

CANADA

SUPERIOR COURT  
(Class Action Chambers)

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

**DANIELLE DALLAIRE**, residing and  
domiciled at [REDACTED]

No.: 500-06-000985-198

Applicant

v.

**ALPHA CORPORATION**, legal person,  
having its principal place of business at  
1-6-8 Fukuura, Kanazawa-ku, Yokohama-shi,  
Kanagawa 2360004

and

**ALPHA TECHNOLOGY CORPORATION**,  
legal person, having its principal place of  
business at 1450 McPherson Park Drive Suite  
200 P.O. Box168, Howell, Michigan  
48844-0168

Defendants

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**APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND TO OBTAIN  
THE STATUS OF REPRESENTATIVE  
(Art 574 C.C.P. and following)**

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**TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT, SITTING IN THE  
CLASS ACTION CHAMBERS IN THE DISTRICT OF MONTREAL, YOUR APPLICANT STATES  
AS FOLLOWS:**

**I. GENERAL PRESENTATION**

1. The Applicant wishes to bring a class action on behalf of the Class hereinafter described, of which she herself is a member, namely:

*"All direct and indirect purchasers in Quebec who purchased or leased motor vehicles\* containing Access Mechanisms or who purchased Access Mechanisms, from 2002 to September 2011 (the "Class Period")."*

\*Motor vehicle is defined as: cars, sport utility vehicles (SUVs), vans, light trucks (weighing up to 10,000 lbs).

## **A. Overview**

2. Beginning at least as early as 2002 and continuing until at least September 2011, or such other time as the anti-competitive effects of the Defendants' conduct ceased (the **Class Period**), Alpha Corporation and Alpha Technology Corporation conspired with various corporations, persons, partnerships, firms and/or individuals not named in this lawsuit, the identities of which are not presently known, to 1) fix, maintain, increase or control the price for the supply of automotive Access Mechanisms (as defined in paragraph 22 below), 2) to allocate sales, territories, customers or markets for the production or supply of Access Mechanisms, 3) to fix, maintain, control, prevent, lessen or eliminate the production or supply of Access Mechanisms, and/or 4) to rig bids for Access Mechanisms (collectively the **Conspiracy**, as further defined in paragraphs 29 through 33 below).
3. The Conspiracy was targeted at automobile original equipment manufacturers (**OEMs**), who purchased Access Mechanisms directly from the Defendants or one of them, and component manufacturers (**Tier I Manufacturers**), who purchased Access Mechanisms directly from the Defendants or one of them before selling the Access Mechanisms to OEMs.
4. As a consequence of the Defendants' collusive conduct, the Defendants and their co-conspirators eliminated or reduced competition in the Access Mechanisms industry. Through their conduct, the Defendants effectuated an overcharge for Access Mechanisms purchased by OEMs and Tier I Manufacturers.
5. OEMs and Tier I Manufacturers passed their increased costs for the purchase of Access Mechanisms on to indirect purchasers of Access Mechanisms, including but not limited to indirect purchasers in Quebec who purchased or leased vehicles containing Access Mechanisms and Access Mechanisms for replacement parts.
6. The Defendants' Conspiracy had the effect of overcharging both direct and indirect purchasers of Access Mechanisms and direct and indirect purchasers of Access Mechanisms suffered losses as a consequence of the Defendants' unlawful conduct.
7. Through this suit, Quebec direct and indirect purchasers of Access Mechanisms seek to hold the Defendants accountable for their unlawful Conspiracy.

## **B. The Parties**

8. The Defendant Alpha Corporation ("**Alpha**") is a Japanese corporation with its principal place of business in Yokohama, Japan. Alpha, directly and/or through its subsidiaries, which it wholly owned and/or controlled, manufactured, marketed, distributed, supplied, solicited, offered, advertised, promoted and/or sold Access Mechanisms that were purchased throughout Canada, including in Quebec, during the Class Period.
9. The Defendant Alpha Technology Corporation ("**Alpha Tech**") is a Michigan corporation with its principal place of business in Howell, Michigan. Alpha Tech is a subsidiary of and wholly owned and/or controlled by its parent, Alpha. Alpha Tech manufactured, marketed, distributed, supplied, solicited, offered, advertised, promoted and/or sold Access Mechanisms that were purchased throughout Canada, including in Quebec, during the Class Period. At all times during the Class Period, its activities in the United States were under the control and direction of its Japanese parent.

