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County of Santa Clara
19CV352866
Reviewed By: Yuet Lai

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APPLE INC.

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SANTA CLARA
10 UNLIMITED JURISDICTION

11 APPLE INC.,

12 Plaintiff,

13 v.

14 GERARD WILLIAMS III,

15 Defendant.

Case No. 19CV352866

APPLE INC.'S COMPLAINT FOR:

1. BREACH OF CONTRACT

2. BREACH OF DUTY OF LOYALTY

Amount demanded exceeds \$25,000

1 Plaintiff Apple Inc. ("Apple") alleges as follows:

2 **INTRODUCTION**

3 1. This case involves a worst-case scenario for an innovative company like Apple: A trusted
4 senior director with years of experience, and years of access to Apple's most valuable information,
5 secretly starts a competing company leveraging the very technology the director was working on, and the
6 same teams he was working with, while still employed by Apple. These are violations of the most basic
7 duties owed by an employee, and in extreme cases like this one, Apple must take action to protect its
8 business.

9 2. Defendant Gerard Williams III was a senior platform architect at Apple. He joined Apple
10 in 2010, and occupied increasingly senior positions of trust and discretion. During his tenure at Apple,
11 he played a key role: He designed chips for a range of Apple products including the iPhone and iPad.
12 Williams was exposed to Apple's sensitive and proprietary technology and corporate strategy, and he
13 was compensated handsomely.

14 3. Unfortunately, rather than exploiting the technology he was working on *for* Apple,
15 Williams secretly considered how he could take an opportunity to exploit that technology *from* Apple.
16 Williams boasted about starting a new company with technology that he was working on at Apple, that
17 he believed Apple "needed," and that he believed Apple would have no choice but to purchase.

18 4. By 2018, Williams had started his new venture on Apple's dime. He called it NuVia.
19 Though he remained on Apple's payroll, Williams's focus turned from Apple to NuVia. He spent dozens
20 of hours on the phone with his co-founders and some of his coworkers, which was not necessary for his
21 job at Apple. While still employed by Apple, Williams began recruiting coworkers in order to mirror
22 Apple's teams at NuVia.

23 5. Williams knew these actions were prohibited, and attempted a cover-up. He apparently
24 told select Apple colleagues his venture was in "stealth mode." Williams also apparently avoided written
25 communications that he thought Apple could find. Williams did, however, reach out to coworkers by
26 phone. Williams's co-founders also reached out by phone. Indeed, one of Williams's co-founders
27 communicated with one of the first recruits from Apple throughout 2018, often shortly before or after
28 Williams had done the same. Williams apparently believed that having his co-founders handle

1 communications with his Apple colleagues would keep the recruits “clean.” Recruits were told not to let
2 Apple get wind of the communications.

3 6. NuVia’s mission appears to be to build chips leveraging technology directly related to
4 what Williams was developing for Apple. Williams never disclosed to Apple this extension of his work
5 at Apple—or the existence of this competing venture.

6 7. Williams was required to disclose to Apple extensions of the technology on which he was
7 working. Williams signed an Apple Intellectual Property Agreement (the “IPA”) as a condition of his
8 employment with Apple. The IPA and Williams’s duties as an employee required that: Williams would
9 not compete with, or take any actions inimical to the interests of, Apple while employed by Apple; he
10 would disclose any work he was doing that related to Apple’s business; and he would keep Apple’s
11 technology, business strategies, and personnel information in confidence. A true and correct copy of the
12 IPA Williams executed is attached as Exhibit A.

13 8. Williams resigned from Apple in February 2019, telling colleagues he wanted to start
14 “another journey,” one with family and friends, spend more time with his children, and “chill.” In fact,
15 he was doing none of this. Rather, in the days before his departure, Williams and his co-founders
16 continued to recruit coworkers to leave—efforts that continued in the following days. Numerous of these
17 recruits would join Williams in subsequent months.

