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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION**

APPLE INC.,

Plaintiff,

v.

CHANG LIU, TANG YEW TAN, OPENAI
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 OPENAI GROUP PBC, and IO PRODUCTS,
 LLC f/k/a IO PRODUCTS, INC.,

Defendants.

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Case No. 5:26-cv-07078-EJD

**PLAINTIFF APPLE INC.'S REPLY
 IN SUPPORT OF ITS MOTION FOR
 EXPEDITED DISCOVERY**

Judge: Edward J. Davila

Hearing Date: Oct. 1, 2026

Time: 9:00 a.m.

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1 **I. INTRODUCTION**

2 As set forth in Apple’s Motion for Preliminary Injunction, Defendants have solicited Apple
3 trade secrets through current and former Apple employees on a substantial scale. Apple discovered
4 that Defendants misappropriated thousands of pages of trade secrets concerning display power
5 development programs, architecture analyses, fabrication decisions, engineering data for an
6 unannounced Apple product, and advanced research compilations for additional undisclosed product
7 features (Dkt. 38 at 1 (identifying documents pertaining to these topics by name)); instructed
8 candidates to bring hardware “parts,” “prototypes,” and “CAD/design artifacts” for “show and tell”
9 sessions (*id.* at 4); used a secret Apple product codename to solicit trade secrets from Apple employees
10 (*id.* at 4-5); and misled one of Apple’s trusted partners into disclosing a trade secret finishing process.
11 (*id.* at 5-6). The Preliminary Injunction Motion seeks to end Defendants’ ongoing misappropriation
12 to prevent further irreparable harm. This Motion seeks to promptly determine the extent of that
13 misappropriation, so that the injunction can be properly enforced and, if necessary, adjusted to match
14 the misconduct as it is more fully revealed.

15 Defendants claim they “welcome that discovery” (Opp. at 1), but also call Apple’s effort to
16 determine the scope of their misconduct “moot” and insist that Apple’s discovery requests should
17 await the ebbs and flows of ordinary discovery over months or even years. Defendants ignore entirely
18 that Apple’s motion seeks to expedite discovery and set court-ordered deadlines for responses and
19 certain depositions at the outset of this case, not over the course of the many ensuing months of regular
20 discovery. Defendants’ “mootness” position cannot be squared with court decisions in this district
21 granting expedited discovery, even when ordinary discovery is set to open shortly. Moreover, this
22 motion is now fully briefed, and resolving it promptly will inform the earliest stages of these
23 proceedings. Even if expedited discovery overlaps with ordinary discovery, an order requiring some
24 limited, urgent discovery to be completed at the outset will ensure that Defendants respond
25 substantively in the first instance, rather than with boilerplate objections and promises to supplement
26 over weeks and months. Defendants’ own opposition brief telegraphs the alternative: absent a court
27

order, they will object, delay, and condition discovery into their misappropriation on tangential “reciprocal” demands.

II. APPLE’S REQUEST FOR EXPEDITED DISCOVERY IS NOT MOOT

Defendants argue Apple’s request for expedited discovery is moot because the parties’ Rule 26(f) conference, the Court’s initial case management conference (“CMC”), and the start of “full merits-based discovery” will occur before the Court hears this Motion. (Opp. at 5.) The Court should reject that argument for three reasons.

First, Defendants do not cite any case where—like here—there was good cause to order expedited discovery and the court declined to do so based on when discovery would open or the CMC would occur. Defendants speculate that Apple’s cases only granted expedited discovery because fact discovery or the CMC were well in the future. (Opp. at 5 (citing *SolarPark Korea Co. v. Solaria Corp.*, 2023 WL 4983159, at *12 (N.D. Cal. Aug. 2, 2023); *Synopsys, Inc. v. InnoGrit, Corp.*, 2019 WL 1779978, at *4 (N.D. Cal. Apr. 23, 2019)).) But neither of those cases adopts that reasoning. In fact, courts often grant expedited discovery contemporaneously with merits-based discovery or the CMC. *See, e.g., Perdomo v. Noem*, No. 2:25-CV-05605-MEMF-SP, 2025 WL 3053167, at *4 (C.D. Cal. Oct. 17, 2025) (noting that “[u]nder the ‘typical process,’ discovery would begin now,” finding that “[t]his factor therefore weighs in favor of permitting expedited discovery,” and granting expedited discovery); *Washington v. Lumber Liquidators, Inc.*, No. 15-CV-01475-JST, 2015 WL 2089992, at *3 (N.D. Cal. May 5, 2015) (finding that a request for expedited discovery made at the CMC was not untimely and granting expedited discovery).

