Partial Dismissal of the*

Application for Authorization and are necessary to demonstrate that the dispute put forward in the Amended Application between Quebec non-consumers and Lenovo Canada fall outside of this Court's jurisdiction, as further demonstrated in such Application;

15. Exhibits R-4 and R-7 are also necessary to demonstrate the limitations of liability applicable in the context of non-consumer transactions, thereby assisting this Honourable Court in evaluating the authorization criterion at Section 575(2) of the CCP, particularly in determining whether the non-consumer purchasers have an arguable case against Lenovo Canada;
16. Finally, Lenovo's Payment & Price Protection Policy, Exhibit R-8, provides, in particular, that Lenovo Canada will match the price of any comparable PCs from Lenovo Canada, HP or Dell with the same key specifications sold through a nationally recognized on-line retailer;
17. This Exhibit R-8 will assist this Honourable Court in evaluating whether the authorization criterion at Section 575(2) of the CCP is met, particularly in determining whether those who purchased laptops on the Website have an arguable case against Lenovo Canada and whether they have suffered harm as a result of the alleged violations of the CPA and the *Competition Act*;
18. The evidence which Lenovo Canada requests leave to adduce is limited to strictly circumscribed and precise subjects and facts;
19. It is essential for this Honourable Court to have the benefit of this evidence in order to ensure that all of the necessary neutral facts and essential information are before it to fairly determine whether the conditions of Section 575 CCP are met against Lenovo Canada and to make an informed decision at the authorization stage;
20. Moreover, this evidence will assist in determining an appropriate class description and identifying the questions to be dealt with collectively, if necessary, as required by Section 576 CCP, not only in the interest of proportionality, but also for the better administration of justice, by ensuring a thorough and comprehensive debate at the authorization hearing;
21. Lenovo Canada respectfully submits that the additional evidence described herein is necessary, useful and reasonable for this Honourable Court to rule on the Amended Application, and that it provides relevant facts that will assist the Court in determining whether the proposed Applicant has a *prima facie* case against Lenovo Canada and whether the Court should authorize the bringing of a class action against it;

IV. APPLICATION FOR LEAVE TO ADDUCE AN EXPERT REPORT

22. For the purposes of contesting the authorization of the class action, Lenovo Canada further seeks leave to introduce in the Court record a brief expert's report prepared by Dr. Michael Mulvey, a recognized authority in consumer behavior, a copy of which is dated September 2, 2025, and is communicated with the present Application as **Exhibit R-9**, to allow the Court to determine whether the conditions of Section 575 CCP are met as it concerns the consumer and non-consumer claims raised in this purported class action;
23. Dr. Mulvey's report discusses how individuals interpret and process reference prices differently, and how such interpretation may vary based on whether they are individual

consumers or business clients, thus demonstrating that each class member will have relied on Lenovo Canada's alleged misrepresentation differently, such that an individual assessment for each purported class member would be required;

24. For the same purpose, Dr. Mulvey's report discusses differences in individual consumer and business consumer decision-making behaviours, and how the different components, specifications and purposes of the laptops purchased will influence their decisions;
25. Furthermore, Dr. Mulvey's report addresses the unique complexities of the Quebec market, including its bilingual environment, the presence of institutional buyers (such as educational and government organizations), and seasonal purchasing patterns, which further increases the variability in how purchaser process and rely on reference price information;
26. Consequently, Dr. Mulvey's report will assist the Court in determining whether the claims of the purported members of the class raise identical, similar or related issues of law or fact, particularly in respect of consumer claims compared to non-consumer claims, and whether the facts alleged appear to justify the conclusions sought as against both consumer and non-consumer class members, and, by extension, conclude as to whether or not the criteria at Sections 575(1) and (2) CCP are met in the present case;
27. This evidence will also assist in determining an appropriate class description and identifying the questions to be dealt with collectively, if necessary, as required by Section 576 CCP in the interest of proportionality and better administration of justice, by ensuring a thorough and comprehensive debate at the authorization hearing;

