

CANADA

(Class Action Division)  
SUPERIOR COURT OF QUÉBEC

PROVINCE OF QUÉBEC  
DISTRICT OF MONTREAL

No.: 500-06-

B [REDACTED] S [REDACTED], [REDACTED]  
[REDACTED]

*Plaintiff*

v.

**APPLE CANADA INC.**, legal person having an elected domicile at 1000 rue De la Gauchetière Ouest, suite 2500, in the City and District of Montréal, Province of Québec, H3B 0A2

-and-

**APPLE, INC.**, legal person having its head office at 1 Apple Park Way, in the city of Cupertino, California, U.S.A., 95014

*Defendants*

---

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

---

**TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT OF QUEBEC, SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE PLAINTIFF STATES THE FOLLOWING:**

**Introduction:**

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

All persons in Canada who purchased and/or own a MacBook Laptop equipped with a “butterfly keyboard”, manufactured,

distributed, sold, or otherwise put onto the marketplace by the Apple Defendants, including but not limited to the following models:

- Early 2015 MacBook
- Early 2016 MacBook
- 2016 MacBook Pros
- 2017 MacBook and MacBook Pros
- 2018 MacBook Pros and MacBook Air
- 2019 MacBook Pros and MacBook Air

(collectively referred to as the “**MacBook Laptop(s)**”)

or any other Group(s) or Sub-Group(s) to be determined by the Court;

(hereinafter referred to as the “**Class Members**”, the “**Class**”, the “**Group Members**”, the “**Group**”, the “**Customers**”, or the “**Consumers**”);

2. Defendant Apple, Inc. (“**Apple USA**”) is an American company incorporated in the State of California (USA) and having its head office in Cupertino, California, USA. Apple USA developed, manufactured, distributed, and sold the MacBook Laptops (laptop computers) throughout Canada, including in the Province of Quebec, either directly or indirectly through its affiliate and/or subsidiary Defendant Apple Canada Inc. (“**Apple Canada**”). Apple Canada had its elected domicile in the City of Montreal, Province of Quebec, the whole as appears more fully from a copy of the *Registre des entreprises* (CIDREQ) report communicated herewith as **Exhibit R-1**. Given their close ties, both Defendants are being collectively referred to herein as “**Apple**”.

**The situation:**

3. In Spring 2015, Apple introduced and began selling the new MacBook Laptops equipped with a new type of keyboard referred to as the “butterfly keyboard” instead of the traditional “scissor” keyboard. Apple later introduced this type of

keyboard to other Apple branded laptops, namely the MacBook Pro in 2016 and the MacBook Air in 2018.

4. The butterfly keyboard which is a new type of keyboard designed by Apple, differs from the traditional keyboard as depicted and explained in Apple's pictures below:

## Butterfly mechanism

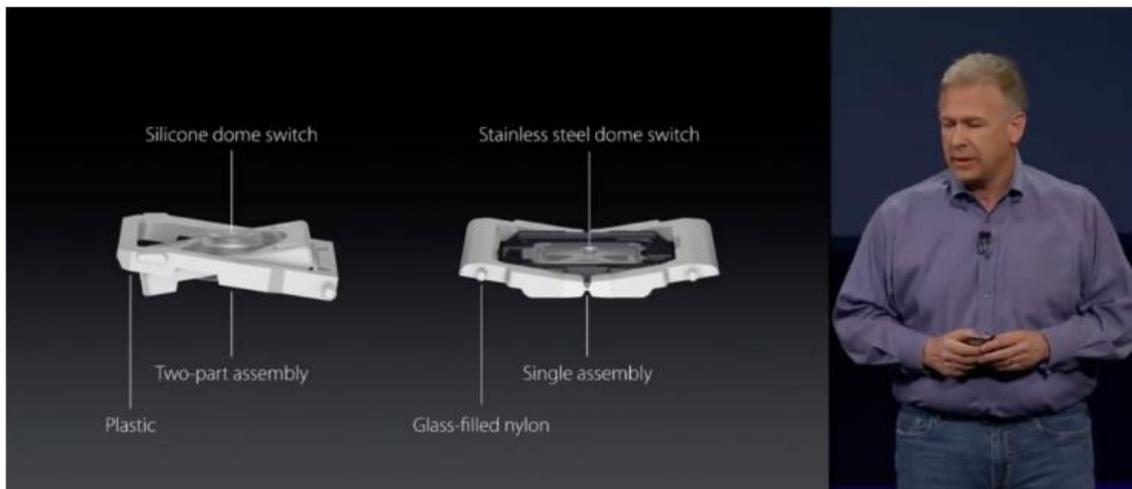
Traditional keyboards use a scissor mechanism, which tends to wobble around the edges. This creates a lack of precision when you strike anywhere except the center of the key. We needed to reduce key wobbling for a keyboard this thin; otherwise, striking a key off-center could result in the keycap hitting bottom before a keystroke registers. So we designed an entirely new butterfly mechanism, which is wider than the scissor mechanism and has a single assembly made from a stiffer material — allowing for a more stable, responsive key that takes up less vertical space. This innovative design improves stability, uniformity, and control — no matter where you press on the key.



TRADITIONAL  
SCISSOR MECHANISM



APPLE-DESIGNED  
BUTTERFLY MECHANISM



Phil Schiller explaining the difference between the old scissor system and the new butterfly one in 2015

5. The principal difference between the scissor type keyboard and the butterfly keyboard is the travel distance of the key stroke, which is how far the user must press a key before the electrical circuit is completed and the computer registers the user's keystroke.
6. The butterfly keyboard was designed 40% thinner than the prior scissor mechanism keyboards which allowed Apple to produce thinner and lighter laptops.
7. Plaintiff and many Class Members across the globe experienced problems with the "Butterfly Keyboard" which is prone to fail. The butterfly design leaves less space under the key, as compared to the regular scissor design, and it therefore permits minute amounts of dust and debris to accumulate under or around the keys, ultimately causing the keys to stick, the keyboard to fail to register properly and/or the keyboard to register three or more times the keystrokes required by the user.
8. Because of this defect, Consumers who purchased one of the affected MacBook Laptops are at all time at risk of a nonresponsive keyboard and keyboard failure, for a high-end product which purchase price ranges between \$1,200 and \$2,000 or much more.
9. When this defect occurs, the MacBook Laptops become inoperable and unusable for their ordinary and main purpose, which is to type text.
10. Consumers rapidly complained about the issue and the defect was widely advertised by the media, the whole as appears from various articles communicated hereto as **Exhibit R-2**, *en liasse*.
11. As appears from the R-2 articles, it is only in May 2020, namely 5 years after the launch and failure of its butterfly keyboard designs, that Apple decided to end the production of the defective butterfly keyboards and go back to a scissor type keyboard (which Apple calls the "Magic keyboard").

12. A central reason Class Members were willing to pay more / a premium for Apple products is their longevity. A computer's longevity can be measured in terms of hardware longevity and software longevity.
14. Apple Customers and Plaintiff paid a premium for their MacBook Laptops because they believed that Apple hardware would last for many years, and that Apple would continue to support older laptops with software updates for up to at least seven to ten years, and that Apple would remedy any inherent defects in the laptops even outside of the warranty period.

### **Apple's Inadequate special Keyboard Service Program**

15. After multiple customer complaints and after class action proceedings were instituted in the United States, Apple introduced a special Keyboard Service Program (hereinafter the "**KSP**") in June 2018.
16. The KSP purported to provide free keyboard repairs and replacements of the butterfly keyboard but failed to actually repair the MacBook Laptops by instead replacing the butterfly keyboard with the same equally defective keyboard.
17. Class Members who brought their MacBook Laptops in for repairs could benefit from the KSP but some were charged for other parts or repairs as a prerequisite and they were not informed that the defect will almost certainly manifest again even after Apple performs the so-called KSP "repairs" or keyboard replacement.
18. As a result, Consumers who would have returned their MacBook Laptops were not informed that the keyboard defect was systemic and they received inadequate warranty service and a keyboard that was inherently defective.
19. Because the purported repairs offered by Apple failed to remedy the keyboard defect, Plaintiff and Class Members purchased a computer they would have never purchased had they been informed of the butterfly keyboard defect and now are unable to use their MacBook Laptops properly or at all.

