



Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N

ELISA GAUDIO

Plaintiff

and

APPLE CANADA INC. and APPLE INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES,

LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date:

Issued by _____

Local registrar

Address of court office London Courthouse
80 Dundas Street
London, ON N6A 6K1

TO: **APPLE INC.**
One Apple Park Way
Cupertino, CA 95014
U.S.A.

AND TO: **APPLE CANADA INC.**
120 Bremner Blvd, Suite 1600
Toronto, ON M5J 0A8

CLAIM

1. The Plaintiff, hereinafter defined, on her own behalf and on behalf of all Class Members, hereinafter defined, seeks:
 - (a) an order certifying this action as a class proceeding and appointing the Plaintiff as the representative plaintiff of the proposed national class pursuant to the *Class Proceedings Act, 1992*, SO 1992, c 6;
 - (b) a declaration that the Defendants, hereinafter defined, have breached their contracts with the Plaintiff and Class Members;
 - (c) a declaration that the Defendants committed the tort of negligent misrepresentation;
 - (d) a declaration that the Defendants committed the tort of intrusion upon seclusion;
 - (e) a declaration that the Defendants have engaged in unlawful practices and conduct contrary to provincial privacy statutes, by intercepting, accessing, listening to, recording, sharing, storing, and otherwise misusing the private and confidential information of the Plaintiff and Class Members;
 - (f) a declaration that the Defendants engaged in conduct contrary to s 52(1) of the *Competition Act*, RSC, 1985, c C-34;
 - (g) a declaration that the Defendants are liable to the Plaintiff and Class Members under the *Consumer Protection Act, 2002*, SO 2002, c 30, Sched A, and equivalent provisions of the consumer protection legislation in other Canadian provinces;

- (h) an order requiring the Defendants to permanently delete all recordings of the Plaintiff and Class Members and to implement safeguards to prevent further recordings without the explicit consent of the Plaintiff and Class Members;
- (i) an aggregate assessment of damages in an amount to be determined before trial for:
 - (i) breach of ss 14 and 17 of the *Consumer Protection Act, 2002*, and equivalent provisions of the consumer protection legislation in other Canadian provinces;
 - (ii) for loss or damage suffered as a result of the Defendants' breach of s 52(1) of the *Competition Act*, such damages being pursuant to s 36(1) of the *Competition Act*;
 - (iii) breach of the *Privacy Act*, RSBC 1996, c 373;
 - (iv) breach of *The Privacy Act*, CCSM, c P125;
 - (v) breach of *The Privacy Act*, RSS 1978, c P-24;
 - (i) breach of the *Privacy Act*, RSNL 1990, c. P-22;
 - (ii) breach of Quebec's privacy laws, including the *Civil Code of Quebec*, CQLR c CCQ-1991; *Quebec Charter of Rights and Freedoms*, CQLR c C-12; and the *Act Respecting the Protection of Personal Information in the Private Sector*, RSQ, C P-39.1;
 - (iii) breach of contract;
 - (iv) negligent misrepresentation; and
 - (v) intrusion upon seclusion;

- (j) exemplary, punitive, and aggravated damages in the amount of \$100 million;
- (k) the costs of administration and notice, plus applicable taxes, pursuant to section 26(9) of the *Class Proceedings Act, 1992*;
- (l) the costs of this action pursuant to the *Class Proceedings Act, 1992*, the *Courts of Justice Act*, RSO 1990, c C.43, and the *Rules of Civil Procedure*, RRO 1990, Reg 194;
- (m) prejudgment interest and postjudgment interest pursuant to the *Courts of Justice Act*;
- (n) a reference to decide any issues not decided at the trial of the common issues; and
- (o) such further and other relief as this Honourable Court may deem just.

OVERVIEW

2. Since in or around October 2011, the Defendants (hereinafter defined as both Apple entities) have knowingly engaged in the unauthorized intrusion and recording of Class Members' private and confidential conversations without their knowledge or consent. Further, the Defendants' have continuously and intentionally disclosed these unauthorized recordings to third parties, again without Class Members' knowledge or consent.
3. The Plaintiff alleges that the Defendants have intentionally and recklessly misrepresented the scope of the collection, use, and disclosure of personal data associated with the use of the Defendants' products, and that the Defendants have intentionally and recklessly invaded the Plaintiff's and Class Members' privacy by recording private conversations and activities.