18 9. Apple does not take this matter lightly—Apple does not litigate with past employees
19 regularly. Here, however, Williams’s actions, in competing with Apple while at the same time working
20 for Apple, jeopardize years of hard work by hundreds of people, and millions of dollars invested. Apple
21 therefore has little choice in order to protect its business, and so files this complaint seeking relief.

22 PARTIES

23 10. Plaintiff Apple Inc. is a California corporation with its principal place of business in
24 Cupertino, California. Apple is a world-renowned technology company. Since its founding in 1976,
25 Apple has revolutionized computing time and again. It designs, manufactures, and markets mobile
26 devices and computers, and produces a variety of related software, services, accessories, networking
27 solutions, and third-party digital content and applications.

28

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1 **B. Williams Joins Apple and Undertakes Duties to It.**

2 17. Defendant Gerard Williams III joined Apple in 2010. Williams's last day at Apple was
3 February 1, 2019.

4 18. As a condition of his employment with Apple, Williams executed and assented to an IPA.

5 19. Pursuant to the IPA, Williams agreed that "during the tenure of [Williams's] employment
6 by Apple [he] [would] not plan or engage in any other employment, occupations, consulting, or other
7 business activities or commitments competitive with or directly related to Apple's business or products,
8 or to its actual or demonstrably anticipated research and development."

9 20. Williams also agreed that his "employment by Apple creates a relationship of confidence
10 and trust with respect to any information of a confidential, proprietary, and secret nature that may be
11 disclosed to [him] or other otherwise learned by [him] in the course of [his] employment at Apple." The
12 IPA defined "Proprietary Information" to include Apple's "past, present, or future inventions,"
13 "hardware designs," "business strategies," and "personnel information." Williams agreed to "not use or
14 disclose Proprietary Information without the written consent of Apple, except as necessary to perform
15 [his] duties as an employee of Apple."

16 21. Additionally, Williams agreed "that all inventions that (a) are developed using the
17 equipment, supplies, facilities, or Proprietary Information of Apple or its subsidiaries; or (b) result from
18 or are suggested by work performed by [him] for Apple or its subsidiaries; or (c) are conceived or
19 reduced to practice during [his] employment by Apple and relate to the business and products, or to the
20 actual or demonstrably anticipated research or development of Apple or its subsidiaries ("Apple
21 Inventions"), will be the sole and exclusive property of Apple." Williams agreed he would promptly
22 disclose all Apple Inventions and perform all acts needed to assign them to Apple.

23 22. Finally, Williams agreed that a breach of his duty of confidence and trust or a violation of
24 his obligation to disclose and assign to Apple all Apple Inventions "would cause irreparable harm and
25 significant injury to Apple."
26
27
28

1 January 29, 2019. The lengthy calls continued after Williams's last day at Apple, including on February
2 5, 6, and 8. Employee 2 left Apple for NuVia by June.

3 38. By the end of June 2019, Williams and NuVia had raided Apple of a number of key
4 personnel responsible for the technology that Williams was working on at Apple and that he wanted to
5 keep exploiting for NuVia. In addition to Employees 1 and 2, Williams and NuVia recruited away:
6 Employee 3, an Apple platform architect; Employee 4, an Apple hardware engineer; Employee 5, an
7 Apple packaging engineer; Employee 6, an Apple senior engineer; Employee 7, an Apple design
8 engineer; and Employee 8, an Apple mobile silicon architect. Many of these individuals had been
9 Williams's subordinates at Apple. And most of these employees followed Williams's lead, timing their
10 departures from Apple to closely follow the vesting of significant stock grants.

11 39. Williams and NuVia's efforts to recruit an Apple senior engineer, Employee 9, evidence
12 NuVia's relatedness to technology Williams was building for Apple. For example, Employee 9
13 exchanged messages with Manu Gulati on March 5, 2019:

14 E9: Nice to chat with you on Sunday. I can come today after 2pm to meet,
15 lemme know if this works and there is interest in hiring me.

