

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N° : 500-06-000896-171

DATE: APRIL 30, 2019

THE HONOURABLE CHANTAL CORRIVEAU, J.C.S. PRESIDING

RICKY TENZER

Applicant

c.

QUALCOMM INCORPORATED

Defendant

JUDGMENT

[1] Mr. Ricky Tenzer seeks leave to commence a class action for compensatory damages against of Qualcomm Incorporated.

BACKGROUND

[2] Mr. Tenzer brings a class action seeking compensation for cell phone purchasers who have suffered damages as a result of the defendant's violation of its dominant market position.

[3] The defendant is a company operating in the field of telecommunications technologies, it has a dominant position in the market of baseband processors, an essential component of all cellular phones.

[4] The defendant holds patents for technologies covered by universal standards. The plaintiff alleges that it is abusing its dominant market position.

OVERVIEW

A. The Parties

[5] Plaintiff purchased a Nexus 6P cell phone in January 2016 and a Pixel 2 XL cell phone in December 2017.

[6] The defendant, Qualcomm, is the parent company of a group of companies that operate primarily in the field of telecommunications technology.

[7] Qualcomm patents and licenses the patents it holds. It was among the first to develop the communication technology and remains a very important player in the telecommunications industry.

B. Cellular communication

[8] Communication between cellular devices is made possible by a chip, the baseband processor, which connects devices from different manufacturers to the networks of cellular service providers.

[9] The baseband processor allows to transmit information by radio waves to a cellular network station. This station receives and retransmits the information from one device to another. In order for the devices to communicate between them, the baseband processor must be compatible with the cellular network and the baseband processor of each device.

C. Standardisation bodies

[10] There are international non-governmental standards organizations in various countries that determine the standards applicable to ensure compatibility and communication between different devices. The designers and manufacturers of baseband processors and the manufacturers of devices using these processors are members of these organizations.

[11] Standards bodies determine the norms and technology standards for the use of these norms. When a patented technology is incorporated for inclusion in a standard, the patent holder may declare its patent essential to that standard.

[12] Standards bodies in the field of cellular communication include:

- a) European Telecommunications Standards Institute (ETSI);
- b) International Telecommunications Union (ITU); and
- c) Institute of Electrical and Electronic Engineers (IEEE).

[13] A device designed to comply **with** a standard must generally incorporate all of the patented technology on which the standard is based. Therefore, manufacturers who produce devices containing the patented technology must generally obtain a license from the essential patent holder to comply with the applicable standard and have the right to use the essential patent.

[14] Essential patents increase the risk of abuse by their holders. When the holder of an essential patent demands excessive royalties or unreasonable conditions, actors are captive to the standard.

[15] To prevent abuse, standards bodies require that owners of essential patents agree to license their essential patents under "FRAND" (*fair, reasonable and non-discriminatory*) terms.

[16] These policies are generally contained in the intellectual property policies of the standards bodies. Members of these organizations must commit to abide by these policies. In addition, patent holders expressly agree to abide by the intellectual property policies when they declare that their patent is essential.

[17] During the Class Period, Qualcomm was a member of ETSI, ITU and IEEE and subscribed to the FRAND commitments.

[18] Qualcomm pioneered the development of *Code Division Multiple Access* (CDMA) technology in the 1980s for use in the first generations of cellular communications (1G, 2G). Qualcomm controlled the market for this technology, initially selling 90% of the baseband processors for CDMA-capable devices and continues to control 80% of the market.

[19] As a result, virtually any manufacturer that makes devices using the CDMA standard must obtain a license from Qualcomm. The current LTE (*Long Term Evolution of UMTS*) standard is also under Qualcomm's control. Almost all cellular devices sold today support the LTE standard. In addition, today Qualcomm is the exclusive supplier of CDMA-capable retro baseband processors.

[20] During the course of the application for leave, counsel for the Applicant modified their position. For example, they abandoned any conspiracy arguments under sections 45, 78 and 79 of the *Competition Act*.

[21] Having eliminated the anti-competitive allegations, some of the proposed questions are moot.

(22) Thus, a new definition of the class has been formulated according to which the collective action is intended to compensate consumer purchasers of telephone Cellular has paid too much for the device due to Qualcomm's abuse of dominance based on the price charged for components protected by essential patents.

(23) The plaintiff seeks leave to commence a class action on behalf of the following class¹:

"All persons who have purchased [in Quebec], not for commercial resale, since January 1, 2006, a device that provides cellular communication and whose baseband processor was manufactured by Qualcomm Incorporated or for which royalties have been paid to Qualcomm Incorporated."

