

CANADA

SUPERIOR COURT  
(Class Action)

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

N<sup>o</sup>: 500-06-000815-163

SYLVAIN GAUDETTE, residing and domiciled  
at [REDACTED]  
[REDACTED], Province of Quebec;

*Applicant*

-vs-

APPLE INC. a legal person constituted according to  
the laws of California, having its principal place of  
business at 1 Infinite Loop, Cupertino, CA 95014;

-and-

APPLE CANADA INC., a legal person constituted  
according to the laws of Canada, having its principal  
place of business at 120 Bremner Boulevard, Suite  
1600, Toronto, ON M5J 0A8;

*Defendants*

---

**APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS  
ACTION AND TO APPOINT A REPRESENTATIVE PLAINTIFF  
(Art. 574 C.C.P. and following)**

---

**TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT OF  
QUEBEC, SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE APPLICANT  
STATES AS FOLLOWS:**

**GENERAL PRESENTATION**

1. The Applicant wishes to institute a class action on behalf of the following group, of which he is a member, namely:

“All persons in Quebec, who own or have owned an iPhone 6 or iPhone 6 Plus smartphone that suffers from a defect rendering the screen partly or completely unresponsive to touch.”

(hereinafter, referred to as “Class Member(s)”, the “Class”, the “Member(s)”) )

### The Defendants

2. The Defendants will be referred to collectively as “**Apple**” and individually as follows:
  - a) APPLE, INC. as “**Apple Inc.**”; and
  - b) APPLE CANADA, INC. as “**Apple Canada**”;
3. Apple Inc. is a corporation constituted under the laws of California, having its principal place of business at 1 Infinite Loop, Cupertino, CA 95014 as it appears in a copy of an entry from the website of California’s Secretary of State, attached hereto as **Exhibit P-1**;
4. Apple Inc. designs, develops, and sells consumer electronics, computer software, and online services. Its hardware products include the iPhone smartphone, the iPad tablet computer, the Mac personal computer, the iPod portable media player, the Apple Watch smartwatch, and the Apple TV digital media player. Apple’s consumer software includes the OS X and iOS operating systems, the iTunes media player, the Safari web browser, and the iLife and iWork creativity and productivity suites. Its online services include the iTunes Store, the iOS App Store and Mac App Store, and iCloud;
5. As of March 2016, Apple Inc. maintains 478 retail stores in seventeen countries;
6. Apple Canada is a corporation organised pursuant to the Ontario Business Corporations Act. *Apple Canada* maintains its head office at 120 Bremner Boulevard, Suite 1600, Toronto, ON M5J 0A8, as it appears in a copy of a page of Apple Canada’s website attached hereto as **Exhibit P-2** and copy of a corporate report from the Registre des entreprises du Québec, attached hereto as **Exhibit P-3**;
7. Apple Canada operates as a wholly owned subsidiary of Apple, in Canada;

### General Facts:

8. Apple designs, markets, and sells the iPhone series of smartphones. The first generation of the iPhone was released on June 29, 2007. Apple then released the iPhone 3G on July 11, 2008, the 3GS on June 19, 2009, the iPhone 4 on June 24, 2010, the iPhone 4s on October 14, 2011, the iPhone 5 on September 21, 2012, the iPhone 5s and 5c on September 20, 2013, and finally the iPhone 6 and 6 Plus on September 19, 2014; Apple sells its iPhones through its network of retail stores as well as through the stores of mobile phone providers;

9. The iPhone is built around the use of a touchscreen whereby the user touches the screen directly to interact with the device, as opposed to using a traditional number pad or keyboard;
10. In Canada, the iPhone holds the largest share of the smartphone market. In 2015, the iPhone accounted for approximately 38.3% of the market share followed by Samsung with approximately 32.5% of the market share, as it appears in a copy of a page of Mobilesyrupt's website, <http://mobilesyrupt.com/2015/03/27/comscore-canada-smartphone-android-apple-os-market-share/> attached hereto as **Exhibit P-4**;
11. The iPhones are capable of sending text messages, taking pictures, capturing video, playing music, browsing the internet, sending and receiving email, using GPS navigation, downloading and using various applications, among other functions. The use of the touchscreen is required to operate any of these functions;
12. The iPhones feature a glass front with curved edges and an aluminum rear that contains two plastic antenna strips;