4. The Plaintiff alleges that the Defendants' conduct was carried out without any lawful justification and for the sole purposes of advancing the Defendants' own technological developments and/or financial gain. The Defendants' conduct amounts to a substantial breach of the Plaintiff's and Class Members' right to privacy and directly contravenes federal and provincial privacy legislation and federal and provincial consumer protection legislation.

THE PARTIES

The Representative Plaintiff

5. The Plaintiff, Elisa Gaudio, is a resident of Lefroy, Ontario. Since 2011, the Plaintiff has purchased and owned various Apple devices, including, but not limited to, an iPad, an iPhone 12, and an iPhone 14.
6. On various occasions since in or around 2011, the Plaintiff has, from time to time, noticed particularly targeted advertisements appearing on her Apple device. Curiously, these advertisements would often display a product or service that related to a conversation the Plaintiff had sometime in the days prior within earshot of her Apple device.
7. For example, during the winter months, Elisa would discuss the snowy weather with her spouse and their desire to escape the snow and go on a tropical vacation together. Shortly thereafter, Elisa began to notice advertisements for vacation package getaways appearing on her iPad, iPhone 12, and iPhone 14.
8. When Elisa and her family welcomed their child, they would frequently discuss the baby's needs, schedule, and development with friends and family members. Around this time,

Elisa began to notice advertisements for diapers, baby food, and baby clothing appearing on her Apple devices.

9. The Plaintiff had not, at any time, searched for vacation packages or baby products on her Apple devices, nor had she asked Siri about these products. At the time, the Plaintiff simply thought the advertisements were a coincidence.
10. As described below, the Plaintiff is now aware that such occurrences were not random coincidences but instead part of a deliberately calculated process orchestrated by the Defendants.

The Class

11. The Plaintiff seeks to represent the following class (the “**Class**” or “**Class Members**”) of which the Plaintiff is a Class Member:

All persons in Canada, (including their estates, executors, or personal representatives) who purchased and/or owned any Apple Device (as described below) equipped with Siri from October 1, 2011 to present (“the **Class Period**”).

Defendants

12. The Defendant, Apple Inc., is a company duly incorporated pursuant to the laws of the State of California, carrying on business in the designing, manufacturing, distributing, marketing, and selling of various consumer electronics, including, *inter alia*, smartphones, laptop and desktops computers, tablet computers, headphones, smart watches, and other wearable technology.
13. The Defendant, Apple Canada Inc., is a company duly incorporated pursuant to the laws of the Province of Ontario. At all material times, the Defendant, Apple Canada Inc., was

and is a wholly owned subsidiary of the Defendant, Apple Inc., and was and is inextricably involved in the design, manufacturing, distribution, marketing, and sales of Apple devices.

14. Accordingly, at all material times, the Defendants, Apple Inc. and Apple Canada Inc., acted jointly in carrying out their business activities. The Defendants are herein collectively referred to as “**Apple**” or “**the Defendants.**”

BACKGROUND

15. Apple is a leading global technology company that designs, manufactures, distributes, markets, and sells its own brand of consumer electronics, including, but not limited to, the following devices: iPhones, iPads, AirPods headphones, MacBook laptops and iMac computers, Apple Watches, and HomePod smart speakers (collectively “**Apple Devices**”). Apple also develops various software platforms, including Apple’s iOS operating systems, which power and provide a user interface for each Apple Device.
16. “Siri” is voice-recognition software developed by Apple. It uses artificial intelligence (“AI”) and has been pre-installed on all Apple Devices since in or around October 2011. Apple markets Siri as a “digital assistant” whom individuals, using their voice, can ask questions or instruct to perform certain tasks on their devices on a hands-free basis.
17. When an individual asks a question (e.g., “Hey Siri, when is the sunrise tomorrow?”), Siri will search the Internet and provide the individual with an immediate response. Individuals can also direct Siri to control certain applications via voice recognition and Siri can be used to draft and send text messages or emails, set alarms, add items to a list, or create events in a calendar (e.g., “Hey Siri, set an alarm for 9am”).

