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Game Over: Court Dismisses Class Action Lawsuit Over Gaming Computer Performance

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The gaming industry is increasingly becoming a target for consumer class actions, as plaintiffs' attorneys are scrutinizing the marketing and performance claims of gaming PCs and accessories. However, gaming companies are not without recourse. Recent legal decisions demonstrate that courts are willing to dismiss cases where plaintiffs fail to provide specific facts that support their allegations. For instance, Judge Paul L. Maloney of the Western District of Michigan dismissed a putative class action lawsuit against Lenovo which alleged the computers do not live up to their advertised performance capabilities for resource-intensive uses like gaming and graphic design. In dismissing plaintiff's complaint, Judge Maloney found the plaintiff had "[i]n essence, … strung together some marketing language … [to] plead[] fraud in a deficient manner." *Dinwiddie v. Lenovo*, Case No. 2:22-cv-00218 (W.D. Mich. March 27, 2024).

Plaintiff alleged the computer had been marketed as having advanced features like an "Intel Core i5 2.90 GHz processor [that] provides [a] solid performance" and "a NVIDIA GeForce GTX 1650 Super discrete graphic card for gaming and graphic designing, [to deliver an] optimal visual experience." Plaintiff alleged these representations communicated that the computer would "function reliably, not freeze or crash, and run smoothly during operation subject to normal use." Plaintiff alleged Lenovo's advertising was misleading, because he and other users frequently experienced freezing and crashes when using their computers. He included in his complaint a handful of anonymous internet posts claiming to be from people who owned this computer and experienced similar problems.

The Court was unconvinced. Critically, the Court noted that nowhere did defendant actually promise that the product would "not freeze or crash," "function reliably," or "run smoothly"; those takeaways were based on plaintiff's own assumptions. The Court also found that Lenovo's "solid performance" advertising claim was too general and vague to maintain a misrepresentation claim. The court analogized the Plaintiff's claims to those previously dismissed in *Vivar v. Apple Inc.*, No. 22 Civ. 0347 (S.D.N.Y. Sept. 12, 2022), a similar case brought by the same Plaintiff's counsel. There, the Court dismissed fraud claims that were similarly predicated on "general advertisements." In *Vivar*, the Court similarly noted that while Apple advertised its earbuds as having "up to 9 hours of listening time," and "powered by the Apple H1 Chip" with "dual audio control," it never represented that the earbuds would be defect-free.

This decision serves as an important reminder that theories of deception grounded only in a plaintiff's unsupported assumptions are ripe for dismissal. A complaint alleging injury as a result of purported advertising misrepresentations must be grounded in the text of the advertising itself. Companies in the gaming industry facing similar legal challenges can rely on Proskauer's deep expertise in this sector. Our class action defense team has significant experience defending gaming companies against claims related to performance advertising, under both consumer protection laws and the Lanham Act. We understand the unique challenges of the gaming market and provide tailored legal strategies to effectively counter unfounded allegations, ensuring the protection of your business interests and brand reputation.

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