

Blakes Bulletin

Competition, Antitrust & Foreign Investment/ Class Actions

B.C. Court Overturns Lower Court and Certifies DRAM Class Proceeding

The B.C. Court of Appeal released its much-anticipated decision in the DRAM class proceeding today. This is an alleged price-fixing case involving computer memory chips. The court allowed the plaintiff's appeal from the lower court which had denied class certification. The court has ordered certification in respect of both direct and indirect purchasers.

Key points from the court's decision:

- establishes a relatively low threshold for showing a methodology for establishing harm on a class-wide basis at the certification stage, even in complex indirect purchaser cases
- case departs from earlier decisions, most notably the Ontario Court of Appeal decision in *Chada v. Bayer*, which had denied certification in similar circumstances
- gives broad scope for the application of the use of aggregate damages to overcome difficulties in establishing harm
- gives greater recognition to waiver of tort as a possible cause of action.

Leave to appeal to the Supreme Court of Canada will likely be sought.

To view the B.C. Court of Appeal's decision, click [here](#).

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