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Gerard Williams III

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA

APPLE INC.,  
  
Plaintiff,  
  
v.  
  
GERARD WILLIAMS III,  
  
Defendant.

CASE NO. 19-CV-352866  
  
**DEFENDANT WILLIAMS' ANSWER  
AND AFFIRMATIVE DEFENSES TO  
APPLE'S COMPLAINT**  
  
Action Filed: August 7, 2019  
Judge: Hon. Thang N. Barrett  
Department: 21

1 Defendant Gerard Williams III (“Williams”) hereby answers the Complaint of Plaintiff  
2 Apple Inc. (“Apple”).

3 **GENERAL DENIAL**

4 Pursuant to California Code of Civil Procedure § 431.30(d), Williams hereby denies each  
5 and every material allegation in the Complaint and further denies that Apple has been damaged in  
6 the manner alleged, in any manner, or in any amount.

7 **FACTS SUPPORTING GENERAL DENIAL AND AFFIRMATIVE DEFENSES**

8 1. Apple’s lawsuit against Williams is an improper and anticompetitive attempt to  
9 stifle its former employee’s innovative work at a startup engaged in the development of novel  
10 server technology for use in data centers—technology that Apple itself does not design or develop.  
11 Apple’s complaint wrongly tries to suffocate the creation of new technologies and solutions by a  
12 new business, and to diminish the freedom of entrepreneurs to seek out more fulfilling work. In  
13 choosing to file this lawsuit, Apple is flexing its power and relying on its unlimited resources in an  
14 effort to restrict the freedom of its former employees to pursue their careers outside of Apple, in  
15 contravention of longstanding California public policy.

16 **Williams Is A Highly Sought-After Engineer**

17 2. After obtaining his Master’s Degree in Electrical and Computer Engineering,  
18 Williams started his career at Texas Instruments, where he served as a Design Team Lead.

19 3. In 1998, Williams joined ARM, where he worked for over 12 years, and became a  
20 key ARM employee. Williams was an ARM Fellow and served on the ARM Architectural  
21 Review and Technical Advisory Boards. He also served as a technical advisor for ARM  
22 architecture and CPU development to many key ARM partners. Williams’ work at ARM  
23 furthered the widespread adoption of ARM CPUs found in almost every smartphone today.

24 4. Apple has long relied on ARM’s instruction set when designing its own processors  
25 for use in Apple’s computers, mobile phones and other consumer products. Hiring the best and  
26 brightest engineers from ARM, due to their experience and expertise in creating chip designs  
27 based on ARM’s technology, has thus long been in Apple’s interest. Apple identified Williams as  
28 one such engineer.

1           **Williams Joins Apple And Spearheads Its Mobile Processor Core Development**

2           5. Williams joined Apple in 2010 and rapidly became indispensable to Apple’s chip-  
3 development efforts. In particular, Williams, as Apple’s Chief CPU Architect, led the design of  
4 every Apple processor core from the A7, which debuted in 2013, through the A12X Bionic, which  
5 drove Apple’s 2018 mobile devices.

6           6. Williams’ work grew in scope and complexity throughout his tenure at Apple. By  
7 2017, Williams was overseeing Apple’s system-on-a-chip (“SOC”) architectural development  
8 effort, which permits integration of functions on a single chip. Apple’s development of its own  
9 mobile chips is a key element of its competitive advantage; Android mobile phone developers, for  
10 example, rely on processors designed by Qualcomm Inc. (Snapdragon), Samsung (Exynos), or  
11 Huawei (Kirin).

12           7. As a result of his innovative work at Apple, Williams is listed as an inventor on  
13 nearly 40 Apple patents and pending patent applications relating to a variety of technologies.

14           8. Williams was widely recognized as a key Apple employee and a top innovator  
15 during his employment at Apple. For example, CNET described Williams as one of Apple’s “key  
16 semiconductor engineers” and said Williams’ departure was a “loss for Apple.”<sup>1</sup> Yahoo! Finance  
17 recognized Williams’ role in “spearhead[ing]” the development of Apple’s processor cores and  
18 allowing Apple’s chips to “le[a]d the industry.”<sup>2</sup> It further acknowledged that, under Williams’  
19 direction, Apple’s chips developed “faster CPUs and GPUs as well as more power-efficient  
20 designs,” and his departure “could make it tougher for Apple to maintain th[e] slim lead” it

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22           <sup>1</sup> Shara Tibken, Apple Loses Engineer Who Oversaw iPhone, iPad Processors, *CNET* (Mar.  
23 29, 2019), <https://www.cnet.com/news/apple-loses-engineer-overseeing-the-processors-powering-iphones-ipads/>.

