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16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN JOSE DIVISION
 19

20 In re iPhone Application Litigation,
 21

Case No. CV-10-5878 LHK (PSG)

**[PROPOSED] ORDER
 GRANTING APPLE INC.'S
 MOTION TO DISMISS
 PLAINTIFFS' FIRST
 CONSOLIDATED CLASS
 ACTION COMPLAINT**

Date: September 1, 2011
 Time: 1:30 p.m.
 Ctrm: 4, 5th Floor
 Judge: Honorable Lucy H. Koh

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[PROPOSED] ORDER

Apple Inc. (“Apple”) has moved to dismiss Plaintiffs’ First Consolidated Class Action Complaint (“the Complaint”) pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(6), and 12(b)(7). This motion to dismiss came on for hearing on September 1, 2011.

Having considered all of the papers filed by the parties in connection with Apple’s motion, and the parties’ arguments at hearing on this matter, the Court finds:

1. Plaintiffs lack Article III standing because they fail to allege any particularized injury-in-fact that is fairly traceable to Apple.
2. Plaintiffs’ agreements with Apple also bar the claims plaintiffs attempt to state here because in those contracts Apple explicitly disclaims the liability plaintiffs seek to assert.
3. Plaintiffs fail to state cognizable claims for negligence, breach of the covenant of good faith and fair dealing, or trespass to chattels. Plaintiffs also fail to state claims under the California Consumer Legal Remedies Act, the Computer Fraud and Abuse Act, California Penal Code section 502, and California Unfair Competition Law.
4. Plaintiffs have failed to join app developers - all of whom are necessary and indispensable parties - as required by Federal Rule of Civil Procedure 19, and joinder of the tens of thousands of app developers is not feasible.

Therefore, FOR GOOD CAUSE SHOWN, plaintiffs’ Consolidated Class Action Complaint is dismissed without further leave to amend.

IT IS SO ORDERED this _____ Day of _____, 2011.

HONORABLE LUCY H. KOH
UNITED STATES DISTRICT COURT JUDGE