

Apple's trade secret attack on OpenAI to put onboarding hygiene, hardware product plans in the frame

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Tim Cook, chief executive officer of Apple; Sam Altman, chief executive officer of OpenAI

Apple's trade secret lawsuit against OpenAI is shaping up to be one of Silicon Valley's most significant IP battles since *Waymo v Uber*, putting recruitment practices, onboarding controls and the protection of commercially sensitive know-how under unprecedented scrutiny.

In a 40-page **complaint**, Apple accuses OpenAI, its former engineer Chang Liu and former chief hardware officer Tang Yew Tan of trade secret misappropriation and related misconduct tied to OpenAI's hardware ambitions. Given the prominence of the companies involved and the immense value of trade secrets in consumer hardware, the case is likely to remain in the spotlight throughout its lifespan.

The complaint describes Apple's hardware trade secrets as "one of the most valuable intellectual assets in all of American business" and alleges that a network of former

employees exploited confidential information involving product development, manufacturing processes, supplier relationships and unreleased devices.

At the centre of the lawsuit is Liu, who spent eight years at Apple as a senior system electrical engineer working on some of the company's most sensitive hardware programmes before leaving to join OpenAI in January 2026.

Apple alleges that after his departure, Liu retained an Apple-issued laptop, exploited what Apple describes as “a rare, previously unknown authentication bug” to access the company's internal systems and downloaded dozens of confidential files.

Apple further claims that Liu coached another Apple employee on how to avoid security scrutiny, encouraged her to study confidential materials before interviewing with OpenAI and shifted discussions to private messaging channels to conceal the exchanges.

It also alleges that Tan, who had spent 24 years at Apple and served most recently as vice president of product design for the iPhone and Apple Watch, had been “methodically using Apple’s confidential information to benefit OpenAI”.

In his position as OpenAI's chief hardware officer, Tan is accused of using Apple's internal project code names when conducting job interviews, instructing candidates to bring Apple components and prototypes for “show and tell” sessions, and distributing an internal Apple offboarding document to help recruits navigate Apple's security procedures. Apple says the conduct was intended to accelerate OpenAI's push into consumer hardware.

For Matthew D Kohel, a partner at Saul Ewing, the sheer volume of alleged evidence strengthens Apple's position. He points to Apple's allegations that server logs and forensic records show how Liu exploited an authentication vulnerability to download some 1,000 pages of internal documents, much of it expressly marked confidential.

Moreover, the complaint alleges that, instead of alerting Apple to the security flaw, Liu revelled in the unauthorised access, leaving a message on a colleague's Apple-issued laptop – a fact that could prove particularly valuable to Apple’s case.

“Liu’s message exclaiming “LOL, I found out I can access the [network storage], so funny” will be relied on to establish malicious intent,” Kohel explains. “Further, the complaint paints a troubling picture of institutional coordination led by chief hardware officer Tan.”

Patricia Dyck, a partner at Cybernetic Meadow Law, draws parallels with the infamous *Waymo v Uber* trade secret dispute, describing Apple’s lawsuit as “as troubling, if not more” than the litigation that rocked Silicon Valley in 2017.

“The case deals with hardware which is one of the most trade secret-intensive areas in tech,” she says. Dyck expects the case will jeopardise Open AI's hardware product development. “They would be best off to start anew or pivot like Uber did. Uber abandoned its programme to become an open marketplace for other companies’ autonomous vehicles,” she says.

Dyck also highlights what she sees as a significant indicator of the strength of Apple's case: the complaint largely eschews the customary phrase “upon information and belief”, suggesting the company believes it can back many of its allegations with concrete evidence.

OpenAI is nevertheless expected to pursue several lines of defence. For Dyck, the company's “best shot at defence is to throw their employees under the bus and claim they didn't know about the wrongdoing”. However, that strategy would depend on whether OpenAI can show it had policies and procedures in place making clear that incoming employees were prohibited from using a former employer's information.

“The job interviews, which are more than likely recorded or transcribed for employment reasons, will be used against them,” she warns.

Kohel similarly expects OpenAI to attempt to distance itself from Liu's actions by framing him as a “rogue actor”, while arguing that its own physical prototypes were “designed through legitimate, independent development”. OpenAI could also invoke the “general knowledge and skill” defence and assert that discussions during recruitment covered only industry-standard engineering practices rather than Apple-specific trade secrets.