Latent defect:

13. Unbeknownst to consumers, the iPhone 6 and iPhone 6 Plus (the "**Affected iPhones**") suffer from a material design defect that causes the touchscreen to become unresponsive to users' touch inputs and thus all of the functions identified in Paragraph 11 become unusable (the "**Touchscreen Defect**");
14. Often, the defect is immediately preceded by the display of a flickering gray bar across the top of the Affected iPhones' display;
15. The defective components that causes the Touchscreen Defect are the controller chips (the "Touch IC chips") on the motherboard ("logic board") of the Affected iPhones; the Touch IC chips translate the user's touch into actions in Apple's iPhone software, iOS;
16. A diagram of the logic board with red boxes around the chips is attached hereto, as attached hereto as **Exhibit P-5**;
17. When the defect manifests itself, the touchscreen controller chips on the logic board fail to recognize the touches on the touchscreen;
18. The touch IC chips in some cases fail outright and in other cases they are not properly secured to the logic board and, as a result of foreseeable and reasonable use by consumers, fail from normal wear and tear, as reported by iFixIt, a repair website, "A Design Defect Is Breaking a Ton of iPhone 6 Pluses", attached hereto as **Exhibit P-6**;
19. The previous iPhone 5s design incorporated a metal "shield" – a picture of which is attached hereto as **Exhibit P-7**– that provides protection and flexibility to the logic board such that it can withstand foreseeable and reasonable use by consumers;
20. In addition, the iPhone 5c used an "underfill" that is injected under the touch IC chips

which is cured into a superglue type substance. The underfill reinforces the touch IC chips and allows them to withstand foreseeable and reasonable use by consumers;

21. By contrast, the Affected iPhone's design fails to incorporate an underfill or a shield over the logic board. This makes the Affected iPhones substantially less durable to foreseeable and reasonable use by consumers and ultimately causes the Touchscreen Defect. A photo of the iPhone 6 Plus logic board is attached hereto, as **Exhibit P-8**;
22. The Defendant's experiences are by no means isolated or outlying occurrences. Indeed, the Internet is replete with examples of blogs and other websites where consumers have complained of the exact same Touchscreen Defect within the Affected iPhones;
23. A plethora of owners of the Affected iPhones have complained on Apple's own website regarding the Touch Screen Defect, an excerpted copy of which is attached hereto as **Exhibit P-9**;
24. Consumers in Quebec have also complained of the same defects with their Affected iPhones, as is demonstrated by the following article dated September 8, 2016 in the online magazine Protégez-vous, a copy of which is attached hereto as **Exhibit P-10**;
25. In many instances, consumers have incurred and will continue to incur expenses for the diagnosis of the Touchscreen Defect and repair and/or replacement of their Affected iPhones, despite such defect having been contained in the Affected iPhones when manufactured by Apple;
26. Apple, through their own records of customers' complaints, Apple Store repair records, warranty and post-warranty claims, and other various sources, were well aware of the Touchscreen Defect but failed to notify consumers of the nature and extent of the problems with the iPhones or provide any adequate remedy;
27. Apple expressly warranted the Affected iPhones would be free from defects for a period of one year from the date of purchase;
28. Consumers were without access to the information concealed by Apple as described herein, and therefore reasonably relied on Apple's representations and warranties regarding the quality, durability, and other material characteristics of the Affected iPhones.
29. Class members would not have bought the Affected iPhones or would have paid less for them, had they known about the defects.

Negligence:

30. Apple was negligent, inter alia, through the following acts and omissions:
  - a) Failure to adequately research, design, test, and/or manufacture the Affected iPhones; before warranting, advertising, promoting, marketing, and selling the Affected iPhones;

- b) Failure to properly and adequately mention an important fact such as the Touchscreen Defect in representations made to potential and present customers of the Affected iPhones;
  - c) Failure to provide useful advice to consumers to address the defect or a lasting repair and/or recall solution to the defect.
31. As a result of Apple's faults, Applicant and Class Members have sustained economic and moral damages.