16 MG: Hi [Employee 9]. Definitely interested. Let me get back to you re
17 time to meet

18 ...

19 E9: kk see u then. *I usually don't like to toot my own horn f2f ☺, but all
20 the critical single cycle paths in IEX and LSU for Cyclone were
21 implemented by me and even after all these years, not too many people
22 know how these were implemented. I am sure [Employee 1], Boris and
23 Gerard will vouch on this ☺* And yes I am still fully hands on, otherwise I
24 would not be willing to risk leaving Apple and equity behind

25 (emphasis added)

26 40. Williams and NuVia's communications with Employee 9 also reflect an awareness of the
27 impropriety of and a need to keep quiet about the efforts to raid Apple of key personnel. For example,
28 NuVia routed communications between Employee 9 and Williams through Manu Gulati, who was not an
Apple employee, in order to "keep [Employee 9] clean." Similarly, on March 26, 2019, Amarjit Gill
messed him: "[Employee 9], hope you are doing well. Pls keep our discussions quiet and discreet so
[Apple Employee] or others don't get wind of it. Let's catch up on a call today." The following day,

1 49. On information and belief, Williams is developing products for NuVia based on work that
2 results from or was suggested by Williams's work at Apple and that relate to its business, products,
3 research, and development. Williams has failed to disclose and assign these inventions to Apple.

4 50. Williams thus breached his contractual obligations concerning Apple inventions.

5 51. As a direct and proximate result of Williams's breaches of the IPA, Apple has suffered
6 and will continue to suffer actual damages, in an amount to be determined at trial, including but not
7 limited to, lost cost savings, loss of profits from the chance to develop products being developed by
8 NuVia, and delays and setbacks from the loss of key personnel critical to its hardware development
9 efforts. And Williams has been unjustly enriched, including by avoiding the enormous risk and
10 investment of time, resources, and money necessary to develop technologies and retain personnel critical
11 to NuVia's potential success.

12 SECOND CAUSE OF ACTION

13 (Breach of Duty of Loyalty)

14 52. Apple incorporates all of the above paragraphs as though fully set forth herein.

15 53. By virtue of his employment with Apple, Williams owed a duty of loyalty to Apple under
16 the common law and Labor Code sections 2860 and 2863.

17 54. Williams's duty of loyalty forbade him from, among other things, competing with Apple
18 or aiding its competitors; from acquiring a material benefit from a third party in connection with the use
19 of his position; and from using or disclosing Apple's information for his or a third party's purposes.

20 55. Williams breached his duty of loyalty by, among other things, while employed by Apple,
21 starting a competitive business, NuVia, and failing to disclose his work in the same space as Apple.

22 56. As a direct and proximate result of Williams's breaches of his duty of loyalty, Apple has
23 suffered and will continue to suffer actual damages, in an amount to be determined at trial, including but
24 not limited to lost cost savings, loss of profits from the chance to develop products being developed by
25 NuVia, and through delays and setbacks from the loss of key personnel critical to Apple's hardware
26 development efforts. And Williams has been unjustly enriched, including by avoiding the enormous risk
27 and investment of time, resources, and money necessary to develop technologies and retain personnel
28 critical to NuVia's potential success.

1 57. Williams's breaches of his duty of loyalty were done with malice and oppression, thereby
2 entitling Apple to an award of punitive damages.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Apple requests the following relief:

- 5 a. Judgment in Apple's favor and against Williams on the causes of action alleged
6 herein;
- 7 b. For injunctive relief;
- 8 c. For a constructive trust;
- 9 d. For an award of damages in an amount to be determined at trial;
- 10 e. For specific performance;
- 11 f. For restitution and disgorgement of unjust enrichment;
- 12 g. For punitive damages; and
- 13 h. For all other relief the Court deems just and proper.