24           <sup>2</sup> Leo Sun, Apple Loses One of Its Most Important Engineers, *Motley Fool* (Apr. 1, 2019),  
25 [https://finance.yahoo.com/news/apple-loses-one-most-important-010000687.html?guccounter=1&guce\\_referrer=aHR0cHM6Ly93d3cuZ29vZ2x1LmNvbS8&guce\\_referrer\\_sig=AQAAAIcRd-hNtLPAXJluEFWfMg4w6iMX4g3XbHAyjOlo8HR3x0zaA8hjeWDcIkcNKHmaIVc1Z\\_Uhlmb6EPIaRbfvX\\_0piaTQLfCGnAxOTT2f3hqiCJs5FSgqv0pDT\\_GJMQrcaJU5ewe08geI5mAjhd-pqvTW-4V31xHwp2wfcfJpq](https://finance.yahoo.com/news/apple-loses-one-most-important-010000687.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2x1LmNvbS8&guce_referrer_sig=AQAAAIcRd-hNtLPAXJluEFWfMg4w6iMX4g3XbHAyjOlo8HR3x0zaA8hjeWDcIkcNKHmaIVc1Z_Uhlmb6EPIaRbfvX_0piaTQLfCGnAxOTT2f3hqiCJs5FSgqv0pDT_GJMQrcaJU5ewe08geI5mAjhd-pqvTW-4V31xHwp2wfcfJpq).

1 maintains over competitors.<sup>3</sup>

2 9. Through their work at Apple, Williams and his co-worker Jim Keller saw the  
3 potential value in building a server chip for use in data centers. In 2010, Williams and Keller  
4 raised this idea with Mike Culbert, their former supervisor at Apple. Culbert suggested that they  
5 put together a presentation for Steve Jobs pitching the idea of Apple building a server chip.  
6 Williams and Keller did so, and Culbert presented that opportunity to Jobs. Following the  
7 meeting, Culbert reported to Williams that Apple would not be pursuing the server chip project  
8 because Jobs was only interested in pursuing Apple's development of consumer-focused products.

9 10. Consistent with Jobs' views, various senior Apple personnel, including Senior Vice  
10 President of Hardware Technologies Johnny Srouji, who led the division in which Williams  
11 worked, and Tim Millet, Williams' direct supervisor, repeatedly emphasized to Williams and, on  
12 information and belief, other Apple employees, including at a division all-hands meeting after  
13 Williams left Apple, that Apple was a consumer-focused company and not in the business of  
14 developing servers for enterprise use. As recently as May 2019, Chief Executive Officer Tim  
15 Cook stated that Apple was viewed as a "consumer company" and that Apple "work[s] at the  
16 intersection of technology and the liberal arts and the humanities, and so we make products for  
17 people, and so the consumer's at the center of what we do."<sup>4</sup>

### 18 **Williams Is Recruited By Google And Intel**

19 11. From February 2018 through late March 2018, Google LLC ("Google")  
20 approached Williams to see if he would be interested in joining Google's mobile chip  
21 development team. Williams declined to pursue this role.

22 12. From March 2018 through May 2018, Intel Corporation, via Intel employees Raja  
23 Koduri and Williams' former co-worker Jim Keller, also approached Williams regarding a chip  
24 development role that would have entailed leading Intel's processor development efforts.

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26 <sup>3</sup> *Id.*

27 <sup>4</sup> Matthew J. Belvedere, Tim Cook Says Warren Buffett's Investment Shows that Apple Isn't  
28 Really a Tech Company Anymore, *CNBC* (May 6, 2019), <https://www.cnbc.com/2019/05/06/tim-cook-buffett-stake-shows-that-apple-is-not-really-a-tech-firm.html>

1 Williams declined to pursue this opportunity as well.

### 2 **Gulati And Bruno Prepare To Launch A Server Project**

3 13. On information and belief, in the fall of 2018, Google employees Manu Gulati and  
4 John Bruno, both of whom were former Apple employees who had worked with Williams at  
5 Apple, decided to pursue the formation of a company to design and develop server technology for  
6 use in data centers. The idea for the company, which arose from Gulati and Bruno's work at  
7 Google, was Bruno's. Bruno convinced Gulati that the idea could be viable, and Gulati  
8 approached Amarjit Gill, an early-stage investor and a close friend, with the concept. Gill also  
9 found the idea appealing and introduced Gulati to Lip-Bu Tan, a potential investor.

