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APPLE INC.

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 SAN JOSE DIVISION

21 APPLE INC., a California corporation,

22 Plaintiff,

23 v.

24 RIVOS, INC., a Delaware corporation; WEN
SHIH-CHIEH a/k/a RICKY WEN, and
25 BHASI KAITHAMANA,

26 Defendants.

Case No. 5:22-cv-2637

COMPLAINT

(1) Breach of Contract

(2) Violation of the Defend Trade Secrets Act (18 U.S.C. § 1836 et seq.)

DEMAND FOR JURY TRIAL

1 Plaintiff Apple Inc. (“Apple”) brings this Complaint against Defendant Rivos, Inc.
2 (“Rivos”) and current Rivos employees Wen Shih-Chieh a/k/a Ricky Wen and Bhasi Kaithamana
3 (together, the “Individual Defendants”) (collectively, “Defendants”) and alleges as follows:

4 **INTRODUCTION**

5 1. Apple brings this action to prevent Rivos and its employees from exploiting
6 Apple’s most valuable trade secrets to compete with Apple unlawfully and unfairly.

7 2. Apple’s cutting-edge, advanced system-on-chip (“SoC”) designs, including its M1
8 laptop SoC and A15 mobile phone SoC, have revolutionized the personal and mobile computing
9 worlds. Apple has devoted billions of dollars and more than a decade of effort to develop the
10 proprietary technologies and expertise necessary to engineer these revolutionary SoC designs and
11 become a leader in the field of semiconductor design.

12 3. “Stealth mode” startup Rivos, which was founded to design and market its own
13 competing SoCs, has filled out its ranks with dozens of former Apple engineers. Starting in June
14 2021, Rivos began a coordinated campaign to target Apple employees with access to Apple
15 proprietary and trade secret information about Apple’s SoC designs. Apple promptly sent Rivos a
16 letter informing Rivos of the confidentiality obligations of Apple’s former employees, but Rivos
17 never responded.

18 4. After accepting their offers from Rivos, some of these employees took gigabytes
19 of sensitive SoC specifications and design files during their last days of employment with Apple.
20 Some used multiple USB storage drives to offload material to personal devices, accessed Apple’s
21 most proprietary specifications stored within collaboration applications, and used AirDrop to
22 transfer files to personal devices. Others saved voluminous presentations on existing and
23 unreleased Apple SoCs—marked Apple Proprietary and Confidential—to their personal cloud
24 storage drives. One even made a full Time Machine backup of his entire Apple device onto a
25 personal external drive. Apple has reason to believe that Rivos instructed at least some of these
26 individuals to download and install apps for encrypted communications before conducting further
27 conversations. And several of the employees deleted information or wiped their Apple devices
28 entirely to try to cover their tracks, later falsely representing to Apple that they had not done so.

1 enhance existing products and services, and to expand the range of its offerings through, among
2 other avenues, its significant investments in research and development.

3 13. One key aspect of Apple’s newest cutting-edge products is its use of highly
4 advanced SoCs, which Apple custom designs. SoCs are integrated circuits that contain, in a
5 single chip, multiple processing components, such as one or more central processing units
6 (“CPUs”), graphics processing units (“GPUs”), cache memories, and specialized processors.
7 Apple custom designs its own processing components and integrates them together in SoC
8 designs that reduce the area footprint of the chips and achieve tighter component integration
9 compared to traditional computer systems. Apple’s SoCs allow for faster, more efficient, and
10 more powerful computing. Apple’s unique designs and architecture are critical to its competitive
11 edge in the marketplace. Apple’s first ARM-based SoCs for laptop and desktop computers, the
12 M1 chip family, was released in November 2020 to great success. The M1 family has now
13 expanded to include the M1 Pro, M1 Max, and M1 Ultra chips.

14 14. The M1 chip is the first personal computer chip built using cutting-edge
15 5-nanometer process technology. It features a unified memory architecture for dramatically
16 improved performance and efficiency. At the time it was released, it featured among the world’s
17 fastest CPU cores in low-power silicon, best CPU performance per watt, and fastest integrated
18 graphics in a personal computer, while boasting breakthrough machine learning performance.
19 The M1 Pro, Max, and Ultra chips have only extended Apple’s lead in performance, custom
20 technologies, and power efficiency.