20. Defendants warranted and are legally obliged to guaranty that the MacBook Laptops would be free from defects in material and workmanship that occur under normal use. The most basic and normal use for a laptop computer is typing on the keyboard.
21. The MacBook Laptops butterfly keyboard all have a design defect which affects all of the above-mentioned models, and which can occur as soon as the Consumer purchases the Laptops.
22. As a result, Plaintiff and all other Class Members suffered damages when they purchased the affected MacBook Laptops, which do not perform as warranted and are unreliable or unusable as personal computing devices, contrary to Defendants' representations and legal obligations. Furthermore, Plaintiff and Class Members have suffered or will suffer damages in the form of, *inter alia*, out-of-pocket expenditures for repairs and attempted repairs of the MacBook Laptops as a direct and proximate result of the butterfly keyboard defect, which was known by Defendants to be present in their products. Moreover, Plaintiff and Class Members have suffered or will suffer damages in the form of diminished value of the MacBook as a direct and proximate result of the butterfly keyboard defect. Apple is liable for all these costs and damages suffered by the class members.

#### **Other class action proceedings regarding the butterfly keyboard defect**

23. On October 11, 2018, a consolidated class action complaint was filed before the United State District Court in the Northern District of California on behalf of eleven consumers regarding this exact same defective keyboard issue. A copy of the US complaint is communicated as though recited at length herein as **Exhibit R-3**.
24. On March 8, 2021, the United States District Judge Edward J. Davila granted the Plaintiffs' Class Certification Motion and certified the class action to proceed. A copy of the public redacted version of the certification judgment is communicated as though recited at length herein as **Exhibit R-4**, Apple being summoned to file into the present Court record, under seal if need be, a copy of the unredacted

version of said judgment.

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

25. On November 19, 2016, Plaintiff purchased a 15-inch 2016 MacBook Pro retina laptop, from the Apple retail store in Brossard, for \$3,448.10, a copy of the Plaintiff's MacBook Pro receipt is communicated hereto as **Exhibit R-5**.
26. In August 2018, less than two years after the purchase, Plaintiff experienced major problems with his keyboard. The issue was so important that it was almost impossible for Plaintiff to type texts without having to deal with multiple typing errors. Many keys, including the "e", "a", "r" keys and the space bar were the most affected.
27. The keys would either stick, not respond or create the required keystrokes (space or letter) multiple times for no reason.
28. In August 2018, Defendants accepted to replace Plaintiff's keyboard without cost, but when Plaintiff went to retrieve his purportedly "repaired" MacBook laptop from the Apple store, the Apple employee informed him that the problem would likely occur again because the keyboard was replaced by an identical butterfly keyboard affected by the same conception defect. The Apple employee therefore admitted the widespread problem affecting the MacBook Laptop devices equipped with a butterfly keyboard. A copy of the repair receipt, dated August 16, 2018 is communicated herewith as **Exhibit R-6**.
29. Plaintiff had no other alternative but to leave the Apple Store that day with his still defective MacBook Laptop, since he required the use of his computer and could not afford to purchase a new one.
30. In November 2020, Plaintiff experienced the same problems related to his Apple MacBook Pro butterfly keyboard.
31. Plaintiff's MacBook was and is therefore affected by the latent design and

manufacturing keyboard defect and this defect persisted notwithstanding the so-called “repair” conducted by Apple in August of 2018.