10 14. On information and belief, in October 2018, Gill arranged a meeting with Tan,  
11 Gulati, and himself to discuss funding for the proposed company. Tan likewise found the idea  
12 appealing.

13 15. During this time period, Gulati and Bruno communicated with Williams regarding  
14 their plan to form a company. Although skeptical, Williams agreed to attend a meeting in October  
15 2018 with Gulati, Bruno, Gill, and Tan. The meeting occurred after working hours. At the  
16 conclusion of the meeting, Tan indicated that he was prepared to provide financing.

17 16. Shortly after the meeting, Williams' interest in Bruno and Gulati's potential  
18 company grew, and he informed Bruno and Gulati that he might be interested in participating. On  
19 information and belief, Gulati and Bruno were reluctant to leave Google to launch the company  
20 before Williams departed from Apple, as they were concerned that the project would not succeed  
21 without Williams' involvement and also suspected Williams had multiple offers of employment  
22 available to him. Accordingly, Gulati and Bruno agreed that they would not start the company  
23 unless and until Williams left Apple.

### 24 **Williams Resigns From Apple**

25 17. On December 15, 2018, Williams informed Millet that he planned to leave Apple.  
26 Millet asked Williams to speak to Srouji. Given Williams' value to Apple, Srouji offered  
27 Williams generous incentives to remain at Apple, including a fully paid six-month sabbatical.

28 18. After the holidays, Williams returned to Apple and informed Srouji and Millet that

1 his last day would be January 15, 2019. Srouji begged Williams to stay and urged him to take the  
2 previously offered sabbatical, suggesting that Williams refrain from making a final decision about  
3 leaving Apple until his return. Williams declined to take the sabbatical but agreed to remain at  
4 Apple until February 1, 2019.

5 19. On Williams' last day, Apple threw a going-away party for Williams, at which  
6 various senior Apple personnel, including Srouji, Millet, and Vice President of Silicon  
7 Engineering Sribalan Santhanam, praised Williams' work at Apple. As a parting gift, Williams  
8 was presented with a personally engraved iPad signed by various Apple vice presidents and senior  
9 executives. The memento, engraved with the words "Thanks for making us fast," was the first of  
10 its kind given to an employee in Srouji's division.

11 20. After the event, Williams turned in his Apple-issued laptop to Human Resources  
12 and ensured that it was secured in a locked drawer. Williams also deleted every text message  
13 conversation, document, and photo with Apple personnel on his mobile device, except for a  
14 personal conversation with Ali Sazegari, a close friend who had attended Williams' wedding, and  
15 a personal conversation with Mike Culbert, Williams' former supervisor, who had passed away  
16 during Williams' tenure at Apple.

17 **NuVia Is Launched And Begins Hiring Former Apple Employees**

18 21. On February 5, 2019, NuVia, Inc. ("NuVia") was incorporated by Amit Parikh,  
19 NuVia's new Chief Financial Officer. NuVia's mission is to design and develop novel server  
20 technology for use in data centers.

21 22. Williams joined NuVia on February 5, 2019. Gulati and Bruno joined shortly  
22 thereafter, after winding down and transferring their respective responsibilities at Google.

23 23. After NuVia was formed, numerous engineers began joining it, including various  
24 former Apple engineers. NuVia has hired more than 100 engineers in its first year of operation, a  
25 majority of whom previously worked at companies other than Apple. These engineers chose to  
26 join NuVia due to the strong reputations of Gulati, Bruno, and Williams, and because they were  
27 interested in joining a startup focusing on the design and development of new technology. On  
28 information and belief, in June 2019, Santhanam contacted Gill regarding NuVia's recruiting

1 efforts. At a meeting that followed, Santhanam warned Gill that consequences would result if  
2 NuVia continued hiring Apple employees. During this same time period, however, Apple had  
3 attempted to recruit NuVia employees, including at least Bruno, to join Apple. Indeed, in March  
4 2019, when a small team of seven employees comprised the entirety of NuVia’s engineering staff,  
5 Apple recruited away engineer Kulin Kothari, who had joined NuVia only a week previously.

6 24. NuVia did not stop recruiting Apple personnel in response to Apple’s threat, as it  
7 was under no obligation to do so under California law.

