

(Class Action)
Superior Court

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

NO.: 500-06-000754-156

DATE:

January 24, 2018

PRESENT: THE HONORABLE KIRKLAND CASGRAIN, J.S.C.

STEVE ABIHSIRA

Applicant

v.

STUBHUB, INC.

EBAY, INC.

VIVID SEATS, LLC.

SEATGEEK, INC.

FANXCHANGE LIMITED

TICKETNETWORK, INC.

RAZORGATOR, INC.

TICKETCITY, INC.

UBERSEAT

TICKETMASTER CANADA LTD.

TICKETMASTER CANADA ULC

TICKETMASTER CANADA HOLDINGS ULC

TICKETMASTER LLC

TNOW ENTERTAINMENT GROUP, INC.

VIAGOGO AG

Defendants

COPIE CERTIFIÉE CONFORME
AU DOCUMENT DÉTENU PAR LA COUR


Personne désignée par le greffier



JUDGMENT

(ON A CONSOLIDATED APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AGAINST STUBHUB INC., EBAY INC., VIVID SEATS LLC, SEATGEEK INC., UBERSEAT, FANXCHANGE LTD. AND TICKETNETWORK INC., FOR SETTLEMENT PURPOSES AND FOR APPROVAL OF NOTICES TO CLASS MEMBERS OF A SETTLEMENT APPROVAL HEARING)

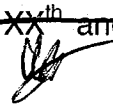
- [1] **CONSIDERING** the 3^d Re-Amended Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff filed by Applicant on February 20th, 2017 against StubHub Inc., eBay Inc., Vivid Seats LLC, SeatGeek Inc., Uberseat, FanXchange Ltd. and Ticketnetwork Inc. on behalf of the following proposed Class (the "Class Members"):

Class:

Every consumer, pursuant to the terms of Quebec's Consumer Protection Act ("CPA"), residing in Quebec at the time of purchase, who since August 28th, 2012 (the "Class Period"), while physically located in Quebec, has purchased from any of the Respondents or the Vivid Seats Subsidiary Clients at least one "Ticket" (as defined in section 236.1 CPA as meaning any document or instrument that upon presentation gives the ticket holder a right of entry to a show, sporting event, cultural event, exhibition or any other kind of entertainment) either:

(a) at a price above that announced by the vendor authorized to sell the Tickets by the producer of the event; and/or,

(b) who paid a price higher than the price advertised by Respondents on their respective websites and/or mobile applications (at the first step), excluding the Quebec sales tax or the Goods and Services Tax;

- [2] **CONSIDERING** the transaction executed between the Applicant and Defendants StubHub Inc., eBay Inc., Vivid Seats LLC, SeatGeek Inc., Uberseat, FanXchange Ltd. and Ticketnetwork Inc. ~~on December XXth and XXth, 2017~~ filed as Exhibit SVT-1 (the "**Settlement Agreement**"); 
- [3] **CONSIDERING** the Consolidated Application for Authorization to Institute a Class Action for Settlement Purposes and for Approval of Notices to Class Members of a Settlement Approval Hearing (the "**Consolidated Application**");
- [4] **CONSIDERING** that pursuant to the Consolidated Application, the Applicant is asking the Court to authorize the class action against Defendants StubHub Inc., eBay Inc., Vivid Seats LLC, SeatGeek Inc., Uberseat, FanXchange Ltd. and

Ticketnetwork Inc. for settlement purposes and to approve notices informing the Class Members that the Settlement Agreement will be submitted to the Court for approval;

- [5] **CONSIDERING** the proposed French and English versions of the pre-approval notice filed respectively *en liasse* as Exhibit SVT-2 in support of the Consolidated Application;
- [6] **CONSIDERING** the submissions of counsel for the Applicant and counsel for the Defendants StubHub Inc., eBay Inc., Vivid Seats LLC, SeatGeek Inc., Uberseat, FanXchange Ltd. and Ticketnetwork Inc., who consent to the Consolidated Application;
- [7] **CONSIDERING** that the criteria set out in article 575 of the *Code of Civil Procedure* to authorize a class action are applied with flexibility when the authorization of the class action is sought for settlement purposes¹;
- [8] **CONSIDERING** articles 575, 576, 579, 580, 581 and 590 of the *Code of Civil Procedure*;