10. The Defendant companies named in paragraphs 8 and 9 of this application are collectively referred to as the "**Defendants**". Each of Alpha and Alpha Tech Defendants was an agent of the other for the purposes of the manufacture, distribution, marketing and/or sale of Access Mechanisms.
11. At all material times, the Alpha and Alpha Tech Defendants functioned as a joint enterprise in the Conspiracy to suppress and eliminate competition in the Access Mechanisms industry. The business of each of the Defendants is inextricably interwoven, and they operate collectively for their mutual benefit and profit.
12. Other corporations, persons, partnerships, firms and/or individuals not named in this application, because their identities are currently unknown to the Applicant participated as co-conspirators in the Conspiracy and performed acts and made statements and agreements in furtherance of the Conspiracy. The co-conspirators were all persons whom it is reasonable to believe would have, in the absence of the Conspiracy, been likely to have competed with the Defendants with respect to Access Mechanisms. Reference by the Applicant to the Defendants in this application includes reference to their co-conspirators as well.
13. Whenever reference is made in this application to any act, communication, agreement or transaction of a corporation, the Applicant is alleging that the corporation engaged in the act, communication, agreement or transaction by or through its directors, officers, employees and/or agents while they were actively engaged in the direction, management and/or control of the corporation's business.
14. The Applicant, Danielle Dallaire, is a resident of Quebec who purchased a motor vehicle equipped with the Defendants' Access Mechanisms during the Class Period, in April 2009.

***C. The Access Mechanisms Market and Governmental Investigations***

**The Access Mechanisms Market is Conducive to a Price-Fixing Conspiracy**

15. The Access Mechanisms market in Canada and elsewhere is conducive to price-fixing arrangements given the high barriers to entry and the inelasticity of consumer demand.
16. A collusive arrangement that raises product prices above competitive levels would, under basic economic principles, attract new entrants seeking to benefit from the supra-competitive pricing. However, where there are significant barriers to entry, new entrants are less likely.
17. A new entrant into the Access Mechanisms market would encounter substantial start-up costs, including multi-million dollar costs associated with manufacturing plants and equipment, energy, transportation, distribution infrastructure, and building long-standing customer relationships.
18. Inelastic demand is a market characteristic that facilitates collusion, allowing producers to raise their prices without triggering customer substitution and lost sales revenue. Demand is said to be "inelastic" if an increase in the price of a product results in only a small decline in the quantity sold of that product, if any. In other words, customers have nowhere to turn for alternative, cheaper products of similar quality, and so continue to purchase despite a price increase.

19. Demand for Access Mechanisms is highly inelastic because there are no close substitutes for these products. Customers must purchase these components as essential parts of a vehicle, even if the prices are kept at supra-competitive levels.

#### **Investigation and Guilty Pleas – Canada and the United States**

20. A press release from the Competition Bureau Canada indicates that the Bureau's investigation of international bid-rigging conspiracies among car parts suppliers resulted in 13 guilty pleas and over \$86 million in fines imposed by the courts in Canada, as appears from a copy of said press release dated October 19, 2018 which followed a similar press release dated February 14, 2018, disclosed *en liasse* as **Exhibit P-1**.
21. In the United States, Alpha waived indictment and pled guilty to a one-count felony charge filed in the United States District Court Eastern District of Michigan on or about September 15, 2016 which charged Alpha with participating in a conspiracy to suppress and eliminate competition by agreeing to rig bids for, and to fix, stabilize, and maintain the prices of Access Mechanisms sold to Nissan Motor Co. Ltd. and certain of its subsidiaries including Nissan North America Inc. and Nissan Mexicana, S.A. de C.V. (collectively Nissan) in the United States and elsewhere, from at least as early as 2002 until at least September 2011, in violation of the *Sherman Antitrust Act*, 15 U.S.C. §1, as appears from the case summary in *U.S. v. Alpha Corporation*, disclosed as **Exhibit P-2**. Alpha agreed to pay a criminal fine of US \$9 million, as appears from a press release from the United States Department of Justice, also disclosed *en liasse* as **Exhibit P-2**.

#### **D. Access Mechanisms and the Conspiracy**

##### **Requests for Quotations**

22. When purchasing automotive parts, OEMs and, in some circumstances, Tier I Manufacturers issue requests for quotation (**RFQs**) to automotive part suppliers for model-specific parts. In response to a RFQ, automotive parts suppliers submit quotations or bids to the OEM or Tier I Manufacturer who then awards the business to the selected automotive parts supplier for the lifespan of the model.
23. Once a supplier is awarded a contract to supply a part for a particular automobile model or for a part to be incorporated into multiple models, the supplier typically supplies the part for the lifespan of the model(s). OEMs then issue annual price reduction requests (**APRs**) to the part suppliers throughout the term of the supply contract to account for efficiencies gained over time in the production of the automotive parts.

