

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class Actions)

No.: **500-06-001079-207**

OPTION CONSOMMATEURS

Plaintiff

v.

GOOGLE LLC

Defendant

DEFENCE
(Art. 170 C.C.P.)

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IN DEFENCE TO THE PLAINTIFF’S PARTICULARIZED ORIGINATING APPLICATION, THE DEFENDANT GOOGLE LLC SUBMITS THE FOLLOWING:

I. INTRODUCTION

1. Through its *Demande introductive d’instance précisée (25 novembre 2024)* (the “**Application**”), Option consommateurs (the “**Plaintiff**”) alleges that the defendant Google LLC (“**Google**”) collects, stores and uses the *personal information* of users of its services, including the Class Members¹, without obtaining their valid consent, and subsequently uses this information to create individualized user profiles that support its online advertising operations.
2. The Plaintiff also asserts that Google knowingly ignores the express requests of Class Members concerning the collection of their personal information and falsely represents to Class Members that they can control the collection of their personal information by Google.
3. Overall, the Plaintiff’s claims reflect a fundamental misunderstanding of the services offered by Google, of how information is collected and used for these services and, of how consent to the collection, use and disclosure of personal information can be obtained under Canadian privacy laws.

¹ Members of the class defined at paragraph 174 of this Court’s judgment dated June 28, 2022 in this matter.

4. Google's collection and use of information from users of its products, platforms and services ("**Google Services**") are governed by user choices and disclosures that vary widely across different products, platforms, and individual preferences.
5. The Plaintiff is conflating several Services offered by Google without distinction, including advertising technology services used by third parties, which appear to be designated as "Tools" in the Plaintiff's Application.
6. Google does collect and use *information* from the users of its Google Services and some of the information that Google collects is of a personal nature.
7. The nature and extent of the information collected about users, and how that information is used to tailor Google Services to each individual's particular preferences, varies. It is dependent on each user's decisions about (1) what Google Services to use, (2) what privacy-related settings are accessed and chosen by the user, (3) whether and how the user would like to use and personalize Google Services and (4) how long they would like Google to store the information saved to any one or more of their Google Accounts². Google's collection and use of information is disclosed with express or implied consent, which is obtained at different times and in different ways.
8. Depending on a user's choices, Google collects some types of information about some Class Members, but not others. Whether and how information is used, and whether Google derives any revenue from the use of it, depends on a host of factors:
 - a) First, information is used differently amongst the roughly 80 Google Services and many third-party websites and applications;
 - b) Additionally, users can make various setting choices on those Google Services or third-party websites or applications that will determine how their information is used;
 - c) They can also make setting choices on the devices they use to access Google Services or third-party websites or applications that will further impact how information is used;
 - d) Even more factors, like whether the user has a Google Account and, if so, whether they are signed in or signed out of the Google Account when using the Google Service, the user's relevant account-level settings, and potentially a variety of third-party inputs, will also contribute to determining how information is used; and

² Whereas the present class action is limited to the Google Services that do not require a Google Account, a certain number of Class Members do have a Google Account in spite of the fact that such an account is not required to use the aforementioned Google Services. Therefore, how users set up their Google Account and the choices they make in doing so are relevant.

- e) Whatever information Google may store at one time may not be stored later due to the application of retention periods or the deletion of information by the Google Account user.
- 9. None of the above collection or use is nefarious, secret, or malicious. Millions of users knowingly provide personal information and obtain benefits provided by Google Services such as: finding a nearby restaurant without having to type in the user's location every time; obtaining the fastest route to regular destinations; or suggestions for YouTube videos that are similar to ones that the user has enjoyed in the past.
- 10. The Plaintiff's allegations to the effect that Google surveils users by creating "Profiles" of users³ by aggregating all of the information collected or used by Google in any way associated with that user have no basis in fact and are not supported by evidence.
- 11. The Plaintiff's allegations denote a misunderstanding of the legislative and regulatory frameworks related to Google's offerings, and more broadly, the internet itself. The collection of information is not inherently unlawful. Whether it is unlawful depends on a range of contextual factors, including the nature of the information collected, whether it is personal information and how it is used, as well as the terms, policies, disclosures, consents and settings choices that affect whether there was express or implied consent.
- 12. For the reasons further detailed below, the Application should be dismissed.

II. RESPONSE TO THE PLAINTIFF'S ALLEGATIONS

- 13. Google denies the allegations contained in paragraph 3-6, 12-18, 20, 24, 25, 29-42, 44-49, 51-54 and 60-75 of the Application.
- 14. It admits the allegations contained in paragraph 1, 2, 7, 8, 19, 21 and 22 of the Application.
- 15. It has no knowledge of the allegations contained in paragraph 9, 11 and 28 of the Application.
- 16. It denies as drafted the allegations contained in paragraph 10 of the Application.
- 17. With respect to the allegations made at paragraph 23, it refers to Exhibit P-2 and denies anything not in conformity therewith.
- 18. With respect to the allegations made at paragraph 26, it refers to Exhibit P-3 and denies anything not in conformity therewith.

³ See *inter alia*, Application, at paras. 6, 13-15, 17, 24, 31, 34 and 38.

