**CANADA**

**PROVINCE OF QUÉBEC**
**DISTRICT OF MONTRÉAL**


**N°:** 500-06-001425-251

**SUPERIOR COUR**
(Class Action)

**CHLOÉ SABOURIN**, natural person, domiciled and residing at ███████████ ███████████████████

**APPLICANT**

**V.**

**META PLATFORMS, INC.,** legal person duly constituted, having its registered office at 251 Little Falls Drive, Wilmington, Delaware, 19808, USA, care of Corporation Service Company (c/o Corporation Service Company).

**AND**

**FACEBOOK CANADA LTD.,** a legal person having its registered office at 199 Bay St. #12 Commerce Court West, Toronto, ON M5L 1G9, Canada and its principal place of business at 1700-2001 Robert-Bourassa Boulevard, Montréal, (Québec), H3A 2A6.

**AND**

**WHATSAPP LLC,** a legal person having its head office at 1601 Willow Road, Menlo Park, California, 94025, USA, with an address for service of proceedings c/o Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808.

**AND**

**INSTAGRAM LLC,** legal person duly constituted under the laws of Delaware, in the United States of America, and having an address for service c/o Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808.

**DEFENDANTS**

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

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**TO ONE OF THE HONOURABLE JUSTICES OF THE QUÉBEC SUPERIOR COURT, SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE APPLICANT STATES AS FOLLOWS:**

## I.      OVERVIEW

1.  The Applicant seeks authorization to institute a class action on behalf of the following class of which she is a member:

    All persons domiciled in the Province of Québec who hold a copyright, within the meaning of the *Copyright Act* (R.S.C. 1985, c. C-42), in an artistic work, whose works have been used without authorization by the defendants to develop, train, and/or commercialize their artificial intelligence models since September 23, 2023, or any other group to be determined by the Court.

2.  Copyright in Canada protects creators by granting them exclusive rights over their works, fostering artistic creation and preventing their unauthorized exploitation, in accordance with laws and international treaties.

3.  The Defendants designed and operated large-scale artificial intelligence models, including LLaMA (language and vision) and Emu (images and videos), used to generate content from datasets containing protected works. These models notably power consumer-facing products such as AI Stickers integrated into Instagram, Facebook, and WhatsApp.

4.  The generative and processing capacities of LLaMA and Emu rely on massive sets of images and texts collected through automated scraping of websites, galleries, and social platforms, including Facebook and Instagram, often without authorization. These data enable the reproduction of artistic styles and the generation of new images.

5.  In particular, visual content published by Canadian users on Facebook and Instagram was used without their consent or prior notice, both to train the models and to generate images in response to queries.

6.  The group members, Canadian visual artists, create works protected by the *Copyright Act* without having authorized the Defendants to use them in the development, training, or commercialization of LLaMA, Emu, or the products derived therefrom.

7.  By reproducing and using Canadian works without authorization to feed their models, the Defendants infringed upon the rights of the artists and imitated their creations without compensation.

8.  Although these AI tools may offer technological and commercial advantages, their unauthorized use of protected works has caused serious harm. The artists have been deprived of fair remuneration, as well as the ability to control or license the use of their works.

9.  Meta Platforms has acknowledged possessing hundreds of billions of images and tens of billions of videos published on Facebook and Instagram, used to train its models.

10. These massive datasets also include approximately 1.1 billion image-text pairs and corpora of several billions of images and captions from the web and social platforms, necessarily incorporating protected works of Canadian artists, without license or consent.

11. The large-scale deployment of images generated by artificial intelligence now threatens to supplant authentic artistic work and to directly compromise the livelihoods of Canadian creators.

12. Each of the acts mentioned above constitutes a deliberate and unlawful violation of the members' rights to integrity and dignity (Article 4), as well as to the free enjoyment and disposal of their property (Article 6), in accordance with the *Charter of Human Rights and Freedoms,* R.S.Q., c. C-12 (the "**Charter**").

## II.    PARTIES

### A.  Applicant

13. The Plaintiff, Chloé Sabourin, is a visual artist and painter originally from Montreal, born in 1993, who divides her time between the city and the Laurentians, in Saint-Sauveur, Quebec.

14. Chloé Sabourin has cultivated her creativity since childhood, influenced by stays in Montreal, New York, Paris, and the Caribbean, as well as by her mother, an art collector.

15. Trained in artistic techniques at Cégep Jean-de-Brébeuf in Arts, Literature and Communications, she completed a Bachelor of Laws at the Université de Sherbrooke in 2016 and was admitted to the Quebec Bar.

16. Despite family encouragement toward a stable career path, she persevered in art, obtaining a Master's degree in Arts Management in Paris and exhibiting for the first time in 2014 during *Believe in Art* at La Cenne in Montreal.

17. Having settled in the Laurentians about a year ago, she balances art and part-time legal practice to maintain a stimulating equilibrium, and founded Arthlo, a consulting firm promoting art investment among emerging artists.

18. With over fifteen years of professional experience selling canvases and a significant Instagram presence of approximately 17,000 followers, her exhibitions include *Carré des Artistes* in Griffintown since 2017, as well as events in Montreal, Toronto, Los Angeles, and New York, underscoring her growing recognition on the Canadian and international art scene, as appears from **Exhibit P-1.**

19. Her works, colorful, feminist, and minimalist, play with colors, textures, and forms in a figurative style, centered on feminine themes, nature, and emotions, as appears from **Exhibit P-1.1.**

## B. Defendant

20. The principal defendant, Meta Platforms, Inc. ("Meta"), is a corporation duly incorporated under the laws of the State of Delaware, United States of America, with its registered office at 251 Little Falls Drive, Wilmington, DE 19808, USA, as appears from **Exhibit P-2**.

21. Meta Platforms, Inc. is the parent company of the Meta group, a multinational technology conglomerate and one of the largest digital companies in the world. It develops, markets, and operates a wide range of products and services, including social media platforms, messaging applications, virtual and augmented reality technologies, as well as artificial intelligence systems, as appears from **Exhibit P-3**.

22. Until October 2021, the company was known under the name Facebook, Inc., before officially changing its corporate name to become Meta Platforms, Inc. Facebook remains one of the most widely used social networks in the world, operated directly by Meta Platforms, Inc.

23. Facebook Canada LTD, a limited liability company having its registered office in Ontario (**Exhibit P-3.1**), is a social network that allows its users to send messages to their Facebook friends and to share content such as text, photos, videos, and hyperlinks publicly or with friends on their page. Facebook Messenger is a private messaging application that enables users to communicate with one another without using the Facebook platform.

24. Instagram, LLC, a limited liability company incorporated under the laws of the State of Delaware, was acquired by Facebook, Inc. in 2012 and is now wholly owned and controlled by Meta Platforms, Inc., as appears from **Exhibit P-4.**

25. WhatsApp LLC, also a limited liability company organized under the laws of Delaware, was acquired by Facebook, Inc. in 2014 and is likewise wholly owned and controlled by Meta Platforms, Inc., as appears from **Exhibit P-5**.

26. Collectively, Meta Platforms, Inc., Instagram, LLC and WhatsApp LLC (hereinafter collectively referred to as the "Defendant" or the "Defendants") operate interconnected services bringing together billions of users worldwide and generating annual revenues of several tens of billions of U.S. dollars, as appears from **Exhibit P-6**.

27. These platforms also constitute sources of massive databases of user-generated content, including visual works protected by copyright, which Meta uses to train and commercialize its artificial intelligence models, as appears from **Exhibit P-7**.

28. More particularly, in the context of its artificial intelligence activities, Meta designed, developed, and commercialized the LLaMA models (Large Language Model Meta AI), a family of large-scale AI systems trained on colossal datasets. Initially limited to text in 2023, these models evolved into multimodal versions (text and images) as of September 2024, as appears from **Exhibit P-8**.

29. At the same time, Meta also launched the Emu foundation model (announced in July 2023), trained on approximately 1.1 billion image-text pairs, as appears from **Exhibit P-9**.

30. Emu serves as the basis for creative products such as AI Stickers, integrated directly into Instagram, Facebook, and WhatsApp, which allow users to generate new images or modify existing photos through artificial intelligence, as appears from **Exhibit P-10**.