14 **DEMAND FOR JURY TRIAL**

15 Apple demands a trial of its claims by jury to the extent authorized by law.

16
17 Dated: August 7, 2019

DURIE TANGRI LLP

18 Bv: _____
19


JOSHUA H. LERNER
HENRY H. CORNILLIE

20 Attorneys for Plaintiff
21 APPLE INC.
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EXHIBIT A

142241

Williams III, Gerard R.

Intellectual Property Agreement

This Agreement sets forth the agreements between you and Apple Inc. (Apple) concerning any inventions you may make in connection with your employment by Apple and your treatment of Apple's confidential and proprietary information. Apple has agreed to employ you (or if this Agreement is being executed after you have already been employed by Apple, to continue to employ you) on the condition that you agree to and will abide by the following terms and conditions for the duration of your employment by Apple (including, but not limited to, any leave of absence or other time off) and thereafter.

1.0 INVENTIONS

As used in this Agreement, the term "inventions" means any and all inventions, ideas, and discoveries, including improvements, original works of authorship, designs, formulas, processes, computer programs or portions thereof, databases, trade secrets and proprietary information, documentation, and materials made, created, conceived, or reduced to practice by you, whether alone or jointly with others.

a. Your Rights in Inventions. (i) Prior Inventions. In the space provided below, or on a separate sheet attached to this Agreement, you may list all inventions (a) that you made prior to your employment by Apple; (b) that you claim belong to you, or that you claim an ownership interest in, or to which you claim any other legal right or title; and (c) in which you wish to retain any claimed ownership or other legal rights ("Prior Inventions"). If you do list such Prior Inventions, you hereby grant to Apple a royalty-free, irrevocable, perpetual, worldwide license to any Prior Invention that is now or hereafter infringed by an Apple product, process, or method of doing business (hereinafter "Apple Product") if: (i) you were involved in the development or implementation of that portion of the Apple Product which infringes your Prior Invention, or (ii) you acquiesced or permitted other Apple employees to utilize your Prior Invention in the course of their development or implementation of the Apple Product, or (iii) upon first learning of Apple's use of your Prior Invention you do not immediately notify in writing your Apple vice president of Apple's infringing use of your Prior Invention and the need for a license thereto. If you do not list a Prior Invention, you acknowledge and agree that no such Prior Inventions exist and, to the extent such Prior Inventions do exist, you waive any and all rights or claims of ownership to such Prior Inventions. You understand that your listing of any Prior Invention(s) here does not constitute an acknowledgment by Apple of the existence or extent of such Prior Inventions, nor of your ownership of such Prior Inventions. Please do not use this space to disclose an ongoing business or project, or a product that you are developing and/or distributing; such ongoing activity must be presented to your manager in writing, and approved in advance by your Apple vice president.

Prior Inventions (description and identifying number of patent, if applicable):

Title	Date
Brief Description of Invention	

A separate sheet listing Employee Inventions is attached.

(ii) Future Employee Inventions.¹ Apple acknowledges and agrees, in accordance with applicable state law, that any Inventions (a) that you develop entirely on your own time; and (b) that you develop without using Apple's or its subsidiaries' equipment, supplies, facilities, or trade secret information; and (c) that do not result from any work performed by you for Apple or its subsidiaries; and (d)² that do not relate, at the time of conception or reduction to practice, to Apple's or its subsidiaries' business or products, or to Apple's or its subsidiaries' actual or demonstrably anticipated research or development, will be owned entirely by you, even if developed by you during the time period in which you are employed by Apple.