##### **Access Mechanisms Market**

24. "Access Mechanisms" are used to gain access to various parts of a vehicle. Access Mechanisms are 1) inside and outside door handles, tailgate and trunk handles; 2) keys, lock sets (also called key sets), and door locks (including free-wheel door locks); and 3) electrical steering column locks and mechanical steering column locks. When reference is made herein to Access Mechanisms this includes components and/or parts thereof.
25. Access Mechanisms are installed by OEMs in new vehicles as part of the automotive manufacturing process. They are also installed by OEMs in vehicles to replace worn out, defective or damaged Access Mechanisms.
26. The Defendants manufacture, market, distribute and/or sell Access Mechanisms.

27. In response to RFQs for Access Mechanisms, the Defendants submitted price quotes to various OEMs and Tier I Manufacturers. In response to their submitted quotes, the Defendants or one of them was awarded certain supply contracts.
28. Pursuant to these supply contracts, the Defendants manufactured Access Mechanisms in Canada, the United States, Japan and elsewhere and then supplied the Access Mechanisms to various OEMs and Tier I Manufacturers for installation in vehicles 1) manufactured and sold in Canada, 2) manufactured and sold in the United States, 3) manufactured and sold elsewhere, 4) manufactured in Canada and then exported to and sold elsewhere, 5) manufactured in the United States or elsewhere and then imported to and sold in Canada, and/or 6) as replacement parts.
29. The affected OEMs included, but were not limited to: Nissan, Toyota Motor Corporation and certain of its subsidiaries, affiliates, and suppliers in Canada, the United States, Japan and elsewhere (collectively "Toyota"); General Motors LLC and certain of its subsidiaries, affiliates, and suppliers in Canada, the United States and elsewhere (collectively "GM"); Mitsubishi Motors North America, Inc. and certain of its subsidiaries, affiliates, and suppliers in Canada, the United States, Japan and elsewhere (collectively "Mitsubishi"); Suzuki Motor Corporation and certain of its subsidiaries, affiliates, and suppliers in Canada, the United States, Japan and elsewhere (collectively "Suzuki"); and Fuji Heavy Industries Ltd. and certain of its subsidiaries, affiliates, and suppliers in Canada, the United States, Japan and elsewhere (collectively "Subaru").
30. The identities of all affected OEMs and Tier I Manufacturers who entered into supply contracts with the Defendants and their co-conspirators are currently unknown to the Applicant.

### **The Conspiracy**

31. The Defendants voluntarily colluded with their co-conspirators to use unlawful means to injure the economic interests of 1) OEMs and/or Tier I Manufacturers, and 2) indirect purchasers of Access Mechanisms.
32. Beginning at least as early as 2002 and continuing until at least September 2011, or such other time as the anti-competitive effects of the Defendants' conduct ceased, the exact dates being unknown to the Applicant, the Defendants and their co-conspirators knowingly entered into one or more continuing agreement(s), arrangement(s), understanding(s) and concert(s) of action to 1) increase or maintain the prices of Access Mechanisms, and/or 2) suppress and eliminate competition with respect to the manufacture, marketing, sale and/or distribution of Access Mechanisms (collectively the "**Access Mechanisms Agreement**"), and to conceal their Access Mechanisms Agreement from OEMs, Tier I Manufacturers and industry stakeholders.
33. The substantial terms of the Access Mechanisms Agreement included: 1) fixing, maintaining, increasing or controlling the price for the supply of Access Mechanisms sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere, 2) allocating sales, territories, customers or markets for the production or supply of Access Mechanisms sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere, 3) fixing, maintaining, controlling, preventing, lessening or eliminating the production or supply of Access Mechanisms sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere, and/or 4) engaging in bid-rigging with

respect to quotes for the supply of Access Mechanisms sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere.

34. With respect to the Conspiracy, "price" includes any discount, rebate, allowance, price concession or other advantage in relation to the supply of Access Mechanisms.

35. Bid-rigging, with respect to the Conspiracy, means:

- a. an agreement or arrangement between or among the Defendants and their co-conspirators whereby one or more of them agreed or undertook not to submit a bid or tender in response to a call or request for bids or tenders, or agreed or undertook to withdraw a bid or tender submitted in response to such a call or request, or
- b. the submission, in response to a call or request for bids or tenders, of bids or tenders were arrived at by the agreement or arrangement between or among the Defendants and their co-conspirators

where the agreement or arrangement was not made known to OEMs and/or Tier I Manufacturers calling for or requesting the bids or tenders for Access Mechanisms at or before the time when any bid or tender was submitted or withdrawn by the Defendants and/or their co-conspirators.

