

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

(Class Action Division)
SUPERIOR COURT

No.: 500-06-001066-204

TRACY PATTERSON

Plaintiff

v.

SEATGEEK, INC.

Settling Defendant

APPLICATION TO AUTHORIZE A CLASS ACTION FOR SETTLEMENT PURPOSES ONLY, FOR APPROVAL OF NOTICE TO CLASS MEMBERS OF A SETTLEMENT APPROVAL HEARING AND TO APPOINT A CLAIMS ADMINISTRATOR
(Sections 101, 575, 576, 579, 580, 581, and 590 C.C.P.)

TO THE HONORABLE JUSTICE PIERRE-C. GAGNON OF THE SUPERIOR COURT OF QUEBEC, DISTRICT OF MONTREAL, DESIGNATED TO PRESIDE OVER THE PRESENT CLASS ACTION, THE PLAINTIFF RESPECTFULLY SUBMITS THE FOLLOWING:

I. NATURE OF THE APPLICATION

1. In May 2021, Plaintiff entered into a settlement in principle with Defendant SeatGeek, Inc. (hereinafter "**SeatGeek**") regarding all persons in Quebec who purchased before March 11, 2020 at least one or more Tickets from SeatGeek to at least one or more events scheduled to take place after March 11, 2020, which events were subsequently either postponed or rescheduled. The settling parties continued their negotiations for many months thereafter, ultimately arriving at a formal transaction agreement in March 2022, the whole as appears more fully from a copy of the Settlement Agreement entitled "Transaction Agreement", communicated herewith as **Exhibit R-1**, together with its schedules and French translation (the "**Settlement Agreement**" or the "**Transaction**").
2. This Application is for an order authorizing the bringing of a class action for settlement purposes only, approving the notices to class members for the settlement approval hearing and appointing the Notice Administrator.

3. Pursuant to paragraphs 26 and 27 of the Settlement Agreement, the Parties jointly request to obtain the Court's authorization of the class action for the Settlement Class as defined below.
4. Except to the extent they are modified by this Application, the definitions set out in the Settlement Agreement apply and are incorporated herein.

II. BACKGROUND

5. On July 10, 2020, Plaintiff filed its *Amended Application for Authorization to Institute a Class Action* against multiple Defendants including SeatGeek, before the Superior Court of Québec, District of Montreal, on behalf of the following proposed class:

All persons in Canada, who purchased before March 11, 2020 one or more tickets from one of the Defendants for an event scheduled to take place after March 11, 2020, which event was subsequently either postponed, rescheduled or cancelled, without a full refund being timely provided by Defendants, or any other Group(s) or Sub-Group(s) to be determined by the Court;

6. This action arises from the refusal by multiple first and second market event ticket providers to provide refunds to consumers shortly after the March 2020 Covid-19 pandemic was declared, regarding events which were either cancelled, rescheduled or postponed due to the Covid-19 restrictions.
7. This Transaction Agreement concerns the Defendant SeatGeek, Inc. only, and only relates to events which were postponed or rescheduled without a refund being provided by SeatGeek.
8. After many months of negotiations, the Parties have now reached a complete Transaction Agreement.

III. AUTHORIZATION FOR SETTLEMENT PURPOSES ONLY

9. Defendant SeatGeek consents to the authorization of the bringing of a class action on behalf of the following amended Quebec only class, solely for settlement purposes and without any admission (the “**Settlement Class Member**”):

“All persons in Quebec, who purchased before March 11, 2020 one or more tickets from SeatGeek for an event scheduled to take place after March 11, 2020, which event was subsequently either postponed or rescheduled, without a full refund being provided by SeatGeek;”

10. In this regard, and considering SeatGeek’s policy to offer to users holding Tickets to events that were cancelled (as opposed to postponed or rescheduled) a refund in cash or a credit, at their discretion, the definition of Eligible Members under the settlement is more fully described at Section II. (s) of the Transaction Agreement.