31. Owing to their size, their financial and technological resources, as well as their decisive role in the fields of social media and artificial intelligence, the Defendants exert considerable influence over global digital markets.

32. They also bear responsibility for the unauthorized use of protected visual works, including the Applicant's original paintings and those of the group members, exploited as training data to develop and improve their LLaMA and Emu models, which are then commercialized in the form of products integrated into Instagram, Facebook, and WhatsApp, as appears from **Exhibit P-11**.

## III.    THE MODELS OF THE DEFENDANTS

33. For the purposes of the present proceedings, it should first be noted that the Defendants divide among themselves distinct but complementary roles in the development, integration, and operation of the artificial intelligence technologies at issue.

34. Meta Platforms, Inc. is responsible for the development of the foundational models, including LLaMA and Emu, and oversees their deployment across all of its subsidiaries.

35. Instagram, LLC commercially operates these models by integrating features such as AI Stickers, while also constituting an important source of user-generated visual data serving for the training of the models.

36. For its part, WhatsApp LLC ensures the deployment of AI Stickers and AI assistants directly within its messaging services, thereby distributing these tools to hundreds of millions of users.

37. The Defendants developed the LLaMA family (Large Language Model Meta AI). The first model, LLaMA 1, was released in February 2023 as a purely text-based foundation model.

38. In July 2023, LLaMA 2 followed, still focused on text but optimized for dialogue. In April and then July 2024, LLaMA 3 and 3.1 were released, expanding the size of the models up to 405 billion parameters and extending the context to 128,000 tokens, while remaining text-based.

39. In September 2024, the Defendants reached a turning point with LLaMA 3.2, also called LLaMA Vision, their first multimodal version. This model, offered in versions of 11 and 90 billion parameters, is capable of processing both text and images. This evolution confirms that the training corpora now integrate image-text databases, thereby extending the use of LLaMA beyond written language toward recognition, analysis, and visual generation (Meta AI Blog, Sept. 2024), as appears from **Exhibit P-8**.

40. The article *Talkin' 'Bout AI Generation: Copyright and the Generative-AI Supply Chain* demonstrates that the datasets used to train LLaMA Vision include massive sources such as Common Crawl, ImageNet, LAION-5B, as well as public content from Facebook and Instagram, all containing protected visual works, including Canadian paintings and photographs, collected without authorization, as appears from **Exhibit P-12**.

41. In 2025, Meta launched a new generation: LLaMA 4, along with its variants LLaMA 4 Scout and LLaMA 4 Maverick. These models represent the culmination of this evolution: they are multimodal, massively parameterized, and designed to be directly integrated into Meta's products (Facebook, Instagram, Messenger), as appears in **Exhibit P-12.1.**

42. Initially designed for academic uses or under licenses restricting their commercial exploitation, these datasets are diverted by the Defendants to develop and commercialize their models.

43. Moreover, it is demonstrated that the AI production chain involves the conversion of expressive works into digital data for training, with direct consequences on copyright.

44. Analyses, notably presented in the article *LAION-5B: An open large-scale dataset for training next generation image-text models*, reveal that approximately 6.1% of the images contain watermarks, proof of the integration of protected works without filtering, as appears from **Exhibit P-13**.

45. Finally, research such as *Carlini et al.* (2023) confirms that these models can memorize and faithfully regenerate visual works from simple text prompts, paving the way for unauthorized and infringing reproduction, as appears from **Exhibit P-14**.

46. Emu (Expressive Media Universe) is a multimodal generative artificial intelligence model developed by the Defendants, designed to work with both text and images. The first scientific article was published in July 2023, describing its training on sequences combining textual tokens and visual representations.

47. In September 2023, the Defendants refined the model to produce higher-quality images from carefully selected image sets. Thereafter, Emu became the basis for several tools, including Emu Edit, enabling image editing through text commands, and Emu Video, which generates short videos from text or images, as appears from **Exhibit P-15**.

48. These variations confirm the use of enormous image-text datasets to train the model.

49. In September 2023, at the launch of Meta AI, the Defendants introduced AI Stickers, integrated into WhatsApp, Messenger, Instagram, and Facebook Stories. These stickers are generated by the Emu model, in combination with LLaMA, and allow users to create customized visuals from simple text prompts, as appears from **Exhibit P-10**.

50. Meta Platforms Inc. exercises control over all of its subsidiaries, including WhatsApp, Instagram, and Facebook. These entities constitute an integrated economic group and are, for the purposes of this application, collectively referred to as the "**Defendant**" or the "**Defendants**."

## IV. PROGRAMMING TOOLS

51. The Defendants exploit considerable volumes of visual content for the training of its generative models.

52. In the case of Emu, the foundational paper published in July 2023 specifies that the model is pre-trained in multimodal mode on sequences mixing textual tokens and visual representations. This approach makes it possible to draw upon highly varied sources, including web pages containing text and images, large-scale image-text pairs, as well as annotated videos, as appears from **Exhibit P-15**.

53. It appears from the Defendant's technical publications that the Emu model was first pre-trained on a corpus of approximately 1.1 billion image-text pairs, before being refined through a so-called "quality-tuning" procedure aimed at the aesthetic alignment of the output.

54. This procedure consists of selecting, from an initial pool of several billions of images, a restricted subset of very high-quality images by means of a chain of automatic filters (notably aesthetic filter, OCR to remove images with heavy embedded text, CLIP-score for image-text alignment, size/ratio constraints, classification of visual concepts by domain), followed by successive human filtering, resulting in approximately 2,000 carefully retained and captioned images for fine-tuning.

55. The authors also specify having curated a large internal pre-training dataset to constitute the initial massive set, which confirms the use of internal and web-scale image-text pair data to acquire general generative capacity, with the aesthetic alignment phase then narrowing the output distribution to a high-quality visual domain (LDM pre-trained and then refined).

56. These methodological choices reveal that massive visual data, combined with text (for example, an image associated with an Instagram caption), constitute the indispensable raw material for the training of Emu.

57. As for the LLaMA family, the first versions (LLaMA 1 to 3.1, released between February 2023 and July 2024) remained text-based. However, in September 2024, Meta introduced LLaMA 3.2 Vision, a multimodal variant capable of processing both text and images.

58. According to the technical documents, this model integrates an image encoder into the LLaMA architecture and was pre-trained on corpora of image-text pairs, in order to be able to perform visual tasks such as image description, automatic caption generation (image captioning), or the extraction of visual entities, as appears from **Exhibit P-16**.

59. The same databases also feed the commercial features promoted by the Defendants.

60. The AI Stickers, deployed as of September 2023 in Instagram, WhatsApp, and Messenger, rely on Emu, combined with LLaMA, to transform a text prompt into a customized sticker.

61. Thus, when a user requests a sticker, the application calls upon these models trained on massive volumes of visual content associated with text, in order to generate images in real time within the Defendant's commercial applications, as appears from **Exhibit P-10**.

62. In sum, whether for Emu, for the multimodal variants of LLaMA, or for AI Stickers, the central element remains the systematic use of image databases associated with text. These data, collected and exploited on a large scale, necessarily include visual works protected by copyright, integrated without explicit consent into the training datasets.

## V. SYSTEMATIC EXPLOITATION OF PROTECTED WORKS AND PERSONAL DATA BY META

63. Meta, the parent company of Facebook and Instagram, has publicly confirmed that it uses public data (texts, photos, videos) published on its platforms to train its AI models, including LLaMA 3 and its derivatives, which power image generation tools. This data includes works potentially protected by copyright, such as publicly published photographs or artistic works.

> **3.3 The authorizations you grant us**
>
> We need certain permissions from you to be able to provide our services:
>
> **1. Your Content:** Content you share or upload, such as photos or videos, may be protected by intellectual property rights.
>
> You retain ownership of the intellectual property rights (such as copyrights and trademarks) in all content you create and share on Facebook and other **Meta entity products** ⎋ that you use. Nothing in these Terms takes away your rights to your own content. You are free to share your content with anyone and anywhere you want.
>
> However, in order for us to provide our Services, you must grant us certain legal permissions (called "licenses") to use this content. This is solely for the purpose of providing and improving our Products and Services, as described in Section 1 above.

64. According to Meta's Terms of Service (Section 3.3, updated in January 2025), users grant the company a worldwide, non-exclusive license over their public content, a license which expressly extends to the use of such content for the training of its artificial intelligence systems, as evidenced by **Exhibit P-16.1**.