32. By December 2020, Plaintiff had no alternative but to start using a separate Bluetooth keyboard connected to his laptop in order to be able to finish to type what he was working on.
33. Since the defect was still preventing Plaintiff from using his laptop as it was intended, Plaintiff contacted Apple again via its website.
34. The Apple customer service representative told Plaintiff to bring his MacBook Pro to the nearest Apple store located at Quartier Dix-30 in Brossard.
35. On January 2, 2021, pursuant to Apple’s instructions, Plaintiff brought his computer to the indicated Apple store.
36. Once at the store, and despite recognizing that Plaintiff’s MacBook Pro was experiencing the same keyboard defect, the Apple employee refused to repair the computer free of charge because Plaintiff already had the replacement conducted in 2018. He also informed Plaintiff that he would have to pay \$722.04 for a new “repair”. A copy of the repair estimate is communicated herewith as **Exhibit R-7**.
37. Plaintiff found Apple’s answer unacceptable and refused to pay such amount to “repair” a defective product, knowing that the “repair” would be to install once again the equally defective butterfly keyboard.
38. On January 4, 2021, Plaintiff therefore sent Apple Canada Inc. a formal demand letter and asked Apple to repair his computer free of charge with a scissor type keyboard, or to replace his keyboard free of charge with a butterfly keyboard but with a guarantee that the keyboard will last at least 6 more years, or alternatively to replace his 15-inch MacBook Pro with a 2020 15-inch MacBook Pro with a scissor type keyboard. A copy of said demand letter is communicated herewith as **Exhibit R-8**.

39. On January 28, 2021, Apple accepted to replace Plaintiff's keyboard free of charge but refused to guarantee that the keyboard would last for 6 more years. A copy of the repair receipt is communicated herewith as **Exhibit R-9**. This "repair" involves the replacement of an equally defective butterfly keyboard once again (which is therefore not a repair of the issue).
40. Despite the multiple "repairs" and the multiple replacements of the keyboard, Plaintiff's MacBook Pro Laptop still remains defective and can and likely will exhibit the symptoms of the butterfly keyboard defect at any time in the future.
41. Plaintiff found multiple news articles, copies of which are communicated herewith as **Exhibit R-10**, *en liasse*, which reported *inter alia* on the class action being instituted in the U.S.A. on this issue, namely the California Class Action. Plaintiff reviewed said articles and the California Class Action Complaint (Exhibit R-3) and noticed that he had experienced the same issues being alleged in said US proceedings. Plaintiff did not find any class action proceedings having been filed in Quebec or elsewhere in Canada.
42. Plaintiff therefore contacted the undersigned attorneys who have already litigated multiple consumer class actions, including against Apple, informed them of the US class action proceedings pending, and mandated the undersigned attorneys to investigate the situation and to institute the present proceedings on his behalf and on behalf of all Canadian Class Members.
43. Plaintiff is justified to rely on *inter alia* the allegations contained in the US proceeding in order to further support his *prima facie* burden to demonstrate an arguable case herein and Plaintiff reserves his right to amend these proceedings in order to add in further documents and/or proceedings from the certified US class action proceedings.
44. When he purchased his 2016 MacBook Pro Laptop, Plaintiff did not know and was not informed that his MacBook Pro Laptop suffered from the butterfly keyboard defect described above. Had he been made aware of this by Apple, he would not

have purchased the said laptop.