1- The Claims of the Settlement Class Members Raise Identical, Similar or Related Issues of Law or Fact

11. The Parties propose that the bringing of the class action be authorized for settlement purposes only, without any admission on the part of SeatGeek, on the basis of the following issue of law and fact which is identical, similar or related to the situation of all Settlement Class members:

a) Did SeatGeek’s alleged conduct violate s. 54.9.1 of the Consumer Protection Act, and, if so, what is the appropriate remedy?	a) La conduite alléguée de SeatGeek a-t-elle violé l’article 54.9.1 de la Loi sur la protection du consommateur et, dans l’affirmative, quel est le remède approprié ?
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2- The Facts Alleged Appear to Justify the Conclusions Sought

12. In its *Amended Application for Authorization to Institute a Class Action*, Plaintiff alleges that Defendant committed a fault, violated the *Consumer Protection Act*, and engaged in illegal conduct by modifying its “Buyer Guarantee” and Terms of Use and by failing to fully reimburse Quebec residents for all amounts paid before March 11, 2020 for event tickets, which events were subsequently either postponed or rescheduled after March 11, 2020.

13. Plaintiff alleges notably that Defendant violated the *Consumer Protection Act*, as well as the Civil Code of Quebec.

3- The Composition of the Settlement Class Makes it Difficult or Impracticable to Apply the Rules for Mandates to Take Part in Judicial Proceedings on Behalf of Others

14. The Settlement Class as provided in the Settlement Agreement consists of all persons in Quebec who purchased before March 11, 2020 one or more tickets from SeatGeek for an event scheduled to take place after March 11, 2020, which event was subsequently either postponed or rescheduled, without a full refund being provided by SeatGeek.

15. As more fully described in the Settlement Agreement, to be included in the Settlement class, a person should not have already used the ticket to attend the event(s) or received a refund or a credit for such Ticket(s).

4- Plaintiff Patterson is in a Position to Properly Represent the Settlement Class Members

16. Plaintiff Tracy Patterson:

- (a) is a consumer who purchased concert tickets and parking from one of the Defendants to these proceedings (Ticketmaster) for a May 23, 2020 concert event that never occurred;
- (b) gave the mandate to his attorneys to sue many members of the event tickets industry, including SeatGeek, who modified their practices and/or refused to provide timely refunds to consumers who purchased event ticket(s) and other related purchases before March 11, 2020, for event(s) which were either cancelled, postponed or rescheduled because of the Covid-19 pandemic.
- (c) understands the nature of the action and has the capacity and interest to fairly and adequately protect and represent the interests of the Class Members;
- (d) is available to dedicate the time necessary for the present action before the Courts of Quebec and to collaborate with Class Counsel in this regard;
- (e) is ready and available to manage and direct the present action in the interest of the Class Members and is determined to lead the present file until a final

resolution of the matter, regarding all named Defendants, the whole for the benefit of the Class Members;

- (f) does not have interests that are antagonistic to those of other Class Members;
- (g) has given the mandate to the undersigned attorneys to obtain all relevant information to the present action and intends to keep informed of all developments;
- (h) has given the mandate to the undersigned attorneys to post the present matter on their firm website in order to keep the Class Members informed of the progress of these proceedings and in order to more easily be contacted or consulted by said Class Members;
- (i) is, with the assistance of the undersigned attorneys, ready and available to dedicate the time necessary for this action and to collaborate with other Class Members and to keep them informed;

OPTING OUT OF THE SETTLEMENT CLASS AND OBJECTIONS

17. The Parties have agreed that the opt-out period shall be thirty (30) days after the Notice of Approval Hearing is first sent directly to the Settlement Class Members by email and published on the Settlement Website and on Class Counsel website (the “**Opt Out Deadline**”) and to request that no Settlement Class Member be permitted to opt out of this class action after the Opt Out Deadline.
18. The Settlement Agreement provides at paragraphs 35 and 42 the procedure for Settlement Class Members to opt out of the Settlement Class and/or object to the Settlement Agreement.
19. The Settlement Agreement further provides that any Settlement Class Member who wishes to opt out of to the Settlement Agreement and the Class Action must do so by sending a personally signed written letter which includes the required information and documentation (detailed in the Settlement Agreement) by registered or certified mail to the Clerk of the Superior Court with a copy to Class Counsel so that it is received on or before the Opt-Out Deadline.