19. With respect to the allegations made at paragraph 27, it refers to Exhibit P-4 and denies anything not in conformity therewith.
20. With respect to the allegations made at paragraph 43, it refers to Exhibit P-7 and denies anything not in conformity therewith.
21. With respect to the allegations made at paragraph 50, it refers to Exhibit P-2 and denies anything not in conformity therewith.
22. With respect to the allegations made at paragraphs 55-59, it refers to Exhibit P-9 and denies anything not in conformity therewith.

AND FOR FURTHER PLEA, THE DEFENDANT ADDS:

III. THE DEFENDANT

23. Google is a company incorporated under the laws of the State of Delaware. Google is a technology company specializing in internet-related services and products. Google is headquartered in Mountain View, California.

IV. GOOGLE OFFERS A VARIETY OF PRODUCTS AND SERVICES

24. Google provides useful services that provide benefits and improve the everyday lives of its users. Google offers both services for individuals and services for businesses and government organizations.
25. Below are just a few examples of Google Services which are provided for free to individual users, as well as their features and the benefits they offer to users of the internet. Overall, there are presently over 80 Google Services.
26. Many of Google Services, including those listed below, may be used for personal or business use, and are mostly free to use without payment.
27. An individual may access most Google Services without having a Google Account or without being signed in to a Google Account. If a user is signed in to a Google Account, they enjoy additional benefits – which are further detailed at section V entitled “Google Accounts Provide Users with an Integrated and Enhanced Experience while Using Google Services”.
28. Without limiting the generality of the foregoing, the Google Services include the following, which are mentioned in the Plaintiff’s Application:
 - a) Google Search;
 - b) Google Maps;
 - c) Google News;
 - d) Google Translate; and

- e) Google Chrome.
- 29. These Google Services will be described in section A below.
- 30. In addition to the above-mentioned Google Services, the Application refers to “Tools”⁴. Google Advertising Technology Services included in that definition include the following, which are mentioned in the Plaintiff’s Application:
 - a) Google Ads;
 - b) AdSense;
 - c) Google Ad Manager; and
 - d) Google Analytics.
- 31. The Google Advertising Technology Services will be described in section B below.

A. Google Services

i. Google Search

- 32. Google Search is a free search engine operated by Google available to individuals who have access to the internet.
- 33. In general terms, Google Search relates to www.google.com and the primary search modes available from that website (for example, web search, image search and news search).
- 34. Google Search is also available as an app, which would present further variation in user experience.
- 35. Generally, when a user enters a query, Google Search’s automated systems search the Search index for matching pages and return the results Google believes are the highest quality and most relevant to the user’s query.
- 36. Google operates Google Search for the provision of search results that will be relevant and useful to internet users and the public generally.
- 37. Relevancy is determined by hundreds of factors, which could include information such as the user’s location, language, and device (desktop or phone).
- 38. Not all search results are displayed with ads. Some search results will have clearly labelled ads, and some will not have ads.
- 39. Google Search may be used with or without a Google Account.

⁴ The broad definition of “Tools” according to the Plaintiff is at paragraph 25 of the Application.

ii. Google Maps

- 40. Google Maps is a free web and app service that provides detailed information about geographical regions and places worldwide.
- 41. Google Maps allows a user to get real-time GPS navigation, traffic and transit info, and explore local neighbourhoods by knowing where to eat, drink and go.
- 42. Users can easily view and manage app related settings, including related to location.
- 43. When users turn off device-level location data, Google Maps might not be able to provide the intended service. If certain settings are enabled, the Google Maps app may use device-level location data to provide direction information to users.
- 44. Google Maps may be used with or without a Google Account.

iii. Google Translate

- 45. Google Translate is a free online service that translates text, handwriting, photos, and speech in over 200 languages with the Google Translate app or through a web browser.
- 46. Google Translate may be used with or without a Google Account.
- 47. Users can easily view and manage their translation history within the Google Translate app or in their web browser.

iv. Google Chrome

- 48. Google Chrome is a free web browser developed by Google. A web browser, including Google Chrome, transmits data to and receives data from web servers (*i.e.*, computers that host the data for websites) during web browsing.
- 49. Google Chrome may be used with or without a Google Account.
- 50. Chrome has its own set up process, disclosures and consents, privacy-related settings choices, and modes which provide many opportunities for a user to customize their Chrome experience. Accordingly, different users at any particular time may have provided different consents, reviewed different disclosures, made different settings choices, and browsed Chrome using different modes, all of which have an effect on whether and to what extent Google collected any information related to their browsing. This is separate from and additional to Google Account level choices.
- 51. Since its first release, Chrome has had a set up process when users first download (depending on the type and operating system of the device used) or use the Chrome browser which provided disclosures of how Google collected, stored, and

used data in connection with the Chrome browser, required acceptance of the Terms of Service, and allowed users to make choices regarding their Chrome-related settings.

