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ANDREW AXELROD and ELIOT BURK

14 **UNITED STATES DISTRICT COURT**

15 **NORTHERN DISTRICT OF CALIFORNIA**

17 ANDREW AXELROD and ELIOT BURK,
18 individually and on behalf of all others
19 similarly situated,

20 Plaintiffs,

21 vs.

22 LENOVO (UNITED STATES) INC., a
23 Delaware corporation,

24 Defendant.

Case No.

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

1 Plaintiffs Andrew Axelrod and Eliot Burk (“Plaintiffs”), individually and on behalf of all
2 others similarly situated, bring this action against Defendant Lenovo (United States) Inc.
3 (“Lenovo”). Upon personal knowledge as to their own acts and status and upon information and
4 belief as to all other matters, Plaintiffs allege the following:

5 **INTRODUCTION**

6 1. This is a class action against Lenovo for false advertising on its website,
7 lenovo.com. Lenovo is the largest computer manufacturer in the world. To sell more products and
8 maximize its profits, Lenovo displays false regular prices on its website and advertises false
9 discounts based on those prices. The regular prices are false because they do not represent the price
10 at which Lenovo actually sells its products. The discounts are false because they do not represent
11 the actual savings obtained by customers. This unlawful marketing practice, commonly known as
12 false reference pricing, artificially increases demand for Lenovo’s products and induces customers
13 to pay more for Lenovo-branded products based on a false impression of their value. Lenovo’s use
14 of false regular prices and false discounts is pervasive throughout its website.

15 2. California law and federal regulations specifically prohibit this type of false advertising.
16 For example, California’s consumer protection statute prohibits “[m]aking false or misleading
17 statements of fact concerning reasons for, existence of, or amounts of, price reductions.” Civ. Code
18 § 1770(a)(13). California’s false advertising law prohibits advertising a former price unless it was
19 the prevailing market price during the previous three months. Bus. & Prof. Code § 17501. As
20 explained in the Federal Trade Commission’s (FTC) Guide Against Deceptive Pricing,


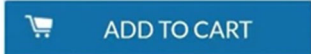

21 [When] the former price being advertised is not bona fide but fictitious—for example,
22 where an artificial, inflated price was established for the purpose of enabling the
23 subsequent offer of a large reduction—the “bargain” being advertised is a false one;
the purchaser is not receiving the unusual value he expects.

24 16 C.F.R. § 233.1.

25 3. Lenovo willfully violates these laws. For example, in September 2019, Plaintiff
26 Eliot Burk purchased a ThinkPad P52 Mobile Workstation laptop on Lenovo’s website. Lenovo
27 advertised the laptop for \$1,189 and represented to Burk that he would save \$1,170 off the regular
28 price of \$2,359 with the coupon code WSCLEARANCE—an abbreviation for Workstation Clearance.

1 4. However, \$2,359 was not the regular price of the laptop. In fact, discovery will
2 show that Lenovo never sold Burk's laptop for anywhere near \$2,359. For example, in August
3 2019, one month before Burk's purchase, Lenovo sold the laptop for \$1,229. In July 2019, two
4 months before Burk's purchase, Lenovo sold the laptop for \$1,169.

5 5. Curiously, over the same time period, Lenovo increased the regular price of the
6 laptop from \$1,559 in July, to \$2,049 in August, to \$2,359 in September. As depicted in the
7 screenshots below, with each increase to the regular price, Lenovo advertised that customers were
8 saving even more money.

<u>July 9, 2019</u>	<u>August 10, 2019</u>	<u>September 1, 2019</u>
ThinkPad P52 Mobile Workstation <small>Part Number: 20M9S0AW00</small>	ThinkPad P52 Mobile Workstation <small>Part Number: 20M9S0AW00</small>	ThinkPad P52 Mobile Workstation <small>Part Number: 20M9S0AW00</small>
Web Price: <u>\$1,559.00</u> After Instant Savings: \$1,409.00 After eCoupon: \$1,169.00	Web Price: <u>\$2,049.00</u> After Instant Savings: \$1,429.00 After eCoupon: \$1,229.00	Web Price: <u>\$2,359.00</u> After eCoupon: \$1,189.00
Savings: <u>\$390.00</u> Use eCoupon: THINKBFNJ eCoupon limited to 2 units only Ships same business day if ordered by 2PM ET	Savings: <u>\$820.00</u> Use eCoupon: THINKBIG Ships same business day if ordered by 2PM ET	Savings: <u>\$1,170.00</u> Use eCoupon: WSCLEARANCE Ships in 1-3 business days.
		