21 **A. SoC Design**

22 15. SoC design is complex and challenging, and requires considerable expertise and
23 experience. Instruction Set Architectures (“ISAs”) define processor instructions that perform
24 various processing functions (*e.g.*, accessing memory, comparing data, arithmetic). ISAs are
25 implemented through physical processor components that execute an ISA’s various instructions.
26 Designing SoC chips based on an ISA involves developing abstract models for these physical
27 components that act as the interface between the SoC and the software. Chip designers use these
28 abstract models to design the physical structure of SoCs.

1 16. Some modern ISAs utilize the popular reduced instruction set computer (“RISC”)
2 architecture design. RISC-based ISAs focus on creating a relatively small set of simple,
3 commonly used instructions for carrying out processor functions to run typical programs. These
4 simple instructions require less physical hardware to execute and can be combined to accomplish
5 more complex functions.

6 17. Arm Ltd. develops leading RISC-based architectures for SoCs. Arm Ltd.’s
7 proprietary “Advanced RISC Machine,” or “ARM,” architectures are licensed to its customers,
8 which include Apple, and are used in some of the most advanced SoCs in the world, such as
9 Apple’s M1 SoC.

10 18. The RISC-V ISA is an ISA that can be freely used to develop RISC-based SoCs.
11 Although the ARM and RISC-V architectures are not the same, they share many common
12 features, and corresponding SoC designs can share many common elements. As a result, certain
13 foundational elements and microarchitectural designs of ARM-based SoCs are useful in designing
14 RISC-V-based SoCs. Thus Rivos, which develops RISC-V SoCs, can take advantage of
15 ARM-based SoC designs to shorten its development timelines.

16 **B. Apple’s Innovative SoC Designs**

17 19. Apple has developed a number of highly successful, groundbreaking ARM-based
18 SoCs. Apple’s SoC research, development, and manufacturing are led by teams of Apple
19 engineers. Apple entrusts these engineers with developing, among other things, its ARM
20 technology, chip designs, and other elements of Apple’s SoC business. Apple has dedicated
21 billions of dollars to this critical work.

22 20. Apple’s SoC engineers work on some of Apple’s most sensitive and critical
23 projects. Since 2010, Apple has designed and developed more than a dozen high-performance
24 SoCs for use in Apple’s flagship iPad and iPhone projects. Recent work includes the A15 SoC at
25 the heart of Apple’s latest iPhones and the M1 family of SoCs that power Apple’s desktops,
26 laptops, and high-performance iPads.

27 21. As is necessary for their cutting-edge work, select Apple engineers have access to
28 some of Apple’s most closely guarded proprietary and trade secret information. These trade

1 secrets include SoC designs, component designs, customized ISA instructions, and other
2 Apple-developed know-how gained from years of developing advanced SoCs.

3 **C. Apple Diligently Protects Its Trade Secret Chip Designs**

4 22. Apple diligently protects its proprietary and trade secret designs and investments
5 in research and development. As a condition of employment, Apple employees, including the
6 Individual Defendants, are required to sign a confidentiality agreement that legally obligates them
7 to protect and not disclose to third parties confidential information acquired during their
8 employment. This obligation continues even after the employee leaves Apple.

9 23. One of the most critical agreements for protecting Apple’s proprietary and trade
10 secret information is the Intellectual Property Agreement (“IPA”). Under the IPA, which Apple
11 employees, including the Individual Defendants, must execute at the start of their employment,
12 employees attest that:

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

24 24. Apple employees, including the Individual Defendants, also agree that Apple
25 would be entitled to injunctive relief for any violations of the IPA. In particular, the IPA
26 provides:

27 A breach of the provisions of sections 1 or 2 of this Agreement
28 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 and 2 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.

29 25. Each of the Individual Defendants executed a copy of the IPA upon commencing
employment with Apple.

