

SUPERIOR COURT

(Class actions Chambers)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

N° : 500-06-001302-245

DATE : April 17, 2026

PRESIDING THE HONORABLE PIERRE NOLLET, S.C.J.

BEN BAIRD

Applicant

c.

WHALECO CANADA INC. doing business as TEMU

-and-

WHALECO INC. doing business as TEMU

-and-

PDD HOLDINGS INC. formerly known as PINDUODUO INC

Defendants

CORRECTION JUDGMENT

[1] **WHEREAS** the original judgment rendered contained an error as to the year of the decision;

[2] **WHEREAS** section 338 C.c.p. allows for the correction of such error;

[3] **WHEREAS** the date of the judgment should read April 13, 2026 and not April 13, 2024;

POUR CES MOTIFS, LE TRIBUNAL :

FOR THESE REASONS, THE COURT:

[4] **RECTIFIE** la date du jugement pour qu'elle se lise 13 avril 2026;

RECTIFIES the date of the judgment to read April 13, 2026;

[5] **LE TOUT** sans frais de justice.

THE WHOLE without legal costs.

PIERRE NOLLET, J.C.S.

Me Jeffrey Orenstein
CONSUMER LAW GROUP
Attorneys for the Applicant

Me Samuel Lepage
Me François M. Giroux
Me Érika Blackburn-Verreault
McCARTHY TETRAULT S.E.N.C.R.L.
Attorneys for the Defendants

Date d'audience : On docket

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WHALECO CANADA INC. doing business as TEMU

-and-

WHALECO INC. doing business as TEMU

-and-

PDD HOLDINGS INC. formerly known as PINDUODUO INC

Defendants

JUDGMENT

[1] **CONSIDERING** that on March 22, 2024, the present class action was filed on behalf of the following Class described as:

All persons resident in Quebec who used the Temu platform, or had electronic communications with Temu users, or who had their data stored on devices used by Temu users, any other group to be determined by the Court;

[2] **CONSIDERING** that on October 1, 2024, a parallel class action was filed by the undersigned law firm in the Supreme Court of British Columbia in *Steeves v. Whaleco Canada Inc.*, Court File No. S-246757¹ on behalf of the following Class described as:

All persons resident in Canada, excluding Quebec, who used the Temu platform, or had electronic communications with Temu users, or who had their data stored on devices used by Temu users, any other group to be determined by the Court;

[3] **CONSIDERING** that the class action essentially alleges “that the Defendants have been and continue to collect, compile, store, and/or disseminate user data exceeding that which is necessary for online shopping applications such as Temu, deploying a sophisticated arsenal of tools exfiltrating the totality of private data contained on a user’s device”;

[4] **CONSIDERING** that other similar actions were filed in the United States between late 2023 and early 2025. Five (5) cases are currently pending in the U.S. District Court for the Eastern District of New York (as several were transferred from other states such as Illinois and California). These include:

- a) *Hu et al. v. Whaleco Inc. et al.*, No. 23-cv-06962 (E.D.N.Y) (the “Hu Action”);
- b) *Ziboukh et al. v. Whaleco Inc. et al.*, No. 24-cv-03733 (E.D.N.Y) (the “Ziboukh Action”);
- c) *McMahan et al. v. Whaleco Inc. d/b/a Temu*, No. 25-cv-01590 (E.D.N.Y) (the “McMahan Action”);
- d) *In re Whaleco/Potter Handy Data Privacy Mass Actions*, No. 25-cv-04916 (E.D.N.Y) (the “Potter Handy Data Privacy Action”); and
- e) *In re Whaleco Privacy Litigation*, No. 25-cv-05854 (E.D.N.Y);

[5] **CONSIDERING** that on October 1, 2024, an Order was rendered in the Hu Action only granting defendants’ motion to compel arbitration and staying the Hu Action pending resolution of the arbitration;²

[6] **CONSIDERING** that on October 13, 2025, the parties in the Ziboukh Action filed a joint stipulation to dismiss the proceeding with prejudice after a decision was rendered there on August 14, 2025, which ordered that part of the dispute (the users’ claims) be referred to arbitration and the remainder (the non-users’ claims) be dismissed without prejudice for lack of standing;³

[7] **CONSIDERING** that as of today, the plaintiffs in the Ziboukh Action have not filed a new complaint on behalf of non-users, nor have they indicated any intention to do so.

¹ Exhibit R-1.

² Exhibit R-2.

³ Exhibit R-3.

The parties in the Ziboukh Action are awaiting the court's approval of the final dismissal, which will bring the Ziboukh Action to a complete end;

[8] **CONSIDERING** that on October 24, 2025, the lawyers for Whaleco Inc. in the 5 U.S. cases have asked the judge in the U.S. District Court for the Eastern District of New York to treat all of the other cases together as "related" for the following reasons:

- a) "... in each of these cases, plaintiffs rely on the same short-seller report to allege that Temu's online shopping app improperly accesses users' devices and collects their data, and based on this theory, bring the same or similar causes of action."; and
- b) "each of these cases concerns the arbitration agreement in Temu's Terms of Use. Temu anticipates moving to compel arbitration and expects the briefing in connection with those motions to address the scope and enforceability of the delegation clause and the informal dispute resolution conference provision contained in the arbitration agreement;⁴

[9] **CONSIDERING** that on February 4, 2026, the parties in the Potter Handy Data Privacy Action and In re Whaleco Privacy Litigation agreed to go to arbitration;

[10] **CONSIDERING** that the McMahan Action continued and on March 9, 2026, another decision was rendered compelling arbitration for five plaintiffs' claims and dismissing all other plaintiffs' claims that did not follow the mandatory procedure provided for in the arbitration agreement;⁵

[11] **CONSIDERING** that as of today the following portrait of the Temu file is:

All U.S. cases have been referred to arbitration;

The B.C. action is pending;

[12] **CONSIDERING** that The Parties to the present class action have discussed proceeding in only one jurisdiction in Canada but wish to await the results of the arbitration in the U.S. before making a formal request to proceed in Quebec or in B.C.,

[13] **CONSIDERING** that a temporary one-year stay would allow the U.S. case(s) to progress and the Plaintiff to determine where best to litigate the present case as well as to evaluate the merits thereof;

[13] **CONSIDERING** that while the Court understands that the proposed stay has also for purposes judicial proportionality and economy, the Court is of the view that if no

⁴ Exhibit R-4.

⁵ Exhibit R-5.

tangible result is achieved in the US during that year, the Parties should be ready to debate the application of the arbitration clause in Canada or to move forward in Quebec;

[14] **CONSIDERING** that the Defendants do not oppose to the temporary stay;

[15] **CONSIDERING** that during the pendency of the stay, the Parties undertake to keep this Court advised of any material developments in the US cases;

[16] **CONSIDERING** that a one-year stay may eventually benefit the interests of Quebec class members and the interests of justice;

POUR CES MOTIFS, LE TRIBUNAL :

FOR THESE REASONS, THE COURT:

[15] **ACCORDE** la demande de suspension temporaire de l'action collective proposée ;

GRANTS the Application for a Temporary Stay of the Proposed Class Action;

[16] **SUSPEND** la présente action jusqu'au 13 avril 2027 ;

SUSPENDS the present action until April 13, 2027;

[17] **LE TOUT** sans frais de justice.

THE WHOLE without legal costs.

PIERRE NOLLET, J.C.S.

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CONSUMER LAW GROUP
Attorneys for the Applicant

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