(24) Thus, the plaintiff limits the class to consumers rather than to trade intermediaries. In addition, it adds a time limit of January 1, 2010 to the class.

2006, when it believes Qualcomm began abusing its dominant position.

[25] The plaintiff formulates the faults she accuses the defendant of towards the members of the group as follows:

- a) Qualcomm has a "*no license, no chips*" policy in place under which Qualcomm refuses to sell its LTE and CDMA baseband processors unless the manufacturer also purchases licenses its entire patent portfolio, including its essential patents and patents that are not essential to use a standard².
- b) The "*no license, no chips*" policy requires manufacturers to purchase licenses to Qualcomm's entire portfolio, including non-core patents, thereby requiring them to pay royalties to Qualcomm. Qualcomm on patented technologies that they don't need or

¹ The proposed class was amended by letter following the hearing. From the representations it is clear that the applicant wished to limit the class to Quebec even though this was omitted from the proposed new wording.

² Application, paras. 2.45 and 2.51.

when they could have used equivalent or different technologies from competitors³.

- c) In its licensing agreements, Qualcomm requires low royalties on the sale price of the manufacturer's cellular devices, even though competitors' technologies have also been used⁴.
- d) Qualcomm requires royalty rates for its licenses that are significantly higher than those of the industry⁵.
- e) Qualcomm has abused its dominant position in the baseband processor market to force manufacturers to enter into agreements in violation of its FRAND commitments⁶.
- f) Qualcomm entered into confidentiality agreements with Apple and Samsung in exchange for reduced royalties, violating its FRAND commitments⁷.

[26] Plaintiff seeks material compensation for all persons who purchased a cell phone for non-commercial purposes and whose price paid is unreasonable because of the price charged by Qualcomm for components or royalties.

[27] The Defendant challenges the claim, arguing first that the Plaintiff has not met its burden of proving a legal syllogism.

Defendant's position

[28] For the defendant, the plaintiff does not present sufficient evidence to support the claims.

[29] In other words, the Plaintiff's allegations are based on pure speculation. Indeed, for the Defendant, it is not sufficient for the Plaintiff to claim without support that the Defendant holds a dominant position, because this is not illegal. It would have been necessary to support its claim of abuse of a dominant position.

³ Application, paras. 2.41 b) and d), 2.43, 2.45, 2.47, 2.51 and 2.55. See also Exhibit P-6, p. 7: "Without distinguishing between mobile communications SEPs practiced by the chipsets and other patents, or distinguishing by mobile communications standards such as 2G/3G/4G, Qualcomm only provided portfolio licenses of all of Qualcomm's patents at once. (Comprehensive portfolio license).

⁴ Application, paras. 2.48, 2.49 and 2.51.

⁵ Application, para. 2.49.

⁶ Application, par. 2.41 a), 2.42, 2.43, 2.44, 2.46, 2.47, 2.50, 2.53 and 2.62 and Exhibit P-7. See also piece P- 6, p. 7: "Without giving handset makers opportunities to properly evaluate the value of Qualcomm's patents, Qualcomm coerced unilaterally-decided licensing terms to them. (Unilateral licensing terms)".

⁷ Application, paras. 2.41(c), 2.55 and 2.56 and piece P-7, paras. 128-130. ²¹
Application, paras. 2.41(d) and 2.52 and piece P-7, paras. 107-115.

[30] Thus, in order to argue that the defendant is abusing its dominant position, these allegations must be based on a minimum of faults stemming from factual allegations.

[31] Moreover, the plaintiff has not demonstrated his capacity as a representative. Indeed, nowhere does he allege to be the owner of a cellular telephone with a from Qualcomm or for which royalties have been paid to the defendant.

LEGAL PRINCIPLES APPLICABLE TO THE APPLICATION FOR AUTHORIZATION

[32] It is now well established that the analysis of a request for authorization to take collective action is not a process of verifying the merits of the action, but simply of establishing whether there is a defensible cause⁸ - At this point, the At this stage, the Tribunal only performs a filtering function in order to exclude unsustainable or frivolous applications⁹. It must therefore be borne in mind that the conditions of authorization must be given a broad and generous interpretation and application in order to achieve the dual objectives of deterrence and compensation to victims¹⁰. The cumulative criteria of this screening mechanism are set out in Article 575 of the Code of Civil Procedure¹¹ - The burden of proof of the plaintiff has to be met by the the filtering stage consists in establishing an appearance of right given that the facts stated in the application are considered to be informed.

