



## *Apple's Legal Response in Less Than 300 Words*

On February 25, 2016, Apple filed its [Motion to Vacate](#) the [Court Order](#) requiring it to assist the government. Here is a summary of Apple's \*legal arguments\* in its [Motion to Vacate](#) in less than 300 words:

The government wants Apple to help it circumvent the encryption on a device. Congress has examined the issue and determined to not require companies to do this. Because this issue is inherently a question of policy, it is more appropriate for Congress, not the courts to make this determination. Thus, the courts do not have jurisdiction to make such a determination.

Because the All Writs Act only permits courts to aid in the exercise of their jurisdiction over an issue and cannot use it to transcend their jurisdiction, in situations like this where the court does not have such jurisdiction, it cannot use the All Writs Act as a workaround.

Even if the All Writs Act was appropriate, the government does not satisfy the required three-part test:

1. Apple's relationship to the underlying case is far removed;
2. the assistance requested of Apple, the creation of a new software and destruction of its security features, imposes an oppressive burden on Apple and the public, for a multitude of reasons; and
3. the government has not established that Apple's assistance the only conceivable way to accomplish the objective and that it had exhausted all other avenues for recovering the information, including the avenue the FBI botched which was a promising and vastly narrower alternative.

(see [The "Legal" Reason the FBI's Password Blunder Could Kill its Case in #AppleVsFBI](#)).

The government's request to create computer code, which is speech, violates Apple's First Amendment rights against compelled speech and discriminates against Apple based on its views on data security and privacy.

In the totality of these circumstances, forcing Apple to undertake these measures violates Apple's Fifth Amendment substantive due process right to be free from arbitrary deprivation of its liberty by government.

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