

## Simpson Thacher Secures Ninth Circuit Appellate Victory in Indirect Purchaser Antitrust Litigation

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On March 7, 2022, Simpson Thacher client Micron Technologies (“Micron”) won an appellate victory when the U.S. Court of Appeals for the Ninth Circuit affirmed dismissal of antitrust claims brought by indirect purchasers of products containing the memory chip DRAM (“Plaintiffs”). The appellate win stems from the Hon. Jeffrey S. White of the Northern District of California’s September 3, 2019 dismissal of claims alleging a conspiracy between Micron and other DRAM manufacturers to inflate the price of DRAM by tacitly coordinating to limit its supply. On October 28, 2019, Plaintiffs filed an amended complaint, which the Firm subsequently moved to dismiss. On November 24, 2020, Judge White again held that Plaintiffs had failed to “raise a reasonable inference of conspiracy in light of the possibility of conscious parallelism.” The court consequently dismissed the federal antitrust claims and certain state law claims. Plaintiffs then appealed to the Ninth Circuit.

On March 7, 2022, a three-judge panel unanimously affirmed the lower court’s decision, finding that Plaintiffs’ allegations did not plausibly suggest the existence of a conspiracy through evidence of parallel business conduct. “Plaintiffs’ allegations of parallel conduct that could just as well be independent action, combined with defendants’ criminal history from twenty years ago, do not provide a context suggesting unlawful agreement,” Circuit Judge Cathy Ann Bencivengo wrote in the 23-page opinion.

The team received a “Shout Out” in *The American Lawyer*’s [“Litigator of the Week” coverage](#).

The Simpson Thacher team included Buzz Frahn, John Terzaken, Abram Ellis, Adrienne Baxley and Justin Calderon.

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