

After hearing extended argument regarding the bases for Plaintiffs' claims, I found that Plaintiffs' allegations were legally insufficient because the alleged misrepresentations were either puffery, *see Singh v. Cigna Corp.*, 918 F.3d 57, 62 (2d Cir. 2019), or Plaintiff had failed to plead the particular nature of any falsity. *See Hirsch v. Arthur Andersen & Co.*, 72 F.3d 1085, 1092 (2d Cir. 1995). Plaintiff failed to allege that Digitech's practices violated Chinese law in effect prior to May 1, 2021; what specific laws Digitech before that time; or what specific acts or practices violated those laws. Additionally, as the Complaint itself reflects, Chinese law and regulations regarding data collection were continually evolving before and during the class period, and enforcement became increasingly strict. Digitech adequately disclosed this regulatory landscape and the attendant risks such that a reasonable investor could not have been misled. *See Singh*, 918 F.3d at 64.

Although I did not rule on other issues presented in the briefs, I commented that additional information is needed in Plaintiffs' pleading. Alleging scienter with particularity, especially with respect to the individual defendants, requires additional specificity to be legally sufficient. Adequately pleading loss causation requires Plaintiffs to differentiate the cause of the alleged loss from general market fluctuations that may have affected the entire industry or entire market.

The motion to strike and the motion to dismiss are granted. As I noted at oral argument, Plaintiffs are granted leave to replead. Any amended complaint is due by September 26, 2022. The Clerk shall terminate ECF Nos. 45 and 50.

SO ORDERED.

Dated: July 26, 2022
New York, New York

/s/ Alvin K. Hellerstein
ALVIN K. HELLERSTEIN
United States District Judge