B. Google Advertising Technology Services

52. Digital advertising refers to delivering ads through online channels. Digital advertising can be conducted by sending emails, posting on social media, or displaying ads on a website or app. Ad spaces are the places on a website or app where an ad will appear.
53. Digital advertising typically involves the interactions of three key parties: publishers, advertisers and users:
 - a) **Publishers** are individuals or companies who own or operate websites or apps that contain ad space. Google is a publisher. There are also many non-Google third-party publishers;
 - b) **Advertisers** are individuals or companies that pay for their ads to be shown in ad space on a website or app; and
 - c) **Users** are individuals to whom the advertisers' ads are displayed when the user is visiting the websites or using the apps provided by publishers.
54. The categories of publisher and advertiser are not mutually exclusive. For example, a publisher who owns a website that sells shoes may choose to advertise their products on ad space on their own website or on third-party websites or apps.
55. Google ad space may appear on one or more of the millions of websites and apps belonging to the Google Network. The Google Network is divided into different categories to give advertisers more control over where their ads appear:
 - a) The Google Display Network consists of millions of third-party websites and apps, along with Google-owned properties, such as YouTube and Gmail; and
 - b) The Google Search Network, which includes Google Search sites (including Google Images, Google Maps and in the Shopping tab), and Google Search partners (including hundreds of non-Google websites, as well as YouTube and other Google sites). For example, Search Ads may be displayed on the top of the Google.com search results page under the label "Sponsored".
56. Advertising technology ("**ad tech**") services is the umbrella term for a variety of platforms and tools that facilitate the interactions between publishers, advertisers, and users necessary for digital advertising. Google offers several ad tech or related services ("**Google Ad Tech Services**"), including Google Ads, AdSense, Ad Manager, and Google Analytics.

57. These four Google Ad Tech Services are described below.

i. Google Ads

58. Google Ads include Google's online advertising-facing platform through which advertisers can create ads, select keywords which the advertiser would like to trigger the online display of the ad, bid to display ads, and track their ads' performance.
59. Using Google Ads, an advertiser's ads may appear on Google Search when a user searches for terms related to an advertiser's product or service, or when they are on a website with content related to the advertiser's business.
60. Ads via Google Ads may appear alongside or above or below search results on Google Search. They may also appear besides, above or below search results on Google Play, and Google Maps, including the Maps app or on YouTube or Discover. Google Ads may also appear with search results on Third-Party Websites that partner with Google to show ads and free product listings.
61. An advertiser chooses keywords or phrases when they set up a Google Search Ads campaign. These are terms they think their potential customers are likely to use when searching for products or services like theirs.
62. The advertiser then matches the keywords with the ads that they create, making it possible for the ad to show when someone searches for similar terms.
63. Many Google ads are not personalized. There are many ads by Google selected and presented based solely on current contextual inputs, such as:
- a) the content of the website, app, or video where the ad appears;
 - b) the search query prompting the ad request;
 - c) the time of day (ad scheduling);
 - d) the type of device they are using; and
 - e) the users' location information.
64. Any person or business can register for the Google Ads program and open an account through an online process on the Google Ads website.

ii. AdSense

65. AdSense is an ad network for publishers who want to monetize their websites. For example, AdSense for Search allows publishers to earn income from Search Ads that users click after expressing search intent.

- 66. AdSense is frequently used by smaller publishers or those just starting out in the digital advertising space.

iii. Ad Manager

- 67. Ad Manager is an ad tech service aimed at bigger, more established publishers who have significant ad direct sales on their websites and/or apps.
- 68. Unlike AdSense, Ad Manager offers publishers the ability to engage in traditional advertising transactions through direct negotiations with advertisers.

iv. Google Analytics

- 69. Google Analytics is a web and app measurement solution that provides web and app developers with insights on web and app usage and user engagement through aggregate reports, which allows them to make informed decisions on their websites and apps.
- 70. With Google Analytics, web and app developers can measure various “events”, or specific types of user interactions. Web and app developers can use these events to better understand how users interact with their websites and apps through various metrics and understand where users are encountering issues.
- 71. Use of Google Analytics requires that certain JavaScript code provided by Google (“**Google APIs**”) is added to the website or app by the publisher where the publisher wants to collect analytical data.
- 72. The Google APIs for Google Analytics contain “measurement code”. The type of website and the specific metrics the publisher wants to track will determine how the measurement code is implemented in the website or app. If implemented correctly, the code will collect pseudonymous information about how users interacted with the website or app and ultimately send it to Google to be processed into aggregate reports.
- 73. Every time a user visits a webpage or uses an app where the publisher has embedded an API in its code, the user’s device will read and execute the API. When executed, the code instructs the user’s browser to request content from a third-party server.
- 74. Depending upon the type of code, the code will collect pseudonymous information about how that user interacted with the page, for example, how long they spent on the page, and any links they clicked while there. The measurement code will also collect information from the browser like the language setting, the type of browser (such as Chrome or Safari), and the device and operating system on which the browser is running. It can also collect the “traffic source,” which is what brought users to the site in the first place. This might be a search engine, an advertisement they clicked on, or an email marketing campaign.