1 26. Apple also has certain Hardware Technologies (“HWT”) employees, who handle
2 Apple’s highly-sensitive, proprietary, and trade secret information relating to hardware design,
3 function, and operation, such as for Apple’s SoCs. During employee exit interviews for these
4 HWT Apple employees, including the Individual Defendants, Apple provides a “Checklist for
5 HWT Departing Employees” to “help employees leaving Apple understand their responsibility to
6 preserve confidentiality of intellectual property.” Each of the Individual Defendants
7 acknowledged that he “signed an Intellectual Property Agreement (IPA) that does not expire”
8 upon leaving Apple.

9 27. By signing the Checklist for HWT Departing Employees, each departing HWT
10 employee, including the Individual Defendants, acknowledges that the IPA says he or she “will
11 not use or share Apple confidential information while you are an Apple employee and after you
12 leave Apple. Everything you worked on at Apple stays here.” Each departing employee,
13 including the Individual Defendants, acknowledges that “[a]ll employees must return all Apple
14 confidential information prior to leaving Apple[.]” Each employee must also “[c]onfirm that you
15 have done a diligent search of spaces you could have stored Apple property,” including
16 “[p]ersonal computer(s) or laptop(s),” “[f]lash drive(s),” “[p]ersonal email,” and “[e]xternal hard
17 drive(s).” Each departing employee, including the Individual Defendants, additionally must
18 confirm that they had “returned or destroyed all Apple confidential information prior to leaving
19 Apple” and that they “returned all Apple Owned Devices (AOU) and [had] not wiped any AOU.”

20 28. Each Individual Defendant executed a copy of the Checklist for HWT Departing
21 Employees during or shortly after their exit interview following resignation from Apple.

22 29. Apple takes additional measures to maintain the confidentiality of its proprietary
23 information, including the trade secrets at issue in this lawsuit. With regard to terminated HWT
24 employees, for example, Apple protects its proprietary information by requiring the return of
25 Apple laptops, mobile devices, and other equipment and the removal of Apple and third-party
26 files, documents, and software from the terminated employees’ possession.

27 30. Apple also provides HWT employees with rules and guidelines on how to preserve
28 the confidentiality of Apple’s proprietary information. These materials specifically forbid

1 distribution of Apple's confidential information to others except on a need-to-know basis.

2 31. Apple further protects its most valuable SoC designs and specifications by limiting
3 access to its Confluence and Perforce databases to only those projects that an employee is
4 currently working on and authorized to view. Confluence and Perforce are collaborative
5 information management tools that allow Apple SoC engineers and designers to share and store
6 their work on Apple's trade secret SoC designs. Engineers require login credentials to access
7 these tools, and the level of access is limited to what a particular engineer's job responsibilities
8 require.

9 **D. Former Apple Employees Leaving for Rivos Retained Apple Confidential and**
10 **Proprietary Trade Secrets After Accepting Offers From Rivos**

11 32. Rivos was founded in or around May 2021 to design a full stack computing
12 solution based on custom-designed reduced instruction set computer-based SoCs that will
13 compete with Apple's ARM SoCs.

14 33. Since June 2021, over 40 former Apple employees have joined Rivos. Rivos
15 continues to target Apple engineers, with more departures occurring this month. A majority of
16 these former Apple employees were design engineers, developing Apple's cutting-edge
17 proprietary and trade secret SoC designs. These designs represent the culmination of substantial
18 research and development costs and could be used to significantly accelerate development of a
19 custom reduced instruction set computer-based SoC.

20 34. Rivos targeted and solicited Apple employees who were highly experienced
21 engineers with both substantial expertise with SoC design and significant and extensive access to
22 trade secrets at the core of Apple's SoC designs. Apple has reason to believe that Rivos
23 instructed at least some Apple employees to download and install apps for encrypted
24 communications (*e.g.*, the Signal app) before communicating with them further.

25 35. As noted above, many of the employees who left Apple to join Rivos were trusted
26 by Apple with its most sensitive trade secret SoC designs and technology. Many have taken
27 Apple's proprietary and trade secret information with them.
28

1 40. According to his LinkedIn profile, Mr. Kaithamana is now employed by Rivos.
2 His position with Rivos is nearly identical to his previous position at Apple, CPU Implementation
3 Lead.

