

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL
LOCALITY OF MONTRÉAL

SUPERIOR COURT
Class Action

No: 500-06-001123-211

MICHAEL HOMSY

Plaintiff

v.

GOOGLE LLC

Defendant

**APPLICATION BY THE DEFENDANT GOOGLE LLC TO STRIKE ALLEGATIONS
AND WITHDRAW EXHIBITS FROM THE ORIGINATING APPLICATION**

(Art. 169(2) CCP)

**TO THE HONOURABLE DONALD BISSON, S.C.J., THE DEFENDANT GOOGLE LLC
RESPECTFULLY SUBMITS THE FOLLOWING:**

I. INTRODUCTION

1. The Defendant Google LLC ("**Google**") hereby seeks the striking of certain allegations from the Originating Application dated February 18, 2025 and the withdrawal of the related exhibits, pursuant to article 169, paragraph 2 of the *Code of Civil Procedure*, RLRQ c. C-25.01 ("**CCP**").
2. More specifically, Google seeks to strike paragraphs 18 to 23, 36, 37, 38, and 90 from the Originating Application, and to withdraw corresponding Exhibits P-4, P-5, and P-10.
3. For the reasons detailed below, the allegations and exhibits in the Originating Application that Google seeks to strike either improperly expand the scope of the class action as authorized or are clearly irrelevant.

II. THE ORIGINATING APPLICATION

4. On or about January 15, 2021, the plaintiff Michael Homsy (the "**Plaintiff**") filed an *Originating Application for Authorization to Institute a Class Action and to Obtain the Status of Representative* (the "**Authorization Application**").

5. On September 28, 2023, the Court of Appeal allowed the appeal from the judgment rendered by this Honourable Court on March 1, 2022, dismissing the Authorization Application.
6. On February 16, 2024, the Plaintiff filed an amended version of the Authorization Application, which was authorized by this Honourable Court on March 18, 2024.
7. On April 15, 2024, this Honourable Court authorized the class action and granted the Plaintiff the status of representative on behalf of the following groups (the **“Authorization Judgment”**):

“User Class: All individuals residing in the Province of Quebec, except for the Excluded Persons*, who used Google Photos and who had their facial biometric identifiers extracted, collected, captured, received, or otherwise obtained by Google from photos uploaded to Google Photos since January 15, 2018 (the “Class Period”);

Non-User Class: All individuals residing in the Province of Quebec, except for the Excluded Persons, who did not use Google Photos and who had their facial biometric identifiers extracted, collected, captured, received, or otherwise obtained by Google from photos uploaded to Google Photos during the Class Period;

*Excluded Persons” means Google and its parent corporations, subsidiaries, affiliates, predecessors, successors and assigns; and their current or former officers, directors, and legal representatives.”

8. On or about February 18, 2025, the Plaintiff filed his Originating Application (the **“Originating Application”**).

III. THE APPLICATION TO STRIKE ALLEGATIONS AND WITHDRAW EXHIBITS

A. Paragraphs 18 to 23, 36, and 90, and Exhibits P-4 and P-5

9. In paragraphs 18 to 23, 36, and 90 of the Originating Application, the Plaintiff refers to two investigation reports from Canadian privacy commissioners with respect to Cadillac Fairview Corporation Limited (**“CFCL”**) and Clearview AI Inc. (**“Clearview”**), which are filed as Exhibits P-4 and P-5.
10. The content of these reports and the statements contained therein are irrelevant and have no bearing on the present class action. Indeed, they concern unrelated technologies, entirely different factual and legal contexts, and relate to entities which are neither named as defendants in the Originating Application nor which have any connection to defendant Google whatsoever.
11. In particular, the investigation report concerning CFCL, filed as Exhibit P-4, addresses issues pertaining to its use of the AVA technology and mobile device geolocation technologies, which are totally foreign to the present class action.

12. Similarly, the investigation report concerning Clearview, filed as Exhibit P-5, relates to issues with facial recognition technology, practices and data collection that are specific to Clearview.
13. The Plaintiff's attempt to rely on these reports is therefore inappropriate, as it seeks to import findings and conclusions arising with respect to distinct entities, technologies and facts that bear no connection to Google.
14. Allowing such allegations and exhibits to remain in the record would risk unduly broadening and complicating the scope of the class action, leading to unnecessary inquiries into unrelated matters.
15. In light of the above, Google respectfully submits that paragraphs 18 to 23, 36, and 90, including referenced Exhibits P-4 and P-5, should be struck and withdrawn from the Originating Application.

B. Paragraphs 37 and 38, and Exhibit P-10

16. In paragraphs 37 and 38 of the Originating Application, the Plaintiff alleges that Google develops, provides and markets various products and services featuring functionalities based on facial recognition technology, including *Google Nest Hub Max*.
17. In support of this allegation, the Plaintiff files as Exhibit P-10 an article published on Google's website explaining how to configure the Face Match functionality on *Google Nest Hub Max*.
18. However, the class action as authorized by the Authorization Judgment is specifically limited to the *Google Photos* platform, to the exclusion of all other services offered by Google.
19. Any reference by the Plaintiff to the *Google Nest Hub Max* falls outside the scope of the class action as authorized and would impermissibly broaden it.
20. Moreover, permitting such allegations would invite unnecessary debate over the admissibility of questions and documents and undertakings concerning services entirely out of the scope of the present class action, which would be contrary to the principle of proportionality and the sound administration of justice.
21. Google therefore respectfully submits that paragraphs 37 and 38, and the related Exhibit P-10 should be struck and withdrawn from the Originating Application.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present *Application by the Defendant Google LLC to Strike Allegations and Withdraw Exhibits from the Originating Application*;

STRIKE paragraphs 18 to 23, 36, 37, 38, and 90 from the Plaintiff's *Originating Application*;

WITHDRAW Exhibits P-4, P-5, and P-10 from the Plaintiff's *Originating Application*;

THE WHOLE with legal costs.

Montréal, this June 11, 2026

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Objet : Notification - Michael Homsy v. Google LLC - 500-06-001123-211 - Our ref. : 311868.00042
Date : 11 juin 2026 13:39:47
Pièces jointes : [321882443_v\(1\)_2026-06-11_Application_by_Defendant_to_strike_allegations_and_withdraw_exhibits_from_OA.pdf](#)

NOTIFICATION BY TECHNOLOGICAL MEANS

Fasken Martineau DuMoulin LLP
(Art. 133 - 134 of the Code of Civil Procedure, CQLR c. C-25.01)

Parties : Michael Homsy v. Google LLC
Court: Superior Court – Class Action
Judicial District: Montréal
Locality: Montréal
Court Number: 500-06-001123-211

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Notified document(s):

Document's Title	Type	Nb pages	Size
2026-06-11 APPLICATION BY THE DEFENDANT GOOGLE LLC TO STRIKE ALLEGATIONS AND WITHDRAW EXHIBITS FROM THE ORIGINATING APPLICATION	PDF	5	273 KB

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Envoyé : 11 juin 2026 13:40

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ORIGINAL

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