18. Apple has consistently represented that Siri is only activated by the utterance of a “wake phrase” (e.g. “Hey Siri”), or by manually pressing a button on the Apple Device. Once Siri is activated, the user’s voice is recorded and the request is transferred into a programmable code. The code is then put into an algorithm that determines what the user is asking for, or what task is trying to be accomplished.
19. Apple has been explicit in both its marketing and through the use of Siri that it takes the privacy of its customers very seriously. When a user asks, “Siri, when are you listening to me?,” a message appears on the screen of the Apple Device, stating, “I respect your privacy, and only listen when you’re talking to me. You can learn about Apple’s approach to privacy at Apple.com.”
20. However, these representations are demonstrably false. In or around January 2025, through a proposed class action settlement in the United States (the “**US Settlement**”), Canadian consumers became aware that despite Apple’s assurances about their privacy, through Siri, Apple was intercepting, recording, and selling their private conversations to third-party marketers without the consumers’ knowledge or consent.
21. Accordingly, the Plaintiff and Class Members have learned that Apple admitted that Siri “collects and stores certain information” and that “a small portion of Siri requests are analyzed to improve Siri and dictation.” This analysis occurs whether the activation of Siri was purposeful by the user, or accidental.
22. Consequently, Apple, using Siri installed on Apple Devices, has collected audio recordings of its users in Canada, even when a “wake phrase” has not been uttered, or a button has not

been pushed. Such audio recordings have been used for Apple's own commercial and financial benefit.

23. Further, Apple has disclosed these private audio recordings to third-party affiliates for the purposes of selling targeted goods and services to users.
24. The Plaintiff and Class Members state that Apple has knowingly concealed these privacy issues, the Plaintiff and Class Members having only discovered them upon the announcement of the proposed US Settlement and related media releases in or around January 2025.

CAUSES OF ACTION

(a) *Breach of Contract*

25. When a consumer uses an Apple Device, the consumer is required to review and accept a privacy policy drafted and released by Apple. Apple's privacy policy (the "**Privacy Policy**") outlines both what specific personal data is collected from the user and how that personal data is collected, stored, shared, used, and protected by Apple.
26. Apple has represented to the Plaintiff and Class Members that their personal information would be collected, used, and disclosed within the parameters specifically outlined in the Privacy Policy. It was an express term of the Privacy Policy that Apple would *only* collect, use, and disclose information within the scope mentioned within the Privacy Policy.
27. It was further expressed that Apple's Privacy Policy would be compliant with all applicable provincial and federal privacy and/or consumer protection legislation as required by such legislation.

28. For example, Apple's Privacy Policy now reads:

Apple may engage third parties to act as our service providers and perform certain tasks on our behalf, such as processing or storing data, including personal data, in connection with your use of our services and delivering products to customers. Apple service providers are obligated to handle personal data consistent with this Privacy Policy and according to our instructions. **They cannot use the personal data we share for their own purposes and must delete or return the personal data once they've fulfilled our request.** [emphasis added]

[...]

Apple does not sell your personal data including as "sale" is defined in Nevada and California. Apple also does not "share" your personal data as that term is defined in California.

29. Apple breached its contracts with the Plaintiff and Class Members by intercepting and recording private conversations and activities in a manner that was inconsistent with and in violation of the Privacy Policy.

30. In the alternative, Apple's Privacy Policy is intentionally worded in such a way that it deliberately conceals the scope of information collection, use, and disclosure, such that no reasonable person would or could understand that by agreeing to the Privacy Policy, he or she was consenting to being recorded anywhere and at any given time.

31. The Plaintiff and Class Members plead that Apple's conduct amounts to breach of its contractual duties under the Privacy Policy, and that the Plaintiff and Class Members have suffered damages as a result of that breach.

