

CANADA  
Province of Québec  
District: Montréal  
Locality: Montréal  
File No.: 500-06-000913-182

SUPERIOR COURT  
Class Action Division

**RICKY TENZER**

Plaintiff

v.

**HUAWEI TECHNOLOGIES CANADA CO., LTD.**

Defendant

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**FIRST CASE PROTOCOL (in civil matters)  
PRESENTATION PAGE  
Superior Court of Québec, Montréal Division**

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1. You are **required to complete** this page when filing the **first case protocol** in the record of the Court.
  2. If applicable, place this page before the case protocol (before page 1) and staple them together.
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For each question, you must check an answer, either YES or NO.  
No answer will be deemed to be YES.

<b>The parties are requesting a stay of the proceeding:</b> (line 4 of the protocol)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
<b>The parties are requesting an extension of the time limit:</b> (line 6 of the protocol)	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
<b>The parties plan to file more than six expert opinions:</b> (lines 40 to 43 of the protocol)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
<b>A party (defendant, third person, person called) intends to file an application for authorization to file a written defence:</b> (line 33 of the protocol)	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
<b>The parties plan to conduct more than six pre-trial examinations:</b> (lines 47 and 48 of the protocol)	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>The parties plan to conduct examinations the duration of which is incompatible with article 229 of the Code of Civil Procedure (C.C.P.):</b>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
<b>The protocol was not signed by the parties or was not notified to them:</b>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

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Plaintiff

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Defendant

**CASE PROTOCOL**  
**Superior Court of Québec, Montréal Division**  
**(article 148 of the Code of Civil Procedure)**

1.	Nature of the dispute: Class action in hidden defect	
2.	Value of the subject matter of the dispute: To be determined	
3.	Latest date on which the application was served on all the parties:	June 26, 2020
4.	All the parties are requesting a stay of the proceeding in order to allow them to negotiate an out-of-court agreement (C.C.P., a. 156):  Duration: (where applicable, indicate a maximum stay of 3 months)  If the application is allowed by the Court, the proceeding will therefore be stayed until:	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO  <input type="checkbox"/> 1 month <input type="checkbox"/> 2 months <input type="checkbox"/> 3 months
5.	Before filing judicial proceedings, did the parties consider private prevention and resolution processes (C.C.P. a. 1, 3 <sup>rd</sup> para. and a. 148)?  If so, did the parties participate in a private prevention and resolution process before filing judicial proceedings?  A settlement conference:  <input type="checkbox"/> will be requested <input type="checkbox"/> is probable <input checked="" type="checkbox"/> is possible <input type="checkbox"/> is out of the question	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO  <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
6.	All the parties are requesting an extension of the time limit for trial readiness (C.C.P., a. 173):  Duration: (where applicable, indicate an additional time limit of 9 months maximum)  If the Court allows the application, the six-month time limit will be extended until:	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO  <input type="checkbox"/> 3 months <input type="checkbox"/> 6 months <input type="checkbox"/> 9 months <input checked="" type="checkbox"/> 4 months  31 août 2021

PRELIMINARY EXCEPTIONS		
7.	<b>Declinatory exceptions</b>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		Deadline for filing
8.	<input type="checkbox"/> Referral to competent court or dismissal (C.C.P., a. 167)	
9.	<input type="checkbox"/> Other exception (with a reference to the C.C.P. article):	
10.	Submitted by (enter the name of the party):	

11.	<b>Exceptions to dismiss</b>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		Deadline for filing
12.	<input type="checkbox"/> Dismissal (C.C.P., a. 168):	
13.	Submitted by (enter the name of the party):	

14.	<b>Other preliminary exceptions</b>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
		Deadline for filing
15.	<input type="checkbox"/> Clarifications regarding (C.C.P., a. 169):	
16.	<input checked="" type="checkbox"/> Disclosure of documents (C.C.P., a. 169): by the plaintiff	Completed
17.	<input type="checkbox"/> Striking of immaterial allegations (C.C.P., a. 169):	
18.	<input type="checkbox"/> Requirement to provide suretyship (C.C.P., a. 492):	
19.	<input checked="" type="checkbox"/> Other exception (indicate its nature): Notification and filing of an Application for permission to examine members (Art. 587 C.C.P.)	2 weeks after receipt of the undertakings communicated following the examination of Ricky Tenzer
20.	Submitted by (enter the name of the party):	

21.	<b>Application under article 51 C.C.P.</b>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		Deadline for filing
22.	<input type="checkbox"/> Application under article 51 C.C.P.	
23.	Submitted by (enter the name of the party):	

OTHER PROCEEDINGS		
24.	<b>Safeguard measures</b> (C.C.P., a. 169 1st para.):	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		Deadline for filing
25.	<input type="checkbox"/> Application for safeguard measures	
26.	Submitted by (enter the name of the party):	

