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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91229891
Party	Plaintiff Charles Bertini
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Submission	Motion for Summary Judgment  <b>Yes</b> , the Filer previously made its initial disclosures pursuant to Trademark Rule 2.120(a); OR the motion for summary judgment is based on claim or issue preclusion, or lack of jurisdiction.  The deadline for pretrial disclosures for the first testimony period as originally set or reset: <b>05/20/2018</b>
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Signature	/james bertini/
Date	05/19/2018
Attachments	Opposers Motion for Summary Judgment.pdf(64632 bytes ) Declaration of James Bertini.pdf(17093 bytes ) Declaration of Charles Bertini.pdf(15196 bytes ) Declaration of Irina Bertini.pdf(29819 bytes ) James Bertini Exhibits.pdf(362579 bytes ) Exhibit 75 Irina.pdf(5271355 bytes ) Exhibit 140 Irina.pdf(1174572 bytes ) Exhibits 62-73 Irina.pdf(5509007 bytes ) Exhibits 74-83 Irina.pdf(2362920 bytes ) Exhibits 121-129 Irina.pdf(5391790 bytes ) Exhibits 135-142 Irina.pdf(1534004 bytes ) Apple Exhibits Irina.pdf(968265 bytes ) Exhibits 123 and 132.pdf(1122127 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

CHARLES BERTINI,	)	
	)	Opposition No. 91229891
Opposer	)	Serial No. 86659444
	)	Mark: APPLE MUSIC
v.	)	Filing Date: June 11, 2015
	)	Publication Date: May 10, 2016
APPLE INC.,	)	
	)	
Applicant.	)	
	)	

**OPPOSER’S MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rules of Civil Procedure § 56(a) and (g) and TBMP § 528, Opposer hereby moves this Board for summary judgment granting his Opposition to the registration of the mark Apple Music. Opposer believes that the applicable records of the U.S. Patent & Trademark Office, the pleadings, the discovery responses, the documents produced, declarations, and internet evidence produced or submitted establish that there is no genuine issue as to any material fact and that Opposer is therefore entitled to judgment as a matter of law.

Both Opposer and Applicant have filed Motions to Compel in early April 2018, followed by Opposer’s Motion to Suspend (because he filed a Petition to Cancel one of Applicant’s marks used as an affirmative defense in this Opposition and it seemed that the cancellation case should take priority). Opposer considered that the Board might suspend this case, but no suspension order was issued. Opposer’s attorney then sought a consent extension from Applicant’s attorney last week who responded by proposing that the interlocutory attorney be contacted. The two attorneys agreed to place a conference call until time ran out to accomplish this. Opposer then had no choice but to follow the existing schedule, and hence it files this Motion for Summary Judgment as required by applicable TTAB rules and one day prior to the deadline for making its pre-trial disclosures. I certify that I called Applicant attorney Joseph Petersen to inform him that I will make this Motion, and he stated that his client will oppose it.

## **PRELIMINARY STATEMENT**

APPLE JAZZ began operation in 1985 as a jazz band (Charles Bertini Declaration (“Charles Decl.”) Exs. 1, 123) with its annual APPLE JAZZ concerts held in the City of Cortland, New York. New York State is the second largest apple-producing state and home of the Cortland apple. The word “apple” in the Opposer’s mark refers to the fruit, and APPLE JAZZ was selected as the service mark since the jazz genre of music was being promoted in apple country. Charles Decl. Exs. 27, 83. A reservoir of goodwill in the APPLE JAZZ service mark exists in a number of dedicated customers, fans, musicians and contractors of APPLE JAZZ which Charles Bertini developed during more than three decades.

On June 5, 2016, Charles Bertini filed an application to register the mark APPLE JAZZ in Class 41, Serial No. 87060640. In an official Trademark Office Action dated September 17, 2016 this application was refused registration under Section 2(d) of the Lanham Act because it was deemed to be likely to cause confusion between Opposer’s mark and pending U.S. Application Serial No. 86659444 for mark APPLE MUSIC (the “Mark”). Ex.130. James Bertini Declaration (“James Decl.”). On September 2, 2016 Opposer filed a Notice of Opposition to this U.S. Application Serial No. 86659444.

In his Response to Office Action Opposer demonstrated with multiple exhibits his continuous use of the mark APPLE JAZZ since June 5, 1985 and has also shown that no standard character mark “apple” was registered in Class 9 or Class 41 by Applicant or its predecessor prior to Opposer’s date of first use in commerce of June 5, 1985. (James Decl, Ex. 68). The examining attorney suspended the application pending the outcome of the instant Opposition. On March 19, 2018 Opposer filed a Petition to Cancel Registration No. 4088195 for APPLE because this mark was raised as an affirmative defense in the Opposition. James Decl.

### **I. SUMMARY OF UNDISPUTED FACTS**

1. Opposer began using his mark APPLE JAZZ in commerce in Class 41 at least as early as June 5, 1985 and has maintained continuous use in commerce of his mark to date. Opposer is a sole proprietor. Charles Decl., Exs 1-51, 84-96, 98-102, 105-109, 111-120.
2. Opposer began offering his services under mark APPLE JAZZ on his website applejazz.com as early as in 1998 and he continues to offer his services on this website. Charles Decl., Irina Bertini Declaration (“Irina Decl.”), Exs. 70, 124.
3. Opposer filed an application with Serial No. 87060640 for the trademark APPLE JAZZ in Class 41 dated June 5, 2016 with first use in commerce date at least as early as June 5, 1985. Charles Decl., Ex. 132.
4. On June 11, 2015 Applicant filed an application to register the mark APPLE MUSIC Application Serial No. 86659444 for identified services in Class 41. Answer P1, James Decl. Ex. 134.
5. Application Serial No. 86659444 was filed on an intent to use basis under Section 1(b) and Section 44(d) of the Trademark Act. James Decl., Ex. 134
6. The foreign filing date for the Mark is May 18, 2015. James Decl., Ex.134.
7. The Declaration dated June 11, 2015 and filed with the Mark under 18 U.S.C. § 1001 signed by the Applicant’s attorney Thomas R. La Perle states: “The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive.” James Decl., Ex. 134.
8. On June 11, 2015 there were two live, registered marks in Class 41: APPLEJAXX and APPLE JAM. Irina Decl., Exs. 127, 129.
9. On July 26, 2007 an Application for standard character mark AppleJaxx in Class 041 was filed and no likelihood of confusion was found by the examining attorney. On July 14, 2008 an

opposition to the application of AppleJaxx was filed by Applicant. However, subsequently on October 21, 2008 this mark was registered with Reg. No. 3519038. Irina Decl., Ex. 127.

10. A Registration Certificate for standard character service mark APPLE JAM in Class 41 was issued on March 15, 2011. The application for this mark was not opposed by anyone. The Office Action dated October 28, 2010 states: “The Office records have been searched and there are no similar registered or pending marks that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02”. Irina Decl., Ex.121.

11. Since as early as October 3, 2011 Opposer communicated with the iTunes Store Legal Team regarding a license agreement and such communication resulted in the Cloud Service License Agreement between Applicant and Opposer’s AppleJazz Music signed in January 2012. Charles Decl., Ex. 98.

12. The Harry Fox Agency, Inc., the licensing subsidiary of the National Music Publishers’ Association, has represented Opposer as APPLEJAZZ MUSIC since September 3, 1998. Charles Decl., Ex. 84.

13. Applicant uses as an affirmative defense to this Opposition certain APPLE marks with Registration Nos. 2,034,964, 3,317,089 and 4,088,195. Answer PP3, 4.

14. Applicant stated in its Answer “On information and belief, the dates of first use and first use in commerce claimed in Registration Nos. 2,034,964 and 4,088,195, predate the dates of first use and first use in commerce claimed by Opposer in the Notice of Opposition and with respect to APPLE JAZZ in Application Serial No. 87/060,640.” Answer P4.

15. An application for standard character mark APPLE Reg. 4088195 was filed in the USPTO by Applicant on March 22, 2008 with filing basis sections 1(b) and 44(d) and asserting a claim of priority based on European Community application number 6313316 with foreign filing date September 28, 2007. Irina Decl., Ex. 138; James Decl., Ex. 128.

16. In the Declaration filed with the Application for the ‘195 mark, Applicant stated: “...to the best of his/her knowledge and belief no other person, firm, corporation, or association has the

right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive.” Irina Decl., Ex. 138.

17. On May 11, 2010 a Notice of Allowance was issued for the ‘195 mark. Two extensions of time to file a Statement of Use (“SOU”) were requested by Applicant. Irina Decl.

18. On November 11, 2011 an SOU was filed for the ‘195 mark together with a Specimen, a Declaration and another SOU Extension Request. Irina Decl.

19. In the SOU Extension Request for the ‘195 mark Applicant attorney stated: *“The applicant ... is currently filing a Statement of Use (SOU), but that if the USPTO finds the SOU to be fatally defective, the applicant will need additional time to file a new SOU”*. Irina Decl., APPLE000462.

20. In the above SOU Applicant’s attorney stated: “The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 03/01/1981, and first used in commerce at least as early as 03/01/1981, and is now in use in such commerce”. Irina Decl. Ex. 64, P4. No evidence of such use on the date 03/01/1981 was provided with this SOU. Irina Decl.

21. In the Applicant’s Opposition to Opposer’s Motion to Compel filed April 25, 2018 regarding Opposer’s Request for Production No. 15 which requested “All documents concerning use of the trademark APPLE in commerce by the Applicant's related company, licensee, or predecessor in interest in the territory of the United States for each type of activities listed below for period January 1, 1981 through November 11, 2011,” the Applicant stated at P8, “Apple did not find any documents in its possession, custody, or control relating to use of this mark by a ‘related company, licensee, or predecessor in interest.’” James Decl., Ex. 133 PP7, 8.

22. In the above SOU Applicant’s attorney stated: “The applicant is submitting one specimen ...consisting of a(n) A page from Applicant's website showing use of the applied for mark APPLE in use for education and training services course offerings.” Irina Decl., Ex. 64, P4.

23. Applicant’s website is apple.com. Irina Decl.

24. Applicant Apple, Inc. was known before 2007 as Apple Computer, Inc. Irina Decl. Ex. 126.
25. The website archive.org (“Webarchive”) provides screenshots of websites which were saved for many dates in the past. Irina Decl., Ex. 135.
26. On the date of the SOU, Webarchive saved screenshots of Applicant’s website multiple times. Irina Decl.
27. On the date of the SOU, Applicant offered goods on its website with individual brand names for each, e.g. Mac, iPod, iPhone, iPad, AppleTV, iOS and iTunes. Irina Decl. Ex. 125.
28. On the date of the SOU Applicant offered entertainment services on its website under the mark iTunes. The iTunes service is presented as “*Your Entertainment. Everywhere.*” Irina Decl., Ex. 125.
29. On the date of the SOU Applicant offered entertainment services on its website under the mark iCloud. Ex. 125. This is advertised as “*iTunes in the Cloud is part of iCloud. It's the new way to store your music and TV shows, and enjoy them on all your devices.*” Irina Decl. Ex. 125.
30. Applicant announced its new goods or services on its website in a sections titled Hot News and Apple Info. Irina Decl., Ex. 125.
31. On the date of the SOU Applicant’s website didn’t offer “*entertainment services, namely, production of live musical performances; entertainment services, namely, providing live musical performances online via a global computer network*” under standard character mark APPLE. Irina Decl.
32. No document was disclosed to Opposer during discovery showing use of standard character mark APPLE in commerce for the above services on the date of SOU or during three years prior to this date or on the date of June 5, 1985. Irina Decl.
33. No specimen showing use in commerce of mark APPLE in connection with entertainment services listed in the Registration Certificate No 4,088,195 was ever presented to the USPTO in connection with Reg. No 4,088,195 before 2018. Irina Decl.

34. On January 17, 2012 a Certificate of Registration No 4088195 for Class 41 was issued indicating “Priority claimed under sec. 44(D)... Application No 6313316 filed 9-28-2007”. Irina Decl., Ex. 136.
35. The Applicant’s Response on Request for Admission (“RFA”) 9 is:” Applicant admits that the documents comprising Exhibit 3 to Opposer’s First Request for Admission to Apple Inc. appear to be copies of USPTO records relating to U.S Registration No. 4,088,195, which indicate that the priority date claimed in the application underlying the registration is September 28, 2007, and states that such records speak for themselves.” James Decl., Ex. 128.
36. USPTO records show that the Priority date for Reg. No 4,088,195 is September 28, 2007. Irina Decl., Ex. 62.
37. Reg. Nos 2,034,964 and 3,317,089 were owned by unaffiliated third party Apple Corps. Ltd. (“Apple Corps.”) until 2007 when Apple Corps. transferred them to Applicant. James Decl., Ex. 133.
38. Apple Corps. Ltd. is a multimedia corporation founded in London in January 1968 by the members of the Beatles. Its chief division is Apple Records. Irina Decl., Ex. 82 P1.
39. According to Wikipedia, [https://en.wikipedia.org/wiki/Apple\\_Records](https://en.wikipedia.org/wiki/Apple_Records) : “Apple Records is a record label founded by the Beatles in 1968, as a division of Apple Corps Ltd.” Irina Decl., Ex. 78 P1.
40. No application for standard character mark APPLE in Class 41 was ever filed by Apple Corps. in the U.S. Irina Decl.
41. No application for standard character mark APPLE in Class 9 was ever filed at the USPTO by the Applicant or by Apple Corps prior to June 5, 1985. Irina Decl.
42. An Application for a standard character mark APPLE in Class 9 (U.S. Reg. 2034964) was filed by Apple Corps Limited, UK on June 26, 1995 with the following filing basis: 1(a) – using the mark through licensees and 15 U.S.C. 1126(e) – with a foreign registration date January 17, 1992. Irina Decl., Ex. 140.



43. A PRIORITY ACTION with mailing date 02/01/96 stated that: “II SECTION 44(E) BASIS NOT PERFECTED An application under Section 44(e) of the Act, 15 U.S.C. 1126(e), must include a certified copy of the foreign registration on which the application is based to receive a filing date. TMEP 806.08. In this case, the applicant has asserted a valid 1(a) basis so a filing date for this application has been received. However, if the applicant intends to rely upon the additional section 44(e) basis, the applicant must submit a certification or certified copy of foreign registration to perfect this basis”. On August 1, 1996 in the amendment to the ‘964 application the Applicant requested to “delete reliance on the foreign registration as an additional basis”. Irina Decl., Ex. 140.

44. The specimen submitted with the ‘964 application had no date on it. Irina Decl. APPLE000738. The specimen submitted to USPTO on August 4, 2003 shows that the year of production of the Beatles disc is 1995. Irina Decl., Ex. 142, APPLE000758-000759.

45. A specimen submitted to the USPTO by Applicant on 02/03/2017 together with Combined Declaration of Use and/or Excusable Nonuse/Application for Renewal of Registration of a Mark under Sections 8 & 9 indicates: “The Apple Years 1968-75”. Irina Decl., Ex. 141, APPLE000676.

46. Prior to the registration of this APPLE ‘964 mark, Apple Corps used a graphic of an apple on the label for the records as its trademark. A typical U.S. Apple Records label displayed a graphic of an apple and indicated “Mfd by Apple Records, Inc” (or “Manufactured by Apple Records, Inc”) and “Recorded in England”. Irina Decl., APPLE001642, APPLE001700, Ex.65 P4.

47. A variety of other labels were used. Irina Decl., APPLE000561, Ex.65.

48. According to Wikipedia [https://en.wikipedia.org/wiki/Apple\\_Records\\_discography](https://en.wikipedia.org/wiki/Apple_Records_discography): “After EMI's contract with the Beatles ended in 1976, the Apple label was finally wound up. The label was reactivated in the 1990s.” Irina Decl., Ex. 79

49. The detailed catalog of vinyl records releases of Apple Records in the U.S. shows that there were no releases between December 8, 1975 and December 1, 1994. Irina Decl., Ex. 75.

50. An Application for standard character mark APPLE (Reg. No. 3,317,089) in Class 9 was filed by Apple Corps Limited on 06/04/2004, with a filing basis of 44(e) and referring to foreign registration date 11/16/2000. Registration number 3317089 was issued on October 23, 2007.

Irina Decl., Ex.139.

51. Applicant admits claimed priority date of foreign registration 11/16/2000. James Decl., Ex. 128.

52. On November 29, 1999 the domain name applerecords.com belonged to a company unrelated to Applicant, Apple Records, Inc or Apple Corp. There is no evidence of use of this domain name for publishing of website content before the above date. Irina Decl., Ex.71.

53. On September 14, 2009 and before this date the domain name applerecords.com doesn't show any use of mark APPLE by Applicant or Apple Corps. Irina Decl., Ex.71.

54. On March 2, 2000 the domain name thebeatles.com was used to publish a page online stating "This is a placeholder page only for Apple Corps Ltd. This site is not live at this time." Irina Decl., Ex.73.

55. On March 2, 2000 and before this date the domain name thebeatles.com doesn't show any use of mark APPLE for commerce. Irina Decl., Ex. 73.

56. According to thebeatles.com website: "30<sup>th</sup> January, 1969 – the Beatles' final Live Performance, on the Rooftop of Apple Records". Irina Decl., Ex. 74.

57. Applicant produced webpages from website www.discogs.com as discovery exhibits of Apple Records from <https://www.discogs.com/label/25693-Apple-Records>. Irina Decl.

58. It is stated on this website that there are "unofficial releases, (bootlegs, counterfeits, pirate compilations etc.) that pretend to be a release of the legitimate Apple Records." Irina Decl., Ex.66. It is also stated: "Discogs is a user-built discography site. Everyone can contribute and update information as needed." Irina Decl., Ex. 67. Discogs was "created as a hobby project in 2000." Irina Decl., Ex. 81 P1.

59. Webarchive shows that Apple Records began appearing on the Discogs website <https://www.discogs.com/label/25693-Apple-Records> only in 2014. Irina Decl., Ex. 81 P2.

60. Opposer's RPD 2 requested "All documents concerning confusion between customers of Apple Corps or Apple Computer, Inc. or Apple Inc., and customers of Apple Jazz from period June 5, 1985 to date." Applicants responded "Applicant states that, based on its reasonable inquiry and ongoing investigation, it has not identified any documents in its possession, custody or control that are responsive to this Request". James Decl., Ex. 137.

## **II. ARGUMENT**

### **A. Opposer Has Legal Standing to Oppose the Application**

Opposer submitted evidence that he filed an application, now suspended, with the PTO. That evidence included a copy of an Office action (James Decl., Ex. 130) in which certain of Applicant's marks were cited as a basis for refusal of Opposer's application. That evidence clearly provides an adequate basis to find that there is no genuine dispute as to Petitioner's standing. See *Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842 (Fed. Cir. 2000); *Hartwell Co. v. Shane*, 17 USPQ2d 1569 (TTAB 1990).

If the Opposition is denied, Opposer will be damaged because Opposer has used his mark for more than three decades and it may be confused with that of Applicant's mark. An Opposer must show both "a real interest in the proceedings as well as a 'reasonable' basis for his belief of damage." See *Ritchie v. Simpson*, 170 F.3d 1092, 50 USPQ2d 1023, 1025 (Fed. Cir 1999); see also *Empresa Cubana del Tabaco v. General Cigar Co.*, 753 F.3d 1270, 111 USPQ2d 1058, 1062 (Fed. Cir. 2014).

### **B. Summary Judgment Standards**

Summary judgment is an appropriate method of disposing of cases in which there is no genuine dispute with respect to any material fact, thus leaving the case to be resolved as a matter of law. Fed. R. Civ. P. 56(c)(1). A party moving for summary judgment has the burden of demonstrating the absence of any genuine dispute as to a material fact, and that it is entitled to

judgment as a matter of law. See *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986); *Sweats Fashions v. Pannill Knitting Co. Inc.*, 833 F.2d 1560, 4 USPQ2d 1793, 1796 (Fed. Cir. 1987).

When the moving party has supported its motion with sufficient evidence that, if unopposed, indicates there is no genuine dispute of material fact, the burden then shifts to the non-moving party to demonstrate the existence of a genuine dispute of material fact to be resolved at trial. *Enbridge, Inc. v. Excelerate Energy LP*, 92 USPQ2d 1537, 1540 (TTAB 2009).

**C. Registration of the Mark APPLE MUSIC for the Services Claimed by the Opposed Application is Likely to Cause Confusion with APPLE JAZZ**

Registration of the marks claimed by the APPLE MUSIC Application is barred by Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), which prohibits registration of a mark that “so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods of the Applicant, to cause confusion, or to cause mistake, or to deceive.” Likelihood of confusion is determined by focusing on whether the purchasing public would mistakenly assume that Applicant’s goods originate from the same source as Opposer’s goods and services, or are associated with Opposer. *Paula Payne Prods. Co. v. Johnson Publ’g Co.*, 473 F.2d 901, 901-02, 177 U.S.P.Q. 76, 77 (C.C.P.A. 1973). This determination is made on a case-by-case basis, *On-Line Careline, Inc. v. America Online, Inc.*, 229 F.3d 1080, 1084, 56 U.S.P.Q.2d 1471, 1474 (Fed. Cir. 2000), aided by the application of the factors set out in *In re E.I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 U.S.P.Q. 563 (C.C.P.A. 1973).

Some of the *DuPont* factors and their relation to this case are as follows:

*(1) The similarity or dissimilarity of the marks in their entirety as to appearance, sound, connotation and commercial impression.*

APPLE JAZZ is a unitary mark. The test for unitariness inquires whether the elements of a mark are so integrated or merged together that they cannot be regarded as separable. See *In re EBS Data Processing*, 212 USPQ 964, 966 (TTAB 1981); *In re Kraft, Inc.*, 218 USPQ 571, 573 (TTAB 1983). The APPLE JAZZ mark creates a commercial impression separate and apart from

the word “apple” or from the word “jazz.” The former word is a fruit, and the latter is a genre of music. Use of either of these words alone could not give one the impression that it is a reference to Applicant’s services and name of the jazz band. The two words together, and in the unique combination where apple precedes jazz, provide an unmistakable impression that the reference is to Applicant’s services *and no other*. The mark, therefore, creates a single and distinct commercial impression. APPLE JAZZ as a unitary mark should be compared to other marks in its entirety. Jazz is a genre of music, and hence someone could confuse one with the other, making APPLE MUSIC confusingly similar in meaning and appearance to APPLE JAZZ.

Applicant has disclaimed the word “MUSIC” in the applied-for mark. It is obvious that Applicant created this new mark APPLE MUSIC as a unitary mark the same way as Opposer did more than 30 years ago.

*(2) The similarity or dissimilarity and nature of the goods or services as described in an application or registration or in connection with which a prior mark is in use; (3) The similarity or dissimilarity of established, likely-to-continue trade channels.*

In this case, the identifications set forth in the application and registrations have no restrictions as to nature, type, channels of trade, or classes of purchasers. Therefore, these goods and/or services are presumed to travel in all normal channels of trade, and are available to the same class of purchasers. Furthermore, the applications for APPLE JAZZ (UF 3) and APPLE MUSIC (UF 4) show that the services are related.

With respect to applicant’s and registrant’s goods and/or services, the question of likelihood of confusion is determined based on the description of the goods and/or services stated in the application and registration at issue, not on extrinsic evidence of actual use. *See Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1323, 110 USPQ2d 1157, 1162 (Fed. Cir. 2014) (quoting *Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990)).

Absent restrictions in an application and/or registration, the identified goods and/or services are “presumed to travel in the same channels of trade to the same class of purchasers.” *In*

*re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)). Additionally, unrestricted and broad identifications are presumed to encompass all goods and/or services of the type described. See *In re Jump Designs, LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006) (citing *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981)); *In re Linkvest S.A.*, 24 USPQ2d 1716, 1716 (TTAB 1992).

In this case, the identifications set forth in the application and registrations have no restrictions as to nature, type, channels of trade, or classes of purchasers. Therefore, these goods and/or services are presumed to travel in all normal channels of trade, and are available to the same class of purchasers. Further, the application and Opposer's application both identify recorded music; the application and U.S. Registration No. 3317089 both identify recorded music and the provision of reviews. The application and U.S. Registration No. 4088195 both identify services for providing live music entertainment, information, online publications, reviews and personalized recommendations in the fields of entertainment and music; and, applicant's "provision of ...recorded entertainment, namely, musical performances" overlaps with the registrant's "rental of digital entertainment content", "provision of non-downloadable audio and audiovisual programs" and "entertainment services, namely, providing prerecorded audio and audiovisual content". Therefore, the services are related.

(5) *The fame of the prior mark (sales, advertising, length of use).*

Opposer has used his mark since 1985, and Applicant alleged a foreign filing date of May 18, 2015, a difference of 30 years.

(12) *The extent of potential confusion, i. e., whether de minimis or substantial.*

The extent of potential confusion is significant because Applicant is a large corporation with a strong web presence. Customers seeking APPLE JAZZ on the internet could end up on Applicant's website and assume that since jazz is a subset of music they are in the right location.

(13) *Any other established fact probative of the effect of use.*

Since Opposer has used his common law mark APPLEJAZZ MUSIC (a) since 1998 with the Harry Fox Agency, and (b) since October 3, 2011 with Applicant, it appears that Applicant decided to adopt the mark almost identical to its customer's mark. Applicant filed an application for the Mark on July 11, 2015 and Apple Inc. corporate officer and Director of its Trademark and Copyright Group Thomas La Perle made the statement under 18 U.S.C. § 1001. UF7. Now, Applicant claims that Opposer's mark conflicts with the Mark even though it had actual knowledge of Opposer's use of APPLEJAZZ MUSIC. Thus, the Declaration of the Apple Inc. officer was false and Applicant should not be allowed to benefit from its bad faith and deliberate concealment of Opposer's mark from the USPTO.

**D. The Undisputed Facts Show That Opposer's Mark Has Priority Rights Over Registration Nos. 2,034,964, 3,317,089, 4,088,195 and Application No. 86659444**

The Undisputed Facts supported by Declarations and Exhibits show that Opposer has continuously used his mark APPLE JAZZ in commerce for entertainment services since at least June 5, 1985 and has established prior proprietary rights in a mark through actual use in commerce. UF 1, 2.

A party may establish its own prior proprietary rights in a mark through ownership of a prior registration, actual use or through use analogous to trademark use, such as use in advertising brochures, trade publications, catalogues, newspaper advertisements and Internet websites which create a public awareness of the designation as a trademark identifying the party as a source. See Trademark Act §§ 2(d) and 45, 15 U.S.C. §§ 1052(d) and 1127. See also T.A.B. Systems v. PacTel Teletrac, 77 F.3d 1372, 37 USPQ2d 1879 (Fed. Cir. 1996). Opposer has submitted evidence that it is the owner of its trademark and it is extant, and hence there is no genuine dispute as to either Opposer's standing or its priority.

According to 15 U.S.C. §§ 1052(d), "No trademark by which the goods of the applicant may be distinguished from the goods of others shall be refused registration on the principal register on

account of its nature unless it—(d) Consists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive.” Consequently, the rights of users nationwide should be considered when determining whether a party is entitled to registration of their mark. See 3 J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition* § 20:15 (4th ed. 2008). Referring to this statute, the court in *Patsy’s Italian Rest. V. Banas*, 658 F.3d 254, 265 (2<sup>nd</sup> Cir. 2011) stated: “[T]he very language of the statute contemplates that a mark used anywhere in the United States can be sufficient to block federal registration.” See also *Blanchard Importing & Distrib. Co. Societe E. Blanchard Et Fils*, 56 C.C.P.A. 716, 717 (U.S. Court of Customs and Patent Appeals 1968): (“As between conflicting claimants, it is well settled that the right to use the same mark is based on priority of appropriation.”)

According to 15 U.S.C. § 1057(c)(1), “the filing of the application to register such mark shall constitute constructive use of the mark, **conferring a right of priority**, nationwide in effect, on or in connection with the goods or services specified in the registration against any other person **except for a person whose mark has not been abandoned and who, prior to such filing— (1) has used the mark.**” (Emphasis added.) The court in *Hydro-dynamics, Inc. v. George Putnam & Company, Inc.*, 811 F.2d 1470 (Fed. Cir. 1987) stated: “The requirements of both adoption and use devolve from the common law; trademark rights in the United States are acquired by such adoption and use, not by registration.” APPLE JAZZ has been in use in commerce since at least as early as 1985 *and it has never been abandoned.* UF 1.

1. APPLE JAZZ has priority over Apple Music Application No. 86659444

Applicant filed its application for mark APPLE MUSIC on an intent to use basis and Section 44(d) with foreign filing date (Jamaica) May 18, 2015. UF 5, 6. Opposer has priority rights over this mark because on the date of foreign application Opposer used his mark for about 30 years.



Thus, Opposer has priority of use. If likelihood of confusion could occur, the applied-for mark should not be registered because the common law priority rights established by APPLE JAZZ as described above would bar registration of Apple Music pursuant to 15 U.S.C. §1052(d).

2. APPLE JAZZ has priority rights over registered marks used as affirmative defenses to this Opposition

a. U.S. Registration No. 2034964: “APPLE”

This application for this standard character mark was filed by Apple Corps Limited, UK on June 26, 1995 with the following filing basis: 1(a) – using the mark through licensees and 44(e) – with priority claimed of a foreign registration date January 17, 1992. UF 42. Opposer has priority rights over this mark because on the date of foreign registration Opposer used his mark during more than six years.

Since on August 1, 1996 the application for the ‘964 mark was amended to “delete reliance on the foreign registration as an additional basis” and accordingly to rely on the provided filing date of June 26, 1995 (UF 43). The filing date became a priority date for this foreign mark. Opposer has priority rights over this mark because on the date of the effective filing date Opposer used his mark during more than ten years.

Applicant tries to claim a first use in commerce date of August 1968. The date of first use anywhere during August 1968 as indicated in the application doesn’t constitute use of the mark in commerce in the U.S. for a foreign company especially when no supporting documents with proof of continuous use of the mark in commerce in U.S. starting from claimed date of first use was presented with the application.

In the PRIORITY ACTION (mailing date 02/01/1996) the examining attorney clearly indicates: “However, if the applicant intends to rely upon the additional section 44(e) basis the applicant must submit a certification or certified copy of foreign registration to perfect this basis.” Otherwise the owner of the mark must rely on provided filing date. The owner made the choice

to ignore the requirements of the examining attorney to rely on the additional section 44(e) basis and instead to rely on the filing date of June 26, 1995.

A claim for common law rights for a foreign mark in the U.S. should be supported by presentation of valid documents showing continuous use in commerce since date of first use to date of application to register the mark.

Before the 1980s, Apple Corps used a graphic of an apple on the label for the records as its trademark. UF 46, 47. It is unlikely that the tiny print on the discs “Mfd. by Apple Records, Inc” or “Manufactured by Apple Records, Inc” (UF 46, 47) could be perceived by the relevant public as a trademark. The phrase on the record is nothing but a reference to the corporate name of the manufacturer, i.e. The Ex. 65 shows label variations with one thing common in all of them – a graphic depiction of an apple. An image of apple functioned as a trademark for Apple Corps goods from 1968-1975, not the standard character mark APPLE.

Second, there is a more than a three year gap in use of the Apple Corps mark in the U.S. It is very clear from the specimen submitted that the period of time in which the mark was used is limited as it reads: “The Apple Years 1968-75.” UF 45. Exactly the same information is available from public sources that state: “After EMI's contract with the Beatles ended in 1976, the Apple label was finally wound up. The label was reactivated in the 1990s.” UF 48. The detailed catalog of vinyl records releases of Apple Records in the U.S. shows that there were no releases between December 8, 1975 and December 1, 1994. UF 49. The specimen submitted with the ‘964 application had no date on it. The specimen submitted to USPTO on August 4, 2003 shows that the year of production of the Beatles disc is 1995. UF 44.

On November 29, 1999 the domain name [applerecords.com](http://applerecords.com) belonged to a company unrelated to Applicant, Apple Records, Inc or Apple Corp. UF 52. Apple Corps didn't care about the Apple Records trade name since they allowed the corresponding domain name to be registered by anyone. The domain name [applerecords.com](http://applerecords.com) didn't show use in commerce by Apple Corps or Applicant even on the date September 14, 2009. UF 53. It is clear that the trade

name Apple Records had been abandoned for many years. Even as of March 2, 2000 the domain name thebeatles.com was used to publish only a page stating “This is a placeholder page only for Apple Corps Ltd. This site is not live at this time.” UF 54.

According to 15 U.S.C. § 1127 “A mark shall be deemed to be “abandoned” if either of the following occurs: “(1) ...Nonuse for 3 consecutive years shall be prima facie evidence of abandonment.”

Third, the relevant public considers Apple Corps labels as “Apple Records” (UF 38, 39, 46, 47, 48, 49) but even this phrase didn’t function as a trademark because the commercial impression on that public was created by the design mark in form of a graphic of an apple.

Referring to the above, Opposer’s mark APPLE JAZZ has priority rights over U.S. Reg. 2034964.

b. U.S. Registration No. 3317089: “APPLE”

The claimed priority date for mark APPLE (U.S. Reg. 3317089) is the date of foreign registration November 16, 2000. UF 5. Applicant admits claimed priority date of foreign registration 11/16/2000. UF 51. Opposer has priority rights over this mark because on the claimed priority date Opposer used his mark during more than 15 years.

c. U.S. Registration No. 4088195: “APPLE”

An application for the mark was filed with filing basis sections 1(b) and 44(d) with foreign filing date September 28, 2007. UF 15. No evidence of use of the mark on the date 03/01/1981 was provided to USPTO despite statement of first use in commerce on this date. UF 20. Applicant “did not find any documents in its possession, custody, or control relating to use of this mark by a ‘related company, licensee, or predecessor in interest.’ UF 21.

One submitted specimen shows use for education and training services. UF 22. The date of specimen is unknown but on the bottom of page it shows “Copyright 2011” which year is 30 years after the claimed date of first use. UF 22, Ex. 64. Nothing on the website of Applicant

dated back to 1996 or 1999 shows that any entertainment services listed in the Registration Certificate was offered by Apple Computer, Inc. in 1996 or 1999. UF 24, Ex. 126.

The Certificate of Registration indicates “Priority claimed under sec. 44(D)... Application No 6313316 filed 9-28-2007”. UF34. USPTO records show the Priority date for Reg. No 4,088,195 is September 28, 2007. UF36. Applicant admits claimed priority date September 28, 2007. UF35. Opposer has priority rights over U.S. Registration No. 4088195 because on the claimed priority date September 28, 2007 Opposer used his mark for more than 20 years.

If likelihood of confusion could occur, the U.S. Registration No. 4088195 shouldn't have been issued because the common law priority rights established by APPLE JAZZ as described above would bar registration of mark 4088195 pursuant to 15 U.S.C. §1052(d). Also, Opposer has filed a Petition to Cancel mark '195 based on abandonment and fraud.

**3. Registrations 2,034,964 and 3,317,089 Didn't Prevent Registrations of Similar Marks in Class 41 for Entertainment Services**

Both registrations 2034964 and 3317089 are in Class 9 for goods. UF 42, 50. Opposer's mark is in Class 41 for services. UF 3. These two registrations couldn't preclude registrations of at least two similar marks in Class 41 – APPLEJAXX and APPLE JAM. UF 9, 10. During the application procedure of APPLE JAM the examining attorney in an Office Action dated October 28, 2010 didn't find conflicting marks in the records and stated: “[T]here are no similar registered or pending marks that would bar registration.” UF 10. This means that Reg. 2034964 and Reg. 3317089 (a) are not similar to APPLE JAM and APPLEJAXX marks (and consequently not similar to APPLE JAZZ), and (b) they cannot reserve future rights for the owner for all combinations of the word APPLE in different classes. According to 15 U.S.C. § 1127, “The term ‘use in commerce’ means the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark.”

**D. The Board Should Resolve Any Doubt in Favor of Opposer**

Registration of the mark APPLE MUSIC is likely to cause confusion, or to cause mistake, or to deceive consumers. But if there were any doubt, the Board must resolve it against the newcomer and in favor of the prior user. *TBC Corp. v. Holsa Inc.*, 126 F.3d 1470, 1473-73, 44 U.S.P.Q.2d 1315, 1318 (Fed. Cir. 1997). Applicant, like all newcomers, had a duty to select a trademark sufficiently different from the trademarks of businesses already in the field so that confusion, mistake, or deception of purchasers would be unlikely. *Finn v. Cooper's Inc.*, 292 F.2d 555, 560, 130 U.S.P.Q. 269, 273 (C.C.P.A. 1961). Applicant has failed to do so here. Additionally, Applicant knew that Opposer was doing business under name APPLEJAZZ MUSIC before its application was filed.

**V. CONCLUSION**

Applicant's proposed APPLE MUSIC mark in Class 41 for entertainment services is likely to cause confusion with Opposer's APPLE JAZZ mark for which registration is sought in Class 41 for entertainment services. Opposer's mark has been in use in commerce since 1985. The claimed priority dates for Registration Nos. 3317089 and 4088195 are for years after 1985. The effective filing date for Registration 2034964 is after 1985.

The Board therefore should grant summary judgment sustaining this opposition, and refusing registration of Applicant's mark.

May 19, 2018

/s/ James Bertini

JAMES BERTINI  
Attorney for Opposer Charles Bertini  
423 Kalamath Street  
Denver, CO 80204  
303 572-3122  
jamesbertini@yahoo.com

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of **OPPOSER’S MOTION FOR SUMMARY JUDGMENT** has been served on the following attorneys by email on May 19, 2018 by James Bertini.

Joseph Petersen  
Kilpatrick Townsend  
JPetersen@kilpatricktownsend.com

Jason Gonder  
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tmadmin@kilpatricktownsend.com

/s/ James Bertini  
JAMES BERTINI

CERTIFICATE OF TRANSMITTAL

I hereby certify that a true copy of the foregoing **OPPOSER’S MOTION FOR SUMMARY JUDGMENT** is being filed electronically with the TTAB via ESTTA on May 19, 2018.

/s/ James Bertini  
JAMES BERTINI

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

CHARLES BERTINI,	)	
	)	Opposition No. 91229891
Opposer	)	Serial No. 86659444
	)	Mark: APPLE MUSIC
v.	)	Filing Date: June 11, 2015
	)	Publication Date: May 10, 2016
APPLE INC.,	)	
	)	
Applicant.	)	
	)	

**DECLARATION OF JAMES BERTINI IN SUPPORT OF  
OPPOSER'S MOTION FOR SUMMARY JUDGMENT**

I, James Bertini, hereby declare as follows:

1. I am the attorney for Opposer Charles Bertini in this proceeding. I make this Declaration based on my personal knowledge in support of Opposer's Motion for Summary Judgment. I am over the age of twenty-one and competent to make this Declaration.
2. On June 5, 2016, Charles Bertini filed an application to register the mark APPLE JAZZ in Class 41, Serial No. 87060640. In an official Trademark "**Office Action**" dated **September 17, 2016**, this application was refused registration under Section 2(d) of the Lanham Act, because it was deemed to be likely to cause confusion between Opposer's mark and pending U.S. Application Serial No. 86659444 for mark APPLE MUSIC.

3. Attached as Exhibit 130 are true and correct copies of pages of the **Office Action** dated **September 17, 2016** which I downloaded from the USPTO website.

4. In “**Applicant’s Response to Office Action**” dated **March 15, 2017** Opposer demonstrated with multiple exhibits his continuous use of the mark APPLE JAZZ since June 5, 1985 and he has also shown that no standard character mark “apple” was registered in Class 9 or Class 41 by Applicant or its predecessor prior to Opposer’s date of first use in commerce of June 5, 1985. The examining attorney suspended the application pending the outcome of the instant Opposition.

5. Attached as Exhibit 68 is a true and correct copy of “**Applicant’s Response to Office Action**” which I filed with the USPTO on **March 15, 2017**.

6. On March 19, 2018 Opposer filed a Petition to Cancel Registration No. 4,088,195 for APPLE because this mark was raised as an affirmative defense in the Opposition.

7. On June 11, 2015 Applicant filed an application to register the mark APPLE MUSIC (the “Mark”) Application Serial No. 86659444 for identified services in Class 41.

8. Attached as Exhibit 134 is a true and correct copy of Trademark/Service Mark Application for the Mark APPLE MUSIC Serial No. 86659444 that I downloaded from the USPTO website.



9. Application Serial No. 86659444 was filed on an intent to use basis under Section 1(b) and Section 44(d) of the Trademark Act. The foreign filing date for the Mark is May 18, 2015.

10. The Declaration filed with the Mark dated June 11, 2015 under 18 U.S.C. § 1001 signed by the Applicant's attorney Thomas R. La Perle states: "The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive."

11. In the "**Applicant's Opposition to Opposer's Motion to Compel**" dated **April 25, 2018** regarding Opposer's Request for Production No. 15 which requested "All documents concerning use of the trademark APPLE in commerce by the Applicant's related company, licensee, or predecessor in interest in the territory of the United States for each type of activities listed below for period January 1, 1981 through November 11, 2011," the Applicant stated at P8, "Apple did not find any documents in its possession, custody, or control relating to use of this mark by a 'related company, licensee, or predecessor in interest.'"

12. According to the "**Applicant's Opposition to Opposer's Motion to Compel**" dated **April 25, 2018**, Registration Nos. 2,034,964 and 3,317,089 were owned by unaffiliated third party Apple Corps. Ltd. ("Apple Corps.") until 2007 when Apple Corps. transferred them to Applicant.

13. Attached as Exhibit 133 is a true and correct copy of the above-mentioned **“Applicant’s Opposition to Opposer’s Motion to Compel”** dated **April 25, 2018** which I received from Applicant’s attorneys.

14. In the **“Apple Inc.’s Responses and Objections to Opposer’s First Request for Admission to Apple Inc.”** dated **June 28, 2017**, the Applicant’s response to #9 is “Applicant admits that the documents comprising Exhibit 3 to Opposer’s First Request for Admission to Apple Inc. appear to be copies of USPTO records relating to U.S Registration No. 4,088,195, which indicate that the priority date claimed in the application underlying the registration is September 28, 2007, and states that such records speak for themselves.”

15. In the **“Apple Inc.’s Responses and Objections to Opposer’s First Request for Admission to Apple Inc.”** dated **June 28, 2017**, Applicant admits at #12 that the claimed priority date of foreign registration regarding Registration No. 3317089 is 11/16/2000.

16. Attached as Exhibit 128 is a true and correct copy of the above-mentioned **“Apple Inc.’s Responses and Objections to Opposer’s First Request for Admission to Apple Inc.”** dated **June 28, 2017** which I received from Applicant’s attorneys.

17. In the **“Apple Inc.’s Responses and Objections to Charles Bertini’s First Request for Production of Documents”** dated **January 28, 2017**, #2 requested “All documents concerning confusion between customers of Apple Corps or Apple Computer, Inc. or Apple Inc., and customers of Apple Jazz from period June 5, 1985 to date.” Applicant responded: “Applicant states that, based

on its reasonable inquiry and ongoing investigation, it has not identified any documents in its possession, custody or control that are responsive to this Request”.

18. Attached as Exhibit 137 is a true and correct copy of “**Apple Inc.’s Responses and Objections to Charles Bertini’s First Request for Production of Documents**” dated **January 28, 2017** which I received from Applicant’s attorneys.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

May 19, 2018.

/James Bertini/  
James Bertini

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

CHARLES BERTINI,	)	
	)	Opposition No. 91229891
Opposer	)	Serial No. 86659444
	)	Mark: APPLE MUSIC
v.	)	Filing Date: June 11, 2015
	)	Publication Date: May 10, 2016
APPLE INC.,	)	
	)	
Applicant.	)	
	)	

**DECLARATION OF CHARLES BERTINI IN SUPPORT OF  
OPPOSER'S MOTION FOR SUMMARY JUDGMENT**

I, Charles Bertini, hereby declare as follows:

1. I am the Opposer in this proceeding. I make this Declaration based on my personal knowledge in support of Opposer's Motion for Summary Judgment. I am over the age of 21 and competent to make this Declaration.
2. I began using my mark APPLE JAZZ in commerce in international class 41 at least as early as June 5, 1985 and I have maintained continuous use in commerce of my mark to date.
3. I am a sole proprietor.
4. APPLE JAZZ began operation in 1985 as a jazz band with its annual APPLE JAZZ concerts held in the City of Cortland, New York. New York State is the second largest apple-producing state and home of the Cortland apple. Exs. 1, 27.
5. Attached as an Exhibit 1 is a true and correct copy of newspaper article dated June 5, 1985 about members of the APPLE JAZZ band, and advertising in this newspaper for an APPLE JAZZ concert held in Cortland, New York.

6. The word “apple” in my mark refers to the fruit, and APPLE JAZZ was selected as the service mark since the jazz genre of music was being promoted in the apple country of Central New York State and Cortland, New York, home of the Cortland apple. Ex. 27.
7. Attached as an Exhibit 27 is a news article from the May 23, 1993 Syracuse Herald Journal, a (now defunct) daily newspaper in Syracuse, New York which is located approximately 35 miles from Cortland, New York, about APPLE JAZZ subtitled “Events built around seniors, jazz, apples and balloons.”
8. I began offering my services under mark APPLE JAZZ on the website applejazz.com as early as in 1998 and I continue to offer my services on this website.
9. Attached as Exhibits 1-51, 84-96, 98-102, 105-109, 111-120 and 123 are true and correct copies of documents from my archive since 1985.
10. During more than three decades I have developed a reservoir of goodwill in the APPLE JAZZ service mark among a number of dedicated customers, fans, musicians and contractors of APPLE JAZZ.
11. Attached as Exhibit 84 is a true and correct copy of a confirmation letter I received from The Harry Fox Agency, Inc, the licensing subsidiary of the National Music Publishers’ Association dated September 3, 1998 that they “are in receipt of authorization for representation of APPLEJAZZ MUSIC”.
12. Since at least as early as October 3, 2011 I have communicated with iTunes Store Legal Team regarding a license agreement and such communication resulted in the Cloud Service License Agreement between Applicant and AppleJazz Music signed in January 2012.
13. Attached as Exhibit 98 is a true and correct copy of my email communication with The iTunes Store Legal Team which began On Oct 3, 2011 and the Cloud Service License Agreement between Apple, Inc. and AppleJazz Music with an effective date of January 13, 2012.
14. I have never received a cease and desist letter from Applicant or anyone on its behalf or anyone in general regarding my use of Apple Jazz or AppleJazz Music.

15. Attached as Exhibit 99 is my EarthLink LiveChat regarding my email account [applejazz@earthlink.net](mailto:applejazz@earthlink.net) that shows my sign-up date as February 25, 1997.
16. I maintain a Facebook page to promote AppleJazz and to provide entertainment services.
17. I maintain a Youtube channel to promote AppleJazz and to provide entertainment services.
18. On June 5, 2016 I filed an application at the USPTO to register my mark APPLE JAZZ in Class 41. Attached as Exhibit 132 is a true and correct copy of my application. All of my statements in the application are true and I hereby incorporate them by reference.
19. On September 17, 2016 the application was refused due to a likelihood of confusion with APPLE marks U.S. Registration Nos. 2034964, 4088195 and 3317089, and due to pending U.S. Application Serial Nos. 86658508, 86659444 and 86830886.
19. I will be damaged if Apple Music is registered as a trademark.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

May 18, 2018.

/Charles Bertini/  
Charles Bertini

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

CHARLES BERTINI,	)	
	)	Opposition No. 91229891
Opposer	)	Serial No. 86659444
	)	Mark: APPLE MUSIC
v.	)	Filing Date: June 11, 2015
	)	Publication Date: May 10, 2016
APPLE INC.,	)	
	)	
Applicant.	)	
	)	

**DECLARATION OF IRINA BERTINI IN SUPPORT OF  
OPPOSER’S MOTION FOR SUMMARY JUDGMENT**

I, Irina Bertini, hereby declare as follows:

1. I work for my husband who is the attorney for Opposer Charles Bertini in this proceeding. I make this Declaration based on my personal knowledge in support of Opposer’s Motion for Summary Judgment. I am over the age of twenty-one and competent to make this Declaration.
2. Attached as an Exhibit 70 are true and correct copies of webpages of website applejazz.com I downloaded from Webarchive <https://web.archive.org> on March 6, 7, 2018 as pdf files.
3. Attached as an Exhibit 124 are true and correct copies of webpages of website applejazz.com I downloaded from Webarchive <https://web.archive.org> on April 1, 2018 as pdf files.
4. On June 11, 2015 there were two live, registered marks in Class 41: APPLEJAXX and APPLE JAM. Exs. 127, 129.

5. Attached as an Exhibit 127 are true and correct copy of document related to APPLEJAXX mark I downloaded from USPTO website as pdf file.
6. Attached as an Exhibit 129 are true and correct copy of document related to APPLE JAM mark I downloaded from USPTO website as pdf file.
7. On July 26, 2007 an Application for standard character mark AppleJaxx in Class 041 was filed and no likelihood of confusion was found by the examining attorney. On July 14, 2008 an opposition to the application of AppleJaxx was filed by Applicant. However, subsequently on October 21, 2008 this mark was registered as Reg. No. 3519038. Ex. 127.
8. A Registration Certificate for standard character service mark Apple Jam in Class 41 was issued on March 15, 2011. The application for this mark was not opposed by anyone. The Office Action dated October 28, 2010 states: "The Office records have been searched and there are no similar registered or pending marks that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02". Ex.121.
9. Attached as an Exhibit 121 are true and correct copies of documents related to APPLE JAM mark I downloaded from USPTO website as pdf files.
10. An application for standard character mark APPLE Reg. 4,088,195 was filed in the USPTO by Applicant on March 22, 2008 with filing basis sections 1(b) and 44(d) and asserting a claim of priority based on European Community application number 6313316 with foreign filing date September 28, 2007. Ex.138.



11. Attached as an Exhibit 138 are true and correct copies of application documents for APPLE (Reg. 4088195) mark that I downloaded from USPTO website as pdf files.
12. In the Declaration filed with the Application for the '195 mark, Applicant attorney stated: "...to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive." Ex. 138.
13. On May 11, 2010 a Notice of Allowance was issued for the '195 mark. Two extensions of time to file a Statement of Use ("SOU") were requested by Applicant.
14. On November 11, 2011 an SOU was filed for the '195 mark together with a Specimen, a Declaration and another SOU Extension Request.
15. In the SOU Extension Request for the '195 mark Applicant attorney stated: *"The applicant ... is currently filing a Statement of Use (SOU), but that if the USPTO finds the SOU to be fatally defective, the applicant will need additional time to file a new SOU"*. Irina Decl. APPLE000462.
16. Attached as APPLE000462 is a true and correct copy of a document produced by Applicant on a discovery request.
17. In the above SOU Applicant's attorney stated: "The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 03/01/1981, and first used in commerce at least as

early as 03/01/1981, and is now in use in such commerce”. Ex. 64, p.4. No evidence of such use on the date 03/01/1981 was provided with this SOU.

18. Attached as an Exhibit 64 are true and correct copies of Statement of Use documents for APPLE (Reg. 4088195) mark that I downloaded from USPTO website as pdf files.

19. In the above SOU Applicant’s attorney stated: “The applicant is submitting one specimen ...consisting of a(n) A page from Applicant's website showing use of the applied for mark APPLE in use for education and training services course offerings.” Ex. 64, p.4.

20. Applicant’s website is apple.com

21. Applicant Apple, Inc. was known before 2007 as Apple Computer, Inc. Ex. 126.

22. Attached as an Exhibit 126 are true and correct copies of webpages of apple.com website downloaded by me as pdf files from Webarchive <https://web.archive.org> on May 19, 2018.

23. The website archive.org (“Webarchive”) provides screenshots of websites which were saved for many dates in the past by the system of this website. Ex. 135.

24. Attached as an Exhibit 135 is a true and correct copy of homepage of Internet Archive website (also known as Webarchive and Wayback Machine) downloaded by me as pdf files from [archive.org](https://archive.org) on May 19, 2018.

25. On the date of the SOU, Webarchive saved screenshots of Applicant’s website multiple times.

26. On the date of the SOU, Applicant offered goods on its website with individual brand names for each, e.g. Mac, iPod, iPhone, iPad, AppleTV, iOS and iTunes. Irina Decl. Ex. 125.

27. Attached as an Exhibit 125 are true and correct copies of webpages of apple.com website downloaded by me as pdf files from Webarchive showing screenshots of the website on the date of November 11, 2011.

28. On the date of the SOU Applicant offered entertainment services on its website under the mark iTunes. The iTunes service is presented as "*Your Entertainment. Everywhere.*" Ex. 125.

29. On the date of the SOU Applicant offered entertainment services on its website under the mark iCloud. Ex. 125. This is advertised as "*iTunes in the Cloud is part of iCloud. It's the new way to store your music and TV shows, and enjoy them on all your devices.*" Ex. 125.

30. Applicant announced its new goods or services on its website in a section titled Hot News and Apple Info. Ex. 125.

31. On the date of the SOU Applicant's website didn't offer "*entertainment services, namely, production of live musical performances; entertainment services, namely, providing live musical performances online via a global computer network*" under standard character mark APPLE.

32. No document was disclosed to Opposer during discovery showing use of standard character mark APPLE in commerce for the above services on the date of SOU or during three years prior to this date or on the date of June 5, 1985.

33. No specimen showing use in commerce of mark APPLE in connection with entertainment services listed in the Registration Certificate No 4,088,195 was ever presented to the USPTO in connection with Reg. No 4,088,195 before 2018.

34. On January 17, 2012 a Certificate of Registration No. 4088195 for Class 41 was issued indicating "Priority claimed under sec. 44(D)... Application No 6313316 filed 9-28-2007". Ex. 136.

35. Attached as Exhibit 136 is a true and correct copy of Registration Certificate No 4,088,195 for mark APPLE that I downloaded from USPTO website as pdf file.

36. USPTO records show Priority date for Reg. No 4,088,195 September 28, 2007. Ex. 62.

37. Attached as an Exhibit 62 are true and correct copy of a document related to APPLE mark Reg. No 4,088,195 I downloaded from USPTO website as pdf file.

38. Apple Corps. Ltd. is a multimedia corporation founded in London in January 1968 by the members of the Beatles. Its chief division is Apple Records. Ex. 82 P1.

39. Attached as an Exhibit 82 is a true and correct copy of Wikipedia page for Apple Corps Ltd that I downloaded as a pdf file on March 13, 2018 from link [https://en.wikipedia.org/wiki/Apple\\_Corps](https://en.wikipedia.org/wiki/Apple_Corps).

40. According to Wikipedia, [https://en.wikipedia.org/wiki/Apple\\_Records](https://en.wikipedia.org/wiki/Apple_Records) :  
“Apple Records is a record label founded by the Beatles in 1968, as a division of Apple Corps Ltd.” Ex. 78 P1.

41. Attached as an Exhibit 78 is a true and correct copy of Wikipedia page for Apple Records that I downloaded as a pdf file on March 13, 2018 from link [https://en.wikipedia.org/wiki/Apple\\_Records](https://en.wikipedia.org/wiki/Apple_Records).

42. No application for standard character mark APPLE in Class 41 was ever filed by Apple Corps. in the U.S.

43. No application for standard character mark APPLE in Class 9 was ever filed at the USPTO by the Applicant or by Apple Corps prior to June 5, 1985.

44. An Application for a standard character mark APPLE in Class 9 (U.S. Reg. 2034964) was filed by Apple Corps Limited, UK on June 26, 1995 with the following filing basis: 1(a) – using the mark through licensees and 15 U.S.C. 1126(e) – with a foreign registration date January 17, 1992. Ex. 140.

45. Attached as an Exhibit 140 are true and correct copies of application documents for mark APPLE (U.S. Reg. 2034964) that I downloaded as pdf files from USPTO website.

46. PRIORITY ACTION with mailing date 02/01/96 stated that: “II SECTION 44(E) BASIS NOT PERFECTED An application under Section 44(e) of the Act, 15 U.S.C. 1126(e), must include a certified copy of the foreign registration on which the application is based to receive a filing date. TMEP 806.08. In this case, the applicant has asserted a valid 1(a) basis so a filing date for this application has been received. However, if the applicant intends to rely upon the additional

section 44(e) basis, the applicant must submit a certification or certified copy of foreign registration to perfect this basis”.

47. On August 1, 1996 in the amendment to the ‘964 application the Applicant requested to “delete reliance on the foreign registration as an additional basis”.

Ex. 140.

48. The specimen submitted with the ‘964 application had no date on it.

APPLE000738.

49. Attached as APPLE000738, APPLE000758-000759, APPLE000676, APPLE001642, APPLE001700, APPLE000561 are true and correct copies of documents produced by Applicant on discovery request.

50. The specimen submitted to USPTO on August 4, 2003 shows that the year of production of the Beatles disc is 1995. Ex. 142, APPLE000758-000759.

51. Attached as an Exhibit 142 are true and correct copies of documents filed in USPTO in connection with mark APPLE (U.S. Reg. 2034964) that I downloaded as pdf files from USPTO website.

52. A specimen submitted to the USPTO by Applicant on 02/03/2017 together with Combined Declaration of Use and/or Excusable Nonuse/Application for Renewal of Registration of a Mark under Sections 8 & 9 indicates: “The Apple Years 1968-75”. Ex. 141, APPLE000676.