4 41. Mr. Kaithamana decided to accept Rivos's offer of employment sometime between
5 July 20, 2021 and August 9, 2021. On or about August 9, 2021, Mr. Kaithamana asked for
6 August 10 as a vacation day.

7 42. During his day off, Mr. Kaithamana created a new folder on his Apple-issued
8 computer and began copying over Apple documents containing proprietary and trade secret
9 information. He worked to continue amassing a collection of Apple's proprietary and trade secret
10 SoC files until the day before he left Apple on August 16, 2021. Many of the files Mr.
11 Kaithamana copied related to Apple's proprietary and trade secret SoC designs, including those
12 for unreleased projects.

13 43. On August 13, 2021, after Mr. Kaithamana was accessing Apple's sensitive,
14 proprietary information, Mr. Kaithamana resigned from his position at Apple.

15 44. On Saturday, August 14, 2021, Mr. Kaithamana renamed his new folder
16 "APPLE_WORK_DOCS" and continued adding Apple documents to it through the weekend.
17 Mr. Kaithamana also connected a USB drive seven times between Saturday evening, August 14,
18 2021, and Sunday afternoon, August 15, 2021. In the same time period, he opened untitled Excel,
19 Keynote, and Numbers documents on the USB drive. Some of these document file names
20 correspond to documents on Mr. Kaithamana's computer that contain Apple confidential
21 information, at least some of which were marked Apple Proprietary & Confidential. He then
22 proceeded to view file listings for folders containing Apple files with proprietary and trade secret
23 information. While viewing these file listings, Mr. Kaithamana repeatedly opened documents,
24 but then would clear the list of recently opened documents to conceal the documents he was
25 accessing.

26 45. By Monday, August 16, 2021, Mr. Kaithamana's last day at Apple, his
27 APPLE_WORK_DOCS folder contained thousands of Apple documents. Mr. Kaithamana
28

1 copied files to his USB drive over the weekend. His last recorded moving and copying of files
2 before turning in his computer to Apple was to that same USB drive.

3 46. On August 16, 2021, Mr. Kaithamana conducted his exit interview. On
4 August 18, 2021, he executed a Checklist for HWT Departing Employees, acknowledging that he
5 was subject to the IPA and that he had returned or deleted all Apple proprietary and trade secret
6 information in his possession and had not wiped his Apple-issued devices. Mr. Kaithamana
7 nevertheless had attempted to hide his activity, including by clearing his browsing history, recent
8 applications access list, recent search lists, and many emails.

9 47. Despite Mr. Kaithamana's representations at his exit interview and when he
10 executed his Checklist for HWT Departing Employees, he downloaded and transferred files
11 containing information about Apple's proprietary and trade secret SoC designs to an external
12 USB storage drive.

13 **b. Ricky Wen**

14 48. Apple employed Individual Defendant Ricky Wen for nearly 14 years, from
15 April 2008 until August 2021. During his tenure with Apple, Mr. Wen was a CPU design
16 engineer, with responsibilities for developing the architecture of Apple's SoCs. Mr. Wen was
17 responsible for, among other things, designing and developing proprietary and trade secret
18 architectures for carrying out critical functions in Apple's ARM-based SoCs.

19 49. As a condition of his employment, Mr. Wen executed an Apple IPA on April 22,
20 2008, agreeing, among other things, to "keep all [Apple] Proprietary Information in confidence
21 and trust for the tenure of your employment and thereafter, and that you will not use or disclose
22 Proprietary Information without the written consent of Apple[.]" He further agreed that "[u]pon
23 termination of your employment with Apple, you will promptly deliver to Apple all documents
24 and materials of any kind pertaining to your work at Apple, and you agree that you will not take
25 with you any documents, materials, or copies thereof . . . containing any Proprietary
26 Information."

27 50. Mr. Wen's position at Rivos is "Principal Member of Technical Staff" with a focus
28 generally on "Hardware Engineering," which suggests he is performing a similar job function as

1 he did at Apple (particularly in view of Rivos's goal of designing a SoC with custom RISC-V
2 CPU cores).

3 51. Mr. Wen was approached by Rivos about leaving Apple to join Rivos in or about
4 June or July 2021. On or about July 23, 2021, Mr. Wen accepted Rivos's offer of employment.