### **FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE APPLICANT**

32. The Applicant, Mr. Sylvain Gaudette, is a resident of [REDACTED], Quebec;
33. In November 2014, the Applicant purchased an iPhone 6 Plus from the Respondents;
34. Since hearing of the Touchscreen defect, the Applicant has been concerned that his iPhone 6 Plus may experience the Touchscreen defect at a later date, and will require an expensive repair, or be rendered inoperable;
35. The Applicant has suffered and continues to suffer economic damages, moral damages and inconvenience due to his iPhone's latent screen defects;
36. Had the Applicant known about the Touchscreen defect, he would not have purchased his iPhone or would have payed a lower price for it;
37. In addition, due to the Touchscreen defect, the Applicant's iPhone's resale value has diminished;
38. The damages suffered by the Applicant are a direct and proximate result of the Defendants' conduct;
39. As a consequence of the foregoing, the Applicant is justified in claiming damages;

### **FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY EACH OF THE MEMBERS OF THE CLASS**

40. Every Class Member owns or has owned one of the Affected iPhones;
41. Every Class Member has or will experience a similar defect on their Affected iPhones, by reason of the Defendants' negligence, defective manufacturing, and other wrongdoings;
42. Every Class Member has or will sustain damages and experience inconveniences as a result of owning or having had owned an Affected iPhone, and are a direct and proximate result of the Defendants' conduct;
43. Each Member of the Class is justified in claiming one or more of the following:
  - a) Resiliation of the sale of their Affected iPhone and reimbursement of the purchase price paid or subsidiarily, damages for the diminished value (or resale value) of the Affected iPhone;
  - b) Damages for the costs associated with the defects or repairs to the Affected iPhone;
  - c) Damages for loss of use and enjoyment of their Affected iPhone;
  - d) Damages for trouble, inconvenience and loss of time;
  - e) Punitive and exemplary damages for the careless behaviour and serious negligence of the Defendants;
  - f) Such further and other relief as counsel may advise and this Honourable Court may allow.
44. All of these damages to the Class Members are a direct and proximate result of the Defendants' conduct;

#### **CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION**

**The composition of the Class makes the application of Article 91 or 143 C.C.P. impractical or impossible for the reasons detailed below:**

45. In 2015, there were approximately 20 million smartphone users in Canada and in Quebec specifically, 52% of adults own a smartphone as appears respectively in an article by

EMarketer, attached hereto as **Exhibit P-11** and a 2014 study by CEFRIO, attached hereto as **Exhibit P-12**;

46. These facts considered together with the high market share of Apple indicate that the number of persons included in the Class are in the thousands;
47. The names and addresses of all persons included in the Class are not known to the Applicant;
48. It would therefore not be possible to contact each and every Member of the Class to obtain mandates and to join them in one action;
49. In addition, given the costs and risks inherent in an action before the Courts, many people will hesitate to institute an individual action against the Defendants. Even if the Class Members themselves could afford such individual litigation, the Court system could not as it would be overloaded. Furthermore, individual litigation of the factual and legal issues raised by the conduct of Defendants would increase delay and expense to all parties and to the Court system;
50. In these circumstances, a class action is the only appropriate procedure for all of the Members of the Class to effectively pursue their respective rights and have access to justice;

**The questions of fact and law which are identical, similar, or related with respect to each of the Class Members:**

51. The recourses of the Class Members raise identical, similar or related questions of fact or law, namely:
  - a) Is there a latent defect in the Affected iPhones which causes the touchscreen to become unresponsive to users' touch inputs ?
  - b) Are the Affected Phones unfit for the purpose they were intended, or is their usefulness diminished so much that the Class members would not have bought them or would have paid less for them, had they known about the defects?
  - c) Did the Defendants' fail to properly and adequately research, design, test and/or manufacture Affected iPhones, free of defects?