75. Third-Party Websites and Apps may configure settings that allow them to customize how (or whether) information is processed.
76. There are various device and service or product (*i.e.* browser) settings that may restrict the ability of the code to collect information.
77. Users can delete cookies and/or clear browsing data by accessing certain settings.
78. Google developed a free solution which provides website visitors the ability to prevent their data from being collected by publishers using Google Analytics if they chose to do so, as appears from the “Google Analytics Opt-out Browser Add-on” page communicated herewith as **Exhibit D-1**.
79. For the entire period from 2017 to present, the then-current terms of service for Google Analytics have also required the Analytics Customers to disclose their use of Google Analytics in a privacy policy accessible through their website or app, and where appropriate, obtain user consent for the Analytics Customers’ collection and use of data.
80. Google Analytics offers publishers several data controls and settings.
81. Google Analytics does not log or store IP addresses. Instead, it discards all IP addresses upon collection, after determining an approximate coarse geographic location. Prior versions of Google Analytics offered features that masked or redacted IP addresses that were transmitted by customers to Google Analytics collection servers.
82. Customers may decide to use their Google Analytics data for ad personalization, but this requires them to additionally: link their Google Analytics account and their Google Ads account; enable Advertising Features; create audience lists in Google Analytics; export these audience lists into their linked Google Ads account; and, notify website visitors about the specific Advertising Features settings that have been enabled, how the website uses first- and third-party cookies, and how visitors can opt out of Advertising Features using ad personalization settings like Ads Settings. Whether and to what extent any of the data collected using Google Analytics is used for ad personalization will depend on the Analytics Customer’s implementation choices across various features, Google Ads advertising and personalization policies, and, where relevant, the website visitor’s own consent choices.

V. GOOGLE ACCOUNTS PROVIDE USERS WITH AN INTEGRATED AND ENHANCED EXPERIENCE WHILE USING GOOGLE SERVICES

83. Millions of Canadians have created Google Accounts. Many users create more than one account and use them for different purposes over time. When creating an account, users see various terms of service, policies, disclosures and consents and can review and change many of the setting choices available to them.

84. A Google Account is only one fraction of a user's potential interactions on the internet, and its features and settings represent only some of the choices that the user may make related to privacy. Further, there are different settings choices available to users who access Google Services when signed-out of a Google Account. Additional information about application- and device-level settings and choices is provided in later sections.
85. A Google Account is associated with a single username and password that can be used to access various Google Services. When a user signs in to a Google Account, they have automatic access to many Google Services. This is possible thanks to a technology called a Google Account and ID Administration "GAIA" ID, which facilitates the storage of activity data to a signed-in user's Google Account, subject to the settings choices of the Google Account user.
86. Users derive a variety of benefits from having a Google Account. For example, having a Google Account:
 - a) Allows access to increased functionality and features in certain Google Services (for example, a user accessing YouTube with a Google Account is able to use the 'Watch Later' feature, which allows the user to save and return to videos they want to watch);
 - b) Permits users to have a consistent experience of Google's products and services across their devices, because their Google Account settings, preferences and other product-specific features (such as 'bookmarked' websites on Chrome) can be applied to each device;
 - c) Allows Google to improve the performance of its products and services for the user, including personalizing its products and services. For example, YouTube can recommend videos a user might like based on their viewing history;
 - d) Allows a user to download and transfer data from their Google Account;
 - e) Provides the user with the opportunity to save time by automatically filling in passwords, addresses, and payment details using information they have chosen to save to the Google Account; and
 - f) Provides the user with the opportunity to have greater productivity due to Google services working together. For example, a flight confirmation in a user's Gmail inbox may be automatically synced with their Google Calendar to provide prompts to arrive at the airport on time.
87. If the account-, application-, and device-levels settings (discussed below) allow for activity information to be saved to a Google Account, then that information will be saved to the account the user is signed into, when they are signed into it, and not to any other Google Account. Therefore, the information saved to a user's Google Account about their activities might be split across different accounts, may be

related to personal or business use, and could include someone else's activity while they were using a device or application the Google Account was signed into.

88. The "Sign in with Google" functionality helps users easily and securely sign in to third-party apps or services with their Google Account. When users Sign in with Google, they do not have to enter a username and password repeatedly across different services.

VI. WHETHER GOOGLE COLLECTS OR USES DATA, AND IF SO WHAT DATA, AND FOR WHAT USE, IS DEPENDENT UPON MULTIPLE FACTORS

89. Users interact with web services and apps on a range of various devices that run on different operating systems (e.g., Android, iOS, ChromeOS, Windows).
90. Each combination of device, operating system and browsers and other apps provide users with settings that vary among device types, operating systems, and browsers and other apps, and also over time. These settings affect what data may be transmitted to services that users interact with directly or indirectly, as well as the information that may be associated with a user's Google Account.
91. Whether and to what extent information is collected or used by Google varies depending upon, amongst other things, the websites and apps that a particular user interacts with.
92. There are also many different setting choices a user of Google Services can make that affect whether and to what extent information is collected or used by Google. These include:
 - a) Device level settings;
 - b) Google Account level settings;
 - c) Application level settings; and
 - d) Tools offered by Google and third parties that turn off ad personalization and/or prevent, limit or change the transmission of information.

i. Device Level Settings

93. Users can use various electronic devices, including mobile devices such as phones and tablets, and computers, which typically determines the operating system and app ecosystem used on a device.
94. The most commonly used operating systems are Microsoft Windows, Apple macOS, and Linux for desktops computers and laptops, and Apple iOS and Google Android for mobile phones and tablet operating systems.