65. On February 1, 2024, during the earnings call for the fourth quarter of 2023, Meta's CEO, Mark Zuckerberg, emphasized that the company possesses "unique data" used to train its artificial intelligence systems. He specified that Meta has access to hundreds of billions of publicly shared images and to tens of billions of publicly available videos, an amount of data exceeding that of the Common Crawl dataset, as well as to vast quantities of published textual comments, as evidenced by **Exhibit P-17**.

66. Chris Cox, Chief Product Officer of Meta, stated in May 2024 that the company uses public data from Facebook and Instagram, including public posts, images, captions, and Stories from users, for its generative AI products available outside Europe. Cox reiterated in an interview with Bloomberg that such data, dating back to 2007, is used to train models such as those powering image generation via Meta AI, as evidenced by **Exhibit P-18**.

67. On April 14, 2025, Meta announced its intention to begin using publicly available content from European users for the training of its artificial intelligence systems. This use notably covers publications and comments made public by adult users within the European Union. Meta specified that private messages would not be concerned and introduced a form allowing users to object to such processing, as evidenced by **Exhibit P-19**.

68. For several years, Meta Platforms, Inc. has been exploiting data generated by users of its products and services most notably Facebook and Instagram to train and refine its artificial intelligence models. While it remains difficult to determine precisely when this practice began, it is now established and documented that such data, including publicly shared visual and textual content, has been integrated into the training processes of its recent models.

69. The official Meta repositories on GitHub, particularly those related to the LLaMA 4 Scout and LLaMA 4 Maverick models, confirm this usage. The following paragraphs detail the nature of the data thus mobilized, the technical methods of its exploitation, and the economic and legal implications that result from it.

70. The files published by Meta in the official meta-llama/llama-models repository on GitHub demonstrate that the LLaMA 4 Scout and LLaMA 4 Maverick models were trained on a mixture of public, licensed, and internal Meta data, including publicly shared posts from Facebook and Instagram. The official MODEL_CARD.md file explicitly states (see **Exhibit P-19.1**):

> « A mix of publicly available, licensed data and information from Meta's products and services. This includes publicly shared posts from Instagram and Facebook and people's interactions with Meta AI. […] »

71. This statement means that certain user-generated content including images and texts shared publicly was collected, stored, and processed by Meta for algorithmic training purposes.

72. The vocabulary used, such as "publicly shared posts," "training data," and "multimodal images," ultimately reflects an effective transfer of human and creative images into a visual and textual AI model.

73. The technical instructions published by Meta include examples written in Python, a programming language widely used in artificial intelligence, which convert textual or visual data into usable formats (such as JSON) for the model. The model itself is

implemented in PyTorch, an open-source library designed for building and training neural networks. For example:

```
from transformers import AutoTokenizer, Llama4ForConditionalGeneration
model_id = "meta-llama/Llama-4-Maverick-17B-128E-Instruct-FP8"
```

74. This code, as shown in **Exhibit P-19.2,** indicates that the model is multimodal, meaning it can interpret both text and image inputs (in *.jpg*, *.png*, or *base64*-encoded formats).

75. These instructions serve as technical bridges between the model and the visual data: they do not contain the photos themselves, but they enable the model to extract and learn their numerical features.

76. In other words, the code demonstrates how Meta transformed users' photos into digital representations used to train a commercial system.

77. The learned characteristics from these images are thus stored, exploited, and commercially redistributed. This represents a form of data extraction and resale derived from visual content concealed behind technical terminology but legally comparable to a secondary exploitation of user data.

78. For instance, the comparison table published by Meta on its website regarding the LLaMA 4 model reveals an explicit economic dimension to this system. It specifies that the inference cost that is, the price charged for processing one million input and output "tokens" ranges between US $0.19 and US $0.49, as shown in **Exhibit P-19.3.**

79. Each "token" represents a basic unit of textual or visual information processed by the model, whether a word or a fragment of an image converted into numerical data.

80. Thus, each query submitted to the model by a third-party user (such as a company, researcher, or developer) generates direct revenue for Meta, which thereby commercializes the cognitive capacity of a system trained on data it did not create but rather collected.

81. These figures, seemingly modest, in fact represent substantial revenues on a global scale. The LLaMA 4 models are integrated into cloud-computing platforms such as Oracle, AWS, and Azure, and are licensed based on token volume. A single dialogue

session or image analysis can involve tens of thousands of tokens, and major clients purchase billions of units per day.

82. Cumulative revenues therefore amount to several million dollars per month. This constitutes a direct monetization of a derivative product stemming from user content, made possible by the algorithmic transformation of images, texts, and interactions extracted from Facebook and Instagram, as evidenced in **Exhibit P-19.4.**

83. The ethical and legal implications lie in this appropriation of derivative value: users provide the raw material free of charge (their photos and posts), Meta transforms it into a commercial asset (the LLaMA models), and sells access to it without any compensation or explicit consent from the original creators.

84. Meta has also presented a research tool in artificial intelligence designed to generate digital images from text or simple sketches. From a technical standpoint, such generation is only possible because the model was pre-trained on datasets associating texts with real images, thereby learning the correspondence between language and visual representation. In other words, the image is not created "from text alone," but through prior learning based on existing images described by text. This mechanism exemplifies Meta's strategy of jointly exploiting visual and textual data to develop multimodal generative models. The LLaMA 4 models represent the culmination of this approach, as shown in **Exhibit P-19.5.**

85. However, this initiative was challenged by the European privacy advocacy organization NOYB ("**NONE OF YOUR BUSINESS**") which denounced the legal insufficiency of the opt-out mechanism under the General Data Protection Regulation (GDPR). According to NOYB, Meta's choice to rely on a posteriori opposition rather than on prior and explicit consent ("opt-in") contravenes the requirements of European Union law and constitutes an infringement of the fundamental rights of users, as evidenced by **Exhibit P-20**.

86. The training of artificial intelligence models on protected content entails a double violation: on the one hand, the original author is deprived of his or her exclusive right under Sections 3 and 27 of the *Copyright Act*; on the other hand, Meta engages in commercial exploitation based on an invalid license, thereby aggravating the infringement of the author's moral rights pursuant to Sections 14.1 and 28.1 of the same Act.

87. An academic analysis by Chris Gilbert and Mercy Abisah Gilbert confirms this legal risk: generative artificial intelligence models can not only learn general patterns but also memorize passages or entire images from their training data. They may then reproduce them when prompted, which can result in copyright infringements, as evidenced by **Exhibit P-21**.

88. Studies commissioned by the European Payment (Directive 2019/790 (DSM Directive)) confirm these findings. The report *Generative AI and Copyright: Training, Creation, Regulation* relies on massive datasets including images drawn from public social networks. The resulting reproductions are protected works and constitute an infringement within the meaning of Section 27(2) of the *Copyright Act*, as evidenced by **Exhibit P-22**.

89. In such cases, these outputs constitute counterfeits within the meaning of Section 27(2) of the *Copyright Act*, insofar as they reproduce a substantial or recognizable part of a protected work.

90. The report of the U.S. Copyright Office, entitled *Copyright and Artificial Intelligence, Part 3 (2025)*, highlights the systematic use of content from social networks for the training of artificial intelligence systems. It specifically refers to the case *Kadrey v. Meta* (2023) (Case 3:23-cv-03417-VC), **Exhibit P-22.1**, in which Meta was accused of having resorted to pirated books and unverified public data to develop its LLaMA model. The report specifies that general licenses granted by users cannot legalize the republication of images protected by copyright, since only the original author remains empowered to grant a valid authorization, as evidenced by **Exhibit P-23**.

91. Under Canadian law, Sections 3 and 13 of the *Copyright Act* confer upon the author alone the right to authorize the reproduction and use of his or her work. Such authorization must rest upon a legally valid consent, which, under contract law, requires free and informed consent.

92. This principle implies that the author must be fully informed of the scope of his or her agreement, particularly when it involves ceding rights for unlimited, worldwide, and commercial reproductions. In the absence of transparency, or where consent is obtained in an ambiguous, coerced, or surprising manner, such authorization may be contested.