8 25. Additionally, current Apple employee Anand Shimpi sent Williams text messages  
9 on numerous occasions after Williams’ departure from Apple. In an April 4, 2019 conversation,  
10 Shimpi included slides and other material designated “Apple Confidential” that Shimpi had  
11 prepared for a future meeting with Srouji. Williams indicated that this material was inappropriate  
12 and unwelcome, as Williams was no longer an Apple employee.

13 **Apple Files This Lawsuit**

14 26. On August 7, 2019, five months after NuVia’s launch and less than two months  
15 after Santhanam’s meeting with Gill, Apple filed this lawsuit, accusing Williams of breaching his  
16 Apple Intellectual Property Agreement (“IPA”) and his duty of loyalty to Apple.

17 27. Apple’s breach of contract claim is meritless. To begin, Apple’s IPA is  
18 unenforceable under both California and federal law. But even if it were enforceable, NuVia is  
19 not competitive with Apple, as Apple is avowedly a consumer-focused company, whereas  
20 NuVia’s focus is on server technology for use in data centers. Additionally, Williams did not  
21 recruit away any Apple employees prior to his departure from Apple, and any recruitment that  
22 may have occurred subsequent to his last day is protected under Section 16600 of the Business &  
23 Professions Code. Finally, Apple—which contends that “Williams [] failed to disclose and assign  
24 [] inventions to Apple”—fails to allege that Williams invented anything at all.

25 28. Apple’s breach of the duty of loyalty claim is similarly meritless. Williams did not  
26 “start” NuVia during his employment at Apple, and NuVia is not a “competitive business” with  
27 respect to Apple. Apple’s claim aims to improperly deter its employees from making even  
28 preliminary and legally protected preparations to form a new business—whether competitive or

1 otherwise.

2 29. Rather, Apple is using this lawsuit as a means to prevent Apple employees from  
3 forming an idea for a new business, and leaving Apple to pursue that goal. Under Apple’s  
4 interpretation of the IPA, Apple owns not just any *invention* created by an Apple employee during  
5 his or her tenure at Apple, but also any *idea* formed during an employee’s time at Apple. Apple’s  
6 interpretation amounts to an end-run around California law and policy protecting employee  
7 mobility and ingenuity. It also sends a clear message to current Apple employees: leave Apple  
8 and risk being embroiled in costly litigation against a powerful adversary with unlimited  
9 resources.

10 30. This lawsuit is not the first time that Apple has engaged in anti-competitive  
11 conduct. On March 17, 2011, Apple stipulated to a final judgment with the U.S. Department of  
12 Justice, in which Apple was prohibited from, among other things, “pressuring any person in any  
13 way to refrain from soliciting, cold calling, recruiting, or otherwise competing for employees” of  
14 its industry competitors. Having lost the ability to enter into agreements not to compete with its  
15 competitors to improve employee retention, Apple has now resorted to interpreting its IPA to  
16 similarly deter employee mobility.

17 31. Additionally, Apple’s Complaint reveals a program of systematic employee  
18 surveillance and an utter disregard for employee privacy. The Complaint is rife with references to  
19 text messages and telephone calls Williams and others transmitted and received both during and  
20 after business hours. And Apple’s monitoring of Williams’ communications with other Apple  
21 employees continued even after his departure from Apple. Furthermore, on information and  
22 belief, Apple has engaged in a heavy-handed campaign to discourage its engineers from even  
23 speaking with NuVia employees, with Apple engineers receiving calls from NuVia-affiliated  
24 persons being summoned for interviews with Apple human resources and security personnel.  
25 Although Tim Cook has stated publicly that Apple wants to “help [] keep [data] private and safe”<sup>5</sup>

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27 <sup>5</sup> Gabriela Barkho, Apple CEO Tim Cook Says the Tech Giant Doesn’t Want Your Data,  
28 *Observer* (May 6, 2019), <https://observer.com/2019/05/tim-cook-apple-data-privacy-crusade/>.



1 and Apple regards privacy as “one of [its] core values,”<sup>6</sup> Apple evidently does not follow those  
2 lofty principles when it comes to Apple’s own employees.

3 32. As the foregoing paragraphs make clear, Apple’s Complaint lacks any factual basis.  
4 Rather, through this lawsuit, Apple is attempting to stifle hard work, innovation, and competition  
5 in the marketplace by deterring its employees from leaving Apple to pursue success elsewhere, in  
6 contravention of established California public policy.