53. Attached as an Exhibit 141 are true and correct copies of documents filed in USPTO in connection with mark APPLE (U.S. Reg. 2034964) that I downloaded as pdf files from USPTO website.

54. Prior to the registration of this APPLE '964 mark, Apple Corps used a graphic of an apple on the label for the records as its trademark. A typical U.S. Apple Records label displayed a graphic of an apple and indicated "Mfd by Apple Records, Inc" (or "Manufactured by Apple Records, Inc") and "Recorded in England". APPLE001642, APPLE001700, Ex. 65 P4.

55. Attached as an Exhibit 65 are true and correct copies of webpages showing 12 Apple Records Label Variations that I downloaded as pdf files on January 6, 2018 from

<https://www.thoughtco.com/apple-records-label-variations-3219914>

56. A variety of other labels were used. APPLE000561, Ex.65.

57. According to Wikipedia [https://en.wikipedia.org/wiki/Apple\\_Records\\_discography](https://en.wikipedia.org/wiki/Apple_Records_discography): "After EMI's contract with the Beatles ended in 1976, the Apple label was finally wound up. The label was reactivated in the 1990s." Ex. 79

58. Attached as an Exhibit 79 is a true and correct copy of Wikipedia page for Apple Records discography that I downloaded as a pdf file on March 11, 2018 from link [https://en.wikipedia.org/wiki/Apple\\_Records\\_discography](https://en.wikipedia.org/wiki/Apple_Records_discography)

59. The detailed catalog of vinyl records releases of Apple Records in the U.S. shows that there were no releases between December 8, 1975 and December 1, 1994. Ex. 75.

60. Attached as an Exhibit 75 is a true and correct copy of Apple Records Vinyl Releases – United States that I downloaded from internet on March 15, 2018 as pdf file from the website [schomakers.com](http://schomakers.com).

61. An Application for standard character mark APPLE (Reg. No. 3,317,089) in Class 9 was filed by Apple Corps Limited on 06/04/2004, with a filing basis of 44(e) and referring to foreign registration date 11/16/2000. Registration number 3317089 was issued on October 23, 2007. Ex.139.

62. Attached as an Exhibit 139 are true and correct copies of application documents for mark APPLE (U.S. Reg. 3,317,089) that I downloaded as pdf files from USPTO website.

63. On November 29, 1999 the domain name applerecords.com belonged to a company unrelated to Applicant, Apple Records, Inc or Apple Corp. There is no evidence of use of this domain name for publishing of website content before the above date. Ex. 71.

64. Attached as an Exhibit 71 are true and correct copies of webpages of the website applerecords.com downloaded as pdf files from Webarchive on March 15, 2018.

65. On September 14, 2009 and before this date the domain name applerecords.com doesn't show any use of mark APPLE by Applicant or Apple Corps. Ex. 71.

66. On March 2, 2000 the domain name thebeatles.com was used to publish a page online stating "This is a placeholder page only for Apple Corps Ltd. This site is not live at this time." Ex. 73.

67. Attached as an Exhibit 73 are true and correct copies of webpages of the website thebeatles.com downloaded as pdf files from Webarchive on March 7 and March 15, 2018.



68. On March 2, 2000 and before this date the domain name thebeatles.com doesn't show any use of mark APPLE in commerce. Ex. 73.

69. According to thebeatles.com website: "30<sup>th</sup> January, 1969 – the Beatles' final Live Performance, on the Rooftop of Apple Records". Ex. 74.

70. Attached as an Exhibit 74 is a true and correct copy of a webpage from the thebeatles.com website that I downloaded as pdf file on March 14, 2018.

71. Applicant produced webpages from website www.discogs.com as discovery exhibits of Apple Records from <https://www.discogs.com/label/25693-Apple-Records>.

72. It is stated on this website that there are "unofficial releases, (bootlegs, counterfeits, pirate compilations etc.) that pretend to be a release of the legitimate Apple Records." Ex.66.

73. Attached as an Exhibit 66 is a true and correct copy of the webpage from [www.discogs.com](http://www.discogs.com) website that I downloaded as pdf file on March 13, 2018.

74. It is stated also: "Discogs is a user-built discography site. Everyone can contribute and update information as needed." Ex. 67.

75. Attached as an Exhibit 67 is a true and correct copy of the webpage from [www.discogs.com](http://www.discogs.com) website that I downloaded as pdf file on January, 9, 2018.

76. Discogs was "created as a hobby project in 2000." Ex. 81 P1.

77. Attached as an Exhibit 81 is a true and correct copy of the webpage from [www.discogs.com](http://www.discogs.com) website that I downloaded as pdf file on January, 9, 2018.

78. Webarchive shows that Apple Records appeared on Discogs website <https://www.discogs.com/label/25693-Apple-Records> only in 2014. Ex. 81 P2.

79. Attached as Exhibit 83 is a true and correct copy of a webpage from WIKIPEDIA regarding Cortland apples, that I downloaded on March 22, 2018 as pdf files from [https://en.wikipedia.org/wiki/Cortland\\_\(apple\)](https://en.wikipedia.org/wiki/Cortland_(apple))

80. Attached as Exhibit 69 is a true and correct copy of Youtube webpage for Apple Jazz that I downloaded as pdf file on March 12, 2018.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

May 19, 2018.

/Irina Bertini/  
Irina Bertini

# JAMES BERTINI

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March 15, 2017

Betty Chang

Trademark Examining Attorney

Law Office 115

United States Patent and Trademark Office

**Exhibit 68**

RE: Serial No. 87060640  
Mark: **APPLE JAZZ**  
Applicant: Charles Bertini  
Office Action of: September 17, 2016

## APPLICANT'S RESPONSE TO OFFICE ACTION

The following is the response of Applicant, Charles Bertini, by his attorney James Bertini, to the Office Action filed via email on September 17, 2016 by Examining Attorney Betty Chang.

### **PROCEDURAL HISTORY**

The Examining Attorney issued an Office Action on September 17, 2016 constituting a refusal under Section 2(d) and a suggestion to change the identification of services. Applicant hereby responds to the Examining Attorney's refusal and to the suggestion to change the identification of services.

#### **I. REFUSAL – SECTION 2(D) LIKELIHOOD OF CONFUSION**

Registration of the applied-for mark was refused based on Section 2(d), and the Office Action stated that there is a likelihood of confusion with other marks and other applications. However, this refusal was made without consideration of the following important matters which were not known to the Examining Attorney and which we now bring to her attention for consideration. Indeed, if the matters described below are considered, then the applied-for mark is not barred from registration.

##### A. Origin of Mark

According to the Office Action, "The applied-for mark is derived by merely adding the word "JAZZ" *to the registered marks.*" (Emphasis added.) This assumption is incorrect. In fact, the applied-for mark was derived by adding the word "apple" to the word "jazz" to get a unique mark that can identify Applicant's services not vice versa.

The APPLE JAZZ mark was derived and used in commerce before any of the marks listed in the Office Action were registered.

APPLE JAZZ began operation as a jazz band. The applicant's hometown – and the location of the annual APPLE JAZZ concerts held beginning at least as early as 1985 – was a City and County in Central New York State named Cortland. This part of New York is known for its apples, and New York State is the second largest apple-producing state after Washington. See [www.nyapplecountry.com/varieties](http://www.nyapplecountry.com/varieties), and <http://www.newyorkapplesales.com/about-us/about-nys-apples>. Moreover, the Cortland apple is one of the major apple varieties commonly found for sale throughout the United States. See [https://en.wikipedia.org/wiki/Cortland\\_\(apple\)](https://en.wikipedia.org/wiki/Cortland_(apple)). Consequently, the word “apple” in the Applicant trademark refers to the fruit, and APPLE JAZZ was selected as the trademark since the jazz genre of music was being promoted in apple country.

The word “apple” in the Applicant's mark is used in reference to the fruit and not to Apple, Inc. or Apple Corps. See Exhibit 27. This is a news article from the May 23, 1993 Syracuse Herald Journal, a (now defunct) daily newspaper in Syracuse, New York about APPLE JAZZ subtitled “Events built around seniors, jazz, apples and balloons.”

When APPLE JAZZ began offerings its services in the music and entertainment industry at least as early as 1985 (See Exhibit 1), Apple Inc. was a young company named Apple Computer, Inc. known as a computer and software company. There was no benefit to refer to such company in promoting a jazz band or associated musical services. In 1985 Apple Computer, Inc. didn't have or use any trademark in Class 041 for the services listed in the APPLE JAZZ application.

B. Registration of foreign mark APPLE with U.S. Registration No. 2034964 occurred after APPLE JAZZ had offered services for several years

Apple Corps Limited Company, 27 Ovington Square, London, United Kingdom didn't file for registration of the mark APPLE in the U.S. (U.S. Registration No. 2034964) until June 26, 1995. Prior to that, the mark APPLE was filed for registration on June 20, 1988 in Great Britain and was registered on January 17, 1992 under United Kingdom Registration No. 1,348,454. See Exhibit 53. APPLE JAZZ began offerings its services in the music and entertainment field at least as early as 1985. See Exhibit 1.

C. The foreign APPLE mark belonging to Apple Corps Limited Company had been abandoned in the U.S. for more than three years before APPLE JAZZ began offering its services

An Apple Records discography shows that there were no discs released in the U.S. under trademark APPLE between December 8, 1975 and December 1, 1994. See Exhibit 54. When the Applicant adopted APPLE JAZZ as a mark in 1985, the foreign mark APPLE belonging to Apple Corps had never been registered in the USPTO and had been abandoned from use in commerce in the U.S. for more than three years. According

to the definition of “Abandonment of mark” at 15 U.S.C. § 1127, “A mark shall be deemed to be “abandoned” if either of the following occurs:

(1) When its use has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for 3 consecutive years shall be prima facie evidence of abandonment.”

In fact, when the Applicant began using the mark APPLE JAZZ, nobody in the U.S. used such mark, and even the mark APPLE was (a) not used in the U.S. for services in class 041, and (b) not used even for products later listed in registration 2034964 for class 009. The Applicant obviously established common law rights on the mark APPLE JAZZ with a priority date at least as early as June 5, 1985 and at that date no potentially conflicting marks were used in commerce in the U.S. The foreign mark APPLE was filed for registration later, on June 26, 1995, and according to 15 U.S.C. § 1126 (3) “the rights acquired by third parties before the date of the filing of the first application in the foreign country shall in no way be affected by a registration obtained on an application filed under this subsection.” The first application for the mark APPLE in Great Britain was made on June 20, 1988 (See Exhibit 53), more than three years after the priority date of use in the U.S. established by APPLE JAZZ.

D. The APPLE JAZZ mark is not confusingly similar to the APPLE Mark

1. There has been no *de facto* confusion between APPLE JAZZ and the marks listed in the Office Action during more than 30 years of use of the mark APPLE JAZZ. There is no evidence of likelihood of confusion between APPLE JAZZ and APPLE or any other mark. APPLE JAZZ never received any cease and desist letters during a span of more than three decades of use of the mark. See Exhibit 52.

2. APPLE JAZZ is the name of a company providing musical services for dedicated jazz aficionados and jazz performers. APPLE JAZZ has a steady customer base throughout the United States which has remained as customers for years. APPLE JAZZ established recognition of its name in connection with its services with no instances of confusion with any other entity. See Exhibit 52.

APPLE is one of the largest computer and software companies in the world. There is simply no way for APPLE customers to be confused with APPLE JAZZ customers because nobody would type the second word “jazz” after typing the word “apple” to search for the Apple company or its product online. An online search on the word “apple” brings a customer directly to the Apple website and no confusion can occur because Apple’s website has one of the highest Alexa ratings and always comes first in any online search of the word “apple”. See Exhibit 55. The Apple logo which is prominently displayed on its computers and electronic devices is so well known that no customers could be confused between this logo and any other one.

Additionally, Applicant is not aware that any members of the public have ever been confused between the APPLE JAZZ mark and Apple, Inc. or Apple Corps. Neither

have any private companies/vendors or legal authorities in multiple states ever confused APPLE JAZZ with either of the other two companies. See Exhibit 52.

3. APPLE JAZZ is a unitary mark. A mark or portion of a mark is considered "unitary" when it creates a commercial impression separate and apart from any unregistrable component. The test for unitariness inquires whether the elements of a mark are so integrated or merged together that they cannot be regarded as separable. See *In re EBS Data Processing*, 212 USPQ 964, 966 (TTAB 1981); *In re Kraft, Inc.*, 218 USPQ 571, 573 (TTAB 1983). The inquiry focuses on "how the average purchaser would encounter the mark under normal marketing of such goods and also ... what the reaction of the average purchaser would be to this display of the mark." *Dena Corp. v. Belvedere Int'l, Inc.*, 950 F.2d 1555, 1561, 21 USPQ2d 1047, 1052 (Fed. Cir. 1991) (quoting *In re Magic Muffler Serv., Inc.*, 184 USPQ 125, 126 (TTAB 1974)). The Court of Appeals for the Federal Circuit has set forth the elements of a unitary mark:

"A unitary mark has certain observable characteristics. Specifically, its elements are inseparable. In a unitary mark, these observable characteristics must combine to show that the mark has a distinct meaning of its own independent of the meaning of its constituent elements. In other words, a unitary mark must create a single and distinct commercial impression." *Dena Corp.*, 950 F.2d at 1561, 21 USPQ2d at 1052.

The APPLE JAZZ mark creates a commercial impression separate and apart from the word "apple" or from the word "jazz." The former word is a fruit, and the latter is a genre of music. Use of either of these words alone could not give one the impression that it is a reference to Applicant's services and name of the jazz band. The two words together, and in the unique combination where apple precedes jazz, provide an unmistakable impression that the reference is to Applicant's services *and no other*. The mark, therefore, creates a single and distinct commercial impression. See Exhibits 1-51. APPLE JAZZ as a unitary mark should be compared to other marks in its entirety, and such comparisons show that its commercial impression is not confusingly similar to any mark listed in the Office Action.

E. There are thousands of marks that contain the word "apple" registered by the USPTO and they don't create a likelihood of confusion among them

"Apple" is a common word which is used in combination with other words to describe many goods and services for different registrants. The registration of a single common word doesn't reserve rights for a company to have ownership on all combinations of this word for multiple services especially the one where on which the mark even is not used. Moreover, there are thousands of registered trademarks with word "apple" in combination with other words **including in class 041** and it doesn't create any confusion for customers.

APPLE and APPLE JAZZ are obviously different marks. Apple, Inc. has recently filed for registration of Apple Music in different classes. If the APPLE mark was so broad as to prevent any registration of the word "apple" in combination with one or more other words, then there would be no need for Apple, Inc. to file for registration of Apple

Music in different classes or other marks that consist of the word “apple” with one or more other words. The fact that they have chosen to do so is tantamount to an admission that they believe that APPLE does not preclude the registrations of trademarks that are comprised of a combination of the word “apple” with another word or words, such as Apple Store, Apple Music, or Apple Music Connect. And if the registration of APPLE does not preclude the registration of Apple Store, Apple Music, or Apple Music Connect, then similarly it does not preclude the registration of APPLE JAZZ.

F. APPLE JAZZ has priority rights over registered marks and pending applications

1. U.S. Registration No. 2034964: “APPLE”

When the Applicant adopted APPLE JAZZ as a mark in 1985, the foreign mark APPLE belonging to Apple Corps had never been registered in the USPTO and had been abandoned from use in commerce in the U.S. for more than three years. Additionally, the Applicant of APPLE JAZZ doesn’t claim for any goods listed in the above registration, namely, “*gramophone records featuring music; pre-recorded audio tape cassettes featuring music; audio compact discs featuring music; pre-recorded video tape cassettes featuring music*”. This registration is in the class IC 009 for goods while Applicant seeks his registration in the class 041. APPLE JAZZ is a service mark and used for services not goods. APPLE JAZZ is two-word mark that is visually different from the one-word mark APPLE. Moreover, during more than 30 years there has been no actual confusion between these two marks. In any event APPLE JAZZ has established priority rights as described above and according to the Lanham Act the existing registration No. 2034964 shouldn’t prevent registration of the APPLE JAZZ mark.

2. U.S. Registration No. 4088195: “APPLE”

This filing date is 03/22/2008 and filing basis SECTION 1(b) which means that “*Applicant has a bona fide intention to use the mark in commerce*” and didn’t use it in commerce in the U.S. on this date. The APPLE JAZZ mark was used in commerce in the U.S. since at least as early as 1985 and obviously has priority rights. If likelihood of confusion could occur, the U.S. Registration No. 4088195 shouldn’t have been issued because the common law priority rights established by APPLE JAZZ as described above would bar registration of mark 4088195 pursuant to 15 U.S.C. §1052(d).

3. U.S. Registration No. 3317089: “APPLE”

This filing date is 06/04/2004 and filing basis Section 44(e) with FOREIGN REGISTRATION DATE 11/16/2000. So, on the filing date in the U.S. the registrant didn’t make use of the mark in commerce while APPLE JAZZ had been in use in commerce in the U.S. since at least as early as 1985 and obviously has priority rights. If likelihood of confusion could occur, the U.S. Registration No. 3317089 shouldn’t have been issued because the common law priority rights established by APPLE JAZZ as described above would bar registration of mark 3317089 pursuant to 15 U.S.C. §1052(d).

4. The effective filing dates of pending U.S. Application Serial Nos. 86658508, 86659444 and 86830886 are not significant because all the above applications filed under SECTION 1(b) – it means that “*Applicant has a bona fide intention to use the mark in*

commerce” and didn’t use them in commerce in the U.S. on this date. The APPLE JAZZ mark was used in commerce in the U.S. since at least as early as 1985 and obviously has priority rights. If likelihood of confusion could occur, the applications listed above in this paragraph shouldn’t have been issued because the common law priority rights established by APPLE JAZZ as described above would bar registration of these marks pursuant to 15 U.S.C. §1052(d).

5. The Applicant filed an opposition to the mark Apple Music in class 041. If the TTAB will find that there is likelihood of confusion between the APPLE JAZZ and Apple Music marks, then according to 15 U.S.C. §1052(d) the latter cannot be registered. However, the Lanham Act does not bar the registration of APPLE JAZZ which has priority rights over the application of Apple Music.

6. According to 15 U.S.C. § 1057(c)(1), “the filing of the application to register such mark shall constitute constructive use of the mark, conferring a right of priority, nationwide in effect, on or in connection with the goods or services specified in the registration against any other person **except for a person whose mark has not been abandoned and who, prior to such filing— (1) has used the mark.**” (Emphasis added.) The court in *Hydro-dynamics, Inc. v. George Putnam & Company, Inc.*, 811 F.2d 1470 (Fed. Cir. 1987) stated: “The requirements of both adoption and use devolve from the common law; trademark rights in the United States are acquired by such adoption and use, not by registration.” APPLE JAZZ has been in use in commerce since at least as early as 1985 *and it has never been abandoned.* See Exhibits 1-51.

## II. EFFECT OF DISCLAIMER OF THE WORD “JAZZ”

The Examining Attorney noted that Applicant disclaimed the word “jazz” in the applied-for mark, and concluded therefore that the applied-for mark is identical to the APPLE mark. However, we believe that the correct interpretation of the Lanham Act leads to a different result.

The Act at 15 U.S.C. § 1056(b) states: “No disclaimer, including those made under subsection (e) of section 1057 of this title, shall prejudice or affect the applicant’s or registrant’s rights then existing or thereafter arising in the disclaimed matter, or his right of registration on another application if the disclaimed matter be or shall have become distinctive of his goods or services.”

This is interpreted further in TMEP § 1213 as the following: “The purpose of a disclaimer is to permit the registration of a mark that is registrable as a whole but contains matter that would not be registrable standing alone, without creating a false impression of the extent of the registrant’s right with respect to certain elements in the mark. As stated in *Horlick’s Malted Milk Co. v. Borden Co.*, 295 F. 232, 234 (D.C. Cir. 1924) (citing *Estate of P. D. Beckwith, Inc. v. Comm’r of Pats.*, 252 U.S. 538, 544 (1920)):



‘[T]he fact that a mark contains descriptive words is not enough to warrant a refusal to register it. Unless it consists only of such words, it may not be refused a place on the registry of the Patent Office.’

The significance of a disclaimer is conveyed in the following statement: As used in trade mark registrations, a disclaimer of a component of a composite mark amounts merely to a statement that, in so far as that particular registration is concerned, no rights are being asserted in the disclaimed component standing alone, but rights are asserted in the composite; and the particular registration represents only such rights as flow from the use of the composite mark. *Sprague Electric Co. v. Erie Resistor Corp.*, 101 USPQ 486, 486-87 (Comm’r Pats. 1954).”

The disclaimer doesn’t take the word “jazz” from the mark leaving the word “apple” alone. As stated above, APPLE JAZZ is a unitary mark and a disclaimer to the word “jazz” does not prevent it from being a unitary mark. Thus, it should be compared to other marks in its entirety, and such comparisons show that its commercial impression is not confusingly similar to any mark listed in the Office Action. Thus, the distinctive wording in the applied-for mark is not identical to any registered marks listed in the Office Action, and these marks are not similar to APPLE JAZZ.

### **III. IDENTIFICATION OF SERVICES IS AMENDED**

Applicant accepts all of the Examining Attorney’s suggestion to amend the identification of services, and additionally it removes the word “podcasts.” Consequently the new description is as follows:

Class 41: Arranging, organizing, conducting, and presenting concerts, live musical performances, entertainment special events in the nature of musical and cultural events, arts and cultural events, theatrical entertainment in the nature of live theatrical performances, competitions in the field of entertainment, contests for entertainment purposes, musical and film festivals for cultural or entertainment purposes, and exhibitions for entertainment purposes; production and distribution of television programs and sound recordings; provision of live entertainment, namely, live musical performances, and temporary use of online non-downloadable recorded entertainment featuring musical performances; providing websites featuring entertainment information, music information, news in the fields of music and entertainment, and arts and culture information; providing websites featuring information in the field of entertainment, music, news in the fields of music and entertainment, and arts and culture; entertainment services, namely, providing information, schedules in the nature of concert schedules, reviews and personalized recommendations of entertainment in the nature of music, arts and cultural events, concerts, live musical and cultural performances, competitions in the field of entertainment, music and film festivals for cultural or entertainment purposes, and exhibitions for entertainment purposes; ticket reservation and booking services for entertainment, arts and cultural events, concerts, live musical performances, competitions in the field of entertainment, music or film festivals for entertainment purposes, and exhibitions for entertainment purposes; entertainment services, namely, providing reviews, and providing interactive websites

for the posting and sharing of reviews, all relating to entertainment, art and cultural events, concerts, live musical performances, competitions in the field of entertainment, music and film festivals for cultural or entertainment purposes; providing a website for the uploading, storing, sharing, viewing and posting of images, audio, videos, online journals, blogs, and multimedia content in the fields of music; publication of newsletters, blogs, journals, and articles, all in the fields of music and entertainment; providing websites featuring non-downloadable publications in the nature of newsletters, blogs, journals, and articles, all in the fields of music and entertainment; arranging, producing in the nature of, recording, mixing, editing and sound engineering, researching musical compositions, publishers, artists, recordings, and licensing for music production services; arranging and conducting educational competitions for students in the field of business; arranging and conducting educational competitions for students in the field of entertainment

#### **IV. VERIFIED STATEMENTS ATTACHED IN DECLARATION**

See the attached Declaration of Charles Bertini Use in Commerce.

#### **V. CONCLUSION**

In conclusion (a) APPLE JAZZ is a unitary mark and should be considered in its entirety, (b) the filed disclaimer in the Application doesn't exclude the word "jazz" from the unitary mark, (c) APPLE JAZZ is not confusingly similar to the APPLE mark, (d) Applicant established common law rights in the mark APPLE JAZZ at least as early as June 5, 1985, (e) if likelihood of confusion could occur between the APPLE JAZZ mark and any other mark, APPLE JAZZ has common law priority rights that prohibits registration of such other marks or requires cancellation of previously registered marks pursuant to 15 U.S.C. §1052(d), and (f) according to the Lanham Act, the APPLE JAZZ mark can be registered.

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Applicant has responded to all issues raised in the Office Action. If any further information or any response is required, please contact me. My telephone number is 303 572-3122.

Respectfully submitted.

JAMES BERTINI  
Attorney for Applicant

Attachments:

Declaration of Charles Bertini Use in Commerce

Exhibits 1 - 12

Exhibits 13 – 24

Exhibits 25 – 36

Exhibits 37 – 51

Exhibits 52 - 55

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application Serial No. 86/659,444  
Mark: APPLE MUSIC  
Published in the *Official Gazette* on May 10, 2016

**Exhibit 128, p1**

CHARLES BERTINI,	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition No. 91229891
	:	
APPLE INC.,	:	
	:	
Applicant.	:	

**APPLE INC.’S RESPONSES AND OBJECTIONS TO  
OPPOSER’S FIRST REQUEST FOR ADMISSION TO APPLE INC.**

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 36 of the Federal Rules of Civil Procedure, Applicant Apple Inc. (“Apple” or “Applicant”), by its attorneys, hereby submits these responses and objections to Opposer Charles Bertini’s (“Opposer”) First Request for Admission to Apple Inc., dated May 15, 2017. These responses are limited to information available to Applicant at the present time and are provided without prejudice to Applicant’s right to present additional or alternative information later in this proceeding.

**GENERAL OBJECTIONS**

Applicant objects to Opposer’s Definitions and Instructions and to each of these Requests for Admission (each a “Request” and, collectively, the “Requests”) insofar and to the extent they exceed the requirements of the Trademark Rules of Practice and the Federal Rules of Civil Procedure, and to the extent that they seek information protected by the attorney-client privilege, the work product doctrine, or other legally recognized privileges and obligations.

In providing these response, Applicant does not waive or intend to waive any:

- objections as to competency, relevance, materiality or admissibility;

- rights to object on any ground to the use of any of the responses contained herein in this or any subsequent proceeding;
- objections as to vagueness or ambiguity; or
- rights to object on the same or other grounds to these or any further discovery requests in this proceeding.

Applicant objects to Opposer’s Definition 2 (defining “Applicant”, “You”, or “Your”) as overly broad and unduly burdensome insofar and to the extent that Opposer seeks information in the possession, custody, or control of any person or entity other than Applicant.

Applicant objects to Opposer’s Requests for Admission on grounds that they are overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that they are not geographically limited to the United States.

The foregoing General Objections are hereby incorporated into Applicant’s specific responses to each of the Requests for Admission set forth below and are not waived by any of Applicant’s specific responses.

**Exhibit 128, p2**

**REQUESTS FOR ADMISSION**

**REQUEST FOR ADMISSION NO. 1**

Admit that attached as Exhibit 1 are true and correct copies of documents from the U.S. Patent and Trademark Office database filed in connection with application for registration of the mark APPLE U.S. Registration No. 4088195.

**Response:**

Applicant admits that the documents comprising Exhibit 1 to Opposer’s First Request for Admission to Apple Inc. appear to be copies of USPTO records relating to U.S. Registration No. 4,088,195, and states that such records speak for themselves.

**REQUEST FOR ADMISSION NO. 2**

Admit that attached Exhibit 2 are true and correct copies of documents from U.S. Patent and Trademark Office database filed in connection with application for registration of the mark APPLE U.S. Registration No. 2034964.

**Response:**

Applicant admits that the documents comprising Exhibit 2 to Opposer's First Request for Admission to Apple Inc. appear to be copies of USPTO records relating to U.S. Registration No. 2,034,964, and states that such records speak for themselves.

**REQUEST FOR ADMISSION NO. 3**

Admit that Apple Corps Limited Company, 27 Ovington Square, London, United Kingdom didn't file for registration of the mark APPLE in the United States (U.S. Registration No. 2034964) until June 26, 1995.

**Response:**

Applicant admits that USPTO records relating to U.S Registration No. 2,034,964 indicate that the application underlying the registration was filed on June 26, 1995, and states that such records speak for themselves.

**Exhibit 128, p3**

**REQUEST FOR ADMISSION NO. 4**

Admit that prior to June 5, 1985 Apple Computer, Inc. didn't own or use any trademarks for any of the services listed below:

Arranging, organizing, conducting, and presenting concerts, live musical performances, entertainment special events in the nature of musical and cultural events, arts and cultural events, theatrical entertainment in the nature of live theatrical performances, competitions in the field of entertainment, contests for entertainment purposes, musical and film festivals for cultural or entertainment purposes, and exhibitions for entertainment purposes; production and distribution of television programs and sound recordings; provision of live entertainment, namely, live musical performances, and temporary use of online non-downloadable recorded entertainment featuring musical performances; providing websites featuring entertainment information, music information, news in the fields of music and entertainment, and arts and culture information; providing websites featuring information in the field of entertainment, music, news in the fields of music and entertainment, and arts and culture; entertainment services, namely, providing information, schedules in the nature of concert schedules, reviews and personalized recommendations of entertainment in the nature of music, arts and cultural events, concerts, live musical and cultural performances, competitions in the field of entertainment, music and film festivals for cultural or entertainment purposes, and exhibitions for entertainment purposes; ticket reservation and booking services for entertainment, arts and cultural events, concerts, live musical performances, competitions in the field of entertainment, music or film festivals for entertainment purposes, and exhibitions for entertainment purposes; entertainment services, namely, providing reviews, and providing interactive websites for the posting and sharing of reviews, all relating to entertainment, art and cultural events, concerts, live musical

performances, competitions in the field of entertainment, music and film festivals for cultural or entertainment purposes; providing a website for the uploading, storing, sharing, viewing and posting of images, audio, videos, online journals, blogs, and multimedia content in the fields of music; publication of newsletters, blogs, journals, and articles, all in the fields of music and entertainment; providing websites featuring non-downloadable publications in the nature of newsletters, blogs, journals, and articles, all in the fields of music and entertainment; arranging, producing in the nature of, recording, mixing, editing and sound engineering, researching musical compositions, publishers, artists, recordings, and licensing for music production services; arranging and conducting educational competitions for students in the field of business; arranging and conducting educational competitions for students in the field of entertainment

**Response:**

Applicant admits that, based on its reasonable inquiry and ongoing investigation, Apple Computer Inc. does not appear to have owned and used any trademark in connection with services listed above, and states, however, that Applicant, including its predecessors in interest, owned and/or used trademarks in connection with services listed above prior to June 5, 1985.

**REQUEST FOR ADMISSION NO. 5**

Admit that there were no discs released in the U.S. under trademark APPLE between January 1, 1981 through December 31, 1985.

**Response:**

Applicant objects to this Request on grounds that it is vague and ambiguous in that the terms “discs” and “released” are undefined, such that the Request is incapable of being admitted or denied, and states that, to the extent a response is required, Applicant denies the Request.

**REQUEST FOR ADMISSION NO. 6**

Admit that the filing date for U.S. Registration No. 4088195 “APPLE” is 03/22/2008 as depicted in Exhibit 3.

**Response:**

Applicant admits that the documents comprising Exhibit 3 to Opposer’s First Request for Admission to Apple Inc. appear to be copies of USPTO records relating to U.S Registration No.

4,088,195, which indicate that the application underlying the registration was filed on March 22, 2008, and states that such records speak for themselves.

**REQUEST FOR ADMISSION NO. 7**

Admit that the original filing basis for U.S. Registration No. 4088195 “APPLE” is SECTION 1(b) and SECTION 44(d) as depicted in Exhibit 3.

**Response:**

Applicant admits that the documents comprising Exhibit 3 to Opposer’s First Request for Admission to Apple Inc. appear to be copies of USPTO records relating to U.S Registration No. 4,088,195, which indicate that the original filing basis of the application underlying the registration was Section 1(b) and Section 44(d), and states that such records speak for themselves.

**Exhibit 128, p5**

**REQUEST FOR ADMISSION NO. 8**

Admit that the FOREIGN FILING DATE for U.S. Registration No. 4088195 “APPLE” is 09/28/2007 as depicted in Exhibit 3.

**Response:**

Applicant admits that USPTO records, available at [http://tsdr.uspto.gov/#caseNumber=4088195+&caseSearchType=US\\_APPLICATION&caseType=DEFAULT&searchType=statusSearch](http://tsdr.uspto.gov/#caseNumber=4088195+&caseSearchType=US_APPLICATION&caseType=DEFAULT&searchType=statusSearch), indicate that the Foreign Application Filing Date underlying U.S. Registration No. 4,088,195 is September 28, 2007, and states that such records speak for themselves.

**REQUEST FOR ADMISSION NO. 9**

Admit that the Priority date for U.S. Registration No. 4088195 “APPLE” is September 28, 2007 as depicted in Exhibit 3.

**Response:**

Applicant admits that the documents comprising Exhibit 3 to Opposer's First Request for Admission to Apple Inc. appear to be copies of USPTO records relating to U.S Registration No. 4,088,195, which indicate that the priority date claimed in the application underlying the registration is September 28, 2007, and states that such records speak for themselves.

**REQUEST FOR ADMISSION NO. 10**

Admit that attached as Exhibit 4 are true and correct copies of documents from U.S. Patent and Trademark Office database filed in connection with application for registration of the mark APPLE as U.S. Registration No. 3317089.

**Response:**

Applicant admits that the documents comprising Exhibit 4 to Opposer's First Request for Admission to Apple Inc. appear to be copies of USPTO records relating to U.S. Registration No. 3,317,089, and states that such records speak for themselves.

**Exhibit 128, p6**

**REQUEST FOR ADMISSION NO. 11**

Admit that the FILING BASIS for U.S. Registration No. 3317089 "APPLE" is Section 44(e) as depicted in Exhibit 4.

**Response:**

Applicant admits that the documents comprising Exhibit 4 to Opposer's First Request for Admission to Apple Inc. appear to be copies of USPTO records relating to U.S. Registration No. 3,317,089, which indicate that the filing basis for the application underlying the registration was Section 44(e), and states that such records speak for themselves.

**REQUEST FOR ADMISSION NO. 12**

Admit that the FOREIGN REGISTRATION DATE for U.S. Registration No. 3317089 "APPLE" is 11/16/2000 as depicted in Exhibit 4.



**Response:**

Applicant admits that the documents comprising Exhibit 4 to Opposer's First Request for Admission to Apple Inc. appear to be copies of USPTO records relating to U.S. Registration No. 3,317,089, which indicate that the foreign registration date identified in the application underlying the registration is 11/16/2000, and states that such records speak for themselves.

**REQUEST FOR ADMISSION NO. 13**

Admit that during the years 1982, 1983, 1984 and 1985, Apple Computer, Inc. did not violate any of the terms and conditions of the settlement made with Apple Corps in 1981.

**Response:**

Opposer objects to this Request on grounds that it is vague and ambiguous, in that the "terms and conditions of the settlement made with Apple Corps in 1981" is undefined, and therefore, the Request is incapable of being admitted or denied. Opposer further objects to this Request on grounds that it calls for a legal conclusion and, accordingly, no response is required.

**REQUEST FOR ADMISSION NO. 14**

Admit that during the application process for the mark APPLE U.S. Registration No. 4088195 an extension of time to file the Statement of Use under 37 C.F.R. Section 2.89 was requested at least three times after Notice of Allowance (mailing date 05/11/2010) was issued.

**Response:**

Applicant admits that USPTO records relating to U.S Registration No. 4,088,195 indicate that an extension of time to file a Statement of Use was requested at least three times after the Notice of Allowance was issued, and states that such records speak for themselves.

**Exhibit 128, p7**

Respectfully submitted,

Dated: June 28, 2017

*Attorneys for Applicant  
Apple Inc.*

/Daniel P. Hope/  
Glenn A. Gundersen  
Daniel P. Hope  
Dechert LLP  
Cira Centre, 2929 Arch Street  
Philadelphia, PA 19104-2808  
(215) 994-2183

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Apple Inc.'s Responses and Objections to Charles Bertini's First Request for Admission has been duly served by email to counsel for Opposer, James Bertini at jamesbertini@yahoo.com, pursuant to Trademark Rule of Practice 2.119, on June 28, 2017.

/Daniel P. Hope/  
Daniel P. Hope

**Exhibit 128, p8**

**To:** Bertini, Charles ([jamesbertini@yahoo.com](mailto:jamesbertini@yahoo.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 87060640 - APPLE JAZZ - N/A  
**Sent:** 9/17/2016 2:51:35 PM  
**Sent As:** ECOM115@USPTO.GOV  
**Attachments:** [Attachment - 1](#)  
[Attachment - 2](#)  
[Attachment - 3](#)  
[Attachment - 4](#)  
[Attachment - 5](#)  
[Attachment - 6](#)  
[Attachment - 7](#)  
[Attachment - 8](#)  
[Attachment - 9](#)  
[Attachment - 10](#)  
[Attachment - 11](#)  
[Attachment - 12](#)  
[Attachment - 13](#)  
[Attachment - 14](#)  
[Attachment - 15](#)  
[Attachment - 16](#)  
[Attachment - 17](#)  
[Attachment - 18](#)

**Exhibit 130, p1**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 87060640

MARK: APPLE JAZZ

**CORRESPONDENT ADDRESS:**

JAMES BERTINI  
423 KALAMATH STREET  
DENVER, CO 80204

**\*87060640\***

**CLICK HERE TO RESPOND TO THIS LETTER:**  
[http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp)

[VIEW YOUR APPLICATION FILE](#)

APPLICANT: Bertini, Charles

**CORRESPONDENT'S REFERENCE/DOCKET NO :**

N/A

**CORRESPONDENT E-MAIL ADDRESS:**

[jamesbertini@yahoo.com](mailto:jamesbertini@yahoo.com)

**OFFICE ACTION**

**STRICT DEADLINE TO RESPOND TO THIS LETTER**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: **9/17/2016**

The assigned trademark examining attorney has reviewed the referenced application. Applicant must respond timely and completely to the issues below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

SUMMARY OF ISSUES:

- Refusal – Section 2(d) Likelihood of Confusion
- Requirement – Identification of Goods and Services; Amendment Required

**Exhibit 130, p2**

**I. REFUSAL – SECTION 2(d) LIKELIHOOD OF CONFUSION**

Registration of the applied-for mark is refused because of a likelihood of confusion with the marks in U.S. Registration Nos. 2034964, 4088195 and 3317089. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registrations.

The applied for mark is: “APPLE JAZZ” for “Arranging, organizing, conducting, and presenting concerts, live musical performances, entertainment special events in the nature of musical and cultural events, arts and cultural events, theatrical entertainment in the nature of live theatrical performances, competitions in the field of entertainment, contests for entertainment purposes, musical or film festivals for cultural or entertainment purposes, and exhibitions for entertainment purposes; production and distribution of television programs and sound recordings; provision of live entertainment and recorded entertainment, namely, musical performances; providing websites featuring entertainment information, music information, news in the fields of music and entertainment, and arts and culture information; providing websites featuring information in the field of entertainment, music, news in the fields of music and entertainment, and arts and culture; entertainment services, namely, providing information, schedules in the nature of concert schedules, reviews and personalized recommendations of entertainment in the nature of music, arts and cultural events, concerts, live musical and cultural performances, competitions in the field of entertainment, music or film festivals for cultural or entertainment purposes, and exhibitions for entertainment purposes; ticket reservation and booking services for entertainment, arts and cultural events, concerts, live musical performances, competitions in the field of entertainment, music or film festivals for entertainment purposes, and exhibitions for entertainment purposes; entertainment services, namely, providing reviews, and providing interactive websites for the posting and sharing of reviews, all relating to entertainment, art and cultural events, concerts, live musical performances, competitions in the field of entertainment, music or film festivals for cultural or entertainment purposes; providing a website for the uploading, storing, sharing, viewing and posting of images, audio, videos, online journals, blogs, podcasts, and multimedia content; publication of newsletters, blogs, journals, and articles, all in the fields of music and entertainment; providing websites featuring non-downloadable publications in the nature of newsletters, blogs, journals, and articles, all in the fields of music and entertainment; arranging, scheduling, producing, billing, researching and providing referrals for music production services; arranging and conducting educational competitions for students in the field of business; arranging and conducting educational competitions for students in the field of entertainment”.

The registered marks are:

1. U.S. Registration No. 2034964: “APPLE” for “gramophone records featuring music; pre-recorded audio tape cassettes featuring music; audio compact discs featuring music; pre-recorded video tape cassettes featuring music”.
2. U.S. Registration No. 4088195: “APPLE” for, *inter alia*, “online journals, namely, blogs featuring general interest topics covering a wide variety of topics and subject matter; providing on-line publications in the nature of magazines, newsletter and journals in the field of computers, computer software and consumer electronics; providing information, podcasts and webcasts in the field of entertainment via the Internet concerning movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events; digital video, audio and multimedia publishing services; providing entertainment information regarding movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events; providing information, reviews and personalized recommendations of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events in the field of entertainment; entertainment services, namely, production of live musical performances; entertainment services, namely, providing live musical performances online via a global computer network; rental of digital entertainment content in the nature of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events, by means of communications networks, namely, provision of non-downloadable audio and audiovisual programs via an online video-on-demand service. providing a database of digital entertainment content in the nature of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events via electronic communication networks; entertainment services, namely, providing prerecorded audio and audiovisual content, information and commentary in the fields of music, concerts, videos, movies, television, books, news, sports, games and cultural events all via a global computer network”.
3. U.S. Registration No. 3317089: “APPLE” for “Musical sound records; sound records featuring entertainment; sound records featuring

music, musicians, documentaries, biographies, interviews, performances, reviews, drama and fiction; musical video records; video records featuring entertainment; video records featuring music, musicians, caricatures, cartoons, animation, documentaries, biographies, interviews, performances, reviews, drama and fiction; cinematographic films; musical sound recordings; musical video recordings; audio and visual recordings featuring or relating to music, entertainment and films; pre-recorded compact discs, gramophone records, video discs, DVDs, CD-ROMs all featuring or relating to music and films; digitally recorded sound and video records”.

The same entity owns all of the cited registrations.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of the applicant and registrant. See 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by case basis and the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) aid in this determination. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the *du Pont* factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d at 1355, 98 USPQ2d at 1260; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); see *In re E. I. du Pont de Nemours & Co.*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods and/or services, and similarity of the trade channels of the goods and/or services. See *In re Viterra Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.*

#### Comparison of the Marks

**Exhibit 130, p3**

The applied-for mark is derived by merely adding the word “JAZZ” to the registered marks.

Adding a term to a registered mark generally does not obviate the similarity between the compared marks, as in the present case, nor does it overcome a likelihood of confusion under Section 2(d). See *Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc.*, 526 F.2d 556, 557, 188 USPQ 105, 106 (C.C.P.A. 1975) (finding BENGAL and BENGAL LANCER and design confusingly similar); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266, 1269 (TTAB 2009) (finding TITAN and VANTAGE TITAN confusingly similar); *In re El Torito Rests., Inc.*, 9 USPQ2d 2002, 2004 (TTAB 1988) (finding MACHO and MACHO COMBOS confusingly similar); TMEP §1207.01(b)(iii). In the present case, the marks are identical in part.

The applicant has disclaimed the word “JAZZ” in the applied-for mark.

Although marks are compared in their entireties, one feature of a mark may be more significant or dominant in creating a commercial impression. See *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Nat'l Data Corp.*, 753 F.2d 1056, 1058, 224 USPQ 749, 751 (Fed. Cir. 1985); TMEP §1207.01(b)(viii), (c)(ii). Disclaimed matter that is descriptive of or generic for a party's goods and/or services is typically less significant or less dominant when comparing marks. See *In re Dixie Rests., Inc.*, 105 F.3d 1405, 1407, 41 USPQ2d 1531, 1533-34 (Fed. Cir. 1997); *In re Nat'l Data Corp.*, 753 F.2d at 1060, 224 USPQ at 752; TMEP §1207.01(b)(viii), (c)(ii). Thus, the distinctive wording in the applied-for mark is identical to the registered marks.

Therefore, the marks are similar.

#### Comparison of the Goods and Services

With respect to applicant's and registrant's goods and/or services, the question of likelihood of confusion is determined based on the description of the goods and/or services stated in the application and registration at issue, not on extrinsic evidence of actual use. See *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1323, 110 USPQ2d 1157, 1162 (Fed. Cir. 2014) (quoting *Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990)).

Absent restrictions in an application and/or registration, the identified goods and/or services are “presumed to travel in the same channels of trade to the same class of purchasers.” *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)). Additionally, unrestricted and broad identifications are presumed to encompass all goods and/or services of the type described. See *In re Jump Designs, LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006) (citing *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981)); *In re Linkvest S.A.*, 24 USPQ2d 1716, 1716 (TTAB 1992).

In this case, the identifications set forth in the application and registrations have no restrictions as to nature, type, channels of trade, or classes of purchasers. Therefore, these goods and/or services are presumed to travel in all normal channels of trade, and are available to the same class of purchasers. Further,

- The application and U.S. Registration No. 2034964 both identify recorded music;
- The application and U.S. Registration No. 3317089 both identify recorded music and the provision of reviews.
- The application and U.S. Registration No. 4088195 both identify services for providing live music entertainment, information, online publications, reviews and personalized recommendations in the fields of entertainment and music; and, applicant's "provision of ... recorded entertainment, namely, musical performances" overlaps with the registrant's "rental of digital entertainment content", "provision of non-downloadable audio and audiovisual programs" and "entertainment services, namely, providing prerecorded audio and audiovisual content".

Therefore, the goods and services are related.

Because the parties' marks are similar and their goods and services are related, registration of the applied-for mark is refused on the basis of likelihood of confusion.

#### PRIOR PENDING APPLICATIONS

The effective filing dates of pending U.S. Application Serial Nos. 86658508, 86659444 and 86830886 precede applicant's filing date. See attached referenced applications. If a mark in the referenced applications registers, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced applications.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the marks in the referenced applications. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

Although applicant's mark has been refused registration, applicant may respond to the refusal by submitting evidence and arguments in support of registration. However, if applicant responds to the refusal, applicant must also respond to the requirement(s) set forth below.

#### II. IDENTIFICATION OF GOODS AND SERVICES

**Exhibit 130, p4**

The wordings "provision of live entertainment and recorded entertainment, namely, musical performances , providing a website for the uploading, storing, sharing, viewing and posting of images, audio, videos, online journals, blogs, podcasts, and multimedia content" and "arranging, scheduling, producing, billing, researching and providing referrals for music production services" in the identification of services must be clarified because they are too broad and could include goods in other international classes. *See* TMEP §§1402.01, 1402.03. Downloadable recorded musical performances and musical performances recorded on tangible media are in Class 9; non-downloadable musical performances provided by electronic means are in Class 41. The classification of services for provision of a website is determined by the subject matter of the website content. The services of arranging, scheduling, billing and providing referrals in the field of music production services are in Class 35; applicant must clarify the nature of the service "producing for music production services" and classifying that service accordingly.

An application must specify, in an explicit manner, the particular goods or services on or in connection with which the applicant uses, or has a bona fide intention to use, the mark in commerce. *See* 15 U.S.C. §1051(a)(2), (b)(2); 37 C.F.R. §2.32(a)(6); TMEP §1402.01. Generally, the terminology "and/or" and "or" is not sufficiently explicit language in identifications because it is not clear whether applicant is using the mark, or intends to use the mark, on all the identified goods or services. *See* TMEP §1402.03(a).

For example, "modems and/or monitors" could refer to "modems **or** monitors" and is unclear which goods applicant intends to identify. Therefore, applicant should replace "and/or" with "and" in the identification of goods or services, if appropriate, or rewrite the identification with the "and/or" deleted and the goods or services specified using definite and unambiguous language.

Applicant may adopt the following amended identification, if accurate:

Class 9: Recorded entertainment, namely, pre-recorded electronic media featuring musical performances;

Class 35: Scheduling, billing, market research and providing referrals in the field of music production;

Class 41: Arranging, organizing, conducting, and presenting concerts, live musical performances, entertainment special events in the nature of musical and cultural events, arts and cultural events, theatrical entertainment in the nature of live theatrical performances, competitions in the field of entertainment, contests for entertainment purposes, musical and ~~or~~ film festivals for cultural or entertainment purposes, and exhibitions for entertainment purposes; production and distribution of television programs and sound recordings; provision of live entertainment, namely, live musical performances, and temporary use of online non-

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Serial No. 86/659,444  
Mark: APPLE MUSIC  
Filed: June 11, 2015  
Published in the *Official Gazette* on May 10, 2016

**Exhibit 133, p1**

-----X  
CHARLES BERTINI, :  
 :  
 :  
       Opposer, :  
 :  
 :  
       v. :  
 :  
 :  
APPLE INC., :  
 :  
 :  
       Applicant. :  
-----X

Opposition No. 91229891

**APPLICANT’S OPPOSITION TO OPPOSER’S MOTION TO COMPEL**

Applicant Apple Inc. (“Apple”) hereby opposes the Motion to Compel of Opposer Charles Bertini (“Opposer”), filed April 6, 2018.

**I. INTRODUCTION**

At issue in this proceeding is whether Opposer has priority of use of his mark APPLE JAZZ (Serial Number 87/060,640) over Apple’s mark APPLE MUSIC (Serial Number 86/659,444). Opposer’s APPLE JAZZ mark was refused registration after the examining attorney found a likelihood of confusion with Apple’s Registration Numbers 2,034,964, 3,317,089, and 4,088,195, all of which are incontestable and all of which claim a priority date well prior to the priority date claimed by Opposer. Two of these registrations (Registration Numbers 2,034,964 and 3,317,089) were owned by unaffiliated third party Apple Corps Ltd. (“Apple Corps”) until 2007, when Apple Corps transferred them to Apple.<sup>1</sup>

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<sup>1</sup> See Declaration of Joseph Petersen in Support of Apple’s Opposition to Opposer’s Motion to Compel (“Petersen Decl.”) ¶ 2, Ex. A at APPLE001758.

Opposer seeks production of documents dating back almost 40 years (i.e., to 1981), mostly relating to trademarks that Apple did not acquire until 2007. Opposer fails to meet his initial burden of showing that any of these documents are relevant to this proceeding or in Apple's possession, custody, or control. Nor does Opposer even attempt to explain why Apple's objections to Opposer's production requests are unfounded or why the responsive documents Apple has produced, which Opposer falsely states were not produced, are inadequate. Accordingly, Opposer's motion should be denied outright for these reasons alone.

Additionally, Apple has fully complied with its discovery obligations. Apple has produced documents responsive to all of the production requests at issue except Requests for Production 14 and 15 for which it did not locate any responsive documents. Further, while it has no obligation to do so, Apple undertook extraordinary efforts to obtain and produce documents in the possession of third parties, including Apple Corps, the prior owner of two of the three marks that establish Apple's priority of use of its APPLE MUSIC mark over Opposer's APPLE JAZZ mark. Accordingly, Opposer's motion should be denied for this reason as well.

## **II. BACKGROUND**

Almost a year ago, on May 15, 2017, Opposer served 16 requests for production on Apple.<sup>2</sup> With an agreed extension, Apple timely responded and objected to the requests on June 28, 2017.<sup>3</sup> Opposer now seeks an order compelling Apple to produce documents responsive to 10 of these requests (i.e., RFPs 4, 5, 6, 8, 9, 10, 11, 12, 14, and 15).

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<sup>2</sup> Declaration of James Bertini in Support of Opposer's Motion to Compel ("Bertini Decl.") Ex. 1.

<sup>3</sup> *Id.* Ex. 2.



## **RFPs 4-6**

Opposer's Requests for Production 4, 5, and 6 seek "portions" of certain agreements between Apple and Apple Corps "concerning trademarks and trademarks use in commerce."<sup>4</sup> In response, Apple objected to these requests as vague and ambiguous, overly broad, unduly burdensome, and seeking documents not relevant to this proceeding and did not agree to produce any responsive documents.<sup>5</sup>

In a letter dated December 1, 2017, Apple explained that "[t]he only potential relevance of any agreements between Apple Corps and Apple Inc. is limited to Apple's ownership of certain marks previously owned by Apple Corps. Accordingly, Apple will produce documents showing Apple Corps' transfer of ownership of such marks to Apple."<sup>6</sup>

While Opposer represents that Apple has not "produce[d] documents relevant to this request,"<sup>7</sup> Apple in fact produced documents showing Apple Corps' transfer of ownership of such marks to Apple on January 5, 2018.<sup>8</sup> Following that production, Opposer never raised the inadequacy of Apple's production of such documents.

## **RFP 8**

Opposer's Request for Production 8 seeks documents "concerning sales on [sic] the territory of the United States under the trademark APPLE" of certain goods and services recited in Registration Numbers 3,317,089 (which until 2007 was owned by third party Apple Corps)

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<sup>4</sup> *Id.* Ex. 1 at 5.

<sup>5</sup> *Id.* Ex. 2 at 5-7.

<sup>6</sup> *Id.* Ex. 11 at 3.

<sup>7</sup> Opposer's Motion to Compel at 5; Bertini Decl. Ex. 12 at 5-6.

<sup>8</sup> Petersen Decl. ¶ 3, Ex. B.

and 4,088,195 before June 5, 1985.<sup>9</sup> In response, Apple objected to this request as vague and ambiguous, overly broad, unduly burdensome, and seeking documents not relevant to this proceeding.<sup>10</sup> Apple agreed only to “produce documents in its possession, custody, or control that it reasonably believes are sufficient to respond to this Request.”<sup>11</sup>

On July 24, 2017, Opposer amended this request to seek “a representative sample” of documents concerning “at least a half a dozen” sales of certain goods and services recited in Registration Numbers 3,317,089 (which until 2007 was owned by third party Apple Corps) and 4,088,195 before June 5, 1985.<sup>12</sup> Apple responded to Opposer’s amended request by agreeing “to produce any such representative sample located after a reasonably diligent search on a rolling basis as soon as possible.”<sup>13</sup> Thereafter, Apple produced such representative sample.<sup>14</sup>

By letter dated February 1, 2018, Opposer stated that Apple has “produced **no** evidence of use in commerce of [the] mark APPLE as described in the Certificate for Reg. No. 4,088,195.”<sup>15</sup> Opposer’s statement was false, however, as pointed out in Apple’s February 27, 2018 letter in which Apple identified the following responsive documents in its production: APPLE000452 and APPLE001886-1890.<sup>16</sup> These documents were produced on January 5, 2018

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<sup>9</sup> Bertini Decl. Ex. 1 at 5-6.

<sup>10</sup> *Id.* Ex. 2 at 8-9.

<sup>11</sup> *Id.* at 9.

<sup>12</sup> *Id.* Ex. 3 at 8-9.

<sup>13</sup> *Id.* Ex. 11 at 4.

<sup>14</sup> *See, e.g.*, Petersen Decl. ¶¶ 4-8, Exs. C-G. Apple also produced several representative samples from the 1970s and 1990s.

<sup>15</sup> *Id.* Ex. H at 2 (emphasis in original).

<sup>16</sup> *Id.* Ex. G at 1-2.

and January 11, 2018, well prior to Opposer's February 1, 2018 letter and this motion to compel.<sup>17</sup>

As further pointed out in Apple's February 27 letter, Apple produced the following additional responsive documents in February 2018: APPLE001909-1911, APPLE001912-1917, and APPLE001943-1952.<sup>18</sup> These documents, like APPLE001886-1890, were not in Apple's possession, custody, or control, but instead were publicly available from third parties and equally accessible to Opposer. While not obligated to do so, Apple undertook extraordinary efforts with undue burden and expense to identify and obtain these responsive documents from third parties. After a reasonably diligent search, Apple did not find any additional documents in its possession, custody, or control from more than 30 years ago, as requested by Opposer.

#### **RFPs 9-12**

Opposer's Requests for Production 9, 10, 11, and 12 seek agreements with licensees, manufacturers, distributors, and marketers of goods identified in Registration Number 2,034,964 from January 1, 1981 through December 31, 1985.<sup>19</sup> Prior to 2007, this mark was owned by unaffiliated third party Apple Corps.<sup>20</sup> In response, Apple objected to these requests as vague and ambiguous, overly broad, unduly burdensome, and seeking documents not relevant to this proceeding and did not agree to produce any responsive documents.<sup>21</sup> By letter dated July 14,

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<sup>17</sup> *Id.* ¶ 4, Ex. C; *id.* ¶ 10, Ex. I.

<sup>18</sup> *Id.* Ex. G at 2. Thus, Opposer's statement that Apple has not produced "documents relevant to this request" (Opposer's Motion to Compel at 6) is false.

<sup>19</sup> Bertini Decl. Ex. 1 at 6-7.

<sup>20</sup> Petersen Decl. Ex. B at APPLE000001.

<sup>21</sup> Bertini Decl. Ex. 2 at 9-12.

2017, Opposer amended his requests to “at least a few sample[.]” documents showing sales, manufacture, distribution, and advertisement of these goods during this time period.<sup>22</sup>

In a December 1, 2017 letter, Apple clarified that “[t]hese broad requests are not ‘proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit,’ as required by [Federal] Rule [of Civil Procedure] 26(b).”<sup>23</sup> Apple further stated, “To the extent [Opposer is] now amending [his] requests to seek ‘a few sample[.]’ documents showing sale, manufacture, distribution, and advertising of certain goods, Apple is willing to produce any such samples located after a reasonably diligent search on a rolling basis as soon as possible.”<sup>24</sup> Thereafter, Apple produced APPLE001886-1890, APPLE001907-1908, APPLE001909-1911, APPLE001912-1914, APPLE001916-1917, and APPLE001943-1952, which are responsive to Opposer’s amended requests.<sup>25</sup>

As noted above, these documents were not in Apple’s possession, custody, or control, but instead were publicly available from third parties and equally accessible to Opposer. While not obligated to do so, Apple undertook extraordinary efforts with undue burden and expense to identify and obtain these responsive documents from third parties. After a reasonably diligent

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<sup>22</sup> *Id.* Ex. 3 at 9-12.

