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Product-Hopping Cases: A Bad Prescription for Consumers

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Almost a decade ago Judge Douglas Ginsburg of the D.C. Circuit helped create the circuit split that permitted the U.S. Supreme Court to retire price-squeeze as an antitrust cause of action. Price-squeeze involved a claim that a supplier that sold at both the wholesale and retail levels could “squeeze out” competitors that relied upon its wholesale offering either by pricing its wholesale product too high, or retail product too low. In linkLine the Supreme Court ended the 75-year tenure of the price-squeeze doctrine, holding that where a supplier has no antitrust duty to deal with a competitor in the first place, the terms on which the supplier subsequently chooses to deal cannot form the basis for an antitrust claim. *Pacific Bell v. linkLine*, 555 U.S. 438 (2009)