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

45. Plaintiff and the Class members suffered actual damages when they purchased the MacBook Laptop, which are unreliable or unusable as personal computing devices.
46. Furthermore, Plaintiff and the Class Members have suffered or will suffer damages in the form of *inter alia* out-of-pocket expenditures for repairs and attempted repairs of the MacBook Laptops, as well as the cost related to new replacement laptops and/or new external keyboards as a direct and proximate result of the butterfly keyboard defects, which was known by Defendants to be present in their products.
47. Moreover, Plaintiff and the Class Members have suffered or will suffer damages in the form of diminished value of the MacBook Laptop as a direct and proximate result of the Butterfly keyboard defect.
48. Plaintiff and the Class Members have suffered or will suffer damages inasmuch as they did not get the full benefit of their laptop, including during “repairs”, as a direct and proximate result of the butterfly keyboard defect which the Defendants has been unable to remedy.
49. Had Plaintiff and the Class Members known of the butterfly keyboard defect at the time of purchase, they would not have purchased the MacBook Laptops especially at the premium price for which they were sold.
50. Because of the relatively small size of the individual Class Member’s claims, it is unlikely that individual Class Members could afford to seek recovery on their own. This is especially true in light of the size and resources of Defendants.
51. Defendants knew that Plaintiff and Class Members would rely on Apple’s

representations, marketing, and warranties regarding the quality of the MacBook Laptops including the quality of their announced new and so-called revolutionary Butterfly Keyboard.

52. Class Members are entitled to claim from Apple the reimbursement of any repair costs and/or other costs related to new replacement laptops and other external keyboards previously disbursed by them in an attempt to address and solve the Butterfly keyboard defect in question.
53. Furthermore, Class Members (who have not received a replacement non-defective MacBook Laptop) are entitled to claim from Apple the reimbursement of their original purchase price of their defective MacBook Laptop (which they would not have purchased, at its premium price, had they been made aware of the defect).
54. Finally, for all of the reasons more fully detailed above, Plaintiff respectfully submits that Apple was grossly and/or intentionally negligent and is liable to pay punitive damages to the Class Members.
55. Indeed, Apple has known about the butterfly keyboard defect for years, has received thousands of complaints from Customers which were left unanswered, and only announced their special Keyboard Service Program after 3 years, which did not address the issue and was clearly an attempt to push off and avoid the issue. Prior to the Keyboard Service Program, Apple had chosen to earn additional profit, benefiting from its own turpitude, by selling the equally defective replacement keyboard or new replacement laptops to Class Members.
56. Furthermore, Apple knew or should have known that even the replacement butterfly keyboards had the same defect and that the same problems would reoccur.
57. Defendants' above detailed actions qualify its fault as intentional which is a result of wild and foolhardy recklessness in disregard for the rights of the Class Members, with full knowledge of the immediate and natural or at least extremely probable

consequences that its actions would cause to the Class Members.

58. Defendants' negligence has shown a malicious, oppressive and high-handed conduct that represents a marked departure from ordinary standards of decency.

**CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION**

59. The composition of the Group makes it difficult or impracticable to apply the rules for mandates to sue on behalf of others or for consolidation of proceedings (Article 575 (3) C.C.P.) for the following reasons.
60. The sales of MacBook Laptops are widespread throughout the country and province.
61. Plaintiff is unaware of the specific number of persons included in the Group but given the MacBook Laptops' tremendous popularity, it is safe to estimate that it is in the tens of thousands.
62. Class Members are numerous and are scattered across the entire province and country.
63. 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. Further, 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.
64. Moreover, a multitude of actions instituted risks leading to contradictory judgments on issues of fact and law that are similar or related to all Class Members.
65. These facts demonstrate that it would be impractical, if not impossible, to contact each and every Class Member to obtain mandates and to join them in one action.
66. In these circumstances, a class action is the only appropriate procedure for all of

the Class Members to effectively pursue their respective rights and have access to justice.