93. One may see here the application of article 1621 of the Civil Code of Québec and articles 6 and 49 of the Charter of Human Rights and Freedoms, the intentional infringement of copyright constituting an infringement of the right of the holder to the peaceful enjoyment of one of their possessions.

94. This is what emerges implicitly, a contrario, from the decision *Magasins Greenberg ltée v. Import-Export René Derhy (Canada) inc.*[1], where Justice Rothman, writing for the Court, overturned in the following terms the award of punitive damages granted at first instance [Unofficial translation]:

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[1] *Magasins Greenberg ltée v. Import-Export René Derhy (Canada) inc.*, J.E. 2004-749 (C.A.), par. 55 and s.;

[67] Our Court has already upheld a judgment at first instance that had granted exemplary damages in the case of a copyright infringement [footnote 11: *Pagliaro v. Pantis* […]].

[68] In my view, it is not necessary to revisit this issue since I believe that, in any event, the award of exemplary damages was not justified in the circumstances of the present case. While the appellants may have shown carelessness, the fault resulting from their negligence did not constitute an intentional, deliberate, and malicious infringement.

95. This glaring lack of transparency and respect for creators' rights is starkly illustrated by the misuse of artists' works in the context of AI-generated content. For instance, Quebec illustrators have publicly denounced the *Festival d'été de Québec* («FEQ») for using images generated by artificial intelligence systems in its promotional campaigns.

96. The artists stated that this use infringed their copyright, as original protected works were used to generate visuals without authorization or compensation.

97. They reminded that the *Copyright Act* prohibits the exploitation of works without the consent of their rights holders. Through this denunciation, the artists raised concerns not only about the legality of the practice but also about the economic and moral harm caused by the erasure of creative work in favor of automated tools. The case highlighted a direct conflict between institutional cultural promotion and the legal protection of the economic and moral rights of creators (as appears from **Exhibit P-23.1)**.

98. In this context, *the Regroupement des artistes en arts visuels du Québec* («**RAAV**») *and the Canadian Artists' Representation* (« **CARFAC**» ) officially submitted recommendations aimed at regulating the use of generative artificial intelligence in the visual arts field.

99. These organizations stated that training AI models using protected works without consent and compensation constitutes a violation of copyright and a misappropriation of the economic and moral value of creations. The recommendations called on the federal government to require AI developers to maintain records of the protected works used, strengthen transparency mechanisms, and ensure fair compensation for artists. The text specified that failing to adhere to these principles jeopardizes the foundations of artistic creation and violates Canada's legal obligations regarding intellectual property(as appears from **Exhibit P-23.2)**.

## VI.    BUSINESS REVENUE

100. The Defendants, Meta Platforms, Inc., Instagram LLC, and WhatsApp LLC, together constitute an integrated digital ecosystem commonly referred to as the "Family of Apps." Through the integration of artificial intelligence technologies,

particularly "Meta AI," within Facebook, Instagram, WhatsApp, and Messenger, they have achieved sustained growth and consolidated their dominance in the digital economy.

101. By the end of 2024, Meta AI had surpassed 600 million monthly active users across its platforms, including Instagram and WhatsApp. Later disclosures mentioned more than 700 million users, with projections of 1 billion users in 2025, paving the way for future monetization strategies (advertising, business-to-business services, subscriptions, and in-app integrations), as appears from **Exhibit P-10.**

102. Financially, Meta Platforms, Inc. reported USD $164.50 billion in consolidated revenue in 2024 (+22% year-over-year). For Q2 2025 alone, revenues reached USD $47.52 billion (+22%), confirming a robust trajectory that supports massive investments in artificial intelligence (as appears from **Exhibit P-24).**

103. These consolidated figures necessarily include revenues generated through Instagram and WhatsApp, whose massive user bases and advertising systems constitute essential drivers of Meta's growth.

104. At the same time, the Defendants announced investments of USD $60 to $65 billion in 2025 to support the training and inference of their AI models, as well as the global deployment of Meta AI across all subsidiaries, including Instagram and WhatsApp (as appears from **Exhibit P-25).**

105. Thus, the consolidated growth in revenue, the massive user base, and the unprecedented reach of Meta Platforms, Inc., Instagram, and WhatsApp demonstrate that their AI products generate substantial commercial value. This value has been directly enhanced by the unlawful exploitation of copyrighted works belonging to Canadian artists, which have been diverted without license or consent to fuel the Defendants' generative AI models.

## VII. THE APPLICATION OF THE PRINCIPLES OF FAIRNESS AND THE SUBSEQUENT VIOLATIONS TO THE CASE AT HAND

### (i) The Effect of the Use on the Work

106. The effect of the use of artistic works for the purpose of training artificial intelligence models constitutes a decisive factor in assessing whether such use is fair or infringing.

107. In the present case, the massive and systematic exploitation of visual artworks by the Defendants does not have an incidental or neutral effect: it generates a direct economic substitution. The generative image models produced (EMU, LLaMA Vision, AI Stickers) compete with artists in the same market for creative and advertising visuals.

108. Unlike the exceptions recognized by jurisprudence (*CCH v. Law Society of Upper Canada*, [2004] 1 S.C.R. 339, paras. 59–60), the use here does not aim at research, private study, or education, but at large-scale commercial exploitation, intended for the creation of derivative products for advertising and direct monetization purposes.

109. This reproduction has a negative effect on the market for original works: AI-generated images substitute for human creations, reducing demand for the works of the group members. The effect of the use is therefore incompatible with any notion of "fair dealing" within the meaning of the *Copyright Act*.

**(ii) Communication to the Public and Large-Scale Reproduction**

110. By transmitting and making the results of its AI models available to the public, notably via Instagram, WhatsApp, and Facebook, Meta carries out a communication to the public by telecommunication within the meaning of paragraph 3(1)(f) of the *Copyright Act*.

111. Unlike the occasional transmissions referred to in *CCH* (paras. 77–79), the Defendants conduct millions of daily distributions of generated images, many of which partially or substantially reproduce protected works.

112. This systematic repetition corresponds to a situation where "the repeated transmission of a copy of the same work to numerous recipients" constitutes a communication to the public and an infringement of copyright.

113. The platforms belonging to the Meta group thus meet all the conditions of such a communication:

    simultaneous distribution to millions of users;
    universal online accessibility;
    direct commercial purpose (advertising, global licensing, data collection).

**(iii) Subsequent Infringement (s. 27(2) *Copyright Act*)**

114. The elements of subsequent infringement, as specified by Justice Rothstein in *CCH* (para. 81), are met:

    I.   Initial infringement: the training of AI models from copied works without authorization constitutes an initial infringement of copyright (s. 27(1) *Copyright Act*).

    II.  Knowledge: Meta and its subsidiaries knew or ought to have known that the datasets used (LAION-5B, Common Crawl, Instagram data, etc.) contained protected works, as indicated in their technical publications.

    III.    Subsequent use: the works thus reproduced were incorporated into AI models subsequently commercialized and distributed to third parties (s. 27(2)(b)).

115. By continuing to exploit these models despite knowledge of their illicit origin, the Defendants are guilty of a subsequent infringement for commercial purposes, aggravating the initial fault and engaging their full liability.

**(iv) Absence of Applicable Exception**

116. Unlike the "Great Library of the Law Society" in *CCH* (para. 84), Meta, Instagram, and WhatsApp are private, for-profit companies whose purpose is the monetization of data and the works they exploit.

117. They meet none of the exclusion criteria:
    they are not established or operated for non-profit purposes;
    they do not act within a public interest framework;
    they derive direct revenue from the reproduced works.

## VIII.   THE DEFENDANTS' WRONGDOINGS

### (a) Infringement Related to Data Input

118. Under the *Copyright Act* (R.S.C., 1985, c. C-42), members of the group, Canadian visual artists such as the plaintiff Chloé Sabourin, hold the exclusive rights of reproduction over their visual works, including the right to authorize their reproduction (s. 3(1) *Copyright Act*).

119. The Defendants carried out or authorized, without the knowledge of the group members, numerous acts reserved to them, thereby violating section 27(1) of the *Copyright Act*. By reproducing without authorization the artists' works (paintings, textile works, etc.), they committed acts reserved to copyright holders.

120. Instead of negotiating licenses, the Defendants knowingly obtained unauthorized copies of works from databases (scraping, LAION-5B, Common Crawl) and from the Facebook and Instagram platforms, thereby contravening their legal obligations.