95. Each device will have different settings that affect how information is collected, stored or used – if at all – when using that device.
96. Devices provide users with settings that allow them to modify how devices operate, including what types of data the devices transmit. For example, users have access to settings relating to what location signals can be sent.
97. Users have various setting choices and other tools, which vary by types of devices and operating systems, to control what data is transmitted.
98. For instance, Android and iOS users have device-level controls that affect location data sharing.
99. In addition to device settings allowing users to control data transmissions that may be used to infer user location, Android and iOS devices offer settings to control the use of advertising identifiers that may be used to show users relevant ads. Android and iOS users can limit or reset apps' access to advertising identifiers.
100. Users can change these settings at any time.

ii. Google Account Level Settings

101. If a user creates a Google Account, they can access various settings that control aspects of their Google Account, including settings which allow a user to control whether information is saved to their Google Account. They can disable specific types of data from being saved in their Google Account – like their search and browsing activity, YouTube History or Location History⁵.
102. The Google Account settings, when turned on, only apply when a Google Account user is using a device while logged in to their Google Account.
103. There are a number of Google Account level settings including, but not limited to, Location History and Web & App Activity (“**WAA**”).

(1) Location History

104. In relation to a Google Account holder, Location History is pre-selected as off. Location History has been an opt-in feature throughout the existence of the setting.
105. If a user has opted into Location History by enabling that setting, they may have a more personalized experience across Google products and services.
106. For example, by recording the places a user has frequently visited or the journeys they frequently take, Google is able to provide real-time information about the best time to leave for home or work to beat the traffic. Further, Google may use anonymized location information to indicate when restaurants or businesses are

⁵ Location History is now Timeline.

likely to be busiest and provide environmental insights (e.g., level of carbon and greenhouse gas emissions).

(2) Web and App Activity

107. WAA is a Google Account setting that allows users to save information about their activity on certain Google products and services to their Google Account. Certain interactions may not be saved.
108. The types of activity saved to a signed-in user's Google Account may include, for example, the below types of information, subject to whether the user has enabled WAA and its subsettings:
 - a) Searches on google.com or the Search app;
 - b) Searches and activities on Google products and services like Maps and Shopping;
 - c) Ads a user clicks on;
 - d) Information associated with a user's activity, like their language, referrer, whether they use a browser or an app, or the type of device you use;
 - e) Information about a user's location from their device's general area (depending on device permissions) and IP address;
 - f) Browsing and other activity on sites, apps and devices that use Google services, such as Chrome browsing history; and
 - g) Google Assistant interactions, including if Google Assistant detects an activation the user did not intend.
109. Users may derive a series of benefits from the use of WAA, including by receiving a more personalized experience across Google services, the ability to see their past activity on various Google services, and to improve Google's products and services.
110. Information obtained from WAA is saved to the user's "My Activity" in their Google Account. Users can see or delete the information from there if they choose.
111. Google provides users the option to turn off the WAA setting, and they can easily do so at any time.
112. As a result of the various setting choices, changes to the settings over time, varying retention periods, and the opportunity to review and delete that data, the information associated with any given Google Account will change over time and will be different for each Google Account.

(3) Ads Personalization

- 113. A user can find key information, privacy and security settings about ads personalization in their Google Account.
- 114. My Ad Centre allows Google Account users to customize their ad experiences to see more of the brands and topics they like and less of the ones they do not. Users can also choose to reduce ads about certain sensitive ad topics, including alcohol, dating, gambling, pregnancy and parenting, and weight loss.
- 115. Users logged out of a Google Account, or who do not have a Google Account may choose whether or not to receive ads personalization by changing settings at the device or the Google Services level.
- 116. Users are able to control what data Google uses to show ads, as appears from the “Control what data Google uses to show you ads” page communicated herewith as **Exhibit D-2**.
- 117. Users can turn off ads personalization altogether. When users turn off ads personalization, their activity will not be used to personalize ads shown to them. Users can also delete the activity data saved to their Google Account by their activity settings at any time with the data and privacy settings.
- 118. Google makes detailed and clear information regarding personalized ads available to its users, as appears from “How personalized ads work” page communicated herewith as **Exhibit D-3**.

iii. Application-Level Settings

- 119. There are also controls in Google Search, Google Maps, Chrome and a wide range of other Google Services and apps that allow a user to manage their data, whether they are signed in or signed out of a Google Account.
- 120. Users also have granular control over which apps can access their device’s location services when needing location data to operate.
- 121. Many users of Google Services, Android OS and Apple iOS allow apps other than certain Google Services to collect their information.

iv. Tools or Features Offered by Google Affecting Data Collection

- 122. In its Application, the Plaintiff refers to some of Google’s browsing modes or settings that influence whether a user’s information is collected and, if so, for what purposes. These features, which are part of the many ways that Google offers its users to control their data, are described below.

(1) Cookies

123. In its Application, the Plaintiff refers to cookies, which are small text files containing unique identifiers that may be sent to a web browser when it is used to visit a website. A cookie allows activity to be associated with a web browser on a device. They help that website remember information about the user's visit, which can both make it easier to visit the site again and make the site more useful.
124. Google uses cookies for a variety of purposes, including ad personalization, preventing ad personalization, and search personalization. Cookies are temporary and expire after a set period of time.
125. Google makes information on cookies available to its users, including information on how to delete existing cookies, allow or block all cookies, and set preferences for certain websites. The "How Google uses cookies" page from Google's "Privacy & Terms", is communicated herewith as **Exhibit D-4**.
126. Users have access to a variety of settings, features, and tools that block certain types of cookies from being created or delete them after they are set. Some of the features also rely on cookies designed to affect the blocking.
127. At all relevant times, Google has used cookies in accordance with applicable laws.

