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LENOVO (UNITED STATES) INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

ANDREW AXELROD and ELIOT BURK, individually and on behalf all others similarly situated,

Plaintiffs,

v.

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

Defendant.

Case No. 4:21-cv-06770-JSW

Assigned to the Hon. Jeffrey S. White

DEFENDANT LENOVO (UNITED STATES) INC.'S:

(1) NOTICE OF MOTION AND MOTION TO DISMISS; AND

(2) MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

[*Proposed Order submitted concurrently herewith*]

Hearing:
Date: January 14, 2022
Time: 9:00 a.m.
Courtroom: 5

Complaint Filed: August 31, 2021
Trial Date: None Set

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on January 14, 2022 at 9:00 a.m., or as soon thereafter as counsel may be heard, in Courtroom 3 on the 17th floor of the United States District Court for the Northern District of California, Oakland Division, located at 1301 Clay Street, Oakland, California 94612, the Honorable Jeffrey S. White presiding, Defendant Lenovo (United States) Inc. ("Lenovo") will and hereby does move the Court, pursuant to Federal Rule of Civil Procedure 12(b)(6), for an order dismissing the equitable claims and demands in the *Class Action Complaint* (the "*Complaint*") filed by Plaintiffs Andrew Axelrod and Eliot Burk (collectively, "Plaintiffs").

Lenovo's *Motion to Dismiss* (the "*Motion*") is made on the ground that the *Complaint*'s equitable claims for violation of California's False Advertising Law, violation of California's Consumers Legal Remedies Act, violation of California's Unfair Competition Law, and unjust enrichment – and prayer for the equitable remedies of restitution and injunctive relief – are subject to dismissal because the *Complaint* does not plausibly allege that Plaintiffs lack an adequate remedy at law.

The *Motion* is based on this *Notice of Motion* and *Motion*, the attached *Memorandum of Points and Authorities*, all pleadings, papers and other documentary materials in the Court's file for this action, those matters of which this Court may or must take judicial notice, and such other matters as the Court may consider.

SHEPPARD MULLIN RICHTER & HAMPTON LLP

Dated: November 15, 2021

By */s/ Benjamin O. Aigboboh*
P. CRAIG CARDON
BENJAMIN O. AIGBOBOH
ALYSSA M. SHAUER

Attorneys for Defendant
LENOVO (UNITED STATES) INC.

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