[33] On the occasion of judgments rendered on the basis of judgments rejecting the authorization

The Court of Appeal has set out a number of principles applicable to all the criteria of article 575 C.C.P.

1. A defensible, even sustainable or justifiable cause

[34] The Tribunal must first assess whether the criterion contained in the second paragraph of

Article 575 C.C.P. is met, namely if : "the alleged facts appear to justify the conclusions sought". In fact, it is appropriate to start the analysis with the question

⁸ *Maruyasu Industries Co. Ltd. v. Asselin*, 2018 QGGA 526, para. 16.

⁹ *Infineon Technologies AG v. Option consommateurs*, 2013 GSG 59, para. 59; *Vivendi Canada inc. v. Dell'Aniello*, 2014 GSG 1, para. 37; *Charles v. Boiron Canada Inc.*, 2016 QGGA 1716, application for leave to appeal to the Supreme Court dismissed on division, May 4, 2017, No. 37366; *Sibiga v. Fido Solutions*, 2016 QGGA 1299; *Masella v. TD Bank Financial Group*, 2016 QGGA 24; *Lambert v.*

Whirlpool Canada, I.p., 2015 QGGA 433, application for leave to appeal to the Supreme Court denied, October 29, 2015, No. 36425.

¹⁰ *Marcotte v. Longueuil (City of)*, 2009 SCC 43, para. 22; *Vivendi Canada Inc.* prec. note 9; *Charles v. Boiron Canada Inc.*; see note 9.

¹¹ RLRQ, c, G-25.01.

the appearance of law. The Tribunal must adopt a flexible and non-rigorous analytical approach.¹²

(35) The assessment of the evidence must be made under the spectrum of a *prima facie* case and not according to the balance of probabilities¹³.

(36) The plaintiff relies on *Infineon*¹⁴ to illustrate the legal syllogism encountered in the present case. In *Infineon*, the plaintiffs based their action on a statement that the defendants had been found guilty before the European Commission and the United States of participating in an international price-fixing conspiracy.

(37) In the face of these claims of guilt, the Supreme Court justices held that it was reasonable to conclude that Quebec consumers who were members of the proposed classes could also have been victims of the conspiracy to fix prices for the products in question.

(38) An extra-contractual breach and bad faith were recognized in the *Infineon*¹⁵ at the basis of the proposed legal syllogism.

(39) In the present case, the plaintiff has dropped the allegation of conspiracy or violation of the *Competition Act*. Nevertheless, the core of the defendant's alleged misconduct is based on the violation of obligations under international standards to which the defendant has adhered. These violations of non-discrimination in the sale of patented products (no license-no chips) and the sale of useless patents as well as the sale of licenses at prices that are too high constitute wrongful conduct within the meaning of Article 1457 C.C.Q. Moreover, it is a matter of bad faith behaviour which is contrary to articles 6 and 7 C.C.Q.

(40) In support of its argument, Plaintiff provides a Korean court decision (Exhibit R-6), an article regarding a Chinese decision (Exhibit R-5), a U.S. proceeding (Exhibit R-7), and a court judgment remanding this case for summary judgment based on the sufficiency of the evidence offered involving Defendant Qualcomm Incorporated.

Judgment of a careen court

(41) In a December 2016 decision, a Korean court (Exhibit R-6) imposed a fine equivalent to US\$865 million against Qualcomm and certain subsidiaries. The investigation began in 2014. The charges in this case are thus stated:

¹² *Asselin v. Desjardins Cabinet de services financiers inc*, 2017 QCCA 1673, application for leave to appeal to the Supreme Court, December 28, 2017, No. 37898.

¹³ *Sibiga v. Fido Solutions*, supra note 9 at para. 71.

¹⁴ *Infineon Technologies AG v. Option consommateurs*, prec. 8.

¹⁵ *Infineon Technologies AG v. Option consommateurs*, prec. 8, paras. 83, 87, 98 and 99.

- 1) Refusal to sell its products qualified as essential patents **to** the competition;
- 2) Abusing its dominant position by selling essential patents only to its licensees (no license, no chips);
- 3) Sale of its patented products at reasonable conditions.

[42] According to this decision, these elements are recognized as contrary to the obligations undertaken by Qualcomm in view of its adherence to international standards. The practices of Qualcomm have the effect of forcing acquirers **to** acquire a portfolio of licenses, some of which are useless and done without value (*comprehensive portfolio license*).

