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## *epic games, inc. v. apple, inc.*

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*MSK Client Alert*

May 1, 2023

On April 24, 2023, the Ninth Circuit issued its much anticipated decision in *Epic Games, Inc. v. Apple, Inc.*, in which Epic alleged that Apple violated the Sherman Antitrust Act and California Unfair Competition laws. The Ninth Circuit affirmed the District Court's ruling on the merits but reversed and remanded for further consideration as to whether Apple was entitled to its fees.

### **Background**

Epic is the developer of the hugely popular game *Fortnite*, the parent company of a gaming-software developer, and a video game publisher and distributor. Apple, among other things, makes apps available on its App Store. Pursuant to the terms of its Developer Program Licensing Agreement ("DPLA"), Apple imposed various restrictions on app developers like Epic, including restrictions on app distribution on certain devices, requiring "in app" purchases to go through Apple's payment processor, and preventing developers from communicating to iOS device users the existence of available—and sometimes less expensive—payment options. (This last restriction was referred to as the "anti-steering" provision.)

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### **practice areas**

intellectual property