

THE SEC DIVISION OF ENFORCEMENT PRE-TRIAL PREP KIT

LITIGATION CHECKLIST & STRATEGIC REBUTTAL ROADMAP FOR SAM ALTMAN ET AL.

EXECUTIVE PURPOSE: This checklist acts as the primary litigation playbook for cross-examination at the October 1, 2026 preliminary injunction hearing in *Apple Inc. v. OpenAI Foundation et al.* (Case No. 5:26-cv-07078-EJD, N.D. Cal.). Developed under the framework of **The Travelocity Lexicon of Fraudulent Startups and Trade Secret Enterprise Exploitation**, this guide equips investigators and Counsel to dismantle OpenAI's 'residual access,' 'clerical error,' and 'standard due diligence' defenses, linking their physical device roadmap directly to material omissions in their S-1 and Series G capital offerings.

I. LITIGATION REBUTTAL MATRIX: SEC COUNTER-STRATEGIES

Defense Position / Assertion	Travelocity Lexicon Mechanism	SEC Cross-Examination / Rebuttal Strategy
The 'Accidental Email Mix-up' GC Che Chang Response Apple's counsel Weil Gotshal accidentally emailed the wrong person in Feb 2026, leading to a 5-month silence, proving Apple had no urgent trade secret claims.	Clerical Sabotage / Red Herring Using minor administrative mistakes as structural shields to delay litigation during active funding rounds.	- Establish that pre-suit notice is not a prerequisite to DTSA or CFAA liability. - Prove that OpenAI utilized Apple's 5-month administrative silence to close its \$122B Series G round at an inflated \$852B valuation. - Cross-examine GC Che Chang on why he failed to launch an internal audit of Chang Liu's unreturned laptop upon learning of Apple's initial concern letter.
The 'Residual Access' Defense Chang Liu iMessage Logs Apple's loose MDM systems and employees' post-departure file requests prove that Apple pro-actively permitted Liu's access, and failed to protect its network.	MDM Exploitation / Passive Ingress Characterizing intentional exfiltration as a harmless outcome of the competitor's passive IT offboarding lag.	- Rebut by showing Liu logged in on at least 5 separate occasions from Feb to Apr 2026, demonstrating deliberate, non-accidental ingress. - Introduce Liu's own text: <i>'LOL, I found out I can access the [network storage], so funny.'</i> to prove subjective knowledge of unauthorized access. - Show Liu directed co-conspirators onto the encrypted app LINE and coached Alyssa Peng to use external drives, proving active concealment.
The 'Recruiting Due Diligence' Tang Tan Hardware Interviews Instructing candidates to bring prototypes and specifications was standard diligence to evaluate practical engineering design expertise, not solicitation of secrets.	Show and Tell Extraction Instructing candidates to demonstrate unannounced competitor prototypes under the guise of pre-onboarding technical testing.	- Establish that soliciting unannounced hardware components (such as displays, battery shields, colored back glass) is not industry-standard recruiting diligence. - Introduce Tang Tan's own iMessages instructing candidates to hide what they were carrying from recruiters. - Establish that Tan leveraged his former Apple executive authority to induce Apple's mutual suppliers into sharing proprietary metal-finishing secrets.

Defense Position / Assertion	Travelocity Lexicon Mechanism	SEC Cross-Examination / Rebuttal Strategy
The 'No Financial Stake' Defense Sam Altman's Public Claims Altman constantly claimed independent, non-profit status with zero personal equity in the capped-profit subsidiary, proving clean motives.	Charity-Washing & Personal Inurement Operating an elite venture portfolio under a tax-exempt cover while hiding personal fund ownership.	• Confront Altman with corporate records proving he personally owned the GP entity of the OpenAI Startup Fund while concealing this from the board. • Probe the 2025 PBC conversion where the Foundation's remaining 26% stake revalued to \$130B+ in tax-exempt paper wealth, bypassing payout rules. • Link the May 2026 YC credits-for-equity offer (\$2M in tokens) as an unauthorized equity extraction maneuver.

II. MANDATORY PRE-TRIAL LITIGATION PREP STEPS

- [] **Establish the Forensic Baseline:** Authenticate the metadata of Chang Liu's work laptop, mapping his five unauthorized network database intrusions (Feb-Apr 2026) side-by-side with OpenAI's Series G financial valuation milestones.
- [] **Establish Tang Tan's Direct Intent:** Introduce Exhibit B (iMessage logs) to cross-examine Tang Tan on his 'show and tell' interviews, focusing on his explicit instructions to candidates to bypass security protocols and carry physical Apple display/shield components.
- [] **Neutralize the ' residual access' Excuse:** Contrast Chang Liu's public defense (coworkers leaving his iCloud connected) with his encrypted LINE messages directing Alyssa Peng on how to copy secret CAD files onto external hard drives without triggering MDM alarms.
- [] **Depose GC Che Chang on Failure to Monitor:** Question OpenAI's legal department on why they ignored Apple's February 23, 2026 concern letter for five months, and whether they deliberately utilized this window to secure SoftBank, NVIDIA, and Amazon's Series G capital allocations.
- [] **Log state-level whistleblower retaliation:** Formally introduce the Washington County Sheriff's Office police report and documentation of the Oregon State Treasury Auditor Division's retroactive record-tampering into the SEC's record of administrative malfeasance.

III. MATERIAL OMISSIONS & S-1 DISCLOSURE AUDIT

THE BILLION-DOLLAR IPO FRAUD: Because the physical designs and manufacturing R&D behind OpenAI Group PBC's consumer hardware division (including Jony Ive's \$6.5B *io Products* vessel) were allegedly exfiltrated from Apple laboratories, any registration statement (Form S-1) filed by OpenAI for its upcoming Fall 2026 public listing that fails to disclose this pending DTSA preliminary injunction and associated product-freeze risks constitutes a material omission under Rule 10b-5. Enforcement Counsel must subpoena the investor diligence questionnaires of Amazon and SoftBank to prove the Defendants actively concealed ongoing digital exfiltrations to protect their valuation rounds.