[43] Moreover, the acquirers are forced to acquire the licenses on terms unilaterally set by Qualcomm, which is also contrary to the obligations undertaken by the defendant with the regulatory authorities (*unilateral licensing terms*).

[44] As shown in the table **On** page 12 of the Korean decision, Qualcomm has held a dominant position of over 50% since approximately 2012.

China

[45] According to an article from a trade journal (piece R-5), China forced Qualcomm **to** pay a fine of US\$975 million in February 2015 for competition illegally. The 14-month investigation started in November 2013.

[46] The main accusation was **that** Qualcomm's practice of selling its license **at** a fixed price related to the overall cost of the cellular device (including a range of technologies from other suppliers), rather than just in This is related to the value of the technology sold by Qualcomm. So the more expensive the cell phone, the more expensive the Qualcomm license.

United States

[47] In the United States, the Federal Trade Commission initiated proceedings against Qualcomm Incorporated in January 2017 in the United States District Court of the Northern District of California, San Jose Division. The proceeding is a request for a permanent injunction to stop its anti-competitive practices.

[48] Qualcomm **is** alleged to have engaged in monopolistic behavior in violation of its FRAND commitment. The main charge is that it excludes competition by refusing to sell its essential patents **to** competitors.

[49] lei still the reproaches are thus enunciated¹⁶:

- 1) Refusal to sell its licenses unless the buyer acquires a large portfolio of products **at** a very low price. These being based on the value of the final product which includes other technologies;
- 2) Advantages provided **to** some, but not all, purchasers who violate **the** its commitment not to act in a discriminatory manner;
- 3) Refusal to sell its licenses **to** its competitors.

[50] According to paragraph 33 of the procedure, since 2006. Qualcomm has more than 80% of the market for CDMA processors. Since 2012, Qualcomm has occupied 80% of the market for LTE technology (Exhibit R-7, para. 44).

[51] The U.S. proceeding does not address the length of time Qualcomm has adhered to FRAND standards or the length of time it has engaged in "no license-no chips" selective sales practices. However, it is argued that Qualcomm is abusing its position by demanding unreasonable prices for its licenses.

[52] Finally, the plaintiff relies on a decision of the U.S. Court of Appeals for the procedure previously discussed. This decision of November 6, 2018, remands the matter **to** a summary judgment process. The use **of** a process of this nature occurs **in** light of the evidence available and presented when a question of The law is submitted in cases where there is no significant dispute over *material* facts.

[53] According to the plaintiff's lawyers, the summary judgment procedure would be in progress, but not concluded.

ANALYSIS

[54] Has the Applicant met its burden in the proceedings to show, *prima facie*, that the facts alleged appear to justify the conclusions sought? The Tribunal finds that it has.

[55] The charges **against** Qualcomm are based on allegations of abuse of a dominant position. The defendant acknowledges its dominant position, but disputes that it is abusing it. Do the elements reported by the plaintiff constitute facts for the purposes of the proceedings under review?

[56] Here again the answer is positive.

¹⁶ Piece R-7, p. 5.

[57] Plaintiff contends that Qualcomm is abusing its dominant position by enforcing its "no license-no chips" policy. This is clearly contrary to the standards to which it has adhered.

[58] In particular, the FRAND standard prevents Qualcomm from acting other than in a fair, reasonable and non-discriminatory manner.

[59] Qualcomm is active and present worldwide. Other courts and government agencies have conducted investigations and found non-compliance with the standards. These entities have recognized similar conduct in three separate jurisdictions leading to charges of abuse of dominance.

[60] These abuses have the effect of driving up the prices of the essential components of cell phones that are relayed to the end consumer.

[61] Of course, contrary to the *Infineon* case, there is no recognition of an international conspiracy to fix a price in the case under study. The reproach is specific to Qualcomm, which has not acknowledged its guilt except in China. The allegations at The claims against Qualcomm in these jurisdictions are serious and supported enough to meet the threshold for a class action in Quebec.

[62] Even without proceedings in Canada before the Competition Tribunal, it is possible to understand the argument of violation of obligations under the *Civil Code of Quebec* in respect of breach of extra-contractual obligations and against requirements of good faith.

[63] Thus, the Court now turns to the issue of the class period.

[64] In the first class proposed by the Plaintiff's procedure, there was no time limit. During argument, one of the plaintiff's lawyers argued that the class should be limited to January 1, 2006, based on the U.S. procedure.

[65] Counsel for the defendant contested this element, stating that if the Court were to allow a class action to proceed, it must limit the class to 2014, three years after the institution of this procedure.

[66] The Court agrees. The group is to be limited as of December 11, 2014.