36. For the purpose of carrying out the Conspiracy, the Defendants and their co-conspirators engaged in conduct that included, among other things:

- a. engaging in meetings, conversations and other communications to discuss bids and price quotations to be submitted to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere;
- b. engaging in meetings, conversations and other communications to discuss the allocation among the companies of certain sales, territories, customers or markets for the production or supply of Access Mechanisms;
- c. agreeing, during those meetings, conversations and communications on bids and price quotations (including ARPs) to be submitted to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere or, alternatively, agreeing that one or more of the companies not submit bids in response to RFQs or that one or more companies withdraw bids submitted in response to RFQs;
- d. agreeing, during those meetings, conversations and communications to fix, maintain, increase or control the price (including ARPs) for the supply of Access Mechanisms sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere;
- e. agreeing, during those meetings, conversations and communications to allocate among the companies certain sales, territories, customers or markets for the production or supply of Access Mechanisms sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere;
- f. agreeing, during those meetings, conversations and communications to fix, maintain, control, prevent, lessen or eliminate the production or supply of Access Mechanisms sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere;
- g. in order to effectuate the Access Mechanisms Agreement, exchanging information on: 1) bids and price quotations (including ARPs) to be submitted to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere, 2) the allocation of certain sales, territories, customers or markets for the production or supply of Access Mechanisms sold to OEMs and/or Tier I Manufacturers in Canada,

- the United States, Japan and elsewhere, and/or 3) the production and supply of Access Mechanisms sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere;
- h. in accordance with the Access Mechanisms Agreement, submitting bids and price quotations (including ARPs) to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere or, alternatively, declining to submit bids in response to RFQs or withdrawing bids submitted in response to RFQs;
  - i. in accordance with the Access Mechanisms Agreement, fixing, maintaining, increasing and/or controlling the price (including ARPs) for the supply of Access Mechanisms sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere;
  - j. in accordance with the Access Mechanisms Agreement, allocating among the companies certain sales, territories, customers and/or markets for the production or supply of Access Mechanisms sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere;
  - k. in accordance with the Access Mechanisms Agreement, fixing, maintaining, controlling, preventing, lessening and/or eliminating the production and/or supply of Access Mechanisms sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere;
  - l. selling Access Mechanisms to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere at collusive and non-competitive prices;
  - m. accepting payment for Access Mechanisms sold to OEMs and/or Tier I Manufacturers in Canada, the United States, Japan and elsewhere at collusive and non-competitive prices which resulted in increased revenues for the Defendants and their co-conspirators;
  - n. engaging in meetings, conversations and other communications for the purpose of monitoring and enforcing adherence to the agreed upon bid-rigging and price fixing scheme; and
  - o. employing measures to keep their conduct secret, including but not limited to using code names and meeting at remote locations.

#### ***E. Damages***

37. As a direct result of the anticompetitive and unlawful conduct alleged herein, the Applicant and Class members paid artificially inflated prices for Access Mechanisms during the Class Period and have thereby suffered damages.
38. The Defendants' price-fixing Conspiracy had the following effects, among others:
- a. price competition has been restrained or eliminated with respect to Access Mechanisms;
  - b. the prices of Access Mechanisms have been fixed, increased, maintained, or stabilized at artificially inflated levels;
  - c. direct and indirect purchasers of Access Mechanisms in Canada, including in the province of Quebec, the United States, Japan and elsewhere have been deprived of free and open competition; and
  - d. direct and indirect purchasers of Access Mechanisms in Canada, including in the province of Quebec, the United States, Japan and elsewhere paid artificially inflated prices for the Access Mechanisms.