7 **AFFIRMATIVE DEFENSES**

8 By alleging the affirmative defenses set forth below, Williams does not agree or concede  
9 that he bears the burden of production or persuasion on any of these defenses, whether in whole or  
10 in part. Williams asserts the following affirmative defenses to the Complaint:

11 **FIRST AFFIRMATIVE DEFENSE**

12 Apple has failed to state facts sufficient to constitute a cause of action.

13 **SECOND AFFIRMATIVE DEFENSE**

14 Apple’s causes of action are barred because they seek to enforce purported contract  
15 provisions that are against public policy and are therefore void and unenforceable, including under  
16 Cal. Bus. & Prof. Code § 16600 *et seq.*

17 **THIRD AFFIRMATIVE DEFENSE**

18 Apple’s cause of action for breach of contract is barred, in whole or in part, because there  
19 is no enforceable contract, including because there was no mutual assent or exchange of valuable  
20 consideration between the parties to the alleged contract.

21 **FOURTH AFFIRMATIVE DEFENSE**

22 Apple’s cause of action for breach of contract is barred, in whole or in part, because the  
23 purported contract underlying the claim is unconscionable.

24 **FIFTH AFFIRMATIVE DEFENSE**

25 Apple’s causes of action were brought and maintained in bad faith, as Apple has no  
26 evidence of wrongdoing but seeks to maintain this lawsuit for anticompetitive purposes.

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28 <sup>6</sup> <https://www.apple.com/privacy/>.

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**SIXTH AFFIRMATIVE DEFENSE**

Apple’s causes of action rely on text messages and telephone records that were illegally recorded or intercepted without the parties’ consent, rendering use of them improper under Sections 632 and 632.7 of the Penal Code.

**SEVENTH AFFIRMATIVE DEFENSE**

Apple’s causes of action are barred, in whole or in part, by the doctrine of unclean hands.

**EIGHTH AFFIRMATIVE DEFENSE**

Apple’s causes of action are barred, in whole or in part, because by virtue of its own conduct, Apple is estopped from recovering from Williams.

**NINTH AFFIRMATIVE DEFENSE**

At all relevant times, Apple consented to and approved all the purported acts and omissions about which Apple now complains.

**TENTH AFFIRMATIVE DEFENSE**

Apple released, relinquished, waived, and/or abandoned any right to any of the causes of action upon which Apple now seeks relief.

**ELEVENTH AFFIRMATIVE DEFENSE**

Apple’s causes of action are barred, in whole or in part, by any and all applicable statutes of limitations, including Sections 343, 337(a), and/or 338(a) of the Code of Civil Procedure.

**TWELFTH AFFIRMATIVE DEFENSE**

Any alleged conduct or omission by Williams was not the cause in fact or proximate cause of any injury alleged by Apple.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Apple’s causes of action are barred, in whole or in part, by the doctrine of laches.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Williams has not committed the wrongs alleged in the Complaint. Thus, Apple is barred from recovery, in whole or in part, to the extent that recovery by Apple would constitute unjust enrichment and a windfall to Apple.

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**FIFTEENTH AFFIRMATIVE DEFENSE**

Apple is barred from recovery, in whole or in part, because the actions taken by Williams, if any, with respect to Apple were based on an honest, reasonable, and good faith belief in the facts as known and understood at the time.

**SIXTEENTH AFFIRMATIVE DEFENSE**

Apple’s prayer for a constructive trust is barred, in whole or in part, because Williams’ alleged profits are not the result of any conduct complained of by Apple.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

Apple’s prayer for injunctive relief is improper as there is no likelihood of future injury to Apple and there exists an adequate remedy at law, if Apple is entitled to any remedy, to address the causes of action set forth in the Complaint.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

Apple voluntarily and with knowledge assumed the risk of all damages of which Apple complains.

**NINETEENTH AFFIRMATIVE DEFENSE**

Apple failed to take reasonable efforts or make reasonable expenditures to mitigate and/or avoid the damages of which Apple complains.

**RESERVATION OF RIGHTS**

Williams reserves the right to assert additional defenses, including based on additional information learned or obtained during discovery.

**PRAYER FOR RELIEF**

Wherefore, Williams prays for relief as follows:

- 1. That the Complaint be dismissed with prejudice and that Apple take nothing thereby;
- 2. That judgment be entered in favor of Williams and against Apple;
- 3. For Williams’ reasonable attorneys’ fees, including under Cal. Code. Civ. Proc. § 1021.5;

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- 4. For Williams' costs of suit; and
- 5. For such other and further relief as the Court may deem proper.

DATED: February 13, 2020

Respectfully submitted,

By  /s/ Claude M. Stern

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