### (b) Infringement Related to Data Output

121. By distributing and making their generative artificial intelligence models available to the public, Meta commits and continues to commit subsequent infringements within the meaning of paragraph 27(2)(b) of the *Copyright Act*.

122. The integration of members' works into AI models without attribution also violates their moral rights (sections 14.1 and 28.1 *Copyright Act*), depriving artists of recognition for their creative contribution.

123. The unauthorized exploitation of protected works to develop competing tools constitutes parasitic and unfair competition, engaging the Defendants' extra-contractual liability and threatening the economic viability of creators.

**(c) Provision of Services for the Purpose of Infringement**

124. The Defendants also incur liability under section 27(2.3) of the *Copyright Act*, according to the criteria set out in section 27(2.4):

(a) By promoting their services as capable of reproducing the styles of well-known artists, they encouraged infringements within the meaning of s. 27(2.4)(a).

(b) They had actual knowledge of the infringements facilitated by their systems, as evidenced by their policy changes and public communications.

(c) Despite their ability to limit infringements, they knowingly failed to implement technical safeguards, using unlicensed material even though lawful databases existed.

(d) They derived millions of dollars in direct profits from the products in question (s. 27(2.4)(e)).

125. These acts constitute deliberate violations of the rights to integrity, dignity (s. 4), and peaceful enjoyment of property (s. 6) guaranteed by the *Charter of Human Rights and Freedoms*, justifying the granting of punitive damages.

## IX.    DAMAGES AND REMEDIES

126. The members of the group claim both compensatory and punitive damages, as well as reimbursement of expert fees. Pursuant to sections 34, 35, and 38.1 of the *Copyright Act*:

127. The remaining issue concerns the compensatory and punitive damages claimed by the Group member, as well as the question of expert fees.
Articles 34, 35, and 38.1 of the *Copyright Act* provide as follows:

**34.** (1) Where copyright has been infringed, the owner of the copyright is, subject to this Act, entitled to all remedies by way of injunction, damages, accounts, delivery up and otherwise that are or may be conferred by law for the infringement of a right.

**35.** (1) Where a person infringes copyright, the person is liable to pay such damages to the owner of the copyright as the owner has suffered due to the infringement and, in addition to those damages, such part of the profits that the infringer has made from the infringement and that were not taken into account in calculating the damages as the court considers just.
(2)    In proving profits,

**38.1** (1)    Subject to this section, a copyright owner may elect, at any time before final judgment is rendered, to recover, instead of damages and profits referred to in subsection 35(1), an award of statutory damages for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally :

(2) In any proceedings for an infringement of moral rights, the court may grant to the holder of those rights all remedies by way of injunction, damages, accounts, delivery up and otherwise that are or may be conferred by law for the infringement of a right.

(3) The costs of all parties in any proceedings in respect of the infringement of a right conferred by this Act shall be in the discretion of the court.

[…]

(a) the plaintiff shall be required to prove only receipts or revenues derived from the infringement; and

(b) the defendant shall be required to prove every element of cost that the defendant claims.

(a) in a sum of not less than $500 and not more than $20,000 that the court considers just, with respect to all infringements involved in the proceedings for each work or other subject-matter, if the infringements are for commercial purposes; and

(b) in a sum of not less than $100 and not more than $5,000 that the court considers just, with respect to all infringements involved in the proceedings for all works or other subject-matter, if the infringements are for non-commercial purposes.

[…]

(5) In exercising its discretion under subsections (1) to (4), the court shall consider all relevant factors, including

(a) the good faith or bad faith of the defendant;

(b) the conduct of the parties before and during the proceedings; and

(c) the need to deter other infringements of the copyright in question.

[…]

(7) An election under subsection (1) does not affect any right that the copyright owner may have to exemplary or punitive damages.

## X.    HARM SUFFERED BY GROUP MEMBERS AND REMEDIES

128. The visual artists in the group, including the Applicant, invest enormous amounts of time, energy, and resources into their creations, which are an expression of their being. Their works, whether colorful, feminist, and minimalist paintings, or creations incorporating materials such as wool, reflect themes of nature and emotion.

129. By bypassing the legitimate licensing market, the Defendants have not only infringed their exclusive rights but have also undermined the foundation of a fair

market for visual creators. Their unlawfully trained AI models produce images that directly compete with those of the group members, jeopardizing their livelihood.

130. The members have thus suffered:

a) Material damages, including loss of income and markets, since AI-generated images directly compete with their original works and reduce the demand for their legitimate creations;

b) Moral damages, connected to the pain, sadness, and anxiety of seeing their works misappropriated by multinationals without their consent or credit, as well as to the loss of recognition essential to their artistic identity;

c) Harm to the intellectual property bond, resulting from the impossibility of knowing where and how their works are used, integrated, or transformed. This constant uncertainty, of no longer knowing where their creation circulates, in which datasets it is exploited, or in what form it may reappear, creates a sense of anguish, helplessness, and alienation from their own work;

d) A sense of symbolic expropriation and professional insecurity, because their work ceases to be a controllable and identifiable asset and becomes instead an anonymous datum exploited for the Defendants' benefit, thereby undermining their confidence in the very possibility of protecting their intellectual property.

## IX. CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION

### a. Composition of Class

131. The group is composed of Canadian visual artists (including painters, illustrators, draftsmen, photographers, sculptors, and textile artists) whose copyrighted visual works were reproduced, in whole or in part, without authorization, by or for the defendants in the course of developing or training their generative artificial intelligence models.

132. There are no identified subgroups at this stage. The exact composition of the group is difficult to determine precisely due to the secrecy maintained by the defendants regarding the works used, but the class action targets all Quebec visual artists affected across the country.

### b. Facts Giving Rise to an Individual Action by the Applicant

133. Meta AI and the LLaMA ecosystem have been deployed on a very large scale within Meta's platforms and to third-party developers, reaching a global user base of several hundred million people.

134. The image-generation and transformation capabilities are accessible to a vast public, facilitating the circulation and reproduction of content derived from protected works.

135. These elements illustrate the magnitude of the risk of reproduction, integration, and dissemination of protected works within a massively used AI system, without any transparent mechanism for opt-out, licensing, or compensation for artists.

136. Among the affected artists is the Applicant, Chloé Sabourin, a visual artist and painter from Montreal, born in 1993. She developed her creativity from a young age, influenced by international stays and by her mother, an art collector. A graduate of Cégep Jean-de-Brébeuf and holder of a master's degree in arts management in Paris, she has exhibited her colorful and feminist works in Montreal, Toronto, Los Angeles, and New York, gaining growing recognition.

137. Her works, notably *Souvenir au lac Memphrémagog*, *Deeper View*, and *All the Feels*, are protected by copyright and moral rights. She has never consented to their reproduction by Meta. She recently learned that her works had been exploited without her knowledge in the development and operation of the defendant's AI models, including LLaMA Vision.

138. She expresses outrage that this multibillion-dollar company has chosen to usurp her work and that of other Canadian artists in pursuit of its quest to dominate the generative AI market.

### c. Breaches of copyrights

139. The group members, including the Applicant, hold under the *Copyright Act* the exclusive right of reproduction of their visual works, including the power to authorize or refuse their use.

140. Meta Platforms, Inc. reproduced without authorization the protected works of the artists, including those of the Applicant, by carrying out acts reserved to copyright holders, thereby contravening sections 3(1) and 27(1) of the *Copyright Act.*

141. Instead of entering into licenses, Meta unlawfully obtained copies through scraping, databases, and the use of artists' Facebook and Instagram content, in clear disregard of their rights.

142. Moreover, by incorporating these works into its generative artificial intelligence models distributed worldwide, Meta commits ongoing violations of section 27(2)(b) of the *Copyright Act*, while infringing the artists' moral rights by omitting any attribution.

143. Finally, the use of these works to develop competing AI tools deprives the artists of recognition and weakens their economic position, constituting a form of parasitic and unfair competition that engages Meta's liability.

### d. Adequacy of Proposed Class Representative

144. The Applicant is committed to representing the members of the group. She has the necessary time to devote herself fully to the case. She mandates us to gather all relevant information and ensures constant follow-up of the proceedings.