## **F. The Defendants' Liability**

39. The Defendants' conduct and that of their co-conspirators was contrary to Part VI of the *Competition Act*.
40. Each Defendant aided, abetted and/or counselled the other Defendant and their co-conspirators in the commission of the breaches of Part VI of the *Competition Act*. Each Defendant therefore violated sections 21 and 22 of the *Criminal Code*.
41. The conduct of the Defendants and their co-conspirators was also contrary to the competition laws of the United States, Japan and various European nations.
42. The purpose of the conspiratorial conduct of the Defendants and their co-conspirators was to increase, fix, rig, maintain, control or stabilize the price of Access Mechanisms. As a direct and foreseeable result of the Conspiracy, the prices of 1) Access Mechanisms, and 2) motor vehicles containing Access Mechanisms were artificially inflated.
43. The conduct of the Defendants in furtherance of the Conspiracy was unlawful and inequitable. The increased revenues that the Defendants realized as a consequence of artificially inflating the prices of Access Mechanisms are ill-gotten profits.
44. Pursuant to section 36 of the *Competition Act*, the Applicant and Class members are entitled to recover from the Defendants an amount equal to the loss or damage suffered by them, together with any additional amount that the Court may allow.
45. Furthermore, the Defendants failed to comply with their obligations under the *Civil Code of Quebec* such as, and without limiting the generality of the foregoing, those relating to their good faith obligation and duty not to cause injury to another.
46. The Defendants intended to cause damage to the Applicant and Class members. Alternatively, the Defendants knew or ought to have known that their actions would cause damage to the Applicant and Class members.
47. The Defendants' anticompetitive and unlawful conduct, including their participation in the Conspiracy, was concealed and conducted in such a way as to prevent its discovery by the Applicant and the Class members.
48. Moreover, a reasonable person placed in the same circumstances would not have seen fit to investigate the legitimacy of the prices of the Defendants' Access Mechanisms.
49. Each Defendant is jointly and severally liable for the actions of the other Defendant and their co-conspirators and for the damages allocated to each Defendant.

### **Punitive Damages**

50. A punitive damage award in this case is necessary to express society's condemnation of the conduct engaged in by the Defendants and to achieve the goals of both specific and general deterrence.
51. The Defendants intentionally engaged in unlawful conduct for their personal financial gain. The conduct of the Defendants was planned and deliberate. It lasted for several years. The



Defendants profited from their misconduct. Their conduct was high-handed and represented a marked departure from ordinary standards of decent behavior.

52. Compensatory damages are insufficient in this case. The conduct of the Defendants merits punishment and warrants a claim for punitive damages.

### **Unjust Enrichment**

53. Three criteria are required to establish unjust enrichment: 1) an enrichment, 2) a corresponding deprivation, and 3) the absence of any juristic reason for the enrichment.

54. In this case, the Defendants were enriched by the artificially inflated prices of Access Mechanisms caused by the Conspiracy. These artificially inflated prices resulted in increased revenues for the Defendants.

55. The Applicant and Class members suffered a corresponding deprivation as a consequence of the inflated prices of Access Mechanisms, namely: paying more for Access Mechanisms and vehicles containing Access Mechanisms than they would have in the absence of the Conspiracy.

56. There was no juristic reason or justification for the enrichment of the Defendants; conversely, the conduct of the Defendants was unlawful.

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

57. The facts giving rise to an individual claim by the Applicant against the Defendants are as follows:

- a. during the Class Period, the Applicant, Danielle Dallaire, purchased a 2010 Honda Insight, as shown in the April 22, 2009 contract of purchase, disclosed as **Exhibit P-3**;
- b. in light of the Defendants' anticompetitive and unlawful conduct, the Applicant was deprived of free and open competition and, as a result, paid an artificially inflated price for the motor vehicle equipped with Access Mechanisms which she purchased;
- c. the Applicant suffered damages as a result of the Defendants' anticompetitive and unlawful actions, namely the difference between the artificially inflated price paid for the motor vehicle she purchased equipped with Access Mechanisms and the price she would have normally paid in a market where free and open competition prevails;
- d. the Defendants' anticompetitive and unlawful actions were camouflaged and were not brought to the attention of the Applicant;
- e. the Applicant did not and could not know that the Defendants were involved in anticompetitive and unlawful conduct and breaching their obligations.

58. The Applicant's damages are a direct result of the Defendants' conduct.

59. Thus, the Applicant is justified in claiming damages from the Defendants.

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

60. The facts giving rise to the individual claims by each of the members of the Class against the Defendants are as follows:

- a. every member of the Class has purchased Access Mechanisms and/or purchased or leased a motor vehicle equipped with Access Mechanisms;
- b. In light of the Defendants' anticompetitive and unlawful conduct, every member of the Class was deprived of transactions in a free and open market and, as a result, paid an artificially inflated price for the purchase of Access Mechanisms and/or for the purchase or rental of motor vehicles equipped with these components;
- c. every member of the Class suffered damages equal to the difference between the artificially inflated price paid for Access Mechanisms and / or motor vehicles equipped with these components that they purchased or leased, and the price they should have normally paid in a market where free and open competition prevails;
- d. the Defendants' anticompetitive and unlawful actions were camouflaged and were not brought to the attention of the Class members;
- e. The Class members did not and could not know that the Defendants were involved in anticompetitive and unlawful conduct and breaching their obligations;
- f. every member of the class suffered damages as a direct result of the Defendants' anticompetitive and unlawful conduct;
- g. thus, each Class member is justified in claiming damages suffered as a result of the Defendants' anticompetitive and unlawful conduct.