27.	<b>Other incidental procedures</b>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		Deadline for filing
28.	<input type="checkbox"/> Amendment of a pleading	

29.	<input type="checkbox"/> Determination of an issue of law	
30.	<input type="checkbox"/> Declaration of disqualification	
31.	<input type="checkbox"/> Other (indicate its nature):	
32.	Submitted by (enter the name of the party):	

DEFENCE		
33.	<p><b>Under article 171 C.C.P., the case is subject to the rules of oral defence. Despite this, all the parties are applying for authorization from the Court for the case to be subject to the rules of written defence, on the following grounds (C.C.P., aa. 148(5) and 171) (indicate the grounds):</b></p> <p>Complexity of the class action case.</p> <p><b>In the absence of an application for authorization for a written defence, the defendant must state the grounds by oral defence (C.C.P., aa. 154 and 170 2nd para.) (indicate the grounds):</b></p>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO  May 12, 2021

34.	<b>The defendant intends to file a cross-application.</b>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
35.	Deadline for filing the cross-application	
36.	Deadline for filing the defence to cross-application	

37.	<p><b>Issues in dispute</b> (C.C.P., a. 148):</p> <p>Selon le jugement d'autorisation :</p> <ol style="list-style-type: none"> <li>1. Est-ce que le problème de déchargement prématuré de la batterie constitue un déficit d'usage sérieux ?</li> <li>2. Est-ce que la batterie du téléphone des membres du groupe servant à un usage normal a une durée de vie raisonnable ?</li> <li>3. Est-ce que le problème de déchargement prématuré de la batterie viole la garantie de qualité prévue au Code civil du Québec ?</li> <li>4. Est-ce que les membres du groupe connaissaient le vice de conception et de fabrication au moment de l'achat ou auraient dû le déceler par un examen ordinaire ?</li> <li>5. Les membres du groupe ont-ils droit à un montant correspondant au coût de réparation du téléphone ou de remplacement de la batterie ?</li> <li>6. Les membres du groupe ont-ils droit au remboursement des frais découlant du vice de conception, notamment les frais d'analyse, de diagnostic, d'expédition ou d'achat de pile portative ?</li> <li>7. La défenderesse doit-elle être condamnée à verser des dommages-intérêts punitifs aux membres du groupe qui sont des consommateurs ?</li> </ol>	
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38.	<b>Third person intervention or impleading</b> (C.C.P., aa. 151 and 158(4))	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
39.	Deadline for the intervention or impleading of a third person	

EXPERT OPINIONS		
40.	<p><b>Joint expert opinion</b> (C.C.P. a. 232)</p> <p>Nature of and need for joint expert opinion:</p> <p>Reasons for refusing joint expert opinion (C.C.P., a. 148(4)):</p> <p>Deadline for filing joint expert opinion:</p>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
41.	<p><b>Expert opinion for the plaintiff</b> (not more than one per area or matter of expertise) (C.C.P., a. 232): (indicate number, nature and need for each expert opinion)</p> <p>An expert opinion in order to determine the loss of value of the group members' telephones resulting from the defect affecting their battery.</p> <p>Deadline for filing an expert opinion for plaintiff:</p>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
		60 days following the transmission of the undertakings subscribed to during the examination of the defendant's representative (before defense)
42.	<p><b>Expert opinion for the defendant</b> (not more than one per area or matter of expertise) (C.C.P., a. 232): (indicate number, nature and need for each expert opinion)</p> <p>(a) An expert opinion to determine the cause of the alleged defect in the batteries of the phones.</p> <p>(b) A counter-expertise of the loss in value of the group members' telephones resulting from the alleged defect in their batteries, if necessary.</p> <p>Deadline for filing an expert opinion for defendant:</p>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
		(a) April 9, 2021 (b) 60 days following the transmission of plaintiff's expert opinion
43.	<p><b>Expert opinion for third person or impleaded person</b> (not more than one per area or matter of expertise) (C.C.P., a. 232): (indicate number, nature and need for each expert opinion)</p> <p>Deadline for filing an expert opinion for third person or impleaded person:</p>	N/A