(b) Negligent Misrepresentation

32. At all material times, Apple owed a duty of care to the Plaintiff and Class Members to ensure that the Privacy Policy presented to consumers was clear and unambiguous and free of false statements.
33. Apple knowingly misrepresented, and continues to misrepresent, to the Plaintiff and Class Members, that Siri only intercepts and records audio when the Plaintiff and Class Members use a “wake phrase” or manually push a button. Moreover, Apple’s marketing has continuously conveyed to the Plaintiff and Class Members that their privacy is of Apple’s utmost concern. Apple knows that this representation is false.
34. Apple knew, by virtue of having an internal practice of having Apple employees, contractors, and/or third parties review Siri data for the purposes of improving Siri and/or targeted marketing, that the privacy of the Plaintiff and Class Members was being unlawfully invaded.
35. In the alternative, even if the conversations or personal information recorded by Siri was accidental, because Apple had an internal practice of reviewing Siri data, Apple knew, or at the very least, was indifferent to the fact that the personal information of the Plaintiff and Class Members was being recorded without their knowledge or consent (i.e., without a “wake phrase” or a button being pushed).
36. Apple knowingly allowed the Plaintiff and Class Members to believe their collected personal information was being used in a manner consistent with Apple’s advertising, user agreements, and Privacy Policy, when Apple knew or ought to have known this was not true.

37. The Plaintiff and Class Members reasonably relied on Apple's representations that their privacy was important to Apple, and that Siri would only listen and temporarily store data if they deliberately chose to speak to and instruct Siri.
38. Had the Plaintiff and Class Members been aware that by purchasing and using an Apple Device, they were inadvertently allowing themselves to be recorded at any given time, they would have either:
- (a) not purchased the Apple Device;
 - (b) turned off the Siri function on the Apple Device; or
 - (c) sought further information from Apple on the collection, use, and disclosure of their personal information.
39. Apple's false representations to the Plaintiff and Class Members have amounted to an egregious violation of their privacy. As a result, the Plaintiff and Class Members have suffered, and continue to suffer, damages.
40. In relation to Class Members in Quebec, Apple's failure to safeguard the confidentiality of their conversations or personal information recorded by Siri constitutes a fault under art. 1457 of the *Civil Code of Quebec*.

(c) Breach of Privacy and Intrusion Upon Seclusion

41. Apple's conduct constitutes intentional or reckless intrusion upon seclusion that would be highly offensive to a reasonable person.
42. Without lawful excuse or the Plaintiff's and Class Members' knowledge or consent, Apple intentionally or recklessly used its Siri software to intrude upon and record audio of the

Plaintiff's and Class Members' private affairs or concerns, and store and sell the Plaintiff's and Class Members' private conversations to third parties.

43. The scope of conversations and activities recorded by Apple is extremely broad. Given the critical role that technology now plays in nearly every aspect of an individual's life, it is common for a person who purchases and uses an Apple Device to have one on his or her physical person (e.g., a smartwatch) or within arm's reach (e.g., a smartphone, tablet computer, etc.) at all hours of the day. Class Members frequently bring their devices into doctors appointments or other confidential meetings, leave them on their bedside tables, or sleep with them on. In short, by intercepting and recording Class Members' private conversations at any given time, Apple has intruded into the most intimate and vulnerable moments of their lives, without consumers' knowledge or consent.
44. The commodification of the Plaintiff and Class Members' personal information speaks to the deliberate intentions of Apple's conduct. Apple intentionally concealed the scope of the information collected by Siri on Apple Devices, and the purposes for which that information would be used.
45. No reasonable person would expect that by purchasing an Apple Device, his or her conversations with his or her spouse, family members, work colleagues, and/or healthcare providers would be recorded, reviewed, and/or sold to third parties. The knowledge that there is seemingly no place where a Class Member is not surveilled by virtue of simply using an Apple Device has caused considerable distress, anguish, and humiliation to the Plaintiff and Class Members.