FOR THESE REASONS, THE COURT:

- [9] **GRANTS** the *Consolidated Application for Authorization to Institute a Class Action for Settlement Purposes and for Approval of Notices to Class Members of a Settlement Approval Hearing*;
- [10] **AUTHORIZES** Applicant, for the purpose of settlement against Defendants StubHub Inc., eBay Inc., Vivid Seats LLC, SeatGeek Inc., Uberseat, FanXchange Ltd. and Ticketnetwork Inc., to amend as follows the Class description in the “3^d Re-Amended Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff”:

In English:

Every consumer, pursuant to the terms of Quebec’s Consumer Protection Act (“CPA”), residing in Quebec at the time of purchase, who since August 28th, 2012 (the “Class Period”), while physically located in Quebec, has purchased from any of the Respondents or the Vivid Seats Subsidiary Clients at least one “Ticket” (as defined in section 236.1 CPA as meaning any document or instrument that upon presentation gives the ticket holder a right of entry to a show, sporting event, cultural event, exhibition or any other kind of entertainment) either:



¹ *Dupuis c. Polyone Canada inc.*, 2016 QCCS 2561 (CanLII), par. 9.

(a) at a price above that announced by the vendor authorized to sell the Tickets by the producer of the event; and/or,

(b) who paid a price higher than the price advertised by Respondents on their respective websites and/or mobile applications (at the first step), excluding the Quebec sales tax or the Goods and Services Tax;

In French:

Chaque consommateur, en vertu des modalités de la Loi sur la protection du consommateur du Québec (« LPC »), résidant au Québec au moment de l'achat, qui depuis le 28 août 2012 (« Période visée par l'action collective »), alors qu'il était physiquement situé au Québec, a acheté auprès d'une des Défenderesses ou des Clients de la filiale de Vivid Search au moins un « Billet » (au sens défini dans l'alinéa 236.1 de la LPC, soit tout document ou instrument dont la présentation donne le droit à son détenteur d'être admis à un spectacle, à un événement sportif, à un événement culturel, à une exposition ou à tout autre divertissement de quelque nature que ce soit) soit :

(a) à un prix supérieur à celui annoncé par le vendeur autorisé par le producteur de l'événement; et/ou,

(b) qui a payé un prix supérieur au prix annoncé par les Défenderesses sur leurs sites Web respectifs et/ou leurs applications mobiles respectives (à la première étape), compte non tenu de la taxe de vente du Québec ou de la taxe sur les produits et services;



[11] **AUTHORIZES** the bringing of a class action against Defendants StubHub Inc., eBay Inc., Vivid Seats LLC, SeatGeek Inc., Uberseat, FanXchange Ltd. and Ticketnetwork Inc. for settlement purposes;

[12] **APPOINTS** Applicant Steve Abihira the status of Representative Plaintiff of the persons included in the group hereinafter described:

In English:

Every consumer, pursuant to the terms of Quebec's Consumer Protection Act ("CPA"), residing in Quebec

at the time of purchase, who since August 28th, 2012 (the "Class Period"), while physically located in Quebec, has purchased from any of the Respondents or the Vivid Seats Subsidiary Clients at least one "Ticket" (as defined in section 236.1 CPA as meaning any document or instrument that upon presentation gives the ticket holder a right of entry to a show, sporting event, cultural event, exhibition or any other kind of entertainment) either:

(a) at a price above that announced by the vendor authorized to sell the Tickets by the producer of the event; and/or,

(b) who paid a price higher than the price advertised by Respondents on their respective websites and/or mobile applications (at the first step), excluding the Quebec sales tax or the Goods and Services Tax;

In French:

Chaque consommateur, en vertu des modalités de la Loi sur la protection du consommateur du Québec (« LPC »), résidant au Québec au moment de l'achat, qui depuis le 28 août 2012 (« Période visée par l'action collective »), alors qu'il était physiquement situé au Québec, a acheté auprès d'une des Défenderesses ou des Clients de la filiale de Vivid Search au moins un « Billet » (au sens défini dans l'alinéa 236.1 de la LPC, soit tout document ou instrument dont la présentation donne le droit à son détenteur d'être admis à un spectacle, à un événement sportif, à un événement culturel, à une exposition ou à tout autre divertissement de quelque nature que ce soit) soit :