<sup>23</sup> *Id.* Ex. 11 at 4.

<sup>24</sup> *Id.*

<sup>25</sup> Petersen Decl. Exs. C-G. Thus, Opposer’s statements that Apple has not produced documents responsive to these requests (Opposer’s Motion to Compel at 6-7) are false.

search, Apple did not find any additional documents in its possession, custody, or control from more than 30 years ago relating to a mark then owned by a third party, as requested by Opposer.

#### **RFP 14**

Opposer's Request for Production 14 seeks documents relating to the services identified in Opposer's application to register the mark APPLE JAZZ (Serial Number 87/060,640) from more than 30 years ago but only if offered by Apple.<sup>26</sup> In response, Apple objected to this request as vague and ambiguous, overly broad, unduly burdensome, and seeking documents not relevant to this proceeding.<sup>27</sup> Apple agreed only to "produce documents in its possession, custody, or control that it reasonably believes are sufficient to respond to this Request."<sup>28</sup> By letter dated December 1, 2017, Apple further clarified that it would "produce representative samples of any responsive documents located after a reasonably diligent search on a rolling basis as soon as possible."<sup>29</sup> After a reasonably diligent search, Apple did not find any responsive documents in its possession, custody, or control from more than 30 years ago.

#### **RFP 15**

Opposer's Request for Production 15 seeks documents concerning use by Apple's "related company, licensee, or predecessor in interest" of the trademark APPLE in relation to the services cited in Apple's Registration Number 4,088,195 from January 1, 1981 through November 11, 2011.<sup>30</sup> Unlike the other two Apple registrations at issue in this proceeding (i.e., Registration Numbers 2,034,964 and 3,317,089, which were formerly owned by Apple Corps),

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<sup>26</sup> Bertini Decl. Ex. 1 at 8-9.

<sup>27</sup> *Id.* Ex. 2 at 14.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* Ex. 11 at 5.

<sup>30</sup> *Id.* Ex. 1 at 9-11.

Apple's Registration Number 4,088,195 was never owned by a "related company, licensee, or predecessor in interest." In response, Apple objected to this request as vague and ambiguous, overly broad, unduly burdensome, and seeking documents not relevant to this proceeding.<sup>31</sup> Apple agreed only to "produce documents in its possession, custody, or control that it reasonably believes are sufficient to respond to this Request."<sup>32</sup> While Apple produced substantial documentation relating to its own use of this mark through November 11, 2011 and beyond,<sup>33</sup> after a reasonably diligent search, Apple did not find any documents in its possession, custody, or control relating to use of this mark by a "related company, licensee, or predecessor in interest."

### III. ARGUMENT AND AUTHORITIES

Federal Rule of Civil Procedure 26(b)(1) provides:

Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

The rule further provides that a tribunal

must limit the frequency or extent of discovery otherwise allowed by these rules or by local rule if it determines that:

- (i) the discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;

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<sup>31</sup> *Id.* Ex. 2 at 15.

<sup>32</sup> *Id.*

<sup>33</sup> *See, e.g.*, Petersen Decl. ¶ 10-12, Exs. I-K.

(ii) the party seeking discovery has had ample opportunity to obtain the information by discovery in the action; or

(iii) the proposed discovery is outside the scope permitted by Rule 26(b)(1).

FED. R. CIV. PROC. 26(b)(2)(C).

“The party moving to compel bears the burden of demonstrating why the information sought is relevant and why the responding party’s objections lack merit.” *Contreras v. Kohl’s Dep’t Stores, Inc.*, No. EDCV 16-2678-JGB (KKx), 2017 WL 6372646, at \*2 (C.D. Cal. Dec. 12, 2017) (citation omitted). Further, the “party seeking production of documents bears the burden of establishing the opposing party’s control over those documents.” *Prodigious Ventures, Inc. v. YBE Hospitality Grp., LLC*, No. 5:14-CV-433-F, 2016 WL 1248806, at \*4 (E.D.N.C. Mar. 25, 2016) (citation omitted).

Additionally, “[t]he party that brings the motion to compel bears the initial burden of ‘proving that the opposing party’s answers were incomplete’ . . . .” *Oxbow Carbon & Minerals LLC v. Union Pac. R.R. Co.*, 322 F.R.D. 1, 5-6 (D.D.C. 2017) (citation omitted). “To carry this burden, a movant should structure a motion to compel in the same manner as the responding party answers their discovery requests; i.e., a movant should identify the relevant discovery request and the answer movant contends is inadequate, immediately followed by a concise statement of the grounds to support that claim.” *Pravak v. Meyer Eye Grp., PLC*, No. 2:07-2433-MLV, 2009 WL 10664851, at \*2 n.3 (W.D. Tenn. Oct. 22, 2009). Once movant satisfies his initial burden on the motion, “the burden then shifts to the non-movant ‘to explain why discovery should not be permitted.’” *Oxbow Carbon & Minerals LLC*, 322 F.R.D. 1 at 6 (citation omitted).

**A. Opposer’s Motion Should Be Denied Because Opposer Failed to Satisfy His Initial Burden on the Motion**

Opposer does not even attempt to establish why the documents it seeks are relevant to either party’s claims or defenses in this proceeding or why Apple’s objections lack merit. Nor does Opposer establish why the requested documents—the substantial majority of which are more than 30 years old and relate to marks then owned by an unaffiliated third party—would be in Apple’s possession, custody, or control. Further, while Opposer falsely represents that Apple has not produced *any* documents responsive to these requests, Opposer does not show why the documents Apple has produced in response to the requests are nonresponsive or incomplete. Accordingly, Opposer’s motion should be denied for these reasons alone. *See Apple Inc. v. Samsung Elecs. Co.*, No. 12-CV-0630-LHK (PSG), 2013 WL 3246094, at \*22 (N.D. Cal. June 26, 2013) (partially denying a motion to compel because movant failed to meet its burden of demonstrating relevance); *Prodigious Ventures, Inc.*, 2016 WL 1248806, at \*5 (denying motion to compel because “movants have failed to carry their burden of demonstrating [non-movant] has control of the requested documents”); *Washington v. Thurgood Marshall Acad.*, 232 F.R.D. 6, 9 (D.D.C. 2005) (denying motion to compel “[b]ecause plaintiff has completely failed to explain how defendant’s answers were evasive, incomplete, or non-responsive[,]” and it was therefore “impossible for the court to determine what information plaintiff wants compelled”).

**B. Opposer’s Motion Should Be Denied Because Apple Has Satisfied Its Discovery Obligations**

**RFPs 4-6**

These requests seek portions of highly confidential agreements between Apple and unaffiliated third party Apple Corps (i.e., Registration Numbers 2,034,964 and 3,317,089). Opposer has not established how these agreements are relevant to this proceeding. Significantly, Opposer has not shown how any portion of these agreements is relevant to his alleged priority of



use of the APPLE JAZZ mark, particularly in view of Apple’s ownership of valid and subsisting *incontestable* registrations with clear priority over Opposer’s earliest claimed first use. The only potential relevance of these agreements is limited to Apple’s ownership of certain marks previously owned by Apple Corps. For this reason, Apple told Opposer on December 1, 2017 that it would respond to these requests by producing “documents showing Apple Corps’ transfer of ownership of the marks at issue to Apple,”<sup>34</sup> which Apple produced on January 5, 2018.<sup>35</sup> Accordingly, Apple has satisfied its discovery obligations for these requests, and Opposer’s request to compel further production of portions of certain agreements should be denied because such production is not proportional to the needs of the case, considering the importance of the issues at stake in the action, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit..

Additionally, Opposer unduly delayed in seeking production of any portions of the agreements because it knew on December 1 that Apple would respond to these requests by producing documents showing Apple Corps’ transfer of ownership of the marks at issue to Apple, but did not object to the adequacy of such production for more than three months. Opposer’s motion should be denied for this reason as well. *See Daniel L. Kegan, DBA Elan Assocs.*, Opp’n No. 102,966, 1998 WL 180471, at \*3 (T.T.A.B. Apr. 15, 1998) (finding that “opposer’s [several month] delay in attempting to obtain discovery from applicant was excessive and unjustified”).

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<sup>34</sup> Bertini Decl. Ex. 11 at 3.

<sup>35</sup> Petersen Decl. ¶ 3, Ex. B.

## **RFP 8**

As noted above, Opposer amended this request to seeking “a representative sample” of documents concerning “at least a half a dozen” sales of certain goods and services recited in Registration Numbers 3,317,089 and 4,088,195 before June 5, 1985.<sup>36</sup> This request seeks documents more than 30 years old, which include documents relating to use of Apple’s Registration Number 3,317,089—a mark that until 2007 was owned by unaffiliated third party Apple Corps. Such documents are not in Apple’s possession, custody, or control, and Opposer fails to argue or establish otherwise. Nonetheless, even though it was not obligated to do so, Apple undertook extraordinary efforts in working with Apple Corps to identify and produce responsive materials, including APPLE001886-1890, APPLE001907-1908, APPLE001909-1911, APPLE001912-1914, APPLE001916-1917, and APPLE001943-1952. All the responsive materials that Apple found were publicly available and thus equally accessible to Opposer. As Apple has produced documents showing “at least a half a dozen” sales of certain goods and services recited in Registration Numbers 3,317,089 and 4,088,195 before June 5, 1985, it has satisfied its discovery obligations with respect to this request. Accordingly, Opposer’s motion to compel Apple to produce further documents in response to this request should be denied.

## **RFPs 9-12**

As noted above, Opposer amended these requests to seeking “at least a few sample[.]” documents showing sales, manufacture, distribution, and advertisement of certain goods from 1981 through 1985. These requests seek documents more than 30 years old relating to use of the APPLE trademark in connection with the services covered by Registration Number 2,034,964, which until 2007 was owned by unaffiliated third party Apple Corps. Such documents are not in

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<sup>36</sup> Bertini Decl. Ex. 3 at 8-9.

Apple's possession, custody, or control, and Opposer fails to argue or establish otherwise. Nonetheless, even though it was not obligated to do so, Apple undertook extraordinary efforts to identify and produce responsive materials in the possession, custody, or control of third parties, including APPLE001886-1890, APPLE001907-1908, APPLE001909-1911, APPLE001912-1914, APPLE001916-1917, and APPLE001943-1952. All the responsive materials that Apple found were publicly available and thus equally accessible to Opposer. As Apple has produced more than a few sample documents relating to the sale of goods covered by Registration Number 2,034,964, it has satisfied its discovery obligations with respect to these requests. Additionally, as to Opposer's *new* request for "agreement/s between [unaffiliated third parties] Apple Records, Inc. and Trav,"<sup>37</sup> any such agreements are not in Apple's possession, custody, or control.<sup>38</sup> Accordingly, Opposer's motion to compel Apple to produce further documents in response to these requests should be denied.

#### **RFP 14**

This request seeks documents more than 30 years old concerning *Apple's* provision of the services recited in *Opposer's* application to register the mark APPLE JAZZ (Serial Number 87/060,640). Opposer does not argue or establish how the documents relating to Apple's provision of the services recited in *his* application are relevant to this proceeding, where the issue is Apple's priority based on at least three incontestable trademark registrations with priority dates all well predating Opposer's alleged priority date. Regardless, after a reasonably diligent search Apple did not locate any responsive documents in its possession, custody, or control, and

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<sup>37</sup> See Opposer's Motion to Compel at 6.

<sup>38</sup> This new request is further objectionable because it goes beyond Opposer's agreement that Apple may comply with this request by producing "at least a few sample[]" documents showing sales, manufacture, distribution, and advertisement of certain goods from 1981 through 1985.

therefore has satisfied its discovery obligations with respect to this request. Accordingly, Opposer's request to compel Apple to produce responsive documents should be denied.

#### **RFP 15**

This request seeks documents for a 30-year period beginning in 1981 relating to use of the APPLE mark in connection with the services identified in Apple's Registration Number 4,088,195. However, the request does not ask for documents relating to Apple's use of the mark;<sup>39</sup> it asks only for documents relating to use of the mark by Apple's "related company, licensee, or predecessor in interest." After a reasonably diligent search, Apple did not locate any responsive documents. Accordingly, Apple has satisfied its discovery obligations with respect to this request, and Opposer's request to compel Apple to produce responsive documents should therefore be denied.

#### **IV. CONCLUSION**

For at least the foregoing reasons, Opposer's motion to compel should be denied in its entirety.

Date: April 25, 2018

Respectfully submitted,

**KILPATRICK TOWNSEND & STOCKTON LLP**

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1080 Marsh Road  
Menlo Park, CA 94025  
Telephone: (650) 326-2400  
Facsimile: (650) 326-2422

*Attorneys for Applicant Apple Inc.*

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<sup>39</sup> Apple has produced substantial documentation showing Apple's own use of this mark during the relevant time period and beyond. *See, e.g.,* Petersen Decl. ¶¶ 10-12, Exs. I-K.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Serial No. 86/659,444  
Mark: APPLE MUSIC  
Filed: June 11, 2015  
Published in the *Official Gazette* on May 10, 2016

-----X	
CHARLES BERTINI,	:
	:
Opposer,	:
	:
v.	:
	:
APPLE INC.,	:
	:
Applicant.	:
-----X	

Opposition No. 91229891

**CERTIFICATE OF TRANSMITTAL**

I hereby certify that a true copy of the foregoing APPLICANT’S OPPOSITION TO OPPOSER’S MOTION TO COMPEL is being filed electronically with the TTAB via ESTTA on this day, April 25, 2018.

/Alberto Garcia/  
Alberto Garcia  
Kilpatrick Townsend & Stockton LLP

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Serial No. 86/659,444  
Mark: APPLE MUSIC  
Filed: June 11, 2015  
Published in the *Official Gazette* on May 10, 2016

-----X	
CHARLES BERTINI,	:
	:
Opposer,	:
	:
v.	: Opposition No. 91229891
	:
APPLE INC.,	:
	:
Applicant.	:
-----X	

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing APPLICANT’S OPPOSITION TO OPPOSER’S MOTION TO COMPEL is being served on Opposer’s Attorney of Record by electronic mail on this day, April 25, 2018 to James Bertini, Esq. at jamesbertini@yahoo.com and iklych@yahoo.com.

    /Alberto Garcia/      
Alberto Garcia  
Kilpatrick Townsend & Stockton LLP

## Trademark/Service Mark Application, Principal Register

**Serial Number: 86659444**

**Filing Date: 06/11/2015**

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	86659444
<b>MARK INFORMATION</b>	
*MARK	<a href="#">APPLE MUSIC</a>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	<b>APPLE MUSIC</b>
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Apple Inc.
*STREET	1 Infinite Loop
*CITY	Cupertino
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	95014
<b>LEGAL ENTITY INFORMATION</b>	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	California
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
INTERNATIONAL CLASS	041
	arranging, organizing, conducting, and presenting concerts, live performances, entertainment special events, arts and cultural events, theatrical entertainment, competitions, contests, fairs, festivals, and exhibitions; production, distribution, and presentation of radio programs, television programs, and sound recordings; providing ongoing television, radio, audio, video, podcast, and webcast programs; providing entertainment, sports, music, informational, and news programming by means of telecommunications networks; entertainment services, namely providing streaming, subscription, and downloadable music platform and services; provision of live entertainment and recorded entertainment, namely musical performances; providing non-downloadable entertainment, sports, music, informational, and news

Exhibit 134, p1

**\*IDENTIFICATION**

**Exhibit 134, p2**

programming; providing websites and computer applications featuring entertainment, sports, music, informational, news, and arts and culture programming; providing websites and computer applications featuring information in the field of entertainment, music, sports, news, and arts and culture; providing information, schedules, reviews and personalized recommendations of entertainment, arts and cultural events, concerts, live performances, competitions, fairs, festivals, and exhibitions; ticket reservation and booking services for entertainment, arts and cultural events, concerts, live performances, competitions, fairs, festivals, and exhibitions; publication and presentation of reviews, surveys, and ratings, and providing interactive websites and computer applications for the posting and sharing of reviews, survey, and ratings relating to entertainment, arts and cultural events, concerts, live performances, competitions, fairs, festivals, and exhibitions; providing non-downloadable ringtones, pre-recorded music, video, and graphics for use on mobile communications devices; providing a website for the uploading, storing, sharing, viewing and posting of images, audio, videos, online journals, blogs, podcasts, and multimedia content; publication of books, periodicals, newspapers, newsletters, manuals, blogs, journals, and other publications; providing websites and computer applications featuring books, periodicals, newspapers, newsletters, manuals, blogs, journals, and other publications; news reporting

**FILING BASIS**

**SECTION 1(b)**

**FILING BASIS**

**SECTION 44(d)**

**FOREIGN APPLICATION NUMBER**

67176

**FOREIGN APPLICATION COUNTRY**

Jamaica

**FOREIGN FILING DATE**

**05/18/2015**

**INTENT TO PERFECT 44(d)**

At this time, the applicant does NOT intend to rely on Section 44(e) as a basis for registration, but wishes only to assert a valid claim of priority.

**ADDITIONAL STATEMENTS SECTION**

**DISCLAIMER**

No claim is made to the exclusive right to use MUSIC apart from the mark as shown.

**PRIOR REGISTRATION(S)**

The applicant claims ownership of U.S. Registration Number(s) 4088195, 3710912, 4009791, and others.

**ATTORNEY INFORMATION**

**NAME**

Thomas R. La Perle

**FIRM NAME**

Apple Inc.

**INTERNAL ADDRESS**

MS: 169-3IPL

**STREET**

1 Infinite Loop

**CITY**

Cupertino

**STATE**

California

**COUNTRY**

United States

**ZIP/POSTAL CODE**

95014



EMAIL ADDRESS	trademarkdocket@apple.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Yuka Sugar, Kimberly Eckhart, John Donald, Jason Cody, Irene Chong, Pam Reid, Scott Harlan
<b>CORRESPONDENCE INFORMATION</b>	
NAME	Thomas R. La Perle
FIRM NAME	Apple Inc.
INTERNAL ADDRESS	MS: 169-3IPL
STREET	1 Infinite Loop
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STATE	California
COUNTRY	United States
ZIP/POSTAL CODE	95014
EMAIL ADDRESS	trademarkdocket@apple.com;laperle@apple.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>FEE INFORMATION</b>	
APPLICATION FILING OPTION	Regular TEAS
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE PAID	325
<b>SIGNATURE INFORMATION</b>	
SIGNATURE	/Thomas R. La Perle/
SIGNATORY'S NAME	Thomas R. La Perle
SIGNATORY'S POSITION	Attorney of record, California bar member
SIGNATORY'S PHONE NUMBER	408-974-2385
DATE SIGNED	06/11/2015

**Exhibit 134, p3**

## Trademark/Service Mark Application, Principal Register

Serial Number: 86659444

Filing Date: 06/11/2015

### To the Commissioner for Trademarks:

**MARK:** APPLE MUSIC (Standard Characters, see [mark](#))

The literal element of the mark consists of APPLE MUSIC.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Apple Inc., a corporation of California, having an address of  
1 Infinite Loop  
Cupertino, California 95014  
United States

**Exhibit 134, p4**

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 041: arranging, organizing, conducting, and presenting concerts, live performances, entertainment special events, arts and cultural events, theatrical entertainment, competitions, contests, fairs, festivals, and exhibitions; production, distribution, and presentation of radio programs, television programs, and sound recordings; providing ongoing television, radio, audio, video, podcast, and webcast programs; providing entertainment, sports, music, informational, and news programming by means of telecommunications networks; entertainment services, namely providing streaming, subscription, and downloadable music platform and services; provision of live entertainment and recorded entertainment, namely musical performances; providing non-downloadable entertainment, sports, music, informational, and news programming; providing websites and computer applications featuring entertainment, sports, music, informational, news, and arts and culture programming; providing websites and computer applications featuring information in the field of entertainment, music, sports, news, and arts and culture; providing information, schedules, reviews and personalized recommendations of entertainment, arts and cultural events, concerts, live performances, competitions, fairs, festivals, and exhibitions; ticket reservation and booking services for entertainment, arts and cultural events, concerts, live performances, competitions, fairs, festivals, and exhibitions; publication and presentation of reviews, surveys, and ratings, and providing interactive websites and computer applications for the posting and sharing of reviews, survey, and ratings relating to entertainment, arts and cultural events, concerts, live performances, competitions, fairs, festivals, and exhibitions; providing non-downloadable ringtones, pre-recorded music, video, and graphics for use on mobile communications devices; providing a website for the uploading, storing, sharing, viewing and posting of images, audio, videos, online journals, blogs, podcasts, and multimedia content; publication of books, periodicals, newspapers, newsletters, manuals, blogs, journals, and other publications; providing websites and computer applications featuring books, periodicals, newspapers, newsletters, manuals, blogs, journals, and other publications; news reporting

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

Priority based on foreign filing: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services and asserts a claim of priority based on Jamaica application number 67176, filed 05/18/2015.

INTENT TO PERFECT 44(d) : At this time, the applicant does NOT intend to rely on Section 44(e) as a basis for registration, but wishes only to assert a valid claim of priority.

### Disclaimer

No claim is made to the exclusive right to use MUSIC apart from the mark as shown.

### Claim of Active Prior Registration(s)

The applicant claims ownership of U.S. Registration Number(s) 4088195, 3710912, 4009791, and others.

### The applicant's current Attorney Information:

Thomas R. La Perle and Yuka Sugar, Kimberly Eckhart, John Donald, Jason Cody, Irene Chong, Pam Reid, Scott Harlan of Apple Inc.

MS: 169-3IPL

1 Infinite Loop  
Cupertino, California 95014  
United States

## Exhibit 134, p5

The applicant's current Correspondence Information:

Thomas R. La Perle  
Apple Inc.  
MS: 169-3IPL  
1 Infinite Loop  
Cupertino, California 95014  
trademarkdocket@apple.com;laperle@apple.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

### Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. **The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive.** The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

### Declaration Signature

Signature: /Thomas R. La Perle/ Date: 06/11/2015  
Signatory's Name: Thomas R. La Perle  
Signatory's Position: Attorney of record, California bar member  
RAM Sale Number: 86659444  
RAM Accounting Date: 06/12/2015

Serial Number: 86659444  
Internet Transmission Date: Thu Jun 11 15:17:25 EDT 2015  
TEAS Stamp: USPTO/BAS-XX.XXX.XXX.XX-2015061115172538  
7577-86659444-53023978f2f3c58b9da1d34e7e  
f5b43b930a68f29914eba5c32cab29a9015cf46-  
DA-14222-20150611151105218465

# APPLE MUSIC

**Exhibit 134, p6**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application Serial No. 86/659,444  
Mark: APPLE MUSIC  
Published in the *Official Gazette* on May 10, 2016

**Exhibit 137, p1**

CHARLES BERTINI,	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition No. 91229891
	:	
APPLE INC.,	:	
	:	
Applicant.	:	

**APPLE INC.’S RESPONSES AND OBJECTIONS TO  
CHARLES BERTINI’S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 34 of the Federal Rules of Civil Procedure, Applicant Apple Inc. (“Apple” or “Applicant”), by its attorneys, hereby submits these responses and objections to Opposer Charles Bertini’s (“Opposer”) First Request for Production of Documents, dated May 15, 2017. These responses are limited to information available to Applicant at the present time and are provided without prejudice to Applicant’s right to present additional or alternative information later in this proceeding.

**GENERAL OBJECTIONS**

Applicant objects to Opposer’s Definitions and Instructions and to each of these Requests for Production (each a “Request” and, collectively, the “Requests”) insofar and to the extent they exceed the requirements of the Trademark Rules of Practice and the Federal Rules of Civil Procedure, and to the extent that they seek information protected by the attorney-client privilege, the work product doctrine, or other legally recognized privileges and obligations.

In providing these response, Applicant does not waive or intend to waive any:

- objections as to competency, relevance, materiality or admissibility;
- rights to object on any ground to the use of any of the responses contained herein in this or any subsequent proceeding;
- objections as to vagueness or ambiguity; or
- rights to object on the same or other grounds to these or any further discovery requests in this proceeding.

Applicant objects to Opposer's Definition C (defining "Applicant") as overly broad and unduly burdensome insofar and to the extent that Opposer seeks information in the possession, custody, or control of any person or entity other than Applicant.

Applicant objects to Opposer's Requests on grounds that they are overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that they are not geographically limited to the United States.

Applicant objects to the disclosure of any proprietary and/or confidential documents and information prior to the parties' agreement upon and entry into a revised protective order governing the disclosure of material that is designated confidential, highly confidential, or trade secret/commercially sensitive.

The foregoing General Objections are hereby incorporated into Applicant's specific responses to each of the Requests set forth below and are not waived by any of Applicant's specific responses.

### **REQUESTS FOR PRODUCTION**

#### **REQUEST FOR PRODUCTION NO. 1:**

All documents concerning sales in the territory of the United States under trademark APPLE during period January 1, 1981 through December 31, 1985 of all of the following:

gramophone records featuring music; pre-recorded audio tape cassettes featuring music; audio compact discs featuring music; pre-recorded video tape cassettes featuring music; video laser discs featuring music.

**Response:**

Applicant objects to this Request on grounds that it is vague and ambiguous, overly broad and unduly burdensome, in that it seeks all documents concerning “sales” in the “territory”, which terms are unspecific and undefined. Applicant further objects to this Request on grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it requests “[a]ll documents concerning sales” “under trademark APPLE during period January 1, 1981 through December 31, 1985 of all of the following: gramophone records featuring music; pre-recorded audio tape cassettes featuring music; audio compact discs featuring music; pre-recorded video tape cassettes featuring music; video laser discs featuring music”, without limitation to the services identified in Application Serial No. 86/659,444. Subject to and without waiving the foregoing general and specific objections, Applicant states that, after the parties have entered into a revised protective order governing the disclosure of proprietary and/or confidential documents and information in this proceeding, Applicant will produce documents in its possession, custody or control that it reasonably believes are sufficient to respond to this Request.

**REQUEST FOR PRODUCTION NO. 2:**

All documents concerning confusion between customers of Apple Corps or Apple Computer, Inc. or Apple Inc., and customers of Apple Jazz from period June 5, 1985 to date.

**Response:**

Applicant objects to this Request on grounds that it is overly broad and unduly burdensome in that it requests “[a]ll documents concerning confusion between customers of

Apple Corps or Apple Computer, Inc. or Apple Inc., and customers of Apple Jazz from period June 5, 1985 to date”, without limitation to the services identified in Application Serial No. 86/659,444.

Subject to and without waiving the foregoing general and specific objections, Applicant states that, based on its reasonable inquiry and ongoing investigation, it has not identified any documents in its possession, custody or control that are responsive to this Request. Applicant expressly reserves the rights to amend or supplement its response to this Request.

### **REQUEST FOR PRODUCTION NO. 3:**

All documents concerning use of trademark APPLE in commerce in the territory of the United States for each type of activities listed below for period January 1, 1981 through November 11, 2011:

Education and training services, namely, arranging and conducting personal training, classes, workshops, conferences and seminars in the field of computers, computer software, online services, information technology, website design, and consumer electronics; arranging professional workshop and training courses; computer education training services; training in the use and operation of computers, computer software and consumer electronics; online journals, namely, blogs featuring general interest topics covering a wide variety of topics and subject matter; providing on-line publications in the nature of magazines, newsletter and journals in the field of computers, computer software and consumer electronics; providing information, podcasts and webcasts in the field of entertainment via the Internet concerning movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events; digital video, audio and multimedia publishing services; providing entertainment information regarding movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events; providing information, reviews and personalized recommendations of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events in the field of entertainment; entertainment services, namely, production of live musical performances; entertainment services, namely, providing live musical performances online via a global computer network; rental of digital entertainment content in the nature of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events, by means of communications networks, namely, provision of non-downloadable audio and audiovisual programs via an online video-on-demand service; providing a database of digital entertainment content in the nature of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events via electronic communication networks; entertainment services, namely, providing prerecorded audio and audiovisual content, information and commentary in the fields of music, concerts, videos, movies, television, books, news, sports, games and cultural



events all via a global computer network. Providing a website for the uploading, sharing, viewing and posting of photographs, digital images, movies, videos, online journals covering general interest topics, and other related multimedia entertainment materials over a global computer network covering a wide variety of topics and subjects

**Response:**

Applicant objects to this Request on grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it requests “[a]ll documents concerning use of trademark APPLE in commerce in the territory of the United States for each type of activities [specified in the Request] for period January 1, 1981 through November 11, 2011”, without limitation to the services identified in Application Serial No. 86/659,444 and without regard to whether such documents are relevant to the issues in this proceeding. Subject to and without waiving the foregoing general and specific objections, Applicant states that, after the parties have entered into a revised protective order governing the disclosure of proprietary and/or confidential documents and information in this proceeding, Applicant will produce documents in its possession, custody or control that it reasonably believes are sufficient to respond to this Request.

**REQUEST FOR PRODUCTION NO. 4:**

That portion of the settlement agreement between Apple Corps. and Apple Computer made during 1981 concerning trademarks and trademarks use in commerce.

**Response:**

Applicant objects to this Request on grounds that it is vague and ambiguous, overly broad and unduly burdensome, in that it seeks documents concerning a “settlement agreement” “made during 1981” “concerning trademarks and trademarks use in commerce”, which terms and phrases are unspecific and undefined. Applicant objects to this Request on grounds that it calls for information that is highly confidential and/or privileged information, which is protected from

disclosure by the attorney-client privilege, the work product doctrine, or other legally cognizable privileges and obligations. Applicant further objects to this Request on grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it requests a “portion of the settlement agreement between Apple Corps. and Apple Computer made during 1981 concerning trademarks and trademarks use in commerce”, without limitation to the services identified in Application Serial No. 86/659,444.

**REQUEST FOR PRODUCTION NO. 5:**

That portion of the settlement agreement between Apple Corps. and Apple Computer made during 1991 concerning trademarks and trademarks use in commerce.

**Response:**

Applicant objects to this Request on grounds that it is vague and ambiguous, overly broad and unduly burdensome, in that it seeks documents concerning a “settlement agreement” “made during 1991” “concerning trademarks and trademarks use in commerce”, which terms and phrases are unspecific and undefined. Applicant further objects to this Request on grounds that it calls for information that is highly confidential and/or privileged information, which is protected from disclosure by the attorney-client privilege, the work product doctrine, or other legally cognizable privileges and obligations. Applicant also objects to this Request on grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it requests a “portion of the settlement agreement between Apple Corps. and Apple Computer made during 1991 concerning trademarks and trademarks use in commerce”, without limitation to the services identified in Application Serial No. 86/659,444.

**REQUEST FOR PRODUCTION NO. 6:**

That portion of the settlement agreement between Apple Corps and Apple Inc. made during February 2007 concerning trademarks and trademarks use in commerce.

**Response:**

Applicant objects to this Request on grounds that it is vague and ambiguous, overly broad and unduly burdensome, in that it seeks documents concerning a “settlement agreement” “made during February 2007” “concerning trademarks and trademarks use in commerce”, which terms and phrases are unspecific and undefined. Applicant further objects to this Request on grounds that it calls for information that is highly confidential and/or privileged information, which is protected from disclosure by the attorney-client privilege, the work product doctrine, or other legally cognizable privileges and obligations. Applicant also objects to this Request on grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it requests a “portion of the settlement agreement between Apple Corps. and Apple Inc. made during February 2007 concerning trademarks and trademarks use in commerce”, without limitation to the services identified in Application Serial No. 86/659,444.

**REQUEST FOR PRODUCTION NO. 7:**

All documents concerning the transfer of the intellectual property rights of the mark APPLE, U.S. Registration No. 2034964, from Apple Corps. to Apple Inc.

**Response:**

Applicant objects to this Request to the extent that it calls for information that is highly confidential and/or protected from disclosure by the attorney-client privilege, the work product doctrine, or other legally cognizable privileges and obligations. Applicant further objects to this Request on grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it requests a “[a]ll documents concerning the

transfer of the intellectual property rights of the mark APPLE, U.S. Registration No. 2034964, from Apple Corps. to Apple Inc.”, without limitation to the services identified in Application Serial No. 86/659,444 and without regard to whether such documents are relevant to the issues in this proceeding. Subject to and without waiving the foregoing general and specific objections, Applicant states that, after the parties have entered into a revised protective order governing the disclosure of proprietary and/or confidential documents and information in this proceeding, Applicant will produce documents in its possession, custody or control that it reasonably believes are sufficient to respond to this Request.

**REQUEST FOR PRODUCTION NO. 8:**

All documents concerning sales on the territory of the United States under the trademark APPLE before June 5, 1985 of any of the following:

musical sound records; sound records featuring entertainment; sound records featuring music, musicians, documentaries, biographies, interviews, performances, reviews, drama and fiction; musical video records; video records featuring entertainment; video records featuring music, musicians, caricatures, cartoons, animation, documentaries, biographies, interviews, performances, reviews, drama and fiction; cinematographic films; musical sound recordings; musical video recordings; audio and visual recordings featuring or relating to music, entertainment and films; pre-recorded compact discs, gramophone records, video discs, DVDs, CD-ROMs ((and interactive compact discs,)) all featuring or relating to music and films; digitally recorded sound and video records; ((downloadable musical sound and video records; downloadable sound and video records featuring or relating to music, entertainment and films; digital video, audio and multimedia publishing services”; “providing entertainment information regarding movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events”; “entertainment services, namely, production of live musical performances”; “entertainment services, namely, providing live musical performances online via a global computer network”; and “entertainment services, namely, providing prerecorded audio and audiovisual content, information and commentary in the fields of music, concerts, videos, movies, television, books, news, sports, games and cultural events all via a global computer network

**Response:**

Applicant objects to this Request on grounds that it is vague and ambiguous, overly broad and unduly burdensome, in that it seeks all documents concerning “sales” “on the territory”,

which terms and phrases are unspecific and undefined. Applicant further objects to this Request on grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it requests “[a]ll documents concerning sales” “under the trademark APPLE before June 5, 1985” of any of the goods specified in the Request, without limitation to the services identified in Application Serial No. 86/659,444. Subject to and without waiving the foregoing general and specific objections, Applicant states that, after the parties have entered into a revised protective order governing the disclosure of proprietary and/or confidential documents and information in this proceeding, Applicant will produce documents in its possession, custody or control that it reasonably believes are sufficient to respond to this Request.

**REQUEST FOR PRODUCTION NO. 9:**

All agreements with licensees in commerce on or in connection with the following goods under trademark APPLE from period January 1, 1981 through December 31, 1985 in the territory of the United States: gramophone records featuring music; pre-recorded audio tape cassettes featuring music; audio compact discs featuring music; pre-recorded video tape cassettes featuring music; video laser discs featuring music.

**Response:**

Applicant objects to this Request on grounds that it is vague and ambiguous, overly broad and unduly burdensome, in that it seeks documents concerning “agreements with licensees”, which terms are unspecific and undefined. Applicant further objects to this Request on grounds that it calls for information that is highly confidential and/or privileged information, which is protected from disclosure by the attorney-client privilege, the work product doctrine, or other legally cognizable privileges and obligations. Applicant also objects to this Request on grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery

of admissible evidence in that it requests “[a]ll agreements with licenses in commerce or in connection with” the goods specified in the Request, without limitation to the services identified in Application Serial No. 86/659,444 and without regard to whether such documents are relevant to the issues in this proceeding.

**REQUEST FOR PRODUCTION NO. 10:**

All agreements with entities which manufactured the following goods in the United States under trademark APPLE from period January 1, 1981 through December 31, 1985: gramophone records featuring music; pre-recorded audio tape cassettes featuring music; audio compact discs featuring music; pre-recorded video tape cassettes featuring music; video laser discs featuring music.

**Response:**

Applicant objects to this Request on grounds that it is vague and ambiguous, overly broad and unduly burdensome, in that it seeks documents concerning “[a]ll agreements with entities which manufactured” the listed goods, which terms are unspecific and undefined. Applicant further objects to this Request on grounds that it calls for information that is highly confidential and/or privileged information, which is protected from disclosure by the attorney-client privilege, the work product doctrine, or other legally cognizable privileges and obligations. Applicant also objects to this Request on grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it requests “[a]ll agreements with entities which manufactured” the goods specified in the Request, without limitation to the services identified in Application Serial No. 86/659,444 and without regard to whether such documents are relevant to the issues in this proceeding.

**REQUEST FOR PRODUCTION NO. 11:**

All agreements with entities which distributed the following goods in the United States under trademark APPLE from period January 1, 1981 through December 31, 1985: gramophone

records featuring music; pre-recorded audio tape cassettes featuring music; audio compact discs featuring music; pre-recorded video tape cassettes featuring music; video laser discs featuring music.

**Response:**

Applicant objects to this Request on grounds that it is vague and ambiguous, overly broad and unduly burdensome, in that it seeks documents concerning “[a]ll agreements with entities which distributed” the listed goods, which terms are unspecific and undefined. Applicant further objects to this Request on grounds that it calls for information that is highly confidential and/or privileged information, which is protected from disclosure by the attorney-client privilege, the work product doctrine, or other legally cognizable privileges and obligations. Applicant also objects to this Request on grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it requests “[a]ll agreements with entities which distributed” the goods specified in the Request, without limitation to the services identified in Application Serial No. 86/659,444 and without regard to whether such documents are relevant to the issues in this proceeding.

**REQUEST FOR PRODUCTION NO. 12:**

All agreements with entities which marketed the following goods in the United States under trademark APPLE from period January 1, 1981 through December 31, 1985: gramophone records featuring music; pre-recorded audio tape cassettes featuring music; audio compact discs featuring music; pre-recorded video tape cassettes featuring music; video laser discs featuring music.

**Response:**

Applicant objects to this Request on grounds that it is vague and ambiguous, overly broad and unduly burdensome, in that it seeks documents concerning “[a]ll agreements with entities which marketed” the listed goods, which terms are unspecific and undefined. Applicant further objects to this Request on grounds that it calls for information that is highly confidential and/or

privileged information, which is protected from disclosure by the attorney-client privilege, the work product doctrine, or other legally cognizable privileges and obligations. Applicant also objects to this Request on grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it requests “[a]ll agreements with entities which marketed” the goods specified in the Request, without limitation to the services identified in Application Serial No. 86/659,444 and without regard to whether such documents are relevant to the issues in this proceeding.

**REQUEST FOR PRODUCTION NO. 13:**

All customs documents concerning the importation of the following goods into the United States under trademark APPLE from period January 1, 1981 through December 31, 1985: gramophone records featuring music; pre-recorded audio tape cassettes featuring music; audio compact discs featuring music; pre-recorded video tape cassettes featuring music; video laser discs featuring music.

**Response:**

Applicant objects to this Request on grounds that it is vague and ambiguous, overly broad and unduly burdensome, in that it seeks documents concerning “[a]ll customs documents”, which terms are unspecific and undefined. Applicant further objects to this Request on grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it requests “[a]ll customs documents concerning the importation of” the goods specified in the Request, without limitation to the services identified in Application Serial No. 86/659,444 and without regard to whether such documents are relevant to the issues in this proceeding. Subject to and without waiving the foregoing general and specific objections, Applicant states that, based on its reasonable inquiry and investigation to date, there are no



documents in its possession, custody or control that are responsive to this Request. Applicant expressly reserves the rights to amend or supplement its response to this Request.

**REQUEST FOR PRODUCTION NO. 14:**

All documents concerning the following services if offered by Apple Computer, Inc. prior to June 5, 1985 under mark APPLE:

Arranging, organizing, conducting, and presenting concerts, live musical performances, entertainment special events in the nature of musical and cultural events, arts and cultural events, theatrical entertainment in the nature of live theatrical performances, competitions in the field of entertainment, contests for entertainment purposes, musical and film festivals for cultural or entertainment purposes, and exhibitions for entertainment purposes; production and distribution of television programs and sound recordings; provision of live entertainment, namely, live musical performances, and temporary use of online non-downloadable recorded entertainment featuring musical performances; providing websites featuring entertainment information, music information, news in the fields of music and entertainment, and arts and culture information; providing websites featuring information in the field of entertainment, music, news in the fields of music and entertainment, and arts and culture; entertainment services, namely, providing information, schedules in the nature of concert schedules, reviews and personalized recommendations of entertainment in the nature of music, arts and cultural events, concerts, live musical and cultural performances, competitions in the field of entertainment, music and film festivals for cultural or entertainment purposes, and exhibitions for entertainment purposes; ticket reservation and booking services for entertainment, arts and cultural events, concerts, live musical performances, competitions in the field of entertainment, music or film festivals for entertainment purposes, and exhibitions for entertainment purposes; entertainment services, namely, providing reviews, and providing interactive websites for the posting and sharing of reviews, all relating to entertainment, art and cultural events, concerts, live musical performances, competitions in the field of entertainment, music and film festivals for cultural or entertainment purposes; providing a website for the uploading, storing, sharing, viewing and posting of images, audio, videos, online journals, blogs, and multimedia content in the fields of music; publication of newsletters, blogs, journals, and articles, all in the fields of music and entertainment; providing websites featuring non-downloadable publications in the nature of newsletters, blogs, journals, and articles, all in the fields of music and entertainment; arranging, producing in the nature of, recording, mixing, editing and sound engineering, researching musical compositions, publishers, artists, recordings, and licensing for music production services; arranging and conducting educational competitions for students in the field of business; arranging and conducting educational competitions for students in the field of entertainment

**Response:**

Applicant objects to this Request on grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it requests “[a]ll documents concerning the [] services [specified in the Request] if offered by Apple Computer, Inc. prior to June 5, 1985 under mark APPLE”, without regard to whether such documents are relevant to the issues in this proceeding. Subject to and without waiving the foregoing general and specific objections, Applicant states that, after the parties have entered into a revised protective order governing the disclosure of proprietary and/or confidential documents and information in this proceeding, Applicant will produce documents in its possession, custody or control that it reasonably believes are sufficient to respond to this Request.

**REQUEST FOR PRODUCTION NO. 15:**

All documents concerning use of the trademark APPLE in commerce by the Applicant's related company, licensee, or predecessor in interest in the territory of the United States for each type of activities listed below for period January 1, 1981 through November 11, 2011:

Education and training services, namely, arranging and conducting personal training, classes, workshops, conferences and seminars in the field of computers, computer software, online services, information technology, website design, and consumer electronics; arranging professional workshop and training courses; computer education training services; training in the use and operation of computers, computer software and consumer electronics; online journals, namely, blogs featuring general interest topics covering a wide variety of topics and subject matter; providing on-line publications in the nature of magazines, newsletter and journals in the field of computers, computer software and consumer electronics; providing information, podcasts and webcasts in the field of entertainment via the Internet concerning movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events; digital video, audio and multimedia publishing services; providing entertainment information regarding movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events; providing information, reviews and personalized recommendations of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events in the field of entertainment; entertainment services, namely, production of live musical

performances; entertainment services, namely, providing live musical performances online via a global computer network; rental of digital entertainment content in the nature of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events, by means of communications networks, namely, provision of non-downloadable audio and audiovisual programs via an online video-on-demand service; providing a database of digital entertainment content in the nature of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events via electronic communication networks; entertainment services, namely, providing prerecorded audio and audiovisual content, information and commentary in the fields of music, concerts, videos, movies, television, books, news, sports, games and cultural events all via a global computer network. Providing a website for the uploading, sharing, viewing and posting of photographs, digital images, movies, videos, online journals covering general interest topics, and other related multimedia entertainment materials over a global computer network covering a wide variety of topics and subjects.

**Response:**

Applicant objects to this Request on grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it requests “[a]ll documents concerning use of the trademark APPLE in commerce by the Applicant's related company, licensee, or predecessor in interest in the territory of the United States for each type of activities [specified in the Request] for period January 1, 1981 through November 11, 2011”, without [a]ll documents concerning the [] services [specified in the Request] if offered by Apple Computer, Inc. prior to June 5, 1985 under mark APPLE”, without limitation to the services identified in Application Serial No. 86/659,444 and without regard to whether such documents are relevant to the issues in this proceeding. Subject to and without waiving the foregoing general and specific objections, Applicant states that, after the parties have entered into a revised protective order governing the disclosure of proprietary and/or confidential documents and information in this proceeding, Applicant will produce documents in its possession, custody or control that it reasonably believes are sufficient to respond to this Request.

## **REQUEST FOR PRODUCTION NO. 16:**

All documents concerning the following services if offered by Applicant prior to July 1, 1985 under mark APPLE:

Arranging, organizing, conducting, and presenting concerts, live musical performances, entertainment special events in the nature of musical and cultural events, arts and cultural events, theatrical entertainment in the nature of live theatrical performances, competitions in the field of entertainment, contests for entertainment purposes, musical and film festivals for cultural or entertainment purposes, and exhibitions for entertainment purposes; production and distribution of television programs and sound recordings; provision of live entertainment, namely, live musical performances, and temporary use of online non-downloadable recorded entertainment featuring musical performances; providing websites featuring entertainment information, music information, news in the fields of music and entertainment, and arts and culture information; providing websites featuring information in the field of entertainment, music, news in the fields of music and entertainment, and arts and culture; entertainment services, namely, providing information, schedules in the nature of concert schedules, reviews and personalized recommendations of entertainment in the nature of music, arts and cultural events, concerts, live musical and cultural performances, competitions in the field of entertainment, music and film festivals for cultural or entertainment purposes, and exhibitions for entertainment purposes; ticket reservation and booking services for entertainment, arts and cultural events, concerts, live musical performances, competitions in the field of entertainment, music or film festivals for entertainment purposes, and exhibitions for entertainment purposes; entertainment services, namely, providing reviews, and providing interactive websites for the posting and sharing of reviews, all relating to entertainment, art and cultural events, concerts, live musical performances, competitions in the field of entertainment, music and film festivals for cultural or entertainment purposes; providing a website for the uploading, storing, sharing, viewing and posting of images, audio, videos, online journals, blogs, and multimedia content in the fields of music; publication of newsletters, blogs, journals, and articles, all in the fields of music and entertainment; providing websites featuring non-downloadable publications in the nature of newsletters, blogs, journals, and articles, all in the fields of music and entertainment; arranging, producing in the nature of, recording, mixing, editing and sound engineering, researching musical compositions, publishers, artists, recordings, and licensing for music production services; arranging and conducting educational competitions for students in the field of business; arranging and conducting educational competitions for students in the field of entertainment

### **Response:**

Applicant objects to this Request on grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it requests “[a]ll documents concerning the [] services [specified in the Request] if offered by Applicant prior

to July 1, 1985 under mark APPLE”, without regard to whether such documents are relevant to the issues in this proceeding. Subject to and without waiving the foregoing general and specific objections, Applicant states that, after the parties have entered into a revised protective order governing the disclosure of proprietary and/or confidential documents and information in this proceeding, Applicant will produce documents in its possession, custody or control that it reasonably believes are sufficient to respond to this Request.

Respectfully submitted,

/Daniel P. Hope/  
Glenn A. Gundersen  
Daniel P. Hope  
Dechert LLP  
Cira Centre, 2929 Arch Street  
Philadelphia, PA 19104-2808  
(215) 994-2183

Dated: June 28, 2017

*Attorneys for Applicant  
Apple Inc.*

### **CERTIFICATE OF SERVICE**






I hereby certify that a true and correct copy of the foregoing Apple Inc.’s Responses and Objections to Charles Bertini’s First Request for Production of Documents has been duly served by email to counsel for Opposer, James Bertini at jamesbertini@yahoo.com on June 28, 2017.

/Daniel P. Hope/  
Daniel P. Hope




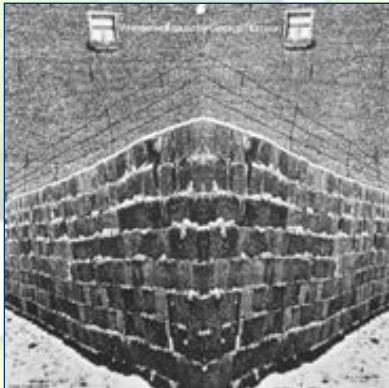
**Exhibit 75 p1**

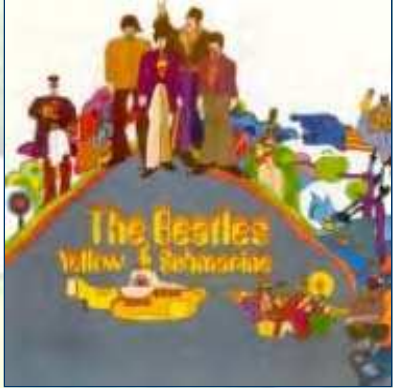

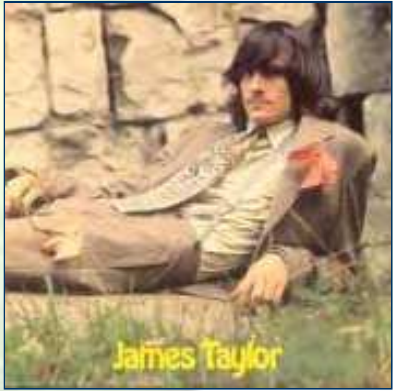

# Apple Records

## Vinyl Releases - United States

Release date		Record company		
26-08-1968		Apple Records Capitol 7" vinyl	<u>2276</u>	<u>R 5722</u>
26-08-1968		Apple Records 7" vinyl	<u>1800</u>	<u>APPLE 4</u>
26-08-1968		Apple Records 7" vinyl	<u>1801</u>	<u>APPLE 2</u>

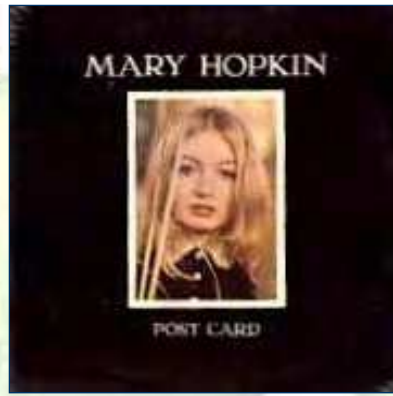
**Exhibit 75 p2**

<p><b>26-08-1968</b></p>		<p><b>Apple Records</b> 7" vinyl</p>	<p><b><u>1802</u></b></p>	<p><b><u>APPLE 3</u></b></p>
<p><b>11-11-1968</b></p>		<p><b>Apple Records</b> <b>Tetragrammaton</b> 12" vinyl</p>	<p><b><u>T-5001</u></b></p>	<p><b>SAPCOR</b> <b>2</b></p>
<p><b>25-11-1968</b></p>		<p><b>Apple Records</b> <b>Capitol</b> 12" vinyl (2LP)</p>	<p><b><u>SWBO-</u></b> <b><u>101</u></b></p>	<p><b>PCS</b> <b>7067/8</b></p>
<p><b>02-12-1968</b></p>		<p><b>Apple Records</b> 12" vinyl</p>	<p><b><u>ST-</u></b> <b><u>3350</u></b></p>	<p><b><u>SAPCOR</u></b> <b><u>1</u></b></p>
		<p><b>Apple Records</b></p>		<p><b>PCS</b></p>

<p><b>13-01-1969</b></p>		<p><b>Capitol</b> 12" vinyl</p>	<p><b><u>SW-153</u></b></p>	<p><b>7070</b></p>
<p><b>Exhibit 75 p3</b></p>				
<p><b>27-01-1969</b></p>		<p><b>Apple Records</b> 7" vinyl</p>	<p><b><u>1803</u></b></p>	<p><b><u>APPLE 5</u></b></p>
<p><b>17-02-1969</b></p>		<p><b>Apple Records</b> 12" vinyl</p>	<p><b><u>SKAO-3352</u></b></p>	<p><b><u>SAPCOR 3</u></b></p>
<p><b>17-02-1969</b></p>		<p><b>Apple Records</b> 12" vinyl</p>	<p><b><u>ST-3353</u></b></p>	<p><b><u>SAPCOR 4</u></b></p>
		<p><b>Apple Records</b></p>	<p><b><u>ST-</u></b></p>	



03-03-1969



12" vinyl

3351

**Exhibit 75 p4**

03-03-1969



Apple Records  
7" vinyl

1804

APPLE 6

DELETED



Apple Records  
7" vinyl





1805  
first  
American  
release

17-03-1969



Apple Records  
7" vinyl

1805  
second  
American  
release

<p>07-04-1969</p>		<p>Apple Records 7" vinyl</p>	<p><u>1806</u></p>	<p><u>APPLE</u> <u>10</u></p>
<p><b>Exhibit 75 p5</b></p>				
<p>05-05-1969</p>		<p>Apple Records Capitol 7" vinyl</p>	<p><u>2490</u></p>	<p><u>R 5777</u></p>
<p>19-05-1969</p>		<p>Apple Records 12" vinyl</p>	<p><u>ST-</u> <u>3354</u></p>	
<p>WITHDRAWN</p>		<p>Apple Records 12" vinyl</p>	<p><u>ST-</u> <u>3355</u></p>	<p><u>SAPCOR</u> <u>8</u></p>

**NOT ISSUED**



**3356**

**Exhibit 75 p6**

**26-05-1969**



**Apple Records  
12" vinyl**

**ST-  
3357**

**ZAPPLE  
01**

**26-05-1969**



**Apple Records  
12" vinyl**

**ST-  
3358**

**ZAPPLE  
02**

**02-06-1969**



**Apple Records  
7" vinyl**

**1807**

04-06-1969



Apple Records  
Capitol  
7" vinyl

2531

R 5786

**Exhibit 75 p7**

07-07-1969



Apple Records  
7" vinyl

1809

APPLE  
13

14-07-1969



Apple Records  
7" vinyl

1808  
first  
American  
release

APPLE  
12

21-08-1969

Apple Records  
7" vinyl

1810

APPLE  
15



**Exhibit 75 p8**

**10-09-1969**



**Apple Records**  
12" vinyl

**ST-3359**

**SAPCOR**  
**9**

**01-10-1969**



**Apple Records**  
**Capitol**  
12" vinyl

**SO-383**

**PCS**  
**7088**

**06-10-1969**



**Apple Records**  
**Capitol**  
7" vinyl

**2654**

**R 5814**

15-10-1969



Apple Records  
7" vinyl

1811

APPLE  
17

**Exhibit 75 p9**

20-10-1969



Apple Records  
12" vinyl  
Special Edition

SMAX-  
3361

SAPCOR  
11

20-10-1969



Apple Records  
7" vinyl

1813

APPLES  
1001

27-10-1969



Apple Records  
7" vinyl

1812

APPLE  
18

<p><b>10-11-1969</b></p>		<p><b>Apple Records</b> 12" vinyl</p>	<p><b><u>STAO-</u></b> <b><u>3360</u></b></p>	<p><b><u>SAPCOR</u></b> <b><u>10</u></b></p>
<p><b>Exhibit 75 p10</b></p>				
<p><b>10-11-1969</b></p>		<p><b>Apple Records</b> 7" vinyl</p>	<p><b><u>1814</u></b></p>	<p><b><u>APPLE</u></b> <b><u>19</u></b></p>
<p><b>12-12-1969</b></p>		<p><b>Apple Records</b> 12" vinyl</p>	<p><b><u>SW-</u></b> <b><u>3362</u></b></p>	<p><b><u>CORE</u></b> <b><u>2001</u></b></p>
<p><b>02-02-1970</b></p>		<p><b>Apple Records</b> 7" vinyl</p>	<p><b><u>1815</u></b></p>	<p><b><u>APPLE</u></b> <b><u>20</u></b></p>

<p><b>09-02-1970</b></p>	 <p>Apple Records <b>MARY HOPKIN</b> Temma Harbour Lontano dagli occhi</p>	<p><b>Apple Records</b> 7" vinyl</p>	<p><b><u>1816</u></b></p>	<p><b><u>APPLE</u></b> <b><u>22</u></b></p>
<p><b>Exhibit 75 p11</b></p>				
<p><b>16-02-1970</b></p>	 <p>MAGIC CHRISTIAN MUSIC <b>BY BADFINGER</b></p>	<p><b>Apple Records</b> 12" vinyl</p>	<p><b><u>ST-</u></b> <b><u>3364</u></b></p>	
<p><b>20-02-1970</b></p>	 <p><b>JOHN ONO LENNON</b> <b>INSTANT KARMA!</b> (WE ALL SHINE ON) PRODUCED BY <b>PHIL SPECTOR</b> APPLE RECORDS 1970</p>	<p><b>Apple Records</b> Capitol 7" vinyl</p>	<p><b><u>1818</u></b></p>	<p><b><u>APPLES</u></b> <b><u>1003</u></b></p>
<p><b>26-02-1970</b></p>		<p><b>Apple Records</b> Capitol 12" vinyl</p>	<p><b><u>SO-385</u></b></p>	<p><b>PCS</b> <b>7184</b></p>