18 6. According to Lenovo, a customer who purchased Burk's laptop in July 2019 for
19 \$1,169 saved \$390, while a customer who purchased the same laptop in September 2019 for \$1,189
20 saved \$1,170.

21 7. Lenovo's artificial increases to the regular price demonstrate the fraudulent nature of
22 its pricing scheme. Rather than advertise the true regular price of its products—i.e., the price at
23 which Lenovo formerly sold the products—Lenovo inflates the regular price to make customers
24 believe they are getting an incredible deal—here, \$1,170 off the regular price.

25 8. Indeed, to justify the Workstation Clearance sale that was advertised to Burk, it
26 appears Lenovo first increased the regular price of the laptop, and then advertised it as 50% off, as
27 depicted in the email marketing newsletter below, which was sent by Lenovo on September 2,
28 2019, three days before Burk's purchase.



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7 9. The “Big Summer Workstation Blowout” advertised in Lenovo’s newsletter was
8 hardly a “blowout sale,” as reasonable consumers understand that term.¹ The sale price of Burk’s
9 laptop in September was only forty dollars less than the price in August, and twenty dollars *more*
10 than the price in July.

11 10. In addition to harming consumers, Lenovo’s deceptive pricing scheme also harms
12 competition by giving Lenovo an unfair advantage over other computer manufacturers that do not
13 engage in this type of false advertising. After all, a customer is more likely to purchase a \$2,000
14 laptop advertised at 50% off its regular price than pay full price for a \$1,000 laptop.

15 11. Lenovo advertises false regular prices and false discounts for hundreds of products
16 on its website every day. The pervasive, ongoing nature of its pricing scheme demonstrates that
17 false reference pricing is central to its overall marketing strategy. In bringing this lawsuit, Plaintiffs
18 intend curb this and other unlawful and deceptive marketing practices used on Lenovo’s website,
19 and seek compensation for themselves and all others similarly situated who have been duped by
20 Lenovo’s false advertising.

THE PARTIES

21
22 12. Plaintiff Andrew Axelrod (“Axelrod”) is a California citizen. On January 1, 2021,
23 Axelrod accessed Lenovo’s website from his residence in San Francisco, California, and purchased
24 a laptop from Lenovo.

25 13. Plaintiff Eliot Burk (“Burk”) is a California citizen. On September 5, 2019, Burk
26 accessed Lenovo’s website from his workplace in California and purchased a laptop from Lenovo.

27
28 ¹ See https://en.wiktionary.org/wiki/blowout_sale (defining blowout sale to be “a sale that is advertised as having bigger than usual discounts, clearance”) (last visited Aug. 15, 2021).

1 14. Defendant Lenovo (United States) Inc. (“Lenovo”) is a Delaware corporation, with
2 its principal place of business at 8001 Development Dr. Morrisville, North Carolina, 27560.
3 Lenovo manufactures and sells computers and related peripheral parts, software, and services to
4 customers in California through its website, lenovo.com.

5 **JURISDICTION AND VENUE**

6 15. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act
7 of 2005, 28 U.S.C. § 1332(d)(2), because the aggregate claims of the members of the proposed
8 Classes exceed \$5 million (exclusive of interest and costs), the proposed Classes consist of 100 or
9 more members, and at least one member of the proposed Classes is a citizen of a different state than
10 Lenovo.

11 16. California has personal jurisdiction over Lenovo because Lenovo is registered with
12 the California Secretary of State and authorized to do business in California; maintains offices and
13 is licensed to do business and does business in California; and has sufficient minimum contacts
14 with California, having intentionally availed itself of the California market through the promotion,
15 marketing, and sale of products in California so as to render the exercise of jurisdiction by this
16 Court permissible under traditional notions of fair play and substantial justice.

17 17. Venue is proper in the Northern District of California pursuant to 28 U.S.C. § 1391
18 (b)(2) because a substantial part of the events or omissions which give rise to Plaintiffs’ claims
19 occurred in San Francisco, California.

20 **INTRADISTRICT ASSIGNMENT**

21 18. Pursuant to the Northern District of California’s Local Rule No. 3-2(d), assignment
22 of this matter to the San Francisco Division or Oakland Division is appropriate because this action
23 arises in San Francisco County, in that a substantial part of the events or omissions which give rise
24 to the claims asserted herein occurred in San Francisco County.

25 **FACTUAL ALLEGATIONS**

26 19. Lenovo is the U.S. subsidiary of Lenovo Group Limited (“Lenovo Group”), a
27 Chinese multinational technology company. Lenovo Group is a \$60 billion Fortune Global 500
28 company and the largest computer manufacturer in the world. In the first half of 2021, Lenovo

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