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

61. The composition of the Class makes it difficult or impractical to apply the rules relating to the mandate to sue or be sued on behalf of others or for consolidation of proceedings, having regard to Article 575 (3) of the *Civil Code of Procedure*, in that:

- a. the number of people in the Class is estimated at several million, given the sales figures of the Defendants and the widespread use of the products described herein;
- b. Class members are numerous and scattered across the entire province;
- c. the names and addresses of the persons who are part of the Class are unknown to the Applicant;
- d. all the facts alleged in the foregoing paragraphs demonstrate that it would be impractical, if not impossible, to contact each and every member of the Class to obtain mandates and to join them together into one action;
- e. in these circumstances, a class action is the only appropriate procedure and the only viable means for all of the members of the Class to effectively pursue their respective legal rights and gain access to justice.

62. The claims of the members of the Class raise identical, similar or related issues of law or fact.

63. Individual issues, if any, pale by comparison to the numerous common issues that are significant to the outcome of the litigation.

64. The damages sustained by the Class members flow, in each instance, from a common nucleus of operative facts, namely, the Defendants' misconduct.
65. The questions of fact or of law that concern the members of the Class Action and the Applicant are listed in the following paragraphs and are identical, similar or related for each:
- a. Have the Defendants conspired and/or entered into an agreement or arrangement that had the effect of unduly restricting competition in the sale of Access Mechanisms and/or artificially increasing the price of Access Mechanisms and, if so, during what period did this conspiracy and bid rigging have an effect on the Applicant and the Class members?
  - b. Does the participation of the Defendants in the conspiracy and bid rigging constitute a fault for which they are jointly and severally liable towards the Applicant and the Class members?
  - c. Did the conspiracy and bid rigging result in an increase in the price paid by the Applicant and Class members in Quebec for the purchase of Access Mechanisms and/or the purchase and/or rental of motor vehicles equipped with Access Mechanisms and, if so, does this increase constitute a damage to the Applicant and to each of the members of the Class?
  - d. What is the total amount of damages suffered by the Applicant and the Class members?
  - e. Are the Defendants liable to pay punitive damages and if so, in what amount?
  - f. Are the Applicant and Class members justified in claiming the reimbursement of the costs incurred in the present matter, namely the costs of investigation, the extrajudicial fees and disbursements of attorneys for the Applicant?
  - g. Were the Defendants unjustly enriched and if so, should the Defendants disgorge their profits?

## V. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

66. The action that the Applicant wishes to institute on behalf of the members of the Class is an action in damages;
67. The conclusions that the Applicant wishes to introduce by way of an application to institute proceedings are:
- **GRANT** the class action of the Applicant; and each of the members of the Class;
  - **CONDEMN** the Defendants, jointly and severally, to pay compensatory damages valued at \$ 50,000,000 to be adjusted, and **ORDER** collective recovery of those sums;
  - **CONDEMN** the Defendants, jointly and severally, to pay punitive damages valued at \$ 5,000,000 to be adjusted, and **ORDER** collective recovery of those sums;
  - **CONDEMN** the Defendants, jointly and severally, to pay the costs incurred for any investigation necessary to establish their liability in this case, including the extrajudicial fees and disbursements of attorneys for the Applicant;
  - **CONDEMN** the Defendants, jointly and severally, to pay interest at the legal rate plus the additional indemnity provided for in article 1619 of the *Civil Code of Quebec* on the above sums from the date of service of the application to authorize a class action;

- **CONDEMN** the Defendants to bear the costs of the present action including expert fees and notice fees;
- **RENDER** any other order that this Honourable Court shall determine and that is in the interest of the members of the Class;

68. The Applicant requests that she be attributed the status of representative of the Class and is able to ensure adequate representation of the members of the Class for the following reasons:

- a. She is a member of the Class;
- b. The Applicant is ready and available to manage and direct the present action in the interest of the members of the Class that she wishes to represent and is determined to lead the present action until a final resolution of the matter, the whole for the benefit of the Class, as well as to dedicate the time necessary for the present action before the Courts and the Fonds d'aide aux actions collectives, as the case may be, and to collaborate with her attorneys;
- c. Applicant has the capacity and interest to fairly, properly, and adequately protect and represent the interest of the members of the Class;
- d. Applicant has given the mandate to her attorneys to obtain all relevant information with respect to the present action and intends to keep informed of all developments;
- e. Applicant, with the assistance of her attorneys, is 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;
- f. Applicant has given instructions to her attorneys to put information about this class action on their website and to collect the coordinates of those Class members that wish to be kept informed and participate in any resolution of the present matter, the whole as will be shown at the hearing;
- g. Applicant is in good faith and has instituted this action for the sole goal of having her rights, as well as the rights of other Class members, recognized and protected so that they may be compensated for the damages that they have suffered as a consequence of the Defendants' conduct;
- h. Applicant understands the nature of the action;
- i. Applicant's interests do not conflict with the interests of other Class members and further, Applicant has no interest that is antagonistic to those of other members of the Class;
- j. Applicant is prepared to be examined out-of-court on her allegations (as may be authorized by the Court) and to be present for Court hearings, as may be required and necessary;
- k. Applicant has spent time researching this issue on the internet and discussing with her attorneys to prepare this file. In so doing, she is convinced that the problem is widespread.

69. The Applicant proposes, in the best interests of the Class members, that this class action be brought before the Superior Court, sitting in the District of Montreal, for the following reasons:

- a. a great number of the members of the Class reside in the judicial district of Montreal;
- b. many of the purchases of Access Mechanisms and/or purchases or leases of motor vehicles containing Access Mechanisms were concluded in the judicial district of Montreal.

c. the Applicant's attorneys practice their profession in the judicial district of Montreal.

70. The whole cause of action arose in Quebec.

71. The present application is well founded in fact and in law.

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

**GRANT** the present application;

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

**DESIGNATE** the Applicant, Danielle Dallaire, as representative of the persons included in the Class herein described as:

*"All direct and indirect purchasers in Quebec who purchased or leased motor vehicles\* containing Access Mechanisms or who purchased Access Mechanisms, from 2002 to September 2011 (the "Class Period")."*

\*Motor vehicle is defined as: cars, sport utility vehicles (SUVs), vans, light trucks (weighing up to 10,000 lbs).

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

- a. Have the Defendants conspired and / or entered into an agreement or arrangement that had the effect of unduly restricting competition in the sale of Access Mechanisms and/or artificially increasing the price of Access Mechanisms and, if so, during what period did this conspiracy and bid rigging have an effect on the Applicant and the Class members?
- b. Does the participation of the Defendants in the conspiracy and bid rigging constitute a fault for which they are jointly and severally liable towards the Applicant and the Class members?
- c. Did the conspiracy and bid rigging result in an increase in the price paid by the Applicant and Class members in Quebec for the purchase of Access Mechanisms and/or the purchase and / or rental of motor vehicles equipped with Access Mechanisms and, if so, does this increase constitute a damage to the Applicant and to each of the members of the Class?
- d. What is the total amount of damages suffered by the Applicant and the Class members?
- e. Are the Defendants liable to pay punitive damages and if so, in what amount?
- f. Are the Applicant and Class members justified in claiming the reimbursement of the costs incurred in the present matter, namely the costs of investigation, the extrajudicial fees and disbursements of attorneys for the Applicant?
- g. Were the Defendants unjustly enriched and if so, should the Defendants disgorge their profits?

The interests of justice favour that this motion be granted in accordance with its conclusions;

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

- **GRANT** the class action of the Applicant and each of the members of the Class;

- **CONDEMN** the Defendants, jointly and severally, to pay compensatory damages valued at \$ 50,000,000 to be adjusted, and **ORDER** collective recovery of those sums;
- **CONDEMN** the Defendants, jointly and severally, to pay punitive damages valued at \$ 5,000,000 to be adjusted, and **ORDER** collective recovery of those sums;
- **CONDEMN** the Defendants, jointly and severally, to pay the costs incurred for any investigation necessary to establish their liability in this case, including the extrajudicial fees and disbursements of attorneys for the Applicant;
- **CONDEMN** the Defendants, jointly and severally, to pay interest at the legal rate plus the additional indemnity provided for in article 1619 of the *Civil Code of Quebec* on the above sums from the date of service of the application to authorize a class action;
- **CONDEMN** the Defendants to bear the costs of the present action including expert fees and notice fees;
- **RENDER** any other order that this Honourable Court shall determine and that is in the interest of the members of the Class.