EXAMINATIONS				
44.	<b>Pre-trial examination(s) by either party</b> (C.C.P., aa. 148(3), 158(3) and 221)	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
45.	Value of the subject matter of the dispute is less than \$100 000 (C.C.P., a. 229):	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
46.	The parties intend to submit their anticipated objections before pre-trial examination (C.C.P., a. 228):	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
47.	<b>Number of examinations before defence</b>	To be determined		
48.	<b>Number of examinations after defence</b>	1		
49.	Name of persons to be examined for the plaintiff:			
	Representative of the defendant with respect to the battery usage deficit, customer relations data and Quebec sales data	At the latest on December 4, 2020	9:30 am	Montreal or by videoconference
	Given name, surname	Date	Time	Place
	Representative of the defendant with respect to the defense only	At the latest on June 14, 2021	9:30 am	Montreal or by videoconference
	Given name, surname	Date	Time	Place
50.	Name of persons to be examined for the defendant:			
	10 members of the group (according to the decision rendered by the court re: Case No. 19)	To be determined according to the decision rendered by the court re: Case No. 19	9:30 am	Montreal
	Given name, surname	Date	Time	Place
	Ricky Tenzer	At the latest on December 4, 2020	9:30 am	Montreal
	Given name, surname	Date	Time	Place
51.	<b>In order to avoid service of a subpoena, the parties agree that, in the 20 days preceding a pre-trial examination, the examining party will disclose in writing to the other parties a detailed list of all the documents that must be in the possession of the party to be examined at the pre-trial examination.</b> List the documents below if the parties are currently able to identify them (an appendix of all the documents may be enclosed with this protocol):			
	Representative of the defendant			
	Given name, surname	Documents		
	Given name, surname	Documents		
52.	Deadline for filing transcripts for the plaintiff (C.C.P., a. 227)	60 days following the transmission of the undertakings subscribed to during the examination of the defendant's representative		

53.	Deadline for filing transcripts for the defendant (C.C.P., a. 227)	With the Joint Declaration
54.	Deadline for filing transcripts for the impleaded person (C.C.P., a. 227)	N/A
55.	Deadline for presenting the objections set forth in the second paragraph of article 228 C.C.P., which were raised during the pre-trial examinations for the plaintiff	5 days following receipt of transcript of defendant's representative's examination
56.	Deadline for presenting the objections set forth in the second paragraph of article 228 C.C.P., which were raised during the pre-trial examinations for the defendant	5 days following receipt of the transcripts
57.	Deadline for disclosure of all the undertakings made during the pre-trial examinations for the plaintiff	30 days following receipt of transcript of defendant's representative's examination
58.	Deadline for disclosure of all the undertakings made during the pre-trial examinations for the defendant	30 days following receipt of transcript of plaintiff's examination

<b>EXHIBITS</b>		
	<b>Exhibits and other evidence (C.C.P., aa. 145 and 158)</b>	<b>Deadline</b>
59.	Filing of exhibits for the plaintiff	With the Joint Declaration
60.	Filing of exhibits for the defendant	With the Joint Declaration
61.	Filing of exhibits for the third person, impleaded person or intervening person	N/A

62.	List of exhibits admitted by plaintiff: 30 days from the communication of defendant's exhibits	
63.	List of exhibits admitted by defendant: 30 days from the communication of plaintiff's exhibits	
	<b>Filing of affidavits in lieu of testimony</b>	<b>Deadline</b>
64.	Filing of affidavits for plaintiff	60 days following the transmission of the undertakings subscribed to during the examination of the defendant's representative
65.	Filing of affidavits for defendant	With the Joint Declaration

<b>OTHER</b>		
66.	<b>Legal costs</b> (C.C.P., aa. 148 1st para., and 339) <ul style="list-style-type: none"> <li>Evaluation of legal costs for plaintiff (including expert opinions):</li> <li>Evaluation of legal costs for defendant (including expert opinions):</li> <li>Evaluation of legal costs for other parties (including expert opinions):</li> </ul>	<p style="text-align: right;">\$50,000</p> <p style="text-align: right;">\$ 50,000</p> <p style="text-align: right;">\$</p>

67.	<b>Methods of notification the parties intend to use</b> (C.C.P., aa. 109 to 140 and 148(9)): Email
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68.	<b>Appointment of a lawyer to a minor or a person of full age considered incapable</b> If yes, name of proposed lawyer:	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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**N.B. Non-compliance with this protocol may constitute a breach punished under articles 341 and 342 C.C.P.**



Le 7 octobre 2020

*Trudel Johnston & Lespérance*

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Me Mathieu Charest-Beaudry  
Me Anne-Julie Asselin  
Counsel for Plaintiff  
Trudel Johnston & Lespérance  
750 Côte de la Place d'Armes, Suite 90  
Montréal, QC H2Y 2X8  
Telephone : 514 871-8385  
Fax : 514 871-8800  
[mathieu@tjl.quebec](mailto:mathieu@tjl.quebec)  
[anne-julie@tjl.quebec](mailto:anne-julie@tjl.quebec)

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On October 7, 2020

*Dentons Canada LLP*

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Me Pierre Grenier  
Me Erica Shadeed  
Counsel for Defendant  
Dentons Canada LLP  
1 Place Ville Marie, Suite 3900  
Montréal, QC H3B 4M7  
Telephone: 514-878-8856 / 514-878-4191  
Fax: 514-866-2241  
Email: pierre.grenier@dentons.com /  
erica.shadeed@dentons.com

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(given name, surname)  
Defendant