[67] There is no allegation in the application as to why it should be retroactive to 2006. A reference in the U.S. proceedings to Qualcomm having The fact that the company has been adhering to international standards since 2006 seems vague and insufficient to justify this starting point for the group.

[68] It is not known how long Qualcomm has been linked to FRAND, apart from the fact that it has been an important player in the market since 2008 or 2012, according to some charts, this does not allow, according to the allegations of the procedure, to conclude that there is an abuse of its dominant position since 2006? 2008 ? 2012 ? There is nothing in the procedure nor the documentation that allows at this stage to make the group react to 2006.

[69] For the time being, in the absence of an allegation of impossibility to act, and in view of the nature of the alleged faults, it is appropriate to limit the group as of November 11, 2008. December 2014. A subsequent amendment of the class period remains possible, with the permission of the Court.

[70] In order to conclude on this element, the Court must assess whether the plaintiff has established that it is part of the class. In the present proceeding, it is not alleged that the two telephones owned by Mr. Tenzer use Qualcomm technology or that they were owned by Qualcomm. royalties are paid to the latter in connection with these two devices.

[71] At the hearing, counsel for the applicant confirmed that verifications had been made and that this was the case. Counsel did not ask the Tribunal to amend their application to add this element. This would have been desirable since it was up to the Applicant to convince the Tribunal that the Applicant meets the basic test that his situation is covered by the action being brought. Nevertheless, in view of the oral argument and the fact that the action was modulated during the argument, the Tribunal does not hold it against the Applicant.

[72] In fact, in the initially proposed class action, all cell phone owners were targeted. Those with the technology Qualcomm or paying royalties and the others. As for the latter, it was argued that the competitors of Qualcomm would have, because of the pressure of this last one, also raised their prices what caused damage to their customers.

[73] Mr. Tanzer is either part of a group (Qualcomm technology users) or not.

[74] With the modification of the class and the oral confirmation that the plaintiff has a Qualcomm technology phone, this is sufficient for the Court to establish his relationship with the defendant.

[75] The Tribunal therefore concludes that the second paragraph of article 572 C.C.P. is met.

2. Common questions

[76] The Court must assess whether the criterion contained in the first paragraph of Article 575 C.P.C. met to discuss whether "the members' requests raise questions identical, similar or related matters of law or fact".

[77] The presence of a single issue of common, related or similar law is sufficient, if it is not insignificant to the outcome of the action and if it resolves a significant portion of the dispute¹⁷. It must significantly advance the claims of the members, even if it does not dispose of the dispute in its entirety or in the same manner for all members.¹⁸

[78] Nor does it require that each member of the class take the same or even a similar view of the defendant or the injury suffered¹⁹.

[79] The common questions listed below reflect the Applicant's abandonment of its original conspiracy allegation. The Tribunal has therefore severed certain questions to keep only those that arise from the request for collective action to know:

- 1) Did the defendant violate its FRAND covenants?
- 2) Did the defendant fail *in* its duty to act in good faith under the *Civil Code of Quebec*?
- 3) Does a breach of the FRAND covenants make the defendant liable *to* the class members?
- 4) Did the defendant abuse its dominant position?
- 5) Have the group members been harmed?
- 6) Can this claim be subject to a collective recovery?
- 7) If so, what is the quantum of compensatory damages to which each class member is entitled?

[80] For the Tribunal, these are common issues that apply *to* all class members.

3. The composition of the group

[81] The Court must assess whether the criterion contained in the third paragraph of Article 575 *a* C.p.c is meeting, whether "the composition of the group makes it difficult or impractical application of the rules on the mandate to sue on behalf of others or on the joinder of proceedings".

¹⁷ *Vivendi Canada inc. v. Dell'Aniello*, 2014 SCC 1, para. 58.

¹⁸ *Union des consommateurs v. Air Canada*, 2014 QCCA 523, par. 76; *Martel v. Kia Canada inc.*, 2015 QCCA 1033, par. 28.

¹⁹ *Sibiga v. Fido Solutions inc.*, 2016 QCCA 1299, par. 123.

[82] The Tribunal must have a minimum of information on the size and essential characteristics of the targeted group, such as the estimated number of members, the applicant's knowledge of their identity, contact information and geographical location²⁰. The study of this condition requires a broad and liberal approach.

[83] If the defendant has all the necessary data for the estimation of the number of persons involved in the appeal, identification of other potential members or an approximation as to their number becomes then secondary²¹.

