

**Analysis of Proposed Consent Order to Aid Public Comment**  
***In the Matter of Lenovo (United States) Inc., File No. 152 3134***

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Lenovo (United States), Inc. (“Lenovo”).



Explore shopping with VisualDiscovery: Your browser is enabled with VisualDiscovery which lets you discover visually similar products and best prices while you shop.

The pop-up window contained a small opt-out link at the bottom of the pop-up that was easy for consumers to miss. If a consumer clicked on the pop-up's 'x' close button, or anywhere else on the screen, the consumer was opted in to the software.

The complaint alleges that this pop-up window's disclosures were inadequate and violated Section 5 of the FTC Act by failing to disclose, or failing to disclose adequately, that VisualDiscovery would act as a man-in-the-middle between consumers and all the websites they visited, including encrypted https:// websites, and collect and transmit certain consumer Internet browsing data to Superfish. These facts would be material to consumers' decisions whether or not to use VisualDiscovery.

The complaint also alleges that Lenovo's preinstallation of the ad-injecting software that, without adequate notice or informed consent, acted as a man-in-the-middle between consumers and all the websites they visited, including encrypted https:// websites, and collected and transmitted certain consumer Internet browsing data to Superfish was an unfair act that caused or was likely to cause substantial injury to consumers, and that was not offset by countervailing benefits to consumers or competition and was not reasonably avoidable by consumers.

The proposed consent order contains provisions designed to prevent Lenovo from engaging in similar acts and practices in the future.

Part I of the proposed order prohibits Lenovo from making any misrepresentations about certain preinstalled software on its personal computers.

Part II of the proposed order requires Lenovo to obtain a consumer's affirmative express consent, with certain limited exceptions, prior to any preinstalled software a) injecting advertisements into a consumer's Internet browsing session, or b) transmitting, or causing to transmit, the consumer's personal information to any person or entity other than the consumer. Lenovo must also provide instructions for how consumers can revoke their consent to the software's operation by providing a reasonable and effective means for consumers to opt out, disable or remove the software.

Parts III and IV of the proposed order require Lenovo to implement a mandated software security program that is reasonably designed to address security risks in software preinstalled on its personal computers, and undergo biennial software security assessments of its mandated software security program by a third party.

Parts V through IX of the proposed order are standard reporting and compliance provisions. Part V requires dissemination of the order now and in the future to all current and future principals,

officers, directors, and managers, and to persons with managerial or supervisory responsibilities relating to Parts I – IV of the order. Part VI mandates that Lenovo submit a compliance report to the FTC one year after issuance, and then notices, as the order specifies, thereafter. Parts VII and VIII requires Lenovo to retain documents relating to its compliance with the order for a five-