

Miscellaneous Docket No. 22-162

---

IN THE  
**United States Court of Appeals for the Federal Circuit**

---

IN RE APPLE INC.,

*Petitioner.*

---

On Petition for Writ of Mandamus to the  
United States District Court for the  
Western District of Texas  
No. 6:21-cv-01101-ADA, Hon. Alan D Albright

---

**APPLE INC.'S REPLY IN SUPPORT OF EMERGENCY MOTION  
FOR A STAY OF PROCEEDINGS IN THE DISTRICT COURT  
PENDING RESOLUTION OF APPLE'S MANDAMUS PETITION**

---

Andrew N. Thomases  
Andrew T. Radsch  
ROPES & GRAY LLP  
1900 University Avenue,  
6th Floor  
East Palo Alto, CA 94303

Melanie L. Bostwick  
Lauren A. Weber  
ORRICK, HERRINGTON &  
SUTCLIFFE LLP  
1152 15th Street NW  
Washington, DC 20005  
(202) 339-8400

Melanie R. Hallums  
ORRICK, HERRINGTON &  
SUTCLIFFE LLP  
2121 Main Street  
Wheeling, WV 26003

*Counsel for Petitioner*

## TABLE OF CONTENTS

	<b>Page</b>
TABLE OF AUTHORITIES.....	ii
INTRODUCTION.....	1
ARGUMENT .....	2
I.    Apple’s Petition Makes A Compelling Case For Mandamus.....	3
II.   Absent A Stay, Apple Would Be Irreparably Harmed By Participating In Substantive Proceedings In Texas. ....	6
III.  A Brief Stay Would Not Harm Aire.....	10
IV.  The Public Interest Favors A Stay. ....	11
CONCLUSION.....	12
CERTIFICATE OF COMPLIANCE	

## TABLE OF AUTHORITIES

	Page(s)
<b>Cases</b>	
<i>In re Apple Inc.</i> , 979 F.3d 1332 (Fed. Cir. 2020) .....	1, 5, 8
<i>E-Watch, Inc. v. Lorex Can., Inc.</i> , No. H-12-3314, 2013 WL 5425298 (S.D. Tex. Sept. 26, 2013) .....	11
<i>In re EMC Corp.</i> , 501 F. App'x 973 (Fed. Cir. 2013) .....	7
<i>In re Google Inc.</i> , No. 2015-138, 2015 WL 5294800 (Fed. Cir. July 16, 2015) .....	5, 6, 7
<i>Hilton v. Braunskill</i> , 481 U.S. 770 (1987) .....	3, 4, 10
<i>In re Horseshoe Ent.</i> , 337 F.3d 429 (5th Cir. 2003) .....	5, 8
<i>In re Lloyd's Register N. Am., Inc.</i> , 780 F.3d 283 (5th Cir. 2015) .....	7
<i>New Hampshire v. Maine</i> , 532 U.S. 742 (2001) .....	10
<i>In re Nintendo Co.</i> , 544 F. App'x 934 (Fed. Cir. 2013) .....	5, 8
<i>Nken v. Holder</i> , 556 U.S. 418 (2009) .....	3, 10
<i>Pegram v. Herdrich</i> , 530 U.S. 211 (2000) .....	10
<i>In re SK hynix Inc.</i> , 835 F. App'x 600 (Fed. Cir. 2021) .....	5

*Standard Havens Prods., Inc. v. Gencor Indus., Inc.*,  
897 F.2d 511 (Fed. Cir. 1990) ..... 4

*In re Superior Crewboats, Inc.*,  
374 F.3d 330 (5th Cir. 2004)..... 10

*In re TracFone Wireless, Inc.*,  
848 F. App'x 899 (Fed. Cir. 2021) ..... 3, 6

*Van Dusen v. Barrack*,  
376 U.S. 612 (1964)..... 7

*In re Volkswagen of Am., Inc.*,  
545 F.3d 304 (5th Cir. 2008)..... 7

**Statutes**

28 U.S.C. § 1404(a)..... 7

## INTRODUCTION

Apple Inc. petitioned for mandamus because the district court impermissibly postponed ruling on Apple’s fully briefed transfer motion for more than eight months, while ordering the parties to complete fact discovery and take other substantive steps in the litigation. Apple moved for a stay in the district court pending this Court’s review of the mandamus petition and then, after not receiving a ruling on that motion, moved for a stay in this Court. The district court has since denied Apple’s stay motion.

Apple moved for a stay because the district court was moving “ahead on the merits in significant respects.” *In re Apple Inc.*, 979 F.3d 1332, 1338 (Fed. Cir. 2020). Without a pause in the district court proceedings, the parties will continue proceeding through fact discovery and other substantive aspects of this case, and the district court will address the merits of the case, such as hearing discovery disputes.

The Court’s stay authority exists for cases like this. Granting Apple’s motion will ensure that the Court has time to meaningfully act on a compelling petition for mandamus relief. It will prevent several irreparable harms to Apple, including spending time and resources

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.