(2) Incognito Mode (Chrome's Private Browsing)

128. There are no false representations with respect to private browsing. The Plaintiff's statements are contradicted by the documents to which it refers in support of its claims.
129. All major browsers offer users regular and private browsing modes. Browsers differ in what they call their private browsing modes: Incognito in Chrome, Private Browsing in Firefox and Safari, and InPrivate in Edge.
130. In Chrome, when a user opens a new Incognito session, the browser's local storage for that session does not contain any cookies accumulated from prior regular or Incognito sessions.
131. After an Incognito session is over, browsing history, cookies and site data, and information entered in forms during an Incognito session is not saved in the browser's local storage. By contrast, in regular browsing mode, subject to the user's settings, such data is stored locally by the browser and can be accessed in subsequent regular browsing sessions.
132. Chrome's Incognito mode is designed to allow users to browse without creating an activity record on their devices. This functionality allows users to keep their Incognito browsing activity from being visible to other users sharing the same device.

133. Chrome's Incognito also comes with a feature that blocks third-party cookies by default.
134. The Incognito Splash Screen appears when a user opens an Incognito browsing session in the Chrome browser, as appears from a screenshot of the Incognito Splash Screen communicated herewith as **Exhibit D-5**.
135. It accurately discloses the type of information that the user's Chrome browser will not save in Incognito mode and explains that Incognito mode does not conceal the user's activity from certain types of entities.
136. Google clearly explains to the users that private browsing means that browsing history and cookies are not saved on the user's device and that when the Incognito window is closed, Google discards any site data and cookies associated with that browsing session.
137. The precise content of the Incognito Splash Screen was modified from time to time between 2017 and present.

(3) "Do Not Track" Feature

138. Since November 6, 2012, Chrome has included a setting called "Send a 'Do Not Track' request with your browsing traffic". When this setting is enabled, HTTPS requests sent by Chrome during web browsing will contain a request (included in the HTTPS header) to websites not to collect or track browsing data.
139. On the "Turn 'Do Not Track' on or off" Google Chrome Help Page, communicated herewith as **Exhibit D-6**, Google explains that:

"However, what happens to your data depends on how a website responds to the request. Many websites will still collect and use your browsing data to improve security, provide content, services, ads and recommendations on their websites, and generate reporting statistics.

Most websites and web services, including Google's, don't change their behavior when they receive a Do Not Track request. Chrome doesn't provide details of which websites and web services respect Do Not Track requests and how websites interpret them."

140. The "Do Not Track" feature says exactly what it is. The functioning of this feature is clearly disclosed to the user when they turn it on. Google indicates that many websites will still collect the user's browsing data to improve security, provide content, services, ads and recommendations on their websites, and generate reporting statistics.

VII. **GOOGLE OBTAINS CONSENT AND MEETS ITS TRANSPARENCY OBLIGATIONS FOR THE PERSONAL INFORMATION THAT IT COLLECTS AND PROCESSES**

141. To the extent that the Class Member's personal information was collected or used, which is not admitted, Google says that the Class Members consented, either expressly or by implication, to such collection or use and that Class Members were provided accurate and complete information when personal information was collected from them.

A. **Google's Terms of Service and Privacy Policy**

142. Use of Google's products and services is governed by Google's Terms of Service (the "**Terms of Service**"), communicated herewith as **Exhibit D-7**.
143. Users are required to agree to the Terms of Service before using any of the products and services:

GOOGLE TERMS OF SERVICE

Effective May 22, 2024 | Archived versions

What's covered in these terms

We know it's tempting to skip these Terms of Service, but it's important to establish what you can expect from us as you use Google services, and what we expect from you.

These Terms of Service reflect the way Google's business works, the laws that apply to our company, and certain things we've always believed to be true. As a result, these Terms of Service help define Google's relationship with you as you interact with our services. For example, these terms include the following topic headings:

- What you can expect from us, which describes how we provide and develop our services
- What we expect from you, which establishes certain rules for using our services
- Content in Google services, which describes the intellectual property rights to the content you find in our services — whether that content belongs to you, Google, or others
- In case of problems or disagreements, which describes other legal rights you have, and what to expect in case someone violates these terms

Understanding these terms is important because, by accessing or using our services, you're agreeing to these terms.

Besides these terms, we also publish a Privacy Policy. Although it's not part of these terms, we encourage you to read it to better understand how you can update, manage, export, and delete your information.

144. The Terms of Service are presented in clear and plain language, and hyperlinks are used not just for navigation through the webpage, but also to direct the user to other helpful resources. There may be hyperlinks to Google Help Center articles about privacy controls or the hyperlink may open a pop-up which provides more information to the user.
145. Use of Google's products and services is also subject to Google's specific policies. This includes the Google Privacy Policy, which has been revised from time to time, and that has been in effect from the beginning of the class period starting November 2017 to present (referred to generically as the "**Privacy Policy**").
146. Google's current Privacy Policy, effective July 1, 2025 is communicated herewith as **Exhibit D-8**.
147. Google is transparent about the changes it makes from time to time to its Privacy Policy. Each time Google changes its Privacy Policy, it publishes a document identifying all changes made from the previous version and keeps the previous versions of the policy easily available for users to consult.
148. As appears from the current Privacy Policy (Exhibit D-8), the first item that Google makes available in its Privacy Policy is a link to the "Privacy Checkup" features, communicated herewith as **Exhibit D-9**, which gives users an opportunity to review privacy settings in their Google Account.