Second, the Court can grant expedited discovery at the CMC, or even earlier without a hearing, and the parties and the Court would benefit from the early exchange of information in the infancy of the case, informing future proceedings. *See Visher v. Rose*, No. 3:18-cv-02472-WHO, Dkt. 15 (N.D. Cal. Oct. 30, 2018) (granting motion for expedited discovery on the papers without a hearing).

Third, Defendants do not consider the practical benefits of expedited discovery, even if it overlaps with ordinary discovery. Defendants would provide more complete discovery responses on

1 court-ordered deadlines than they would to ordinary requests made during a months-long discovery
 2 period. By ordering expedited discovery on Apple’s identified requests for production (“RFPs”) and
 3 interrogatories (Dkt. 49-2 to -7) and confirming that Defendants must substantively respond, the Court
 4 will cut through the typical discovery delays, where parties “respond” in 30 days, but only with
 5 objections and promises to supplement. Likewise, by granting expedited discovery on Apple’s
 6 30(b)(6) deposition of OpenAI (Dkt. 49-8), the Court would accelerate the typical timeline where
 7 parties wait until the last month of fact discovery to make a witness available.

8 **III. APPLE HAS ESTABLISHED GOOD CAUSE FOR EXPEDITED DISCOVERY**

9 The parties agree on the expedited discovery factors: “(1) whether a preliminary injunction is
 10 pending; (2) the breadth of the discovery requests; (3) the purpose for requesting the expedited
 11 discovery; (4) the burden on the defendants to comply with the requests; and (5) how far in advance
 12 of the typical discovery process the request was made.” (Mot. at 3 (citing *Eurofins Elec. & Elec.*
 13 *Testing NA, LLC v. SGS N. Am. Inc.*, No. 5:24-cv-06340, 2024 WL 4453315, at *1 (N.D. Cal. Oct. 8,
 14 2024)); Opp. at 6 (citing *Am. LegalNet, Inc. v. Davis*, 673 F. Supp. 2d 1063, 1067 (C.D. Cal. 2009)).)

15 **A. Apple’s Diligent Pursuit Of A Preliminary Injunction Justifies Expedited** 16 **Discovery.**

17 Defendants do not dispute that “[g]ood cause for expedited discovery is ‘frequently found’ in
 18 cases ‘where the plaintiff seeks a preliminary injunction.’” (Mot. at 3 (citing *Twitch Interactive, Inc.*
 19 *v. Johnston*, No. 16-cv-03404, 2017 WL 1133520, at *2 (N.D. Cal. Mar. 27, 2017)); *see also* Mot. at
 20 11.) Nor do Defendants dispute that courts routinely grant requests for expedited discovery
 21 accompanying preliminary injunction motions. (*Id.* (citing *SolarPark*, 2023 WL 4983159, at *12;
 22 *Synopsys*, 2019 WL 1779978, at *4; *U.S. Legal Support, Inc. v. Beverly*, No. 5:25-CV-00218-SSS-
 23 SPX, 2025 WL 1766348, at *5 (C.D. Cal. Jan. 30, 2025)).) Instead, Defendants argue that Apple
 24 delayed in bringing this motion.

25 The only case that Defendants rely on for their delay argument is *Satmodo, LLC v. Whenever*
 26 *Commc’ns, LLC*, 2017 WL 4557214, at *5 (S.D. Cal. Oct. 12, 2017). That case is nothing like this
 27

one. *Satmodo* did not involve a claim of trade secret misappropriation, a request for a preliminary injunction, or any need for urgent relief. Rather, the plaintiff alleged that a competitor had participated in a “click-fraud” scheme to simulate clicking on advertisements on a website. *Id.* at *1. The plaintiff had already amended the complaint after a motion to dismiss, and the court raised doubts about whether the plaintiff could “establish to the Court’s satisfaction that plaintiff’s suit against defendant could withstand a motion to dismiss.” *Id.* at *5 (quoting *Columbia Ins. Co. v. seescandy.com*, 185 F.R.D. 573, 579 (N.D. Cal. 1999)). The plaintiff sought to serve 12 subpoenas, which would have “require[d] 12 unnamed, third party ISP’s to respond to subpoenas including providing notice to consumers for, approximately 700 IP addresses.” *Id.* at *4. That discovery could have “potentially add[ed] hundreds of new parties, implicating issues of improper joinder and jurisdiction.” *Id.* at *2. Moreover, the plaintiff waited eight months to serve its overbroad third-party discovery. *Id.* at *5. In sum, *Satmodo* has nothing to do with Apple’s urgent request to determine the scope of Defendants’ misappropriation three weeks after filing suit.