20. The Settlement Agreement provides that Settlement Class Members who wish to object to the Settlement Agreement are required to inform Class Counsel in writing of the reasons for their Objection at least five (5) Days before the Approval Hearing, by communicating a document containing the required information (detailed in the Settlement Agreement).

NOTICE OF APPROVAL HEARING

21. The Parties herein have agreed on the form and content of the Notice of Approval Hearing and Short Form Notice of Approval Hearing. Said notices will advise Settlement Class Members of the basic terms of the Settlement Agreement and their right to participate in the settlement approval hearing. The Notice of Approval Hearing and Short Form Notice of Approval Hearing are attached to the Settlement Agreement as Schedules A and B respectively, in both French and English, and are communicated herewith as **Exhibits R-2 and R-3** to this Application.

1- Publication and dissemination of the Notice of the Approval Hearing

22. As provided by the Settlement Agreement, the Parties herein have agreed to the publication and the dissemination of the Notice of the Approval Hearing.
23. The Settlement Agreement provides that within fifteen (15) days following the Judgment Authorizing the Class Action, the Claims Administrator will send the Notice of the Approval Hearing (in both French and English) to all Group Members to the email address associated with the Group Members' Account using the Detailed List provided by SeatGeek. Should the Claims Administrator receive a Bounce Back, the Claims Administrator will mail the Short Form Notice of the Approval Hearing (in both French and English) to the last postal address associated with the Group Member's Account.
24. Furthermore, within twelve (12) Days following the Judgment Authorizing the Class Action the Claims Administrator will create a bilingual Settlement Website containing an electronic version of the Transaction and all relevant schedules and orders.

25. Within fifteen (15) Days following the Judgment Authorizing the Class Action, a hyperlink to the Settlement Website will be available on Class Counsel's website (lexgroup.ca).
26. In addition to the dissemination of the Notice of the Approval Hearing, copies of the French and English versions of the Notice of the Approval Hearing will also be posted by Class Counsel on the Class Action Registry of the Superior Court of Québec.

2- Settlement Website

27. As mentioned above, the Settlement Agreement provides that a fully bilingual Settlement Website will be available to Settlement Class Members twelve (12) days following the Judgment Authorizing the Class Action.
28. As stated in the Settlement Agreement, the functionality of the Settlement Website will include, but not be limited, to posting French and English copies of the Settlement Agreement and of the Notice of the Approval Hearing, the relevant deadlines applicable, a toll-free telephone number and addresses to contact the Claims Administrator by email and mail.

THE CLAIMS ADMINISTRATOR

29. The Parties herein seek the appointment of Velvet Payments Inc. ("**Velvet**") to serve as Claims Administrator.
30. The Settlement Agreement stipulates that the Parties agree that Velvet shall serve as Claims Administrator, subject to approval by the Court, and that SeatGeek will pay the costs of notice and administration regardless of whether the Settlement Agreement is ultimately approved.
31. The parties' attorneys are aware of the resources and abilities of Velvet generally.
32. Velvet has also served as notices and/or claims administrator in the context of other consumer protection class actions in Quebec, including cases involving

event tickets companies, namely in the case *Abihisira v. StubHub inc. et al.* (500-06-000754-156).