145. Acting in good faith, she undertakes the necessary steps to defend the rights of Quebecers and ensures that any harm suffered by each member is remedied.

### e. District

146. The Quebec courts have jurisdiction to hear disputes related to alleged faults committed, in whole or in part, on the territory of Quebec.

147. This jurisdiction is reinforced when the Plaintiff resides in Quebec, as is the case here, and when several members of the group targeted by the action are also domiciled in the province.

148. Under the *Copyright Act*, a class action may be brought before the courts of Montreal.

149. This approach ensures fair access to justice for all members of the group, whether they reside in Quebec or elsewhere in Canada.

150. Quebec is a major artistic hub in Canada.

151. According to the 2021 census, Quebec is the second province in Canada in terms of the total number of artists, with 43,100 artists, representing 21% of all artists in the country, as shown by **Exhibit 26**.

152. This dynamism is particularly pronounced in Montreal, which is an exceptional art center. The city is home to nearly half (48%) of Quebec's professional artists, or 20,900 individuals. Moreover, artists account for 1.8% of Montreal's workforce, a rate significantly higher than the Quebec average (0.9%) and the Canadian average (1.0%), as shown by **Exhibit 26.1**.

153. The Plaintiff proposes that the class action be brought before the courts of Montreal, arguing that this jurisdiction is the most appropriate given the location of the parties involved and the place where the alleged faults were committed.

154. This proposal relies on the capacity of the Quebec courts to handle disputes of national scope while taking into account local specificities, notably Montreal's artistic vitality.

155. The city is moreover recognized as a preferred venue for Quebec's artistic community, with a large number of art galleries, as previously mentioned.

156. The artistic ecosystem, supported by emblematic sites such as the Old Port of Montreal, makes the province a natural jurisdiction to hear disputes concerning the rights of artists.

### f. Common Issues

157. The claims of the Class members raise identical, similar or related questions of fact or law, namely:

(a) Did the defendants use, reproduce, or copy, without consent or licence, protected photographs, videos, images, or other artistic works published by the group members on their platforms or integrated into their artificial intelligence models (s. 3, 27 *Copyright Act*)?

(b) Did the defendants circumvent or neutralize technological protection measures put in place to protect these artistic works (s. 41.1 *Copyright Act)*?

(c) Did the defendants remove, modify, or alter copyright management information incorporated into the artistic works (s. 41.22(1) *Copyright Act*)?

(d) Did the defendants infringe the moral rights of the group members in their artistic works (s. 14.1 *Copyright Act)*?

(e) Did the defendants violate rights guaranteed to the group members by the Charter of Human Rights and Freedoms?

(f) Did the defendants derive an economic advantage from the unauthorized use of the group members' artistic works, notably through the improvement of their artificial intelligence models and the commercial valuation of their platforms?

(g) Did the artists, including the applicant, suffer prejudice in Quebec, including a loss of control, a reduction in licensing revenues, or an infringement of the market value of their artistic works?

(h) Were the authors deprived of the opportunity to choose to license their artistic works or to refuse their use by the defendants?

(i) Does Meta's use of artistic works published on its platforms or incorporated into its artificial intelligence systems, for the purpose of training those models, create or risk creating competition or substitution detrimental to the original works in the marketplace?

(j) Should the defendants' conduct, in the management and use of the group members' content, be considered as aggravating the infringement of their rights?

(k) Do the circumstances of the case allow for the granting of punitive damages under the applicable law?

(l) Are the group members entitled to compensatory damages and/or statutory damages (s. 38.1 *Copyright Act*)?

(m) Must the defendants account for the profits made through the use of the group members' artistic works and restitute their value (s. 35 and 41.1 *Copyright Act*)?

(n) Is it necessary to issue a permanent injunction prohibiting the defendants from continuing to use or distribute their artificial intelligence models trained on protected artistic works without authorization?

(o) What are, generally, the remedies and redress (damages, restitution, injunction, corrective measures) to which the group members may be entitled?

(p) Did the defendants obtain the explicit and informed consent of the group members before using their photographs, videos, images, and other copyright-protected artistic works, whether on their platforms or in the context of the training, testing, or distribution of their artificial intelligence models ?

### g. Nature of the Action and Conclusions Sought

158.  The action that the applicant wishes to institute for the benefit of the class members is an action in compensatory damages, restitution of profits, punitive damages, and injunctive relief.

159.  The conclusions that the applicant wishes to introduce by way of an application to institute *proceedings are:*

A. **GRANT** the present application;

B. **ORDER** the defendants to pay an amount to be determined by the Court as punitive damages, taking into account the unlawful and intentional infringement of the copyright and moral rights of the group members, with interest at the legal rate and the additional indemnity starting from the judgment;

C. **ORDER** the defendants to pay each group member the sum of twenty thousand dollars ($20,000), as compensatory damages for all artistic works exploited without authorization, said amount being adjustable, if applicable, to reflect the exact number of artistic works concerned, with interest at the legal rate and additional indemnity starting from the service of the application;

D. **ORDER** the defendants, in addition to the damages referred to in paragraph C, to restitute to each group member a fair proportion of the profits made as a result of the copyright infringements, with interest at the legal rate and additional indemnity starting from the service of the application;

E. **SUBSIDIARILY AND AT THE APPLICANTS' CHOICE, IN REPLACEMENT OF CONCLUSIONS C AND D:** ORDER the defendants to pay each group member the sum of twenty thousand dollars ($20,000) per work exploited without authorization, as statutory damages in accordance with section 38.1 of the *Copyright Act*, R.S.C. (1985), c. C-42, with interest at the legal rate and additional indemnity starting from the service of the application;

F. **ORDER** the defendants**,** under penalty of a daily fine, to implement, for each of its generative artificial intelligence image models, a comprehensive traceability mechanism**,** including: (i) The integration into each generated image of a unique digital mark certifying its origin; and (ii) The establishment of an internal system for recording and verification**,** enabling the reliable and transparent authentication of the origin and dissemination path of each image.

G. **SUBSIDIARILY, AND AT THE APPLICANTS' CHOICE, IN REPLACEMENT OF CONCLUSION F., ORDER** the defendants to implement, on their image generation and distribution platforms, a mechanism allowing artists whose artistic works have been or are being used to train their models to identify and monetize their contributions, particularly through a licensing, remuneration, or equitable redistribution system, in order to ensure compensation in accordance with the *Copyright Act*.

H. **DECLARE** that any use of copyright-protected artistic works in the training of artificial intelligence models by the defendants is conditional on the prior obtaining of explicit and informed consent from the rights holders.

I. **ORDER** the defendants to implement, on each of their platforms, a technical device guaranteeing the effective collection of user consent, comprising: (i) a distinct and mandatory pop-up window clearly informing of the intended use of their protected content; (ii) an acceptance or refusal box allowing a free and informed choice; (iii) a register for the retention of these choices, consultable for audit and verification purposes by the competent authorities or the rights holders.

J. **ORDER** the collective recovery of the claims arising from the alleged breaches.

K. **ORDER** the defendants to deposit the totality of the sums allocated by judgment, including interest and the additional indemnity, with the office of the clerk of this Court.

L. **THE WHOLE** with judicial costs, including expert fees, notice publication fees, and those relating to the administration of collective claims.

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

A**. GRANT** the present application;

B. **AUTHORIZE** the institution of a class action for indemnity, for the restitution of profits, and accompanied by injunctive measures.

C. **APPOINT** Chloé Sabourin as the representative of the group of persons described below:

> All persons domiciled in the Province of Quebec who hold copyright, within the meaning of the *Copyright Act* (R.S.C. 1985, c. C-42), in an artistic work, whose works have been used without authorization by the defendants to develop, train, and/or commercialize their artificial intelligence models since September 23, 2023, or any other group as may be determined by the Court.

D. **IDENTIFY** the following as the main issues of law and fact to be dealt with collectively:

> (a) Did the defendants use, reproduce, or copy, without consent or licence, protected photographs, videos, images, or other artistic works published by the group members on their platforms or integrated into their artificial intelligence models (s. 3, 27 *Copyright Act*)?

> (b) Did the defendants circumvent or neutralize technological protection measures put in place to protect these artistic works (s. 41.1 *Copyright Act*)?

> (c) Did the defendants remove, modify, or alter copyright management information incorporated into the artistic works (s. 41.22(1) *Copyright Act*)?