Another possibility is laches, although Dyck views that argument as difficult on the facts alleged. Unlike a statute of limitations, laches is an equitable doctrine that turns on whether a plaintiff unreasonably delayed asserting its rights and whether that delay prejudiced the defendant. If OpenAI advances that theory, the defence would likely focus on the earliest allegations involving Tan, arguing that Apple knew of the alleged misconduct substantially earlier than it claims and nevertheless remained inactive while OpenAI invested significant resources in its hardware programme.

“That is probably OpenAI's strongest limitations-type argument for the allegations of an early misappropriation, but it's still a very weak one,” Dyck says. She notes that OpenAI could seek to portray Apple as acting in bad faith by “letting OpenAI spend two years to build up a program [only] to knock it down”.

“However, continuing acts reset the clock on laches and OpenAI needs clean hands to use it, so there are a lot of hurdles here,” Dyck explains.

Filed in the Northern District of California's San Jose Division, the lawsuit names not only former Apple employees Liu and Tan, but also OpenAI Foundation, OpenAI Group

PBC and io Products – a hardware start-up OpenAI acquired in 2025. The case advances six claims in total, including four under the Defend Trade Secrets Act and two alleging violations of the company's Intellectual Property Agreement.

Who dropped the ball?

Because the case centres on recruitment, onboarding and allegations that confidential projects were discussed during interviews, it will inevitably draw attention to compliance controls at both companies.

“Specifically, Apple suffered failures in its asset recovery and identity management protocols by not securing a physical device and leaving open an authentication vulnerability that allowed a former employee to access secure network storage for weeks,” Kohel notes.

On OpenAI's side, its hiring and onboarding practices are likely to come under close scrutiny. Apple alleges that more than 400 of its former employees now work at OpenAI.

“Soliciting job candidates to bring physical prototypes, files, and other materials to interviews represents a profound compliance failure,” Cohel says.

In California, where non-compete agreements are unenforceable, the law strongly favours employee mobility, long regarded as a cornerstone of the state's economic success. But because employers cannot prevent talent from leaving, trade secret litigation serves as the primary legal safeguard for proprietary know-how.

That dynamic has made California a leading venue for trade secret disputes, with the Central and Northern Districts of California consistently **ranking** among the busiest courts for DTSA filings, alongside the Southern District of New York.

High stakes, harsh lessons

Powered by ChatGPT's runaway success, OpenAI has emerged in the recent years as one of Silicon Valley's most closely watched companies, firmly at the centre of the global technology race.

Moreover, the litigation arrives at a particularly sensitive time. Apple notes in the complaint that OpenAI is reportedly preparing for an IPO after raising more than \$180 billion from investors while continuing to “burn through cash at a historic pace”. Any finding of trade secret misappropriation could have ramifications far beyond monetary damages, potentially exposing OpenAI to injunctions, restrictions on future technology development, and claims for unjust enrichment or reasonable royalties.

All these could delay OpenAI's hardware ambitions. As Dyck puts it: “Open AI's hardware development will likely be completely derailed.”

If the case proceeds to trial, it could remain in litigation for years with the median trade secret case taking over three years to reach trial.

OpenAI is still reviewing the filing. "We have no interest in other companies' trade secrets. We remain focused on building innovative technology that empowers people everywhere," a company spokesperson said in an emailed statement.

For now, the dispute underscores the importance of rigorous onboarding and offboarding procedures, including thorough exit interviews and safeguards that limit overlap between a new employee's responsibilities and projects handled at a former employer.

The biggest lesson, however, may be the importance of engaging constructively when concerns are raised by a former employer.

"This could all have been avoided by OpenAI responding to Apple and telling them that they take these concerns seriously and conduct their own investigation," Dyck says. The lawsuit alleges Apple raised concerns directly with OpenAI in February 2026 and requested information about the safeguards it had in place, but received no response.

OpenAI may have concluded that its hardware development was tainted by Apple's trade secrets and sought to negotiate a settlement on its own terms, she explains.

Documents

Apple's complaint against OpenAI



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