- d) Did the Defendants know or should the Defendants have known about the defects of the Affected iPhones?
  - e) Did the Defendants' fail to properly and adequately disclose the Touchscreen Defect in representations made to potential and present customers of the Affected iPhones?
  - f) Did the Defendants' fail to provide useful advice to consumers to address the defect and/or a lasting repair and/or recall solution to the defect?
  - g) Have the Class Members suffered damages as a result of the Defendants' faults?
  - h) Are the Defendants liable to pay compensatory damages to Class Members?
  - i) Are the Defendants liable to pay moral damages to Class Members, and if so, in what amount?
  - j) Are the Defendants liable to pay exemplary or punitive damages, and if so, in what amount?
52. The interests of justice favour that this motion be granted in accordance with its conclusions;

### **NATURE OF THE ACTION AND CONCLUSIONS SOUGHT**

53. The action that the Applicant wishes to institute for the benefit of the members of the Class is an action in damages for product liability and negligence;
54. The conclusions that the Applicant wishes to introduce by way of a motion to institute proceedings are:

**GRANT** Applicant's action against Defendants;

**ORDER and CONDEMN** Defendants to reimburse the purchase price paid by the Class Members, and any other amounts paid by Class Members in connection with the purchase plus interest as well the additional indemnity since the date of purchase or lease;

**OR SUBSIDIARILY, CONDEMN** Defendants to pay damages to the Class Members equivalent to the amount of loss of resale value or diminished value of the Affected iPhones as a result of the existence and/or repair of the defect;



**CONDEMN** Defendants to reimburse to the Class Members any costs or fees paid in relation to the defect or repair thereof;

**CONDEMN** Defendants to pay compensatory damages to the Class Members for the loss of use and enjoyment of the Affected iPhones, trouble, inconvenience and loss of time;

**CONDEMN** Defendants to pay punitive and/or exemplary damages to the Class Members, to be determined by the Court;

**GRANT** the class action of Applicant on behalf of all the Members of the Class;

**ORDER** the treatment of individual claims of each Member of the Class in accordance with articles 599 to 601 C.C.P.;

**RENDER** any other order that this Honourable Court shall determine and that is in the interest of the Members of the Class;

**THE WHOLE** with interest and additional indemnity provided for in the Civil Code of Quebec and with full costs and expenses including expert's fees and publication fees to advise members;

55. Applicant suggests that this class action be exercised before the Superior Court in the District of Montreal for the following reasons:

- a) Many Class Members are domiciled in the District of Montreal;
- b) The Defendants have a business establishment in the District of Montreal;
- c) Many of the Affected iPhones were purchased by Class Members in District of the Montreal;
- d) The Applicant's counsel is domiciled in the District of Montreal;

56. The Applicant, who is requesting to obtain the status of representative, will fairly and adequately protect and represent the interest of the Members of the Class, since Applicant:

- a) owns one of the Affected iPhones and is thus a Member of the Class;

- b) has experienced the defect that is the subject matter of the Claim;
- c) understands the nature of the action and has the capacity and interest to fairly and adequately protect and represent the interests of the Members of the Class;
- d) is available to dedicate the time necessary for the present action before the Courts of Quebec and to collaborate with Class attorneys in this regard;
- e) is ready and available to manage and direct the present action in the interest of the Class Members that the Applicant wishes to represent, and is determined to lead the present file until a final resolution of the matter, the whole for the benefit of the Class;
- f) does not have interests that are antagonistic to those of other members of the Class;
- g) has given the mandate to the undersigned attorneys to obtain all relevant information to the present action and intend to keep informed of all developments;
- h) is, with the assistance of the undersigned attorneys, ready and available to dedicate the time necessary for this action and to collaborate with other Members of the Class and to keep them informed;

57. The present motion is well-founded in fact and in law;

**FOR THESE REASONS, MAY IT PLEASE THE COURT:**

**GRANT** the present motion;

**AUTHORIZE** the bringing of a class action in the form of a motion to institute proceedings in damages;

**ASCRIBE** the Applicant the status of representative of the persons included in the Class herein described as:

“All persons in Quebec, who own or have owned an iPhone 6 or iPhone 6 Plus smartphone that suffers from a defect rendering the screen partly or completely unresponsive to touch.”