b. Apple's Rights in Inventions. (i) Assignment of Inventions to Apple. You agree that all Inventions that (a) are developed using the equipment, supplies, facilities, or Proprietary Information of Apple or its subsidiaries; or (b) result from or are suggested by work performed by you for Apple or its subsidiaries; or (c)³ are conceived or reduced to practice during your employment by Apple and relate to the business and products, or to the actual or demonstrably anticipated research or development of Apple or its subsidiaries ("Apple Inventions"), will be the sole and exclusive property of Apple, and you will and hereby do assign all your right, title, and interest in such Apple Inventions to Apple. You agree to perform any and all acts requested by Apple, if any, to perfect this assignment. (ii) Disclosure. You agree to make full written disclosure promptly to Apple of any and all Apple Inventions. (iii) Assignment of Moral Rights to Apple. In addition, to the extent permitted by law, you hereby transfer and assign any "moral" rights that you may have in any Apple Invention(s) under any copyright or other law, whether U.S. or foreign. You agree to waive and never to assert any such "moral" rights in Apple Inventions during or after the termination of your employment by Apple. You agree that Apple, its subsidiaries, and its licensees are not required to designate you as the author of any Apple Inventions when distributed. You also agree that Apple retains sole discretion with regard to how and for what purposes, if any, such Apple Invention(s) are used.

c. Protection of Apple Inventions. You agree (at Apple's expense) to assist Apple in every proper way to obtain and to help Apple enforce patents, copyrights, and other legal protections for Apple Inventions in any and all countries. You agree to promptly execute any documents that Apple may reasonably request for use in obtaining or enforcing such patents, copyrights, and other legal protections. You acknowledge that all original works of authorship that are made by you (solely or jointly with others) within the scope of your employment by Apple, and that are protectable by copyright, are works made for hire, as that term is defined in the United States Copyright Act (17 U.S.C. § 101).

2.0 CONFIDENTIAL PROPRIETARY INFORMATION

You understand that your employment by Apple creates a relationship of confidence and trust with respect to any information of a confidential, proprietary, and secret nature that may be disclosed to you or otherwise learned by you in the course of your employment at Apple, including but not limited to any confidential information of third parties disclosed to Apple. Such confidential, proprietary, and secret information includes, but is not limited to, information and material relating to past, present, or future Inventions, marketing plans, manufacturing and product plans, technical specifications, hardware designs and prototypes, business strategies, financial information and forecasts, personnel information, and customer lists, and is referred to collectively in this Agreement as "Proprietary Information."

a. Confidentiality of Proprietary Information. You understand and agree that your employment by Apple requires you to keep all Proprietary Information in confidence and trust for the tenure of your employment and thereafter, and that you will not use or disclose Proprietary Information without the written consent of Apple, except as necessary to perform your duties as an employee of Apple. Upon termination of your employment with Apple, you will promptly deliver to Apple all documents and materials of any kind pertaining to your work at Apple, and you agree that you will not take with you any documents, materials, or copies thereof, whether on paper, magnetic or optical media, or any other medium, containing any Proprietary Information.

b. Information of Others. You agree that during the tenure of your employment by Apple and thereafter, you will not improperly use or disclose to Apple any confidential, proprietary, or secret information of your former employers or any other person. You further agree that you have not, and during your employment with Apple will not, bring any confidential, proprietary, or secret information of your former employer(s) or any other person(s) onto Apple property.

¹For employees in California: Labor Code §2870 provides: "(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information, except for those inventions that either: (1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer, or (2) Result from any work performed by the employee for the employer.

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable."

²For employees in the states of Kansas, Minnesota, or Washington: Section 1.0 a. (ii)(d) reads as follows: "(d) that do not directly relate at the time of conception or reduction to practice to Apple's business or products, or actual or demonstrably anticipated research or development of Apple, will be owned entirely by you, even if developed by you during the time period in which you are employed by Apple."

³For employees in the states of Kansas, Minnesota, or Washington: Section 1.0 b. (i)(c) reads as follows: "(c) are conceived or reduced to practice during your employment by Apple and relate directly to the business or products, or actual or demonstrably anticipated research or development of Apple ("Apple Inventions"), will be the sole and exclusive property of Apple, and you will and hereby do assign all your right, title, and interest in such Apple Inventions to Apple."