5 52. Between July 26, 2021 and July 29, 2021, Mr. Wen transferred approximately 390
6 gigabytes from his Apple-issued computer to a personal external hard drive. Among the data
7 transferred are confidential Apple documents describing Apple trade secrets, including aspects of
8 the microarchitecture for Apple's past, current, and unreleased SoCs. As of his termination, his
9 Apple-issued computer included over 400 gigabytes of Apple confidential information. It also
10 stored approximately 200 gigabytes of photos and movies that Apple presumes are personal in
11 nature but could account for only a fraction of the data transferred.

12 53. On or about August 2, 2021, Mr. Wen tendered his resignation to Apple. On or
13 about August 5, 2021, Mr. Wen conducted his exit interview and, among other things, executed a
14 Checklist for HWT Departing Employees, acknowledging that he was subject to the IPA and that
15 he had returned or deleted all Apple proprietary and trade secret information in his possession.
16 Mr. Wen's Apple employment was terminated on August 6, 2021.

17 54. On the day that he executed his Checklist for HWT Departing Employees, he
18 deleted at least one account from his Apple-issued computers. Mr. Wen also deleted his internet
19 browsing, iMessage, and iChat histories on his Apple-issued computers and numerous folders and
20 files in online and cloud storage drives immediately prior to his termination from Apple.

21 55. Mr. Wen accessed still more highly confidential Apple information as late as on or
22 about August 5, 2021, the day before he left Apple. Just before an external hard drive was
23 connected, Mr. Wen accessed numerous Apple proprietary and trade secret SoC designs,
24 including files related to Apple's unreleased SoC designs, from his Apple-issued computer.

25 56. Mr. Wen also transferred gigabytes of files to his personal Google Drive, in
26 violation of Apple's policies, including architectural diagrams depicting Apple trade secret SoC
27 designs and folders and nearly 400 files associated with Apple SoC development projects. Apple
28 policies prohibit the use of Google Drives for storing, among other things, Apple proprietary and

1 trade secret information because that information can be accessed from any computer over the
2 internet without Apple's knowledge.

3 57. As of his termination on August 6, 2021, Mr. Wen retained on his Google Drive a
4 diagram showing the architecture of an aspect of an Apple trade secret SoC design. Similarly,
5 although Mr. Wen moved thousands of Apple files from personal folders of his iCloud Drive to a
6 work folder, investigation of his Apple-owned devices reveals that he retained files relating to
7 Apple trade secret SoC designs on his iCloud Drive after his termination.

8 c. **Many Other Former Apple Employees Who Are Now at
9 Rivos Took Apple Proprietary Information and Deleted
10 Information From Their Apple Devices**

11 58. Numerous other Apple employees who have left for Rivos have downloaded and
12 retained Apple's proprietary documents after accepting their offers from Rivos, leaving Apple
13 exposed to yet more trade secret theft. Like Messrs. Wen and Kaithamana, these employees also
14 joined Rivos in positions paralleling their roles at Apple. And like the Individual Defendants,
15 these employees signed Apple IPAs and agreed to protect and appropriately use Apple's trade
16 secret information, and to return or delete that information when they left. Although these
17 employees also agreed not to delete information from their Apple devices when they left the
18 company, many of them did so, again after communicating with Rivos and accepting their offers.

19 59. A number of Apple employees installed encrypted communications apps,
20 including Signal, to communicate with Rivos and amongst one another without risk of their
21 communications being exposed. For instance, after joining Rivos, a former Apple employee
22 provided a then-Apple employee a link to download Signal for communicating about Rivos with
23 Rivos's CTO Belli Kuttanna. Another Apple employee installed Signal in the weeks before
24 leaving for Rivos and invited another employee that also left for Rivos to communicate on the
25 platform, noting that "there are things [that] should not be recorded through apple's interface
26 now." Yet another Apple employee warned a colleague against using iMessage to discuss Rivos,
27 causing that colleague to delete messages related to the discussion.

