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21 **UNITED STATES DISTRICT COURT**  
22 **NORTHERN DISTRICT OF CALIFORNIA**  
23 **OAKLAND DIVISION**

24 CALIFORNIA CRANE SCHOOL, INC.,  
25 on behalf of itself and all others similarly  
26 situated,

27 Plaintiff,

28 v.

GOOGLE LLC, ALPHABET INC., XXVI  
HOLDINGS INC., APPLE INC., TIM  
COOK, SUNDAR PICHAI, and ERIC  
SCHMIDT,

Defendants.

CASE NO. 4:21-cv-10001-HSG

**APPLE DEFENDANTS' SUPPLEMENTAL  
BRIEF IN SUPPORT OF THEIR MOTION  
TO DISMISS PLAINTIFF'S AMENDED  
COMPLAINT**

Date: September 29, 2022

Time: 2:00 p.m.

Place: Courtroom 2

Judge: Hon. Haywood S. Gilliam, Jr.

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1 **I. INTRODUCTION**

2 Plaintiff's Amended Complaint should be dismissed for all the reasons set forth in  
3 Defendants' Motion to Dismiss.<sup>1</sup> See Defs.' Mot. to Dismiss Pl.'s Amended Complaint ("Mot." or  
4 "Motion to Dismiss"), ECF No. 51; Defs.' Reply in Support of Mot. to Dismiss Pl.'s Amended  
5 Complaint ("Reply"), ECF No. 64. But with the scope of the Court's review now focused on  
6 Plaintiff's allegations against Apple alone, certain infirmities in Plaintiff's Amended Complaint  
7 merit further emphasis. First, Plaintiff's Amended Complaint asserts implausible conspiracy claims  
8 based on no more than conclusory assertions that ignore obvious alternative explanations for the  
9 Apple Defendants' alleged conduct. Mot. 7–13. Second, Plaintiff advances a Sherman Act  
10 conspiracy-to-monopolize claim without any plausible allegations addressing whether the Apple  
11 Defendants specifically intended to empower Google—the only entity even alleged to participate in  
12 any market potentially at issue—or itself with monopoly power. Mot. 15–16. Finally, Plaintiff fails  
13 to establish antitrust standing, relying on an impermissibly tenuous and speculative theory of injury.  
14 Mot. 16–21. Plaintiff's Opposition, which largely pasted verbatim from Plaintiff's Amended  
15 Complaint and relies on decades-old, inapposite caselaw, see Pl.'s Opp'n To Defs.' Mot. To Dismiss  
16 Pl.'s Amended Complaint ("Opp'n"), ECF No. 63, did nothing to move the needle in Plaintiff's favor  
17 on any of these independent grounds for dismissal. The case should therefore be dismissed.

18 **II. ARGUMENT**

19 **A. Plaintiff's Section 1 and Section 2 Claims Fail Because Plaintiff Does Not Allege**  
20 **a Plausible Horizontal Conspiracy**

21 Plaintiff's Section 1 and Section 2 claims are both deficient because the Amended Complaint  
22 does not plausibly allege evidentiary facts to support Plaintiff's assertion that Apple and Google  
23 entered into an unlawful horizontal agreement not to compete. Mot. 7–13; Reply 1–5. Whether the  
24 alleged anticompetitive conduct at issue "stem[s] from independent decision or from an agreement,  
25 tacit or express" is the "crucial question" in cases involving claims of a horizontal conspiracy under

26 \_\_\_\_\_  
27 <sup>1</sup> Defendants Google LLC, Alphabet Inc., XXVI Holdings Inc., Sundar Pichai, and Eric Schmidt  
28 collectively are referred to herein as "Google," or the "Google Defendants," unless otherwise noted.  
Similarly, Defendants Apple Inc. ("Apple") and Tim Cook are together referred to herein as the  
"Apple Defendants" unless otherwise noted.

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