B. Users of Google Services Consent to Google's Collection and Use of Information and are Provided with Complete Information When Personal Information is Collected from Them

149. Under Google's Terms of Service and Privacy Policy, users of Google Services consent to Google's collection and use of information. These Terms of Service and Privacy Policy contribute to ensuring that Google's disclosures comply with its statutory transparency obligations concerning the collection of personal information from Class Members, in accordance with the *Act Respecting the Protection of Personal Information in the Private Sector*.
150. Google also provides a number of Help Center articles and product specific disclosures that provide additional disclosures related to Google's collection, and use of information and in certain instances require obtaining additional consent.
151. Disclosures are also made and consents obtained in relation to specific Google Services and when a user chooses certain settings in relation to those Google Services.

152. Disclosures are also made and consents obtained in relation to the set up and use of apps.
153. Disclosures are also made and consents obtained when a user creates a Google Account and when a user chooses settings in relation to the Google Account. The “Privacy and Terms” page that appears when a user creates an account is communicated herewith as **Exhibit D-10**.
154. This page contains information on, among other things, the data processed by Google and the ways to manage it or to withdraw consent.
155. Every device also may have its own set of terms of service, disclosures, settings and consents related to privacy and collection or use of information and may include ad identifiers or location information and options. Further, when choosing settings on a device, additional disclosures are made and consents obtained.

C. Terms and Conditions and Policies Applicable to Third Parties

156. Google requires third-party publishers who use Google Ad Tech Services to have and abide by a privacy policy that clearly discloses any data collection, storage and usage that takes place on any site, app, email publication or other property as a consequence of its use of Google products. Many third-party websites also include cookie consent banners that disclose the use of cookies and seek explicit consent to the use of different categories of cookies. The content and format of these disclosures are left to the discretion of the third-party publishers.
157. Advertisers who use Google Ads must comply with the applicable advertising policies. This obligation has been part of the applicable terms of service for Google Ads for the entire period from 2017 to present.
158. These policies require that advertisers who collect information have a privacy policy that discloses how the information will be used, as appears from the “Personalized advertising” page communicated herewith as **Exhibit D-11** and the “What to include in your privacy policy for your data segments” page is communicated herewith as **Exhibit D-12**.
159. The policies also prohibit the use of sensitive personal information for ad personalization, and place strict limits on any collection and use of information.
160. Publishers must also comply with Google’s publisher policies and applicable terms of service, as appears from the Google Publisher Policies page communicated herewith as **Exhibit D-13**.
161. These policies and terms of service require publishers to handle any user data lawfully and to make disclosure and seek consent from users where necessary.
162. When a user visits a Third-Party Website, there may be additional disclosures provided and consents obtained. Third-Party Websites that use AdSense, Ad

Manager and Google Analytics are required to adhere to policies, including: privacy-related policies that address collection or use of information and ads personalization; policies related to privacy disclosures to users regarding the collection, sharing and use of information.

- 163. Users may also engage with third parties in a variety of ways that relate to the collection and use of their information. In that context, those users may receive disclosure about how their information is collected and used in relation to those Third Parties and more generally. Those users may also provide their consent in relation to the collection and user of their information.
- 164. Google does not have records of disclosures made to users by third-party publishers or consents provided to third-party publishers.

VIII. DAMAGES

- 165. Google is not, and has not been, in violation of any of the statutes invoked by the Plaintiff.
- 166. In addition, no damages can be awarded to class members in the present matter.

A. No Compensatory Damages Can Be Awarded

- 167. The Plaintiff argues that Class Members are entitled to payment of an amount equal to the value of the personal information collected by Google when they use Google Services or browse the Web⁶.
- 168. All claims for damages require the demonstration of the said damages, which must be an immediate and direct consequence of the alleged fault.
- 169. In the present matter, the class members were not deprived of any profit and did not suffer any loss.
- 170. The Class Members have not alleged to have paid for the Google Services, did not suffer any damages and they are not in a situation where they were expecting revenues and were deprived of same.
- 171. As a result of the foregoing, no compensatory damages can be awarded.

B. No Punitive Damages Can Be Awarded

- 172. Google fulfilled all of its obligations and did not commit any fault.
- 173. There is as a result no factual basis in the present case which would even remotely support a legal claim of punitive damages against Google.

⁶ See *inter alia*, Application, at para. 73.

174. This is simply not a case in which there could be any conclusion of an intentional, malicious or vexatious conduct, which could give rise to an award of punitive damages.
175. The Application is ill-founded in fact and in law.
176. The present Defence is well-founded in fact and in law.

FOR THESE REASONS, THE DEFENDANT PRAYS THIS HONOURABLE COURT TO:

- A. GRANT** the present Defence;
- B. DISMISS** the Plaintiff's Particularized Originating Application;
- C. THE WHOLE** with legal costs.