(d) Breach of the Consumer Protection Act, 2002 and Equivalent Consumer Protection Statutes

46. Apple's false, misleading and/or deceptive representations to the Plaintiff and Class Members about the Apple Devices and Siri, as described above, violated ss 14 and 17 of the *Consumer Protection Act, 2002* and/or other equivalent consumer protection statutes set out in Schedule "A" (collectively the "**Consumer Protection Legislation**").
47. The Plaintiff and Class Members purchased Apple Devices for personal, family or household purposes, and are consumers for the purposes of the Consumer Protection Legislation.
48. Apple is in the business of selling goods (Apple Devices and the Siri software) and is therefore a supplier under the Consumer Protection Legislation.
49. Accordingly, Apple's marketing, promotion, and sales of Apple Devices and the Siri software to the Plaintiff and Class Members constitute a consumer transaction under the Consumer Protection Legislation.
50. The Consumer Protection Legislation prohibits unfair practices, including the making of false, misleading or deceptive representations.
51. Apple, in connection with marketing, promoting, selling, and supplying consumer goods to the Plaintiff and Class Members, engaged in unfair practices and made false, misleading and deceptive representations in direct violation of the Consumer Protection Legislation. These false, misleading and/or deceptive representations included the following:
 - (a) that the Siri software on the Apple Devices only intercepts, records, and temporarily stores data when the Plaintiff and Class Members use a "wake phrase" or manually

push a button (i.e., that Siri only listens with the Plaintiff's and Class Members' knowledge and consent);

- (b) that Apple takes the Plaintiff's and Class Members' privacy very seriously;
- (c) that the Plaintiff's and Class Members' personal information associated with the use of Apple Devices and Siri would only be collected, used, and disclosed within the parameters specifically outlined in the Privacy Policy; and
- (d) that the Privacy Policy would be compliant with all applicable provincial and federal privacy and/or consumer protection legislation as required by such legislation.

52. The representations that Apple made about the Apple Devices and Siri to the Plaintiff and Class Members were false, misleading and/or deceptive and in violation of the Consumer Protection Legislation, given that Apple made these representations when it knew, or ought to have known, the following:

- (a) that the Plaintiff's and Class Members' private communications were recorded even when they were not deliberately using their Apple Device or Siri;
- (b) that the Privacy Policy did not and does not adequately disclose the scope of the information collected by Siri, in that the Plaintiff's and Class Members' private communications were recorded even when they were not deliberately using their Apple Device or Siri;

- (c) that through Siri, Apple was intercepting, recording, and selling the Plaintiff's and Class Members' private conversations to third parties without the Plaintiff's and Class Members' knowledge or consent; and
 - (d) that the Privacy Policy makes the following representations, which, given Apple's conduct, are not true:
 - (i) that any personal information collected from the Plaintiff and Class Members would not be identifiable to a specific account;
 - (ii) that any personal information collected from the Plaintiff and Class Members would not be sold to or shared with third parties;
 - (iii) that any personal information collected from the Plaintiff and Class Members would only be shared with the Plaintiff's and Class Members' consent; and
 - (iv) that any personal information would only be collected and disclosed in a lawful manner.
53. As a result of Apple's breaches of the Consumer Protection Legislation, the Plaintiff and Class Members suffered damages.
54. The Defendant Apple Canada Inc. is located in Ontario and Apple carries on business throughout Canada. As a result, all Class Members obtain the benefit of the *Consumer Protection Act, 2002*. In the alternative, Class Members outside of Ontario obtain the benefit of the Consumer Protection Legislation.

55. It is in the interest of justice to waive any notice requirement under the Consumer Protection Legislation.

(e) Breach of the Competition Act

56. Apple's use of false and misleading representations about Siri in the sale of Apple Devices, as described above, violated the *Competition Act*.

57. The *Competition Act* applies to business transacted in Canada. Apple's products (Apple Devices) are "products" within the meaning of ss 2 and 52 of the *Competition Act*.

58. The *Competition Act* prohibits false or misleading representations.

59. At all material times, for the purpose of promoting Apple Devices and/or its business interests, Apple knowingly made false and/or materially misleading representations, both directly and indirectly, to the Canadian public, including to the Plaintiff and Class Members, regarding Siri and the scope of the collection, use, and disclosure of personal data associated with the use of Apple Devices and Siri. In doing so, Apple has breached s 52(1) of the *Competition Act*.