02-03-1970



Apple Records  
7" vinyl

1817

APPLE  
21

**Exhibit 75 p12**

11-03-1970



Apple Records  
Capitol  
7" vinyl

2764

R 5833

16-03-1970



Apple Records  
7" vinyl

1820

APPLE  
24

23-03-1970

Apple Records  
7" vinyl

1819



**Exhibit 75 p13**

**24-03-1970**



**Apple Records  
7" vinyl**

**1821**

**APPLE  
25**

**20-04-1970**



**MPL  
Communications  
Inc.  
Apple Records  
Capitol  
12" vinyl**

**SMAS-  
3363**

**PCS  
7102**





**24-04-1970**



**Apple Records  
Capitol  
12" vinyl**

**SW-  
3365**

**PCS  
7101**

<p><b>11-05-1970</b></p>		<p><b>Apple Records Capitol 7" vinyl</b></p>	<p><b><u>2832</u></b></p>	
<p><b>Exhibit 75 p14</b></p>				
<p><b>NOT ISSUED</b></p>			<p><b>3366</b></p>	
<p><b>18-05-1970</b></p>		<p><b>Apple Records United Artists 12" vinyl</b></p>	<p><b><u>AR-34001</u></b></p>	<p><b><u>PCS 7096</u></b></p>
<p><b>15-06-1970</b></p>		<p><b>Apple Records 7" vinyl</b></p>	<p><b><u>1823</u></b></p>	<p><b>APPLE 27</b></p>

<p><b>21-09-1970</b></p>		<p><b>Apple Records</b> 7" vinyl</p>	<p><b><u>1824</u></b></p>	<p><b><u>APPLE</u></b> <b><u>28</u></b></p>
<p><b>Exhibit 75 p15</b></p>				
<p><b>28-09-1970</b></p>		<p><b>Apple Records</b> <b>Capitol</b> 12" vinyl</p>	<p><b><u>SMAS-</u></b> <b><u>3368</u></b></p>	<p><b>PAS</b> <b>10002</b></p>
<p><b>05-10-1970</b></p>		<p><b>Apple Records</b> <b>Capitol</b> 7" vinyl</p>	<p><b><u>2969</u></b></p>	
<p><b>15-10-1970</b></p>		<p><b>Apple Records</b> 12" vinyl</p>	<p><b><u>SMAS-</u></b> <b><u>3369</u></b></p>	<p><b><u>SAPCOR</u></b> <b><u>15</u></b></p>

19-10-1970



Apple Records  
7" vinyl

1822

**Exhibit 75 p16**

26-10-1970



Apple Records  
7" vinyl

1805  
third  
American  
release

APPLE  
32

02-11-1970



Apple Records  
7" vinyl

1825

APPLE  
30

09-11-1970



Apple Records  
12" vinyl

SKAO-  
3367

SAPCOR  
16

09-11-1970



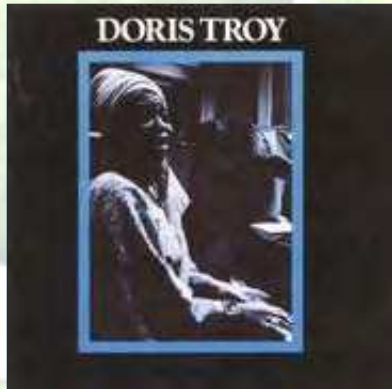
Apple Records  
12" vinyl

ST-  
3370

SAPCOR  
14

**Exhibit 75 p17**

09-11-1970



Apple Records  
12" vinyl

ST-  
3371

SAPCOR  
13

23-11-1970



Apple Records  
Capitol  
7" vinyl

2995

27-11-1970



Apple Records  
Capitol  
12" vinyl (3LP)

STCH-  
639

STCH-  
639

11-12-1970



Apple Records  
Capitol  
12" vinyl

SW-  
3372

PCS  
7124

Exhibit 75 p18

11-12-1970



Apple Records  
12" vinyl

SW-  
3373

SAPCOR  
17

14-12-1970



Apple Records  
7" vinyl

1826

18-12-1970



Apple Records  
Capitol  
12" vinyl

SBC-  
100

28-12-1970



Apple Records  
Capitol  
7" vinyl

1827

**Exhibit 75 p19**

15-02-1971



Apple Records  
Capitol  
7" vinyl

1828

22-02-1971



MPL  
Communications  
Inc.  
Apple Records  
Capitol  
7" vinyl

1829

R 5889

22-03-1971

Apple Records  
Capitol  
7" vinyl

1830





**Exhibit 75 p20**

**16-04-1971**



**Apple Records  
Capitol  
7" vinyl**

**1831**

**R 5898**

**19-04-1971**



**Apple Records  
7" vinyl**

**1832**

**APPLE  
33**

**NOT ISSUED**



**3374**

17-05-1971



MPL  
Communications  
Inc.  
Apple Records  
Capitol  
12" vinyl

SMAS-  
3375

PAS  
10003

**Exhibit 75 p21**

21-05-1971



Apple Records  
12" vinyl

SKAO-  
3376

SAPCOR  
18

WITHDRAWN



Apple Records  
7" vinyl

1833

APPLE  
35

21-06-1971



Apple Records  
7" vinyl

1834

<p><b>07-07-1971</b></p>		<p><b>Apple Records</b> 7" vinyl</p>	<p><b><u>1835</u></b></p>	<p><b><u>APPLE</u></b> <b><u>36</u></b></p>
<p><b>Exhibit 75 p22</b></p>				
<p><b>28-07-1971</b></p>		<p><b>Apple Records</b> <b>Capitol</b> 7" vinyl</p>	<p><b><u>1836</u></b></p>	<p><b><u>R 5912</u></b></p>
<p><b>02-08-1971</b></p>		<p><b>MPL</b> <b>Communications</b> <b>Inc.</b> <b>Apple Records</b> <b>Capitol</b> 7" vinyl</p>	<p><b><u>1837</u></b></p>	
<p><b>31-08-1971</b></p>		<p><b>Apple Records</b> 7" vinyl (EP)</p>	<p><b><u>1838</u></b></p>	<p><b><u>APPLE</u></b> <b><u>37</u></b></p>

**NOT ISSUED**



**3378**

**Exhibit 75 p23**

**09-09-1971**



**Apple Records  
Capitol  
12" vinyl**

**SW-  
3379**

**PAS  
10004**

**20-09-1971**



**Apple Records  
12" vinyl**

**SW-  
3377**

**20-09-1971**



**Apple Records  
12" vinyl (2LP)**

**SVBB-  
3380**

**SAPTU  
101/2**

20-09-1971



Apple Records  
12" vinyl

**3382**  
(=  
3380/Disc  
1)

**Exhibit 75 p24**

20-09-1971



Apple Records  
12" vinyl

**3383**  
(=  
3380/Disc  
2)

29-09-1971



Apple Records  
7" vinyl

**1839**

**APPLE**  
**38**

11-10-1971



Apple Records  
Capitol  
7" vinyl

**1840**

03-11-1971



Apple Records  
12" vinyl

SMAS-3381

SAPCOR 21

**Exhibit 75 p25**

15-11-1971



Apple Records  
7" vinyl

1841

26-11-1971



Apple Records  
7" vinyl

1843

01-12-1971



Apple Records  
Capitol  
7" green vinyl

1842

R 5970

07-12-1971



Apple Records  
12" vinyl

SWAO-  
3384

**Exhibit 75 p26**

07-12-1971



MPL  
Communications  
Inc.  
Apple Records  
Capitol  
12" vinyl

SW-  
3386

PCS  
7142

13-12-1971



Apple Records  
12" vinyl

SW-  
3387

SAPCOR  
19

20-12-1971



Apple Records  
Capitol  
12" vinyl (3LP)

STCX-  
3385

STCX-  
3385

<p><b>27-12-1971</b></p>		<p><b>Apple Records</b> 12" vinyl</p>	<p><b><u>SWAO-3388</u></b></p>	
<p><b>Exhibit 75 p27</b></p>				
<p><b>WITHDRAWN</b></p>		<p><b>Apple Records</b> 7" vinyl</p>	<p><b><u>1846</u></b></p>	
<p><b>28-02-1972</b></p>		<p><b>MPL Communications Inc. Apple Records Capitol</b> 7" vinyl</p>	<p><b><u>1847</u></b></p>	<p><b>R 5936</b></p>
<p><b>20-03-1972</b></p>		<p><b>Apple Records</b> 7" vinyl</p>	<p><b><u>1844</u></b></p>	<p><b>APPLE 42</b></p>



<p><b>20-03-1972</b></p>		<p><b>Apple Records</b> 7" vinyl</p>	<p><b><u>1845</u></b></p>	
<p><b>Exhibit 75 p28</b></p>				
<p><b>20-03-1972</b></p>		<p><b>Apple Records</b> <b>Capitol</b> 7" vinyl</p>	<p><b><u>1849</u></b></p>	<p><b>R 5944</b></p>
<p><b>17-04-1972</b></p>		<p><b>Apple Records</b> 12" vinyl</p>	<p><b><u>SW-3391</u></b></p>	
<p><b>24-04-1972</b></p>		<p><b>Apple Records</b> <b>Capitol</b> 7" vinyl</p>	<p><b><u>1848</u></b></p>	<p><b>R 5953</b></p>

**Exhibit 75 p29**

29-05-1972

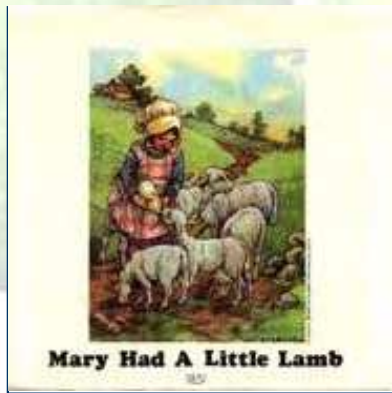


Apple Records  
7" vinyl

1850

APPLE  
43

29-05-1972



MPL  
Communications  
Inc.  
Apple Records  
Capitol  
7" vinyl

1851

R 5949

16-06-1972



Apple Records  
Capitol  
12" vinyl (2LP)

SVBB-  
3392

PCSP  
716

16-06-1972



Apple Records  
12" vinyl

3393  
(=  
3392/Disc  
1)

Apple Records

3394

16-06-1972



12" vinyl

(= 3392/Disc 2)

**Exhibit 75 p30**

26-06-1972



Apple Records 7" vinyl

1808 second American release

18-09-1972



Apple Records 12" vinyl

SMAS-3389

SAPCOR 22

22-09-1972



Apple Records 12" vinyl

SMAS-3390

SAPCOR 25

25-09-1972



Apple Records  
12" vinyl

SW-3395

**SAPCOR**  
23

**Exhibit 75 p31**

31-10-1972

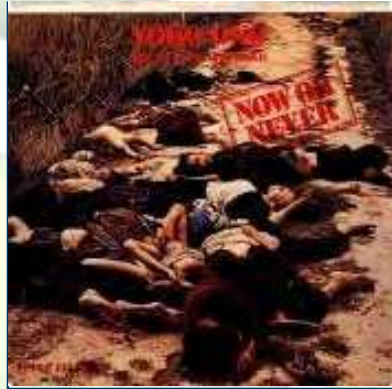


Apple Records  
7" vinyl

1852

**APPLE**  
44

13-11-1972



Apple Records  
7" vinyl

1853

13-11-1972



Apple Records  
7" vinyl

1855

Apple Records

1854  
first

**DELETED**



**7" vinyl**

**American  
release**

**Exhibit 75 p32**

**30-11-1972**



**Apple Records  
7" vinyl**

**1854  
second  
American  
release**

**01-12-1972**



**Apple Records  
12" vinyl**

**SW-  
3400**

**APCOR  
24**

**WITHDRAWN**



**Apple Records  
7" vinyl**

**1856**

04-12-1972



MPL  
Communications  
Inc.  
Apple Records  
Capitol  
7" vinyl

1857

R 5973

**Exhibit 75 p33**

08-01-1973



Apple Records  
12" vinyl (2LP)

SVBB-  
3399

SAPDO  
1001

08-01-1973



Apple Records  
12" vinyl

**3401**  
(=  
3399/Disc  
1)

08-01-1973



Apple Records  
12" vinyl

**3402**  
(=  
3399/Disc  
2)

31-01-1973



Apple Records  
7" vinyl

1858

**Exhibit 75 p34**

26-02-1973



Apple Records  
7" vinyl

1859

**APPLE  
47**

02-04-1973



Apple Records  
Capitol  
12" vinyl (2LP)

SKBO-  
3403

**PCSP  
717**

02-04-1973



Apple Records  
Capitol  
12" vinyl (2LP)

SKBO-  
3404

**PCSP  
718**

02-04-1973



Apple Records  
Capitol  
12" vinyl

3405  
(=  
3403/Disc  
1)

Exhibit 75 p35

02-04-1973



Apple Records  
Capitol  
12" vinyl

3406  
(=  
3403/Disc  
2)

02-04-1973



Apple Records  
Capitol  
12" vinyl

3407  
(=  
3404/Disc  
1)

02-04-1973



Apple Records  
Capitol  
12" vinyl

3408  
(=  
3404/Disc  
2)



<p><b>WITHDRAWN</b></p>		<p><b>Apple Records</b> 7" vinyl</p>	<p><b><u>1860</u></b></p>	
<p><b>Exhibit 75 p36</b></p>				
<p><b>09-04-1973</b></p>		<p><b>MPL Communications Inc.</b> <b>Apple Records</b> <b>Capitol</b> 7" vinyl</p>	<p><b><u>1861</u></b></p>	<p><b>R 5985</b></p>
<p><b>13-04-1973</b></p>		<p><b>Apple Records</b> 12" vinyl (2LP)</p>	<p><b><u>SVBB-3396</u></b></p>	<p><b>SAPDO 1002</b></p>
<p><b>13-04-1973</b></p>		<p><b>Apple Records</b> 12" vinyl</p>	<p><b>3397</b> (= 3396/Disc 1)</p>	



**Exhibit 75 p37**

**13-04-1973**



**Apple Records**  
12" vinyl

**3398**  
(=  
3396/Disc  
2)

**30-04-1973**



**MPL**  
**Communications**  
**Inc.**  
**Apple Records**  
**Capitol**  
12" vinyl

**SMAL-**  
**3409**

**PCTC**  
**251**

**07-05-1973**



**Apple Records**  
**Capitol**  
7" vinyl

**1862**

**R 5988**

30-05-1973



Apple Records  
Capitol  
12" vinyl

SMAS-3410

PAS  
10006

**Exhibit 75 p38**

18-06-1973



MPL  
Communications  
Inc.  
Apple Records  
Capitol  
7" vinyl

1863

R 5987

24-09-1973



Apple Records  
Capitol  
7" vinyl

1865

R 5992

WITHDRAWN



Apple Records  
Capitol  
7" vinyl

1866

<p><b>24-09-1973</b></p>		<p><b>Apple Records</b> 7" vinyl</p>	<p><b><u>1867</u></b></p>	
<p><b>Exhibit 75 p39</b></p>				
<p><b>29-10-1973</b></p>		<p><b>Apple Records</b> Capitol 7" vinyl</p>	<p><b><u>1868</u></b></p>	<p><b>R 5994</b></p>
<p><b>02-11-1973</b></p>		<p><b>Apple Records</b> 12" vinyl</p>	<p><b><u>SW-3412</u></b></p>	<p><b><u>SAPCOR</u></b> <b><u>26</u></b></p>
<p><b>02-11-1973</b></p>		<p><b>Apple Records</b> Capitol 12" vinyl</p>	<p><b><u>SWAL-3413</u></b></p>	<p><b>PCTC</b> <b>252</b></p>

02-11-1973



Apple Records  
Capitol  
12" vinyl

SW-3414

PCS  
7165

**Exhibit 75 p40**

12-11-1973



Apple Records  
Capitol  
7" vinyl

1869

R 5993

26-11-1973



Apple Records  
12" vinyl

SW-3411

SAPCOR  
27

03-12-1973



Apple Records  
Capitol  
7" vinyl

1870

R 5995

05-12-1973



MPL  
Communications  
Inc.  
Apple Records  
Capitol  
12" vinyl

SO-3415

**Exhibit 75 p41**

10-12-1973



Apple Records  
7" vinyl

1864

APPLE  
49

28-01-1974



MPL  
Communications  
Inc.  
Apple Records  
Capitol  
7" vinyl

1871  
first  
American  
release


18-02-1974



MPL  
Communications  
Inc.  
Apple Records  
Capitol  
7" vinyl

1871  
second  
American  
release

**R 5996**

<p><b>18-02-1974</b></p>		<p><b>Apple Records Capitol 7" vinyl</b></p>	<p><b><u>1872</u></b></p>	
<p><b>Exhibit 75 p42</b></p>				
<p><b>08-04-1974</b></p>		<p><b>MPL Communications Inc. Apple Records Capitol 7" vinyl</b></p>	<p><b><u>1873</u></b></p>	
<p><b>23-09-1974</b></p>		<p><b>Apple Records Capitol 7" vinyl</b></p>	<p><b><u>1874</u></b></p>	<p><b>R 5998</b></p>
<p><b>04-11-1974</b></p>		<p><b>MPL Communications Inc. Apple Records Capitol 7" vinyl</b></p>	<p><b><u>1875</u> first American release</b></p>	<p><b><u>R 5999</u> first British release</b></p>

11-11-1974



Apple Records  
Capitol  
7" vinyl

1876

R 6000

**Exhibit 75 p43**

18-11-1974



Apple Records  
Capitol  
7" vinyl

1877

26-11-1974



Apple Records  
12" vinyl

SW-3416

PCTC  
253

18-11-1974

Apple Records  
Capitol  
12" vinyl

SW-3417

PCS  
7168





**Exhibit 75 p44**

**09-12-1974**



**Apple Records  
Capitol  
12" vinyl**

**SMAS-3418**

**PAS  
10008**

**16-12-1974**

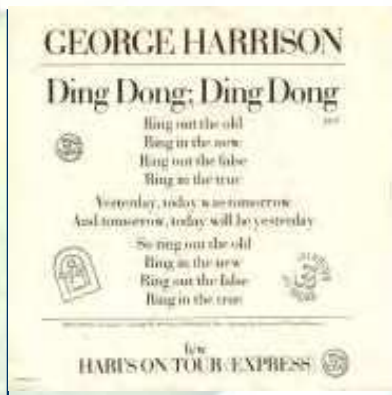


**Apple Records  
Capitol  
7" vinyl**

**1878**

**R 6003**

**23-12-1974**



**Apple Records  
Capitol  
7" vinyl**

**1879**

**MPL**

20-01-1975



Communications  
Inc.  
Apple Records  
Capitol  
7" vinyl

1875  
second  
American  
release

R 5999  
second British  
release

**Exhibit 75 p45**

27-01-1975



Apple Records  
Capitol  
7" vinyl

1880

17-02-1975



Apple Records  
Capitol  
12" vinyl

SK-3419

PCS 7169

10-03-1975



Apple Records  
Capitol  
7" vinyl



1881

R 6005

<p><b>02-06-1975</b></p>		<p>Apple Records Capitol 7" vinyl</p>	<p><b><u>1882</u></b></p>	
<p><b>WITHDRAWN</b></p>		<p>Apple Records Capitol 7" vinyl</p>	<p><b><u>1883</u></b></p>	
<p><b>15-09-1975</b></p>		<p>Apple Records Capitol 7" vinyl</p>	<p><b><u>1884</u></b></p>	<p><b>R 6007</b></p>
<p><b>22-09-1975</b></p>		<p>Apple Records Capitol 12" vinyl</p>	<p><b><u>SW-3420</u></b></p>	<p><b>PAS 10009</b></p>

**Exhibit 75 p46**

<p><b>24-10-1975</b></p>		<p><b>Apple Records Capitol 12" vinyl</b></p>	<p><b><u>SW-3421</u></b></p>	<p><b>PCS 7173</b></p>
<p><b>Exhibit 75 p47</b></p>				
<p><b>20-11-1975</b></p>		<p><b>Apple Records Capitol 12" vinyl</b></p>	<p><b><u>SW-3422</u></b></p>	<p><b>PCS 7170</b></p>
<p><b>08-12-1975</b></p>		<p><b>Apple Records Capitol 7" vinyl</b></p>	<p><b><u>1885</u></b></p>	<p><b>R 6012</b></p>
<p><b>30-11-1994</b></p>		<p><b>Apple Records Capitol 12" vinyl (2LP)</b></p>	<p><b><u>7243 8</u> <u>31796 1</u> <u>9</u></b></p>	<p><b>PCSP 726</b></p>

<p><b>30-11-1994</b></p>	 <p>Baby It's You • I'll Follow The Sun Devil In Her Heart • Boys</p> <p><b>THE BEATLES</b> <b>Baby It's You</b></p>	<p><b>Apple Records</b> <b>Capitol</b> 7" vinyl (EP)</p>	<p><u><b>7243 8</b></u> <u><b>58348 1</b></u> <u><b>3</b></u></p>	<p><u><b>R 6406</b></u></p>
<p><b>Exhibit 75 p48</b></p>				
<p><b>21-11-1995</b></p>	 <p><b>THE BEATLES</b></p>	<p><b>Apple Records</b> <b>Capitol</b> 12" vinyl (3LP)</p>	<p><u><b>7243 8</b></u> <u><b>34445 1</b></u> <u><b>9</b></u></p>	<p><b>PCSP</b> <b>727</b></p>
<p><b>04-12-1995</b></p>	 <p><b>THE BEATLES</b></p> <p><b>FREE AS A BIRD</b></p>	<p><b>Apple Records</b> <b>Capitol</b> 7" vinyl</p>	<p><u><b>7243 8</b></u> <u><b>58497 7</b></u> <u><b>0</b></u></p>	<p><u><b>R 6422</b></u></p>
<p><b>04-03-1996</b></p>	 <p><b>THE BEATLES</b></p> <p><b>REAL LOVE</b></p>	<p><b>Apple Records</b> <b>Capitol</b> 7" vinyl</p>	<p><u><b>7243 8</b></u> <u><b>58544 7</b></u> <u><b>7</b></u></p>	<p><u><b>R 6425</b></u></p>
		<p><b>Apple Records</b></p>	<p><u><b>7243 8</b></u></p>	

<p><b>18-03-1996</b></p>	 <p>The Beatles ALL STAR SHOW SHEA STADIUM TUES 11.10</p>	<p><b>Capitol</b> 12" vinyl (3LP)</p>	<p><b><u>34448 1</u></b> <b><u>6</u></b></p>	<p><b>PCSP</b> <b>728</b></p>
<p><b>Exhibit 75 p49</b></p>				
<p><b>28-10-1996</b></p>	 <p>THE BEATLES</p>	<p><b>Apple Records</b> <b>Capitol</b> 12" vinyl (3LP)</p>	<p><b><u>7243 8</u></b> <b><u>34451 1</u></b> <b><u>0</u></b></p>	<p><b>PCSP</b> <b>729</b></p>



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

ASSISTANT COMMISSIONER FOR TRADEMARKS  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

OCT. 11, 1996

**Exhibit 140, p1**

NOTICE OF PUBLICATION UNDER 12(a)

1. Serial No.:  
74/693,839

2. Mark:  
APPLE

3. Applicant:  
Apple Corps Limited

4. Publication Date:  
NOV. 12, 1996

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained at \$28.00 each for domestic orders, or at \$35.00 each for foreign orders from:

The Superintendent of Documents  
U.S. Government Printing Office  
Washington, D.C. 20402

By direction of the Commissioner.

Arthur Schwartz  
FOLEY & LARDNER  
3000 K Street, N.W., Suite 500  
P.O. Box 25696  
Washington, DC 20007-8696

TMP&I





# Exhibit 140, p2

## PUBLICATION/REGISTRATION EXAMINATION WORK SHEET

Reviewer: Barbara Ward L.O. 103 Date: 8/28/96 Serial No.: 693839

I certify all information in the database matched the information in the file and no corrections were required.

INSTRUCTIONS: If the information in the database does not match the information in the file the reviewer should check the ERROR column. After correction (text editing), the EDITED column should be checked. RETAIN IN FILE WRAP.

SCREEN	ERROR	EDITED	ERROR FOUND DURING REVIEW REQUIRING AMENDMENT OF:	
AM			AM	Mark Type:
			AM	Register:
PY			AM	Mark:
				Owner: <input type="checkbox"/> Name: <input type="checkbox"/> MDC:
				<input type="checkbox"/> Citizenship:
				<input type="checkbox"/> Entity Type:
			ADG	DBA/AKA/TA Statement:
			PY	Address: <input type="checkbox"/> Inter <input type="checkbox"/> City <input type="checkbox"/> State/Country <input type="checkbox"/> Zip
CL			NC	Assignment or Name Change:
			CO	Composed of:
			CL	International Class: <span style="float: right;">U.S. Class:</span>
			CL	First Use: <span style="float: right;">First Use in Commerce:</span>
			GS	Goods and Services:
			GS	
			GS	
			GS	
AM			AM	Amended Register: <span style="float: right;">P.R.:</span> <span style="float: right;">S.R.:</span>
			AM	Amended Reg. Date:
O T H E R			D1	Disclaimer:
			DM	Description of Mark:
			LS	Lining and Stippling Statement:
			TR	Translation of Words in Mark:
			NO	Name/Portrait Description/Consent:
			TF	Section 2(f): <input type="checkbox"/> In Part <input type="checkbox"/> Limitation Statement <input type="checkbox"/> Entire Mark
			AF	Use in Another Form:
			CS	Certification Statement:
			CU	Concurrent Use Statement:
			PR	Prior U.S. Registrations:
FN			DR	Domestic Representative:
			FN	Foreign Country of Origin: <i>Delete if Entirely</i>
			FN	Foreign Application No.: <span style="float: right;">Frn. Appl. Filing Date:</span>
			FN	Section 44(d): Y/N <span style="float: right;">Section 44(e): Y/N</span>
			FN	Foreign Registration No.: <span style="float: right;">Frn. Reg. Date:</span>
			FN	Foreign Registration Expiration Date: <span style="float: right;">Frn. Reg. Renewed:</span>
CD			FN	Foreign Renewal Reg. No.: <span style="float: right;">Frn. Reg. Renewed:</span>
			AT	Attorney Name:
			CD	Correspondence: <input type="checkbox"/> Name <input type="checkbox"/> Inter St. Address <input type="checkbox"/> City/State/Zip
			DN	Attorney Docket Number:

Other: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

I certify that all corrections have been entered in accordance with the above instructions and text editing guidelines.

PAR
9/2/96  
 Text Editor Date



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Trademark Application of

Apple Corps Limited

Serial No.: 74/693,839

Trademark Atty: Zhaleh Sybil Delaney

Filed: June 26, 1995

Law Office: 101

Mark: APPLE

Response/NO FEE



AMENDMENT

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202

Sir:

In response to the Office Action mailed February 1, 1996,  
please amend the above-identified application as follows:

IN THE IDENTIFICATION OF GOODS:

Please amend the present identification of goods to read:

GRAMOPHONE RECORDS FEATURING MUSIC; PRE-RECORDED AUDIO TAPE  
CASSETTES FEATURING MUSIC; AUDIO COMPACT DISCS FEATURING  
MUSIC; PRE-RECORDED VIDEO TAPE CASSETTES FEATURING MUSIC;  
VIDEO LASER DISCS FEATURING MUSIC, in International Class 9.

GS  
AP  
CC

BASIS FOR APPLICATION:

Please delete Section 44(e) as a basis for this application.

REMARKS

Applicant has amended the identification of goods as  
suggested by the Examining Attorney.

# Exhibit 140, p4

Serial No. 74/693,839

The application has been amended to delete reliance on the foreign registration as an additional basis. Applicant requests that the application proceed on the basis of use in commerce.

It is respectfully submitted that the application is now in condition for publication and early notice of same is earnestly solicited. However, if the Examining Attorney has any questions, she may contact the undersigned at 202 672-5300 in Washington, D.C.

Respectfully submitted,


8/1/96  
Date

Arthur Schwartz  
Arthur Schwartz

FOLEY & LARDNER  
3000 K Street, N.W.  
Suite 500  
P.O. Box 25696  
Washington, D.C. 20007-8696



**U. S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

<b>SERIAL NO.</b> 74/693839 Apple Corps Limited		<b>APPLICANT</b>		<b>PAPER NO.</b>	
<b>MARK</b> APPLE		 <b>ACTION NO.</b> 01		<b>ADDRESS:</b> Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513	
<b>ADDRESS</b> Arthur Schwartz FOLEY & LARDNER 3000 K Street, N.W., Suite 500 P.O. Box 25696 Washington, DC 20007-8696				<b>MAILING DATE</b> 02/01/96	
FORM PTO-1525 (5-90)		U.S. DEPT. OF COMM. PAT. & TM OFFICE		<b>REF. NO.</b>	
Please provide in all correspondence: <ol style="list-style-type: none"> <li>1. Filing date, serial number, mark, and applicant's name.</li> <li>2. Mailing date of this Office action.</li> <li>3. Your telephone number and ZIP code.</li> <li>4. Examining attorney's name and law office number.</li> </ol>					

**A PROPER RESPONSE TO THIS OFFICE ACTION MUST BE RECEIVED WITHIN 6 MONTHS FROM THE DATE OF THIS ACTION IN ORDER TO AVOID ABANDONMENT.** For your convenience and to ensure proper handling of your response, a label has been enclosed. Please attach it to the upper right corner of your response. If the label is not enclosed, print or type the Trademark Law Office No., Serial No., and Mark in the upper right corner of your response.

Re: Serial Number 74-693839

**PRIORITY ACTION**

The following confirms the telephone conversation of January 31, 1996 with Arthur Schwartz. If the applicant amends the application to comply with the requirements listed below within two months of the above mailing date, the examining attorney will give priority to the handling of the amended application. The six-month final deadline for filing a response specified above remains in effect.

**I. AMENDMENT OF THE IDENTIFICATION OF GOODS**

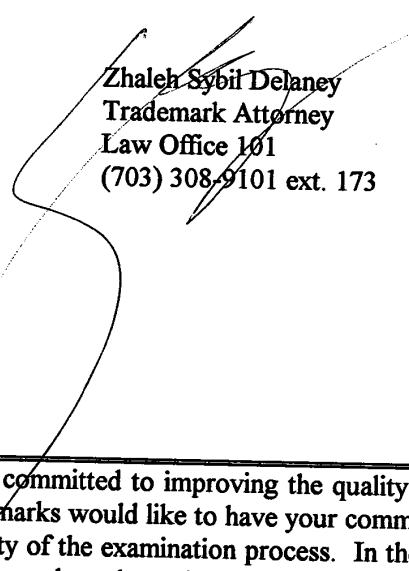
The applicant will adopt the following identification of goods, if accurate: "Gramophone records featuring music; pre-recorded audio tape cassettes featuring music; audio compact discs featuring music; pre-recorded video tape cassettes featuring music; video laser discs featuring music in International Class 9".

# Exhibit 140, p6

## II. SECTION 44(E) BASIS NOT PERFECTED

An application under Section 44(e) of the Act, 15 U.S.C. 1126(e), must include a certification or certified copy of the foreign registration on which the application is based to receive a filing date. TMEP 806.08. In this case, the applicant has asserted a valid 1(a) basis so a filing date for this application has been received. However, if the applicant intends to rely upon the additional Section 44(e) basis, the applicant must submit a certification or certified copy of the foreign registration to perfect this basis. If the foreign registration is not in English, the applicant must also submit a translation. 37 C.F.R. Section 2.33(a)(1)(viii).

The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 1105.01.

  
Zhaleh Sybil Delaney  
Trademark Attorney  
Law Office 101  
(703) 308-9101 ext. 173

NOTE: The Trademark Office is committed to improving the quality of our service. The Assistant Commissioner for Trademarks would like to have your comments and suggestions on ways we can improve the quality of the examination process. In the event there are any areas causing you recurrent problems, please let us know of them.

COMMENTS SHOULD NOT BE INCLUDED WITH THE RESPONSE TO AN OFFICE ACTION, BUT SHOULD BE SENT IN A SEPARATE COMMUNICATION TO THE FOLLOWING ADDRESS:

Office of Trademark Quality Review  
c/o Commissioner of Patents and Trademarks  
Washington, DC 20231.

Please note that this address differs from the mailing address for the response to this Office action.

13

245.10-31-1

74693839



**Exhibit 140, p7**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mark: APPLE

International Class: 9

APPLICATION FOR TRADEMARK REGISTRATION

To the Assistant Commissioner for Trademarks:

AA  
 Apple Corps Limited /  
 27, Ovington Square  
 London  
 SW3 1LJ  
 England

A (company) organized and existing under the laws of (England.)

**GOODS:**

Applicant requests registration of the above-identified trademark shown in the accompanying drawing in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. 1051 et. seq., as amended) for the following goods:

Sub A  
6549

AA  
~~GRAMOPHONE RECORDS; PRE-RECORDED AUDIO TAPE CASSETTES;~~  
~~AUDIO COMPACT DISCS; PRE-RECORDED VIDEO TAPE CASSETTES;~~  
~~VIDEO LASER DISCS.)~~

**BASIS FOR APPLICATION:**

**First basis for application:**

Applicant is using the mark through licensees in commerce on or in connection with the above-identified goods. (15 U.S.C. 1051(a), as amended.) Three specimens showing the mark as used in commerce are submitted with this application.

Date of first use of the mark anywhere: August 1968

**Exhibit 140, p8**

Mark: APPLE

Date of first use of the mark in commerce which the U.S. Congress may regulate: August 1968

Specify the type of commerce: interstate by licensees

Specify manner or mode of use of mark on or in connection with goods: applied to labels and packaging and in other ways common to the trade.

**Second Basis for application:**

~~Applicant has a bona fide intention to use the mark in commerce on or in connection with the above-identified goods and, accompanying this application, submits a certificate or certified copy of a foreign registration in accordance with 15 U.S.C. 1126(e), as amended.~~

Per A  
Per A  
Per A  
Per A  
Per A  
Per A  
Per A  
Per A

~~Country of registration: United Kingdom~~

~~Registration No.: 1,348,454~~

~~Registration date: January 17, 1992~~

~~Effective date: June 20, 1988~~

**DECLARATION**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he is properly authorized to execute this application on behalf of the applicant; that he believes the applicant to be the owner of the trademark sought to be registered and/or he believes applicant to be entitled to use the mark in commerce; that to the best of his knowledge and belief no other person, firm, corporation, or association has the right to the use the above-identified mark in commerce, either in the identical form or in such near resemblance thereto as may be likely, when applied to the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and all

Mark: APPLE

statements made of his own knowledge are true and that all statements made on information and belief are believed to be true.

**POWER OF ATTORNEY**

The undersigned Applicant hereby appoints Arthur Schwartz, Registration No. 22,115; Donald D. Jeffery, Registration No. 19,980; Richard L. Schwaab, Registration No. 25,479; Peter G. Mack, Registration No. 26,001; David A. Blumenthal, Registration No. 26,257; John J. Feldhaus, Registration No. 28,822; Bernhard D. Saxe, Registration No. 28,665; Stephen A. Bent, Registration No. 29,768; and Sybil Meloy, Registration No. 22,749, attorneys at law, of FOLEY & LARDNER, 3000 K Street, N.W., Suite 500, P.O. Box 25696, Washington, D.C. 20007-8696, as Applicant's attorneys with full power of association, substitution and revocation, to prosecute said application, receive any Registration Certificate and to take any and all other actions with regard to this mark and any registration thereof. Every member of the firm of Foley & Lardner and every attorney at law associated with that firm is hereby authorized to sign any paper and to conduct any business on behalf of the applicant in this case.

Please direct all future correspondence to:

AT  
CA

(Arthur Schwartz, Esquire )  
FOLEY & LARDNER  
3000 K Street, N.W., Suite 500  
P.O. Box 25696  
Washington, D.C. 20007-8696 )  
Telephone: (202) 672-5300



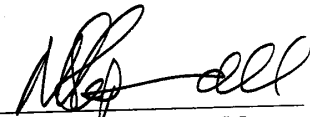
Mark: APPLE

APPOINTMENT OF DOMESTIC REPRESENTATIVE

*DL* (FOLEY & LARDNER) whose postal address is 3000 K Street, N.W., Suite 500, P.O. Box 25696, Washington, D.C. 20007-8696, is hereby designated Applicant's representative upon whom notices of process in proceedings affecting the mark may be served.

Respectfully submitted,  
APPLE CORPS LIMITED

Date: 12 June 1995

By:   
Neil S. Aspinall  
Manager

74693839



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re 1995 Trademark Application of  
Apple Corp. Limited

**Exhibit 140, p9**

Filed: Herewith

Mark: **APPLE**

TRANSMITTAL LETTER

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Sir:

Please find attached hereto the following items in regard to the above-identified application:

1. Application for Trademark Registration;
2. Drawing;
3. Specimens (3);
4. Certified Copy of United Kingdom Registration No. 1,348,454; and
5. Check for \$245.00.



Respectfully submitted,

June 26, 1995  
Date

Cynthia Nielsen reg. 10.36.880  
for  
ARTHUR SCHWARTZ  
Reg. No. 22,115  
FOLEY & LARDNER  
Suite 500  
3000 K Street N.W.  
Washington, D.C. 20007-5109  
(202) 672-5300

TRADEMARK APPLICATION SERIAL NO. 74693839

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
FEE RECORD SHEET

170 III 07/06/95 74693839

0 361 245.00 CK

PTO-1555  
(5/87)

# CODING SHEET FOR PSEUDO MARKS AND DESIGN SEARCH CODES

SERIES CODE AND SERIAL NUMBER 74-693839

MARK DRAWING CODE  
(please circle appropriate MDC) 1 2 3 5 6

PSEUDO MARK (PM) \_\_\_\_\_  
\_\_\_\_\_

## WIPO/DESIGN SEARCH CODES

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

# Exhibit 140, p10

NAME: Concetta Graham

LAW OFFICE: \_\_\_\_\_

ITU: Y or N

S - 2

SERIAL NO.: 74698829

## TRADEMARK APPLICATION FILE DATA WORKSHEET

### CLASS DATA

1. INTERNATIONAL CLASS	<u>9</u>							
2. COLLECTIVE TM or SM	T	S	T	S	T	S	T	S
3. FEE PAID	<u>Y</u>	N	Y	N	Y	N	Y	N
4. PRIOR US CLASS(ES)	<u>41, 42, 43, 44, 45</u>							
5. 1ST USE DATE	<u>09/01/1968</u>							
6. 1ST USE IN COMM DATE	<u>08/01/1968</u>							
7. IN ANOTHER FORM CODE	1	2	1	2	1	2	1	2
8. IN ANOTHER FORM STATEMENT	AF CODE IN MARGIN TEXT IN [ ]							
9. GOODS/SERVICES	<u>GS</u> INTERNATIONAL CLASS IN MARGIN, TEXT [ ]							
10. CERTIFICATION STATEMENT	CS IN MARGIN, TEXT IN [ ]							

### FOREIGN DATA

1. PRIORITY CLAIMED	<u>Y</u>	N	Y	N	Y	N	Y	N
2. COUNTRY CODE	<u>GB</u>							
3. FOREIGN APPLICATION	<u>1,318,181</u>							
4. FOREIGN FILING DATE								
5. FOREIGN REG #								
6. FOREIGN REG DATE	<u>01/17/1992</u>							
7. FOREIGN EXPIRATION DATE								
8. RENEWAL #								
9. RENEWAL REG DATE								
10. RENEWAL EXPIRATION DATE								

### NOTES TO DATA ENTRY PERSONNEL:

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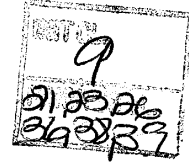
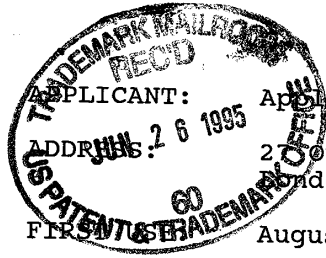
---



---

# Exhibit 140, p11

74693839



APPLICANT: Apple Corps Limited  
ADDRESS: 25 D'AVINGTON SQUARE  
LONDON SW3 1LJ, ENGLAND  
FIRST CLASS August 1968

IN COMMERCE: August 1968

USE: Applicant is the owner of United Kingdom  
Registration No. 1,348,454, which issued  
January 17, 1992.

GOODS: GRAMOPHONE RECORDS; PRE-RECORDED AUDIO TAPE  
CASSETTES; AUDIO COMPACT DISCS; PRE-RECORDED  
VIDEO TAPE CASSETTES; VIDEO LASER DISCS.

**APPLE**

Arthur Schwartz, Esquire  
FOLEY & LARDNER  
3000 K Street, N.W., Suite 500  
P.O. Box 25696  
Washington, D.C. 20007-8696  
(202) 672-5300

PUBLISHED  
NOV 12 1996

## **Assignment Data Not Available**

**For Registration Number: 2034964**

Search Results as of: 9/20/2003 12:09:41 P.M.

---

If you have any comments or questions concerning the data displayed, contact OPR / Assignments at 703-308-9723  
Web interface last modified: Oct. 5, 2002

\*\*\* User: EX149210 \*\*\*

STMT NUMBER	TOTAL MARKS	LIVE VIEWED	DEAD VIEWED	SEARCH
01	7	7	0	PHRASCH /ow apple corps & /ow applicant
02	14	5	9	PHRASCH :beatle:
03	608	0	0	phonsch beatle^beatles
04	63	0	0	PHRASCH 3 & 009/cc
05	41	41	0	4 ~ dead/ld
06	1346	0	0	PHRASCH :apple:
07	1160	0	0	phonsch apple^apples
08	144	0	0	PHRASCH 6 & 009/cc
09	154	0	0	7 & 009/cc
10	83	83	0	8 ~ dead/ld
11	91	0	0	9 ~ dead/ld
12	48	46	2	11 ~ 10

TERMINAL SESSION STARTED 01/29/96 6:35 P.M. (EASTERN TIME)  
TERMINAL SESSION FINISHED 01/29/96 6:49 P.M. (EASTERN TIME)  
ELAPSED TIME THIS SESSION 0 HRS AND 14 MIN



\*\*\* User: EX149210 \*\*\*

STMT NUMBER	TOTAL MARKS	LIVE VIEWED	DEAD VIEWED	SEARCH
01	1402	0	0	/DC 05.09.05
02	186	0	0	PHRASCH 1 & 009/cc
03	105	0	0	2 ~ dead/ld

TERMINAL SESSION STARTED 01/29/96 6:50 P.M. (EASTERN TIME)  
TERMINAL SESSION FINISHED 01/29/96 6:55 P.M. (EASTERN TIME)  
ELAPSED TIME THIS SESSION 0 HRS AND 5 MIN



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TESS was last updated on Wed Jan 31 03:31:02 EST 2018

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Please logout when you are done to release system resources allocated for you.

## Record 1 out of 1

[TSDR](#) | [ASSIGN Status](#) | [TTAB Status](#) ( Use the "Back" button of the Internet Browser to return to TESS)

# APPLE

**Exhibit 62 p1**

**Word Mark** APPLE

**Goods and Services** IC 041. US 100 101 107. G & S: Education and training services, namely, arranging and conducting personal training, classes, workshops, conferences and seminars in the field of computers, computer software, online services, information technology, website design, and consumer electronics; arranging professional workshop and training courses; computer education training services; training in the use and operation of computers, computer software and consumer electronics; online journals, namely, blogs featuring general interest topics covering a wide variety of topics and subject matter; providing on-line publications in the nature of magazines, newsletter and journals in the field of computers, computer software and consumer electronics; providing information, podcasts and webcasts in the field of entertainment via the Internet concerning movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events; digital video, audio and multimedia publishing services; providing entertainment information regarding movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events; providing information, reviews and personalized recommendations of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events in the field of entertainment; entertainment services, namely, production of live musical performances; entertainment services, namely, providing live musical performances online via a global computer network; rental of digital entertainment content in the nature of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events, by means of communications networks, namely, provision of non-downloadable audio and audiovisual programs via an online video-on-demand service; providing a database of digital entertainment content in the nature of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events via electronic communication networks; entertainment services, namely, providing prerecorded audio and audiovisual content, information and commentary in the fields of music, concerts, videos, movies, television, books, news, sports, games and cultural events all via a global computer network. FIRST USE: 19810301. FIRST USE IN COMMERCE: 19810301

**Standard**

**Characters  
Claimed****Mark****Drawing Code** (4) STANDARD CHARACTER MARK**Serial Number** 77428980**Filing Date** March 22, 2008**Current Basis** 1A**Original Filing Basis** 1B;44D**Published for Opposition** February 16, 2010**Registration Number** 4088195**International Registration Number** 0978171**Registration Date** January 17, 2012**Owner** (REGISTRANT) Apple Inc. CORPORATION CALIFORNIA 1 Infinite Loop Cupertino CALIFORNIA 95014**Attorney of Record** Thomas R. La Perle**Priority Date** September 28, 2007**Prior Registrations** 2649455;3226289;3317089;AND OTHERS**Description of Mark** Color is not claimed as a feature of the mark.**Type of Mark** SERVICE MARK**Register** PRINCIPAL**Live/Dead Indicator** LIVE**Exhibit 62 p2**[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[BROWSE DICT](#)[SEARCH OG](#)[TOP](#)[HELP](#)[HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

## Trademark/Service Mark Statement of Use (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	77428980
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 112
<b>EXTENSION OF USE</b>	NO
<b>MARK SECTION</b>	
<b>MARK</b>	APPLE
<b>OWNER SECTION (no change)</b>	
<b>CORRESPONDENCE SECTION (current)</b>	
<b>NAME</b>	THOMAS R. LA PERLE
<b>FIRM NAME</b>	APPLE INC.
<b>INTERNAL ADDRESS</b>	MS: 36-4TM
<b>STREET</b>	1 INFINITE LOOP
<b>CITY</b>	CUPERTINO
<b>STATE</b>	California
<b>POSTAL CODE</b>	95014
<b>COUNTRY</b>	United States
<b>PHONE</b>	408-974-2385
<b>FAX</b>	408-253-0186
<b>CORRESPONDENCE SECTION (proposed)</b>	
<b>NAME</b>	THOMAS R. LA PERLE
<b>FIRM NAME</b>	APPLE INC.
<b>INTERNAL ADDRESS</b>	MS: 36-4TM
<b>STREET</b>	1 INFINITE LOOP
<b>CITY</b>	CUPERTINO
<b>STATE</b>	California
<b>POSTAL CODE</b>	95014
<b>COUNTRY</b>	United States
<b>PHONE</b>	408-974-2385
<b>GOODS AND/OR SERVICES SECTION</b>	
<b>INTERNATIONAL CLASS</b>	041
	Education and training services, namely, arranging and conducting personal training, classes, workshops, conferences and seminars in the field of

Exhibit 64 p1

CURRENT IDENTIFICATION	computers, computer software, online services, information technology, website design, and consumer electronics; arranging professional workshop and training courses; computer education training services; training in the use and operation of computers, computer software and consumer electronics; online journals, namely, blogs featuring general interest topics covering a wide variety of topics and subject matter; providing on-line publications in the nature of magazines, newsletter and journals in the field of computers, computer software and consumer electronics; providing information, podcasts and webcasts in the field of entertainment via the Internet concerning movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events; digital video, audio and multimedia publishing services; providing entertainment information regarding movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events; providing information, reviews and personalized recommendations of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events in the field of entertainment; entertainment services, namely, production of live musical performances; entertainment services, namely, providing live musical performances online via a global computer network; rental of digital entertainment content in the nature of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events, by means of communications networks, namely, provision of non-downloadable audio and audiovisual programs via an online video-on-demand service; providing a database of digital entertainment content in the nature of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events via electronic communication networks; entertainment services, namely, providing prerecorded audio and audiovisual content, information and commentary in the fields of music, concerts, videos, movies, television, books, news, sports, games and cultural events all via a global computer network	
GOODS OR SERVICES	KEEP ALL LISTED	
FIRST USE ANYWHERE DATE	03/01/1981	<b>Exhibit 64 p2</b>
FIRST USE IN COMMERCE DATE	03/01/1981	
SPECIMEN FILE NAME(S)	<a href="#">\\TICRS\EXPORT11\IMAGEOUT 11\774\289\77428980\xml8\SOU0002.JPG</a>	
SPECIMEN DESCRIPTION	A page from Applicant's website showing use of the applied for mark APPLE in use for education and training services course offerings.	
INTERNATIONAL CLASS	042	
CURRENT IDENTIFICATION	Providing a website for the uploading, sharing, viewing and posting of photographs, digital images, movies, videos, online journals covering general interest topics, and other related multimedia entertainment materials over a global computer network covering a wide variety of topics and subjects	
GOODS OR SERVICES	DELETE ENTIRE CLASS OR PROCESS ACCORDING TO REQUEST TO DIVIDE	
REQUEST TO DIVIDE	NO	
<b>PAYMENT SECTION</b>		
NUMBER OF CLASSES IN USE	1	
SUBTOTAL AMOUNT [ALLEGATION OF USE FEE]	100	
TOTAL AMOUNT	100	

<b>SIGNATURE SECTION</b>	
<b>DECLARATION SIGNATURE</b>	/Thomas R. La Perle/
<b>SIGNATORY'S NAME</b>	Thomas R. La Perle
<b>SIGNATORY'S POSITION</b>	Attorney of record, California bar member
<b>DATE SIGNED</b>	11/11/2011
<b>FILING INFORMATION</b>	
<b>SUBMIT DATE</b>	Fri Nov 11 14:45:23 EST 2011
<b>TEAS STAMP</b>	USPTO/SOU-XX.XXX.XXX.XX-2 0111111144523273724-77428 980-480f19fb842181ec921a9 b264d5bd2fea76-DA-10144-2 0111111143329227104

**Exhibit 64 p3**

**Trademark/Service Mark Statement of Use  
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

**MARK:** APPLE  
**SERIAL NUMBER:** 77428980

**Exhibit 64 p4**

The applicant, Apple Inc., having an address of  
1 Infinite Loop  
Cupertino, California 95014  
United States

is submitting the following allegation of use information:

For International Class 041:

Current identification: Education and training services, namely, arranging and conducting personal training, classes, workshops, conferences and seminars in the field of computers, computer software, online services, information technology, website design, and consumer electronics; arranging professional workshop and training courses; computer education training services; training in the use and operation of computers, computer software and consumer electronics; online journals, namely, blogs featuring general interest topics covering a wide variety of topics and subject matter; providing on-line publications in the nature of magazines, newsletter and journals in the field of computers, computer software and consumer electronics; providing information, podcasts and webcasts in the field of entertainment via the Internet concerning movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events; digital video, audio and multimedia publishing services; providing entertainment information regarding movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events; providing information, reviews and personalized recommendations of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events in the field of entertainment; entertainment services, namely, production of live musical performances; entertainment services, namely, providing live musical performances online via a global computer network; rental of digital entertainment content in the nature of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events, by means of communications networks, namely, provision of non-downloadable audio and audiovisual programs via an online video-on-demand service; providing a database of digital entertainment content in the nature of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events via electronic communication networks; entertainment services, namely, providing prerecorded audio and audiovisual content, information and commentary in the fields of music, concerts, videos, movies, television, books, news, sports, games and cultural events all via a global computer network

The mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as subsequently modified for this specific class

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 03/01/1981, and first used in commerce at least as early as 03/01/1981, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) A page from Applicant's website showing use of the applied for mark APPLE in use for education and training services course offerings..

[Specimen File1](#)

For International Class 042:

Current identification: Providing a website for the uploading, sharing, viewing and posting of photographs, digital images, movies, videos, online journals covering general interest topics, and other related multimedia entertainment materials over a global computer network covering a wide variety of topics and subjects

This **allegation of use** does **not** cover this specific class. This **entire class** is either to be permanently **deleted** from the application OR **processed according to a Request to Divide**.

The applicant is not filing a Request to Divide with this Allegation of Use form.

The applicant's current Correspondence Information: THOMAS R. LA PERLE of APPLE INC.  
MS: 36-4TM  
1 INFINITE LOOP  
CUPERTINO, California (CA) 95014  
United States (USX)

**Exhibit 64 p5**

The applicant's proposed Correspondence Information: THOMAS R. LA PERLE of APPLE INC.  
MS: 36-4TM  
1 INFINITE LOOP  
CUPERTINO, California (CA) 95014  
United States (USX)

The phone number is 408-974-2385.

A fee payment in the amount of \$100 will be submitted with the form, representing payment for the allegation of use for 1 class.

### **Declaration**

Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). Applicant is the owner of the mark sought to be registered, and is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Thomas R. La Perle/ Date Signed: 11/11/2011  
Signatory's Name: Thomas R. La Perle  
Signatory's Position: Attorney of record, California bar member

RAM Sale Number: 10144  
RAM Accounting Date: 11/14/2011

Serial Number: 77428980  
Internet Transmission Date: Fri Nov 11 14:45:23 EST 2011  
TEAS Stamp: USPTO/SOU-XX.XXX.XXX.XX-2011111114452327  
3724-77428980-480f19fb842181ec921a9b264d  
5bd2fea76-DA-10144-20111111143329227104



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Descriptions  On-Demand  Live Streaming  Face-to-Face

Title	DATE	Location
<a href="#">Tune-in Series: Creating Your Own Content</a>	<a href="#">DETAILS</a> Every Wed from 9:00AM to 10:00AM Pacific	Online Event
<a href="#">Tune-in Series: iOS Content and Device Management</a>	<a href="#">DETAILS</a> Every Thu from 9:00AM to 10:00AM Pacific	Online Event
<a href="#">Education App Store Volume Purchase Program</a>	<a href="#">DETAILS</a> Every Tue & Thu from 12:00PM to 1:00PM Pacific	Online Event
<a href="#">Tune-in Series: Planning iOS Device Deployments</a>	<a href="#">DETAILS</a> Every Fri from 9:00AM to 10:00AM Pacific	Online Event
<a href="#">Tune-in Series: Introduction to iOS Products</a>	<a href="#">DETAILS</a> Every Mon from 9:00AM to 10:00AM Pacific	Online Event
<a href="#">Tune-in Series: Education Content for iOS Devices</a>	<a href="#">DETAILS</a> Every Tue from 9:00AM to 10:00AM Pacific	Online Event
<a href="#">Challenge Based Learning in action.</a>	<a href="#">DETAILS</a> Tuesday, November 15 2011 10:00AM to 11:30AM	Online Event
<a href="#">Apple Volume Purchase Program - On Demand</a>	<a href="#">DETAILS</a> On-Demand	Online Event
<a href="#">The Mobility Revolution - How the iPad is Changing Education</a>	<a href="#">DETAILS</a> On-Demand	Online Event
<a href="#">Apple Made for Learning: Community Colleges</a>	<a href="#">DETAILS</a> On-Demand	Online Event

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# Exhibit 64 p6

Contact Us

**FEE RECORD SHEET**

**Serial Number:** 77428980



**RAM Sale Number:** 10144

**Total Fees:** \$100

**RAM Accounting Date:** 20111114

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Total Fee</u>
Statement of Use (SOU)	7003	20111111	\$100	1	\$100

**Exhibit 64 p7**

**Transaction Date:** 20111111



Arts, Music, and Recreation › Music

# 12 Apple Records Label Variations

 SHARE  FLIP  EMAIL

by Anthony Rasmussen

Updated March 18, 2017

## 01 | A Typical UK Apple Label

of 12

**Exhibit 65 p1**



☐ A typical UK issue Apple label. Apple Corps Ltd.

## Exhibit 65 p2

There are a number of color and design variations that set apart The Beatles' famous Apple label. In different countries around the world, and at different times, the appearance of the label changes and this (along with other indicators) helps keen collectors to identify where particular pressings might be from. It also adds some fun to collecting when you find a label that's a bit different or unusual.

What you can see in this slide is a typical green Apple label on a UK release. It's a copy of [The Beatles](#) (a.k.a. *The White Album*), originally issued on Apple in 1968. This style

and color was typical for all green UK Apple pressings.

**Exhibit 65 p3**

**Exhibit 65 p4****02 | A Typical US Apple Label**

of 12



 This is a typical US Apple label. Apple Corps Ltd.

Here we have an example of how an Apple label looks on a US pressing. Note that it is quite plain in appearance compared to the UK label. This is mostly because there's no printed copyright information text around the circumference. US Apple labels weren't as vividly printed as their UK and European equivalents either. They are actually quite dull by comparison.

This US label is from the 1970 compilation *The Beatles Again*. Interestingly, this wasn't issued in the UK until 1979. The title of the LP is a little confusing in the US as on the spine of the cardboard cover it says [Hey Jude](#), while on the label you can see clearly it's *The Beatles Again*. In markets outside the US the LP is more commonly known just as *Hey Jude*, though not everywhere - as we'll see in the next slide.

**Exhibit 65 p5**

**Exhibit 65 p6**

**03**  
of 12

## A Typical European Apple Label





**Exhibit 65 p7**

This is a typical French Apple label from the 1970's. Apple Corps Ltd.

This is a typical European green Apple label - this example is from France. European labels are generally a richer shade of green and they look more "busy" because there is a lot more copyright, place of manufacture, catalog numbers and other information included. This one is also for *The Beatles Again* - this time using the same title as the US release. In many other countries this LP is better known as *Hey Jude*. The compilation has long been out of print. It has only recently been made available on CD for the first time - as part of The Beatles [The US Albums box set](#), and also as an individual disc.