33. The Parties recommend to the Court that Velvet Payments Inc. be appointed Claims Administrator.

POUR CES MOTIFS, PLAISE AU TRIBUNAL DE:	FOR THESE REASONS, MAY IT PLEASE THE COURT TO:
ACCUEILLIR la <i>Demande pour obtenir l'autorisation d'exercer une action collective aux fins de règlement seulement, la publication des avis aux membres et pour nommer un administrateur des réclamations;</i>	GRANT the <i>Application to Authorize a Class Action for Settlement Purposes Only, for Approval of Notice to Class Members of a Settlement Approval Hearing and to Appoint a Claims Administrator;</i>
DÉCLARER qu'aux fins du présent jugement, les définitions énoncées dans la Convention de transaction s'appliquent et sont intégrées au présent jugement;	DECLARE that for the purposes of the present judgment, the definitions in the Transaction Agreement apply and are integrated in the present judgment;
<p>AUTORISER le demandeur, aux seules fins de règlement avec la défenderesse SeatGeek Inc., de modifier comme suit la description du groupe dans la « <i>Amended Application to Authorize the Bringing of a Class Action</i> » :</p> <p>Groupe :</p> <p>Toutes les personnes au Québec qui ont acheté avant le 11 mars 2020 un ou plusieurs billets de SeatGeek pour un événement devant avoir lieu après le 11 mars 2020, lequel événement a été par la suite soit reporté soit reprogrammé, sans qu'un remboursement complet soit fourni par SeatGeek;</p>	<p>AUTHORIZE the Applicant, for the purpose of settlement only with Defendant SeatGeek, Inc., to amend as follows the Class description in the "<i>Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff</i>":</p> <p>Class:</p> <p>"All persons in Quebec, who purchased before March 11, 2020 one or more tickets from SeatGeek for an event scheduled to take place after March 11, 2020, which event was subsequently either postponed or rescheduled, without a full refund being provided by SeatGeek;"</p>

<p>AUTORISER l'exercice de l'action collective contre la défenderesse SeatGeek Inc. aux seules fins de règlement;</p>	<p>AUTHORIZE the bringing of a class action against the Defendant SeatGeek Inc. for settlement purposes only;</p>
<p>ATTRIBUER au demandeur Tracy Patterson le statut de représentant;</p>	<p>APPOINT the Applicant Tracy Patterson the status of Representative Plaintiff;</p>
<p>IDENTIFIER, aux seules fins de règlement, comme suit les principales questions de fait et de droit qui seront traitées collectivement :</p> <p>a) La conduite alléguée de SeatGeek a-t-elle violé l'article 54.9.1 LPC et, dans l'affirmative, quel est le remède approprié ?</p>	<p>IDENTIFY, for settlement purposes only, the principal question of fact and law to be treated collectively as the following:</p> <p>a) Did SeatGeek's alleged conduct violate s. 54.9.1 CPA, and, if so, what is the appropriate remedy ?</p>
<p>ORDONNER que le présent jugement sera déclaré nul et sans effet si la Convention de transaction est résiliée conformément à ses dispositions ou n'est pas approuvée par la Cour;</p>	<p>ORDER that the present judgment be declared null and without effect if the Transaction Agreement is terminated pursuant to its provisions or it is not approved by the Court;</p>
<p>APPROUVER la forme, le contenu et le mode de publication de l'Avis d'Audience d'Approbation de la Transaction (pièce R-2) et l'Avis abrégé de l'Audience d'Approbation A (pièce R-3), dans leurs versions française et anglaise;</p>	<p>APPROVE the form, content and mode of dissemination of the Notice of Approval Hearing (Exhibit R-2) and Short Form Notice of Approval Hearing (Exhibit R-3), in their French and English versions;</p>
<p>DÉSIGNER Velvet Payments Inc. à titre d'Administrateur des Réclamations afin de s'acquitter des tâches qui lui incombent en vertu de la Convention de transaction;</p>	<p>APPOINT Velvet Payments Inc. as the Claims Administrator for the purposes of accomplishing the tasks that devolve to it pursuant to the Transaction Agreement;</p>
<p>ORDONNER aux parties et l'Administrateur des Réclamations de diffuser l'Avis d'Audience d'Approbation de la Transaction (pièce R-2) et l'Avis abrégé de l'Audience d'Approbation A (pièce R-3) conformément au plan de publication prévu au paragraphe 30 de la Convention de transaction, dans les 15 jours suivant le jugement qui sera rendu par les présentes;</p>	<p>ORDER the parties and the Claims Administrator to disseminate Notice of Approval Hearing (Exhibit R-2) and Short Form Notice of Approval Hearing (Exhibit R-3) pursuant to the publication plan provided for at paragraph 30 of the Transaction Agreement, within 15 days of the judgment to be rendered herein;</p>

