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## The Supreme Court creates a barrier for plaintiffs in class actions against international cartels:

A short summary of the Supreme Court's decision in the class action against the international LCD screen panels' cartel

The Israeli Supreme Court recently upheld a decision by the District Court to reject a request for service outside of the jurisdiction of Israel in a class action suit against the members of a multi-national cartel in the field of LCD screen panels.

The class action was filed with the Central District Court in Lod in November 2013, against five international electronics manufacturers (AU Optronics Corporation, LG Display Co. Ltd., Samsung Electronics Co. Ltd., Chimei Corporation and Sharp Corporation). These manufacturers, along with others, were found to have colluded to fix the prices of LCD screen panels between October 2001 and February 2006, and were fined more than €500 million in 2010 by the European Commission. According to the plaintiff's request for approval of the class action, the defendants' price-fixing scheme resulted in an increase in the prices of certain products that included the LCD screen panels, and therefore caused damage to consumers worldwide, including Israel.

In the context of its application to approve the class action suit, the plaintiff submitted a request for permission to conduct service of process outside the jurisdiction of Israel from the court, which was eventually denied by the District Court, as well as by the Supreme Court, in a recent decision given by Judge Esther Hayut.

In its decision, the Supreme Court illustrated that the wording of the Israeli Civil Procedure Rules regarding the grant for leave of service requires that "the suit is

based on an act or omission that occurred within the State of Israel". In this regard, the court ruled that there were no restrictive actions (or omissions) taken by the defendants that occurred within the State of Israel, and that there was only damage to the Israeli consumers by the actions that were taken abroad. In this situation, the court ruled that the requirement of the Civil Procedure Rules was not fulfilled and there were no grounds to grant a leave of service as requested by the plaintiff.

This decision by the Supreme Court creates, *De-Facto*, a barrier for plaintiffs who wish to file class actions against international cartels, even in situations in which the cartel has already been subject to sanctions in other countries. In its decision, the Supreme Court stated that although a situation in which the Israeli consumer does not have recourse to recoup damages from international cartels is undesirable, the current letter of the law does not allow an Israeli court to grant a leave of service unless the offending act or omission themselves took place within the jurisdiction of the State of Israel.

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