V. APPLICATION FOR LEAVE TO EXAMINE THE CLASS REPRESENTATIVE

28. Finally, Lenovo Canada seeks leave from this Honorable Court to examine Mr. Alex Lafrance on the circumstances surrounding his decision to purchase his laptop, model number 21AT000UUS (the « **Laptop** »), the damages he has allegedly suffered, and the circumstances surrounding his decision to act as the class representative in these proceedings, namely:
 - i) The use Mr. Lafrance has made of the Laptop since its purchase;
 - ii) The reasons for purchasing the Laptop and the extent of the research conducted by Mr. Lafrance prior to purchasing the Laptop;
 - iii) Mr. Lafrance's recollection of the representations made on the Website during the purchase process of his Laptop to address the vague and imprecise allegation contained in paragraphs 52 and 53 of the Amended Application, and his understanding of the allegations of wrongdoing made in the Amended Application in relation to same;
 - iv) The damages resulting from the alleged misrepresentations;
 - v) The circumstances pursuant to which Mr. Lafrance accepted to act as a class representative.

29. The information sought is necessary for this Honourable Court's analysis of the authorization criteria and more precisely, to establish whether the criteria at Sections 575(2) and 575(4) of the CCP are met;
30. If leave to examine is granted, Lenovo Canada will be limiting the examination to the above subjects, for a maximum duration of 60 minutes;
31. The present Application is well-founded in fact and in law.

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

GRANT the present *Application by Lenovo (Canada) Inc. for Leave to Adduce Relevant Evidence and for Leave to Examine the Class Representative*;

AUTHORIZE Lenovo (Canada) Inc. to file the sworn statement of Tamara Lang, Exhibit R-1, as evidence at the hearing on authorization of this proposed class action;

AUTHORIZE Lenovo (Canada) Inc. to file the sworn statement of Tamara Lang in support of the *Application Declinatory Exception and Partial Dismissal of the Application for Authorization*, Exhibit R-2, as evidence at the hearing on authorization of this proposed class action;

AUTHORIZE Lenovo (Canada) Inc. to file Exhibits R-3 to R-8, as evidence at the hearing on authorization of this proposed class action;

AUTHORIZE Lenovo (Canada) Inc. to file the expert's report of Dr. Michael Mulvey, dated September 2, 2025, Exhibit R-9, as evidence at the hearing on authorization of this proposed class action;

AUTHORIZE Lenovo (Canada) Inc. to conduct an in-person examination of the class representative, Mr. Alex Lafrance, for a duration of 60 minutes on the following topics:

- i) The use Mr. Lafrance has made of the Laptop since its purchase;
- ii) The reasons for purchasing the Laptop and the extent of the research conducted by Mr. Lafrance prior to purchasing the Laptop;
- iii) Mr. Lafrance's recollection of the representations made on www.lenovo.com/ca/ during the purchase process of his Laptop to address the vague and imprecise allegation contained in paragraphs 52 and 53 of the Amended Application, and his understanding of the allegations of wrongdoing made in the Amended Application in relation to same;
- iv) The damages resulting from the alleged misrepresentations;
- v) The circumstances pursuant to which Mr. Lafrance accepted to act as a class representative.

THE WHOLE with legal costs to follow.

MONTREAL, September 2, 2025

DLA Piper (Canada) LLP

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Our reference : 114338-00001

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PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

SUPERIOR COURT
(Class Actions)

N°: 500-06-001252-234

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v.

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Defendants

NOTICE OF PRESENTATION

(In regard to the Application of Defendant Lenovo (Canada) inc. for Leave to Adduce Relevant Evidence and for Leave to Examine the Class Representative)

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TAKE NOTICE that the foregoing *Application of Defendant Lenovo (Canada) inc. for Leave to Adduce Relevant Evidence and for Leave to Examine the Class Representative* will be presented for adjudication on **October 14, 2025**, before the Superior Court of Montreal, at 1, rue Notre-

Dame, E., Montreal (Quebec), H2Y 1B6, at a time to be determined by the Honourable Marie-Christine Hivon.

DO GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, September 2, 2025

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ALEX LAFRANCE v. LENOVO (CANADA) INC. et als.	Applicant Defendants
APPLICATION BY DEFENDANT LENOVO (CANADA) INC. FOR LEAVE TO ADDUCE RELEVANT EVIDENCE AND FOR LEAVE TO EXAMINE THE CLASS REPRESENTATIVE (Articles 574 and 575 C.C.P.)	
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