60. The Plaintiff repeats and replies upon the allegations in section (d) above. In addition, the Plaintiff alleges that the representations were false and misleading in that:

- (a) Apple represented that the Apple Devices would safeguard personal information collected to the standard of the applicable legislation, which Apple had no intention of meeting; and

(b) Apple deliberately made the terms of the Privacy Policy vague, uncertain or difficult to understand, in that consumers could not be certain what they were agreeing to when using an Apple Device.

61. The Plaintiff and Class Members relied on Apple's false and/or materially misleading representations and suffered damages as a result of that reliance.

62. The Plaintiff and Class Members seek recovery of damages and full costs, including investigative costs, under s 36(1) of the *Competition Act* as a result of the violation of s 52(1) of the *Competition Act*.

(f) Breach of Provincial Privacy Statutes

63. Apple is liable pursuant to provincial privacy statutes (collectively, the "**Privacy Legislation**") for its violation of the Plaintiff's and Class Members' privacy and the damages the Plaintiff and Class Members suffered as a result.

64. The British Columbia *Privacy Act* provides:

Violation of privacy actionable

1(1) It is a tort, actionable without proof of damage, for a person, willfully and without a claim of right, to violate the privacy of another.

(2) The nature and degree of privacy to which a person is entitled in a situation or in relation to a matter is that which is reasonable in the circumstances, giving due regard to the lawful interests of others.

(3) In determining whether the act or conduct of a person is a violation of another's privacy, regard must be given to the nature, incidence and occasion of the act or conduct and to any domestic or other relationship between the parties.

(4) Without limiting subsections (1) to (3), privacy may be violated by eavesdropping or surveillance, whether or not accomplished by trespass.

65. In Saskatchewan, *The Privacy Act* also provides:

Violation of privacy

2 It is a tort, actionable without proof of damage, for a person wilfully and without claim of right, to violate the privacy of another person.

66. In Manitoba, *The Privacy Act* provides:

Violation of privacy

2(1) A person who substantially, unreasonably, and without claim of right, violates the privacy of another person, commits a tort against that other person.

Action without proof of damage

2(2) An action for violation of privacy may be brought without proof of damage.

67. In Newfoundland, the *Privacy Act* provides:

Violation of privacy

3(1) It is a tort, actionable without proof of damage, for a person, wilfully and without a claim of right, to violate the privacy of an individual.

(2) The nature and degree of privacy to which an individual is entitled in a situation or in relation to a matter is that which is reasonable in the circumstances, regard being given to the lawful interests of others; and in determining whether the act or conduct of a person constitutes a violation of the privacy of an individual, regard shall be given to the nature, incidence, and occasion of the act or conduct and to the relationship, whether domestic or other, between the parties.

68. In Quebec:

(a) articles 35-36 and 1457 of the *Civil Code of Quebec*, CQLR c CCQ- 1991 provide:

Respect of Reputation and Privacy

35. Every person has a right to the respect of his reputation and privacy. The privacy of a person may not be invaded without the consent of the person or without the invasion being authorized by law.

36. The following acts, in particular, may be considered as invasions of the privacy of a person:
- (1) entering or taking anything in his dwelling;
 - (2) intentionally intercepting or using his private communications;
 - (3) appropriating or using his image or voice while he is in private premises;
 - (4) keeping his private life under observation by any means;
 - (5) using his name, image, likeness or voice for a purpose other than the legitimate information of the public;
 - (6) using his correspondence, manuscripts or other personal documents.

Conditions of Liability

1457. Every person has a duty to abide by the rules of conduct incumbent on him, according to the circumstances, usage or law, so as not to cause injury to another.

Where he is endowed with reason and fails in this duty, he is liable for any injury he causes to another by such fault and is bound to make reparation for the injury, whether it be bodily, moral or material in nature.

He is also bound, in certain cases, to make reparation for injury caused to another by the act, omission or fault of another person or by the act of things in his custody.

- (b) article 5 of the Quebec *Charter of Rights and Freedoms*, CQLR c C-12 provides:

Fundamental Freedoms and Rights

5. Every person has a right to respect for his private life.

- (c) section 10 of the *Act Respecting the Protection of Personal Information in the Private Sector*, RSQ, C P-39.1 provides:

Confidentiality of Personal Information

10. A person carrying on an enterprise must take the security measures necessary to ensure the protection of the personal information collected, used, communicated, kept or destroyed and that are reasonable given the sensitivity of the information, the purposes for which it is to be used, the quantity and distribution of the information and the medium on which it is stored.