28 60. At least one employee expressed concerns about the legality of the circumstances
of their exit from Apple to go to Rivos. For example, this employee ran internet searches for

1 “when you lost a lawsuit what do you have to pay” and “poach[ing] people after a year leaving
2 [a] company” and viewed webpages relating to attorneys’ fees for losing parties to lawsuits.

3 61. Several of these employees connected external hard drives to Apple-issued
4 computers in the days following their hire by Rivos. At the same time, these employees were
5 accessing a large amount of Apple trade secret information about SoC designs in the days just
6 before their termination. Each executed a Checklist for HWT Departing Employees and
7 acknowledged that they were subject to the IPA and had returned or deleted all Apple proprietary
8 and trade secret information in their possession, including any stored on AOU’s and external hard
9 drives. Similarly, the local archive stored on the Apple-issued laptop of at least one former
10 employee shows that, at the time the employee disconnected their iCloud Drive, they retained
11 access to several highly confidential proprietary and trade secret files. Another employee kept
12 full backups of his entire hard drive to a personal external hard drive via Time Machine, even
13 after he turned in his resignation form Apple.

14 62. The proprietary information that these former employees have retained, and
15 continue to have access to, particularly information regarding the architecture and design of
16 Apple’s SoCs, includes some of Apple’s most highly-sensitive and valuable information. This
17 information will provide a significant, unfair advantage to Rivos in developing advanced, high
18 performance reduced instruction set computer-based chips.

19 63. None of this information has been returned.

20 64. Despite being instructed not to wipe data on their Apple-issued devices—and
21 expressly agreeing not to do so—many of these employees did delete information after accepting
22 their Rivos offers. At least seven employees completely wiped their Apple-issued devices and/or
23 reinstalled the operating systems, which results in all other data on the device being deleted.
24 After accepting their Rivos offer, one employee did an internet search for “slack delete message
25 history,” “delete all imessages on mac,” “factory reset mac,” “how to clear imessage on mac,”
26 and “slack how to clear chat cache.” The employee then proceeded to delete most of those
27 records. Other employees similarly deleted their messages and browser history before returning
28

1 their Apple-issued computers. As a result, the exact scope of trade secret theft and coordination
2 in support thereof has been hidden from Apple.

3 **FIRST CLAIM FOR RELIEF**

4 **(Breach of Contract Against Individual Defendants)**

5 65. Apple realleges and restates all prior paragraphs as if fully restated herein.

6 66. The IPAs signed by the Individual Defendants are valid and enforceable contracts.
7 The confidentiality covenants and other provisions contained in these agreements are reasonably
8 necessary to protect legitimate protectable interests in Apple’s confidential, proprietary, and trade
9 secret information.

10 67. Apple has fully performed all of its obligations under these agreements.

11 68. The Individual Defendants took and retained Apple’s documents in direct violation
12 of the provisions of their IPAs, which required them to “promptly deliver to Apple all documents
13 and materials of any kind pertaining to your work at Apple” and included an agreement “that you
14 will not take with you any documents, materials, or copies thereof . . . containing any Proprietary
15 Information.” Individual Defendants breached these agreements by, at a minimum, failing to
16 return Apple’s property and confidential, proprietary, and trade secret information at the time of
17 their departure from Apple as they were obligated to do.

18 69. In addition, despite indicating adherence to all contractually-obligated termination
19 protocols, the Individual Defendants each deleted, scrubbed, or otherwise modified the contents
20 of their Apple-issued devices prior to returning them. These efforts obscured message histories,
21 web histories, and other details relating to the employees’ use of Apple trade secret information,
22 departure from Apple, and any decision to improperly retain Apple trade secret information in
23 violation of, at least, the IPAs.

24 70. These actions by the Individual Defendants all occurred in the days before they
25 departed Apple. These actions also all followed the Individual Defendants receiving, and
26 accepting, offers of employment in parallel roles for Apple’s competitor, Rivos.

27 71. As a result of the Individual Defendants’ breach, Apple has suffered and continues
28 to suffer monetary and non-monetary injury and harm in an amount to be proven at trial. The

1 documents that have been improperly retained are the product of substantial research and
2 development work over a period of many years.

