

PRESS RELEASE

19 July 2021

Popular action for the compensation of consumers with Apple iPhones

Ius Omnibus submitted this morning, to the District Court of Lisbon, a popular action aimed at restoring legality and defending Portuguese consumers injured by Apple's unlawful practices concerning the iPhones' resistance to liquids. Between September 2016 and the present date, Apple sold several iPhone models, advertising that the said mobile phones have certain characteristics of resistance to liquids that, in fact, they do not have. The situation is made worse because Apple refuses to give warranty coverage for any damage caused by liquids. If it is successful, this action will lead to Apple being ordered, namely, to abstain from misleading advertising in this regard in the future, and to pay compensation to all owners of iPhones 7 to 12. It is estimated that the full damages owed will be 137 million euros.

This is an action to defend collective interests and consumer rights due to infringements of the rules on advertising, consumption and warranties, unfair business practices and competition. It is based on a behavior of Apple which is not limited to Portugal, having been identified in the decision of 27 October 2000 of the Italian Authority for Competition and Markets.

At issue is the fact that Apple sold, between September 2016 and the present date, several iPhone models, – from the iPhone 7 to iPhone 12 – advertising them as having certain characteristics of resistance to liquids, being capable of withstanding immersion in liquids for long periods and at various depths, wash under running water, unconcerned use in the rain, in a pool, in the ocean, etc. But the iPhones are not resistant to liquids as advertised.

The aforementioned situation is made worse because Apple refuses to give warranty coverage for any damage caused by liquids. This means that Apple refuses to repair or replace the iPhones even when consumers report that those products have been damaged by exposure to

liquids within the company's advertised resistance parameters. In short, Apple claims that iPhones are water resistant but refuses any liability for damage caused by liquids.

Apple's unlawful behaviour caused two types of damages to Portuguese consumers. **First**, consumers who purchased these iPhones paid more than they actually would have paid had they known the truth regarding their resistance to liquids, with an estimated average surcharge of 101 EUR per iPhone and global damages of 137 million EUR. **Second**, many consumers bore the loss of value and the costs of repair or replacement of iPhones damaged by liquids, within the legal warranty period: these consumers must also be compensated, but their situation required an individual analysis. This means that consumers who have incurred in iPhone repair or replacement costs within the two-year warranty period can still obtain additional compensation.

Ius asks the Court to:

- a) declare the infringement in breach of collective interests and consumer rights and order its public recognition by Apple;
- b) order Apple to put an end to these unlawful practices;
- c) order Apple to pay damages to all Portuguese consumers affected by the surcharge;
- d) declare Apple's duty to compensate all Portuguese consumers who suffered damage with the repair or replacement of iPhones, allowing them to subsequently seek their respective compensation.

This is the eighth popular action brought by Ius, which in this case is represented by Sousa Ferro & Associados Law Firm.

Ius Omnibus is a non-profit association, created in March 2020 and headquartered in Portugal, with the objective of defending consumers in the European Union. Ius Omnibus has members from several countries. The Ius Omnibus board is composed by the President, Sandra Passinhas (Professor at the University of Coimbra), and the vice-presidents Maria José Azar-Baud (Professor at the University of Paris-Sarclay) and Julia Suderow (Professor at the University of Deusto).

Here enclosed is a media dossier with more detailed information about this popular action.

For more information, please go to: <https://iusomnibus.eu/>

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