Here, Apple conducted a detailed investigation (without discovery from Defendants), which is why the Complaint uses direct quotes from specific documents to support its claims. *See generally* Dkt. 88-4 at 2–5 (summarizing the allegations in the Complaint). The Motion for Preliminary Injunction substantiates those allegations and adds further detail by, among other things, (1) identifying the trade secrets with greater specificity (Dkt. 47-8); (2) identifying stolen files by name and tying them to trade secrets (*id.* ¶¶ 1, 12, 45, 62, 67, 72, 77–104); and (3) detailing the vendor OpenAI approached to exploit Apple’s misappropriated metal-finishing techniques and processes. (Dkt. 38 at 5–6.) Apple submitted nine declarations, each with multiple exhibits, based on facts gathered from former employees of its suppliers (Dkt. 48-23 ¶¶ 38–41), personnel records (Dkt. 48-38 ¶¶ 17–25), former employees’ Apple-owned work devices (Dkt. 48-52 ¶¶ 16, 24, 26, 28–30, 38), messages among former Apple employees left on Apple-owned work devices (*id.* ¶¶ 17–18, 24–25, 27, 31–37, 39–41), and those employees’ use of Apple’s third-party storage repository (*id.* ¶¶ 19–23). Considering Apple’s diligent investigation, which all parties agree was necessary, Defendants cannot

credibly characterize the time Apple took to bring suit as “unexplained.”¹ (Opp. at 6.) Apple was diligent after it filed its suit too. Apple tried to reach agreement with Defendants to avoid the need to file a motion for a preliminary injunction and promptly filed its motion when the parties could not reach agreement, three weeks after filing the Complaint.

B. Apple’s Discovery Requests Are Appropriately Limited.

Defendants do not engage with Apple’s detailed explanation of how each of its requests is appropriately tailored. First, Apple justified its requests—six RFPs to each Individual Defendant and seven RFPs to the Corporate Defendants—citing caselaw showing that the subject matter and number of RFPs are reasonable. (Mot. at 5–6 (citing *Trulite Glass & Aluminim Sols., LLC v. Smith*, No. 2:16-cv-01798-JAM-CKD, 2016 WL 8738432, at *1 (E.D. Cal. Aug. 10, 2016); *Eurofins*, 2024 WL 4453315, at *2; *Accretive Specialty Ins. Sols., LLC v. XPT Partners, LLC*, No. 8:23-cv-01903, 2023 WL 9019017, at *4 (C.D. Cal. Oct. 13, 2023)).) Next, Apple demonstrated how each of its interrogatories was justified, based on authority granting comparable discovery. (Mot. at 6 (citing *Advanced Lab’ys Int’l, LLC v. Valentus, Inc.*, No. 17-MC-80096, 2017 WL 6209297, at *4 (N.D. Cal. Dec. 8, 2017); *Accretive*, 2023 WL 9019017, at *4).) Finally, Apple showed that its proposed depositions are targeted, seeking testimony only from the key actors with knowledge of the relevant information. (Mot. at 6–8 (citing *Trulite*, 2016 WL 8738432, at *1; *Perdomo*, 2025 WL 3053167, at *6; *Accretive*, 2023 WL 9019017, at *4).)

¹ Defendants repeat their misleading suggestion that Apple did not contact OpenAI with its concerns. (Opp. at 6.) That is not true. Apple told OpenAI, “[f]orensic evidence of Apple systems indicates that several former Apple employees now at OpenAI retained Apple’s non-public, confidential, and proprietary information before they left.” (Dkt. 47-1 at 2.) Although OpenAI refers to a different “letter to the wrong person” (Opp. at 6), that is misdirection; OpenAI does not contend that it did not receive Apple’s letter. Nor does OpenAI provide any reason why it did not respond to Apple’s serious concerns about “several former Apple employees.”

1 Defendants do not address the subject matter of Apple’s discovery requests. Instead, they
2 fixate on two terms in the definition sections of those requests: “Apple Originated Information” and
3 “Certain Former Apple Employees.” (Opp. at 7–9.) Contrary to Defendants’ arguments, those defined
4 terms are reasonable and designed to avoid disputes.

5 Apple defines “Apple Originated Information” as “any information that was created for or by
6 Apple, or that was learned as a result of or created for purposes of supporting, analyzing, or otherwise
7 advancing any Apple business or other endeavor, and which is not provided or disseminated in its
8 entirety to the public.” (Dkt. 49-2 at 2.) In other words, this term captures non-public information
9 that originated from Apple and should not be in the possession of Defendants, and does not require
10 any party to assess in discovery whether the information qualifies as confidential or subject to trade
11 secret protection. Defendants complain that “Apple Originated Information” is not limited to “trade
12 secrets.” (Opp. at 7.) But including the term “trade secrets” would have been unproductive given that
13 Defendants dispute their scope and are sure to argue (as they already have) that Apple’s trade secrets
14 are not, in fact, trade secrets. Similarly, Defendants also complain that “Apple Originated
15 Information” is not strictly limited to confidential information. (*Id.*) But it is limited to information
16 that is “not provided or disseminated in its entirety to the public.” (*Id.* (quoting Dkt. 49-2 at 2).) This
17 limitation makes good sense: a highly confidential document may contain both confidential and
18 nonconfidential material (such as an image of the outside of an iPhone on one page and an image of
19 confidential internal hardware components on the next page). Just because a document may contain
20 public information does not mean the document itself is public. Apple’s definition of “Apple
21 Originated Information” properly accounts for this possibility and will help the parties avoid merits-
22 related disputes during discovery over whether discoverable information merits legal or contractual
23 protection as trade secrets or confidential information.²

24
25 ² Defendants also argue that Apple’s RFPs are not limited to a specific timeframe. (Dkt. 87 at 1, 8.)
26 Defendants should not have Apple’s confidential information from any timeframe. However, to
27

1 The term “Certain Former Apple Employees” is neither “unnamed” nor “undefined” as
 2 Defendants argue. (Opp. at 8, 12.) Apple limits the term to a set of individuals that Apple previously
 3 disclosed to OpenAI and who are central to this case. (Dkt. 49-2 at 1 (citing Dkt. 48-89 at 2 (Apple’s
 4 July 10 Pre-Suit Letter to OpenAI listing individuals by name)); Dkt. 49-5 at 1 (same); Dkt. 49-6 at 1
 5 (same); Dkt. 49-7 at 1–2 (same).) Further, Defendants’ suggestion that “Certain Former Apple
 6 Employees” implicates information not within OpenAI’s “possession, custody, or control” is not
 7 credible when considered in the context of Apple’s requests. (Opp. at 8.) For example, Apple asks
 8 OpenAI to produce materials “showing any steps [it] took, or failed to take, to ensure that OpenAI[,]
 9 including Certain Former Apple Employees hired by OpenAI[,] were not misusing or misappropriating
 10 by receiving, accessing, acquiring, storing, reviewing, disclosing, soliciting, misusing or
 11 misappropriating Apple Originated Information for any purpose, including for OpenAI’s business, its
 12 platforms, and its systems.” (Dkt. 49-7 at 8; *see also* Dkt. 49-5 at 8; Dkt. 49-6 at 8.) Given Defendants’
 13 argument that they took steps to prevent the alleged misappropriation—for example, that “Mr. Tan
 14 repeatedly instructed recruits and his team not to bring or disclose former employers’ confidential
 15 information” (Dkt. 59 at 1)—information pertaining to “Certain Former Apple Employees” is without
 16 a doubt in OpenAI’s “possession, custody, or control.” And to the extent Defendants do not have
 17 complete information, they should produce the responsive information in their possession, custody, or
 18 control.

19 **1. Apple’s Requests For Written Discovery Are Appropriate.**

20 The Court should reject Defendants’ efforts to avoid producing forensic evidence about
 21 devices that were used with or exposed to “Apple Originated Information.” This evidence is critical
 22 to determining which trade secrets were misappropriated, who took them, how they were
 23 _____
 24 address Defendants’ concerns, Apple further specifies that it seeks Communications, Documents, and
 25 Things (as defined in the RFPs) dated on or after August 1, 2023—approximately six months before
 26 Mr. Tan left Apple to join OpenAI.
 27

1 communicated, and the extent to which they were copied and used. Defendants do not have a
2 legitimate explanation for refusing to produce such evidence.

3 Defendants attempt to distinguish *WeRide* by arguing that in that case, there was evidence that
4 the defendant had concealed its activities. (Opp. at 8–9 (citing *WeRide Corp. v. Kun Huang*, 379 F.
5 Supp. 3d 834, 854 (N.D. Cal. 2019), *modified in part*, 2019 WL 5722620 (N.D. Cal. Nov. 5, 2019)).)
6 Yet here too, Defendants have sought to conceal their activities. For example, Mr. Liu coached Ms.
7 Peng on how to access and copy files from Apple workstations “to avoid trouble with the security
8 team,” and directed her to communicate with him over the Line Messenger app to avoid detection.
9 (Dkt. 38 at 4.) As another example, OpenAI has been helping departing Apple employees avoid the
10 checks and protections of Apple’s exit processes. (Dkt. 38 at 5.) Furthermore, *WeRide* did not
11 **condition** expedited discovery on a finding that the defendant had deleted files. It found only that
12 evidence of deletion was one factor favoring discovery. *WeRide*, 379 F. Supp. 3d at 854.

13 Defendants attempt to distinguish *eHealthinsurance* by arguing that Apple has not identified
14 its trade secrets with particularity. (Opp. at 9 (citing *eHealthinsurance Servs., Inc. v. Healthpilot*
15 *Techs. LLC*, No. 21-CV-4061-YGR, 2021 WL 3052918, at *2 (N.D. Cal. July 20, 2021)).) That is
16 disingenuous. To start, Defendants’ argument ignores Apple’s allegations in the Complaint that detail
17 the misappropriated materials and link them to the trade secrets. (*See, e.g.*, Dkt. 88-4 at 6.) It also
18 ignores the additional context Apple provides in its Motion for Preliminary Injunction, including that
19 Apple already has provided Defendants with a preliminary trade secret identification. (*See, e.g.*, Dkt.
20 38 at 10–11 (identifying the misappropriated trade secrets); Dkt. 47-8 (Apple’s preliminary trade
21 secret identification).)

22 Next, Defendants try to avoid discovery into the deletion or destruction of relevant evidence.
23 Again, this information is critically important to investigating Apple’s misappropriated trade secrets
24 and what Defendants have done with them. And again, Defendants do not have a legitimate
25 explanation for refusing to produce this information. The cases Defendants rely on are inapposite
26 because they did not involve trade secret misappropriation or expedited discovery. (Opp. at 9 (citing
27

1 *Bagdasaryan v. City of Los Angeles*, No. 2:15-cv-01008-JLS-KES, 2017 WL 10560536, at *11 (C.D.
 2 Cal. Nov. 1, 2017); *Taylor v. Google LLC*, No. 20-CV-07956-VKD, 2024 WL 4947270, at *2 (N.D.
 3 Cal. Dec. 3, 2024)).)

4 Finally, Defendants cite cases that limited the scope of expedited discovery to “the extent of
 5 the alleged misappropriation” or the “confidential and proprietary information allegedly
 6 misappropriated.” (Opp. at 9–10 (citing *U.S. Legal Support*, 2025 WL 1766348; *Pyro Spectaculars*
 7 *N., Inc. v. Souza*, No. CIV S-12-0299 GGH, 2012 WL 13220023, at *3 (E.D. Cal. Feb. 8, 2012),
 8 *amended in part*, 2012 WL 13220022 (E.D. Cal. Feb. 23, 2012)).) These cases support Apple’s
 9 position because Apple’s requests are narrowly targeted to such topics. They also demonstrate that
 10 Defendants’ request to “deny Apple’s motion for expedited discovery in its entirety” (Opp. at 14) is
 11 unreasonable. If the Court finds that one of Apple’s requests is too broad, the solution is to modify
 12 the scope of expedited discovery, not deny it entirely. *See, e.g., SolarPark*, 2023 WL 4983159, at *12;
 13 *Eurofins*, 2024 WL 4453315, at *1.

14 **2. Apple’s Requests For Depositions Are Appropriate.**

15 Defendants concede that Apple should be permitted to take its requested depositions but
 16 propose that they occur only once, presumably at the end of fact discovery. (Opp. at 10.) That proposal
 17 does not address the need to promptly discover the scope of Defendants’ misappropriation and deal
 18 with the actual or potential dissemination of Apple’s trade secrets. It would mean that Apple would
 19 have to wait months or years to ask a witness about that information. Meanwhile, OpenAI could
 20 continue to use Apple’s hardware trade secrets while racing to design and launch its own hardware
 21 device.

22 Defendants’ position is based on the premise that a witness should not be deposed twice. Yet
 23 the rule Defendants cite, Fed. R. Civ. P. 30(a)(2)(A)(ii), expressly contemplates multiple depositions
 24 with leave of court, and Apple has proposed reasonable deposition limits to reduce the burden on
 25 witnesses. That approach makes sense in this case. Apple should have limited depositions at the
 26 beginning of the case to understand the scope of the misappropriation, and subsequent depositions
 27

1 once the parties have completed written and document discovery on the merits. That approach is
2 common in trade secret cases. *See, e.g., Accretive*, 2023 WL 9019017, at *4 (ordering that “[a]ny
3 expedited discovery taken pursuant to this Section (including interrogatories, requests for production,
4 and depositions) is in addition to, and is not subject to, the limits on discovery set forth in the Federal
5 Rules of Civil Procedure and the Local Rules of this Court”); *Fed. Trade Comm’n v. GM UniverseApps*
6 *Ltd.*, No. 26-CV-05232-HSG, 2026 WL 1912087, at *10 (N.D. Cal. July 2, 2026) (“Any such
7 deposition taken pursuant to this Section will not be counted towards the deposition limit set forth in
8 Rules 30(a)(2)(A) and 31(a)(2)(A) . . .”).

9 Finally, Defendants quibble over the number of depositions and the number of hours. (Opp.
10 at 11.) They have no grounds to do so. Apple makes a reasonable request for 20 hours of deposition
11 testimony across five fact witnesses, plus depositions of any declarants Defendants might use in
12 preliminary injunction briefing. *Accretive* permitted five depositions, the same number of fact
13 witnesses that Apple requests here. *Accretive*, 2023 WL 9019017, at *4. *Trulite* granted three hours
14 of deposition testimony per defendant—a total of 18 hours if all six defendants were deposed. *Trulite*,
15 2016 WL 8738432, at *1. And while it is true that *U.S. Legal Support* granted two depositions of
16 three hours each, it involved just one individual who left a company to join a competitor and brought
17 “five excel files” allegedly containing “pricing rates” and “clients”—a far cry from the broader and
18 more diverse allegations here, involving multiple actors, the misappropriation of dozens of
19 confidential files, apparently institutionalized unlawful interviewing tactics, and the commercial
20 exploitation of Apple’s trade secrets from Apple’s suppliers. *U.S. Legal Support*, 2025 WL 1766348,
21 at *5. Thus, Apple’s requests are reasonable. *See MACOM Technology Solutions Holdings, Inc. v.*
22 *Infineon Technologies AG*, No. 2:16-cv-02859-CAS-PLAx, 2017 WL 1371247, at *5 (C.D. Cal. Mar.
23 17, 2017) (granting expedited discovery and permitting “up to twenty hours of depositions” on the
24 expedited discovery topics).

25 * * *

1 Defendants rely on three cases for the proposition that courts “overwhelmingly” reject the type
2 of discovery Apple is seeking. (Opp. at 11.) They do not.

3 First, the court in *Apple v. Samsung* **granted** expedited discovery. *Apple Inc. v. Samsung Elecs.*
4 *Co.*, No. 11-CV-01846-LHK, 2011 WL 1938154, at *2 (N.D. Cal. May 18, 2011) (“[The] Court agrees
5 that Apple has demonstrated good cause for some, limited expedited discovery.”). Although the court
6 declined to permit a Rule 30(b)(6) deposition, it did so only because the notice sought testimony on
7 five different products on a highly compressed timeframe. *Id.* at *3. Here, by contrast, Apple seeks
8 testimony focused solely on its trade secrets and requests a response in 50 days. Notably, the *Apple*
9 *v. Samsung* court granted expedited discovery before any motion for preliminary injunction had been
10 filed; the case for expedited discovery is stronger still here, where Apple’s preliminary injunction
11 motion is pending. Finally, *Apple v. Samsung* was a trademark and patent infringement action, not a
12 trade secret action like this one. It thus did not involve the same urgent need to depose witnesses on
13 the full scope of trade secret misappropriation and ensure they do not further disseminate Apple’s
14 proprietary information.

15 Second, the court in *Am. LegalNet* denied expedited discovery because the plaintiff could not
16 show a nexus between the generic discovery it sought about “sales, products, and customers” and its
17 requested preliminary injunction. *Am. LegalNet*, 673 F. Supp. 2d at 1069. Here, however, Apple’s
18 requests target the very misappropriation underlying its preliminary injunction motion and are
19 narrowly tailored to that conduct. (Mot. at 4–9.) Indeed, just months ago, the court in *AssuredPartners*
20 distinguished *Am. LegalNet* on precisely this ground and granted expedited discovery in a trade secret
21 case like this one. *AssuredPartners of California Ins. Servs., LLC v. Clem*, No. 2:25-CV-11856-JAK
22 (AGRX), 2026 WL 1182808, at *5 (C.D. Cal. Jan. 28, 2026). The court recognized that in
23 misappropriation cases, “[q]uickly determining what information Defendant[s] removed from
24 Plaintiff, and whether and how Plaintiff’s information is being used by Plaintiff’s competitors is
25 essential” to minimizing harm. *Id.* It further permitted discovery into the individual defendants who
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1 had left the plaintiff to join its competitor, and their surrounding activities, because “[t]his alleged
2 conduct is part of the basis for the PI Motion.” *Id.* at *8.

3 Third, *Profil* is inapposite. *Profil Institut Fur Stoffwechselforschung GbmH v. Profil Inst. for*
4 *Clinical Rsch.*, No. 16CV2762-LAB (BLM), 2016 WL 7325466 (S.D. Cal. Dec. 16, 2016). To start,
5 *Profil* was a breach of contract case about trademark issues. *Id.* at *1. That is not comparable to the
6 urgency here, where OpenAI is in possession of Apple’s trade secrets and is attempting to launch
7 hardware products of its own. Moreover, in *Profil*, “Plaintiff admit[ted] that it [did] not need the
8 expedited discovery for its preliminary injunction motion.” *Id.* at *3. Here, Apple explained precisely
9 why it needs this discovery in connection with its preliminary injunction motion. (Mot. at 9–10.)

10 **C. Apple’s Discovery Requests Are Appropriately Directed To Discovering The**
11 **Nature Of Defendants’ Misappropriation.**

12 Apple’s opening brief explains at length why its requested discovery is permissible to
13 (1) determine the extent of unauthorized use and (2) aid in the enforcement and potential adjustment
14 of injunctive relief. (Mot. at 9–10.) Defendants do not address either of those bases.

15 Instead, Defendants repeat their unfounded assertion that Apple has not sufficiently identified
16 its trade secrets. As explained above, Defendants are wrong. Apple’s Complaint provided sufficient
17 identification of trade secrets for a pleading (*see, e.g.*, Dkt. 88-4 at 6 (summarizing the misappropriated
18 materials and linking them to the trade secrets identified in the Complaint)), and in its Motion for
19 Preliminary Injunction, Apple further identified its trade secrets and discussed them in detail (Dkt. 38
20 at 10–11 (identifying the misappropriated trade secrets)); *see also* Dkt. 47-8 (Apple’s preliminary trade
21 secret identification); Dkt. 39 (Patel Decl.); Dkt. 40 (Dionello Decl.); Dkt. 41 (Hughes Decl.); Dkt. 43
22 (Hatch Decl.); Dkt. 44 (Fayed Decl.).) Defendants also repeat their citations to *Profil* and *Am.*
23 *LegalNet*. (Opp. at 11.) Those cases are inapplicable for the reasons discussed above.

24 **D. Apple’s Discovery Requests Are Not Unduly Burdensome.**

25 Apple’s opening brief explains why its discovery requests are not unduly burdensome and cites
26 multiple cases supporting that conclusion. (Mot. at 10–11.) Defendants have no response.
27

Defendants’ burden arguments rehash points made elsewhere in their brief, and they are no more persuasive here. First, Defendants reiterate their objections to the definitions of “Apple Originated Information” and “Certain Former Apple Employees.” Those terms are addressed above in Section III.B. Second, *Wedge Water* is readily distinguishable. That case involved trademark claims, not trade secrets, and no preliminary injunction motion was pending—so it presented none of the urgency at issue here. *Wedge Water LLC v. Ocean Spray Cranberries, Inc.*, No. 21-CV-0809-GPC(BLM), 2021 WL 2138519, at *1, *3 (S.D. Cal. May 26, 2021). Despite the lack of urgency, the plaintiff demanded a “very expedited” timeline—written discovery in 10 days and depositions in 14 days. *Id.* at *4. That led the court to deny the request for expedited discovery. *Id.* Apple, in contrast, requests written discovery in 30 days and a 30(b)(6) deposition in 50 days. Third, Defendants cite *Profil* again. As discussed above in Section III.B, that case did not involve trade secrets and the plaintiff admitted it did not need the discovery it sought. *Profil*, 2016 WL 7325466, at *3.

E. Apple’s Discovery Requests Were Made At An Appropriate Time.

Apple’s opening brief explains why courts routinely grant expedited discovery at this stage. (Mot. at 11–12.) Apart from their arguments that Apple’s motion is supposedly moot, Defendants do not address this factor.

F. Defendants’ Request For “Reciprocal” Expedited Discovery Should Be Denied.

In the alternative, Defendants ask for “reciprocal” expedited discovery. To be sure, all parties are entitled to and will receive reciprocal discovery in the ordinary course. But Defendants’ requests should be denied because they are procedurally improper, and their scope goes beyond the issues of Apple’s preliminary injunction.

Defendants’ request for “reciprocal” expedited discovery is procedurally improper because parties may not move for such relief in opposition briefs. *See, e.g., Rosario v. 11343 Penrose Inc.*, No. 2:20-CV-04715-SB-RAO, 2020 WL 8812460, at *7 (C.D. Cal. Oct. 26, 2020) (“Without commenting on the merits of this specific request, the Court notes that opposition papers are an inappropriate place to request further discovery.”); *Kincaid v. Cnty. of Los Angeles*, 2023 WL

1 4681603, at *1 n.2 (C.D. Cal. June 6, 2023), *report and recommendation adopted*, 2023 WL 5154472
 2 (C.D. Cal. Aug. 7, 2023) (“[R]equests for court action must be made by motion and cannot be made
 3 in an opposition brief.”); *Finjan, Inc. v. Blue Coat Sys., Inc.*, No. 13-CV-03999-BLF, 2015 WL
 4 3630000, at *13 n.8 (N.D. Cal. June 2, 2015) (“[N]or is such a request for affirmative relief properly
 5 presented in an opposition brief.”). That rule makes especially good sense here, where Defendants
 6 have added a single paragraph at the end of their brief as an afterthought, without any legal support or
 7 substantive analysis, and which would deny Apple and the Court the benefit of proper briefing.

8 Defendants’ examples of the discovery they seek further demonstrate why “reciprocal”
 9 expedited discovery should be denied. (Opp. at 13.) First, Defendants seek to discover evidence that
 10 Mr. Liu’s access to Apple systems “was at the request of Apple employees.” (*Id.*) If that were true,
 11 Mr. Liu would already have evidence of such requests. Second, Defendants seek discovery “into
 12 Apple’s allegations that Mr. Tan encouraged the disclosure of Apple confidential information.” (*Id.*)
 13 Apple has already disclosed its allegations against Mr. Tan in the Complaint and the Motion for
 14 Preliminary Injunction. It is unclear what more Defendants require before Apple has received
 15 discovery into Mr. Tan’s conduct. Third, Defendants seek discovery of Apple’s iCloud policies and
 16 security. (*Id.*) Yet Apple does not allege misappropriation through iCloud. To the extent that
 17 Defendants wish to develop a defense based on iCloud, they can do so in ordinary discovery.
 18 Defendants’ other requests are similarly unreasonable. For instance, Defendants provide no reason
 19 why they need 34 RFPs from Apple (Dkt. 87-2 to -4), when Apple seeks to serve six to seven RFPs
 20 on each Defendant. (Dkt. 49-2 to -8.)

21 Defendants’ reciprocal-discovery tactic has been tried before—and rejected. In *Apple v.*
 22 *Samsung*, Apple alleged that Samsung’s products “infringe[d] Apple’s trade dress, trademarks, and
 23 utility and design patents.” *Apple Inc. v. Samsung Elecs. Co.*, 768 F. Supp. 2d 1040, 1042 (N.D. Cal.
 24 2011). At the hearing, Samsung’s counsel “argued that if Apple were granted expedited discovery,
 25 Samsung should be entitled to some form of reciprocal discovery.” *Id.* at 1043. There, as here, “Apple
 26 indicated that it would agree to some reciprocal expedited discovery, provided the requested discovery
 27

1 was reasonable and necessary to oppose a preliminary injunction.”³ *Id.* The court held that Samsung’s
2 request was not ripe because it was raised only in response to Apple’s motion rather than by Samsung’s
3 own application—precisely the impermissible posture of Defendants’ request here. *Id.* When
4 Samsung did later move for expedited discovery, it did not limit its requests to evidence bearing on
5 Apple’s claims; it demanded samples of Apple’s unreleased next-generation products. *Id.* The court
6 denied that request because the discovery was untethered to Apple’s claim that Samsung had copied
7 its existing products. *Id.* at 1045–47. *Apple v. Samsung* thus illustrates two principles: (1) a defendant
8 seeking reciprocal expedited discovery must properly present that request by its own properly noticed
9 motion, not as a rider to its opposition; and (2) any expedited discovery must be narrowly focused on
10 the claims actually at issue. Both principles require denying Defendants’ request.

11 **IV. CONCLUSION**

12 Apple respectfully requests that the Court grant its motion for expedited discovery.
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24 ³ Even though Defendants’ discovery requests should be denied for the reasons discussed above, Apple
25 is amenable to reasonable expedited discovery for Defendants and intends to meet and confer with
26 Defendants about an appropriate scope of such discovery.
27

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