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9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 MYNOR F. PORTILLO, individually, and  
on behalf of all others similarly situated,

12 Plaintiff,

13 vs.

14 CHOPARD USA LTD., a New York  
15 corporation; and DOES 1-10, Inclusive,

16 Defendants.  
17

Case No.: 2:17-cv-2939

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

1 Plaintiff MYNOR F. PORTILLO, on behalf of himself and all others similarly  
2 situated, alleges the following upon information and belief based upon investigation of  
3 counsel, except to his own acts, which he alleges upon personal knowledge.

4 **I. PARTIES**

5 1. Plaintiff Mynor F. Portillo (“Plaintiff”) is a resident of Los Angeles County  
6 in the Central District of California who contacted Defendant Chopard USA Ltd.  
7 (“Defendant”).

8 2. Defendant Chopard USA Ltd. is a New York corporation with its principal  
9 place of business in New York, New York, that does business in California. The true  
10 names and capacities of the Defendants sued herein as DOES 1 through 10, inclusive,  
11 are currently unknown to Plaintiff, who therefore sues such Defendants by fictitious  
12 names. Each of the Defendants designated herein as a DOE is legally responsible for  
13 the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend this  
14 Complaint to reflect the true names and capacities of the DOE Defendants when such  
15 identities become known.

16 3. At all relevant times, each and every Defendant was acting as an agent  
17 and/or employee of each of the other Defendants and was acting within the course  
18 and/or scope of said agency and/or employment with the full knowledge and consent of  
19 each of the Defendants. Each of the acts and/or omissions complained of herein were  
20 alleged and made known to, and ratified by, each of the other Defendants (Chopard  
21 USA Ltd. and Doe Defendants will hereafter collectively be referred to as  
22 “Defendant”).

23 **II. JURISDICTION AND VENUE**

24 4. This Court has diversity jurisdiction over this class action pursuant to 28  
25 U.S.C. § 1332 as amended by the Class Action Fairness Act of 2005 because the  
26 amount in controversy exceeds five million dollars (\$5,000,000.00), exclusive of  
27 interest and costs, and is a class action in which the members of the class are citizens of  
28 different states than Defendant. *See* 28 U.S.C. § 1332(d)(2)(A).





1 Members that control this litigation and predominate over any individual issues.

2 Included within the common questions are the following:

- 3 (a) Whether Defendant intentionally records telephone calls;
- 4 (b) Whether Defendant discloses its intentional recording of  
5 telephone communications; and
- 6 (c) Whether Defendant's conduct constitutes a violation of  
7 California Penal Code section 632.7.

8 **Fed. R. Civ. P 23(b)(3) Factors**

9 17. **Superiority.** A class action is superior to other available methods for the  
10 fair and efficient adjudication of this controversy for at least the following reasons:

- 11 i) Given the size of the claims of individual Class Members, as well as  
12 the resources of Defendant, few, if any, could afford to seek legal  
13 redress individually for the wrongs alleged herein;
- 14 ii) This action will permit an orderly and expeditious administration of  
15 the claims of Class Members, will foster economies of time, effort  
16 and expense, and will ensure uniformity of decisions;
- 17 iii) Any interest of Class Members in individually controlling the  
18 prosecution of separate actions is not practical, creates the potential  
19 for inconsistent or contradictory judgments, and would create a  
20 burden on the court system;
- 21 iv) Without a class action, Class Members will continue to suffer as a  
22 consequence of Defendant's illegal and predatory conduct,  
23 Defendant's violations of law will proceed without remedy, and  
24 Defendant will continue to reap and retain the substantial proceeds  
25 derived from its wrongful and unlawful conduct. Plaintiff and the  
26 Class are entitled to appropriate civil penalties. This action presents  
27 no difficulties that will impede its management by the Court as a  
28 class action.

1 18. Certification is also warranted under Rule 23(b)(2) of the Federal Rules of  
2 Civil Procedure because Defendant has acted or refused to act on grounds generally  
3 applicable to the Class, thereby making final relief pursuant to Penal Code Section  
4 632.7 appropriate with respect to the Class as a whole.

5 **V. CAUSE OF ACTION**

6 **California Penal Code § 632.7**

7 **(By Class Against All Defendants)**

8 19. Plaintiff incorporates by this reference the allegations contained in the  
9 preceding paragraphs above as if fully set forth herein.

10 20. California Penal Code Section 632.7 prohibits the intentional, non-  
11 consensual recording of any telephone communication without the consent of all parties  
12 where at least one party to the conversation is either using a cordless or cellular  
13 telephone. No expectation of confidentiality or privacy is required, nor is any other  
14 wrongful or surreptitious intent required – only that the defendant intended to record the  
15 communication.

16 21. Plaintiff is informed and believes, and thereon alleges that Defendant  
17 knowingly violated Cal. Pen Code § 632.7 by intentionally recording calls with persons  
18 using cordless or cellular telephones, including Plaintiff.

19 22. Based on the foregoing violations, Plaintiff and the Class are entitled to  
20 and seek the statutory remedies provided in section 637.2 of the California Penal Code.  
21 Plaintiff does not allege common law violation of privacy nor does Plaintiff seek actual  
22 damages other than statutory damages.

23 23. Plaintiff and the Class further seek attorneys' fees pursuant to section  
24 1021.5 of the California Code of Civil Procedure, or any other applicable statute, as this  
25 action enforces an important right affecting the public's interest.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiff, individually and on behalf of the Class, prays for relief  
28 and judgment as follows:

1           1.     That the Court determine that this action may be maintained as a class  
2 action under Rule 23(a) of the Federal Rules of Civil Procedure, and define the Class as  
3 requested herein;

4           2.     For preliminary and permanent injunctive relief enjoining Defendant, its  
5 agents, servants and employees, and all persons acting in concert with them, from  
6 engaging in this illegal practice;

7           3.     For an award of statutory damages to Plaintiff and each member of the  
8 Class;

9           4.     For attorneys' fees and expenses pursuant to all applicable laws including,  
10 without limitation, Code of Civil Procedure §1021.5 and the common law private  
11 attorney general doctrine;

12           5.     For costs of suit; and

13           6.     For such other and further relief as the Court deems just and proper.

14  
15 Dated: April 18, 2017

PACIFIC TRIAL ATTORNEYS, APC

16  
17 By: /s/ Scott J. Ferrell

18 Scott J. Ferrell

19 Attorneys for Plaintiff and the Class  
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**DEMAND FOR JURY TRIAL**

Plaintiff and Class Members, pursuant to Fed. R Civ. P. 38(b), hereby demand trial by jury.

Dated: April 18, 2017

PACIFIC TRIAL ATTORNEYS, APC

By: /s/ Scott J. Ferrell  
Scott J. Ferrell  
Attorneys for Plaintiff and the Class

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# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Consumer Claims Chopard USA Illegally Records Calls](#)

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