69. The Plaintiff repeats and replies upon the allegations above.

70. Without lawful excuse or the Plaintiff's and Class Members' knowledge or consent, Apple wilfully used its Siri software to intercept and record the Plaintiff's and Class Members' private conversations, and stored and sold the Plaintiff's and Class Members' personal information, collected from those private conversations, to third parties.
71. Apple's conduct violated the privacy of the Plaintiff and Class Members. As a result of this violation of privacy, the Plaintiff and Class Members suffered, and continue to suffer, damages.

DAMAGES

72. Apple Inc. and Apple Canada Inc. are jointly and severally responsible for the damages as claimed herein, which are direct, foreseeable, and proximate, and either were, or ought to have been, in Apple's contemplation at all material times.
73. As a result of Apple's actions and omissions pleaded herein, the Plaintiff and Class Members have suffered, continue to suffer, and will continue to suffer damages, including, but not limited to, the following:
- (a) invasion of privacy;
 - (b) damages resulting from the reduced value of the Plaintiff's and Class Members' Apple Devices;
 - (c) mental distress, anxiety and humiliation; and
 - (d) out-of-pocket expenses.

74. The Plaintiff claims non-pecuniary and general damages for non-monetary losses incurred as a result of the Apple's conduct. Such non-pecuniary and general damages include, but are not limited to, stress and inconvenience.
75. The Plaintiff also claims punitive, aggravated, and exemplary damages.
76. Apple's conduct was arrogant, high-handed, reckless, without care, deliberate, and with disregard of the Plaintiff's and Class Members' rights.
77. Apple knew, or ought to have know, that it was unlawfully collecting, using, and disclosing the Plaintiff's and Class Members' personal data for its own financial benefit. Its conduct was sufficiently vindictive, reprehensible, and malicious so as to justify an award of punitive, aggravated, and exemplary damages.

REAL AND SUBSTANTIAL CONNECTION TO ONTARIO AND PLACE OF TRIAL

78. The Plaintiff pleads that this action has a real and substantial connection with Ontario because, amongst other things:
 - (a) the Defendants distribute and sell their products in Ontario and derive substantial revenue from such sales;
 - (b) the Defendants' head offices, or the offices of their agents, subsidiaries, affiliates, or representatives, are located in Ontario;
 - (c) the Defendants advertised their products, including Apple Devices with the Siri software, in Ontario;
 - (d) the Plaintiff's and many of the Class Members' contracts with the Defendants were made in Ontario and/or breached in Ontario;

- (e) the torts were committed in Ontario; and
- (f) the Plaintiff and many of the Class Members sustained damages in Ontario resulting from the Defendant's unlawful conduct described above.

79. The Plaintiff pleads and relies on rules 17.02(f)(i) and (iv), (g), (n), and (o) of the *Rules of Civil Procedure*, permitting service outside Ontario in respect of the foreign Defendant.

80. The Plaintiff proposes that this action be tried in London, Ontario.

February 21, 2025

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Lawyers for the Plaintiff

SCHEDULE “A”

Alberta *Consumer Protection Act*, RSA 2000, c C-26.3 [*Alberta CPA*].

British Columbia *Business Practices and Consumer Protection Act*, SBC 2004, c 2 [*BPCPA*].

Manitoba *The Business Practices Act*, CCSM, c B120 [*Manitoba BPA*].

New Brunswick *Consumer Protection Act*, 2024, c 1 [*New Brunswick CPA*].

Newfoundland *Consumer Protection and Business Practices Act*, SNL 2009, c C-31.1 [*Newfoundland CPABPA*].

Prince Edward Island *Business Practices Act*, RSPEI 1988, c B-7 [*PEI BPA*].

Quebec *Consumer Protection Act*, CQLR, c P-40.1 [*Quebec CPA*].

Saskatchewan *Consumer Protection and Business Practices Act*, SS 2013, c C-30.2 [*Saskatchewan CPBPA*].