<p>ORDONNER que la défenderesse divulgue à l'Administrateur des réclamations et aux Avocats du Groupe la liste des membres du Groupe que la défenderesse détient, afin de :</p> <p>(a) faciliter la distribution des avis approuvés par le Tribunal aux membres du groupe les informant du présent jugement ainsi que de la date et des informations relatives à la demande d'approbation du règlement; et</p> <p>(b) faciliter le processus de réclamation éventuel découlant de tout jugement ultérieur approuvant le règlement.</p>	<p>ORDER that the Defendant disclose to the Claims Administrator and Class Counsel the list of Class members that the Defendant holds, in order to:</p> <p>(a) facilitate the distribution of Court-approved notices to Class Members advising them of this Judgment and the date and information relating to the Application for Settlement Approval; and</p> <p>(b) facilitate the process for the eventual distribution arising from any later judgment approving the Settlement Agreement.</p>
<p>ORDONNER à l'Administrateur des Réclamations et les Avocats du Groupe de maintenir la confidentialité des informations fournies conformément au présent jugement et ne pas les partager avec toute autre personne, sauf si cela est strictement nécessaire pour exécuter le plan de notification et/ou faciliter le processus de distribution conformément au règlement;</p>	<p>ORDER that the Claims Administrator and Class Counsel shall maintain confidentiality over and shall not share the information provided pursuant to this judgment with any other person, unless doing so is strictly necessary for executing the Notice Plan and/or facilitating the distribution process in accordance with the Settlement Agreement;</p>
<p>ORDONNER que l'Administrateur des Réclamations et les Avocats du Groupe utiliseront les informations qui lui sont fournies en vertu du présent jugement dans le seul but d'exécuter le plan de notification et de faciliter le processus de distribution conformément au règlement, et à aucune autre fin;</p>	<p>ORDER that the Claims Administrator and Class Counsel shall use the information provided to it pursuant to this judgment for the sole purpose of executing the Notice Plan and facilitating the distribution process in accordance with the Settlement Agreement, and for no other purpose;</p>
<p>ORDONNER ET DÉCLARER que le présent jugement constitue un jugement contraignant la production des informations par la défenderesse au sens des lois applicables en matière de vie privée, et que ce jugement satisfait aux exigences de toutes les lois applicables en matière de la protection de la vie privée;</p>	<p>ORDER AND DECLARE that this judgment constitutes a judgment compelling the production of the information by the Defendant within the meaning of applicable privacy laws, and that this judgment satisfies the requirements of all applicable privacy laws;</p>
<p>DÉGAGER la défenderesse de toute obligation en vertu des lois et règlements</p>	<p>RELEASE the Defendant from any and all obligations pursuant to applicable privacy</p>

<p>applicables en matière de protection de la vie privée en ce qui concerne la communication de toute information personnelle et/ou privée à l'Administrateur des réclamations et les Avocats du Groupe;</p>	<p>laws and regulations in relation to the communication of any personal and/or private information to the Claims Administrator and Class Counsel;</p>
<p>DÉCLARER que toute personne qui souhaite entreprendre une action ou une procédure contre l'Administrateur des réclamations ou l'un de ses employés, agents, partenaires, associés, représentants, successeurs ou ayants droit, en lien avec la Convention de transaction, son administration, ou la mise en exécution du présent jugement, ne peut le faire qu'avec l'autorisation de cette Cour;</p>	<p>DECLARE that that any person who wishes to institute an action against the Claims Administrator or one of its employees, agents, partners, associates, representatives, successors or beneficiaries concerning the Transaction Agreement, its administration or its execution of the present judgment, cannot do so unless they have the authorization of this Court;</p>
<p>DÉCLARER que les Membres du Groupe désirant s'objecter à l'approbation par le Tribunal de la Convention de transaction devront procéder de la manière prévue dans l'Avis d'Audience d'Approbation de la Transaction (pièce R-2), au plus tard le (Date);</p>	<p>DECLARE that Class Members who wish to object to Court approval of the Transaction Agreement must do so in the manner provided for in the Notice of Approval Hearing (Exhibit R-2), on or before (Date);</p>
<p>DÉCLARER que les Membres du Groupe désirant s'exclure de l'action collective et de l'application de l'entente de règlement devront transmettre un avis écrit confirmant leur intention de s'exclure du Groupe de la manière prévue dans l'Avis d'Audience d'Approbation de la Transaction (pièce R-2), au plus tard le (Date);</p>	<p>DECLARE that Class Members who wish to opt-out from the class action and the Settlement Agreement thereof may do so by delivering a written notice confirming their intention to opt-out of this class action, in the manner provided for in the Notice of Approval Hearing (Exhibit R-2), on or before (Date);</p>
<p>DÉCLARER que les Membres du Groupe qui n'auront pas requis leur exclusion du Groupe seront liés par tout jugement à être rendu quant à la présente action collective conformément à la loi;</p>	<p>DECLARE that all Class Members that have not requested their exclusion be bound by any judgment to be rendered on the class action in the manner provided for by the law;</p>
<p>FIXER la présentation de la Demande pour approbation de l'entente de règlement et des honoraires des procureurs du groupe au (Date) à (Heure) en salle ● du Palais de Justice de Montréal ou via un</p>	<p>SCHEDULE the presentation of the Application for Approval of the Settlement Agreement and of Class Counsel Fees on (Date), at (Time), in room ● of the Montréal courthouse or via a TEAMS link that will be</p>