67. The damages sustained by the Class Members flow, in each instance, from a common nucleus of operative facts, namely Defendants' negligence, fault, and liability for defective products manufactured and sold to the Class Members.
68. The claims of the Class Members raise identical, similar or related issues of law and fact (Article 575 (1) C.C.P.), namely:
- a) Do the MacBook Laptops equipped with a butterfly keyboard suffer from a common defect?
  - b) Did Defendants know of and fail to warn Class Members of the common defects and if they knew, when they knew or should have known?
  - c) Did Defendants fail to disclose material information to Class Members?
  - d) Was Defendants' omission of material facts misleading and/or reasonably likely to deceive a reasonable consumer?
  - e) Whether Defendants' butterfly keyboard replacements resolved the common defect?
  - f) Are Defendants legally obligated to recall all the MacBook Laptops devices equipped with a butterfly keyboard ?
  - g) Whether the MacBook Laptops equipped with a butterfly keyboard have not or will not perform in accordance with:
    - i. the standard of fitness for the purposes for which the MacBook Laptops are normally used;
    - ii. the standard of durability for normal use for a reasonable length of time, having regard to the price, terms of the contract and conditions of use for the MacBook Laptops; and
    - iii. in accordance with any pre-sale representations made by the Defendants to potential purchasers.
  - h) Are Defendants liable to pay:
    - i. to Plaintiff and each of the Class Members a sum to be determined

in compensatory and/or moral damages suffered, (a) for any repair costs disbursed, (b) for the reimbursement of the initial purchase price (c) for stress and inconvenience suffered, (d) for loss of work product, (e) for loss of income, (f) for loss of time, (g) for loss of re-sale value of the Laptop, (h) for the cost of purchasing a replacement laptop or external keyboard?

ii. punitive damages to the Class Members, and if so in what amount?

69. The majority of the issues to be dealt with are issues common to every Class Member.
70. The interests of justice favour that this application be granted in accordance with its conclusions.

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

71. The action that the Plaintiff wishes to institute for the benefit of the Class Members is an action in damages and restitution for product liability, misrepresentations, false advertising, and latent defect.
72. The conclusions that the Plaintiff wishes to introduce by way of a originating application are:

**GRANT** the class action of the Plaintiff and each of the Class Members;

**DECLARE** the Defendants solidarily liable for the damages suffered by the Plaintiff and each of the Class Members;

**ORDER** the Defendants solidarily to pay to Plaintiff and each of the Class Members a sum to be determined in compensatory and/or moral damages suffered, (a) for any repair costs disbursed, (b) for the reimbursement of the initial purchase price (c) for stress and inconvenience suffered, (d) for loss of work product, (e) for loss of income, (f) for loss of time, (g) for loss

of re-sale value of the Laptop, (h) for the cost of purchasing a replacement laptop or external keyboard, and **ORDER** collective (or individual) recovery of these sums, as the Court may determine;

**CONDEMN** the Defendants solidarily to pay to Plaintiff and each of the Class Members a sum to be determined in punitive and/or exemplary damages, and **ORDER** collective recovery of these sums;

**CONDEMN** the Defendants solidarily to pay interest and additional indemnity on the above sums according to Law from the date of service of the Application for Authorization to Institute a Class Action;

**ORDER** the Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest, additional indemnity, and costs;

**ORDER** that the claims of individual Class Members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

**CONDEMN** the Defendants solidarily to bear the costs of the present action including experts' fees and notice fees;

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

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

- a. Apple Canada Inc. has its *domicile élu* in the District of Montreal;
- b. Defendants sold and "repaired" the MacBook Laptops in the District of

Montreal;

- c. Many Class Members are domiciled or work in the District of Montreal;
- d. Plaintiff's legal counsel and Defendant's legal counsel practice law in the District of Montreal;

74. Plaintiff, who is requesting to obtain the status of representative, will fairly and adequately protect and represent the interest of the Class Members since Plaintiff:
- a. is a member of the Class and has claims against Defendants, as detailed above, since his MacBook Pro Laptop is still defective and has not been repaired by Apple;
  - b. purchased the 2016 MacBook Pro Laptop and had it "repaired" by Apple multiple times, to no avail, dealing with and writing to Apple, the whole as more fully detailed above;
  - c. Plaintiff researched this issue and gave Apple the opportunity to remedy the situation, the whole as more fully detailed above;
  - d. 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;
  - e. is determined to lead the present file until a final resolution of the matter, the whole for the benefit of the Class Members;
  - f. 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;
  - g. 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, the whole for the benefit of the Class Members;

