

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

In the Matter of

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

FILE NO. 152 3134

**AGREEMENT CONTAINING
CONSENT ORDER**

The Federal Trade Commission (“Commission”) has conducted an investigation of certain acts and practices of Lenovo (United States) Inc. (“Proposed Respondent”). The Commission’s Bureau of Consumer Protection (“BCP”) has prepared a draft of an administrative Complaint (“draft Complaint”). BCP and Proposed Respondent, through their duly authorized officers, enter into this Agreement Containing Consent Order (“Consent Agreement”) to resolve the allegations in the attached draft Complaint through a proposed Decision and Order to present to the Commission, which is also attached and made a part of this Consent Agreement.

IT IS HEREBY AGREED by and between Proposed Respondent and BCP, that:

1. The Proposed Respondent, Lenovo (United States) Inc., is a Delaware corporation, with its principal office or place of business located at 1009 Think Place, Morrisville, North Carolina 27560-9002.

2. Proposed Respondent neither admits nor denies any of the allegations in the Complaint, except as specifically stated in the Decision and Order. Only for purposes of this action, Proposed Respondent admits the facts necessary to establish jurisdiction. issued pur -0wh TJ 0 Tc 0 Tw 21.495

appropriate, or issue and serve its Complaint (in such form as the circumstances may require) and decision in disposition of the proceeding, which may include an Order. *See* Section 2.34 of the Commission's Rules, 16 C.F.R. § 2.34.

5. If this agreement is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to Commission Rule 2.34, the Commission may, without further notice to Proposed Respondent: (1) issue its Complaint corresponding in form and substance with the attached draft Complaint and its Decision and Order; and (2) make information about them public. Proposed Respondent agrees that service of the Order may be effected by its publication on the Commission's website (ftc.gov), at which time the Order will become final. *See* Rule 2.32(d). Proposed Respondent waives any rights it may have to any other manner of service.

**COUNSEL FOR LENOVO
(UNITED STATES) INC.**

APPROVED:

By: _____
Janis Kestenbaum
Rebecca S. Engrav
Perkins Coie LLP
Attorneys for Proposed Respondent

By: _____
Laura Riposo VanDruff
Assistant Director
Division of Privacy and Identity Protection

By: _____
Maneesha Mithal
Associate Director
Division of Privacy and Identity Protection

By: _____
Thomas B. Pahl
Acting Director
Bureau of Consumer Protection

Date: _____

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Maureen K. Ohlhausen, Acting Chairman
Terrell McSweeney**

In the Matter of

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

DOCKET NO. C-

DECISION AND ORDER

The Federal Trade Commission (“Commission”) initiated an investigation of certain acts and practices of the Respondent named in the caption. The Commission’s Bureau of Consumer Protection (“BCP”) prepared and furnished to Respondent a draft Complaint. BCP proposed to present the draft Complaint to the Commission for its consideration. If issued by the Commission, the draft Complaint would charge the Respondent with violation of the Federal Trade Commission Act.

Respondent and BCP thereafter executed an Agreement Containing Consent Order (“Consent Agreement”). The Consent Agreement includes: 1) statement by Respondent that it neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Decision and Order, and that only for purposes of this action, it admits the facts necessary to establish jurisdiction; and 2) waivers and other provisions as required by the Commission’s Rules.

The Commission considered the matter and determined that it had reason to believe that Respondent has violated the Federal Trade Commission Act, and that a Complaint should issue stating its charges in that respect. The Commission accepted the executed Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments. The Commission duly considered any comments received from interested persons pursuant to Section 2.34 of its Rules, 16 C.F.R. § 2.34. Now,

Findings

1. The Respondent is a Delaware corporation, with its principal office or place of business

II. Affirmative Express Consent Provision

IT IS FURTHER ORDERED that, commencing no later than 120 days after the date of service of this Order, Respondent, its officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, shall not preinstall or cause to be preinstalled any covered software unless Respondent or the software provider:

- A. will obtain the consumer's affirmative express consent;
- B. provides instructions for how the consumer may revoke consent to the covered software's operation, which can include uninstalling the covered software; and
- C. provides a reasonable and effective means for consumers to opt out, disable or remove all of the covered software's operations, which can include uninstalling the covered software.

Provided, however, that affirmative express consent will not be required if sharing the covered information is reasonably necessary to comply with applicable law, regulation or legal process.

III. Mandated Software Security Program

IT IS FURTHER ORDERED that Respondent must, no later than the date of service of this Order, establish and implement, and thereafter maintain a comprehensive software security program that is reasonably designed to (1) address software security risks related to the development and management of new and existing application software, and (2) protect the security, confidentiality, and integrity of covered information. The content, implementation and maintenance of the software security program must be fully documented in writing. The software security program must contain administrative, technical, and physical safeguards appropriate to Respondent's size and complexity, the nature and scope of Respondent's activities, the nature of the application software, the security policies and practices of the software provider, and the sensitivity of the covered information, including:

- A. the designation of an employee or employees to coordinate and be responsible for the software security program;
- B. the identification of internal and external risks to the security, confidentiality, or integrity of covered information that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information, and assessment of the sufficiency of any safeguards in place to control these risks. At a minimum, this risk assessment must include consideration of risks in each area of relevant operation, including: (1) employee training and management; (2) application software design, including the processing, storage, transmission and disposal of covered information by the application software; and (3) the prevention, detection, and response to attacks, intrusions, or other vulnerabilities;

- C. the design and implementation of reasonable safeguards to control these risks, and regular testing or monitoring of the effectiveness of the safeguards' key controls, systems, and procedures;
- D. the development and use of reasonable steps to select and retain software or service providers capable of

3. explain how the safeguards that have been implemented meet or exceed the protections required by the Provision of this Order titled Mandated Software Security Program; and
 4. certify that the Mandated Software Security Program is operating with sufficient effectiveness to provide reasonable assurance that the security of the application software preinstalled on covered products and the security, confidentiality, and integrity of covered information is protected, and that the Mandated Software Security Program has so operated throughout the reporting period.
- D. Each Assessment must be completed within 60 days after the end of the reporting period to which the Assessment applies. Respondent must submit the initial Assessment to the Commission within 10 days after the Assessment has been completed. Respondent must retain all subsequent biennial Assessments, at least until the Order terminates.

Respondent to comply with the Order; and (e) provide a copy of each Acknowledgment of the Order obtained pursuant to this Order, unless previously submitted to the Commission.

- B. Respondent must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following: (a) any designated point of contact; or (b) the structure of Respondent or any entity that Respondent has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.
- C. Respondent must submit notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Respondent within 14 days of its filing.
- D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____,” and supplying the date, signatory’s full name, title (if applicable), and signature.
- E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement,

- B. this Order's application to any Respondent that is not named as a defendant in such complaint; and
- C. this Order if such complaint is filed after the Order has terminated pursuant to this Provision.

Provided, further, that if such complaint is dismissed or a federal court rules that the Respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this Provision as though the complaint had never been filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

[Donald S. Clark]
Secretary

SEAL:
ISSUED: