

Gabriel S. Gross (SBN 254672)
 Gaby LaHatte (SBN 321844)
 WEIL, GOTSHAL & MANGES LLP
 201 Redwood Shores Parkway
 Redwood Shores, California 94065
 Telephone: (650) 802-3000
 Facsimile: (650) 802-3100
 gabe.gross@weil.com
 gaby.lahatte@weil.com

Christopher W. Henry (*pro hac vice*)
 WEIL, GOTSHAL & MANGES LLP
 1001 Boylston Street, Suite 300
 Boston, Massachusetts 02115
 Telephone: (617) 772-8300
 Facsimile: (617) 772-8333
 chris.henry@weil.com

Rachel L. Weiner Cohen (*pro hac vice*)
 WEIL, GOTSHAL & MANGES LLP
 2001 M Street NW, Suite 600
 Washington, DC 20036
 Telephone: (202) 682-7000
 Facsimile: (202) 857-0940
 rachel.cohen@weil.com

Counsel for Plaintiff Apple Inc.

[Additional counsel listed in signature block]

John M. Desmarais (SBN 320875)
 Karim Z. Oussayef (*pro hac vice*)
 Steven Balcof (*pro hac vice*)
 Ido Sadeh (*pro hac vice*)
 Jun Tong (*pro hac vice*)
 DESMARAIS LLP
 230 Park Avenue, 26th Floor
 New York, New York 10169
 Telephone: (212) 351-3400
 Facsimile: (212) 351-3401
 jdesmarais@desmaraisllp.com
 koussayef@desmaraisllp.com
 sbalcof@desmaraisllp.com
 isadeh@desmaraisllp.com
 jtong@desmaraisllp.com

Marie Delzell (SBN 367393)
 DESMARAIS LLP
 101 California Street, Suite 3000
 San Francisco, California 94111
 Telephone: (415) 573-1900
 Facsimile: (415) 573-1901
 mdelzell@desmaraisllp.com

Atifah Safi (*pro hac vice*)
 DESMARAIS LLP
 1899 Pennsylvania Avenue, NW, Suite 400
 Washington, DC 20006
 Telephone: (202) 451-4900
 Facsimile: (202) 451-4901
 asafi@desmaraisllp.com

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

APPLE INC.,

Plaintiff,

v.

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

Defendants.

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

**PLAINTIFF'S STATEMENT IN
 RESPONSE TO DEFENDANTS'
 OBJECTIONS TO REPLY EVIDENCE**

Judge: Edward J. Davila

Hearing Date: Oct. 14, 2026

Time: 9:00 AM

1 Plaintiff Apple Inc. (“Apple”) respectfully submits this response to Defendants’ Objections to
2 Reply Evidence Under Civil Local Rule 7-3(d)(1) (Dkt. 167).

3 Rule 7-3(d)(1) permits a party to object to new evidence in a reply brief, but cautions that the
4 filing “may not include further argument on the motion.” Defendants did not comply with this
5 restriction and used their filing to relitigate the merits of Apple’s Motion for Preliminary Injunction.

6 For example, Defendants dispute whether Dr. Runge has a “basis to offer any analysis,”
7 adequately responds to “contrary evidence,” and demonstrates that certain Apple information is not
8 public. Dkt. 167 at 2:22-3:10. Such arguments are not objections to new evidence. *See t’Bear v.*
9 *Forman*, 359 F. Supp. 3d 882, 897 (N.D. Cal. 2019) (“[A]rgument regarding how certain of Plaintiff’s
10 positions are unsupported by evidence or contradicted by other testimony” is “not an objection to
11 evidence.”).

12 The most egregious overreach is a new declaration from Mr. Liu, comprising eight paragraphs
13 of new testimony. Defendants rely on this new testimony to offer excuses for why Mr. Liu “wiped”
14 (i.e., erased) all the data from his iMac before returning it to Apple, Dkt. 167-1 (Liu Decl.) ¶ 4, argue
15 about the meaning of certain text messages with one of Apple’s suppliers, *id.* ¶ 5, and try to explain
16 away his use of one of Apple’s confidential computer files, *id.* ¶¶ 6-8. Such testimony violates the
17 prohibition against “further argument on the motion.” Together, the filing and the declaration run 9
18 pages, which also violates the limitation that the objections “may not exceed 5 pages of text.” Rule
19 7-3(d)(1).

20 Defendants’ new arguments and evidence are more in the nature of a “sur-reply” rather than
21 an objection. But, Defendants did not seek leave to file a sur-reply. Nonetheless, as Defendants have
22 now adequately answered any “new” evidence from Apple’s Reply in its current filing, the Court
23 should deny Defendants’ request to strike any of Apple’s Reply evidence, and should decide the
24 Preliminary Injunction motion on a full record, including both the arguments and evidence in Apple’s
25 Reply as well as the new arguments and evidence improperly submitted with Defendants’ filing.

1 Dated: October 5, 2026

/s/ Karim Z. Oussayef
Karim Z. Oussayef

2
3 Gabriel S. Gross (SBN 254672)
Gaby LaHatte (SBN 321844)
Vanessa K. Sim (SBN 341107)
4 WEIL, GOTSHAL & MANGES LLP
201 Redwood Shores Parkway
5 Redwood Shores, California 94065
Telephone: (650) 802-3000
6 Facsimile: (650) 802-3100
gabe.gross@weil.com
7 gaby.lahatte@weil.com
vanessa.sim@weil.com

8
9 Christopher W. Henry (*pro hac vice*)
WEIL, GOTSHAL & MANGES LLP
1001 Boylston Street, Suite 300
10 Boston, Massachusetts 02115
Telephone: (617) 772-8300
11 Facsimile: (617) 772-8333
chris.henry@weil.com

12
13 Rachel L. Weiner Cohen (*pro hac vice*)
Nicole Elena Bruner (*pro hac vice*)
WEIL, GOTSHAL & MANGES LLP
14 2001 M Street NW, Suite 600
Washington, DC 20036
15 Telephone: (202) 682-7000
Facsimile: (202) 857-0940
16 rachel.cohen@weil.com
nicole.bruner@weil.com

17
18 Heather Blacklaws (*pro hac vice*)
WEIL, GOTSHAL & MANGES LLP
600 Congress Avenue, Suite 2170
19 Austin, Texas 78701
Telephone: (512) 487-1480
20 Facsimile: (512) 487-1520
heather.blacklaws@weil.com

21
22 Nina Shapiro (*pro hac vice*)
WEIL, GOTSHAL & MANGES LLP
767 5th Avenue
23 New York, New York 10153
Telephone: (212) 310-8000
24 Facsimile: (212) 310-8007
nina.shapiro@weil.com

25
26 John M. Desmarais (SBN 320875)
Karim Z. Oussayef (*pro hac vice*)
Steven Balcof (*pro hac vice*)
27 Jun Tong (*pro hac vice*)
Ido Sadeh (*pro hac vice*)
28

1 DESMARAIS LLP
2 230 Park Avenue, 26th Floor
3 New York, New York 10169
4 Telephone: (212) 351-3400
5 Facsimile: (212) 351-3401
6 jdesmarais@desmaraisllp.com
7 koussayef@desmaraisllp.com
8 sbalcof@desmaraisllp.com
9 jtong@desmaraisllp.com
10 isadeh@desmaraisllp.com

11 Marie Delzell (SBN 367393)
12 DESMARAIS LLP
13 101 California Street, Suite 3000
14 San Francisco, California 94111
15 Telephone: (415) 573-1900
16 Facsimile: (415) 573-1901
17 mdelzell@desmaraisllp.com

18 Atifah Safi (*pro hac vice*)
19 DESMARAIS LLP
20 1899 Pennsylvania Avenue, NW, Suite 400
21 Washington, DC 20006
22 Telephone: (202) 451-4900
23 Facsimile: (202) 451-4901
24 asafi@desmaraisllp.com

25 *Attorneys for Plaintiff Apple Inc.*
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