> (d) Did the defendants infringe the moral rights of the group members in their artistic works (s. 14.1 *Copyright Act*)?

> (e) Did the defendants violate rights guaranteed to the group members by the Charter of Human Rights and Freedoms?

> (f) Did the defendants derive an economic advantage from the unauthorized use of the group members' artistic works, notably through the improvement of their artificial intelligence models and the commercial valuation of their platforms?

> (g) Did the artists, including the applicant, suffer prejudice in Quebec, including a loss of control, a reduction in licensing revenues, or an infringement of the market value of their artistic works?

> (h) Were the authors deprived of the opportunity to choose to license their artistic works or to refuse their use by the defendants?

(i) Does Meta's use of artistic works published on its platforms or incorporated into its artificial intelligence systems, for the purpose of training those models, create or risk creating competition or substitution detrimental to the original works in the marketplace?

(j) Should the defendants' conduct, in the management and use of the group members' content, be considered as aggravating the infringement of their rights?

(k) Do the circumstances of the case allow for the granting of punitive damages under the applicable law?

(l) Are the group members entitled to compensatory damages and/or statutory damages (s. 38.1 *Copyright Act*)?

(m) Must the defendants account for the profits made through the use of the group members' artistic works and restitute their value (s. 35 and 41.1 *Copyright Act*)?

(n) Is it necessary to issue a permanent injunction prohibiting the defendants from continuing to use or distribute their artificial intelligence models trained on protected artistic works without authorization?

(o) What are, generally, the remedies and redress (damages, restitution, injunction, corrective measures) to which the group members may be entitled?

(p) Did the defendants obtain the explicit and informed consent of the group members before using their photographs, videos, images, and other copyright-protected artistic works, whether on their platforms or in the context of the training, testing, or distribution of their artificial intelligence models?

E. **IDENTIFY** the following as the corresponding conclusions sought:

A**. GRANT** the present application;

B. **ORDER** the defendants to pay an amount to be determined by the Court as punitive damages, taking into account the unlawful and intentional infringement of the copyright and moral rights of the group members, with interest at the legal rate and the additional indemnity starting from the judgment;

C. **ORDER** the defendants to pay each group member the sum of twenty thousand dollars ($20,000), as compensatory damages for all artistic works exploited without authorization, said amount being adjustable, if applicable, to reflect the exact number of artistic works concerned, with interest at the legal rate and additional indemnity starting from the service of the application;

D. **ORDER** the defendants, in addition to the damages referred to in paragraph C, to restitute to each group member a fair proportion of the profits made as a result of the copyright infringements, with interest at the legal rate and additional indemnity starting from the service of the application;

E. **SUBSIDIARILY AND AT THE APPLICANTS' CHOICE, IN REPLACEMENT OF CONCLUSIONS C AND D: ORDER** the defendants to pay each group member the sum of twenty thousand dollars ($20,000) per work exploited without authorization, as statutory damages in accordance with section 38.1 of the *Copyright Act*, R.S.C. (1985), c. C-42, with interest at the legal rate and additional indemnity starting from the service of the application;

F. **ORDER** the defendants**,** under penalty of a daily fine, to implement, for each of its generative artificial intelligence image models, a comprehensive traceability mechanism**,** including: (i) The integration into each generated image of a unique digital mark certifying its origin; and (ii) The establishment of an internal system for recording and verification**,** enabling the reliable and transparent authentication of the origin and dissemination path of each image.

G. **SUBSIDIARILY, AND AT THE APPLICANTS' CHOICE, IN REPLACEMENT OF CONCLUSION F., ORDER** the defendants to implement, on their image generation and distribution platforms, a mechanism allowing artists whose artistic works have been or are being used to train their models to identify and monetize their contributions, particularly through a licensing, remuneration, or equitable redistribution system, in order to ensure compensation in accordance with the *Copyright Act*.

H. **DECLARE** that any use of copyright-protected artistic works in the training of artificial intelligence models by the defendants is conditional on the prior obtaining of explicit and informed consent from the rights holders.

I. **ORDER** the defendants to implement, on each of their platforms a technical device guaranteeing the effective collection of user consent, comprising: (i) a distinct and mandatory pop-up window clearly informing of the intended use of their protected content; (ii) an acceptance or refusal box allowing a free and informed choice; (iii) a register for the retention of these choices, consultable for audit and verification purposes by the competent authorities or the rights holders.

J. **ORDER** the collective recovery of the claims arising from the alleged breaches.

K. **ORDER** the defendants to deposit the totality of the sums allocated by judgment, including interest and the additional indemnity, with the office of the clerk of this Court.

L. **THE WHOLE** with judicial costs, including expert fees, notice publication fees, and those relating to the administration of collective claims.

F. **DECLARE** that, unless excluded, the group members shall be bound by any judgment to be rendered in the class action in the manner provided by law;

G. **SET** the exclusion period at thirty (30) days from the date of the notice to members, at the expiration of which period the group members who have not excluded themselves shall be bound by any judgment to be rendered;

H. **ORDER** the publication of a notice to members in the terms and by the means to be determined;

I. **REFER** the file to the Chief Justice for the determination of the district in which the class action must be exercised and the designation of the judge to hear it;

J. **ORDER** the clerk of this court, in the event that the action must be exercised in another district, to transmit the file, upon the Chief Justice's decision, to the clerk of that other district;

K. **THE WHOLE** with judicial costs including notice publication fees.

Montreal, October 8th, 2025

_____
**TWIN LISBET INC.**
Mtre Amal Sebti, Attorney for the Applicant
79 Bresoles Street, Suite 111
Montréal, Québec, H2Y 1V7
Telephone: (514) 993 6920
Fax: (579) 279 8845
Email: sebtiamal@twinlisbet.com

## SUMMONS
## (Art. 145 C.C.P. and following)

**Filing of a judicial application**

Take notice that the Applicant has filed this Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Applicant in the office of the Superior Court 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 East, Montréal, Quebec, H2Y 1B6, Canada**, 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 Applicant's lawyer or, if the Applicant is not represented, to the Applicant.

**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 Applicant 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.

**Place where the legal action is filed**

This application is, except in certain cases, heard in the judicial district where your domicile is located or, failing that, your residence, or the domicile you have elected or

agreed upon with the Applicant. If it was not filed in the district where it may be heard and you want it transferred there, you may file a request to that effect with the court.

However, if this application concerns an employment, consumer, or insurance contract, or the exercise of a hypothecary right on the immovable serving as your principal residence, it is heard in the district where the domicile or residence of the employee, consumer, or insured is located, whether they are the Applicant or the defendant, in the district where that immovable is located, or in the district where the loss occurred if it involves property insurance. If this application was not filed in the district where it may be heard and you wish it to be transferred there, you may, without any contrary agreement being raised against you, submit a request to that effect to the special clerk of that district.

## Transfer of the application to the Small Claims Division

If you are eligible to act as a Applicant under the rules governing the recovery of small claims, you may contact the court clerk to have this application handled according to those rules. If you make such a request, the Applicant's legal costs may not exceed the amount of fees provided for small claims recovery.