# A Typical Australian Apple Label



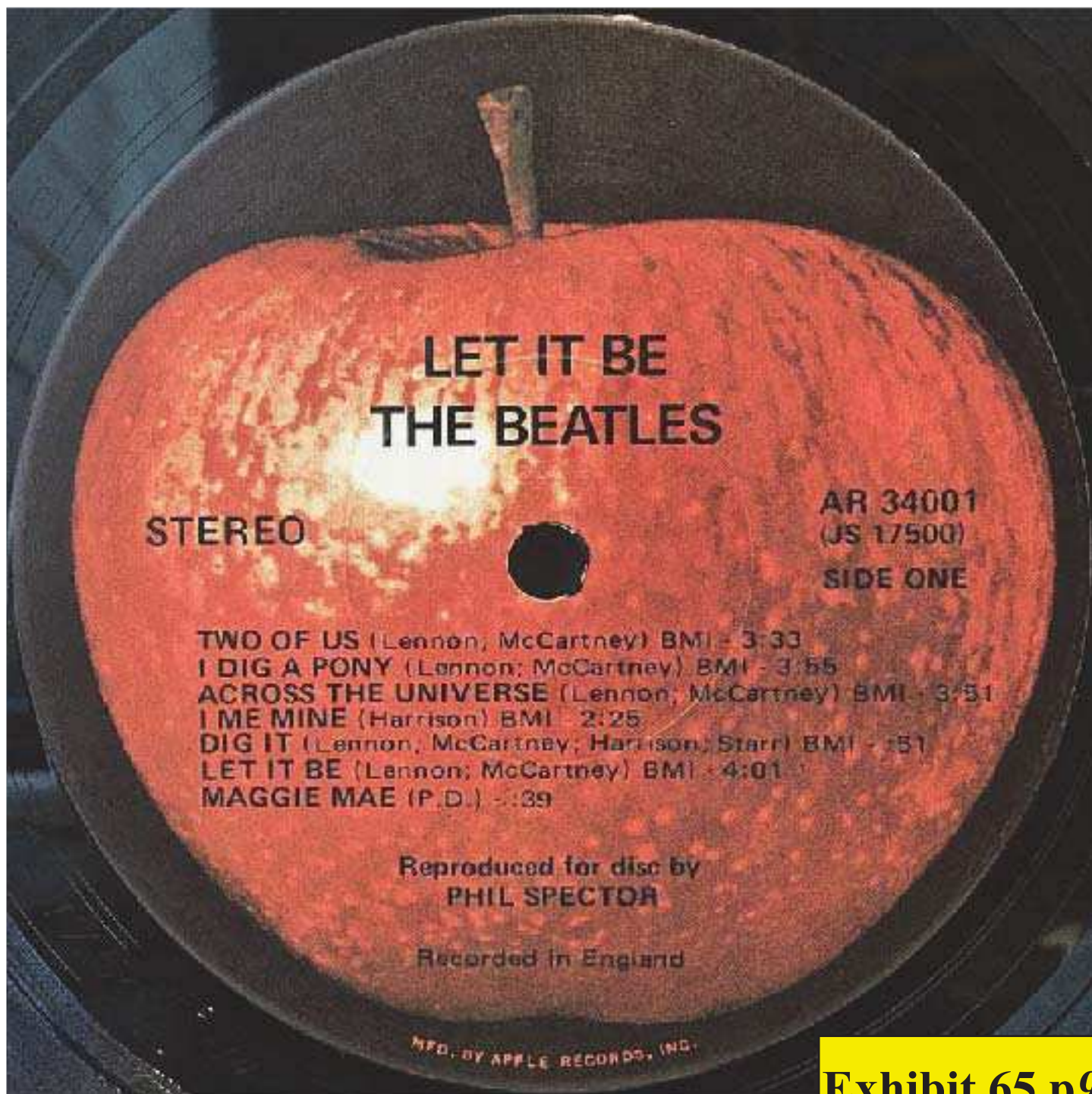
**Exhibit 65 p8**

📷 An Australian pressing of "Hey Jude" on green Apple labels. Apple Corps Ltd.

Just by way of comparison, an Australian pressing of what was known as *The Beatles Again* and/or [Hey Jude](#) in the US. Here you can see the LP is called just *Hey Jude*, or as the Aussies put it: *Hey, Jude!*

These are typical Australian green Apple labels and are quite similar to the UK variants.

# "Let It Be", with a Red Apple Label



**Exhibit 65 p9**

📷 The red Apple label on a genuine copy of the LP. Apple Corps Ltd.

OK. Now we start to get into some of the interesting color variations issued over the years. The first is the label used for US editions of The Beatles *Let It Be* LP (1970), which as you can see, is vivid red in color. As a soundtrack album to the film *Let It Be*, the record was being distributed in the US by the United Artists company, not the usual Beatle distributor Capitol Records. The red wash over the Apple was done to distinguish this. (In

the UK and in other markets they used a green Apple label on the record, but had a deep red Apple logo on the rear cover of first pressings). *Let It Be* is one of the most counterfeited vinyl records ever and if you have a US copy [you need to check for the clues](#) to see if yours is real, or a fake.

## 06 Ringo Starr's "Blast From Your Past" with a Red Apple Label

of 12



📌 Ringo also marked the final Apple Records release (at the time) with a red Apple. Apple Corps Ltd.

In 1975 Ringo Starr released a compilation LP called *Blast From Your Past*, and for some reason it also got the red Apple label treatment that *Let It Be* received in 1970. On original pressings this bright red Apple label was also used in the UK, Australia and many other markets. What we have here is an example of the US pressing.

**07**

of 12

**Ringo Starr's Blue Apple Label****Exhibit 65 p11**

 Ringo Starr's 'Back Off, Boogaloo' single on a blue Apple label. Apple Corps Ltd.

Ringo was at it again in 1972, issuing his single 'Back Off, Boogaloo' on a bright blue Apple label in many markets around the world, including the USA. What we can see here is an Australian pressing. The song is a non-album single which got to number 9 on the US charts, and to the number 2 spot in Britain and Canada.

## 08 George Harrison's "All Things Must Pass" Orange Apple

of 12

Exhibit 65 p12



George Harrison's 1970 release "All Things Must Pass" on its orange Apple. Apple Corps Ltd.

In his first solo outing since the break up of The Beatles in 1970, George Harrison chose to issue his *All Things Must Pass* triple LP on bright orange Apple labels around the world. This is a US pressing we can see here. (The third LP in the triple album box set was on a custom "Apple Jam" label). More on custom labels later.

## 09 | John Lennon's "Plastic Ono Band" on White Apple Labels

of 12

Exhibit 65 p13



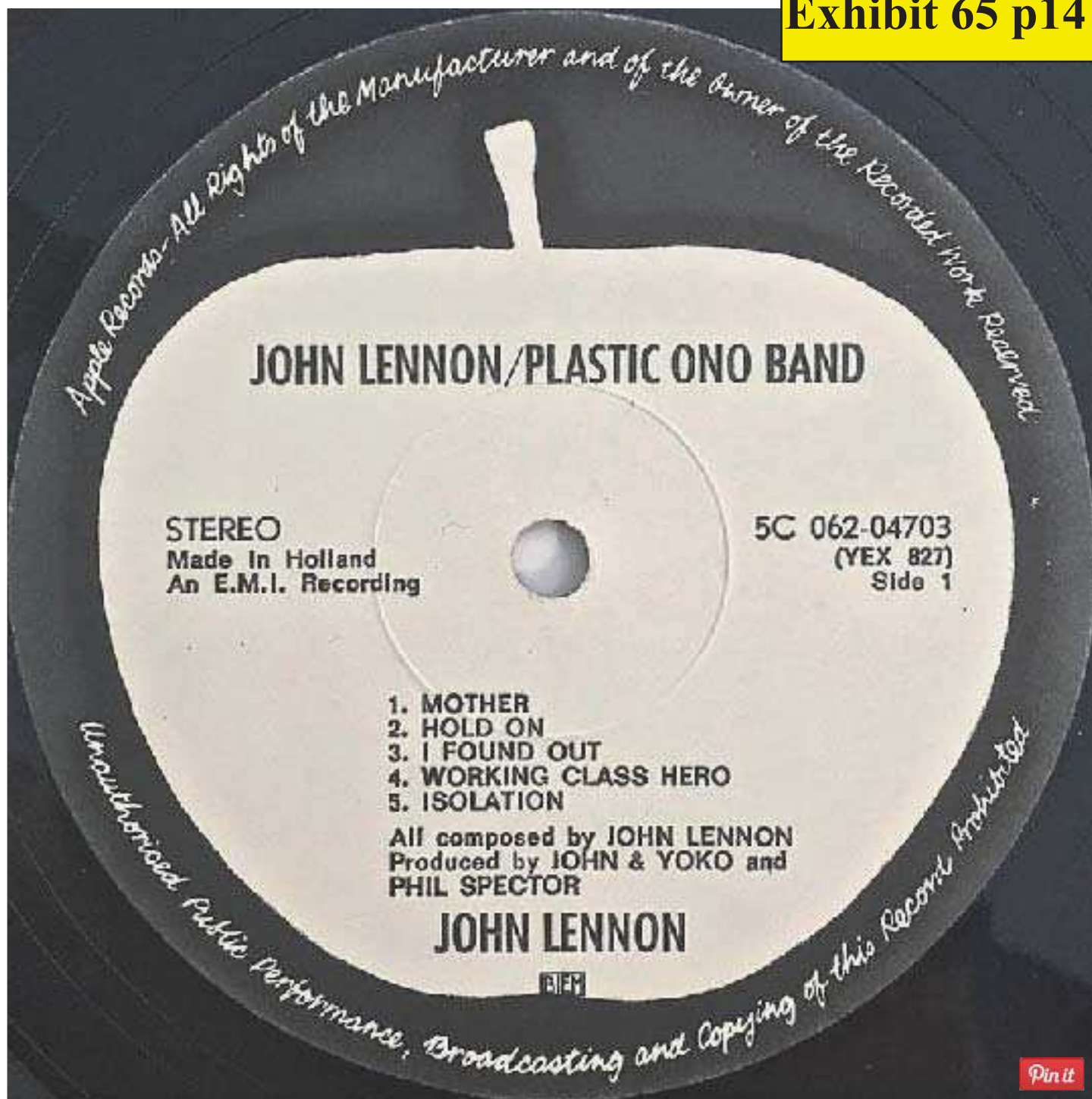
☐ In the US, John Lennon used plain white Apple labels for his "Plastic Ono Band" LP. Apple Corps Ltd.

The [stark nature of the musical content](#) on John Lennon's debut solo studio album, "Plastic Ono Band" (1970), is also reflected in the plain white Apple labels chosen to grace the LP. In the USA these were all white, but with a 3D shaped apple. In other markets the label was even plainer still, as we'll see in the next slide.

## 10 John Lennon's "Plastic Ono Band" on White Apple Labels

of 12

Exhibit 65 p14



📷 A European pressing of Lennon's "Plastic Ono Band" LP. Apple Corps Ltd.



By comparison with the US white Apple labels, those used for Lennon's "Plastic Ono Band" in other markets (such as Europe, Britain and Australia) were even starker still. They have just a very plain white apple shape on a black background. Perhaps it was John commenting on all the blood being drained out of Apple and the Beatles at the time? His first studio solo release came out at an absolute low point in relationships between his fellow band members as they started out on what was to be a very acrimonious break up....

**11**

of 12

## John Lennon's "Imagine", with custom Apple Labels

**Exhibit 65 p15**



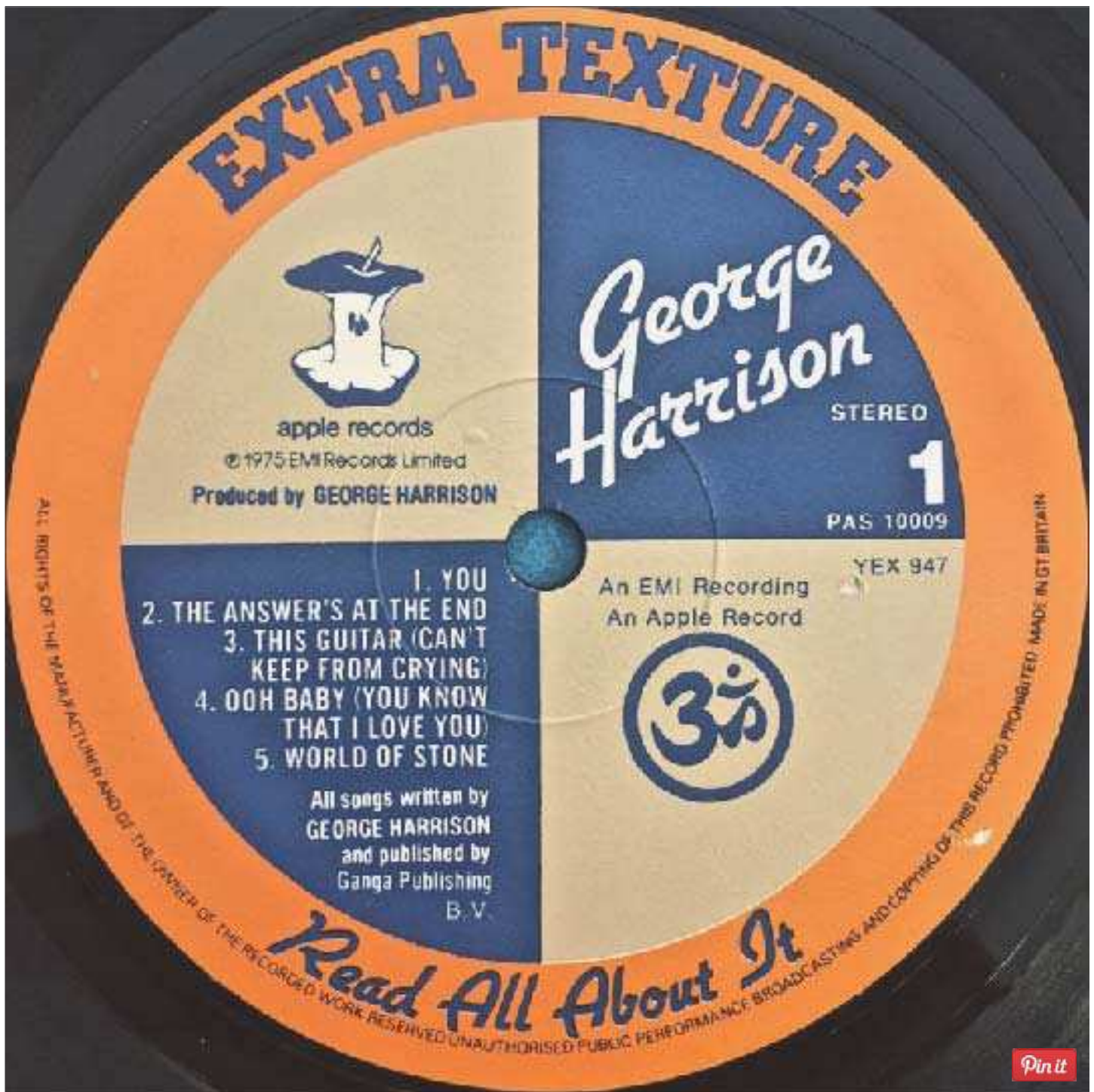
Original pressings of Lennon's "Imagine" LP had these custom Apple labels. Apple Corps Ltd.

As well as the many color variations, the solo Beatles used a variety of "custom" designs for their Apple Records releases. John Lennon, who, on his [Imagine](#) LP (1971), took the basic apple logo and placed his own image in black and white over the top. What we see here is the UK pressing, but this is how it appeared in most other markets as well.

## 12 | George Harrison's "Extra Texture" with custom

of 12

# Apple Labels



George Harrison's "Extra Texture" on a custom Apple label. Apple Corps Ltd.

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el, this time from George Harrison. For his 1975  
right away from an Apple dominating the entire  
ed apple core up in the top left-hand corner. This  
Beatles' Apple company at the time being only a  
shadow of its former self. This pressing is from the UK.

**Exhibit 65 p17**



### Apple Records (3)

Profile: This is **NOT** a real label. Use this for all unofficial releases (bootlegs, counterfeits, pirate compilations, etc.) that pretend to be a release of the legitimate [Apple Records](#).

Label [134490]

[Edit Label](#)  
Data Quality Rating: Complete and Correct  
**360 submissions pending**

[Share](#)

#### Marketplace

Search for [Apple Records \(3\)](#)



1 - 100 of 287 [Prev](#) 1 2 3 [Next](#)  Jump to Genre  Show

Artist	Title (Format)	Cat# ^	Year
Badfinger	Badfinger's Greatest Hits (LP, Unofficial, Comp)	001	2012
The Beatles	White Unplugged Album <input type="button" value="8 versions"/>	1 C 209 173	2007
The Beatles	Magical Mystery Tour Plus Other Songs (Comp) <input type="button" value="2 versions"/>	1C 072-04 449	2012
The Beatles	Magical Mystery Tour Plus Other Songs (LP, Comp, Unofficial, Gre)	1C 072-04 449	2012
The Beatles	Magical Mystery Tour Plus Other Songs (LP, Comp, Unofficial, Yel)	1C 072-04 449	2016
The Beatles	The Beatles (2xCD, Album, RE, Unofficial)	1C 172-04 173	2008
The Beatles	The Beatles Part One (LP, Album, Pic, Unofficial)	1C 172-04 173 PD	2007
The Beatles	The Beatles Part Two (LP, Album, Pic, Unofficial)	1C 172-04 174 PD	2007
The Beatles	Hey Jude / Revolution (7", Single, Unofficial)	7-BT-12	1968
The Beatles Com Billy Preston	Get Back (7", Single, RE, Unofficial)	7BT-17	Unknown
The Beatles	The Ballad Of John And Yoko (7", Single, Unofficial)	7-BT-21	1969
The Beatles	Something / Come Together (7", Single, Unofficial)	7-BT-26	1969

# Contributing To Discogs

**Exhibit 67 p1**

Modified on: Mon, 6 Feb, 2017 at 3:12 PM

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Discogs is a user-built discography site. Everyone can contribute and update information as needed, so we can collectively catalog music and other audio releases. In order to start contributing:

1. You need a user account, if you don't have one, you can **sign up here** (<https://www.discogs.com/users/create>) (accounts are free).
2. The **Add Release Form** (<https://www.discogs.com/release/add>) allows you to add releases. This is the main focus of the database, and is the only way to add new Artists and Labels. For the sake of accuracy, you must only add releases you have in your possession.
3. The "Update Release" links at the right hand side of each page allow you to update an release, artist, or label, and add or change images. You can update any submission at any time.

Please read the **Quick Start Guide** (<https://support.discogs.com/en/support/solutions/articles/13000019291-quick-start-guide>) for an introduction to submitting, and please check **the full guidelines** (<https://www.discogs.com/help/database/submission-guidelines-release>) for details. You should ask in the **Database forum** (<https://www.discogs.com/forum/topic/17>) if you need help.

## The Process

- Submit your new release or update request. All submission forms have an option to add Submission Notes. Please include in this field any explanations, urls, and general communication to other users. Some submission types require **Submission Notes** (<https://www.discogs.com/help/submission-guidelines-general-rules.html>).
- After submitting, your information will go live immediately, so please double check it for correctness before you submit!
- Your submission will now be listed under your **My Discogs Submissions** (<https://www.discogs.com/submissions>) page (this is one of the links on your **'My Discogs** (<https://www.discogs.com/my>)' page).
- Your submission can then be voted on by other users. They will grade your submission, from "Entirely Incorrect" to "Correct and Complete". You can **read more about the voting process here** (<https://www.discogs.com/help/voting-guidelines.html>).
- If your submission is voted "Correct" or "Correct and Complete", it will be marked as such and be fully active in the database.
- If your submission is voted "Needs Minor Changes" or "Needs Major Changes", it will be marked in red on the artist and label pages, and any new artists or labels on the release won't be able to have their profiles updated. If this happens, please check the history page of the release for comments from other users, and see if you can edit the release so it can be marked as correct.
- A submission may be rejected from the database if the voters think it is incorrect. It will go back to Draft status if that happens, and you will be notified. You can go to My Discogs / **Draft Releases** (<https://www.discogs.com/users/drafts>) to see it. Click the "view" link to see the voters comments on why it

was rejected. From the Draft Releases page you can delete a release or edit it in order to re-submit.

## Exhibit 67 p2

### What Forms are Available?

- **Add Release** (<https://www.discogs.com/release/add>) - Use this form to add a new release to Discogs. The link to this form is on the Discogs home page and at the bottom of all Artist and Label pages.
- **Write a Review** - Use this form to add a review to an artist, label, or release page. The link is at the bottom of every release, artist, and label page. See **Adding Reviews** (<https://support.discogs.com/en/support/solutions/articles/13000018666--how-do-i-post-a-review->) for more information.
- **Update Information** - Use these forms to make changes to an artist, label, or release page. The link is at the right of every artist, label, and release page. Updating a release will give you the same form as for adding a release, filled in with the existing information. See **Updating A Label** (<https://www.discogs.com/help/submission-guidelines-updating-a-label.html>) and **Updating An Artist** (<https://www.discogs.com/help/submission-guidelines-updating-an-artist.html>) for guidelines on how to use those forms.

### Please Note!

- **All additions and changes to Discogs must be submitted** (<https://www.discogs.com/help/submission-guidelines-release.html>) **via the various forms. Please do not send us Excel spreadsheets, links to your website discography, emails with update information etc. We can't use those!**
- You cannot add an Artist or Label to Discogs directly. Artists and Labels are added when you submit one of their releases.
- Your submissions will be voted on by other users. Please make sure your information is as accurate as possible, and follows the submission guidelines.
- Discogs is a database, not a promotion tool. Our emphasis is on accuracy and completeness.
- Please try to read all the **submission guidelines** (<https://www.discogs.com/help/database/submission-guidelines-release>) before you start to contribute.
- *Support Staff does not add or correct information in the Database.*

### Rank and Average Vote Received

**Rank:** You receive three rank points for every full submission, and one rank point for every edit or image.

**Average Vote Received:** Every time someone votes on one of your submissions, it is counted and averaged, and this average is displayed in your user profile.

### Contributing Translations to Discogs

Another way you can contribute to Discogs is to help translate Discogs into your language. Your translations can make Discogs more accessible to the world and encourage international submissions.

Intrigued? Follow these three steps:

1. Review our "**How Do I Help Translate Discogs?**" (<https://support.discogs.com/en/support/solutions/articles/13000014280-how-can-i-help-translate-discogs->) help document.
2. Join the **discogs-i18n Transifex project** (<https://www.transifex.com/projects/p/discogs-i18n/>).
3. Join the **discogs-i18n Group** (<http://www.discogs.com/groups/7165>).

Please also consider joining a **Language Group** (<https://www.discogs.com/forum/thread/702525>) to help support Discogs contributors and community members who aren't fluent in English.

---

**Exhibit 67 p3**

**Related Topics:**

- **Quick Start Guide** (<https://support.discogs.com/en/support/solutions/articles/13000019291-quick-start-guide>)
  - **Guidelines - 1. General Rules** (<http://www.discogs.com/help/submission-guidelines-general-rules.html>)
  - **Contributor Improvement Program (CIP)** (<https://support.discogs.com/en/support/solutions/articles/13000005079-contributor-improvement-program-cip->)
  - **Forums / Groups** (<https://support.discogs.com/en/support/solutions/articles/13000011173-community-guidelines>)
  - **Help Translate Discogs** (<https://support.discogs.com/en/support/solutions/articles/13000014280-how-can-i-help-translate-discogs->)
-



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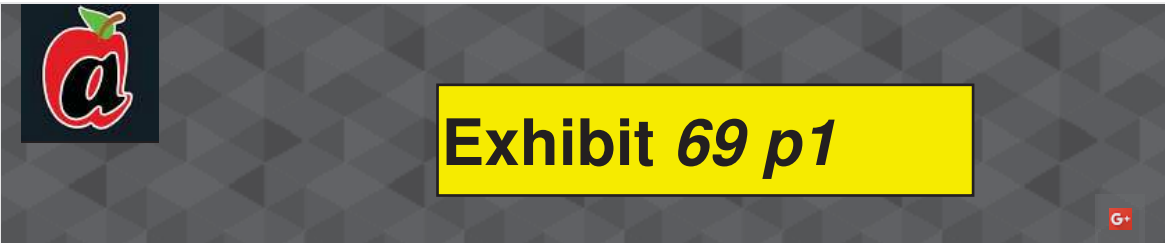
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**AppleJazz 20th anniversary tribute video 2004**  
 1 year ago · 164 views  
 This video was shown at AppleJazz in June 2004 to celebrate the 20 years of AppleJazz concerts in Upstate New York, Cortland County....



**AppleJazz 30th Anniversary - The Final Festival Concert OFFICIAL VIDEO**  
 1 year ago · 2,105 views  
 AppleJazz 30th Anniversary - The Final Festival Concert  
 ...



**AppleJazz Band Homer**  
 2 years ago · 224 views  
 Trailer for the upcoming AppleJazz Band concert at the Center for the Arts of Homer, NY on October 3, 2015. Featuring Charlie Bertini, John Allred, Mark Doyle, Ronnie France, Ronnie...



**AppleJazz 30th Anniversary Video Trailer**  
 2 years ago · 498 views  
 This trailer is promoting the fund raiser for the film of the 30th anniversary AppleJazz concert which took place on May 31, 2014. The release of the BluRay/DVD package is July 4...



**Lauren-Jessica Bertini Into The Woods**  
 4 years ago · 469 views  
 Lauren-Jessica Bertini performs HELLO LITTLE GIRL and I KNOW THINGS NOW as Little Red Riding Hood from Into The Woods by Stephen Sondheim. Performed by the Dr Phillips High...



**Ronnie Leigh Stompin' At The Savoy**  
 4 years ago · 487 views  
 Ronnie Leigh sings Stompin' At The Savoy with TRILOGY at the Wingate Clubhouse, Orlando, FL on March 15, 2013. Musicians are Charlie Bertini, trumpet; Terry Myers, sax; Jeff...



**Ronnie Leigh Teach Me Tonight**  
 4 years ago · 1,005 views  
 Ronnie Leigh sings Teach Me Tonight with TRILOGY at the Wingate Clubhouse Orlando, FL March 15, 2013....





**Ronnie Leigh All Blues**

4 years ago • 253 views

Ronnie Leigh sings All Blues with TRILOGY at the Wingate Clubhouse March 15, 2013. Musicians are Charlie Bertini, trumpet; Terry Myers, sax; Jeff Phillips, keyboard; Charlie Silva...



**Lauren-Jessica Bertini Count Your Blessings**

4 years ago • 224 views

Lauren-Jessica Bertini performs Count Your Blessings from the musical White Christmas by Irving Berlin. The concert is the group TRILOGY performing at Wingate Clubhouse, Orlando...



**Lauren-Jessica Bertini The Girl in 14 G**

4 years ago • 289 views

Lauren-Jessica Bertini performs 14 G on stage at Dr. Phillips High School 2013.



**Lauren-Jessica Bertini at AppleJazz 2011**

6 years ago • 380 views

Lauren-Jessica Bertini performs at the annual AppleJazz concert in Upstate New York on June 4, 2011. Beatles songs "I Want To Hold Your Hand" and "Oh, Darlin" inspired by the film...



**Lauren-Jessica Bertini "CAN YOU HEAR IT?" Official Video**

8 years ago • 2,211 views

Lauren-Jessica Bertini in a video from her new album "Can You Hear It?" on AppleJazz Records. Composed by Lauren-Jessica Bertini. Mixed by Veit Renn. Videotaped in Cortland...



**Charlie Bertini Begin the Beguine**

9 years ago • 4,250 views

Charlie Bertini, trumpet soloist with Bill Allred's Classic Jazz Band. Charlie Bertini, Bobby Pickwood-trumpets, Bill Allred, John Allred-trombones, Terry Myers-sax, Jay Mueller-bass...



**Lauren-Jessica Bertini sings Star Spangled Banner**

9 years ago • 1,177 views

Recorded live at AppleJazz concert on May 30, 2008 in Upstate New York.

**Exhibit 69 p2**



Language: English

Location: United States

Restricted Mode: Off

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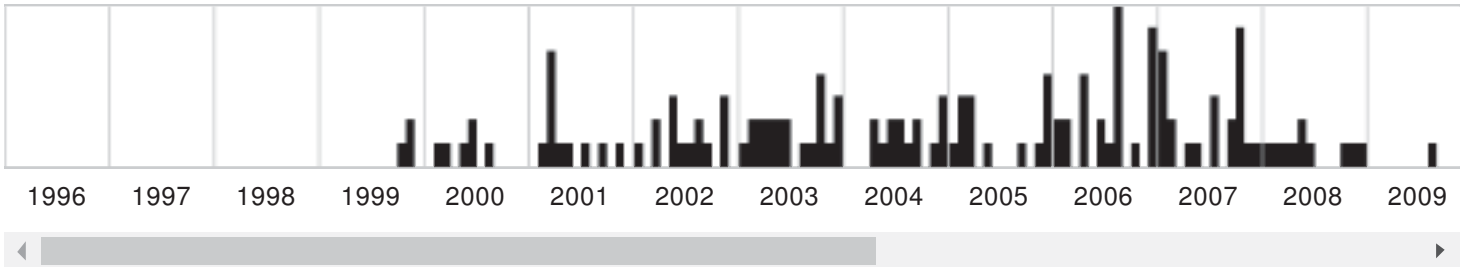
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**Exhibit 70 p2**

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**Exhibit 70 p3**

### Note

This calendar view maps the number of times applejazz.com was crawled by the Wayback Machine, *not* how many times the site was actually updated. More info in the [FAQ](#).

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1998

1999

2001



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## THE APPLEJAZZ FESTIVAL

The AppleJazz Festival began in 1984 as a jam session in Cortland, NY, and has continued annually ever since. Held each year in early June in Cortland County, this festival is small and unique, drawing 600 people for a day of Jazz, Dixieland, and family picnicking. Antique cars and an idyllic setting add to the atmosphere of this lovely event. Musicians are from the local Syracuse/Cortland area, however some are flown in from Florida and Alabama. Occasional musicians from New York City have stopped in to sit in with the bands, and the audience enjoys the spontaneity of the music on stage. Trumpeter, bandleader, and artistic director Charlie Bertini heads up the ceremony and has done so since the Festival's beginning.

Some of the artists who have appeared at AppleJazz are:

DAVE GANNETT, LARRY ARLOTTA, RONNIE LEIGH, DAVE HANLON, RONNIE FRANCE, DICK CHAVE, JOE WHITING, TOM RAU, MARVIN STAMM, JOHN ALLRED, BILLY DICOSIMO.

## CHARLIE BERTINI INSTRUMENTAL MUSIC SCHOLARSHIP

The Fulvio and Ann Bertini family has established the CHARLIE BERTINI INSTRUMENTAL MUSIC SCHOLARSHIP at St. Mary's School. This scholarship is awarded annually in June and provides partial funding for instrumental music lessons for selected St. Mary's School students in grades 4, 5, and 6. The general amount of the scholarship award has been \$200 per student. (Because of budget constraints, St. Mary's School does not provide individual music lessons at school.)

There is an application process for this scholarship. The applying student(s) must show a strong desire for playing music, and the willingness to apply the commitment and discipline necessary for instrumental development. Recommendations from the applications are made by the band director, and the final decision is made by Charlie Bertini, or Charlie's family if he is not available.

Anyone wishing to contribute to the CHARLIE BERTINI INSTRUMENTAL MUSIC SCHOLARSHIP may do so by sending donations to the school address below.

**ST. MARY'S SCHOOL**  
61 North Main Street

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**Exhibit 70 p5**

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## APPLEJAZZ '99 IS HERE!

Date  
June 19, 1999

Location  
SUNY Cortland Campus  
Graham Avenue  
Cortland, NY

Ticket Price: \$15  
Reserved seating: \$25  
12 and under: Free

Call for Tickets

SUNY Cortland Campus  
Activities Office  
607-753-2321

or

[AppleJazz Records](#)  
Toll-free number  
888-241-2464

### MORE INFO

### What's Hot



FEATURED ALBUM:

## FOCUSED

Here is John Allred's amazing new solo album on AppleJazz Records. This exhilarating recording features John Allred on trombone with some of the most talented musicians in the USA. A vibrant group of young players, they take a new look at some old standards, some burnin' bebop tunes, and a few of John's original compositions.

#### Musicians:

JOHN ALLRED *Trombone*  
RICHARD DREXLER *Piano*  
KELLY SILL *Bass*  
EDDIE METZ *Drums*  
REX WERTZ *Tenor Sax*  
ORLANDO SANCHEZ *Percussion*

#### Quote from DON SEBESKY:

"John Allred is a MONSTER! I haven't been so impressed with a trombone player since Carl Fontana. John plays the way I always wanted to, but didn't have the chops. He can be in my band anytime."

John Allred/FOCUSED AJCD0062  
PRICE: \$15

### Hot Jazz Picks



JOHN ALLRED  
[Focused](#)



CHARLIE BERTINI  
and the  
APPLEJAZZ BAND  
[AppleSass](#)



LEE FLOYD  
[Big Tiny Little](#)



BILL ALLRED'S  
CLASSIC JAZZ  
BAND  
[Busters](#)



MARVIN STAMM  
[Bop Boy](#)

# Exhibit 70 p6

**Exhibit 70 p7**

AppleJazz Records  
10825 Wheaton Court  
Orlando, FL 32821  
Toll Free 1-888-241-2464  
Email: [cbertini@applejazz.com](mailto:cbertini@applejazz.com)

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Charlie Bertini

CONTACT US

AppleJazz Records  
10825 Wheaton Court  
Orlando, FL 32821  
Toll Free 1-888-241-2464  
Email:  
[applejazz@earthlink.net](mailto:applejazz@earthlink.net)

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FEATURED  
ALBUM:

OUT OF  
SEASON

This recording was engineered and mixed like a fine soup recipe, using a combination of old-world and new-world ingredients. Much of the sound, including the overdubs, was captured using the famous Blumlein microphone technique, which results in a very natural, spacious sound. We also used some new-world spices to keep the intimacy, punch, clarity, and dynamics that make a great jazz recording come alive. The technology included some custom-built, one-of-a-kind A/D and D/A converters as well as 24-bit recording and analog mixing on the fabulous all-discrete API Legacy console, with unparalleled short-signal path and headroom.

The history of this recording traces its roots to what began for us as a musical "Christmas card" to friends and family that evolved into two best-selling Christmas albums through the foresight of Arbors Records CEO, Mat Domber. Those recordings are CHRISTMAS COOKIES and FRESH BATCH. ([www.arborsjazz.com](http://www.arborsjazz.com))

We were privileged to touch many people's lives in an intimate way through those recordings, including two longtime fans of Bill Allred's Classic Jazz Band and its lead trumpeter, Charlie Bertini. Those two friends wanted to hear Bertini, Morris and Gannett play something other than Christmas music; to hear them "Out of Season," so to speak. Happily for us, they were willing to help make

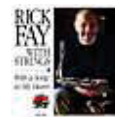
HOT JAZZ PICKS



JOHN ALLRED  
[Focused](#)



ALLAN VACHE /  
WARREN VACHE  
[Mrs. Vaché's Boys](#)



RICK FAY  
[With a Song  
in My Heart](#)



TERRY MYERS  
[Terry Myers  
Orchestra](#)



EDDIE METZ  
[Tough Assignment](#)



BILL ALLRED'S  
CLASSIC JAZZ  
BAND  
[Versatility](#)

Exhibit 70 p8

that possible.

From both the technical and musical perspectives, you will hear the guys as never before, thanks to the remarkable ears and unflinching perfectionism of legendary recordist, Bob Katz. His acoustic rendering of the trio will delight even the most demanding audiophile, revealing a warmth and intimacy that allows the music full sway.

The trio showed up at the studio with mounds of music and instruments, with variety being the operative factor. From John Katalenic's classy arrangement of "Mood Indigo," to "Come Back To Sorrento" that fairly reeks of garlic, to, of all things, "Dudley Do-Right of The Mounties"... well, pigeon-holing is out the window on this album! But it's honest, and played by three friends who love the music and love to perform - especially for you folks who love to listen.

**Exhibit 70 p9**

**Musicians:**

CHARLIE BERTINI leader,  
trumpet, flugelhorn  
RANDY MORRIS piano, acoustic  
guitar, accordion, ukelele, vibes  
DAVE GANNETT tuba  
ORLANDO SANCHEZ percussion

Record label: AppleJazz Records  
catalog # AJCD0595

Produced by Charlie Bertini  
Recorded at Phat Planet  
Recording Studio, Orlando, FL  
3/2000

PRICE: \$15 [ORDER](#)

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Featured Holiday Albums!!!

CHRISTMAS COOKIES



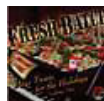
This unique recording features Charlie Bertini's sparkling trumpet and silky flugelhorn, Randy Morris' amazing piano artistry, and Dave Gannett's legendary tuba playing on some refreshing arrangements of holiday classics. Joined by Renee Dover on violin and Eddie Metz on drums, these Christmas treats will never sound sweeter. Rapidly becoming a classic recording for the Arbors Records label, this will be an album that never leaves your playlist at Christmastime... [\[More\]](#)

**Christmas Cookies**  
Record label: Arbors Records, Inc.  
catalog # ARCD19122

Produced by Charlie Bertini  
Recorded at YRS Studios, Orlando, FL 12/92

PRICE: \$15 [ORDER](#)

FRESH BATCH



When Mat Domber asked us to record a sequel to CHRISTMAS COOKIES, Randy Morris, Dave Gannett and I began compiling a list of songs we'd like to play. Thinking "There can't be that many tunes left" (we recorded 20 on Volume One), we came up with 26 more titles! Narrowing our selections down to 17, we began working on how we would arrange and present this Fresh Batch. Each of us took on a group of songs... [\[More\]](#)

**Fresh Batch**  
Record label: Arbors Records  
catalog # ARCD19201

Produced by Charlie Bertini  
Recorded at PARC Studios, Altamonte Springs, FL  
December 8 & 9. 1997

PRICE: \$15 [ORDER](#)



JOHN ALLRED  
[Focused](#)



ALLAN VACHE /  
WARREN VACHE  
[Mrs. Vache's Boys](#)



CHARLIE BERTINI  
[Out of Season](#)



TERRY MYERS  
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Orchestra](#)



EDDIE METZ  
[Tough Assignment](#)



BILL ALLRED'S  
CLASSIC JAZZ  
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FEATURED ALBUM:

## HEAD TO HEAD

Jazz writer Matt Schudel of the South Florida Sun-Sentinel best sums up this recording:

*"Still in their 30's, John Allred and Wycliffe Gordon may just be the next great trombone team. They combine youth and experience to bring both a fresh eye to the music and a healthy respect for the mainstream jazz tradition. The melodies may be familiar, but the performances are continually challenging, exciting and deeply felt. Once you've listened to this CD once, the best thing to do is go back and listen to it again, all the way from the start. This time, notice that extra something that only the finest musicians can give their music. Young veterans of jazz, Allred and Gordon are among the most skilled performers on the unwieldy and oft-maligned trombone. But, in the proper hands, the trombone can be an instrument of almost infinite expression and beauty."*

JOHN ALLRED trombone  
WYCLIFFE GORDON trombone  
JOHN SHERIDAN piano  
CHARLIE SILVA bass  
EDDIE METZ drums, percussion

Record label: Arbors Records  
catalog # ARCD19261

Produced by Charlie Bertini and John Allred

Recorded at Lone Pine Studios,  
Orlando, FL December 2001

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### HOT JAZZ PICKS



HERB BRUCE  
[Herbicide](#)



BILL ALLRED'S CLASSIC  
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RANDY PURCELL  
[Bootlegs](#)



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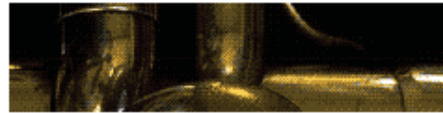
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AppleJazz 2001 Photo Gallery

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The AppleJazz Band 2001!

Charlie Bertini



Dick Chave



Charlie Bertini



Ronnie France



Exhibit 70 p14



Dave Hanlon



John Kane/Jamie Yaman



John Kane

**Exhibit 70 p15**



John Kane/Jamie Yaman



Ronnie Leigh



Jeff Phillips



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Featured Album: [The Classic Swing Collection](#)  
[\[Order\]](#)

Artist: Bill Allred's Classic Jazz Band

*"You won't believe your ears!"*

- Audio Fidelity

Hot Jazz Picks: please select an album

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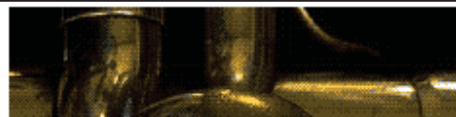
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### AppleJazz Events: The AppleJazz Festival

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- |               |                |
|---------------|----------------|
| Dave Gannett  | John Allred    |
| Larry Arlotta | Billy Dicosimo |
| Ronnie Leigh  | Ava Andrews    |
| Dave Hanlon   | Bill Allred    |
| Ronnie France | Jeff Phillips  |
| Dick Chave    | Nick Palumbo   |
| Joe Whiting   | Dick Ames      |
| Tom Rau       | John Kane      |
| Marvin Stamm  | Mark Doyle     |

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### *AppleJazz Events: The AppleJazz Festival*

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Dave Hanlon	Bill Allred
Ronnie France	Jeff Phillips
Dick Chave	Nick Palumbo
Joe Whiting	Dick Ames
Tom Rau	John Kane
Marvin Stamm	Mark Doyle

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Ronnie Leigh	Ava Andrews
Dave Hanlon	Bill Allred
Ronnie France	Jeff Phillips
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**Thanks for making AppleJazz 2004 a great success!**

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photos by Tom Haskell

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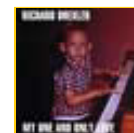
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Throughout the Jazz and Dixieland festival circuit, many fine bands have similar recordings. The fact that these groups have limited or no distribution gave us the idea to include their CDs on this web site as well as our mailing list. **AppleJazz Records** is dedicated to these groups and their listeners, who often have difficulty locating these artists and their recordings.

**Charlie Bertini** is the executive director of the annual AppleJazz Festival held in upstate NY. He has played in 45 states, Europe, and China. As a teacher and clinician he has led workshops and lectures at high schools and universities and instructs periodically at the University of Central Florida and Seminole Community

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[This year's concert](#) will be held on June 3, 2006, at our original location, The Pavilion at Dwyer Memorial Park in Little York (Preble), New York. Whether you prefer a seat away from the stage or wish to be within handshaking distance of the AppleJazz musicians, this is an event you won't want to miss.

[Click here](#) for tickets and more information.

Some of the artists who have appeared at AppleJazz are:

Patrick Ahearn	Dave Gannett
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John Allred	Bill Harris
Ava Andrews	Tom Haskell
Larry Arlotta	John Kane
Loren Barrigar	Ronnie Leigh
Bear Cat Jazz Band	Will Lessard
Charlie Bertini	Dino Losito
Dick Chave	Linda Mironti
Cortland High Jazz Band	Nick Palumbo Quintet
Cortland High Jazz Choir	Jeff Phillips
Gabe Cummins	Tom Rau
Peter Dean	Jim Reagan
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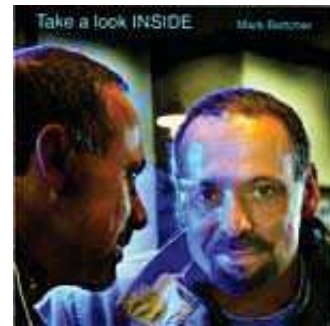
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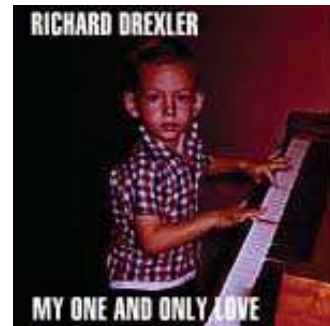
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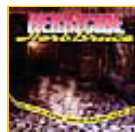
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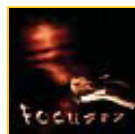
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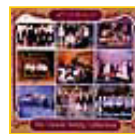
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Charlie Bertini	Dino Losito
Dick Chave	Linda Mironti
Cortland High Jazz Band	Nick Palumbo Quintet
Cortland High Jazz Choir	Jeff Phillips
Gabe Cummins	Tom Rau
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#### Alone Together

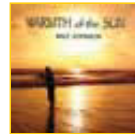
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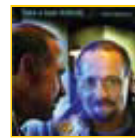
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[Warmth of the Sun](#)



[Take a Look Inside](#)



[Encore](#)



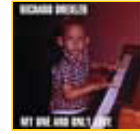
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[Straight Ahead](#)



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**AppleJazz Records** began with promoting the recordings of the "AppleJazz Band", a festival band that performs once a year at the AppleJazz Festival in upstate New York. This concert is recorded "live" each year, and much of the recorded material is well worth releasing. The "AppleJazz" label was formed to manufacture the CDs and cassettes to be sold at The AppleJazz Festival and other similar festivals across the US. By keeping costs low and applying a great attention to detail and the artistry behind the music, AppleJazz has been able to provide unique, emotional recordings of these and other independent jazz artists.

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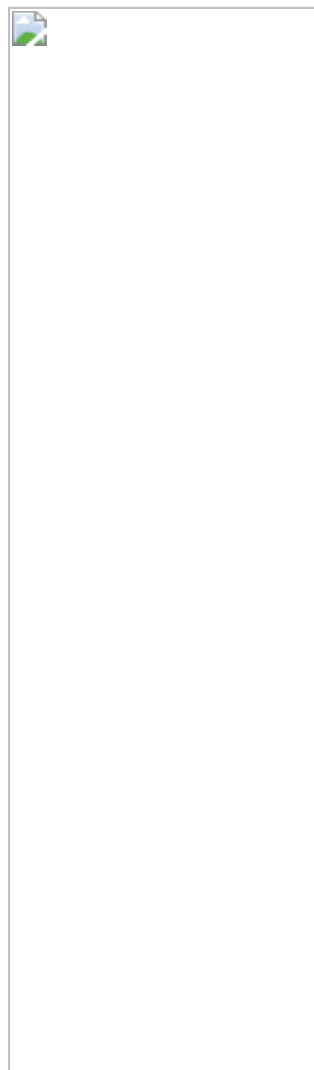
We feature such artists as Charlie Bertini, Bill Allred's Classic Jazz Band, Herb Bruce, John Allred, Terry Myers, Eddie Metz, Marvin Stamm and Alan Vaché along with a whole host of other incredibly talented jazz musicians.

**AppleJazz 2007**  
**Tickets are**  
**SOLD OUT!**

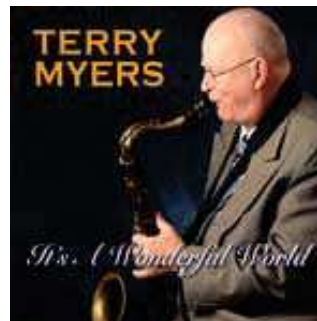
**Get More Info on the**  
**AppleJazz Festival**

(Get AppleJazz Hotel  
Information)

**Featured AppleJazz**  
**Albums**



New Releases



**It's a Wonderful World**

# Exhibit 70 p36

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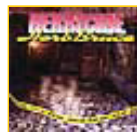
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[Alone Together](#)

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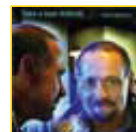
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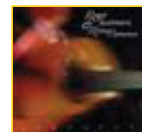
[Herbicide](#)



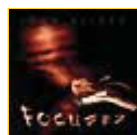
[Warmth of the Sun](#)



[Take a Look Inside](#)



[Encore](#)



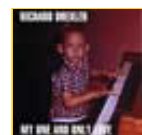
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[Straight Ahead](#)



[The Jazz Connection](#)



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## Exhibit 70 p37

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**[Just One of Those Things](#)**  
Rob Parton

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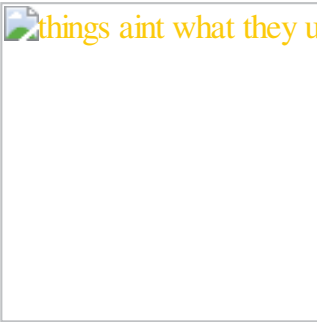
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Bill Payne & Connie Crothers

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## Plays Well With Others

Wayne Bergeron

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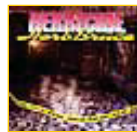


## Classic Performances

Charlie Bertini's  
AppleJazz Band

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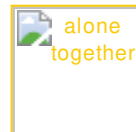
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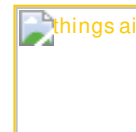
[Herbicide](#)



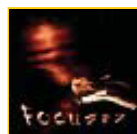
[Warmth of the Sun](#)



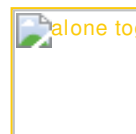
[Campin' Out](#)



[Things Aint What They Used to Be](#)



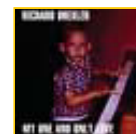
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## Exhibit 70 p41

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Rob Parton

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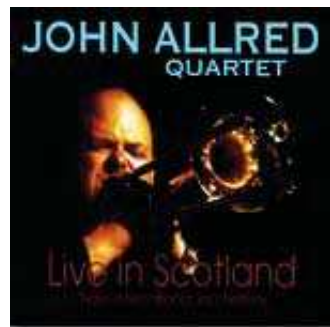
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## Conversations

Bill Payne & Connie Crothers

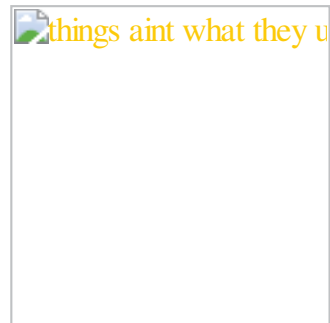
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## Live in Scotland

John Allred

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## Coliseum Square

Jim Snyder

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## Plays Well With Others

Wayne Bergeron

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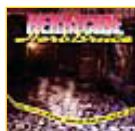


## Classic Performances

Charlie Bertini's  
AppleJazz Band

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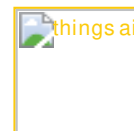
[Herbicide](#)



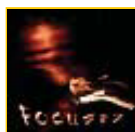
[Warmth of the Sun](#)



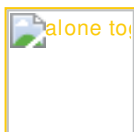
[Campin' Out](#)



[Things Aint What They Used to Be](#)



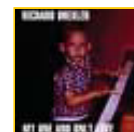
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[It's a Wonderful World](#)



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### Can You Hear It

Lauren-Jessica Bertini

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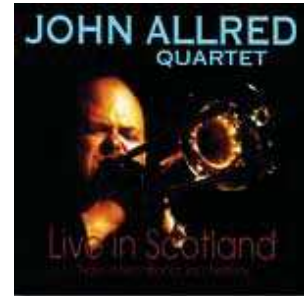
alone together

### Just One of Those Things

Rob Parton

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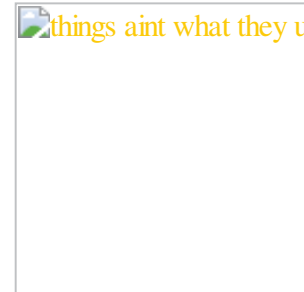
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John Allred

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[Coliseum Square](#)

Jim Snyder

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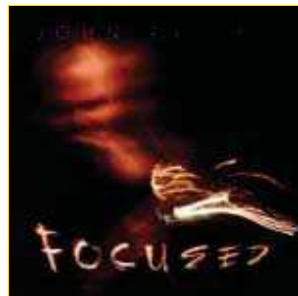


[Plays Well With Others](#)

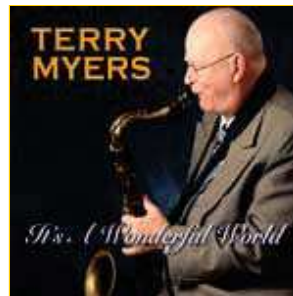
Wayne Bergeron

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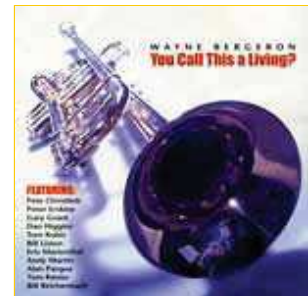
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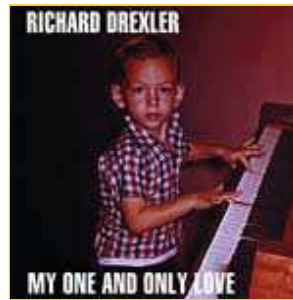
[You Call This a Living?](#)



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[Things Aint What They Used To Be](#)



[My One and Only Love](#)



[Classic Performances](#)

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## Featured AppleJazz Albums



[Can You Hear It](#)

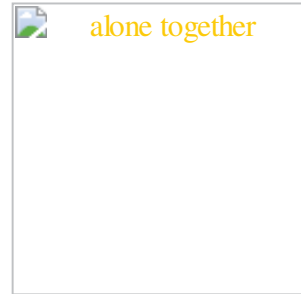
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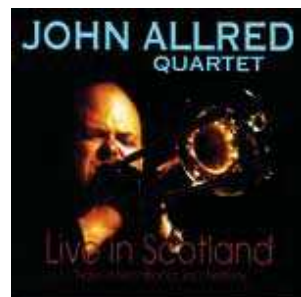
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[Live in Scotland](#)

John Allred

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[Coliseum Square](#)

Jim Snyder

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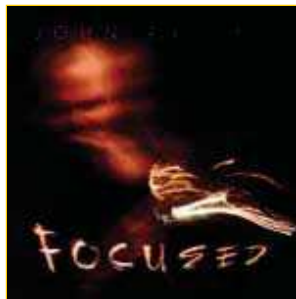


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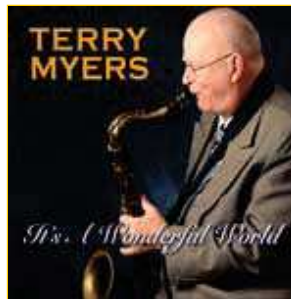
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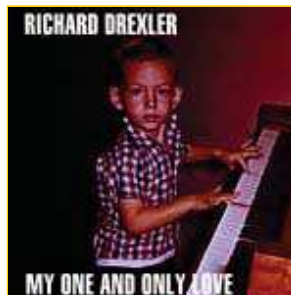
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**Exhibit 70 p51**

in upstate New York. This concert is recorded "live" each year, and much of the recorded material is well worth releasing. The "AppleJazz" label was formed to manufacture the CDs and cassettes to be sold at The AppleJazz Festival and other similar festivals across the US. By keeping costs low and applying a great attention to detail and the artistry behind the music, AppleJazz has been able to provide unique, emotional recordings of these and other independent jazz artists.

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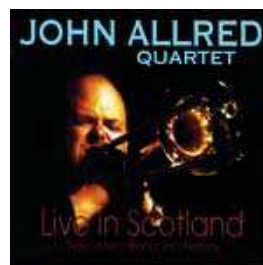
### Featured AppleJazz Albums

**Exhibit 70 p52**

### Hot New Releases

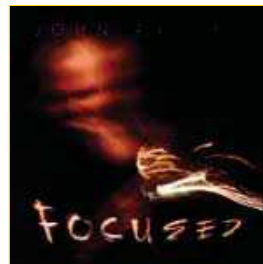


Get John Allred's solo transcriptions [HERE!](#)



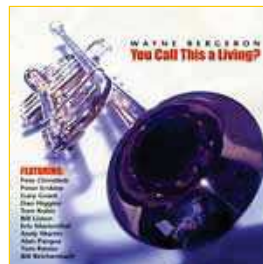
Live in Scotland

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Focused

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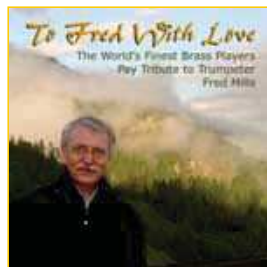


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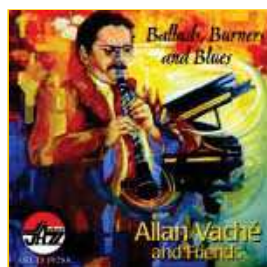
[Elizabeth Gerberding](#)



[Plays Well With Others](#)



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[Classic Jazz Duets](#)

**AppleJazz Records** began with promoting the recordings of the "AppleJazz Band", a festival band that performs once a year at the AppleJazz Festival in upstate New York. This concert is recorded "live" each year, and much of the recorded material is well worth releasing. The "AppleJazz" label was formed to manufacture the CDs and cassettes to be sold at The AppleJazz Festival and other similar festivals across the US. By keeping costs low and applying a great attention to detail and the artistry behind the music, AppleJazz has been able to provide unique, emotional recordings

Throughout the Jazz and Dixieland festival circuit, many fine bands have similar recordings. The fact that these groups have limited or no distribution gave us the idea to include their CDs on this web site as well as our mailing list. **AppleJazz Records** is dedicated to these groups and their listeners, who often have difficulty locating these artists and their recordings.