3 72. Moreover, as a result of the Individual Defendants' breach, Apple has been injured
4 and faces irreparable injury. Apple is threatened with losing its competitive advantage, trade
5 secrets, customers, and technology goodwill in amounts that would be impossible to fully
6 compensate Apple unless the Individual Defendants are enjoined and restrained by order of this
7 Court.

8 **SECOND CLAIM FOR RELIEF**

9 **(Misappropriation of Trade Secrets, Defend Trade Secrets Act, 18 USC § 1832(a)(1)**

10 **Against Rivos and Individual Defendants)**

11 73. Apple realleges and restates all prior paragraphs as if fully restated herein.

12 74. As set forth above, Defendants improperly acquired and retained confidential and
13 proprietary information of Apple constituting "trade secrets" as defined by 18 U.S.C. § 1839(3),
14 including but not limited to design files, drawings, manufacturing information, device packaging
15 information, sales and customer information, financial and business development information,
16 invention disclosures, and drafts of patent applications. These trade secrets pertain to Apple's
17 personal computer and mobile device SoCs, including SoC designs, component designs,
18 customized ISA instructions, and other Apple-developed know how gained from years of
19 developing advanced SoCs. These trade secrets have been used in and/or were intended for use in
20 interstate and/or foreign commerce.

21 75. Apple's trade secrets derive independent economic value from not being generally
22 known to, and not being readily ascertainable by proper means by, another person who can obtain
23 economic value from their disclosure or use of the information. These trade secrets are also the
24 product of years of research and development at substantial cost to Apple. These trade secrets
25 form the foundation of Apple's competitive advantages in the SoC market.

26 76. Apple has undertaken efforts that are reasonable under the circumstances to
27 maintain the secrecy of the trade secrets at issue. These efforts include, but are not limited to: the
28 use of passwords and encryption to protect data on its computers, servers, and repositories; the

1 limited distribution of confidential information only to key Apple employees and executives and
2 on a need-to-know basis; the maintenance of written policies and procedures that emphasize
3 employees' duties to maintain the secrecy of Apple's confidential information; and the use of
4 confidentiality agreements and non-disclosure agreements to require vendors, customers,
5 partners, contractors, and employees to maintain the secrecy of Apple's confidential information.

6 77. Defendants misappropriated trade secrets at least by acquiring trade secrets by
7 improper means. At least by virtue of the IPAs and exit checklists they signed, the Individual
8 Defendants were well aware that the Apple files that were misappropriated are confidential and
9 trade secret, and could not properly be retained, disclosed, or used by them. Nevertheless, each
10 Individual Defendant executed a Checklist for HWT Departing Employees in which they
11 confirmed and acknowledged that they had returned all Apple proprietary and trade secret
12 information.

13 78. The trade secret information that the Individual Defendants and other former
14 employees now at Rivos have retained is embodied in Apple's documents and other information
15 that was taken upon the Individual Defendants' and other former employees' departures from
16 Apple. The trade secret information includes at least chip specifications and designs for Apple's
17 SoCs for the A14, M1, and future (unreleased) SoCs. The trade secrets also include chip
18 specifications and designs for related components (including, CPU cores, GPU cores, and cache
19 memories), chip development roadmaps, summaries of technical analyses of chip characteristics
20 and parameters, and status reports.

21 79. On July 9, 2021, shortly after Rivos began hiring Apple's former employees,
22 Apple sent a letter to Rivos informing Rivos of the obligations of those former employees to
23 maintain the confidentiality of Apple's trade secrets and confidential information, and specifically
24 informing Rivos of the provisions of the IPA. Apple further informed Rivos that, to the extent
25 those former employees had retained Apple's trade secret and confidential information, that
26 information had to be returned immediately. Rivos never responded to that letter.