[84] The membership of the group includes all cellular phone owners not intended for commercial resale, who benefit from Qualcomm technology or for whom royalties are sought from Qualcomm.

[85] We are talking about a large group of natural and legal persons. We are talking about a very high percentage of the population. The criterion is met

4. Adequate representation

[86] The Court must assess whether the criterion contained in the fourth paragraph of Article 575

C.P.C. is met, whether "the member to whom it is intended to attribute the status of representative is able to ensure adequate representation of the members".

[87] The requirement is minimal for this condition. No proposed representative shall be excluded unless his or her interests or competence are such that he or she would be impossible for the case to survive fairly²².

[88] Three criteria should be considered in assessing adequate representation: interest in acting, competence of the representative, and absence of conflict of interest with group members.²³

[89] Mr. Tanzer has been interviewed and his responses demonstrate that he is an appropriate representative. He is knowledgeable and interested enough to represent the group adequately.

²⁰ *J.J. v. Saint Joseph's Oratory of Mount Royal*, 2017 QCCA 1460, para. 43, application for leave to appeal to the Supreme Court allowed, March 29, 2018, No. 37855.

²¹ *Martel v. Kia Canada inc.*, 2015 QCCA 1033, par. 29; *Levesque v. Videotron, s.e.n.c.*, 2015 QCCA 205, para. 29.

²² *Infineon Technologies AG v. Option consommateurs*, 2013 SCC 59, para. 149.

²³ *Id.*; *Lambert (Gestion Peggy) v. Ecolait /tee*, 2016 QCCA 659, par. 67-68.

FOR THESE REASONS, THE COURT :

On the application for authorization

(90] **GRANTS** this application for leave to commence a class action and to be granted representative status;

(91] **AUTHORIZES** the class action for civil liability and moral, pecuniary, punitive and exemplary damages against the defendants

(92] **ATTRIBUTES** to Plaintiff Ricky Tenzer the status of representative for the group hereinafter described:

"All persons who have purchased in Quebec not for commercial resale, since December 11, 2014, a device that allows a cellular communication whose baseband processor was manufactured by Qualcomm Incorporated or for which royalties have been paid to **Qualcomm Incorporated**." Qualcomm Incorporated."

(93] **IDENTIFIES** as follows the principal questions of fact or law to be addressed collectively:

- 1) Did the defendant violate its FRAND covenants?
- 2) Did the defendant fail **in** its duty to act in good faith under the *Civil Code of Quebec*?
- 3) Does a breach of the FRAND covenants make the defendant liable **to** the class members?
- 4) Did the defendant abuse its dominant position?
- 5) Have the group members been harmed?
- 6) Can this claim be subject to a collective recovery?
- 7) If so, what is the quantum of compensatory damages to which each class member is entitled?

(94] **IDENTIFIES the** related research findings as follows:

ACCEPT the plaintiff's class action;

ORDER the defendant **to pay to** each class member a sum **to be** determined in order to compensate them for the excessive price they paid for their cellular device with interest at the legal rate and the additional indemnity provided for **in** article 1619 of the *Civil Code of Quebec*, since the service of the

Application for authorization to bring a class action and to be a representative;

ORDER the collective recovery of the claims of the members of the group;

RECONVENE the parties within 45 days of the final judgment to determine the distribution of the amounts recovered collectively;

ALL with court costs, including expert fees, opinions and expenses of the administrator, if any.

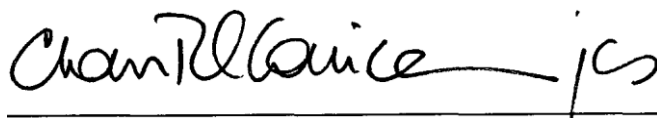
[95] **DECLARES** that, unless excluded, the Class Members shall be bound by any judgment to be entered in the class action in the manner provided by law;

[96] **ESTABLISHES** a thirty (30) day exclusion period from the date of notice to members, at the expiration of which period Class Members who have not availed themselves of the means of exclusion shall be bound by any future judgment;

[97] **ORDERS** the publication of a notice to members (pursuant to section 576 C.C.P.) in the terms to be determined by the Tribunal;

[98] **REFER** the case to the Chief Judge for determination of the district in which the class action must be exercised and the judge must be appointed to hear it;

[99] **ALL** with legal fees, including expert fees and publication fees.



THE HONOURABLE CHANTAL CORRIVEAU, J

.S.

Me Andre Lesperance
Me Mathieu Charest-Beaudry
Me Gabrielle Gagne
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Hearing Date: April 15, 2019