(a) à un prix supérieur à celui annoncé par le vendeur autorisé par le producteur de l'événement; et/ou,

(b) qui a payé un prix supérieur au prix annoncé par les Défenderesses sur leurs sites Web respectifs et/ou leurs applications mobiles respectives (à la première étape), compte non tenu de la taxe de vente du Québec ou de la taxe sur les produits et services;



[13] **IDENTIFIES** the principal questions of fact and law to be treated collectively as the following:

(1) During the Class Period, did the Settling Defendant's alleged practice violate paragraph c of section 224 of the CPA, and, if so, are Class Members entitled to compensation?

(2) During the Class Period, did the Settling Defendants' alleged practice violate section 236.1 of the CPA, and, if so, are Class Members entitled to compensation?

[14] **APPROVES** the form and content of the pre-approval notice to Class Members, in its French and English version (**Exhibit SVT-2**);

[15] **ORDERS** the Defendants StubHub Inc., eBay Inc., Vivid Seats LLC, SeatGeek Inc., Uberseat, FanXchange Ltd. and Ticketnetwork Inc. to notify by email the pre-approval notice (**Exhibit SVT-2**) directly to each Class Member that is part of the Quebec Ticket Sub-Group, no later than seven (7) days after the judgment on the present application is rendered by the Court;

[16] **APPOINTS** Collectiva Class Action Services Inc. as the Claims Administrator for the purposes of accomplishing the tasks that devolve to it pursuant to the Settlement Agreement;

[17] **ORDERS** the Defendants StubHub Inc., eBay Inc., Vivid Seats LLC, SeatGeek Inc., Uberseat, FanXchange Ltd. and Ticketnetwork Inc. to provide the Claims Administrator such personal information regarding the Class Members as is necessary to implement the Settlement Agreement;

[18] **ORDERS** Collectiva Class Action Services Inc. to notify by email the pre-approval notice (**Exhibit SVT-2**) directly to each Class Member that is part of the International Ticket Sub-Group, no later than seven (7) days after the judgment on the present application is rendered by the Court;

[19] **DECLARES** that Class Members who wish to object to Court approval of the Settlement Agreement must do so in the manner provided for in the pre-approval notice (**Exhibit SVT-2**), on or before March 5th, 2018;

[20] **DECLARES** that Class Members who wish to opt-out from the class action and the settlements thereof may do so by delivering a written notice confirming their intention to opt-out of this class action, in the manner provided for in the pre-approval notice (**Exhibit SVT-2**), on or before March 5th, 2018;

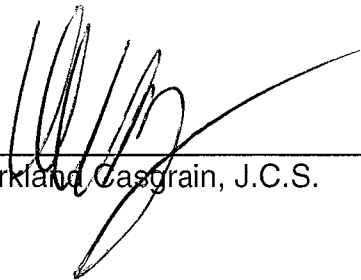
[21] **DECLARES** that all Class Members that have not requested to opt out of the class action be bound by any judgement to be rendered on the class action to be

instituted in the manner provided for by the law, and that no further right to opt-out will be provided;

[22] **DECLARES** that any Class Member who validly opts out of the class action shall not be able to participate in said action or to share in the distribution of any reparation as a result of a judgment or settlement;

[23] **SCHEDULES** the hearing date for the Application for Approval of the Settlement Agreement filed as Exhibit SVT-1 and of Class Counsel Fees on March 14th, 2018 at 09h00 in room 2.08 of the Montréal courthouse;

[24] **WITHOUT COSTS.**



Kirkland Casgrain, J.C.S.

Mtre Joey Zukran
LPC Avocats
Attorney for the Applicant

Mtre François-David Paré
Mtre Eric Dunberry
Norton Rose Fulbright Canada LLP
Attorneys for Defendants eBay Inc. and StubHub Inc.

Mtre Pablo Guzman
Mtre Tania Da Silva
DLA Piper Canada LLP
Attorneys for Defendant Vivid Seats LLC

Mtre Yves Martineau
Stikeman Elliott LLP
Attorneys for Defendants Seatgeek Inc., Uberseat
and Fanxchange Ltd.

Mtre Fadi Amine
Miller Thomson LLP
Attorneys for Defendant Ticketnetwork Inc.