**IDENTIFY** the principle questions of fact and law to be treated collectively as the following:

- a) Is there a latent defect in the Affected iPhones which causes the touchscreen to become unresponsive to users' touch inputs?
- b) Are the Affected Phones unfit for the purpose they were intended, or is their usefulness diminished so much that the Class members would not have bought them or would have paid less for them, had they known about the defects?
- c) Did the Defendants' fail to properly and adequately research, design, test and/or manufacture Affected iPhones, free of defects?
- d) Did the Defendants know or should the Defendants have known about the defects of the Affected iPhones?
- e) Did the Defendants' fail to properly and adequately disclose the Touchscreen Defect in representations made to potential and present customers of the Affected iPhones?
- f) Did the Defendants' fail to provide useful advice to consumers to address the defect and/or a lasting repair and/or recall solution to the defect?
- g) Have the Class Members suffered damages as a result of the Defendants' faults?
- h) Are the Defendants liable to pay compensatory damages to Class Members?
- i) Are the Defendants liable to pay moral damages to Class Members, and if so, in what amount?
- j) Are the Defendants liable to pay exemplary or punitive damages, and if so, in what amount?

**IDENTIFY** the conclusions sought by the class action to be instituted as being the following:

**GRANT** Applicant's action against Defendants;

**ORDER and CONDEMN** Defendants to reimburse the purchase price amounts paid by the Class Members, and any other amounts paid by Class Members in connection with the purchase, plus interest as well the additional indemnity since the date of purchase or lease;

**OR SUBSIDIARILY, CONDEMN** Defendants to pay damages to the Class Members equivalent to the amount of loss of resale value or diminished value of the Affected iPhones as a result of the existence and/or repair of the defect;

**CONDEMN** Defendants to reimburse to the Class Members any costs or fees paid in relation to the defect or repair thereof;

**CONDEMN** Defendants to pay compensatory damages to the Class Members for the loss of use and enjoyment of the Affected iPhones, trouble, inconvenience, loss of time and other moral damages;

**CONDEMN** Defendants to pay punitive and/or exemplary damages to the Class Members, to be determined by the Court;

**GRANT** the class action of Applicant on behalf of all the Members of the Class;

**ORDER** the treatment of individual claims of each Member of the Class in accordance with articles 599 to 601 C.C.P.;

**RENDER** any other order that this Honourable Court shall determine and that is in the interest of the Members of the Class;

**THE WHOLE** with interest and additional indemnity provided for in the Civil Code of Quebec and with full costs and expenses including expert's fees and publication fees to advise members;

**DECLARE** that all Members of the Class that have not requested their exclusion from the Class in the prescribed delay to be bound by any judgment to be rendered on the class action to be instituted;

**FIX** the delay of exclusion at 30 days from the date of the publication of the notice to the Members;

**ORDER** the publication of a notice to the Members of the Class in accordance with Article 579 C.C.P.;

**THE WHOLE** with costs to follow.

**MONTREAL, September 30, 2016**

*Merchant Law Group LLP*

**MERCHANT LAW GROUP LLP**

Attorneys for the Applicant

**SUMMONS**

(Articles 145 and following C.C.P.)

**Filing of a Judicial Application**

Take notice that the Applicant has filed this Application to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative in the office of the Superior Court of Quebec in the judicial district of Montreal.

**Defendants' Answer**

You must answer the application in writing, personally or through a lawyer, at the courthouse of Montreal situated at 1 Rue Notre-Dame Street Est, Montréal, Québec, H2Y 1B6, within 15 days of service of the Application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the Applicant's lawyer or, if the Applicant is not represented, to the Applicant.

**Failure to Answer**

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgement may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

**Content of Answer**

In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the Code, cooperate with the Applicant in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of the summons or, in family matters or if you have no domicile, residence or establishment in Québec, within 3 months after service;
- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

**Change of judicial district**

You may ask the court to refer the originating Application to the district of your domicile or residence, or of your elected domicile or the district designated by an agreement with the Applicant.

If the application pertains to an employment contract, consumer contract or insurance contract, or to the exercise of a hypothecary right on an immovable serving as your main residence, and if you are the employee, consumer, insured person, beneficiary of the insurance contract or hypothecary

debtor, you may ask for a referral to the district of your domicile or residence or the district where the immovable is situated or the loss occurred. The request must be filed with the special clerk of the district of territorial jurisdiction after it has been notified to the other parties and to the office of the court already seized of the originating application.

