

A solid yellow right-angled triangle pointing downwards and to the right.

BLOGS
Antitrust

iPhone Users Have Standing to Sue Apple for Antitrust Violations

The Ninth Circuit Court of Appeals has reversed a district court's standing-based dismissal of a class-action complaint against Apple Inc. *In re Apple iPhone Antitrust Litig.*, 846 F.3d 313 (9th Cir. Jan. 12, 2017). The plaintiffs alleged that Apple violated federal antitrust law by requiring iPhone "apps" to be sold only through Apple's "App Store," prohibiting third-party app developers from selling the software outside of Apple, and charging app developers 30 percent of their App Store sales. The district court had held that the plaintiffs lacked standing because of the longstanding "direct-purchaser rule" in antitrust law, which provides that only immediate buyers from the alleged antitrust violator have standing to sue. The district court found that the app developers, not Apple, distributed the apps directly to purchasers, so the purchaser-plaintiffs did not have standing to sue Apple.

The appellate court disagreed with the district court and held that Apple functioned as a distributor of iPhone apps rather than as a manufacturer or producer. Apple argued that it did not sell apps, but rather sold app distribution services to developers, similar to how a shopping mall leases physical space to various stores. The appellate court rejected that analogy, finding that the app developers did not sell through their own "stores" because, as alleged by the plaintiffs, Apple specifically prohibited the developers from doing so. Although Apple did not set the price of the apps or take ownership of the apps, the appellate court declined to follow case law from another circuit and found that Apple functioned as a distributor from whom the plaintiffs made direct purchases. Therefore, according to the appellate court, the plaintiffs had standing to sue, and the case was remanded to the district court for further proceedings.

Related People

Maisa Frank

Partner
Washington, D.C.
202.295.2209
maisa.frank@lathropgpm.com