- h. does not have interests that are antagonistic to those of other Class Members;
- i. 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;
- j. 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, who will be able to sign up on said firm website. In this regard, Plaintiff reserves his right to amend these proceedings in order to confidentially file certain communications received from the Class Members in this regard, for the authorization hearing;
- k. 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;

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

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

**GRANT** the present application;

**AUTHORIZE** the bringing of a class action in the form of an Application to institute proceedings in damages and restitution for product liability, misrepresentations, false advertising, and latent defect;

**APPOINT** the Plaintiff as the Representative Plaintiff representing all persons included in the Class herein described as:

All persons in Canada who purchased and/or own a MacBook Laptop equipped with a “butterfly keyboard”, manufactured,

distributed, sold, or otherwise put onto the marketplace by the Apple Defendants, including but not limited to the following models:

- Early 2015 MacBook
- Early 2016 MacBook
- 2016 MacBook Pros
- 2017 MacBook and MacBook Pros
- 2018 MacBook Pros and MacBook Air
- 2019 MacBook Pros and MacBook Air

(collectively referred to as the “**MacBook Laptop(s)**”)

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

- a) Do the MacBook Laptops equipped with a butterfly keyboard suffer from a common defect?
- b) Did Defendants know of and fail to warn Class Members of the common defects and if they knew, when they knew or should have known?
- c) Did Defendants fail to disclose material information to Class Members?
- d) Was Defendants’ omission of material facts misleading and/or reasonably likely to deceive a reasonable consumer?
- e) Whether Defendants’ butterfly keyboard replacements resolved the common defect?
- f) Are Defendants legally obligated to recall all the MacBook Laptops devices equipped with a butterfly keyboard ?
- g) Whether the MacBook Laptops equipped with a butterfly keyboard have not or will not perform in accordance with:
  - i. the standard of fitness for the purposes for which the MacBook Laptops are normally used;
  - ii. the standard of durability for normal use for a reasonable length of time, having regard to the price, terms of the contract and

conditions of use for the MacBook Laptops; and

iii. in accordance with any pre-sale representations made by the Defendants to potential purchasers.

h) Are Defendants liable to pay:

i. to Plaintiff and each of the Class Members a sum to be determined in compensatory and/or moral damages suffered, (a) for any repair costs disbursed, (b) for the reimbursement of the initial purchase price (c) for stress and inconvenience suffered, (d) for loss of work product, (e) for loss of income, (f) for loss of time, (g) for loss of re-sale value of the Laptop, (h) for the cost of purchasing a replacement laptop or external keyboard?

ii. punitive damages to the Class Members, and if so in what amount?

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

**GRANT** the class action of the Plaintiff and each of the Class Members;

**DECLARE** the Defendants solidarily liable for the damages suffered by the Plaintiff and each of the Class Members;

**ORDER** the Defendants solidarily to pay to Plaintiff and each of the Class Members a sum to be determined in compensatory and/or moral damages suffered, (a) for any repair costs disbursed, (b) for the reimbursement of the initial purchase price (c) for stress and inconvenience suffered, (d) for loss of work product, (e) for loss of income, (f) for loss of time, (g) for loss of

re-sale value of the Laptop, (h) for the cost of purchasing a replacement laptop or external keyboard, and **ORDER** collective (or individual) recovery of these sums, as the Court may determine;

**CONDEMN** the Defendants solidarily to pay to Plaintiff and each of the Class Members a sum to be determined in punitive and/or exemplary damages, and **ORDER** collective recovery of these sums;

**CONDEMN** the Defendants solidarily to pay interest and additional indemnity on the above sums according to Law from the date of service of the Application for Authorization to Institute a Class Action;

**ORDER** the Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest, additional indemnity, and costs;

**ORDER** that the claims of individual Class Members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

**CONDEMN** the Defendants solidarily to bear the costs of the present action including experts' fees and notice fees;

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

**DECLARE** that all Class Members who 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 Class Members;

**ORDER** the publication or notification of a notice to the Class Members in accordance with Article 579 C.C.P., within sixty (60) days from the Judgment to be rendered herein in digital edition of the LaPresse, the Journal de Montreal, the Journal de Quebec, the Montreal Gazette, the Globe and Mail, and the National Post, and **ORDER** Defendant to pay for all said publication/notification costs;

**ORDER** that said notice be posted and available on the home page of Defendant's various websites, Facebook page(s), and Twitter account(s), and **ORDER** Defendants to send the notice by email with proof of receipt and by direct mail to all Class Members;

**THE WHOLE** with costs including without limitation the Court filing fees herein and all costs related to preparation and publication of the notices to Class Members.

**MONTREAL, MARCH 31, 2021**

**LEX GROUP INC.**

*(s) Lex Group Inc.*

---

Per: David Assor

Class Counsel / Attorneys for Plaintiffs  
4101 Sherbrooke St. West  
Westmount, (Québec), H3Z 1A7  
Telephone: 514.451.5500 ext. 321  
Fax: 514.940.1605

**NOTICE OF PRESENTATION****TO:****APPLE CANADA INC.**

1000 rue De la Gauchetière Ouest,  
suite 2500, in the city and District  
of Montréal, Province of Québec,  
H3B 0A2

-and-

**APPLE, INC.**

1 Apple Park Way, in the City of  
Cupertino, State of California,  
95014, USA

**TAKE NOTICE** that the present *Application for authorization to Institute a Class Action* will be presented before one of the Honourable Judges of the Superior Court of Québec at the Courthouse of Montreal situated at 1 Notre Dame East, Montreal, Québec, on a date to be determined by the coordinating Judge of the Class Action division.

**DO GOVERN YOURSELF ACCORDINGLY.**

**MONTREAL, MARCH 31, 2021**

**LEX GROUP INC.**

*(s) Lex Group Inc.*

---

Per: David Assor  
Attorneys for Plaintiff

## **SUMMONS**

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

#### **Filing of a judicial application**

Take notice that the Plaintiff(s) has filed this application in the office of the Superior Court of Quebec in the judicial district of Montreal.

#### **Defendant's answer**

You must answer the application in writing, personally or through a lawyer, at the courthouse of Montreal, situated at 1, Notre-Dame Est, Montréal, Québec 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 Plaintiff's lawyer or, if the Plaintiff is not represented, to the Plaintiff.

#### **Failure to answer**

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgment 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 Plaintiff 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 Plaintiff.

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, the Plaintiff intends to use the following exhibits:

- Exhibit R-1:** Registraire des Entreprises du Québec Report regarding Apple Canada Inc.
- Exhibit R-2:** Various media articles, *en liasse*.
- Exhibit R-3:** Consolidated Class Action Complaint filed before the United State District Court in the Northern District of California, dated October 11, 2018.
- Exhibit R-4:** Order Granting Motion to Certify Class in the California Class Action Complaint, dated March 8, 2021.
- Exhibit R-5:** Copy of the Plaintiff's MacBook Pro receipt, dated November 19, 2016.
- Exhibit R-6:** Copy of the Plaintiff's MacBook Pro repair receipt, dated August 16, 2018.

- Exhibit R-7:** Copy of the Plaintiff's MacBook Pro repair estimate, dated January 2, 2021.
- Exhibit R-8:** A copy of the demand letter Plaintiff sent to Apple, dated January 4, 2021.
- Exhibit R-9:** Copy of the Plaintiff's MacBook Pro repair receipt, dated January 28, 2021.
- Exhibit R-10:** Multiple news articles, *en liasse*.

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.

**DO GOVERN YOURSELF ACCORDINGLY.**

**MONTREAL, March 31, 2021**

*(s) Lex Group Inc.*

---

**Lex Group Inc.**  
Per: David Assor  
Class Counsel / Attorneys for Plaintiff