[Charlie Bertini](#) is the executive director of the annual AppleJazz Festival held in upstate NY. He has played in 45 states, Europe, and China. As a teacher and clinician he has led workshops and lectures at high schools and universities and instructs periodically at the University of Central Florida and Seminole Community College. Still based in Orlando, Charlie enjoys a variety of musical settings and challenges and continues to be one of the most versatile and respected trumpeters in the industry.

If you need any additional information, please contact us at [info@applejazz.com](mailto:info@applejazz.com)

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We offer online sales of Jazz, Big Band, and Swing Albums and CDs, with unique, emotional recordings of independent jazz artists, as well as merchandise for the jazz enthusiast.

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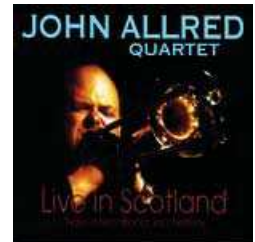
### Featured AppleJazz Albums

# Exhibit 70 p54

### Hot New Releases

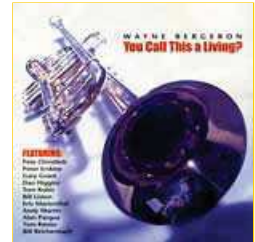


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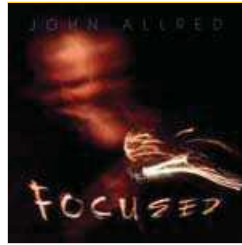
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# Exhibit 70 p55

[Elizabeth Gerberding](#)



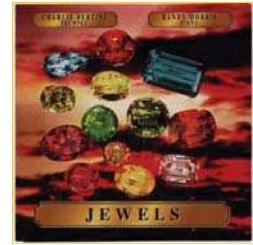
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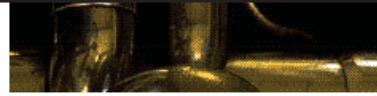
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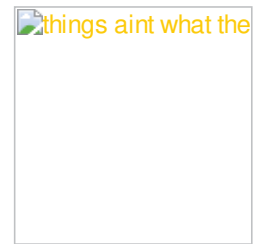
### Featured AppleJazz Albums

**Exhibit 70 p56**

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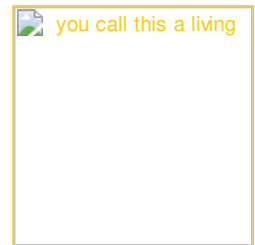


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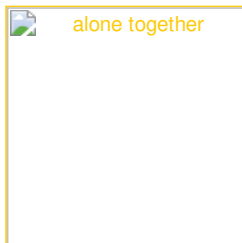


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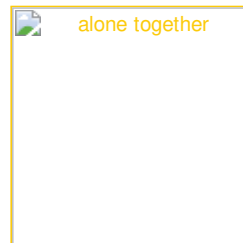
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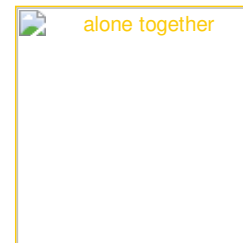
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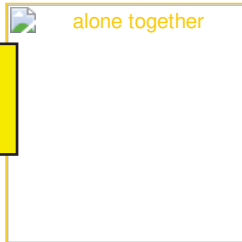
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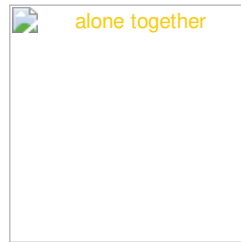
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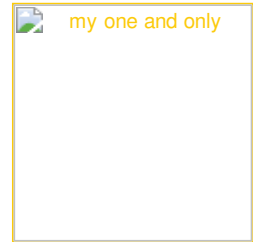
# Exhibit 70 p57



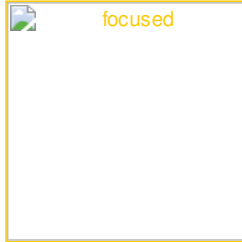
[Elizabeth Gerberding](#)



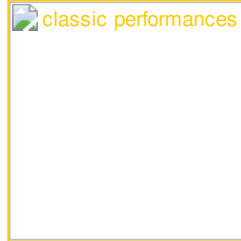
[Plays Well With Others](#)



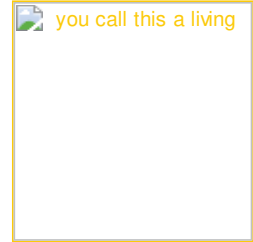
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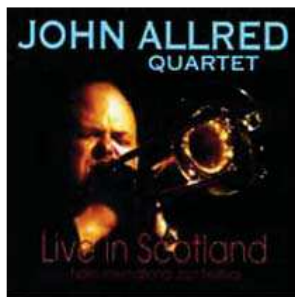




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## Welcome to AppleJazz



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John Allred Quartet  
Live in Scotland

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## AppleJazz Festival Information

- [Letter from Charlie about the Final AppleJazz Festival](#)
- APPLEJAZZ IS SOLD OUT!  
Thanks to everyone for all of your support for the past 30 years.

We offer online sales of Jazz, Big Band, and Swing Albums and CDs, with unique, emotional recordings of independent jazz artists, as well as merchandise for the jazz enthusiast.

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If you need any additional information, please contact us at [info@applejazz.com](mailto:info@applejazz.com)

## Featured AppleJazz Albums



### CHLOE

Orlando Jazz Orchestra

[Check it out](#)



### TO FRED WITH LOVE

2-disc set

[Check it out](#)



### TRIOLOGY

Charlie Bertini

[Check it out](#)



### LIVE AT APPLEJAZZ

Ronnie Leigh

[Check it out](#)



### PLAYS WELL WITH OTHERS

Wayne Bergeron

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## CLASSIC PERFORMANCES



Charlie Bertini's AppleJazz Band

[Check it out](#)



### FOCUSED

John Allred

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### CAN YOU HEAR IT

Lauren-Jessica Bertini

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### JEWELS

Charlie Bertini

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<http://applejazz.com/future-concerts.htm>

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## Welcome to AppleJazz Future Concerts

AppleJazz is happy and proud to be able to sponsor several events throughout the year to encourage and promote the exhibition and sale of jazz music throughout the country. A couple of these events are listed below:

[Win-Gate Village Clubhouse Concert](#)

If you would like more information about holding or promoting an AppleJazz event, please contact us at: [events@applejazz.com](mailto:events@applejazz.com).

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AppleJazz Records has been producing concerts since 1984. We are committed to creating memorable and unique concerts that will suit your needs. We have dedicated ourselves to making concerts into events – not just the music, but providing the atmosphere that makes your concert into a multi-sensory experience.

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## Welcome to AppleJazz



## Featured AppleJazz Albums

**LIVE & UNPLUGGED!**  
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**CHLOE**  
 Orlando Jazz Orchestra  
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**TO FRED WITH LOVE**  
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**TRIOLOGY**  
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 Ronnie Leigh  
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Wayne Bergeron  
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**CLASSIC PERFORMANCES**  
 Charlie Bertini's AppleJazz Band  
[Check it out](#)

**FOCUSED**  
 John Allred  
[Check it out](#)

**CAN YOU HEAR IT**  
 Lauren-Jessica Bertini  
[Check it out](#)

**JEWELS**  
 Charlie Bertini  
[Check it out](#)

Thanks to all of our family and friends who have made the AppleJazz Festival a success for 30 years! It was a great celebration!

Watch for the AppleJazz Band making an appearance near you sometime soon!

**Holiday special, purchase Christmas Cookies and Fresh Batch for \$10.00 each**

[Click an album to purchase](#)

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[Syracuse Jazz Fest](#)

[Win-Gate Village Clubhouse Concert](#)

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## Recording Evaluation

Already have your project recorded and mixed? We provide an evaluation service that can take your mixes to a higher level before you go to mastering and manufacturing.

We listen to your mixes and make meticulous notes on balance, EQ, panning, levels, editing, song order, and overall presentation. This is done on a song-by-song basis. Our notes will be sent to you, and you may take these notes to your mix engineer for your revisions.

THEN you will be ready to go to mastering with a better and smoother musical project, saving you money in the mastering studio and resulting in a higher level of sonic quality for your recording.

Please email or call us to discuss your project. We'd be happy to help make your tracks the best they can be!

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## Recording Production

With over 90 recordings as producer to his credit, Charlie Bertini can help make your recording into a first class production. Charlie and AppleJazz Records have a reputation for organization, licensing knowledge, studio savvy, people skills, budget preparation, artwork layout, musical knowledge, and conducting musical groups and ensembles.

Whether you need a producer to oversee your entire project from beginning to end, or just someone to make some suggestions for your project, we can help you at any level of production.

No job is too large or too small. We realize that recording is a personal endeavor and something that lasts forever. We can help make yours be the best it can be.

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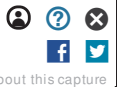
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### Wingate Clubhouse concert featuring TRI OLOGY

Join us for another fund-raiser concert at the Clubhouse. We have been providing live jazz concerts at Wingate since 2009!  
 The concert is Saturday March 12, 2016 at 7:00pm.

[Click here to purchase tickets for Win-Gate Village Clubhouse Concert](#)

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## Welcome to AppleJazz



New Release  
John Allred & Charlie Bertini  
LIVE & UNPLUGGED!

[Click for more info](#)

## Featured Albums



### FULL CIRCLE

Wayne Bergeron  
[Check it out](#)



### LIVE & UNPLUGGED!

John Allred & Charlie Bertini  
[Check it out](#)



### CHLOE

Orlando Jazz Orchestra  
[Check it out](#)



### TO FRED WITH LOVE

2-disc set  
[Check it out](#)



### TRIOLOGY

Charlie Bertini  
[Check it out](#)

### LIVE AT APPLEJAZZ



Ronnie Leigh  
[Check it out](#)

### PLAYS WELL WITH OTHERS

Wayne Bergeron  
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### CLASSIC PERFORMANCES

Charlie Bertini's AppleJazz Band  
[Check it out](#)



### FOCUSED

John Allred  
[Check it out](#)

### JEWELS

Charlie Bertini  
[Check it out](#)



### AppleJazz Band Final Festival Now on DVD & Blu-ray

To learn more and purchase...  
[click here](#)



We had an absolute blast performing for the Syracuse Jazz Fest on July 17 and 18, 2015. The AppleJazz Band took the stage on Friday night to an enthusiastic but rainy crowd. Click here for the album of amazing photos taken by Sandy Roe:

<https://www.facebook.com/pages/AppleJazz-Records/423468081107072>

Then on Saturday, five of the AJZ members played in Aretha Franklin's band: Charlie Bertini, John Allred, Terry Myers, Andy Calabrese and Mark Doyle. The Queen of Soul was in top form and sang for 90 minutes to a crowd of 40,000 fans on a beautiful summer night. What a honor it was to be a member of her band! Thanks to Frank Malfitano for inviting us to perform at Syracuse Jazz Fest 2015

We offer online sales of Jazz, Big Band, and Swing Albums and CDs, with unique, emotional recordings of independent jazz artists, as well as merchandise for the jazz enthusiast.



We feature such artists as Charlie Bertini, Bill Allred's Classic Jazz Band, John Allred, Terry Myers, Eddie Metz, Marvin Stamm and Allan VachÃ© along with a whole host of other incredibly talented jazz musicians.

AppleJazz Records began with promoting the recordings of the "AppleJazz Band", a festival band that performs once a year at the AppleJazz Festival in upstate New York. This concert is recorded "live" each year, and much of the recorded material is well worth releasing. The "AppleJazz" label was formed to manufacture CDs to be sold at The AppleJazz Festival and other similar festivals across the US. By keeping costs low and applying a great attention to detail and the artistry behind the music, AppleJazz has been able to provide unique, emotional recordings.

Throughout the Jazz and Dixieland festival circuit, many fine bands have similar recordings. The fact that these groups have limited or no distribution gave us the idea to include their CDs on this web site as well as our mailing list. AppleJazz Records is dedicated to these groups and their listeners, who often have difficulty locating these artists and their recordings.

Charlie Bertini is the executive director of the annual AppleJazz Festival held in upstate NY. He has played in 45 states, Europe, and China. As a teacher and clinician he has led workshops and lectures at high schools and universities and instructs periodically at the University of Central Florida and Seminole State College. Still based in Orlando, Charlie enjoys a variety of musical settings and challenges and continues to be one of the most versatile and respected trumpeters in the industry.

If you need any additional information, please contact us at [info@applejazz.com](mailto:info@applejazz.com)



**Exhibit 70 p73**

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http://applerecords.com/  OCT NOV MAR  
27  
1998 1999 2002  
348 captures  
27 Nov 1999 - 27 Jan 2018  
About this capture

**Exhibit 71 p1**



ClassicLabelRecords.com



http://applerecords.com:80/home.html  MAR JUN JUL  
 4 captures 27 Nov 1999 - 16 Jun 2000 1999 **16** 2000 2001

welcome to  
ClassicLabel

# ClassicLabelRecords.com

[email:Webmaster@ClassicLabelRecords.com](mailto:Webmaster@ClassicLabelRecords.com)



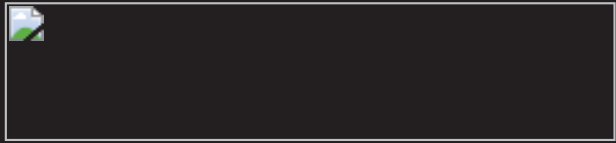
## home page

**Exhibit 71 p2**

- [home page](#)
- [music search](#)
- [MP3 players](#)
- [MP3 music](#)
- [cd players](#)
- [computers](#)
- [instruments](#)
- [register domain](#)
- [books](#)
- [electronics](#)
- [movies](#)
- [comments and suggestions](#)

*ClassicLabelRecords.com is not related to any other record company*

*We are the smallest record company on the planet*



[MusicNewsDaily.com](#)

[search for popular music CD's](#)

### site top sellers

<a href="#">Brokedown Palace Music from the Original Motion Picture Soundtrack</a>	<a href="#">Bob Marley</a>	<a href="#">Steely Dan</a>	<a href="#">Two Against Nature</a>
		<a href="#">Joni Mitchell</a>	<a href="#">Both Sides Now</a>

### Sam's top 3 cd picks

[ClassicLabelRecords.com Artist List](#)

[mp3 players from \\$0 \(after rebate\)](#)

[MP3 music search](#)

[cd players](#)

*dirt cheap computers*

*insruments & supplies online*

**Exhibit 71 p3**

*browse books about music business*

*register your band's domain name (i.e. SampleRecords.com)*

*rock and roll movies*

*tell us what you think*

[AppleRecords.com](#)

[IslandRecords.com](#)

[MaverickRecords.com](#)

[PaisleyParkRecords.com](#)

[RepriseRecords.com](#)

[SwanSongRecords.com](#)

**Hosted by USANow.net**

# Exhibit 71 p4

Loadi ng. . .

ht t p : // a p p l e r e c o r d s . c o m |  
04: 41: 46 Febr u a r y 12, 2002

Got an HTTP 302 response at crawl time

Redi r e c t i n g t o . . .

ht t p : // w w w . m u s i c n e w s d a i l y . c o m

[Impatient?](#)

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The Wayback Machine is an initiative of the [Internet Archive](#), a 501(c)(3) non-profit, building a digital library of Internet sites and other cultural artifacts in digital form. Other [projects](#) include [Open Library](#) & [archive-it.org](#).

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# Exhibit 71 p5

Loadi ng . . .

ht t p : // a p p l e r e c o r d s . c o m |  
07: 05: 54 O c t o b e r 23, 2007

Got an HTTP 302 response at crawl time

Redi r e c t i n g t o . . .

ht t p : // w w w . a p p l e c o r p s l t d . c o m

[Impatient?](#)

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The Wayback Machine is an initiative of the [Internet Archive](#), a 501(c)(3) non-profit, building a digital library of Internet sites and other cultural artifacts in digital form. Other [projects](#) include [Open Library](#) & [archive-it.org](#).

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http://applerecords.com/

Go

OCT SEP JUL

14

2007 2009 2010



348 captures

27 Nov 1999 - 27 Jan 2018

About this capture

# Welcome to applerecords.com

**Exhibit 71 p6**

## Related Searches

- The Beatles Discography
- Beatles Pic
- All Beatles Albums
- Paul Mccartney Heather Mills
- Beatles Collectible
- Beatles Music
- Submarine Beatles
- The Beatles With The Beatles
- Beatles Songs
- Beatles Chords
- Beatles Dolls



## Related Searches:

- Desktop Computer
- Cheap Desktop
- Desktop PC
- Gaming Desktop



http://www.thebeatles.com:80/

Go

FEB MAR MAY

◀ 02 ▶

1999 2000 2001



[3,372 captures](#)

2 Mar 2000 - 7 Mar 2018

▼ About this capture

# Home Page for Apple Corps Ltd

This is a placeholder page only for Apple Corps Ltd. This site is not live at this time.

Web and domain administrative e-mail **only** to [postmaster@applecorpsltd.com](mailto:postmaster@applecorpsltd.com).

Please note that this is **not** a general AppleCorps mailbox.

**Exhibit 73 p1**

http://www.thebeatles.com:80/

Go

JUN DEC MAR

◀ 01 ▶

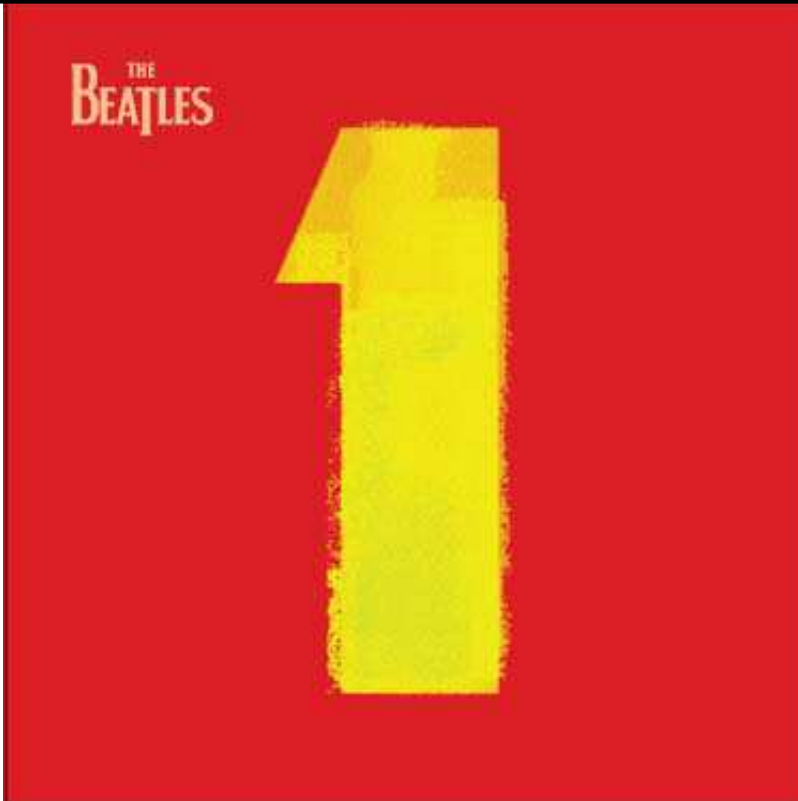
1999 2000 2002



[3,372 captures](#)

2 Mar 2000 - 7 Mar 2018

▼ About this capture



**The site opens on the 13th November**  
Download [Shockwave](#) and [Quicktime](#) to get ready  
Download thebeatles.com preview screensaver for PC and Mac

**Exhibit 73 p2**

http://www.thebeatles.com

Go

DEC

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APR



**01**



2000

**2001**

2002



**3,436 captures**

2 Mar 2000 - 14 Mar 2018

▼ About this capture

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**Exhibit 73 p3**

http://www.thebeatles.com  SEP NOV JAN  
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3,436 captures  
2 Mar 2000 - 14 Mar 2018  
About this capture

# THE BEATLES



The Beatles  
1 Website



Register with  
Beatles.com



**Exhibit 73 p4**

http://www.thebeatles.com

Go

FEB

MAR

APR



20



2002

2003

2004



[3,436 captures](#)

2 Mar 2000 - 14 Mar 2018

About this capture

**Exhibit 73 p5**

# THE BEATLES

A N T H O L O G Y

http://www.thebeatles.com

Go

MAY

**JUN**

JUL



**23**



2003

**2004**

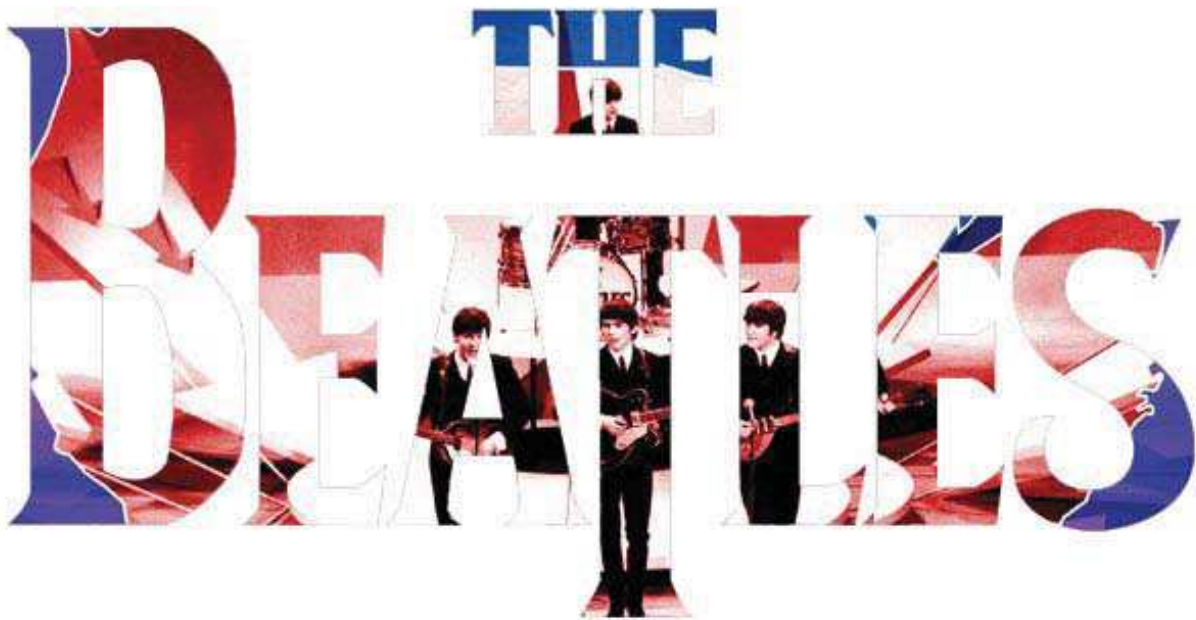
2005

About this capture

[3,436 captures](#)

2 Mar 2000 - 14 Mar 2018

**Exhibit 73 p6**



LET IT BE..NAKED

**1**

ANTHOLOGY DVD

REGISTER

LINKS

# Search Results



## 30th January, 1969 - The Beatles' Final Live Performance, On The Rooftop Of Apple Records

NEWS 0 3

The Beatles had wild discussions of a Let It Be climax live performance anywhere from the QE2 to the Pyramids, but in the end they decided on what became their infamous final gig - a surprise performance on the roof of the Apple Records building at Savile Row.

Click through to watch Don't Let Me Down.

READ MORE



Come And Get It: The Best of Apple Records

**Exhibit 74**



# Apple Records

**Exhibit 78 p1**

**Apple Records** is a record label founded by the Beatles in 1968, as a division of Apple Corps Ltd. It was initially intended as a creative outlet for the Beatles, both as a group and individually, plus a selection of other artists including Mary Hopkin, James Taylor, Badfinger, and Billy Preston. In practice, by the mid-1970s, the roster had become dominated with releases by the former Beatles as solo artists. Allen Klein managed the label from 1969 to 1973. It was then managed by Neil Aspinall on behalf of the four Beatles and their heirs. Aspinall retired in 2007, being replaced by Jeff Jones.

## Apple Records



<b>Parent company</b>	Apple Corps
<b>Founded</b>	1968
<b>Founder</b>	The Beatles
<b>Distributor(s)</b>	Capitol Records · Universal Music Group
<b>Genre</b>	Rock · pop · experimental · Indian · classical
<b>Country of origin</b>	United Kingdom
<b>Official website</b>	www.applerecords.com (http://www.applerecords.com)

## Contents

### History

1967–69: Early years

1969–73: Klein era

1973–2007: Aspinall era, Beatles reissues

2007–present: Jones era, iTunes reissues

### Design

### Zapple Records

### Artists who signed with Apple Records

### Discography

### See also

### Notes

### References

### External links

## History

### 1967–69: Early years

Apple Corps Ltd was conceived by the Beatles by 1967, after the death of their manager Brian Epstein; the first project the band released after forming the company was their film *Magical Mystery Tour*, which was produced under the Apple Films division. Apple Records was officially founded by the group after their



return from India in 1968, as another sub-division of Apple Corps, which was established as a small group of companies (Apple Retail, Apple Publishing, Apple Electronics and so on), as part of Epstein's plan to create a tax-effective business structure.<sup>[1]</sup>

At this time, the Beatles were contracted to EMI's Parlophone label in the United Kingdom, and to Capitol Records in the United States. In a new distribution deal, EMI and Capitol agreed to distribute Apple Records until 1975, while EMI retained ownership of the Beatles' recordings. Beatles recordings issued in the United Kingdom on the Apple label carried Parlophone catalogue numbers, while US issues carried Capitol catalogue numbers. Apple Records owns the rights to all of the Beatles' videos and movie clips, and the rights to recordings of other artists signed to the label. The first catalogue number, Apple 1, was a one-off pressing of Frank Sinatra singing "Maureen Is a Champ" (with lyrics by Sammy Cahn) to the melody of "The Lady Is a Tramp" for Ringo Starr's then wife Maureen. BeatlesandBeyond Radio presenter Pete Dicks reports that the title is actually "Lady is a Champ"; it was a surprise gift for Maureen's 21st birthday.

Initially, Apple Records and Apple Publishing signed a number of acts whom the Beatles personally discovered or supported, and in most cases, one or more of the Beatles would be involved in the recording sessions. Several notable artists were signed in the first year, including James Taylor, Mary Hopkin, Billy Preston, the Modern Jazz Quartet, the Iveys (who later became Badfinger), Doris Troy, and former Liverpool singer Jackie Lomax who recorded George Harrison's "Sour Milk Sea".<sup>[2]</sup>

## Exhibit 78 p2

### 1969–73: Klein era

In 1969, the Beatles were in need of financial and managerial direction, and John Lennon was approached by Allen Klein, manager of the Rolling Stones at the time.<sup>[3]</sup> Klein went on to manage Apple, by virtue of his three-to-one support from the Beatles, Paul McCartney being the only group member opposed to his involvement. McCartney had suggested his then new father-in-law Lee Eastman for the job.

After Klein took control of Apple, several sub-divisions, including Apple Electronics, were shut down, and some of Apple Records' artistic roster effectively dropped. New signings to the label were thereafter not so numerous, and tended to arrive through the individual actions of ex-Beatles, with the formal approval of the others (e.g., Elephant's Memory were recruited through Lennon, and Ravi Shankar through Harrison). McCartney had little input into Apple Records' roster after 1970. Klein managed Apple Corp. until March 1973, when his contract expired.

In May 1971, the Beatles' entire pre-Apple catalogue on the American Capitol label (the singles from "I Want to Hold Your Hand" to "Lady Madonna", and the albums from Meet the Beatles! to Magical Mystery Tour) was re-issued on the Apple label, although the album covers remained unchanged with the Capitol logos.

### 1973–2007: Aspinall era, Beatles reissues

After Klein's departure, Apple was managed by Neil Aspinall on behalf of the four Beatles and their heirs. Apple Records' distribution contract with EMI expired in 1976, when control of the Beatles' catalogue—including solo recordings to date by George Harrison, John Lennon and Ringo Starr—reverted to EMI (Paul McCartney had acquired ownership of his solo recordings when he re-signed with Capitol in 1975).<sup>[4]</sup>

The original UK versions of the Beatles' albums were released worldwide on compact disc in 1987 and 1988 on the Parlophone label. Previously, *Abbey Road* had been issued on CD by the EMI-Odeon label in Japan in the early 1980s. Although this was a legitimate release, it was not authorised by the Beatles, EMI or Apple Corps. Following the settlement of Apple's ten-year lawsuit against EMI in 1989, new projects began to move forward, including the *Live at the BBC* album and *The Beatles Anthology* series. It was after the *Anthology* project (spearheaded by Neil Aspinall) that the company resumed making significantly large profits again and began its revival.

The label was again newsworthy in 2006, as the long-running dispute between Apple Records' parent company and Apple Inc. went to the High Court (see *Apple Corps v Apple Computer*).

## 2007–present: Jones era, iTunes reissues

## Exhibit 78 p3

In 2007, Apple Records settled a dispute with EMI over the rights to the catalogue. Longtime chief executive Neil Aspinall had retired and been replaced by American music industry executive Jeff Jones.<sup>[5]</sup> These changes led to speculation that the Apple Records catalogue—and most importantly the Beatles discography—would soon appear on Apple Inc.'s iTunes online music store,<sup>[6]</sup> and that a remastering and reissue program of the Beatles' CDs might be forthcoming (Jones having worked on reissues at Sony).<sup>[5]</sup> On 1 July 2010, it was reported that Capitol Records was planning a re-release strategy for most of Apple's back catalogue.<sup>[7]</sup> This was to include re-releases of material by artists who worked at Apple including Badfinger, James Taylor, Billy Preston and Mary Hopkin. On 16 November 2010, Apple Inc. launched an extensive advertising campaign that announced the availability of the Beatles' entire catalogue on iTunes.<sup>[8]</sup> When Universal Music Group acquired EMI and the Beatles' recorded music catalogue, Calderstone Productions was formed in 2012 to administer the Beatles' catalogue.

## Design

Standard Apple album and single labels displayed a bright green Granny Smith apple on the A-side, while the flipside displayed the cross section of the apple. The bright green apple returned for Beatles CDs releases in the 1990s, following initial CD releases on Parlophone.

On the US issue of the Beatles' *Let It Be* album, the Granny Smith apple was red. The reason was that in the United States that album, being the soundtrack to the movie of the same name, was, for contractual reasons, being manufactured and distributed by United Artists Records and not Capitol Records, so the red apple was used to mark the difference. The red apple also appeared on the back cover, and on the 2009 remastered edition back cover. Capitol's parent company EMI purchased United Artists Records in the late 1970s, and Capitol gained the American rights to the *Let It Be* soundtrack album (along with the American rights to another, earlier, United Artists Beatles movie soundtrack LP, 1964's *A Hard Day's Night*).



German release of the lveys' album *Maybe Tomorrow*

Aside from the red apple, other examples in which the apple has been altered include George Harrison's album *All Things Must Pass* triple album, on which the first two discs have orange apples while the third has a jar label reading *Apple Jam*; black and white apples on John Lennon's album *John Lennon/Plastic Ono Band* and Yoko Ono's album *Yoko Ono/Plastic Ono Band*; a blue apple on Ringo Starr's single "Back Off Boogaloo"; Harrison's album *Extra Texture (Read All About It)*, on which the apple (in shrunken cartoon form) is eaten away at its core (this was intended to be a joke because it was released at a time when Apple Records was beginning to fold); and a red apple on Starr's compilation album *Blast from Your Past*. Other types of apples were also used: in 1971, for Lennon's *Imagine* and Ono's *Fly*, the apples respectively featured pictures of Lennon and Ono, as did the apples for Ono's 1973 *Approximately Infinite Universe* and the singles that were released from these three albums.

## Exhibit 78 p4

## Zapple Records

**Zapple Records**, an Apple Records subsidiary run by Barry Miles, a friend of McCartney, was intended as an outlet for the release of spoken word and avant-garde records, as a budget label.<sup>[9]</sup> It was active only from 3 February 1969<sup>[10]</sup> until June 1969; two albums were released on the label, one by Lennon and Ono (*Unfinished Music No. 2: Life with the Lions*) and one by Harrison (*Electronic Sound*). An album of readings by Richard Brautigan was planned for release as Zapple 3, and acetate disc copies were cut, but, said Miles, "The Zapple label was folded by [Allen] Klein before the record could be released. The first two Zapple records did come out. We just didn't have [Brautigan's record] ready in time before Klein closed it down. None of the Beatles ever heard it."<sup>[11]</sup> Brautigan's record was eventually released as *Listening to Richard Brautigan* on Harvest Records, a subsidiary of Apple distributor EMI, in the US only.<sup>[11]</sup>



The Zapple label of George Harrison's *Electronic Sound* LP (US issue)

The first record that was done for Zapple was by poet Charles Olson.<sup>[12]</sup> According to Miles, a spoken word album by Lawrence Ferlinghetti, which had been recorded and edited, would have been Zapple 4, and a spoken word album by Michael McClure had also been recorded.<sup>[11]</sup> A planned Zapple release of a UK appearance by comedian Lenny Bruce was never completed. An early 1969 press release also named Pablo Casals as an expected guest on the label. American author Ken Kesey was given a tape recorder to record his impressions of London, but they were never released. Miles also had the intention of bringing world leaders to the label.<sup>[9]</sup> Zapple was shut down in June 1969 by Klein, apparently with the backing of Lennon.<sup>[13]</sup>

## Artists who signed with Apple Records

- Badfinger (originally known as the Iveys) – Signed to Apple after several demo tapes were brought in by Beatles' roadie Mal Evans, after getting approval from Paul McCartney, George Harrison and John Lennon. They had several top 10 hits in the UK and US, including the McCartney song "Come and Get It", and recorded five albums for Apple.
- Black Dyke Mills Band (as John Foster & Sons Ltd. Black Dyke Mills Band) – A north of England brass band whom Paul McCartney employed for the one-off "Thingummybob"/"Yellow Submarine" single. It was recorded by

McCartney on location near Bradford, where the group were based.

- Brute Force (stage name of Stephen Friedland) – Harrison attempted to have his song "King of Fuh" released as an Apple single. EMI refused to handle it, owing to its intentionally vulgar double entendre ("Fuh king"), but Apple manufactured a small number of copies in-house which were made available to the public. The song itself appears on the 2010 compilation *Come and Get It: The Best of Apple Records*.
- Elastic Oz Band – A one-off single, "God Save Us", was written and produced by Lennon and Yoko Ono to raise money for a legal battle involving Oz magazine. The A-side of the single was sung by Bill Elliot, later a member of Harrison's Dark Horse Records signing Splinter.
- Elephant's Memory – Recruited as backing band for Lennon and Ono, and also released material separately, including contributions to the soundtrack of the 1969 film *Midnight Cowboy* (not on Apple).
- Chris Hodge – Discovered by Ringo Starr; they shared an interest in UFOs. Hodge only released two singles on Apple, the second of them not issued in the UK.
- Mary Hopkin – Discovered after appearing on a UK television talent show. Her early recordings were produced by McCartney, including the Lennon-McCartney original "Goodbye" and her hit recording of "Those Were the Days". She also released a Eurovision Song Contest entry on Apple ("Knock, Knock Who's There?") and two studio albums.
- Hot Chocolate (as Hot Chocolate Band) – Released one single, a reggae version of "Give Peace A Chance", which they recorded and had played to Lennon, who liked it. Their post-Apple recordings were more commercially successful.
- Jackie Lomax – Liverpoolian singer known to the Beatles through his Brian Epstein connections. He appeared on the Harrison-produced album *Is This What You Want?*, released in 1969, which also includes musical contributions from Starr and McCartney. Lomax's first single, "Sour Milk Sea", features those three Beatles and was written by Harrison.
- Modern Jazz Quartet – Associated with Ono, and were famous prior to their involvement with Apple. They released two albums for the label, *Under the Jasmin Tree* and *Space*.
- Yoko Ono – Recorded extensively with Lennon and released several singles and albums herself; on these Lennon usually directed the band and also performed.
- David Peel and the Lower East Side – A political folk singer brought to the label by Lennon.
- Billy Preston – Brought in to work with the Beatles in January 1969 on their "Get Back"/"Let It Be" sessions, and signed as a solo artist. Harrison produced Preston's recordings, including the 1969 hit single "That's The Way God Planned It". Preston's recording of Harrison's "My Sweet Lord" was released on Apple before Harrison's version. Preston issued two albums on Apple in 1969–70.
- Radha Krishna Temple (London), the UK branch of the Hare Krishna movement. Harrison brought the Temple devotees to the label in 1969 and produced two hit singles by them in 1969–70, including "Hare Krishna Mantra", as well as their eponymous studio album, released in 1971.
- Ravi Shankar – An Indian classical musician. Harrison brought Shankar to the label in 1971 and produced his Apple releases, which included the *Raga* soundtrack and *In Concert 1972*, a double live album with Ali Akbar Khan.
- Ronnie Spector – Married to Phil Spector, who separately worked with the Beatles and solo Beatles from 1970 onwards. Harrison wrote, co-produced and played on her only Apple single, "Try Some, Buy Some", which was made with her husband, as an attempt to revive her recording career.
- The Sundown Playboys – A French-language cajun band from Louisiana. A pre-existing single was brought to the label by Starr.
- John Tavener – A classical composer. His brother, a builder, worked on Starr's house, and the drummer took an interest in Tavener.
- James Taylor – Recorded with McCartney, who appears on the Apple LP that launched his career.
- Trash (originally White Trash) – Brought to Apple by Tony Meehan, formerly of the Shadows. Their second single was a cover of "Golden Slumbers" and charted on Apple in the UK.
- Doris Troy – An American soul artist since the early 1960s, who worked with Harrison and Preston while the latter was signed to Apple. Troy recorded one Apple album, and released two spin-off singles in 1970, the first of which, "Ain't That Cute", was co-written with Harrison. Starr also collaborated on the album, and is credited as a co-writer with Harrison and Troy on some of the tracks.

**Exhibit 78 p5**

- Lon and Derrek Van Eaton – Signed to the label in September 1971 by Harrison, who produced their debut single, "Sweet Music". Starr also contributed to the recording, and to other tracks on the Van Eatons' 1972 Apple album *Brother*.

Also released were the soundtracks to *Come Together* and *El Topo* (in the US), the onetime Philles Records compilation *Phil Spector's Christmas Album* and the multi-artist *The Concert for Bangla Desh*. Cassette and 8-track tape versions of *Bangla Desh* were marketed by Columbia Records after a deal that permitted the inclusion of Bob Dylan, a Columbia artist, on the album.

Artists who had considerable success in the pop and rock world after their initial sessions at Apple Records include Badfinger (originally known as the Iveys), James Taylor, Mary Hopkin, Hot Chocolate, Yoko Ono and Billy Preston.

Artists who auditioned to appear on the label, but did not make it, include:

**Exhibit 78 p6**

- McGough and McGear (the latter of whom was McCartney's brother), whose self-titled album was due to be released on Apple; it was instead released on Parlophone, to which both were signed as members of The Scaffold.
- Grapefruit, whose single "Dear Delilah" was issued on RCA Records with Apple publishing credit.
- Focal Point, a Liverpool band who were going to be managed by Brian Epstein before he died, were signed to Apple after chasing McCartney around Hyde Park. John Lennon and Brian Epstein signed them to Apple; they were the first band signed. Their single "Sycamore Sid" was issued on Deram Records with credit to Apple Publishing on the label.
- Fire (a band with future Strawbs member Dave Lambert on guitar) released two singles in 1968: "Father's Name Was Dad", produced by Tony Clarke, and "Round the Gum Tree", on Decca with Apple publishing credits.
- Delaney and Bonnie's *Accept No Substitute* album was originally meant to be released on Apple in 1969; it was first released commercially on Elektra Records the same year. In England, copies of the LP were pressed before Apple realized the band were already contracted to Elektra. No album covers were ever printed; the disc is now a high-value Apple collectible.
- Mortimer were a folk-based three-piece, notable for a recording of the Beatles' "Two of Us". It was planned for release as an Apple single in 1969 (before the Beatles' version was issued) under the title "On Our Way Home", but the release was cancelled.
- Raven were offered a contract to record with Apple after Harrison received a tape from the band's manager Marty Angelo. Harrison was unable to be their producer, but sent Apple A&R chief Peter Asher to New York City to discuss Asher filling the role. This is documented in the book *The Longest Cocktail Party* and in Angelo's autobiography *Once Life Matters: A New Beginning*. The band turned down Asher's offer, and instead signed with Columbia Records in 1969.
- Slow Dog (later known as Wheels) were a Cambridge-based rock band fronted by Scottish singer/guitarist Dave Kelly. They were the winners of the Apple Records-sponsored national talent contest early 1969, organised by Asher prior to his departure for the US. The winner of the talent contest was promised a record contract with Apple Records, but owing to Asher's departure, the band only recorded demo tracks. However, on recommendation from Mal Evans, Warner Bros. Records in London signed Slow Dog to a record contract, officially changing their name to Wheels.
- See also Zapple Records section for cancelled releases.

## Discography

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## See also

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- Apple Corps v Apple Computer

- [List of record labels](#)
- *The Longest Cocktail Party*, an inside account of Apple Corps by Richard DiLello

## Notes

**Exhibit 78 p7**

1. [Gould 2008](#), pp. 470–473
2. "George Harrison produces Jackie Lomax's Sour Milk Sea" (<https://www.beatlesbible.com/1968/06/24/george-harrison-produces-jackie-lomax-sour-milk-sea/>). Retrieved 2017-04-09.
3. [Lennon 2006](#), p. 323
4. Kronemeyer, David (15 May 2009). "Deconstructing Pop Culture: The Beatles' Contract History with Capitol Records" (<http://musewire.com/deconstructing-pop-culture-the-beatles-contract-history-with-capitol-records-1665/>). MuseWire. Retrieved 12 May 2015.
5. Kozinn, Allan, "Magical Mystery Tour Ends for Apple Corps Executive", *New York Times*, 12 April 2007, *passim*. ([link \(https://www.nytimes.com/2007/04/12/arts/music/12beat.html\)](https://www.nytimes.com/2007/04/12/arts/music/12beat.html))
6. Evans, Jonny, "EMI, Apple Corps deal good news for iTunes?" (<http://www.macworld.co.uk/ipod-itunes/news/index.cfm?newsid=17737&pagtype=allchandate>), *Macworld*, 12 April 2007
7. Friedman, Roger, 1 July 2010, "The Beatles' Apple Records: Making a Comeback" (<http://www.showbiz411.com/2010/07/01/the-beatles-apple-records-making-a-comeback>)
8. The Beatles Now on iTunes (<https://www.apple.com/pr/library/2010/11/16itunes.html>) Archived (<https://web.archive.org/web/20110630082702/http://www.apple.com/pr/library/2010/11/16itunes.html>) 30 June 2011 at the [Wayback Machine](#). - Apple Inc. press release
9. Blaney, John (2005). *John Lennon: Listen to This Book* (illustrated ed.). [S.l.]: Paper Jukebox. p. 13. ISBN 978-0-9544528-1-0.
10. Blaney, John (2005). *John Lennon: Listen to This Book* (illustrated ed.). [S.l.]: Paper Jukebox. p. 15. ISBN 978-0-9544528-1-0.
11. [Barry Miles](#), as quoted by [Richie Unterberger](#) in the [sleevenotes](#) (<http://www.richieunterberger.com/brautigan.html>) to the eventual non-Apple release of *Listening to Richard Brautigan*.
12. Blaney, John (2005). *John Lennon: Listen to This Book* (illustrated ed.). [S.l.]: Paper Jukebox. pp. 13, 15. ISBN 978-0-9544528-1-0.
13. *The Archive Hour*, [BBC Radio 4](#), 12 June 2004

## References

- [Angelo, Marty](#) (2006). *Once Life Matters: A New Beginning*. Impact Publishing. ISBN 978-0-9618954-4-0.
- [The Beatles](#) (2003). *The Beatles Anthology (DVD)*. Apple Records. ASIN:B00008GKEG (Bar Code: 24349 29699).
- [Brown, Peter](#); [Gaines, Steven](#) (2002). *The Love You Make: An Insider's Story of the Beatles*. NAL Trade. ISBN 978-0-451-20735-7.
- [DiLello, Richard](#) (2005). *The Longest Cocktail Party*. Canongate Books. ISBN 1-84195-602-3.
- [Gould, Jonathan](#) (2008). *Can't Buy Me Love: The Beatles, Britain and America* ([https://books.google.com/books?id=EvKzN\\_W-l6oC&pg=PP1&dq](https://books.google.com/books?id=EvKzN_W-l6oC&pg=PP1&dq)). London: Piatkus. ISBN 978-0-7499-2988-6.
- [Lennon, Cynthia](#) (2006). *John*. Hodder & Stoughton. ISBN 0-340-89828-3.
- [Miles, Barry](#) (1998). *Many Years From Now*. Vintage-Random House. ISBN 0-7493-8658-4.
- [Spitz, Bob](#) (2005). *The Beatles: The Biography*. New York: Little, Brown and Company. ISBN 1-84513-160-6.
- [Wenner, Jann](#) (2000). *Lennon Remembers*. London: Verso. ISBN 1-85984-600-9.

## External links

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- [Official website \(http://www.applerecords.com\)](http://www.applerecords.com)
- [The complete Apple Records \(http://www.schomakers.com\)](http://www.schomakers.com)
- [Apple Sleevographia \(http://users.pandora.be/mapinguari/apple/index.htm\)](http://users.pandora.be/mapinguari/apple/index.htm)
- [Financial background of Apple \(http://www.beatlemoney.com\)](http://www.beatlemoney.com)
- [Vinylnet's discography for Apple Records \(https://web.archive.org/web/20081006123708/http://www.vinylnet.co.uk/label-discography.asp/label/12/Apple-records-discography.html\)](https://web.archive.org/web/20081006123708/http://www.vinylnet.co.uk/label-discography.asp/label/12/Apple-records-discography.html)

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# Apple Records discography

**Exhibit 79 p1**

This is the *discography* of **Apple Records**, a record label formed by *the Beatles* in 1968. During its early years, the label enjoyed a fair degree of commercial success, most notably with *Mary Hopkin* and *Badfinger*, as well as discovering acts such as *James Taylor* and *Billy Preston* who would go on to greater success with other labels. However, by the mid-1970s, Apple had become little more than an outlet for the Beatles' solo recordings (although, as the solo Beatles were actually still under contract to *EMI*, the Apple label was, in truth, only a cosmetic addition to their releases). After EMI's contract with the Beatles ended in 1976, the Apple label was finally wound up. The label was reactivated in the 1990s with many of the original Apple albums being reissued on *compact disc*, and the company now oversees new Beatles releases such as the *Anthology* and *1* albums as well as the 2009 Beatles remastering programme. In 2010, Apple set about remastering and reissuing its back catalogue for a second time.

For convenience, releases are divided into *UK* and *US* releases. However, some releases which were designated a UK-sequence catalogue number were only issued in certain mainland *European* countries. Additionally, with the Beatles still being under contract to EMI, all of the group's records (and the majority of their UK solo releases) retained the numbering systems of *Parlophone* (for the UK, New Zealand and South Africa), *Capitol* (for the US) and EMI (for Australia). The Republic of Ireland released eight Apple singles in 1970–71, six of which had unique catalogue numbers.

## Contents

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### Singles

### Albums

- Zapple Records

### Reissues

- 1990s remasters
- 2009 remasters
- 2010 remasters

### See also

### References

### External links

## Singles

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Catalogue Number				Artist	Title	Release Date			
UK	US	Aus.	NZ			UK	US	Aus.	NZ
R 5722 [48]	2276	A-8493 [37]	[39]	<u>The Beatles</u>	" <u>Hey Jude</u> " / " <u>Revolution</u> "	30.08.68	26.08.68	19.09.68	-
APPLE 1	-	-	-	<u>Frank Sinatra</u>	" <u>The Lady Is a Champ - But Beautiful</u> " <sup>[1]</sup>	-	-	-	-
APPLE 2 [49]	1801	APPLE- 8526	APPLE 2	<u>Mary Hopkin</u>	" <u>Those Were the Days</u> " / " <u>Turn! Turn! Turn!</u> " <sup>[46]</sup>	30.08.68	26.08.68	.68	.68
APPLE 3	1802	APPLE- 8537 [37]	-	<u>Jackie Lomax</u>	" <u>Sour Milk Sea</u> " / " <u>The Eagle Laughs at You</u> "	30.08.68	26.08.68	.68	-
APPLE 4	1800	-	-	<u>John Foster &amp; Sons Ltd. Black Dyke Mills Band</u>	" <u>Thingumybob</u> " / " <u>Yellow Submarine</u> "	30.08.68	26.08.68	-	-
APPLE 5	1803	APPLE- 8631	APPLE 5	<u>The Iveys</u>	" <u>Maybe Tomorrow</u> " / " <u>And Her Daddy's a Millionaire</u> " <sup>[47]</sup>	15.11.68	27.01.69	.69	.69
-	-	-	-	<u>The Beatles</u>	" <u>Back in the USSR</u> " / " <u>Don't Pass Me By</u> " <sup>[56]</sup>	<b>Exhibit 79 p2</b>			
APPLE 6	1804	APPLE- 8739	APPLE 6	<u>Trash</u> <sup>[2]</sup>	" <u>Road to Nowhere</u> " / " <u>Illusions</u> "	24.01.69	03.03.69	05.69	.69
-	-	A-8693	NZP.3318	<u>The Beatles</u>	" <u>Ob-La-Di, Ob-La-Da</u> " / " <u>While My Guitar Gently Weeps</u> " <sup>[51]</sup>	-	-	20.02.69	.69
-	-	-	-	<u>The Beatles</u>	" <u>Ob-La-Di, Ob-La-Da</u> " / " <u>I Will</u> " <sup>[57]</sup>	-	-	-	-
APPLE 7	-	-	-	<u>Mary Hopkin</u>	" <u>Lontano Dagli Occhi</u> " / " <u>The Game</u> " <sup>[3]</sup>	07.03.69	-	-	-
APPLE 8	-	-	-	<u>Brute Force</u>	" <u>King of Fuh</u> " / " <u>Nobody Knows</u> " <sup>[4]</sup>	16.05.69	-	-	-
APPLE 9	-	-	-	<u>Mary Hopkin</u>	" <u>Prince En Avignon</u> " / " <u>The Game</u> " <sup>[5]</sup>	07.03.69	-	-	-
-	1805	-	-	<u>James Taylor</u>	" <u>Carolina in My Mind</u> " / " <u>Taking It In</u> "	-	17.03.69	-	-
-	-	-	-	<u>James Taylor</u>	" <u>Knocking 'Round the Zoo</u> " /	-	-	-	-

					"Something's Wrong"				
APPLE 10	1806	APPLE-8726	APPLE 10	Mary Hopkin	" <u>Goodbye</u> " / " <u>Sparrow</u> "	28.03.69	07.04.69	.69	.69
R 5777	2490	A-8763	NZP.3325	The Beatles with <u>Billy Preston</u>	" <u>Get Back</u> " / " <u>Don't Let Me Down</u> "	11.04.69	05.05.69	08.05.69	.69
APPLE 11	-	APPLE-8788	APPLE.11	Jackie Lomax	" <u>New Day</u> " / " <u>Fall Inside Your Eyes</u> "	09.05.69	-	.69	.69
R 5786	2531	A-8793	NZP.3329	The Beatles	" <u>The Ballad of John and Yoko</u> " / " <u>Old Brown Shoe</u> "	30.05.69	04.06.69	19.06.69	.69
-	1807	-	-	Jackie Lomax	" <u>New Day</u> " / " <u>Thumbin' a Ride</u> "	-	02.06.69	-	-
APPLE 12	1808	APPLE-8841	APPLE.12	Billy Preston	" <u>That's the Way God Planned It</u> " / " <u>What About You</u> "	27.06.69	14.07.69	.69	.69
APPLE 13/ R 5795	1809	A-8833	NZP.3333	<u>Plastic Ono Band</u>	" <u>Give Peace a Chance</u> " / " <u>Remember Love</u> "	04.07.69	07.07.69	.69	.69
APPLE 14	-	-	-	The Iveys	" <u>Dear Angie</u> " / " <u>No Escaping Your Love</u> " <sup>[6]</sup>	<b>Exhibit 79 p3</b>			
CT 1	-	-	-	Various Artists	" <u>Wall's Ice Cream EP</u> " <sup>[7]</sup>				
APPLE 15	1810	APPLE-8895	APPLE.15	<u>Radha Krishna Temple (London)</u>	" <u>Hare Krishna Mantra</u> " / " <u>Prayer to the Spiritual Masters</u> "	29.08.69	21.08.69	.69	.69
APPLE 16	-	-	-	Mary Hopkin	" <u>Que Sera, Sera</u> " / " <u>Fields of St. Etienne</u> " <sup>[8]</sup>	09.19.69	15.06.70	-	-
APPLE 17	1811	APPLE-8960	APPLE.17	Trash	" <u>Golden Slumbers-Carry That Weight</u> " / " <u>Trash Can</u> "	26.09.69	15.10.69	.11.69	
APPLE 18	1812	APPLE-8953		<u>Hot Chocolate Band</u>	" <u>Give Peace a Chance</u> " / " <u>Living Without Tomorrow</u> "	10.10.69	27.10.69	.69	
APPLE 19	1814	APPLE-8975		Billy Preston	" <u>Everything's Alright</u> " / " <u>I Want to Thank You</u> "	17.10.69	10.11.69	.69	
APPLES 1001	1813	APPLE-8967	APPLES.1001	Plastic Ono Band	" <u>Cold Turkey</u> " / " <u>Don't Worry Kyoko</u> "	24.10.69	20.10.69	.69	.69

R 5814	2654	A-8943	NZP.3245	The Beatles	"Something" / "Come Together"	31.10.69	06.10.69	16.10.69	.69
APPLE 20	1815	APPLE-9016	APPLE.20	<u>Badfinger</u>	"Come and Get It" / "Rock of All Ages"	05.12.69	02.02.70	.69	
APPLES 1002	-	-	-	Plastic Ono Band	"You Know My Name (Look Up The Number)" / "What's the New Mary Jane" <sup>[9]</sup>	<b>Exhibit 79 p4</b>			
APPLE 21	1817	APPLE-9065	APPLE.21	Billy Preston	"All That I've Got" / "As I Get Older"	30.01.70	02.03.70	.70	.70
APPLE 22	1816	APPLE-9053	APPLE.22	Mary Hopkin	"Temma Harbour" / "Lontano Dagli Occhi"	16.01.70	09.02.70	.70	.70
APPLE 23	-	APPLE-9043	APPLE.23	Jackie Lomax	"How the Web Was Woven" / "Thumbin' a Ride"	06.02.70	-	.70	.70
APPLE 24	1820	APPLE-9066	APPLE.24	<u>Doris Troy</u>	"Ain't That Cute" / "Vaya Con Dios"	13.02.70	16.03.70	.70	.70
APPLES 1003	1818	APPLE-9084	APPLES.1003	<u>Lennon/Ono/Plastic Ono Band</u>	"Instant Karma!" / "Who Has Seen the Wind?"	21.02.70	20.02.70	.03.70	.70
R 5833	2764	A-9083	NZP.3257	The Beatles	"Let It Be" / "You Know My Name (Look Up The Number)"	06.03.70	11.03.70	12.03.70	.70
APPLE 25	1821	APPLE-9092	APPLE.25	Radha Krishna Temple (London)	"Govinda" / "Govinda Jai Jai"	06.03.70	24.03.70	04.70	.70
-	1819	-	-	Jackie Lomax	"How the Web Was Woven" / "(I) Fall Inside Your Eyes"	-	23.03.70	-	-
APPLE 26	-	APPLE-9105	APPLE.26	Mary Hopkin	"Knock, Knock Who's There?" / "I'm Going to Fall in Love Again"	23.03.70	-	.04.70	.70
-	2832	A-9163	NZP.3371	The Beatles	"The Long and Winding Road" / "For You Blue"	-	11.05.70	11.06.70	.70
-	-	-	-	The Beatles	"Oh! Darling" / "Here Comes the Sun" <sup>[54]</sup>	-	-	-	-
APPLE 27	1823	APPLE-9190	APPLE.27	Mary Hopkin	"Que Sera, Sera" / "Fields of St. Etienne"	-	15.06.70	.70	.70