3.0 NO CONFLICTING OBLIGATIONS

a. **No Conflicting Outside Interests.** You agree that during the tenure of your employment by Apple you will not plan or engage in any other employment, occupations, consulting, or other business activities or commitments competitive with or directly related to Apple's business or products, or to its actual or demonstrably anticipated research or development, nor will you engage in any other activities that conflict with your employment obligations to Apple. Activities and commitments as used herein do not include passive investments in stocks or other financial instruments.

b. **No Conflicting Agreements.** You represent to Apple that you have no other commitments that would hinder or prevent the full performance of your duties as an Apple employee or your obligations under this Agreement, and you agree not to enter into any such conflicting agreement during the tenure of your employment by Apple.

c. **Disclosure of Agreement.** You hereby authorize Apple to notify others, including customers of Apple, and any future employers you may have, of the terms of this Agreement and your responsibilities under this Agreement.

d. **During your employment and for a period of one (1) year following your termination date, you will not, directly or indirectly, solicit, encourage, recruit, or take any action intended to induce Apple employees or contractors to terminate their relationship with Apple.**

4.0 NO IMPLIED EMPLOYMENT RIGHTS

You understand and agree that no term or provision of this Agreement confers upon you any rights to continued employment by Apple and that no term or provision of this Agreement obligates Apple to employ you for any specific period of time or interferes with or restricts your right or Apple's right to terminate your employment at any time for any reason.

5.0 EQUITABLE RELIEF

A breach of the provisions of sections 1.0 or 2.0 of this Agreement would cause irreparable harm and significant injury to Apple; the quantification of which is difficult to ascertain. Because such harm and injury could not be compensable by damages alone, you agree that Apple will have the right to enforce sections 1.0 and 2.0 of this Agreement by injunction, specific performance, or other equitable relief without prejudice to any other rights and remedies available to Apple in the event of a breach of this Agreement.

6.0 GENERAL PROVISIONS

a. **Severability.** If one or more of the provisions of this Agreement are deemed void or unenforceable by law, then the remaining provisions will continue in full force and effect.

b. **Governing Law.** This agreement will be governed by the laws of the state where you are currently or were most recently employed, excluding that body of law concerning conflicts of law. Any arbitration or judicial action between the parties relating to this Agreement will take place in Santa Clara County, California, and you and Apple each consent to the personal jurisdiction of and venue in the state and federal courts within Santa Clara County, California.

c. **Successors and Assigns.** This Agreement will be binding upon your heirs, executors, administrators, and other legal representatives, and will be for the benefit of Apple, its successors, and assigns.

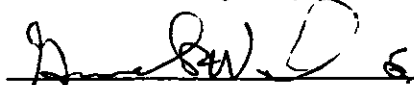
d. **Entire Agreement.** This Agreement sets forth the entire agreement between you and Apple relating to the subject matter of this Agreement. No modification to or amendment of this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing signed by both you and an Apple vice president. Any subsequent changes in your duties, salary, or compensation will not affect the validity or scope of this Agreement.

e. **Compliance with Laws.** You agree that you will comply, and do all things necessary for Apple and its subsidiaries to comply, with the laws and regulations of all governments where Apple and its subsidiaries do business, and with provisions of contracts between any such government or its contractors and Apple or its subsidiaries.

7.0 VOLUNTARY AGREEMENT

You acknowledge that you have read this Agreement carefully, that you understand all of its terms, that all agreements between you and Apple relating to the subjects covered in this Agreement are contained in it, and that you have entered into this Agreement voluntarily and not in reliance upon any promises or representations other than those contained in this Agreement itself.

You further acknowledge that you have had the opportunity to discuss this Agreement with your private legal counsel.


Employee's Signature

7 JAN 2010
Date

GERARD R. WILLIAMS III
Employee's Printed Name

Please make and retain a copy of this agreement for your records.