Montréal, November 17, 2025



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APPENDIX 1 – GLOSSARY

Term	Explanation/Definition
“Application”	<i>Demande introductive d’instance précisée (25 novembre 2024).</i>
“AdSense” or “Google AdSense”	Google AdSense is an ad network for publishers who want to monetize their websites.
“Ad Manager” or “Google Ad Manager”	Google Ad Manager is an ad tech service aimed at bigger, more established publishers who have significant ad direct sales on their websites and/or apps.
“ad tech”	Advertising technology services is the umbrella term for a variety of platforms and tools that facilitate the interactions between publishers, advertisers, and users necessary for digital advertising.
“Analytics” or “Google Analytics”	Google Analytics is a web and app measurement solution that provides web and app developers with insights on web and app usage and user engagement through aggregate reports, which allows them to make informed decisions on their websites and apps.
“Android”	An operating system developed by Google, used primarily in mobile devices and tablets.
“API”	Application programming interface.
“Chrome” or “Google Chrome”	Google Chrome is a free web browser developed by Google.
“Class Members”	Members of the class defined at paragraph 174 of this Court’s judgment dated June 28, 2022 in this matter.
“Cookies”	Cookies are small text files containing unique identifiers that may be sent to a web browser when it is used to visit a website.
“Gmail”	A free web-based email service offered by Google.
“Google”	Google LLC.
“Google Ads”	Google Ads include Google’s online advertising-facing platform through which advertisers can create ads, select keywords which the advertiser would like to trigger the online display of the ad, bid to display ads, and track their ads’ performance.

“Google Ad Tech Services”	Google offers several ad tech or related services, including Google Ads, AdSense, Ad Manager, and Google Analytics.
“Google Account”	It is associated with a single username and password that can be used to access various Google products.
“Google Display Network”	A category of the Google Network, the Google Display Network consists of millions of third-party websites and apps, along with Google-owned properties, such as YouTube and Gmail.
“Google Network”	Google ad space may appear on one or more of the millions of websites and apps belonging to the Google Network.
“Google Play”	Google Play is a free online store on Android where users may explore, purchase, and install applications for devices with Android operating systems.
“Google Search” or “Search”	Google Search is a free search engine operated by Google.
“Google Search Network”	A category of the Google Network, includes Google Search sites (including Google Images, Google Maps and in the Shopping tab), and Google Search partners (including hundreds of non-Google websites, as well as YouTube and other Google sites).
“Google Services”	Google’s products, platforms and services of which there are roughly 80.
“HTTP”	Hypertext Transfer Protocol.
“Incognito Mode”	Chrome’s private browsing.
“Incognito Splash Screen”	The Incognito Splash Screen appears when a user opens an Incognito browsing session in the Chrome browser.
“Maps” or “Google Maps”	Google Maps is a free web and app service that provides detailed information about geographical regions and places worldwide.
“Privacy Policy”	Google’s Privacy Policy.
“Plaintiff”	Option consommateurs.
“Search Ads”	Search Ads may be displayed on the top of the Google.com search results page under the label “Sponsored”.

“Terms of Service”	Google’s Terms of Service.
“Third-Party Websites”	Third-party websites are websites which are not published and/or maintained by Google.
“WAA” or “Web & App Activity”	Web & App Activity is a Google Account setting that allows users to save information about their activity on certain Google products and services to their Google Account.
“YouTube”	A free online video sharing platform operated by Google.

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class Actions)

No.: **500-06-001079-207**

OPTION CONSOMMATEURS

Plaintiff

v.

GOOGLE LLC

Defendant

LIST OF DEFENDANT'S EXHIBITS

- EXHIBIT D-1:** Google Analytics Opt-out Browser Add-on Download Page;
- EXHIBIT D-2:** Control what data Google uses to show you ads - My Ad Center Help;
- EXHIBIT D-3:** How personalized ads work;
- EXHIBIT D-4:** How Google uses cookies – Privacy & Terms – Google;
- EXHIBIT D-5:** Incognito Splash Screen;
- EXHIBIT D-6:** Turn Do Not Track on or off - Computer - Google Chrome Help;
- EXHIBIT D-7:** Google Terms of Service - Privacy and Terms;
- EXHIBIT D-8:** Google Privacy Policy – July 2, 2025;
- EXHIBIT D-9:** Privacy Checkup;
- EXHIBIT D-10:** Create your Google Account - Privacy and Terms page;
- EXHIBIT D-11:** Personalized advertising - Advertising Policies Help;
- EXHIBIT D-12:** What to include in your privacy policy for your data segments - Google Ads Help;
- EXHIBIT D-13:** Google Publisher Policies.

A copy of these exhibits is notified and/or served herewith.

Montréal, November 17, 2025



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Defence and Exhibits D-1 to D-13



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**NOTIFICATION BY ELECTRONIC
COURIER TRANSMISSION SLIP
(Article 134 C.p.c.)**

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Number of pages: 26
(attachments only)

 Attachments expire on Dec 17, 2025



1 compressed file
D-X Exhibits, Nov 17.zip



2 PDFs
2025-11-17 - List of Defendant's Exhibits.pdf, 2025-11-17 - Defence.pdf

This message requires that you sign in to access the message and any file attachments.

SUPERIOR COURT
(Class action)

DISTRICT OF MONTRÉAL
No.: 500-06-001079-207

OPTION CONSOMMATEURS

Plaintiff

v.

GOOGLE LLC

Defendant

**DEFENCE OF DEFENDANT GOOGLE LLC
AND LIST OF DEFENDANT'S EXHIBITS (D-1
to D-13)
(art. 170 C.C.P.)**

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