### **Transfer of Application to Small Claims Division**

If you qualify to act as a plaintiff under the rules governing the recovery of small claims, you may also contact the clerk of the court to request that the Application be processed according to those rules. If you make this request, the plaintiff's legal costs will not exceed those prescribed for the recovery of small claims.

### **Calling to a case management conference**

Within 20 days after the case protocol mentioned above is filed, the court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing this, the protocol is presumed to be accepted.

### **Exhibits supporting the application**

In support of the Application to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative, the Applicant intends to use the following exhibits:

- Exhibit P-1:** Apple Inc. corporate entry in the website of California's Secretary of State
- Exhibit P-2:** page of Apple Canada's website
- Exhibit P-3:** corporate report from the Registre des entreprises du Québec
- Exhibit P-4:** iPhone market share in 2015, page of Mobilesyrupt's website,  
<http://mobilesyrupt.com/2015/03/27/comscore-canada-smartphone-android-apple-os-market-share/>
- Exhibit P-5:** Diagram of the iPhone 6 logic board
- Exhibit P-6:** "A Design Defect Is Breaking a Ton of iPhone 6 Pluses", by iFixIt
- Exhibit P-7:** iPhone 5s design (diagram)
- Exhibit P-8:** photo of the iPhone 6 Plus logic board
- Exhibit P-9:** "iPhone 6 plus intermittent unresponsive screen - Communities", excerpt of complaints about touchscreen defect on Apple's website
- Exhibit P-10:** « Problèmes d'écran sur les iPhone 6 et 6 Plus », Protégez-Vous, September 8, 2016
- Exhibit P-11 :** "Over Half of Canada's Population to Use Smartphones in 2015", EMarketer, January 6, 2015
- Exhibit P-12:** « Mobilité au Québec: la croissance se poursuit », NETtendances 2014, CEFRIO,

2015.

These Exhibits are available upon request.

**Notice of presentation of an application**

If the application is an application in the course of a proceeding or an application under Book III, V, excepting an application in family matters mentioned in article 409, or VI of the Code, the establishment of a case protocol is not required; however, the application must be accompanied by a notice stating the date and time it is to be presented.

Montreal, September 30, 2016

*Merchant Law Group LLP*

**Merchant Law Group LLP**

**10 rue Notre Dame Est, suite 200**

**Montréal (Québec) H2Y 1B7**

**Phone : 514-842-7776**

**Fax : 514-842-6687**

**Notifications : [rdupont@merchantlaw.com](mailto:rdupont@merchantlaw.com)**

Attorneys for the Applicant



**NOTICE OF PRESENTATION**  
**(Articles 146 and 574 al.2 C.P.C.)**

TO: **APPLE, INC.**  
1 Infinite Loop,  
Cupertino, CA 95014;

-and-

**APPLE CANADA, INC.,**  
120 Bremner Boulevard, Suite 1600  
Toronto, ON M5J 0A8;

**TAKE NOTICE** that the present FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND TO APPOINT A REPRESENTATIVE PLAINTIFF will be presented before one of the Honourable Judges of the Superior Court of Québec, at the Montreal courthouse, located at 1, rue Notre-Dame Est, in the city and District of Montréal, on the date set by the coordinator of the class actions chamber.

PLEASE ACT ACCORDINGLY.

Montreal, September 30, 2016

*Merchant Law Group LLP*

**Merchant Law Group LLP**  
Attorneys for the Applicant

**SUPERIOR COURT OF QUÉBEC**  
*(CLASS ACTION)*

**DISTRICT OF MONTREAL**

**Sylvain Gaudette**

*Petitioner*

- vs -

**APPLE, INC.**

-and-

**APPLE CANADA INC.**

*Respondents*

**MOTION TO AUTHORIZE THE BRINGING OF A  
CLASS ACTION AND TO ASCRIBE THE STATUS OF  
REPRESENTATIVE**

**ORIGINAL**

*Me Roch Dupont*

**MERCHANT LAW GROUP LLP**

10 Notre-Dame E., Suite 200  
Montréal, Québec H2Y 1B7  
Telephone: (514) 842-7776  
Telecopier: (514) 842-6687

**BC 3841**