**DECLARE** that all members of the Class that have not requested their exclusion, within the specified timeframe, be bound by any judgment to be rendered on the class action to be instituted in the manner provided for by the law;

**FIX** the delay of exclusion at thirty (30) days from the date of the publication of the notice to the Class members, date upon which the members of the Class that have not exercised their means of exclusion will be bound by any judgment to be rendered herein;

**ORDER** the publication of a notice to the members of the Class in accordance with articles 576 and 579 C.C.P. within sixty (60) days from the judgment to be rendered herein;

**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 costs, including all publication fees.

Montreal, March 11, 2019

*Klein Avocats Plaideurs Inc.*  
**Klein Avocats Plaideurs Inc.**  
 500, Place d'Armes, suite 1800  
 Montreal, Quebec, H2Y 2W2  
**Attorneys for the Applicant**

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*Klein Avocats Plaideurs Inc.*  
 Klein Avocats Plaideurs Inc.

**SUMMONS**  
(articles 145 and following C.C.P.)

**Filing of a judicial application**

Take notice that the applicant has filed this originating application in the office of the Superior Court in the judicial district of Montréal.

**Defendant's answer**

You must answer the application in writing, personally or through a lawyer, at the Montréal courthouse situated at 1, Notre-Dame 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 an applicant 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 applicant'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 originating application, the Applicant intends to use the following exhibits:

EXHIBIT P-1:	<i>En liasse</i> copy of the Competition Bureau Canada's press releases dated October 19, 2018 and February 14, 2018
EXHIBIT P-2:	<i>En liasse</i> copy of case summary of <i>U.S. v. Alpha Corporation</i> and United States Department of Justice press release dated September 15, 2016
EXHIBIT P-3:	Copy of the Applicant's contract of purchase relating to the purchase of her vehicle

These exhibits are available on 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.



CANADA

SUPERIOR COURT  
(Class Action Chambers)

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL  
No.: 500-06-000985-198

\_\_\_\_\_  
**DANIELLE DALLAIRE**, residing and domiciled  
at \_\_\_\_\_

Applicant

v.

**ALPHA CORPORATION**, legal person, having  
its principal place of business at  
1-6-8 Fukuura, Kanazawa-ku, Yokohama-shi,  
Kanagawa 2360004

and

**ALPHA TECHNOLOGY CORPORATION**, legal  
person, having its principal place of business at  
1450 McPherson Park Drive Suite 200 P.O.  
Box168, Howell, Michigan 48844-0168

Defendants

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

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**TO:** **ALPHA CORPORATION**, having its principal place of business at  
1-6-8 Fukuura, Kanazawa-ku, Yokohama-shi, Kanagawa 2360004  
And

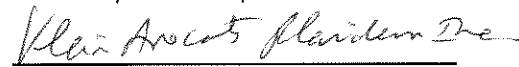
**ALPHA TECHNOLOGY CORPORATION**, having its principal place of business at  
1450 McPherson Park Drive Suite 200 P.O. Box168, Howell, Michigan 48844-0168

**Defendants**

**TAKE NOTICE** that the *Application for authorization to institute a class action and to obtain the status of representative* will be presented before one of the honourable judges of the Superior Court sitting in the Class Action Chambers at the Montréal Courthouse located at 1, Notre-Dame Est, at a date and time to be determined by the Class Action Chambers coordinator.

**GOVERN YOURSELVES ACCORDINGLY.**

Montreal, March 11, 2019

  
\_\_\_\_\_  
**Klein Avocats Plaideurs Inc.**  
Attorneys for the Applicant

TRUE COPY

  
\_\_\_\_\_  
Klein Avocats Plaideurs Inc.

CANADA

SUPERIOR COURT  
(Class Action Chambers)

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

No.: 500-06-000985-198

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DANIELLE DALLAIRE

Applicant

v.

ALPHA CORPORATION ET AL.

Defendants

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**ATTESTATION OF ENTRY IN THE NATIONAL CLASS ACTION REGISTER**  
(ART 55 of the *Regulation of the Superior Court of Québec in civil matters*)

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The Applicant, through her attorneys, attests that the *Application for authorization to institute a class action and to obtain the status of representative* will be entered into the national class action register.

Montreal, March 11, 2019

*Klein Avocats Plaideurs Inc.*

**Klein Avocats Plaideurs Inc.**  
Attorneys for the Applicant

TRUE COPY

*Klein Avocats Plaideurs Inc.*  
Klein Avocats Plaideurs Inc.