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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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11 IN RE ATM FEE ANTITRUST  
12 LITIGATION

No. C 04-2676 CRB

13 **ORDER**  
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15 In light of the Court's Order DENYING Defendants' joint motion to dismiss  
16 Plaintiffs' Third Amended Complaint, the Court wishes to proceed to summary judgment on  
17 the limited issue of whether Plaintiffs lack standing to bring an antitrust claim for damages  
18 under the rule set forth in *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977).

19 In response to a question posed by the Court at the hearing on its Motion to Dismiss,  
20 Defendants stated that there are members of the Star Network that consistently pay out more  
21 in Interchange Fees than they receive. In their opening brief, Defendants should identify  
22 evidence supporting this assertion and explain why these direct purchasers do not fall within  
23 the recognized exceptions to the *Illinois Brick* rule.

24 Briefs on the *Illinois Brick* issue are due according to the following schedule:

25 July 9, 2010: Defendants' Opening Brief due.

26 July 19, 2010: Plaintiffs' Answering Brief due.

27 July 26, 2010: Defendants' Reply Brief due.

28 The Court will decide Plaintiffs' Motion for Leave to File a Motion to Reconsider its  
September 4, 2009 Order after it resolves the issue of Plaintiffs' standing under *Illinois*

1 *Brick.*

2 **IT IS SO ORDERED.**



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4 Dated: June 21, 2010

5 **CHARLES R. BREYER**  
6 **UNITED STATES DISTRICT JUDGE**