## Exhibits supporting the application

In support of the Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Applicant, the Applicant intends to use the following exhibits:

| Exhibit No. | Description |
|---|---|
| P-1 | Press article, *Journal Accès* (March 2024) – Profile of Ms. Chloé Sabourin, visual artist. |
| P-1.1 | Overview of Ms. Chloé Sabourin's artistic works, including visual and descriptive excerpts. |
| P-2 | Excerpt from the Delaware Business Register confirming the legal incorporation of Meta Platforms, Inc. |
| P-3 | Article from the official *Meta Newsroom* blog (October 28, 2021) – Presentation of Meta: a social technologies company. |
| P-3.1 | Excerpt from the corporate profile of Facebook Canada Ltd. taken from the federal register (Profile_Report_FR). |
| P-4 | Press article – *Reuters* (September 30, 2025): "Hegseth slams 'fat generals,' says US officers should resign if they don't support his agenda." |
| P-5 | Official corporate document – SEC Form 8-K (October 6, 2014): Closing of WhatsApp Acquisition. |
| P-6 | Excerpt from Meta Investor Relations website (September 2025) – Financial data (Q2 2025, annual meeting, dividends). |
| P-7 | Meta Terms of Service, in effect as of January 1, 2025. |
| P-8 | Technical blog post by Meta (April 18, 2024) – *Introducing Meta LLaMA 3.* |

| Exhibit No. | Description |
|---|---|
| **P-9** | Scientific article – *arXiv* (September 27, 2023), *Emu: Enhancing Image Generation Models Using Photogenic Needles in a Haystack.* |
| **P-10** | Official *Meta Newsroom* release (September 27, 2023) – *Introducing New AI Experiences Across Our Family of Apps and Devices* (launch of AI tools and AI Stickers). |
| **P-11** | Legal article – *ClassAction.org* (September 19, 2023): *Meta Used Copyrighted Works to Train AI Software LLaMA Without Permission, Class Action Says.* |
| **P-12** | Scientific article – *arXiv* (September 15, 2023), *LLaVA-1.5: Improved Visual Instruction Tuning.* |
| **P-12.1** | Excerpt from Meta technical publication (2025) – Launch of LLaMA 4, LLaMA 4 Scout, and LLaMA 4 Maverick models integrated into Meta products. |
| **P-13** | Scientific study – *NeurIPS* (December 2022), *LAION-5B: An Open Large-Scale Dataset for Training Next Generation Image-Text Models.* |
| **P-14** | Scientific article – *arXiv* (January 31, 2023), *Scaling Laws for Generative Mixed-Modal Language Models.* |
| **P-15** | Scientific publication – *arXiv* (July 10, 2023), *Toolformer: Language Models Can Teach Themselves to Use Tools.* |
| **P-16** | Technical sheet – Hugging Face (September 25, 2024), *LLaMA-3.2-11B-Vision.* |
| **P-16.1** | Meta Terms of Service (2025 edition) – governing Facebook, Messenger, and other Meta products. |
| **P-17** | Press article – *Observer* (April 2024), *Mark Zuckerberg Made Meta A.I. the Main Character in Q1 Earnings.* |
| **P-18** | Official transcript – Meta Platforms, Inc., Fourth Quarter 2023 Results Conference Call (February 2024), featuring Mr. Zuckerberg and Ms. Li. |
| **P-19** | News dispatch – *Associated Press* (April 2025), *Meta says it will resume AI training with public content from European users.* |
| **P-19.1** | Official technical sheet from GitHub repository *meta-llama/llama-models* – MODEL_CARD.md, detailing specifications of LLaMA 4 models. |
| **P-19.2** | GitHub technical report – CUDA out-of-memory issue when running *meta-llama/LLaMA-4-Maverick-17B-128E-Instruct-FP8*, confirming model size and complexity. |
| **P-19.3** | Official page from Llama.com (2025) – *Industry Leading, Open-Source AI.* |
| **P-19.4** | Economic article – *Reuters* (January 24, 2025), *Meta to spend up to $65 billion this year to power AI goals,* confirming Meta's investments in LLaMA 4. |
| **P-19.5** | Meta AI research article (July 14, 2022), *New AI Research Tool Turns Ideas Into Art,* demonstrating the origin of Meta's multimodal generative models. |
| **P-20** | Press article – *Reuters* (June 2024), *Meta faces call in EU not to use personal data for AI models,* describing NOYB's GDPR complaint. |

| Exhibit No. | Description |
|---|---|
| P-21 | Academic article – Chris Gilbert & Mercy Abisah Gilbert, *International Journal of Scientific Research and Modern Technology* (2024), *Navigating the Dual Nature of Deepfakes.* |
| P-22 | Institutional study – Council of Europe, CDMSI (2025), *Study on the Impact of Artificial Intelligence Systems on Media Pluralism.* |
| P-22.1 | U.S. court case – *Kadrey v. Meta* (2023), Case No. 3:23-cv-03417-VC, concerning the use of copyrighted works in LLaMA training. |
| P-23 | Official report – U.S. Copyright Office (2024), *Copyright and Artificial Intelligence: Part 3 – Generative AI Training Report.* |
| P-23.1 | Press article – *TVA Nouvelles*, "It makes me angry!": illustrators denounce the use of AI-generated images in FEQ promotions. |
| P-23.2 | Joint recommendations by RAAV and CARFAC (2024) regarding the regulation of artificial intelligence in visual arts. |
| P-24 | Consolidated financial report – Meta Platforms, Inc., *Meta Reports Second Quarter 2025 Results.* |
| P-25 | Official announcement – Meta Platforms, Inc., *Zuckerberg Sets Meta's AI Targets for the Year, Expects to Spend $60 Billion on Growth.* |
| P-26 | Statistical excerpt – Statistics Canada, Number of artists by province and territory in Canada. |
| P-26.1 | Excerpt from statistical profile – City of Montreal, Portrait of 20,900 Montreal artists. |

**Notice to attend a case management conference**

Within 20 days following the filing of the protocol mentioned above, the court may summon you to a case management conference to ensure the proper conduct of the proceedings. Otherwise, this protocol will be deemed accepted.

Montreal, October 8th, 2025

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**TWIN LISBET INC.**
Mtre Amal Sebti
Attorney for the Applicant
79 Bresoles Street, Suite 111
Montréal, Québec, H2Y 1V7
Telephone: (514) 993 6920
Telecopier: (579) 279 8845
Email: sebtiamal@twinlisbet.com

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## NOTICE OF PRESENTATION
(Articles 146 and 574 C.C.P.)
(Article 55 of the Regulation of the Superior Court of Québec in Civil Matters)

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TO :


**META PLATFORMS, INC,**
**FACEBOOK CANADA LTD,**
**WHATSAPP LLC,**
**INSTAGRAM LLC,**

*Defendants*

**TAKE NOTICE** that the Applicant's Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Applicant will be presented before the Superior Court at **1 Notre-Dame East, Montréal, Quebec, H2Y 1B6, Canada**, in the judicial district of Montréal, on a date to be determined by the coordinating judge of the Class Action Chamber.

**GOVERN YOURSELVES ACCORDINGLY.**


Montreal, October 8th, 2025

_____
**TWIN LISBET INC.**
Mtre Amal Sebti
Attorney for the Applicant
79 Bresoles Street, Suite 111
Montréal, Québec, H2Y 1V7
Telephone: (514) 993 6920
Telecopier: (579) 279 8845
Email: sebtiamal@twinlisbet.com

**CANADA**

**PROVINCE OF QUÉBEC**
**DISTRICT OF MONTRÉAL**

**N°:** 500-06-001425-251

**SUPERIOR COURT**
**(Class Action)**

**CHLOÉ SABOURIN,**

*Applicant*

v.

**META PLATFORMS, INC.,**
**FACEBOOK CANADA LTD,**
**WHATSAPP LLC.,**
**INSTAGRAM LLC.,**

*Défendants*

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## CERTIFICATE OF REGISTRATION
## IN THE NATIONAL REGISTRY OF CLASS ACTIONS
(Article 55 of the Regulation of the Superior Court of Québec in Civil Matters)

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The Applicant, through her undersigned attorney, certify that the Application for authorization to institute a class action and to be appointed as representatives will be registered in the National Registry of Class Actions.

Montreal, October 8th, 2025

_____
**TWIN LISBET INC.**
Mtre Amal Sebti
Attorney for the Applicant
79 Bresoles Street, Suite 111
Montréal, Québec, H2Y 1V7
Telephone: (514) 993 6920
Telecopier: (579) 279 8845
Email: sebtiamal@twinlisbet.com

500-06-001425-251

**(CLASS ACTION)**
**SUPERIOR COURT**
**DISTRICT OF MONTREAL**

**CHLOÉ SABOURIN**

*Applicant*

**v.**

**META PLATFORMS, INC.,**
**FACEBOOK CANADA LTD,**
**WHATSAPP LLC.,**
**INSTAGRAM LLC.,**

*Defendants*

**ORIGINAL**

**TWIN LISBET**

Law firm.
Cabinet d'avocats.

Mtre Amal Sebti
**TWIN LISBET INC.**
Attorneys
79 Bresoles Street, Suite 111
Montréal, Québec, H2Y 1V7
Email : sebtiamal@twinlisbet.com
Direct telephone :     (514) 993 6920
Fax :                (579) 279 8845

File N° :  10042025
Code Involved: BT1993