lien TEAMS qui sera affiché d'ici là sur le site web du règlement (lien);	posted before that date on the settlement website (link);
ORDONNER que la date et l'heure pour la tenue de l'audience d'approbation du règlement soient indiquées dans l'Avis d'Audience d'Approbation de la Transaction (pièce R-2) (pièce R-2), bien qu'elles puissent être reportées par le Tribunal sans autre avis aux Membres du Groupe autre que l'avis qui sera affiché sur le site web du règlement (lien);	ORDER that the date and time of the settlement approval hearing shall be set forth in the Notice of Approval Hearing (Exhibit R-2), but may be subject to adjournment by the Court without further publication of notice to the Class Members, other than such notice which will be posted on the settlement website (link);
LE TOUT , sans frais.	THE WHOLE , without costs.

MONTREAL, March 24, 2022

Lex Group Inc.

LEX GROUP INC.

PER: DAVID ASSOR

ATTORNEYS FOR PLAINTIFF AND CLASS MEMBERS

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WESTMOUNT (QUEBEC), H3Z 1A7

TEL.: 514.451.5500, EXT. 321

FAX: 514.940.1605

SOLEMN DECLARATION

I, the undersigned, **David Assor**, attorney, practicing law at the offices of Lex Group Inc., situated at 4101 Sherbrooke Street West, in the City of Westmount and District of Montreal, do hereby solemnly declare:

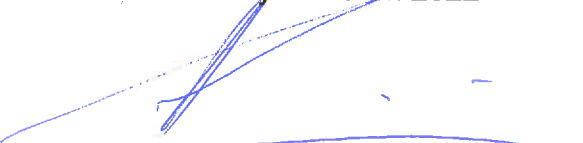
1. THAT I am one of the attorneys for the Plaintiff in the present case;
2. THAT all the facts alleged in the present *Application to Authorize a Class action for Settlement Purposes Only, for Approval of Notice to Class Members of a Settlement Approval Hearing and to Appoint a Claims administrator* therein are true and accurate to my knowledge;

And I have signed:



DAVID ASSOR

Solemnly affirmed before me
at Westmount (Quebec),
this 24th day of March 2022



Commissioner for oaths for
the Province of Québec



NOTICE OF PRESENTATION

TO : Me Yves Martineau
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Claims Administrator

TAKE NOTICE that the *Application to Authorize a Class Action for Settlement Purposes Only, for Approval of Notice to Class Members of a Settlement Approval Hearing and to Appoint a Claims administrator* will be presented for adjudication on **April 7, 2022**, before the Honourable Pierre-C. Gagnon, J.S.C., at 9:30 a.m., in a room to be determined of the Montréal Courthouse located at 1 Notre-Dame Street East, Montréal, Québec, or as soon thereafter as counsel can be heard.

DO GOVERN YOURSELF ACCORDINGLY.

MONTREAL, March 23, 2022

Lex Group Inc.

LEX GROUP INC.

PER: DAVID ASSOR

ATTORNEYS FOR PLAINTIFF AND CLASS
MEMBERS

N^o.: 500-06-001066-204

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ORIGINAL

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