27 80. The information regarding the use and disclosure of this information at Rivos is
28 uniquely within the possession of the Individual Defendants and Rivos, and Defendants have

1 taken actions to conceal evidence regarding their conduct. However, based on the number of
2 engineers that Rivos targeted and hired—and continues to target and hire even today—to perform
3 the same type of work they were performing at Apple, the fact that Apple notified Rivos of its
4 former employees’ obligations and received no response, the large amount of these employees
5 who have taken and retained Apple confidential information after communicating with Rivos or
6 accepting their offers with Rivos, the volume of information taken, the nature of the information
7 taken, the number of departing employees who deleted information and tried to cover their tracks
8 after accepting offers with Rivos, and Rivos’s own efforts to conceal its communications with
9 these former Apple employees, Apple believes that Rivos knew, or at a minimum should have
10 known, that these employees improperly retained Apple confidential and trade secret information
11 and were likely to make use of it in the course of their employment at Rivos. Apple believes that
12 further discovery will likely show that Apple’s trade secret information has been improperly
13 disclosed to Rivos and used by Rivos and the Individual Defendants.

14 81. Defendants’ improper acquisition and/or unauthorized use or disclosure, actual or
15 threatened, violates the Defend Trade Secrets Act (“DTSA”).

16 82. As a direct and proximate result of Defendants’ conduct, Apple has been injured,
17 and is threatened with further injury, in an amount that will be proven at trial. Apple has also
18 incurred, and will continue to incur, additional damages, costs, and expenses, including attorneys’
19 fees, as a result of Defendants’ misappropriation. As a further proximate result of the
20 misappropriation and use of Apple’s trade secrets, Defendants have been unjustly enriched.

21 83. Defendants’ conduct has been willful and malicious, justifying an award of
22 exemplary damages. As described in detail above, after receiving employment offers from Rivos
23 and resigning from Apple, the Individual Defendants took and retained hundreds of gigabytes of
24 Apple trade secret information regarding SoC designs, functions, and implementation. This trade
25 secret information includes some of the most competitively sensitive and confidential information
26 that Apple possesses about its SoC designs, and much of it was accessed and transferred during
27 the final days of the Individual Defendants’ employment. Again after accepting their
28 employment offers from Rivos, the Individual Defendants, and many other former Apple

1 employees who are now at Rivos, took steps to cover up the evidence of their actions, including,
2 in some cases, wiping their entire devices. The Individual Defendants and other former Apple
3 employees now at Rivos falsely represented to Apple that they had returned all of Apple’s
4 confidential information and had not deleted the information from their devices.

5 84. Defendants’ conduct constitutes transgressions of a continuing nature for which
6 Apple has no adequate remedy at law. Unless and until enjoined and restrained by order of this
7 Court, Defendants may continue to retain and use Apple’s trade secret information to enrich
8 themselves and divert business from Apple to Rivos. Apple is entitled to a preliminary and
9 permanent injunction against Defendants’ actual and threatened potential violation of the DTSA.

10 **PRAYER FOR RELIEF**

11 NOW, THEREFORE, Plaintiff Apple prays for judgment and relief against Defendants as
12 follows:

- 13 a. Judgment in Apple’s favor and against Defendants on all causes of action
14 alleged herein;
- 15 b. Damages sufficient to compensate for the actual loss caused by
16 Defendants’ trade secret misappropriation;
- 17 c. A further award of monetary recovery for any unjust enrichment caused by
18 Defendants’ misappropriation of the trade secrets;
- 19 d. In lieu of damages measured by any other methods, a reasonable royalty
20 for Defendants’ misappropriation of trade secrets;
- 21 e. Exemplary damages, based on Defendants’ willful and malicious
22 appropriation of trade secrets;
- 23 f. For the entry of a Preliminary and Permanent Injunction against
24 Defendants to prevent the actual or threatened misappropriation of Apple’s
25 trade secrets;
- 26 g. For an Order directing Defendants to return all of Apple’s property in their
27 possession, custody, or control and cease any access to or use of Apple’s
28 trade secrets;

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- h. For prejudgment and post-judgment interest at the maximum legal rate as applicable, as an element of damages that Apple has suffered as a result of Defendants’ wrongful and unlawful acts;
- i. For reasonable attorneys’ fees and costs incurred herein as allowed under the Defend Trade Secrets Act; and
- j. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Apple hereby demands trial by jury for all causes of action, claims, or issues in this action that are triable as a matter of right to a jury.

Dated: April 29, 2022

MORRISON & FOERSTER LLP

By /s/ Bryan Wilson
BRYAN WILSON

Attorneys for Plaintiff
APPLE INC.