

---

*Apple Inc. v. Pepper*, No. 17-204

A putative class of consumers brought an antitrust suit against Apple, alleging that it illegally monopolized the distribution of iPhone applications (“apps”) through its “App Store,” and that the commissions charged to app developers inflate the prices consumers ultimately pay for the apps. The district court dismissed the action under *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977), which provides that the damages remedy in antitrust suits belongs to “direct purchasers,” and not to “indirect purchasers” claiming “pass-through” damages. The Ninth Circuit reversed the district court, holding that, because Apple serves the “function” of a “distributor” and delivers the apps to consumers, consumers can sue Apple, even though the charges complained of were not imposed on the consumers directly, but on the third-party developers. The question presented in the petition for certiorari is: “Whether consumers may sue for antitrust damages anyone who delivers goods to them, even where they seek damages based on prices set by third parties who would be the immediate victims of the alleged offense.”