					[10]				
APPLE 28	1824	-	APPLE.28	Doris Troy	"Jacob's Ladder" / "Get Back" [11]	28.08.70	21.09.70	-	
APPLE 29	-	-	-	Billy Preston	"My Sweet Lord" / "Long As I Got My Baby" [12]	-			
-	2969	APPLE-9309	NZP.3388	<u>Ringo Starr</u>	"Beaucoups of Blues" / "Coochy-Coochy"	-	05.10.70	.70	.70
-	1822	-	-	Badfinger	"No Matter What" / "Carry on Till Tomorrow"	-	19.10.70	-	-
APPLE 30	1825	APPLE-9297	APPLE.30	Mary Hopkin	"Think About Your Children" / "Heritage"	16.10.70	02.11.70	.70	.70
APPLE 31	-	APPLE-9316	APPLE.31	Badfinger	"No Matter What" / "Better Days"	06.11.70	-	.70	.70
APPLE 32	-	APPLE-9318	APPLE.32	James Taylor	"Carolina in My Mind" / "Something's Wrong"	06.11.70	-	.71	.71
-	2995	A-9342	NZP.3391	<u>George Harrison</u>	"My Sweet Lord" / "Isn't It a Pity"	-	23.11.70	.71	.71
-	1826	-	-	Billy Preston	"My Sweet Lord" / "Little Girl"	-	14.12.70	-	-
-	1827	A-9401	NZP.3395	John Lennon/Plastic Ono Band	"Mother" / "Why"	-	28.12.70	.71	.71
R 5884	-	-	-	George Harrison	"My Sweet Lord" / "What Is Life"	15.01.71	-	-	-
-	1828	A-9424	NZP.3397	George Harrison	"What Is Life" / "Apple Scruffs"	-	15.02.71	.71	.71
R 5889 <sup>[19]</sup>	1829	A-9445	NZP.3398	<u>Paul McCartney</u>	"Another Day" / "Oh Woman, Oh Why"	19.02.71	22.02.71	.71	.71
R 5892 <sup>[45]</sup>	-	A-9488	NZP.3400	John Lennon/Plastic Ono Band	"Power to the People" / "Open Your Box"	12.03.71	-	.71	.71
-	1830	-	-	John Lennon/Plastic Ono Band	"Power to the People" / "Touch Me"	-	22.03.71	-	-
R 5898	1831	A-9474	NZP.3402	Ringo Starr	"It Don't Come Easy" / "Early 1970"	09.04.71	16.04.71	.71	.71
					"Try Some,				

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APPLE 33	1832	APPLE-9478	APPLE.33	<u>Ronnie Spector</u>	"Buy Some" / "Tandoori Chicken"	16.04.71	19.04.71	.71	.71
APPLE 34	-	APPLE-9565	APPLE.34	Mary Hopkin	"Let My Name Be Sorrow" / "Kew Gardens"	18.06.71	-	.71	.71
APPLE 35	1833	-	-	Badfinger	"Name of the Game" / "Suitcase" <sup>[12]</sup>	<b>Exhibit 79 p6</b>			
-	1834	-	-	Jackie Lomax	"Sour Milk Sea" / "I Fall Inside Your Eyes"				
-	-	A-9592	NZP.3406	<u>Paul &amp; Linda McCartney</u>	"Eat at Home" / "Smile Away" <sup>[38]</sup>	-	-	.71	.71
APPLE 36	1835	APPLE-9599	APPLE.36	<u>Bill Elliot and the Elastic Oz Band</u>	"God Save Us" / "Do the Oz"	16.07.71	07.07.71	.71	.71
R 5912 <sup>[50]</sup>	1836	A-9615	NZP.3408	George Harrison	"Bangla Desh" / "Deep Blue"	30.07.71	28.07.71	.71	.71
-	1837	A-9669	NZP.3410	<u>Paul &amp; Linda McCartney</u>	"Uncle Albert/Admiral Halsey" / "Too Many People"	-	02.08.71	.71	.71
R 5914 <sup>[50]</sup> <sup>[19]</sup>	-	-	-	<u>Paul &amp; Linda McCartney</u>	"The Back Seat of My Car" / "Heart of the Country"	13.08.71	-	-	-
APPLE 37	1838	-	-	<u>Ravi Shankar</u>	"Joi Bangla" / "Oh Bhaugowan" / "Raga Mishri"	27.08.71	31.08.71	-	-
APPLE 38	1839	APPLE-9725	APPLE.38	Yoko Ono	"Mrs. Lennon" / "Midsummer in New York"	29.10.71	29.09.71	.71	.71
-	1840	-	NZP.3412	John Lennon	"Imagine" / "It's So Hard"	-	11.10.71	-	.71
-	1841	-	-	Badfinger	"Day After Day" / "Money"	-	15.11.71	-	-
APPLE 39	-	APPLE-9742	APPLE.39	Mary Hopkin	"Water, Paper And Clay" / "Jefferson"	26.11.71	-	.71	
-	1843	-	-	Mary Hopkin	"Water, Paper and Clay" / "Streets of London"	-	26.11.71	-	-
R 5932	-	-	-	<u>Wings</u>	"Love Is Strange" / "I Am Your Singer" <sup>[12]</sup>	-	-	-	-
APPLE 40	-	APPLE-9782	APPLE.40	Badfinger	"Day After Day" / "Sweet Tuesday Morning"	14.01.72	-	.72	.72

APPLE 41	-	-	-	Yoko Ono	"Mind Train" / "Listen, the Snow Is Falling"	21.01.72	-	-	-
-	1846	-	-	John Lennon/Plastic Ono Band	"The Luck of the Irish" / "Attica State" [12]				
-	-	-	-	The Beatles	"All Together Now" / "Hey Bulldog" [55]	-	-	-	-
R 5936 <sup>[19]</sup>	1847	A-9866	NZP.3423	Wings	"Give Ireland Back to the Irish" / "Give Ireland Back to the Irish (version)"	25.02.72	28.02.72	.72	.72
R 5944	1849	A-9879	NZP.3425	Ringo Starr	"Back Off Boogaloo" / "Blindman"	18.03.72	20.03.72	.04.72	.72
APPLE 42 <sup>[13]</sup>	1844	APPLE-9888	APPLE.42	Badfinger	"Baby Blue" / "Flying"	-	20.03.72	.05.72	.72
-	1845	-	-	<u>Lon &amp; Derrek Van Eaton</u>	"Sweet Music" / "Song of Songs"	-	20.03.72	-	-
-	6498/6499	-	-	David Peel And The Lower East Side	"F Is Not A Dirty Word" / "The Ballad Of New York City / John Lennon-Yoko Ono"	-	20.4.72	-	-
R 5949 <sup>[19]</sup>	1851	A-9924	NZP.3427	Wings	"Mary Had a Little Lamb" / "Little Woman Love"	12.05.72	29.05.72	.06.72	.72
R 5953 <sup>[13]</sup>	1848	-	NZP.3441	John Lennon/Plastic Ono Band	"Woman Is the Nigger of the World" / "Sisters, O Sisters"	-	24.04.72	-	.72
APPLE 43	1850	APPLE-9948	APPLE.43	<u>Chris Hodge</u>	"We're on Our Way" / "Supersoul"	09.06.72	29.05.72	.72	.72
-	6545/6546	-	-	David Peel And The Lower East Side	"The Hippie From New York City" / "The Ballad Of New York City / John Lennon-Yoko Ono"	-	16.6.72	-	-
APPLE 44 <sup>[42]</sup>	1852	APPLE-10077	APPLE.44	<u>The Sundown Playboys</u>	"Saturday Nite Special" / "Valse De Soleil Couché"	17.11.72	31.10.72	.73	.73
-	1853	-	-	Yoko Ono	"Now or Never" / "Move on Fast"	-	13.11.72	-	-

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R 5970	1842	A-10047	NZP.3446	John & Yoko/Plastic Ono Band	"Happy Xmas (War Is Over)" / "Listen, the Snow Is Falling" <sup>[40]</sup>	24.11.72	01.12.71	.72	.72
-	1854	APPLE-10095	-	<u>Elephant's Memory</u>	"Liberation Special" / "Madness"	-	30.11.72	.12.72	-
-	1855	-	-	Mary Hopkin	"Knock Knock, Who's There?" / "International"	-	-	-	-
APPLE 45	-	-	-	<u>Elephant's Memory</u>	"Power Boogie" / "Liberation Special"	01.12.72	-	-	-
R 5973 <sup>[19]</sup>	1857	A-10099	NZP.3449	Wings	"Hi, Hi, Hi" / " <u>C Moon</u> "	01.12.72	04.12.72	.01.73	.73
-	1858	-	-	Chris Hodge	"Goodbye, Sweet Lorraine" / "Contact Love"	-	31.01.73	-	-
APPLE 46	-	-	-	Lon & Derrek Van Eaton	"Warm Woman" / "More Than Words"	09.03.73	-	-	-
R 5985 <sup>[19]</sup>	1861	A-10200	NZP.3453	Paul McCartney & Wings <sup>[41]</sup>	"My Love" / "The Mess"	23.03.73	09.04.73	.73	.73
APPLE 47	1859	-	-	Yoko Ono	"Death of Samantha" / " <u>Yang Yang</u> "	04.05.73	26.02.73	-	-
R 5987 <sup>[19]</sup>	1863	A-10270	NZP.3456	Wings	"Live and Let Die" / "I Lie Around"	01.06.73	18.06.73	.73	.73
R 5988	1862	A-10230	NZP.3455	George Harrison	"Give Me Love (Give Me Peace on Earth)" / " <u>Miss O'Dell</u> "	25.05.73	07.05.73	.73	.73
R 5992	1865	A-10360	NZP.3461	Ringo Starr	"Photograph" / "Down and Out"	19.10.73	24.09.73	.73	.73
-	1866	-	-	George Harrison	"Don't Let Me Wait Too Long" / "Sue Me, Sue You Blues" <sup>[14]</sup>	-	-	-	-
-	1867	-	-	Yoko Ono	"Woman Power" / "Men Men Men"	-	24.09.73	-	-
R 5993 <sup>[19]</sup>	1869	A-10359	NZP.3462	Paul McCartney & Wings	" <u>Helen Wheels</u> " / " <u>Country Dreamer</u> "	26.10.73	12.11.73	.73	
APPLE 48	-	-	-	Yoko Ono	"Run, Run, Run" / "Men Men Men"	09.11.73	-	-	-
		A-			" <u>Mind Games</u> "				

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R 5994	1868	10365	NZP.3463	John Lennon	/ " <u>Meat City</u> "	<b>Exhibit 79 p9</b>			
R 5995 <sup>[20]</sup>	1870	A-10430	NZP.3465	Ringo Starr	"You're Sixteen" / "Devil Woman"				
-	-	A-10424	NZP.3466	Paul McCartney & Wings	"Mrs Vandebilt" / "Bluebird"	-	-	.74	.74
-	1871	-	-	Paul McCartney & Wings	"Jet" / "Mamunia" <sup>[15]</sup>	-	28.01.74	-	-
R 5996 <sup>[19]</sup>	1871	-	NZP.3466	Paul McCartney & Wings	"Jet" / " <u>Let Me Roll It</u> "	15.02.74	18.02.74	-	.74
-	1872	A-10484	NZP.3471	Ringo Starr	"Oh My My" / "Step Lightly"	-	18.02.74	.74	.74
APPLE 49	1864	APPLE-10438	APPLE.49	Badfinger	"Apple of My Eye" / "Blind Owl"	08.03.74	10.12.73	.74	.74
-	1873	-	NZP.3479	Paul McCartney & Wings	"Band on the Run" / "Nineteen Hundred and Eighty-Five" <sup>[44]</sup>	-	08.04.74	-	.74
R 5997 <sup>[19]</sup>	-	-	-	Paul McCartney & Wings	"Band on the Run" / "Zoo Gang"	28.06.74	-	-	-
R 5998	1874	A-10630	NZP.3441	John Lennon	"Whatever Gets You thru the Night" / "Beef Jerky"	04.10.74	23.09.74	.74	.74
R 5999 <sup>[19]</sup>	1875	A-10626	NZP.3487	Paul McCartney & Wings	"Junior's Farm" / " <u>Sally G</u> " <sup>[16]</sup>	25.10.74	04.11.74	.74	.74
R 6000	1876	A-10671	NZP3588	Ringo Starr	"Only You (And You Alone)" / "Call Me"	15.11.74	11.11.74	.74	.74
-	1877	-	NZP.3493	George Harrison	"Dark Horse" / "I Don't Care Anymore"	-	18.11.74	-	.74
R 6001	-	A-10696	-	George Harrison	"Dark Horse" / "Hari's On Tour (Express)"	28.02.75	-	.75	-
R 6002	-	A-10629	NZP.3494	George Harrison	"Ding Dong, Ding Dong" / "I Don't Care Anymore"	06.12.74	-	.74	.74
R 6003	1878	A-10694	NZP.3495	John Lennon	"#9 Dream" / "What You Got"	31.01.75	16.12.74	.75	.75
-	1879	-	-	George Harrison	"Ding Dong, Ding Dong" / "Hari's On Tour (Express)"	-	23.12.74	-	-
-	1880	-	-	Ringo Starr	"No No Song" / "Snookeroo"	-	27.01.75	-	-
R 6004	-	A-10711	-	Ringo Starr	"Snookeroo" / "Oo-Wee"	21.02.75	-	.75	-



R 6005	1881	A-10779	NZP.3503	John Lennon	"Stand by Me" / "Move Over Ms. L"	18.04.75	10.03.75	.75	.75
-	-	-	-	John Lennon	"Be-Bop-A-Lula" / "Move Over Ms. L" <sup>[58]</sup>	<b>Exhibit 79 p10</b>			
-	-	-	NZP.3510	Ringo Starr	"No No Song" / "Call Me"				
-	1882	-	-	Ringo Starr	"(It's All Down To) Goodnight Vienna" / "Oo-Wee"	-	02.06.75	-	-
-	1883	-	-	John Lennon	"Slippin' and Slidin'" / "Ain't That a Shame" <sup>[12]</sup>	-	-	-	-
R 6007	1884	A-10920	NZP.3520	George Harrison	"You" / "World of Stone"	12.09.75	15.09.75	29.09.75	.75
R 6009	-	-	-	John Lennon	"Imagine" / "Working Class Hero"	24.10.75	-	-	-
R 6011	-	-	-	Ringo Starr	"Oh My My" / "No No Song"	09.01.76	-	-	-
R 6012	1885	A-11017	NZP.3528	George Harrison	"This Guitar (Can't Keep from Crying)" / "Māya Love"	06.02.76	08.12.75	.76	.76
G45 2 <sup>[17]</sup>	-	-	-	John Lennon	"Give Peace a Chance" / "Cold Turkey"	12.03.84	-	-	-
G45 13 <sup>[17]</sup>	-	-	-	Ringo Starr	"It Don't Come Easy" / "Back Off Boogaloo"	12.03.84	-	-	-
APP 1	-	-	-	Various Artists	"Apple EP" <sup>[18]</sup>	21.10.91	-	-	-
R 6406	8583492	-	-	The Beatles	"Baby It's You" / "I'll Follow the Sun" / "Devil in Her Heart" / "Boys"	06.03.95	01.12.94	-	-
R 6422	8584972	-	-	The Beatles	"Free as a Bird" / "Christmas Time (Is Here Again)"	04.12.95	12.12.95	-	-
R 6425	8585442	-	-	The Beatles	"Real Love" / "Baby's in Black"	04.03.96	05.03.96	-	-

<sup>1</sup> Not planned for release.<sup>[1]</sup> A special recorded "message" medley from Frank Sinatra to Maureen Starkey. One single-sided single pressed and the master tape has been destroyed.

<sup>2</sup> Early UK editions credited to 'White Trash'.<sup>[1]</sup>

<sup>3</sup> Only released in Italy - 17.01.69.

<sup>4</sup> Not given a full release, as EMI would not distribute. Only 2000 copies were pressed in the UK. An unnumbered US Apple acetate also

exists.

<sup>5</sup> Only released in France<sup>[1]</sup> - 07.03.69.

<sup>6</sup> Only released in Europe and Japan<sup>[1]</sup> - 18.07.69.

<sup>7</sup> Mail order only EP featuring: The Iveys "Storm in a Teacup" / James Taylor "Something's Wrong" / Jackie Lomax "Little Yellow Pill" / Mary Hopkin "Pebble and the Man".<sup>[2]</sup>

<sup>8</sup> Not issued. Planned release date - 19.09.69. APPLE 16 was also allocated to Mortimer's unreleased recording of "On Our Way Home".<sup>[1]</sup>

<sup>9</sup> Not issued.<sup>[3]</sup> Planned release date - .12.69.<sup>[4]</sup>

<sup>10</sup> Not issued in UK.<sup>[1]</sup> Issued as APPLE 28 in some European countries.

<sup>11</sup> Issued as APPLE 27 in some European countries.

<sup>12</sup> Not issued.

<sup>13</sup> Not issued in UK. Planned release date for Lennon - 5.12.72.<sup>[5]</sup>

<sup>14</sup> Cancelled release. Made it only to the acetate stage. Planned release date - 24.9.73.<sup>[6]</sup>

<sup>15</sup> Re-issued with "Let Me Roll It" as the B side on 18.02.74.

<sup>16</sup> Re-issued on 07.02.75 (UK) and 20.02.75 (US) with the same catalogue numbers but with the A and B sides reversed.

<sup>17</sup> Released as part of a series of EMI "Golden 45's".<sup>[7]</sup>

<sup>18</sup> Four track EP featuring: Mary Hopkin "Those Were The Days" / Billy Preston "That's the Way God Planned It" / Jackie Lomax "Sour Milk Sea" / Badfinger "Come and Get It".<sup>[8]</sup>

<sup>19</sup> Re-issued from 1975 with the same catalogue number (and sometimes artwork) on Capitol after McCartney's contract moved from Parlophone.

<sup>20</sup> Re-issued with the same catalogue number on the Parlophone label.

<sup>37</sup> Originally issued on Parlophone.

<sup>38</sup> Double A Side.

<sup>39</sup> Released on Parlophone before the establishment of Apple Records (New Zealand).

<sup>40</sup> Originally released on green vinyl and reissued on black vinyl.<sup>[1]</sup>

<sup>41</sup> Some issues list "McCartney's Wings".

<sup>42</sup> Released as a 7" 45rpm and a 10" 78rpm.<sup>[9]</sup>

<sup>44</sup> Demo copies have the tracks "Band On The Run" (Edited Version) / "Band On The Run" (Full Version).

<sup>45</sup> Also released as a double A side and with reversed A and B side.

<sup>46</sup> Released in "East Asia" (Hong Kong) by Parlophone, Catalogue number PEA-501.

<sup>47</sup> Released in "East Asia" (Hong Kong) by Parlophone, Catalogue number PEA-502.

<sup>48</sup> Due to extreme demands on production, EMI also contracted Decca and Philips to press this release.

<sup>49</sup> Due to extreme demands on production, EMI also contracted Philips to press this release.

<sup>50</sup> Due to industrial action, EMI also contracted Decca to press this release.

<sup>51</sup> Originally planned for release with flipped sides.

<sup>54</sup> Released in Japan as AR-2520 on 05.06.70.

<sup>55</sup> Released in several European countries in early February 1972.

<sup>56</sup> Released in Sweden in December 1968 and Norway in April 1969 as SD6061.

<sup>57</sup> Released in the Philippines as AL60838.

<sup>58</sup> Released in several European countries in March 1975.

**Exhibit 79 p11**

## Albums

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Catalogue No.		Artist	Title	Release Date	
UK	US			UK	US
(S) APCOR 1 <sup>[36]</sup>	ST 3350	George Harrison	<i>Wonderwall Music</i>	01.11.68	02.12.68
PCS (PMC) 7067/68	SWBO 101	The Beatles	<i>The Beatles</i>	22.11.68	25.11.68
(S) APCOR 2	T 5001 <sup>[33]</sup>	John Lennon & Yoko Ono	<i>Unfinished Music No. 1: Two Virgins</i>	29.11.68	17.01.69
<b>Exhibit 79 p12</b>		James Taylor	<i>James Taylor</i>	06.12.68	17.02.69
		The Modern Jazz Quartet	<i>Under the Jasmin Tree</i>	06.12.68	17.02.69
PCS (PMC) 7070	SW 153	The Beatles	<i>Yellow Submarine</i>	17.01.69	13.01.69
(S) APCOR 5	ST 3351	Mary Hopkin	<i>Postcard</i>	21.02.69	03.03.69
(S) APCOR 6	ST 3354	Jackie Lomax	<i>Is This What You Want?</i>	14.03.69	17.05.69
SAPCOR 7	-	Delaney & Bonnie	<i>The Original Delaney &amp; Bonnie</i> <sup>[21]</sup>	-	-
SAPCOR 8	ST 3355	The Iveys	<i>Maybe Tomorrow</i> <sup>[22]</sup>	-	-
SAPCOR 9	ST 3359	Billy Preston	<i>That's the Way God Planned It</i>	22.08.69	10.09.69
PCS 7088	SO 383	The Beatles	<i>Abbey Road</i>	26.09.69	01.10.69
SAPCOR 10	STAO 3360	The Modern Jazz Quartet	<i>Space</i>	24.10.69	10.11.69
SAPCOR 11	SMAX 3361	John Lennon & Yoko Ono	<i>Wedding Album</i>	07.11.69	20.10.69
CORE 2001	SW 3362	Plastic Ono Band	<i>Live Peace in Toronto 1969</i>	12.12.69	12.12.69
SAPCOR 12	ST 3364	Badfinger	<i>Magic Christian Music</i>	09.01.69	16.02.70
CPCS 106 <sup>[43]</sup>	SW 385 / SO 385	The Beatles	<i>Hey Jude</i>	-	26.02.70
PCS 7101	SW 3365	Ringo Starr	<i>Sentimental Journey</i>	27.03.70	24.04.70
PCS 7102	SMAS 3363	Paul McCartney	<i>McCartney</i>	17.04.70	20.04.70
PXS 1	AR 34001	The Beatles	<i>Let It Be</i>	08.05.70	18.05.70
SAPCOR 13	ST 3371	Doris Troy	<i>Doris Troy</i>	11.09.70	11.09.70
SAPCOR 14	ST 3370	Billy Preston	<i>Encouraging Words</i>	11.09.70	11.09.70
PAS 10002	SMAS 3368	Ringo Starr	<i>Beaucoups of Blues</i>	25.09.70	28.09.70
SAPCOR 15	SMAS 3369	London Sinfonietta / John Tavener	<i>The Whale</i>	25.09.70	15.10.70
PCS 7096	-	The Beatles	<i>Let It Be</i> <sup>[23]</sup>	06.11.70	-
SAPCOR 16 <sup>[26]</sup>	SKAO 3367	Badfinger	<i>No Dice</i>	27.11.70	09.11.70
STCH 639	STCH 639	George Harrison	<i>All Things Must Pass</i>	30.11.70	27.11.70
PCS 7124	SW 3372	John Lennon/Plastic Ono Band	<i>John Lennon/Plastic Ono Band</i>	11.12.70	11.12.70
SAPCOR 17	SW 3373	Yoko Ono/Plastic Ono Band	<i>Yoko Ono/Plastic Ono Band</i>	11.12.70	11.12.70
LYN 2154	-	The Beatles	<i>From Then To You</i> <sup>[24]</sup>	18.12.70	-
-	SBC 100	The Beatles	<i>The Beatles Christmas album</i> <sup>[24]</sup>	-	14.02.71

PAS 10003	SMAS 3375	Paul & Linda McCartney	<i>Ram</i>	5.71	17.05.71
SAPCOR 18	SKAO 3376	Radha Krishna Temple (London)	<i>The Ra</i>	5.71	21.05.71
SAPCOR 19 <sup>[27]</sup>	SW 3387	Badfinger	<i>Straight Up</i>	04.02.72	13.12.71
SAPCOR 20	-	London Sinfonietta / John Tavener	<i>Celtic Requiem</i>	14.05.71	-
-	SW 3377	Stelvio Cipriani	<i>Come Together</i>	-	20.09.71
SAPCOR 21	SMAS 3381	Mary Hopkin	<i>Earth Song/Ocean Song</i>	01.10.71	03.11.71
PAS 10004	SW 3379	John Lennon	<i>Imagine</i>	08.10.71	09.09.71
SAPTU 101/2	SVBB 3380	Yoko Ono	<i>Fly</i>	03.12.71	20.09.71
-	SWAO 3384	Original Soundtrack Recording	<i>Raga</i>	-	07.12.71
PCS 7142	SW 3386	Wings	<i>Wild Life</i> <sup>[35]</sup>	07.12.71	07.12.71
STCX 3385	STCX 3385	George Harrison And Friends	<i>The Concert for Bangladesh</i>	10.01.72	20.12.71
-	SWAO 3388	Original Soundtrack Recording	<i>El Topo</i>	-	27.12.71
5C 244-93536	-	Mary Hopkin	<i>The Best of Mary Hopkin</i> <sup>[52]</sup>	31.03.72	-
-	SW 3391	David Peel & The Lower East Side	<i>The Pope Smokes Dope</i> <sup>[31]</sup>	-	17.04.72
PCSP 716	SVBB 3392	John & Yoko/Plastic Ono Band	<i>Some Time in New York City</i>	15.09.72	16.06.72
SAPCOR 22	SMAS 3389	Elephant's Memory	<i>Elephant's Memory</i>	10.11.72	18.09.72
SAPCOR 23	SW 3395	Mary Hopkin	<i>Those Were The Days</i>	24.11.72	25.09.72
APCOR 24	SW 3400	Various Artists	<i>Phil Spector's Christmas Album</i> <sup>[25]</sup>	08.12.72	01.12.72
SAPCOR 25	SMAS 3390	Lon & Derrek Van Eaton	<i>Brother</i>	09.02.73	22.09.72
SAPDO 1001	SVBB 3399	Yoko Ono	<i>Approximately Infinite Universe</i>	16.02.73	08.01.73
SAPDO 1002	SVBB 3396	Ravi Shankar & Ali Akbar Khan	<i>In Concert 1972</i>	13.04.73	13.04.73
PCSP 717	SKBO 3403	The Beatles	<i>1962–1966</i>	19.04.73	02.04.73
PCSP 718	SKBO 3404	The Beatles	<i>1967–1970</i>	19.04.73	02.04.73
PCTC 251	SMAL 3409	Paul McCartney & Wings	<i>Red Rose Speedway</i> <sup>[35]</sup>	04.05.73	03.04.73
PAS 10006	SMAS 3410	George Harrison	<i>Living in the Material World</i>	22.06.73	30.05.73
PCS 7165	SW 3414	John Lennon	<i>Mind Games</i> <sup>[34]</sup>	16.11.73	02.11.73
SAPCOR 26	SW 3412	Yoko Ono	<i>Feeling the Space</i>	23.11.73	02.11.73
PCTC 252	SWAL 3413	Ringo Starr	<i>Ringo</i> <sup>[34]</sup>	23.11.73	02.11.73
PAS 10007	SO 3415	Paul McCartney & Wings	<i>Band on the Run</i>	07.12.73	05.12.73
SAPCOR 27 <sup>[30]</sup>	SW 3411	Badfinger	<i>Ass</i>	08.03.74	26.11.73
PCTC 253	SW 3416	John Lennon	<i>Walls and Bridges</i>	04.10.74	26.11.74
PCS 7168	SW 3417	Ringo Starr	<i>Goodnight Vienna</i>	15.11.74	18.11.74

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		George Harrison	<i>Dark Horse</i> <sup>[34]</sup>	20.12.74	09.12.74
		John Lennon	<i>Rock 'n' Roll</i> <sup>[34]</sup>	21.02.75	17.02.75
PAS 10009	SW 3420	George Harrison	<i>Extra Texture (Read All About It)</i> <sup>[35]</sup>	03.10.75	22.09.75
PCS 7173	SW 3421	John Lennon	<i>Shaved Fish</i>	24.10.75	24.10.75
PCS 7170	SW 3422	Ringo Starr	<i>Blast from Your Past</i> <sup>[34]</sup>	12.12.75	20.11.75
PCSP 726	7243 8 31796	The Beatles	<i>Live at the BBC</i>	30.11.94	30.11.94
SAPCOR 28	7243 8 30129	Badfinger	<i>The Best of Badfinger</i>	31.05.95	95
PCSP 727	7243 8 34445	The Beatles	<i>Anthology 1</i>	21.11.95	21.11.95
PCSP 728	7243 8 34448	The Beatles	<i>Anthology 2</i>	18.03.96	18.03.96
PCSP 729	7243 8 34451	The Beatles	<i>Anthology 3</i>	28.10.96	28.10.96
7243 5 21481	7243 8 34451	The Beatles	<i>Yellow Submarine Songtrack</i>	13.09.99	14.09.99
7243 5 26974	7243 5 26974	Badfinger	<i>The Very Best Of Badfinger</i>	23.10.00	13.09.00
7243 5 29970	7243 5 29970	The Beatles	<i>1</i>	13.11.00	13.11.00
7243 5 95713	7243 5 95713	The Beatles	<i>Let It Be... Naked</i>	17.11.03	18.11.03
7243 8 75400	0946 8 66878 2	The Beatles	<i>The Capitol Albums, Volume 1</i>	15.11.04	16.11.04
7243 3 60335	0946 3 57497 2	The Beatles	<i>The Capitol Albums, Volume 2</i>	03.04.06	11.04.06
0946 3 79808 2 8	0946 3 79808 2 8	The Beatles	<i>Love</i>	20.11.06	21.11.06
50999 9 65019 2 4	50999 9 65019 2 4	George Harrison	<i>Let It Roll: Songs by George Harrison</i>	16.06.09	16.06.09

<sup>21</sup> Not released. Planned release date - 30.05.69. Later issued on Elektra Records as *Accept No Substitute*.<sup>[10]</sup> SAPCOR 7 was also earmarked for a 20.06.69 album release by Trash.<sup>[11]</sup>

<sup>22</sup> Not issued in the UK. Planned release date - 04.07.69.<sup>[12]</sup> Only released in Germany, Italy and Japan (with alternate catalogue numbers).

<sup>23</sup> Regular album release to replace the Box Set package which accompanied the original UK issue.<sup>[13]</sup>

<sup>24</sup> *From Then to You* and *The Beatles Christmas Album* are the same album, being a collection of the Beatles Fan Club-only Christmas flexi discs issued between 1963 and 1969. Similarly, these two albums were only available to members of "The Beatles Fan Club".

<sup>25</sup> Only issued in mono despite stereo 'SW' prefix on US release. This album had previously been issued in full on Philles Records in the US and has since been reissued many times on various labels.

<sup>26</sup> Released in Brazil in mono without the 'S' prefix.

<sup>27</sup> Planned for release in Brazil in mono without the 'S' prefix but only released in stereo.

<sup>30</sup> Reissued on vinyl 10.12.96 with "Do You Mind" bonus track. Released in New Zealand as SAPCOR 101.

<sup>31</sup> This album has since been reissued on various labels.

<sup>32</sup> This album was reissued in 1977 on Ring O'Records, Catalogue number 2320 104, with different artwork.

<sup>33</sup> *Tetragrammaton* catalogue number as EMI refused to distribute.<sup>[14][15]</sup>

<sup>34</sup> Later re-issued on EMI's *Music for Pleasure* label in the UK with a different catalogue number: *Mind Games* (MFP 5058) in 1980,<sup>[16]</sup> *Ringo* (MFP 50508) in 1980,<sup>[17]</sup> *Dark Horse* (MFP 50510) in 1980,<sup>[18]</sup> *Rock 'n' Roll* (MFP 50522) in 1981,<sup>[19]</sup> and *Blast from Your Past* (MFP 50524) in 1981.<sup>[20]</sup>

<sup>35</sup> Later re-issued on EMI's *Fame* label in the UK with a different catalogue number: *Wild Life* (FA 3101) in 1984,<sup>[21]</sup> *Red Rose Speedway* (FA 3193) in 1987.<sup>[22]</sup>

<sup>36</sup> Originally planned for release as STAP-01.

<sup>43</sup> Pressed in the UK for export only, not released in the UK.

<sup>52</sup> This is the cassette release of the Dutch LP with catalogue number 5C 052-93536.

## Zapple Records

Zapple was a short-lived subsidiary of Apple designed to release spoken word and avant garde recordings.

Catalogue No.		Artist	Title	Release Date	
UK	US			UK	US
ZAPPLE 01	ST 3357	John Lennon & Yoko Ono	<i>Unfinished Music No.2: Life with the Lions</i>	09.05.69	26.05.69
ZAPPLE 02	ST 3358	George Harrison	<i>Electronic Sound</i>	09.05.69	26.05.69
ZAPPLE 03	-	<u>Richard Brautigan</u>	<i>Listening to Richard Brautigan</i> <sup>[28]</sup>	-	-

<sup>28</sup> Not released by Zapple. Released by Harvest Records in 1973 (ST-424)<sup>[23]</sup> and on CD by Collectors' Choice Music in 2005 (CCM-540-2).<sup>[24]</sup>

## Reissues

**Exhibit 79 p15**

### 1990s remasters

Apple began the process of reissuing the back catalogue on compact disc in 1991, with many of the CDs containing bonus tracks. By this time, the releases in the UK and US were virtually identical. This list does not include Beatles or solo albums, which were re-released on compact disc by Parlophone or Capitol.

Catalogue No.	Artist	Title	Release Date
CDP 7 97577 2	James Taylor	<i>James Taylor</i>	19.11.91
CDP 7 97578 2	Mary Hopkin	<i>Postcard</i>	19.11.91
CDP 7 97579 2	Badfinger	<i>Magic Christian Music</i>	19.11.91
CDP 7 97580 2	Billy Preston	<i>That's The Way God Planned It</i>	19.11.91
CDP 7 97581 2	Jackie Lomax	<i>Is This What You Want?</i>	19.11.91
CDP 7 97582 2	The Modern Jazz Quartet	<i>Under The Jasmine Tree</i>	19.11.91
CDP 7 98497 2	London Sinfonietta / John Tavener	<i>The Whale</i>	30.06.92
CDP 7 98692 2	The Iveys	<i>Maybe Tomorrow</i>	30.06.92
CDP 7 98695 2	Mary Hopkin	<i>Earth Song/Ocean Song</i>	30.06.92
CDP 7 98698 2	Badfinger	<i>No Dice</i>	30.06.92
CDP 7 98701 2	Doris Troy	<i>Doris Troy</i>	30.06.92
CDP 7 98706 2	George Harrison	<i>Wonderwall Music</i>	30.06.92
0777 7 81252 2	London Sinfonietta / John Tavener	<i>Celtic Requiem</i>	18.05.93
0777 7 81255 2	Radha Krishna Temple	<i>The Radha Krsna Temple</i>	18.05.93
0777 7 81279 2	Billy Preston	<i>Encouraging Words</i>	18.05.93
0777 7 81403 2	Badfinger	<i>Straight Up</i>	01.06.93
0777 7 90428 2	Plastic Ono Band	<i>Live Peace In Toronto 1969</i>	01.05.95
7243 8 30129 2	Badfinger	<i>The Best of Badfinger</i>	31.05.95
7243 8 30197 2	Mary Hopkin	<i>Those Were The Days</i>	31.05.95
7243 8 53816 2	The Modern Jazz Quartet	<i>Space</i>	10.12.96
7243 8 53817 2	Ravi Shankar & Ali Akbar Khan	<i>In Concert 1972</i>	10.12.96
7243 8 53899 2	Badfinger	<i>Ass</i>	10.12.96
7243 8 55239 2	George Harrison	<i>Electronic Sound</i>	10.12.96

## Exhibit 79 p16

### 2009 remasters

2009 saw the remastered reissues of the Beatles back catalogue. A worldwide release date of 9 September 2009 (09.09.09) was set to tie in with the release of *The Beatles: Rock Band* music video game. Replacing the CD editions which had been issued in 1987, all of the original Beatles albums were reissued in new packaging with mini DVD documentaries and, unlike the 1987 issues, the first four albums (*Please Please Me*, *With The Beatles*, *A Hard Day's Night* and *Beatles For Sale*) were made available on CD in stereo for the first time. Also, the *Past Masters* collection of non-album material was now issued as a double CD set, as opposed to the two separate discs issued in 1988. In addition, two box sets were issued, one containing all 16 remastered stereo albums and a second limited edition box set containing the mono mixes of all the albums up to and including *The Beatles* (the later albums did not receive a separate mono mix). The stereo box also features a DVD "The Mini Documentaries" which contains all the short films that are on the CDs in CD-ROM format.

Although the Apple logo is shown on all the 2009 remasters, the labels on the actual discs are those that appeared on the original LPs. So all the albums from "Please Please Me" through "Sgt. Pepper's Lonely Hearts Club Band" feature a Parlophone label. "Magical Mystery Tour", which was first released in an album version in the US, has a Capitol label. The remaining albums, originally released on Apple, feature the green "A-side" label, excepting "The Beatles" which features the green "A-side" label on

disc 1, and the 'white' (cut apple) "B-side" label on disc 2. For the "Past Masters" double-CD set, the first disc has a Parlophone label, and the second disc a green "A-side" Apple label. The DVD that accompanies "The Beatles in Stereo" box set has a red Apple label (similar to that on the original US "Let It Be" LP).

In late 2010, the compilation albums *1962–1966* and *1967–1970* were issued again, in addition a box set "1962-1970" containing both sets, released in the UK and Europe, and a similar box set released in the US with added photo cards and a stamp. Shortly afterwards, the entire remastered catalogue was finally made available to download on iTunes after years of legal wrangling between the Beatles and Apple Inc.

Catalogue No.	Artist	Title	Release Date
0946 3 82413 2 4	The Beatles	<i>A Hard Day's Night</i>	09.09.09
0946 3 82414 2 3	The Beatles	<i>Beatles for Sale</i>	09.09.09
0946 3 82415 2 2	The Beatles	<i>Help!</i>	09.09.09
0946 3 82416 2 1	The Beatles	<i>Please Please Me</i>	09.09.09
0946 3 82417 2 0	The Beatles	<i>Revolver</i>	09.09.09
0946 3 82418 2 9	The Beatles	<i>Rubber Soul</i>	09.09.09
0946 3 82419 2 8	The Beatles	<i>Sgt. Pepper's Lonely Hearts Club Band</i>	09.09.09
0946 3 82420 2 4	The Beatles	<i>With The Beatles</i>	09.09.09
0946 3 82465 2 7	The Beatles	<i>Magical Mystery Tour</i>	09.09.09
0946 3 82466 2 6	The Beatles	<i>The Beatles</i>	09.09.09
0946 3 82467 2 5	The Beatles	<i>Yellow Submarine</i>	09.09.09
0946 3 82468 2 4	The Beatles	<i>Abbey Road</i>	09.09.09
0946 3 82472 2 7	The Beatles	<i>Let It Be</i>	09.09.09
50999 2 43807 2 0	The Beatles	<i>Past Masters</i>	09.09.09
5099969944901	The Beatles	<i>The Beatles in Stereo</i> (16 CD + 1 DVD Box Set) <sup>[29]</sup>	09.09.09
5099969945120	The Beatles	<i>The Beatles in Mono</i> (13-CD Box Set)	09.09.09
RED 6266 / 5099990675225	The Beatles	<i>1962–1966</i>	18.10.10
BLUE 6770 / 5099990674723	The Beatles	<i>1967–1970</i>	18.10.10
5099990991127 (UK/Europe)	The Beatles	<i>1962–1970</i> (Box Set of 1962–1966 + 1967–1970)	07.12.10

<sup>29</sup> Also available as a USB flash drive.<sup>[25]</sup> Issued 07.12.09.

**Exhibit 79 p17**

## 2010 remasters

With the 1990s reissues out of print, many of the original Apple albums were re-released for a second time in new remastered versions in October 2010. These remasters were also made available on iTunes, just a few weeks before the Beatles back catalogue was finally released for download. Several of the iTunes versions included exclusive tracks not available on the standard CD issue, although these tracks were included on a bonus double CD as part of the *Apple Box Set*, which collected all of the remastered albums in one package. All of the 2010 remasters had been previously issued in the 1990s reissue programme apart from a 21-track compilation entitled *Come and Get It: The Best of Apple Records* which included a number of single-only tracks which now received their first official release on compact disc.



Catalogue No.	Artist	Title	Release Date
50999 6 42438 2 5	Badfinger	<i>Magic Christian Music</i>	25.10.10
50999 6 42439 2 4	Badfinger	<i>Ass</i>	25.10.10
50999 6 42440 2 0	Badfinger	<i>Straight Up</i>	25.10.10
50999 6 46397 2 7	Various Artists	<i>Come and Get It - The Best of Apple Records</i> (SAPCOR 29)	25.10.10
50999 9 05807 2 7	Badfinger	<i>No Dice</i>	25.10.10
50999 9 05809 2 5	Mary Hopkin	<i>Postcard</i>	25.10.10
50999 9 05810 2 1	Mary Hopkin	<i>Earth Song/Ocean Song</i>	25.10.10
50999 9 05811 2 0	James Taylor	<i>James Taylor</i>	25.10.10
50999 9 08239 2 3	Billy Preston	<i>Encouraging Words</i>	25.10.10
50999 9 08241 2 8	Billy Preston	<i>That's the Way God Planned It</i>	25.10.10
50999 9 08243 2 6	Doris Troy	<i>Doris Troy</i>	25.10.10
50999 9 08245 2 4	The Modern Jazz Quartet	<i>Under the Jasmine Tree + Space</i>	25.10.10
50999 9 08255 2 1	Jackie Lomax	<i>Is This What You Want?</i>	25.10.10
50999 9 08635 2 3	London Sinfonietta / John Tavener	<i>The Whale + Celtic Requiem</i>	25.10.10
50999 9 17672 2 6	Radha Kṛṣṇa Temple	<i>The Radha Kṛṣṇa Temple</i>	25.10.10
50999 9 18372 2 6	Various Artists	<i>Apple Box Set</i> (17-CD Box Set)	25.10.10
50999 9 18373 2 5	Badfinger/Mary Hopkin/Jackie Lomax	<i>Apple Records Extras</i> (SAPCOR 30)	25.10.10

## See also

- Apple Records
- List of record labels

**Exhibit 79 p18**

## References

- Bengtsson, Lasse (2000). "Applefacts" (<https://web.archive.org/web/20120204140608/http://home2.swipnet.se/~w-29168/applefacts.htm>). Home2.swipnet.se. Archived from the original (<http://home2.swipnet.se/~w-29168/applefacts.htm>) on 4 February 2012. Retrieved 21 April 2013.
- Calkin, Graham. "The Walls Ice Cream E.P" ([http://www.jpgr.co.uk/col\\_ct1.html](http://www.jpgr.co.uk/col_ct1.html)). Jpgr.co.uk. Retrieved 21 April 2013.
- Urish, Ben; Bielen, Kenneth G. (2007). *The Words and Music of John Lennon*. Greenwood Publishing Group. p. 14. ISBN 978-0-275-99180-7.
- Calkin, Graham. "John Lennon - You Know My Name" (<http://www.jpgr.co.uk/apples1002.html>). Jpgr.co.uk. Retrieved 21 April 2013.
- For Badfinger:
  - For Lennon: Calkin, Graham. "John Lennon - Woman Is The Nigger Of The World" (<http://www.jpgr.co.uk/r5953.html>). Jpgr.co.uk. Retrieved 21 April 2013.
- Madiger, Chip; Easter, Mark (2000). *Eight Arms to Hold You*. 44.1 Productions. pp. 440–441, 456. ISBN 0-615-11724-4.
- For Lennon: Calkin, Graham. "John Lennon - Give peace A Chance" (<http://www.jpgr.co.uk/apple13.html>). Jpgr.co.uk. Retrieved 21 April 2013.
  - For Starr: Calkin, Graham. "Ringo Starr - It Don't Come Easy" (<http://www.jpgr.co.uk/r5898.html>). Jpgr.co.uk. Retrieved 21 April 2013.
- "APP1" (<http://www.schomakers.com/RecordLabels/Apple/AppleViny/AppleVinyIGBR/APP1.htm>). Schomakers.com. Retrieved 21 April 2013.
- Calkin, Graham. "Saturday Nite Special" ([http://www.jpgr.co.uk/col\\_apple44.html](http://www.jpgr.co.uk/col_apple44.html)). Jpgr.co.uk. Retrieved 21 April 2013.

10. Calkin, Graham. "[Delaney And Bonnie](http://www.jpgr.co.uk/col_sapcor7.html)" ([http://www.jpgr.co.uk/col\\_sapcor7.html](http://www.jpgr.co.uk/col_sapcor7.html)). Jpgr.co.uk. Retrieved 24 April 2013.
11. Calkin, Graham. "[Apple Records Album Releases](http://www.jpgr.co.uk/i_all_applelp.html)" ([http://www.jpgr.co.uk/i\\_all\\_applelp.html](http://www.jpgr.co.uk/i_all_applelp.html)). Jpgr.co.uk. Retrieved 24 April 2013.
12. Calkin, Graham. "[Maybe Tomorrow](http://www.jpgr.co.uk/col_sapcor8.html)" ([http://www.jpgr.co.uk/col\\_sapcor8.html](http://www.jpgr.co.uk/col_sapcor8.html)). Jpgr.co.uk. Retrieved 24 April 2013.
13. Calkin, Graham. "[Let It Be](http://www.jpgr.co.uk/pcs7096.html)" (<http://www.jpgr.co.uk/pcs7096.html>). Jpgr.co.uk. Retrieved 24 April 2013.
14. Blaney, John (2005). *John Lennon: Listen to This Book* (illustrated ed.). [S.l.]: Paper Jukebox. p. 10. ISBN 978-0-9544528-1-0.
15. "[John Lennon Discography](http://homepage.ntlworld.com/carousel/pob/pob04.html)" (<http://homepage.ntlworld.com/carousel/pob/pob04.html>). Homepage.ntlworld.com. Retrieved 21 April 2013.
16. Blaney, John (2005). *John Lennon: Listen to This Book* (illustrated ed.). [S.l.]: Paper Jukebox. p. 128. ISBN 978-0-9544528-1-0.
17. "[Ringo Starr - Ringo \(Vinyl, LP, Album\) at Discogs](http://www.discogs.com/Ringo-Starr-Ringo/release/3212684)" (<http://www.discogs.com/Ringo-Starr-Ringo/release/3212684>). Discogs.com. Retrieved 21 April 2013.
18. "[George Harrison - Dark Horse \(Vinyl, LP, Album\) at Discogs](http://www.discogs.com/George-Harrison-Dark-Horse/release/1186589)" (<http://www.discogs.com/George-Harrison-Dark-Horse/release/1186589>). Discogs.com. Retrieved 21 April 2013.
19. Blaney, John (2005). *John Lennon: Listen to This Book* (illustrated ed.). [S.l.]: Paper Jukebox. p. 204. ISBN 978-0-9544528-1-0.
20. "[Ringo Starr - Blast From Your Past \(Vinyl, LP\) at Discogs](http://www.discogs.com/Ringo-Starr-Blast-From-Your-Past/release/2327814)" (<http://www.discogs.com/Ringo-Starr-Blast-From-Your-Past/release/2327814>). Discogs.com. Retrieved 21 April 2013.
21. Calkin, Graham. "[Wild Life](http://www.jpgr.co.uk/pcs7142.html)" (<http://www.jpgr.co.uk/pcs7142.html>). Jpgr.co.uk. Retrieved 21 April 2013.
22. Calkin, Graham. "[Red Rose Speedway](http://www.jpgr.co.uk/pctc251.html)" (<http://www.jpgr.co.uk/pctc251.html>). Jpgr.co.uk. Retrieved 21 April 2013.
23. "[Richard Brautigan - Listening To Richard Brautigan \(Vinyl, LP, Album\) at Discogs](http://www.discogs.com/Richard-Brautigan-Listening-To-Richard-Brautigan/release/3826541)" (<http://www.discogs.com/Richard-Brautigan-Listening-To-Richard-Brautigan/release/3826541>). Discogs.com. Retrieved 21 April 2013.
24. "[Richard Brautigan - Listening To Richard Brautigan \(CD\) at Discogs](http://www.discogs.com/Richard-Brautigan-Listening-To-Richard-Brautigan/release/3844012)" (<http://www.discogs.com/Richard-Brautigan-Listening-To-Richard-Brautigan/release/3844012>). Discogs.com. Retrieved 21 April 2013.
25. Tito, Greg (14 December 2009). "[The Escapist : News : Unboxing The Beatles Limited Edition Stereo USB](http://www.escapistmagazine.com/news/view/96855-Unboxing-The-Beatles-Limited-Edition-Stereo-USB)" (<http://www.escapistmagazine.com/news/view/96855-Unboxing-The-Beatles-Limited-Edition-Stereo-USB>). Escapistmagazine.com. Retrieved 24 April 2013.

## External links

- [Official site \(http://aplerecords.com/\)](http://aplerecords.com/)

**Exhibit 79 p19**

Retrieved from "[https://en.wikipedia.org/w/index.php?title=Apple\\_Records\\_discography&oldid=815631683](https://en.wikipedia.org/w/index.php?title=Apple_Records_discography&oldid=815631683)"

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# Exhibit 81 p1

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# Exhibit 81 p2

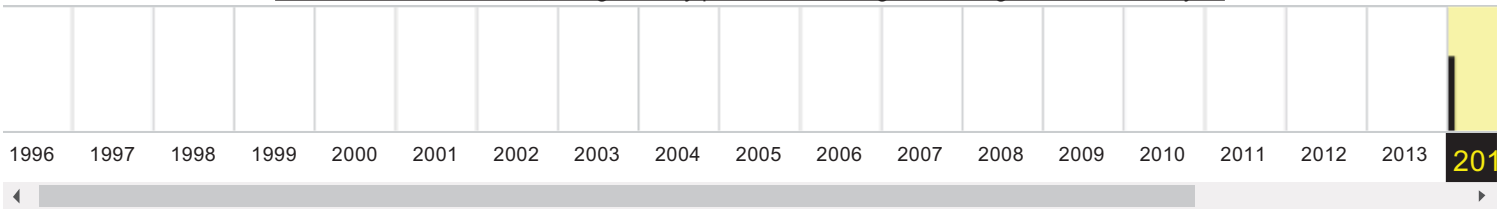
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# Apple Corps

**Exhibit 82 p1**

**Apple Corps Ltd** (informally known as **Apple**) is a multi-armed multimedia corporation founded in London in January 1968 by the members of the Beatles to replace their earlier company (Beatles Ltd) and to form a conglomerate. Its name (pronounced "apple core") is a pun. Its chief division is Apple Records, which was launched in the same year. Other divisions included Apple Electronics, Apple Films, Apple Publishing and Apple Retail, whose most notable venture was the short-lived Apple Boutique, on the corner of Baker Street and Paddington Street in central London. Apple's headquarters in the late 1960s was at the upper floors of 94 Baker Street, after that at 95 Wigmore Street, and subsequently at 3 Savile Row. The latter address was also known as the Apple Building, which was home to the Apple Studio.

From 1970 to 2007, Apple's chief executive was former Beatles road manager Neil Aspinall, although he did not officially bear that title until Allen Klein had left the company. The current CEO is Jeff Jones. In 2010, Apple Corps ranked number 2 on the *Fast Company* magazine's list of the world's most innovative companies in the music industry, thanks to the release of *The Beatles: Rock Band* video game and the remastering of the Beatles' catalogue.<sup>[1]</sup>

## Apple Corps Ltd



Apple  
Corps

Apple Corps' logo, featuring a  
Granny Smith apple

<b>Type</b>	Private/limited
<b>Industry</b>	Music, entertainment, mass media
<b>Founded</b>	1968
<b>Headquarters</b>	London, United Kingdom
<b>Area served</b>	Worldwide
<b>Key people</b>	Jeff Jones (CEO)
<b>Owner</b>	The Beatles (Paul McCartney, Ringo Starr, estates of John Lennon and George Harrison)
<b>Website</b>	www.applecorps.com (http://www.applecorps.com/)

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- Apple Electronics
- Apple Films
- Apple Publishing
- Apple Records and Zapple Records
- Apple Retail
- Apple Studio

### Legal battles

- Apple Corps v. Apple Computer
- Apple versus EMI

## Apple versus Nike/EMI

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## History

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The Beatles' accountants had informed the group that they had two million pounds that they could either invest in a business venture or else lose to the Inland Revenue, because corporate/business taxes were lower than their individual tax bills.<sup>[2]</sup> According to Peter Brown, personal assistant to Beatles' manager Brian Epstein, activities to find tax shelters for the income that the Beatles generated began as early as 1963–64, when Dr Walter Strach<sup>[3]</sup> was put in charge of such operations.<sup>[4]</sup> First steps into that direction were the foundation of Beatles Ltd and, in early 1967, Beatles and Co.<sup>[2]</sup>

The Beatles' publicist, Derek Taylor, remembered that Paul McCartney had the name for the new company when he visited Taylor's company flat in London: "We're starting a brand new form of business. So, what is the first thing that a child is taught when he begins to grow up? A is for Apple". McCartney then suggested the addition of *Apple Core*, but they could not register the name, so they used "Corps" (having the same pronunciation).<sup>[5]</sup> McCartney later revealed that he had been inspired by René Magritte's painting, *Le Jeu de Mourre*, featuring an apple with the words "Au revoir" painted on it.<sup>[5]</sup> Harriet Vyner's 1999 book about the late lamented charismatic London art dealer Robert Fraser, "Groovy Bob", contains this anecdote by McCartney about the first time he laid eyes on the painting that would inspire the company logo in 1967:<sup>[6]</sup>

In my garden at Cavendish Avenue, which was a 100-year-old house I'd bought, Robert was a frequent visitor. One day he got hold of a Magritte he thought I'd love. Being Robert, he would just get it and bring it. I was out in the garden with some friends. I think I was filming Mary Hopkin with a film crew, just getting her to sing live in the garden, with bees and flies buzzing around, high summer. We were in the long grass, very beautiful, very country-like. We were out in the garden and Robert didn't want to interrupt, so when we went back in the big door from the garden to the living room, there on the table he'd just propped up this little Magritte. It was of a green apple. That became the basis of the Apple logo. Across the painting Magritte had written in that beautiful handwriting of his 'Au revoir'. And Robert had split. I thought that was the coolest thing anyone's ever done with me".

## Formation

On the founding of Apple John Lennon commented: "Our accountant came up and said 'We got this amount of money. Do you want to give it to the government or do something with it?' So we decided to play businessmen for a bit because we've got to run our own affairs now. So we've got this thing called 'Apple' which is going to be records, films, and electronics – which all tie up".<sup>[7]</sup>

Stefan Granados wrote in *Those Were the Days: An Unofficial History of the "Beatles" Apple Organization 1967–2001*, on the various processes that led to the formation of Apple Corps:

The first step towards creating this new business structure was to form a new partnership called Beatles and Co. in April 1967. To all intents and purposes, Beatles and Co. was an updated version on the Beatles' original partnership, Beatles Ltd. Under the new arrangement, however, each Beatle would own 5% of Beatles and Co. and a new corporation owned collectively by all four Beatles [which would soon be known as Apple] would be given control of the remaining 80% of Beatles and Co. With the exception of individual songwriting royalties, which would still be paid directly to the writer or writers of a particular song, all of the money earned by the Beatles as a group would go directly to Beatles and Co. and would thus be taxed at a far lower corporate tax rate".<sup>[8][9]</sup>

**Exhibit 82 p3**

Now that a new business structure was found with a lower tax rate, Epstein asked what to do with it to justify it to the authorities, and originally thought of it mostly as a merchandising company, as according to Lennon's first wife, Cynthia: "The idea Brian came up with was a company called Apple. His idea was to plough their money into a chain of shops not unlike Woolworth's in concept: Apple boutiques, Apple posters, Apple records. Brian needed an outlet for his boundless energy".<sup>[10]</sup> Personal assistant to Epstein, Alistair Taylor remembered:<sup>[11]</sup>

We set up an 'Executive Board' of Apple before Brian died, including Brian, the accountant, a solicitor, Neil Aspinall, myself, and then sat down to work out ways of spending the money. One big idea was to set up a chain of shops designed only to sell cards: birthday cards, Christmas cards, anniversary cards. When the boys heard about that they all condemned the scheme as the most boring yet. Sure that they could come up with much better brainwaves, they began to get involved themselves".<sup>[12]</sup>

In the middle of setting up the new company, manager Epstein died unexpectedly in what seemed an accidental sleeping pills overdose on 27 August 1967, which pressed the Beatles to accelerate their plans to gain control of their own financial affairs. In addition to providing an umbrella to cover the Beatles' own financial and business affairs, Apple was intended to provide a means of financial support to anyone in the wider world struggling to get 'worthwhile' artistic projects off the ground. According to Granados, this idea probably originated with Paul McCartney as the Beatle most engaged in London's local avant-garde scene, "McCartney was among the best-known exponents of swinging London".<sup>[13]</sup> Ringo Starr was quoted as saying of the venture:<sup>[14]</sup>

We tried to form Apple with [Brian's brother] Clive Epstein, but he wouldn't have it... He didn't believe in us I suppose... He didn't think we could do it. He thought we were four wild men and we were going to spend all his money and make him broke. But that was the original idea of Apple – to form it with NEMS... We thought now Brian's gone let's really amalgamate and get this

thing going, let's make records and get people on our label and things like that. So we formed Apple and they formed NEMS, which is exactly the same thing as we are doing. It was a family tie and we thought it would be a good idea to keep it in".

**Exhibit 82 p4**

McCartney at first had obviously intended to use Epstein's music publishing company Epstein Music for these plans, but after Epstein's death it was learned that Australian Robert Stigwood was trying to get hold of NEMS.<sup>[15]</sup> All four Beatles were not in favour of such an outcome, as McCartney had previously told Epstein in 1967:<sup>[16]</sup>

We said, 'In fact, if you do, if you somehow manage to pull this off, we can promise you one thing. We will record *God Save the Queen* for every single record we make from now on and we'll sing it out of tune. That's a promise. So if this guy buys us, that's what he's buying".

They hurried to set up Apple instead, and seeing that the Beatles would not be part of the NEMS package, Stigwood went to form his own company, RSO Records. The Apple logo was designed by Gene Mahon, with illustrator Alan Aldridge transcribing the copyright notice to appear on record releases. In January 1968, Beatles Ltd. officially changed its name to Apple Corps. Ltd. and registered the Apple trademark in forty-seven countries<sup>[17]</sup> In February the company also registered Apple Electronics, Apple Films Ltd., Apple Management, Apple Music Publishing, Apple Overseas, Apple Publicity, Apple Records, Apple Retail, and Apple Tailoring Civil and Theatrical with the intent on focusing on five divisions: records, electronics, film, publishing and retailing.

Lennon and McCartney introduced their new business concept on a press conference held on 14 May 1968 in New York City, with McCartney saying it would be, "A beautiful place where you can buy beautiful things... a controlled weirdness... a kind of Western communism".<sup>[18][19]</sup> Lennon said, "It's a company we're setting up, involving records, films, and electronics, and – as a sideline – manufacturing or whatever. We want to set up a system where people who just want to make a film about anything, don't have to go on their knees in somebody's office, probably yours".<sup>[20]</sup> McCartney also said: "It's just trying to mix business with enjoyment. We're in the happy position of not needing any more money. So for the first time, the bosses aren't in it for profit. We've already bought all our dreams. We want to share that possibility with others".<sup>[20]</sup>

## Early administration

For the first few months of Apple's existence, it did not even have an office. Most of the company's business was conducted from the NEMS building. It was not until the autumn of 1967 that Apple finally opened a London office. Since the Beatles already owned a four-story building at 94 Baker Street that had been purchased as an investment property by their accountants, they decided that Baker Street was as good a location as any for Apple. In September they set up an office for Apple Publishing in the Baker Street building. With Epstein's death, there was nobody in the Beatles' inner circle with business acumen who could manage the company, and, as with their band affairs, the Beatles decided that they would manage it themselves.



In December 1967, shortly after Epstein's death, Lennon asked Alistair Taylor to work as General Manager for Apple. It was during this period that Taylor appeared in the famous advertisement to promote Apple asking for new artists. Designed by McCartney, it showed him disguised as a one-man band, claiming: "This man has talent..." The publication in the *New Musical Express* and *Rolling Stone* brought an avalanche of applicants. The mail room, telephone switchboard, and conference rooms became jammed at all hours with "artists" begging the Beatles to give them money. George Harrison would later lament that "We had every freak in the world coming in there". Many of these supplicants received the investments they sought and were never heard from again.

Even though Apple was declared the most successful new record company of the year for 1968 before long the band members' ignorance of finance and administration combined with their naive, utopian mission of funding struggling, unknown artists left Apple Corps with no solid business plan.

The Beatles' naivete and inability to keep track of their own accounts was also eagerly exploited by the employees of Apple, who purchased drugs and alcoholic beverages, company lunches at expensive London restaurants, and international calls made regularly on office telephones, all of which would be treated as business expenses. Writers Alan Clayson and Spencer Leigh described the owners' hopelessness in managing their own creation:

Out of his depth, a Beatle might commandeer a room at Saville Row, stick to conventional office hours and play company director until the novelty wore off. Initially, he'd look away from the disgusting realities of the half-eaten steak sandwich in a litter bin; the employee rolling a spliff of best Afghan hash; the typist who span out a single letter (in the house style, with no exclamation marks!) all morning before 'popping out' and not returning until the next day. A great light dawned. 'We had, like, a thousand people that weren't needed,' snarled Ringo, 'but they all enjoyed it. They were all getting paid for sitting around. We had a guy there just to read the tarot cards, the I Ching. It was craziness".<sup>[21]</sup>

Aspinall finally agreed to direct the company on a temporary basis, simply so that someone would finally be in charge. When, in 1969, the Beatles engaged Klein as their manager, he also inherited the chairmanship of Apple Corps, which led to an immediate streamlining of company affairs: "Overnight, glib lack of concern deferred to pointed questions," wrote Clayson & Leigh. "Which typist rings Canberra every afternoon? Why has so-and-so given himself a raise of 60 pounds a week? Why is he seen only on payday? Suddenly, lunch meant beans-on-toast in the office kitchen instead of Beluga caviar from Fortnum & Mason".<sup>[22]</sup>

## Beatles break-up and beyond



Alistair Taylor in the "one-man band advertisement"

**Exhibit 82 p5**

The first two years of the company's existence also coincided with a marked worsening of the band members' relationships with each other, ultimately leading to the break-up of the band in 1970. Apple quickly slid into financial chaos, which was resolved only after many years of litigation. **When the Beatles' partnership was dissolved in 1975, dissolution of Apple Corps was also considered, but it was decided to keep it going, while effectively retiring all its divisions.** The company is currently headquartered at 27 Ovington Square, in London's prestigious Knightsbridge district. Ownership and control of the company remains with McCartney, Starr and the estates of Lennon and Harrison.

Apple Corps has had a long history of trademark disputes with Apple Computer (now Apple Inc.). The dispute was finally resolved in 2007, with Apple Corps transferring ownership of the "Apple" name and all associated trademarks to Apple Inc., and Apple Inc. exclusively licensing these back to the Beatles' company. In April 2007, Apple also settled a long running dispute with EMI and announced the retirement of chief executive Aspinall.<sup>[23][24]</sup> Aspinall was replaced by Jeff Jones.<sup>[25]</sup>

**Exhibit 82 p6**

## Subsidiaries

Apple Corps operated in various fields, mostly related to the music business and other media, through a number of subsidiaries.

### Apple Electronics

**Apple Electronics** was the electronics division of Apple Corps, founded as Fiftyshapes Ltd., at 34 Boston Place, Westminster, London. It was headed by Beatles' associate Yanni Alexis Mardas, whom Lennon had nicknamed Magic Alex.<sup>[26]</sup> Intending to revolutionise the consumer electronics market, largely through products based on Mardas' unique and, as it turned out, commercially impractical, designs, the electronics division did not make any breakthroughs. After the dismissal of Mardas in 1969, during Klein's 'house-cleaning' of Apple Corps, Apple Electronics fell victim to the same forces that troubled the company as a whole, including the impending Beatles' break-up. It was later estimated that Mardas' ideas and projects had cost the Beatles at least £300,000 (approximately three million 2007 British pounds).<sup>[27][28]</sup>

### Apple Films

**Apple Films** is the film-making division of Apple Corps. Its first production was The Beatles' 1967 TV movie *Magical Mystery Tour*. The Beatles' films *Yellow Submarine* and *Let it Be* were also produced under Apple Films. Other notable releases included *Raga* (a 1971 documentary on Ravi Shankar), *The Concert for Bangladesh* (1972) and *Little Malcolm* (1974). The latter, produced by George Harrison, included the song "Lonely Man" by Dark Horse Records band Splinter. Apple Films was also responsible for producing Apple Corps' televised promotions.



The Apple Films logo, from the DVD release of *Born to Boogie*.

The following is a list of releases from Apple Films, usually in the role of production company.<sup>[29]</sup>

- *Magical Mystery Tour* (1967). Starring the Beatles; produced and directed by the Beatles; filmed September–October 1967; 54 mins. World premiere: BBC1 (TV), 26 December 1967.
- *Yellow Submarine* (1968). Animated film featuring the Beatles; produced by Al Brodax; directed by George Dunning; animation designed by Heinz Edelmann; written by Lee Minoff, Al Brodax, Jack Mendelsohn and Erich Segal; 85 mins. Distributed by United Artists. World/UK premiere: London, 17 July 1968. US premiere: New York, 13 November 1968.
- *Let It Be* (1970). Documentary featuring the Beatles; produced by Neil Aspinall; directed by Michael Lindsay-Hogg; filmed January–February 1969; 88 mins. Distributed by United Artists. World/US premiere: New York, 13 May 1970. UK premiere: London, 20 May 1970.
- *Raga* (1971). Documentary featuring Ravi Shankar, Yehudi Menuhin, George Harrison and Ustad Alauddin Khan; produced by Howard Worth and Nancy Bacal; directed by Howard Worth; 96 mins. Distributed by Apple Films. World/US premiere: New York, 23 November 1971.
- *The Concert for Bangladesh* (1972). Concert documentary featuring George Harrison, Ravi Shankar, Ringo Starr, Bob Dylan, Ali Akbar Khan, Billy Preston, Eric Clapton and Leon Russell; produced by George Harrison and Allen Klein; directed by Saul Swimmer; filmed July–August 1971; 103 mins. Distributed by 20th Century Fox. World/US premiere: New York, 23 March 1972. UK premiere: London, 27 July 1972.
- *Born to Boogie* (1972). Documentary featuring Marc Bolan, T. Rex, Elton John and Ringo Starr; produced and directed by Ringo Starr; filmed March–April 1972. Distributed by Apple Films. World/UK premiere: London, 18 December 1972.
- *Son of Dracula* (1974). Starring Harry Nilsson, Ringo Starr, Suzanna Leigh, Freddie Jones and Dennis Price; produced by Ringo Starr, Jerry Gross and Tim Van Rellim; directed by Freddie Francis; screenplay by Jennifer Jayne; filmed August–October 1972; 90 mins. Distributed by Cinamation Industries. World/US premiere: Atlanta, GA, 19 April 1974.
- *Little Malcolm* (1974). Starring John Hurt, John McEnery, Raymond Platt, Rosalind Ayres and David Warner; produced by George Harrison and Gavrick Losey; directed by Stuart Cooper; screenplay by David Halliwell and Derek Woodward; 109 mins. Distributed by Apple Films. World/European premiere: Berlin, July 1974.

## Exhibit 82 p7

### Apple Publishing

Apple's music publishing arm predated even the record company. In September 1967, the first artistes to be signed by Apple Publishing were two songwriters from Liverpool. Paul Tennant and David Rhodes were offered a contract after meeting McCartney in Hyde Park.<sup>[30]</sup> They were advised to form a band by Epstein after he and Lennon heard their demos, calling the group Focal Point.<sup>[31]</sup> Epstein was to have managed the band but died before he could become involved. Terry Doran MD of Apple Publishing became their manager and they were signed by Deram Records.<sup>[32]</sup> Apple published the group's self-penned songs from early 1968.<sup>[33]</sup> Another early band on its publishing roster was the group Grapefruit.<sup>[34]</sup>

Apple Publishing Ltd. was also used as a publishing stop-gap by Harrison and Starr, as they sought to shift control of their own songs away from Northern Songs, in which their status was little more than paid writers. (Harrison later started Harrisongs, and Starr created Startling Music). Apple's greatest publishing successes were the Badfinger hits "No Matter What", "Day After Day" and "Baby Blue", all written by group member Pete Ham, and Badfinger's "Without You", a song penned by Ham and Badfinger band mate Tom Evans. "Without You" became a worldwide No. 1 chart hit for Harry Nilsson in 1972 and Mariah Carey in 1993. In 2005, however, Apple lost the US publishing rights for the work of Ham and Evans. Those rights were transferred to Bug Music, now a branch of BMG Rights Management.<sup>[35]</sup>

Apple also undertook publishing duties, at various times, for other Apple artists, including Yoko Ono, Billy Preston and the Radha Krsna Temple. Apple received a large number of demo tapes; some songs were published, some were issued on other labels and only Benny Gallagher & Lyle were retained as in-house writers before going on to co-found McGuinness Flint. Many of these demos have been collected on a series of CDs released by Cherry Red Records. They are entitled *94 Baker Street*,<sup>[36]</sup> *An Apple for the Day*,<sup>[37]</sup> *Treacle Toffee World*,<sup>[38]</sup> *Lovers from the Sky: Pop Psych from the Apple Era 1968-1971* and *94 Baker Street Revisited: Poptastic Sounds from the Apple Era 1967-1968*.

Apple Books was largely inactive and had very few releases. One notable release was the book that accompanied the initial pressing of the *Let It Be* album entitled "The Beatles Get Back" containing photographs by Ethan Russell and text by *Rolling Stone* writers Jonathan Cott and David Dalton. Although the book was credited to Apple Publishing, all of the work on the project was actually done by freelancers.<sup>[39][40][41][42][43]</sup>

**Exhibit 82 p8**

## Apple Records and Zapple Records

From 1968 onwards, new releases by the Beatles were issued by Apple Records, although the copyright remained with EMI, and Parlophone/Capitol catalogue numbers continued to be used. Apple releases of recordings by artists other than the Beatles, however, used a new set of numbers, and the copyrights were held mostly by Apple Corps Ltd. More than a "vanity label", Apple Records developed an eclectic roster of their own, releasing records by artists as diverse as Indian sitar guru Ravi Shankar, Welsh easy listening songstress Mary Hopkin, the power-pop band Badfinger, classical music composer John Tavener, soul singer Billy Preston, folk singer James Taylor, R&B singer Doris Troy, New York underground rock band Elephant's Memory, original bad girl of rock and roll Ronnie Spector, rock singer Jackie Lomax, the Modern Jazz Quartet, and even London's Radha Krsna Temple.

Since Apple's inception, McCartney and Lennon had been very interested in launching a budget-line label to issue what would essentially be known three decades later as "audio books". In October 1968, Apple hired Barry Miles, who co-owned the Indica bookshop with John Dunbar and Peter Asher, to manage the proposed spoken-word label. The initial idea of Zapple Records was that it would release avant-garde and spoken word records at a reduced price that would be comparable to that of a paperback novel. While the idea looked good on paper, the reality was that when the few records actually put out by Zapple finally made it into the shops, they were priced like any other full-priced music album.<sup>[44]</sup> Zapple Records was started on 3 February 1969, but after Klein was brought in to run Apple Corps' affairs, it was closed down after just two releases: Lennon and Ono's *Unfinished Music No. 2: Life with the Lions*, and Harrison's *Electronic Sound*.<sup>[45]</sup>

## Apple Retail

The **Apple Boutique** was a retail store, located at 94 Baker Street in London, England, and was one of the first business ventures by the fledgling Apple Corps. Lennon's schoolfriend Pete Shotton was hired as manager, and the Dutch design collective The Fool were brought in to design the store and much of the merchandise.<sup>[46]</sup> The store opened to much fanfare on 7 December 1967, with Lennon and Harrison attending (Starr was filming, and McCartney was on holiday). The boutique was, however, never profitable, largely due to shoplifting, by customers and its own staff.<sup>[47]</sup> After Shotton resigned, John Lyndon took over

but even his management skills could not save the enterprise.<sup>[48]</sup> The store's remaining stock was liquidated by giving it away, but not before the individual Beatles took whatever they liked the night before its closure.<sup>[47]</sup> The boutique closed its doors for the last time on 31 July 1968.<sup>[48]</sup>

## Apple Studio

**Apple Studio** was a recording studio, located in the basement of the Apple Corps headquarters at 3 Savile Row. The facility was renamed **Apple Studios** after its expansion in 1971.

Originally designed by Mardas, of Apple Electronics, the initial installation proved to be unworkable – with almost no standard studio features such as a patch bay, or a talkback system between the studio and the control room, let alone Alex's promised innovations – and had to be scrapped. Nevertheless, the Beatles recorded and filmed portions of their album *Let It Be* in the Apple Studio, with equipment borrowed from EMI; during takes they had to shut down the building's central heating, also located in the basement, because the lack of soundproofing allowed the heating system to be heard in the studio.

The redesign and rebuilding of the basement to accommodate proper recording facilities was overseen by former EMI engineer Geoff Emerick, and took eighteen months at an estimated cost of \$1.5 million. Beatles' technical engineer Claude Harper aided on the project, as well.<sup>[49]</sup> The studio reopened on 30 September 1971 and now included its own natural echo chamber, a wide range of recording and mastering facilities, and could turn out mono, stereo and quadrophonic master tapes and discs. In 1971, it would have cost £37 an hour (equivalent to £500 in 2018)<sup>[50]</sup> to record to 16-track, £29 an hour (equivalent to £400 in 2018)<sup>[50]</sup> to mix to stereo, and £12 (equivalent to £200 in 2018)<sup>[50]</sup> to cut a 12" master. George Harrison attended the launch party, along with Pete Ham of Badfinger and Klaus Voormann.<sup>[51]</sup>

The studio became a second home for Apple Records artists, although they also used Abbey Road and other studios in London, including Trident Studios, AIR Studios, Morgan Studios and Olympic Studios or elsewhere. The only Beatle solo release to use Apple Studio for a significant portion of its production was Harrison's *Living in the Material World* album of 1973, yet most of the recording is thought to have taken place at his impressive Friar Park studio.<sup>[52]</sup>

The first projects to be carried out there after the re-opening were the recording of Lon & Derrek Van Eaton's *Brother* album,<sup>[49]</sup> and overdubbing and mixing on Badfinger's *Straight Up*.<sup>[53]</sup> Other artists such as Harry Nilsson, Nicky Hopkins, Wishbone Ash, Viv Stanshall, Stealers Wheel, Lou Reizner, Clodagh Rodgers and Marc Bolan (as shown in the movie *Born To Boogie*) also worked there. The existence of acetates by numerous performers is evidence that the studio was widely used. Apple Studio was closed down for good on 16 May 1975.

## Legal battles

### Exhibit 82 p9



Apple Studios in 1971

## Apple Corps v. Apple Computer

In 1978, Apple Records filed suit against Apple Computer (now Apple Inc.) for trademark infringement. The suit was settled in 1981 with the payment of \$80,000 to Apple Corps. As a condition of the settlement, Apple Computer agreed to stay out of the music business. A dispute subsequently arose in 1989 when Apple Corps sued, alleging that Apple Computer's machines' ability to play back MIDI music was a violation of the 1981 settlement agreement. In 1991 another settlement, of around \$26.5 million, was reached.<sup>[54][55]</sup> In September 2003, Apple Computer was again sued by Apple Corps, this time for introducing the iTunes Music Store and the iPod, which Apple Corps asserted was a violation of Apple's agreement not to distribute music. The trial opened on 29 March 2006 in the UK,<sup>[56]</sup> and in a judgement issued on 8 May 2006, Apple Corps lost the case.<sup>[55][57]</sup>

On 5 February 2007, Apple Inc. and Apple Corps announced a settlement of their trademark dispute under which Apple Inc. took ownership of all of the trademarks related to "Apple" (including all designs of the famed "Granny Smith" Apple Corps Ltd. logos),<sup>[58]</sup> and will license certain of those trademarks back to Apple Corps for their continued use. The settlement ends the ongoing trademark lawsuit between the companies, with each party bearing its own legal costs, and Apple Inc. will continue using its name and logos on iTunes. The settlement includes terms that are confidential.<sup>[59][60]</sup>

The website for Harmonix's *The Beatles: Rock Band* video game is notable as the first evidence of the Apple, Inc./Apple Corps Ltd. settlement: "Apple Corps" is prominently referred to throughout, and the "Granny Smith" Apple logo appears but the text beneath the logo now reads "Apple Corps" rather than the previous "Apple". The website's acknowledgements specifically state that "Apple' and the 'Apple logo' are exclusively licensed to Apple Corps Ltd".

On 16 November 2010, Apple Inc. launched an extensive advertising campaign that announced the availability of the Beatles' entire catalogue on iTunes.

**Exhibit 82 p10**

## Apple versus EMI

The Beatles alleged in a 1979 lawsuit that EMI and Capitol had underpaid the band by more than £10.5 million. A settlement was reached in that case in 1989, which granted the band an increased royalty rate and required EMI and Capitol to follow more stringent auditing requirements.<sup>[61]</sup> Apple, on behalf of the surviving Beatles and relatives of the band's late members, again sued EMI for unpaid royalties, in a case beginning in 2005.<sup>[61][62]</sup> The case was settled in April 2007 with a "mutually acceptable" conclusion, which remained confidential.<sup>[24]</sup>

## Apple versus Nike/EMI

In July 1987 Apple Corps sued Nike Inc., Wieden+Kennedy (Nike's advertisement agency), EMI and Capitol Records for the use of the song "Revolution" in a 1987 Nike commercial. Apple claimed that it was not informed of the use of the song and was not paid for continued use and therefore sued the four companies for \$15 million.<sup>[63]</sup> EMI countered stating that the case was "groundless" to their claim they had the "active support and encouragement of Yoko Ono Lennon", who owns 25% of Apple Corps through Lennon's estate, and was quoted as saying: "[The commercial] is making John's music accessible to a new generation". Apple's

lawyer responded by stating that Apple cannot take action unless all four shares are in agreement, meaning that Ono must have supported the idea to take legal action at the moment when the decision was made. Harrison had the following to say about the unauthorised use of Beatles songs for advertisement as well as the importance of this particular case:

*[E]very Beatles song ever recorded is going to be advertising women's underwear and sausages. We've got to put a stop to it in order to set a precedent. Otherwise it's going to be a free-for-all. It's one thing when you're dead, but we're still around! They don't have any respect for the fact that we wrote and recorded those songs, and it was our lives.*

On 9 November 1989, the lawsuit was settled out of court. As with previous cases between Apple and EMI, a condition of the settlement was that terms of the agreement would be kept secret. It was suggested, however, by a spokesman of Ono that in the end of a very "confusing myriad of issues" there was a large exchange of money. Nike had also ceased to use the song for advertisement in March 1988.<sup>[64]</sup>

## Notes

**Exhibit 82 p11**

1. "Most Innovative Companies" (<http://www.fastcompany.com/mic/2010/industry/most-innovative-music-companies>). Mansueto Ventures LLC. Archived (<https://web.archive.org/web/20110607061151/http://www.fastcompany.com/mic/2010/industry/most-innovative-music-companies>) from the original on 7 June 2011. Retrieved 2 June 2011.
2. *Cross 2007*, p. 152.
3. 23 February 1965: The Beatles begin filming Help! in the Bahamas | The Beatles Bible (<http://www.beatlesbible.com/1965/02/23/filming-help/>)
4. *Brown & Gaines 2002*, p. 117.
5. *Cross 2007*, p. 199.
6. *Groovy Bob: The Life and Times of Robert Fraser* by Harriet Vyner, Faber, 317 pp, October 1999, ISBN 0-571-19627-6
7. "Lennon & McCartney Interview, The Tonight Show" (<http://www.beatlesinterviews.org/db1968.05ts.beatles.html>). Beatles Interviews. 14 May 1968. Retrieved 2 June 2011.
8. *Granados 2002*, p. 6.
9. "Apple Corps: General Statements" (<http://www.beatlemoney.com/applefacts.htm>). Beatle Money. Archived (<https://web.archive.org/web/20110707220743/http://www.beatlemoney.com/applefacts.htm>) from the original on 7 July 2011. Retrieved 2 June 2011.
10. *Lennon 1978*, p. 146.
11. *Yesterday: The Beatles Remembered* with Martin Robers, Pan Macmillan (1988), p. 108, ISBN 0-283-99621-8
12. *Taylor 1988*, p. 108.
13. Granados, Stefan. *Those Were the Days – The Beatles Apple Organization* ([https://web.archive.org/web/20070829121144/http://www.cherryred.co.uk/books/thoseweretheday\\_txt.php](https://web.archive.org/web/20070829121144/http://www.cherryred.co.uk/books/thoseweretheday_txt.php)). Cherry Red Records. Archived from the original on 29 August 2007. Retrieved 2 June 2011.
14. Granados, M. *Those Were the Days*. p. 11.
15. *Cross 2005*, p. 191.
16. "Paul McCartney: Expenses" (<http://www.beatlemoney.com/paul6467.htm>). Beatle Money. Archived (<https://web.archive.org/web/20110707221156/http://www.beatlemoney.com/paul6467.htm>) from the original on 7 July 2011. Retrieved 2 June 2011.

17. Granados, M. *Those Were the Days*. p. 24.
18. Carlin 2009, p. 171.
19. "Uncontrolled Weirdness" (<http://www.newint.org/features/1990/10/05/weirdness/>). *New Internationalist*. October 1990. Retrieved 2 June 2011.
20. "John Lennon & Paul McCartney: Apple Press Conference" (<http://www.beatlesinterviews.org/db1968.0514pc.beatles.html>). Beatles Interviews. 14 May 1968. Retrieved 2 June 2011.
21. Clayson & Leigh 2003, p. 256.
22. Clayson & Leigh 2003, p. 257.
23. Kozinn, Allan (12 April 2007). "Magical Mystery Tour Ends for Apple Corps Executive". *The New York Times*.
24. Evans, Jonny (12 April 2007). "EMI, Apple Corps deal good news for iTunes?" (<http://www.macworld.co.uk/ipod-itunes/news/index.cfm?newsid=17737&pagtype=allchandate>). *MacWorld*. Archived (<https://web.archive.org/web/20110610173352/http://www.macworld.co.uk/ipod-itunes/news/index.cfm?newsid=17737&pagtype=allchandate>) from the original on 10 June 2011. Retrieved 2 June 2011.
25. "Beatles' friend quits top job at Apple Corps" (<http://www.nme.com/news/the-beatles/27612>). *NME*. 10 April 2007. Archived (<https://web.archive.org/web/20110605124850/http://www.nme.com/news/the-beatles/27612>) from the original on 5 June 2011. Retrieved 2 June 2011.
26. Blaney 2005, p. 23.
27. Campbell, Duncan (3 August 1979). "Alex Mardas". *New Statesman*.
28. "Purchasing Power of British Pounds from 1264 to 2007" (<http://www.measuringworth.com/ppoweruk/>). Measuring Worth. Archived (<https://web.archive.org/web/20080706130443/http://www.measuringworth.com/ppoweruk/>) from the original on 6 July 2008. Retrieved 8 August 2008.
29. Harry Castleman & Walter J. Podrazik, *All Together Now: The First Complete Beatles Discography 1961–1975*, Ballantine Books (New York, NY, 1976), pp 318–21.
30. Tennant & Willis 2008, p. 62.
31. Tennant & Willis 2008, p. 125.
32. Tennant & Willis 2008, p. 174.
33. Tennant & Willis 2008, p. 102.
34. Tennant & Willis 2008, p. 170.
35. Matovina 2000.
36. *94 Baker Street: The Pop Psych Sounds of the Apple Era 67–69* (<https://www.amazon.co.uk/dp/B0000BZYRA>). Rpm. 20 October 2003. Retrieved 26 April 2011.
37. *An Apple a Day* (<https://www.amazon.co.uk/dp/B000EMTHJE>). Rpm. 10 April 2006. Retrieved 26 April 2011.
38. *Treacle Toffee World: Further Adventures Into the Pop Psych Sounds from the Apple Era 1967–1969* (<https://www.amazon.co.uk/dp/B001FNMVM6>). Rpm. 27 October 2008. Retrieved 26 April 2011.
39. Granados, S. *Those Were the Days*. p. 44
40. *Yesterday* by Robert Freeman
41. *Many Years From Now* by Miles, *In My Life* by Pete Shotton
42. *The Complete EMI Recording Sessions* by Mark Lewisohn
43. *The Beatles London* by Mark Lewisohn and Peter Schreuder.
44. Granados, S. *Those Were the Days*. p. 76
45. Blaney 2005, p. 15.
46. Cross 2005, p. 218.
47. Cross 2005, p. 239.

**Exhibit 82 p12**



48. Cross 2005, p. 238.
49. Apple US press release for Lon & Derrek Van Eaton's *Brother* album ([http://applerecords.com/#!/memorabilia/FF\\_A\\_VanEaton](http://applerecords.com/#!/memorabilia/FF_A_VanEaton)), September 1972. Retrieved 24 February 2012,
50. UK Retail Price Index inflation figures are based on data from Clark, Gregory (2017). "The Annual RPI and Average Earnings for Britain, 1209 to Present (New Series)" (<https://measuringworth.com/ukearnrcpi/>). *MeasuringWorth*. Retrieved November 6, 2017.
51. Keith Badman, *The Beatles Diary Volume 2: After the Break-Up 1970–2001*, Omnibus Press (London, 2001), p. 50.
52. Simon Leng, *While My Guitar Gently Weeps: The Music of George Harrison*, Hal Leonard (Milwaukee, WI, 2006), p. 126.
53. Badman, *The Beatles Diary Volume 2*, p. 50.
54. Borland, John; Fried, Ina (23 September 2004). "Apple vs. Apple: Perfect harmony?" ([http://news.cnet.com/Apple-vs.-Apple-Perfect-harmony/2100-1027\\_3-5378401.html](http://news.cnet.com/Apple-vs.-Apple-Perfect-harmony/2100-1027_3-5378401.html)). *CBS Interactive*. Retrieved 2 June 2011.
55. "Apple Corps v Apple Computer: judgment in full" (<http://business.timesonline.co.uk/tol/business/law/article714550.ece>). *The Times*. 8 May 2006. p. 1. Archived (<https://web.archive.org/web/20110611165141/http://business.timesonline.co.uk/tol/business/law/article714550.ece>) from the original on 11 June 2011. Retrieved 2 June 2011.
56. "Apple giants do battle in court" (<http://news.bbc.co.uk/2/hi/entertainment/4854408.stm>). *BBC*. 29 March 2006. Retrieved 2 June 2011.
57. "Apple Computer Triumphs In Beatle Case" (<http://www.billboard.com/articles/news/58508/apple-computer-triumphs-in-beatles-case>). *Billboard*. 8 May 2006. Archived (<https://web.archive.org/web/20110605063706/http://www.billboard.com/articles/news/58508/apple-computer-triumphs-in-beatles-case>) from the original on 5 June 2011. Retrieved 2 June 2011.
58. Malley, Aidan; Jade, Kasper (12 April 2007). "Apple Inc. scores trademark coup with Beatles' label logos" ([http://www.appleinsider.com/articles/07/04/12/apple\\_inc\\_scores\\_trademark\\_coup\\_with\\_beatles\\_label\\_logos.html](http://www.appleinsider.com/articles/07/04/12/apple_inc_scores_trademark_coup_with_beatles_label_logos.html)). *Apple Insider*. Archived ([https://web.archive.org/web/20110612005622/http://www.appleinsider.com/articles/07/04/12/apple\\_inc\\_scores\\_trademark\\_coup\\_with\\_beatles\\_label\\_logos.html](https://web.archive.org/web/20110612005622/http://www.appleinsider.com/articles/07/04/12/apple_inc_scores_trademark_coup_with_beatles_label_logos.html)) from the original on 12 June 2011. Retrieved 2 June 2011.
59. Kerris, Natalie. "Apple Inc. and the Beatles' Apple Corps Ltd. Enter into New Agreement" (<https://www.apple.com/pr/library/2007/02/05Apple-Inc-and-The-Beatles-Apple-Corps-Ltd-Enter-into-New-Agreement.html>) (Press release). *Apple Inc.* Archived (<https://web.archive.org/web/20110501035256/http://www.apple.com/pr/library/2007/02/05apple.html>) from the original on 1 May 2011. Retrieved 24 August 2013.
60. Sweney, Mark (5 February 2007). "Apple trademark dispute resolved" (<https://www.theguardian.com/media/2007/feb/05/digitalmedia.musicnews>). *The Guardian*. Retrieved 2 June 2011.
61. "Beatles sue EMI in royalties row" (<http://news.bbc.co.uk/2/hi/entertainment/4535330.stm>). *BBC*. 16 December 2005. Retrieved 2 June 2011.
62. "Beatles to sue EMI for millions in royalties" ([http://www.timesonline.co.uk/tol/news/world/us\\_and\\_americas/article623632.ece](http://www.timesonline.co.uk/tol/news/world/us_and_americas/article623632.ece)). *The Times*. 31 August 2006. Archived ([https://web.archive.org/web/20110604064803/http://www.timesonline.co.uk/tol/news/world/us\\_and\\_americas/article623632.ece](https://web.archive.org/web/20110604064803/http://www.timesonline.co.uk/tol/news/world/us_and_americas/article623632.ece)) from the original on 4 June 2011. Retrieved 2 June 2011.
63. "Nike & The Beatles" (<http://www.pophistorydig.com/?tag=the-beatles-vs-nike>). *The Pop History Dig, LLC*. 11 November 2010. Retrieved 2 June 2011.
64. "Nike Was Sued For 1987 Commercial That Used The Beatles "Revolution" Without Apple Records Permission" (<http://www.feelnumb.com/?p=4137>). *Feel Numb*. 31 August 2010. Retrieved 2 June 2011.

## References

**Exhibit 82 p13**

- Blaney, John (2005). *John Lennon: Listen To This Book*. Paper Jukebox. ISBN 978-0-9544528-1-0.
- Brown, Peter; Gaines, Steven (2002). *The Love You Make: An Insider's Story of the Beatles*. NAL Trade; Reprint edition. ISBN 978-0-451-20735-7.
- Clayson, Alan; Leigh, Spencer (2003). *The Walrus Was Ringo: 101 "Beatles" Myths Debunked*. Chrome Dreams. ISBN 978-1-84240-205-4.
- Carlin, Peter Ames (2009). *Paul McCartney: A Life*. JR Books Ltd. ISBN 978-1-906779-64-1.
- Cross, Craig (2005). *Beatles-discography.Com: Day-by-Day Song-by-Song Record-by-Record*. iUniverse. ISBN 978-0-595-31487-4.
- DiLello, Richard (1973). *The Longest Cocktail Party*. Charisma Books. ISBN 978-0-85947-006-3.
- Frontani, Michael R. (2007). *The Beatles: Image and the Media*. University Press of Mississippi. ISBN 978-1-57806-966-8.
- Granados, Stefan (2002). *Those Were the Days: An Unofficial History Of The Beatles' Apple Organization: An Unofficial History of the "Beatles" Apple Organization 1967–2001*. Cherry Red Books. ISBN 978-1-901447-12-5.
- Linzmayer, Owen (2004). *Apple Confidential 2.0: The Definitive History of the World's Most Colorful Company: The Real Story of Apple Computer, Inc.* No Starch Press. ISBN 978-1-59327-010-0.
- Lennon, Cynthia (1978). *A Twist of Lennon*. Avon Books. ISBN 978-0-352-30196-3.
- Matovina, Dan (2000). *Without You: The Tragic Story of "Badfinger"*. Frances Glover Books. ISBN 978-0-9657122-2-4.
- McCabe, Peter; Schonfeld, Robert D. (1973). *Apple to the Core: Unmaking of the "Beatles"*. Sphere Books. ISBN 978-0-7221-5899-9.
- Onkvisit, Sak; Shaw, John (2008). *International Marketing: Analysis and Strategy: Strategy and Theory*. Routledge. ISBN 978-0-415-77261-7.
- Taylor, Alistair (1988). *Yesterday: "Beatles" Remembered*. Sidgwick & Jackson. ISBN 978-0-283-99621-4.
- Tennant, Paul; Willis, John (2008). *All You Need Is Luck...: How I Got a Record Deal by Meeting Paul McCartney*. Happy About. ISBN 978-1-60005-111-1.

**Exhibit 82 p14**

## External links

- [The complete Apple Records \(http://www.schomakers.com\)](http://www.schomakers.com)
- [Overview of Beatles companies \(http://www.rockmine.com/Beatles/BeatleCo.html\)](http://www.rockmine.com/Beatles/BeatleCo.html)

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**This page was last edited on 9 February 2018, at 16:12.**

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# Cortland (apple)

**Exhibit 83 p1**

**Cortland** is a cultivar of apple, that was raised at the New York State Agricultural Experiment Station in Geneva, New York, United States in 1898.<sup>[1]</sup> The apple was named after nearby Cortland County, New York. It is among the fifteen most popular in the United States.<sup>[2]</sup>

## Contents

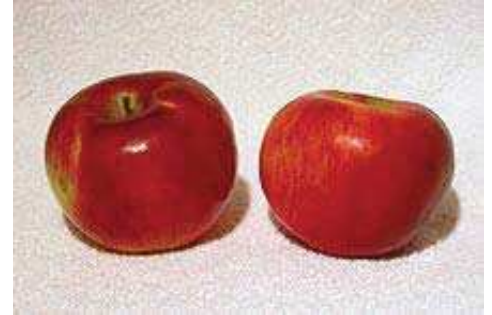
**Breeding**

**Patented mutants (sports)**

**Descendant cultivars**

**Footnotes**

'Cortland'



<b>Hybrid parentage</b>	'McIntosh' × 'Ben Davis'
<b>Cultivar</b>	'Cortland'
<b>Origin</b>	Geneva, New York, United States, 1898

## Breeding

After the many attributes of McIntosh were discovered, plant breeders began crossing it with other varieties to enhance its traits. One of the earliest was the 'Cortland'. Its flavor is sweet compared to McIntosh, and it has a flush of crimson against a pale yellow background sprinkled with short, dark red stripes and gray-green dots. It was first bred by American horoculturalist S.A Beach.<sup>[3]</sup>

Has a very white flesh and makes a great dessert apple.

## Patented mutants (sports)

The original Cortland variety, introduced in 1915 by the New York State Agricultural Experiment Station, produced apples which were 20—30% red, and was not patented.<sup>[4]</sup> Since then, several sports have been identified and patented:



Exhibit 83 p2

*Millions of local branches near you*

- Home
- Industry
- Contact

## Varieties

- Home
- Varieties
- Cortland

# Cortland

---





Picture a fresh fruit cup featuring beautiful, snow-white apples. It's likely made with Cortland, the very best Apple Country® salad apple. This great, all-purpose apple was developed at the New York State Agricultural Experiment Station in Geneva in 1898.

- Sweet, with a hint of tartness
- Juicy
- Tender, snow-white flesh

**Exhibit 83 p3**

- Excellent for eating, salads, sauces, pies and baking
- Good for freezing

- Cortland apples are wonderful for kabobs, fruit plates and garnishes because they don't turn brown quickly when cut.






# Cortland

**Exhibit 83 p4**



January, February, March, April, May, September, October, November, December



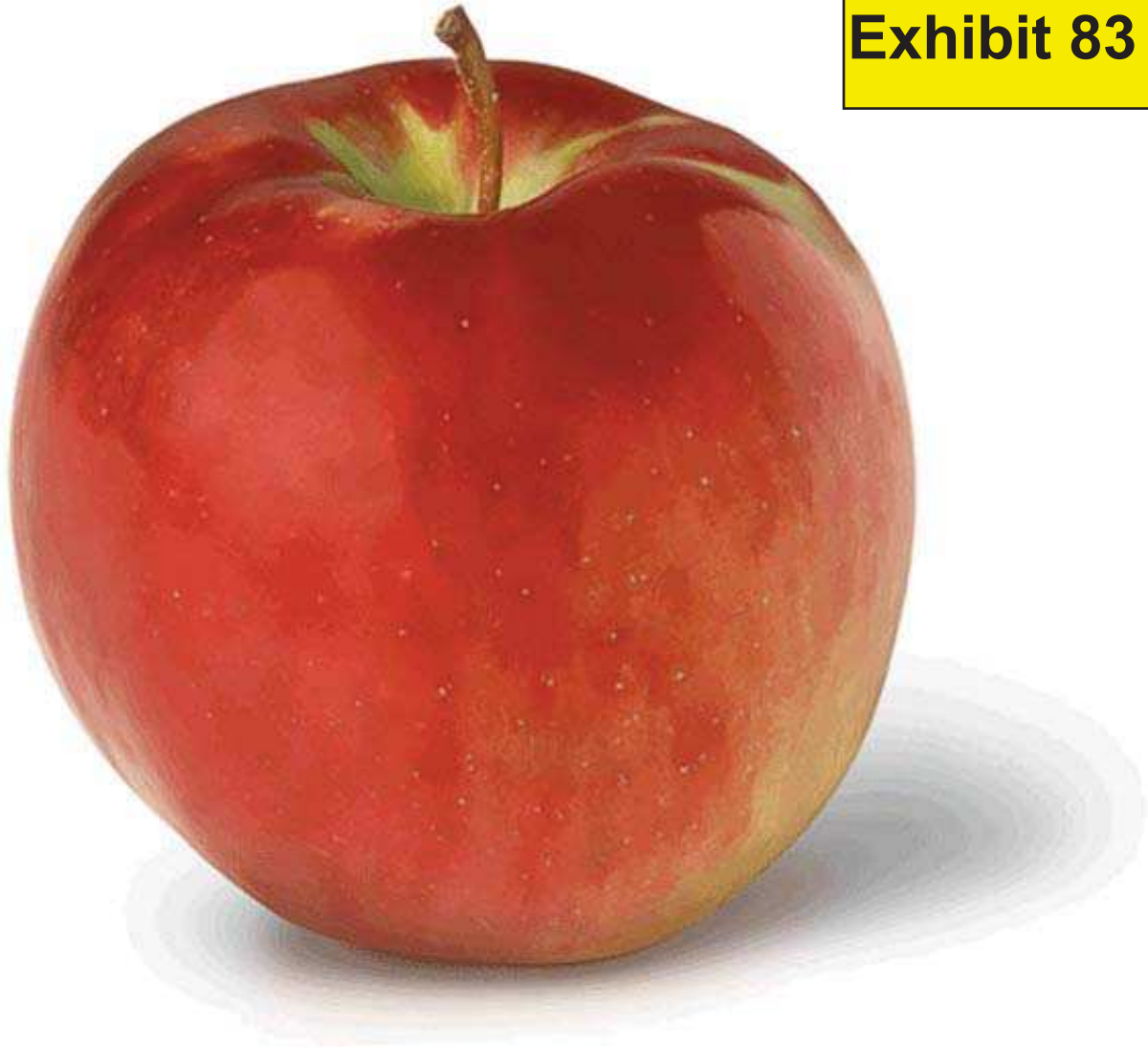
## Profile

-  Sweet, with a hint of tartness
-  Juicy
-  Tender, snow-white flesh

## Best Uses

-  Excellent for eating, salads, sauces, pies and baking
-  Good for freezing

**Exhibit 83 p5**



---

## *Similar Varieties*



(<http://www.newenglandapples.org/>)

[\(HTTP://WWW.NEWENGLANDAPPLES.ORG\)](http://www.newenglandapples.org/) > [APPLE BLOG](#)

[\(HTTP://WWW.NEWENGLANDAPPLES.ORG/BLOG/\)](http://www.newenglandapples.org/blog/) > THE CLASSIC ALL-PURPOSE  
CORTLAND

[← \(HTTP://WWW.NEWENGLANDAPPLES.ORG/2015/10/28/APPLE-PIE-TIME/\)](http://www.newenglandapples.org/2015/10/28/apple-pie-time/) [→ \(HTTP://WWW.NEWENGLANDAPPLES.ORG/2015/10/09/MID-SEASON-PLEASURES-EMPIRE-AND-SPENCER/\)](http://www.newenglandapples.org/2015/10/09/mid-season-pleasures-empire-and-spencer/)



**The classic all-purpose Cortland**



(<http://www.newenglandapples.org/wp-content/uploads/2015/08/700px-cortland-e1450477773731.png>)

**THERE MAY NOT BE** a better all-purpose apple than Cortland. It has long been known for its excellence in pies. It is recommended for salads, since its white flesh is slow to brown.

Cortland lends a heady aroma to cider. It is an outstanding fresh eating apple as well.

Cortland exhibits the best qualities of its parents, McIntosh and Ben Davis. The latter is a southern heirloom dating back to the early 1800s. Ben Davis stores well but has mild flavor, and it is not widely grown in New England.

But Ben Davis lends Cortland some noteworthy attributes, including its green and yellow striping and large size, both of which distinguish it from McIntosh. The Mac parent gives Cortland ample juice and a sweet-tart flavor, a tad milder than McIntosh. Cortland's texture, in contrast, is a little firmer than McIntosh.

Cortland stores well, but it does develop a waxy skin over time. The coating is the apple's way to retain moisture, and it is harmless. It can be eaten or easily rubbed off.

Cortland is one of the best cooking apples, alone in apple pie or complementing softer varieties like McIntosh.





(<http://www.newenglandapples.org/wp-content/uploads/2015/10/cortlands.jpg>)

Cortland apples, Tougas Family Farm,  
Northborough, Massachusetts (Russell  
Steven Powell photo)

Its large size works to Cortland's advantage in cooking, since it holds its shape, and fewer apples are needed to make a pie. But the biggest Cortlands can be too much for one person to handle, literally and figuratively. Still, it is delicious eaten fresh, with plenty of juice and apple flavor, and it comes in all sizes.

Cortland was developed at the New York State Agricultural Experiment Station in Geneva in 1898.

\* \* \*

The classic Waldorf Salad is simple but delicious, especially with Cortlands. Mix together:

1 c Cortland apples, diced

1 c celery, diced

1/2 c walnut or pecan meats

1/2 c mayonnaise

You can substitute yogurt for mayonnaise for a slightly healthier version.

\* \* \*

**THE 6TH ANNUAL** Great New England Apple Pie Contest

(<http://www.wachusett.com/EventsActivities/CalendarofEvents/GreatNewEnglandApplePie>) will be held this Saturday, October 17, at 11 a.m., at Wachusett Mountain in

**Exhibit 83 p8**

# Cortland



**Exhibit 83 p9**

A highly sought after autumn apple, the Cortland's parentage can be traced back to a cross between a McIntosh and a Ben Davis. A larger than average apple with a globular shape, the Cortland has reddish-orange vertical stripes over a pale yellow background. The crisp white flesh has a mild, sweet, crisp texture and resists browning. The Cortland is the perfect apple to for salads or fresh eating. It's also fantastic as a baked apple, and even better as applesauce!

## AVAILABILITY

*Available from mid-September to the end of January*

## USAGE

<a href="#">Apple</a>	Taste profile	Fresh	Salads	Pie	Sauce	Baking
<a href="#">Cortland</a>	Mild, sweet and crisp		✔	✔		✔

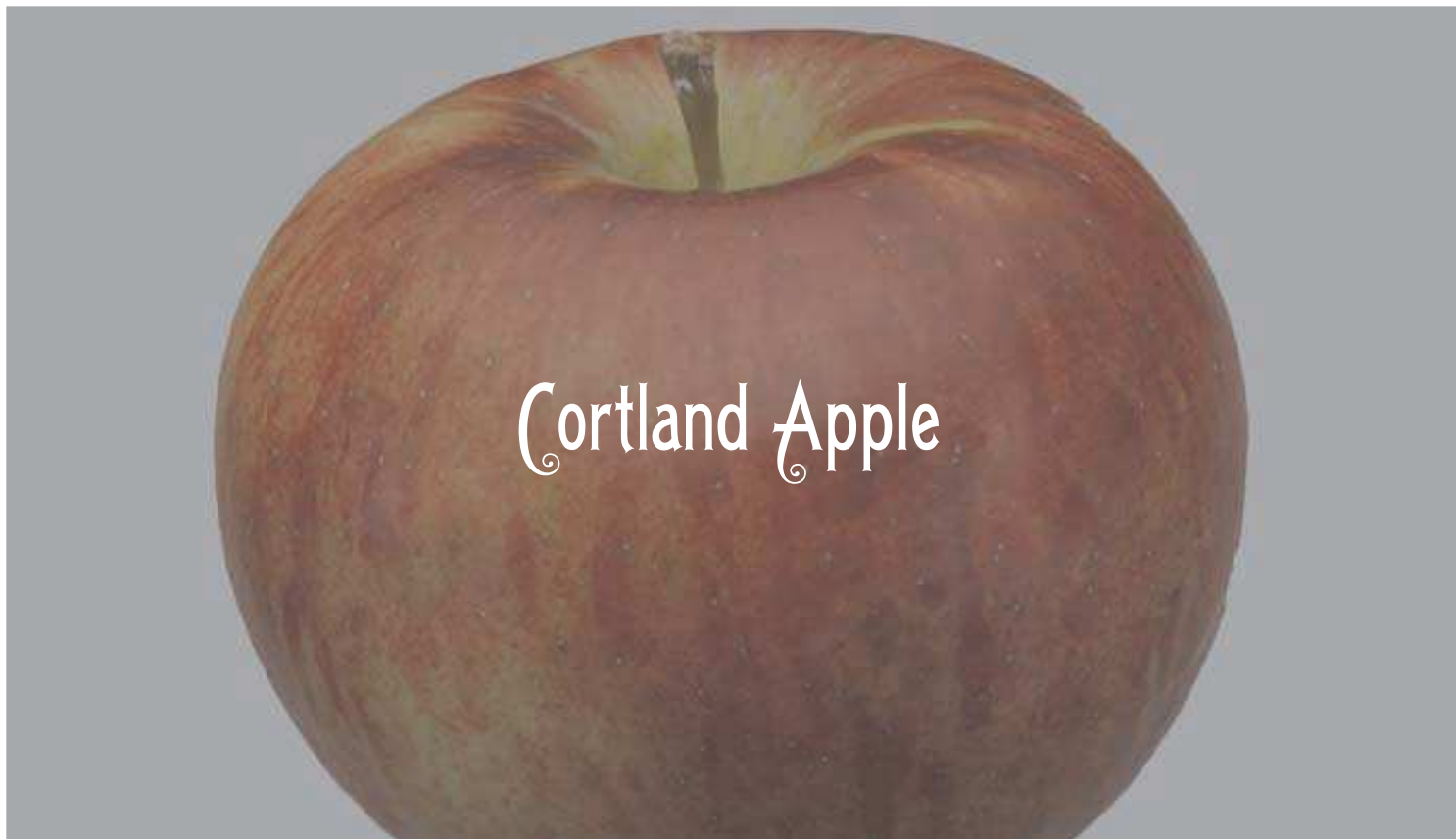


Binkley Apples Limited is a Packer, Marketer, and Exporter of Ontario apples. We have been committed to quality and service since our establishment in 1961—over 50 years! Binkley packs apples that meet and exceed Agriculture Canada Fancy and Extra Fancy, U.S. Fancy and Extra Fancy and Ontario Orchard Crisp standards. We guarantee high quality standards by means of inspection procedures at many points along our computer-controlled packing line.

### CONTACT US

Telephone:  
519.599.2125

Address:



A hint of tartness makes this a great baking variety, used frequently in desserts. A descendant of the McIntosh, this variety is a bit sweeter than its ancestor. Known for its white flesh and excellent flavor.



**Exhibit 83 p10**

Committee

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The Easter Shop

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Show results for

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- Fresh Jonagold Apples
- Fresh Macintosh Apples

Home & Kitchen

- Jar Candles
- Home Fragrance Products

[See All 4 Departments](#)

Refine by

AmazonFresh

fresh

Avg. Customer Review

- & Up
- & Up
- & Up
- & Up

Condition

- New
- Used

Showing most relevant results. See all results for [cortland apples](#).



Honeycrisp Apple, One Medium

by produce aisle

\$1.08

fresh

Exhibit 83 p11



CORTLAND APPLE TREE - 2 Year Old/4-5 Feet Tall

by Bob Wells Nursery

\$49.50 + \$39.50 shipping



Matilda Jane Vault Girls Cortland Leggings Pants Pink Apples

by Matilda Jane

\$39.95

FREE Shipping on eligible orders

Search Feedback

Did you find what you were looking for?

If you need help or have a question for Customer Service, please [visit the Help Section](#).

Mediterranean-Style Wedding Soup A BETTER WAY TO GET THROUGH WINTER [SHOP NOW](#)

Ad feedback

**To:** Figley, Joseph Dean ([info@kingblossomguitars.com](mailto:info@kingblossomguitars.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85084021 - APPLE JAM - N/A  
**Sent:** 10/28/2010 11:32:27 AM  
**Sent As:** ECOM112@USPTO.GOV  
**Attachments:**

**Exhibit 121 p1**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**APPLICATION SERIAL NO.** 85084021

**MARK:** APPLE JAM

**\*85084021\***

**CORRESPONDENT ADDRESS:**  
FIGLEY, JOSEPH DEAN  
834 DUNBAR HILL RD  
GRANTHAM, NH 03753-3232

**CLICK HERE TO RESPOND TO THIS LETTER:**  
<http://www.uspto.gov/teas/eTEASpageD.htm>

**APPLICANT:** Figley, Joseph Dean

**CORRESPONDENT'S REFERENCE/DOCKET NO :**  
N/A

**CORRESPONDENT E-MAIL ADDRESS:**  
[info@kingblossomguitars.com](mailto:info@kingblossomguitars.com)

**OFFICE ACTION**

**STRICT DEADLINE TO RESPOND TO THIS LETTER**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

**ISSUE/MAILING DATE: 10/28/2010**

**REVIEW OF APPLICATION & SEARCH OF OFFICE RECORDS**

The referenced application has been reviewed by the assigned trademark examining attorney.

**The Office records have been searched and there are no similar registered or pending marks that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.**

**Applicant must respond timely and completely to the issue(s) below.** 15 U.S.C. §1062(b); 37 C.F.R. §§2.62, 2.65(a); TMEP §§711, 718.03.  
**REGISTRATION REFUSED – SPECIMEN NOT ACCEPTABLE**

The specimen is not acceptable because it does not show the applied-for mark used in connection with any of the services specified in the application. An application based on Trademark Act Section 1(a) must include a specimen showing the applied-for mark in use in commerce for each class of goods and/or services. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

In this case, the specimen is merely the words of the proposed mark and does not show the mark in connection with any services at all.

Therefore, applicant must submit the following:

- (1) A substitute specimen showing the mark in use in commerce for each class of goods and/or services specified in the application; and
- (2) The following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: “**The substitute specimen was in use in commerce at least as early as the filing date of the application.**” 37 C.F.R. §2.59(a); TMEP §904.05; *see* 37 C.F.R. §2.193(e)(1). If submitting a substitute specimen requires an amendment to the dates of use, applicant must also verify the amended

# United States of America

United States Patent and Trademark Office

## Apple Jam

Exhibit 121 p2

**Reg. No. 3,930,903**

FIGLEY, JOSEPH DEAN (UNITED STATES INDIVIDUAL)  
834 DUNBAR HILL ROAD  
GRANTHAM, NH 03753

**Registered Mar. 15, 2011**

**Int. Cl.: 41**

FOR: ARRANGING AND CONDUCTING OF MUSIC CONCERTS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

**SERVICE MARK**

FIRST USE 6-22-2009; IN COMMERCE 6-1-2010.

**PRINCIPAL REGISTER**

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 85-084,021, FILED 7-14-2010.

KIMBERLY PERRY, EXAMINING ATTORNEY



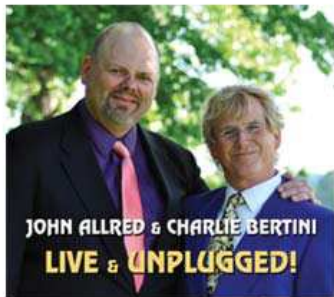
*David J. Kyffers*

Director of the United States Patent and Trademark Office

# AppleJazz RECORDS

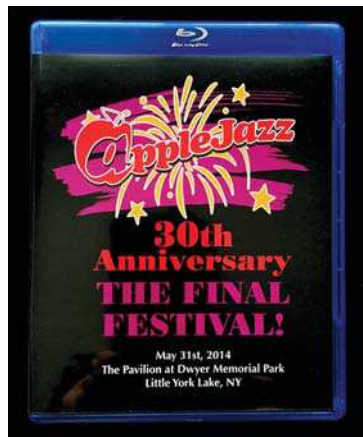
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## Welcome to AppleJazz



**New Release**  
John Allred & Charlie Bertini  
**LIVE & UNPLUGGED!**

[Click for more info](#)



**AppleJazz Band Final Festival**  
**Now on DVD & Bluray**

To learn more and purchase...  
[click here](#)



We had an absolute blast performing for the Syracuse Jazz Fest on July 17 and 18, 2015. The AppleJazz Band took the stage on Friday night to an enthusiastic but rainy crowd. [Click here](#) for the album of amazing photos taken by Sandy Roe:

<https://www.facebook.com/pages/AppleJazz-Records/423468081107072>

Then on Saturday, five of the AJZ members played in Aretha Franklin's band: Charlie Bertini, John Allred, Terry Myers, Andy Calabrese and Mark Doyle. The Queen of Soul was in top form and sang for 90 minutes to a crowd of 40,000 fans on a beautiful summer night. What a honor it was to be a member of her band! Thanks to Frank Malfitano for inviting us to perform at Syracuse Jazz Fest 2015

## Exhibit 124 p1

### Featured Albums

**FULL CIRCLE**  
Wayne Bergeron  
[Check it out](#)

**LIVE & UNPLUGGED!**  
John Allred & Charlie Bertini  
[Check it out](#)

**CHLOE**  
Orlando Jazz Orchestra  
[Check it out](#)

**TO FRED WITH LOVE**  
2-disc set  
[Check it out](#)

**TRIOLOGY**  
Charlie Bertini  
[Check it out](#)

### LIVE AT APPLEJAZZ

**RONNIE LEIGH**  
Ronnie Leigh  
[Check it out](#)

**PLAYS WELL WITH OTHERS**  
Wayne Bergeron  
[Check it out](#)

**CLASSIC PERFORMANCES**  
Charlie Bertini's AppleJazz Band  
[Check it out](#)

**FOCUSED**  
John Allred  
[Check it out](#)

**JEWELS**  
Charlie Bertini  
[Check it out](#)



We offer online sales of Jazz, Big Band, and Swing album CDs, of unique, emotional recordings of independent jazz artists, as well as merchandise for the jazz enthusiast. We also offer services that aid in music recording and production.

**Exhibit 124 p2**

We feature such artists as Charlie Bertini, Wayne Bergeron, Bill Allred's Classic Jazz Band, John Allred, Terry Myers, Eddie Metz, Marvin Stamm and Allan VachÃ© along with a host of other incredibly talented jazz musicians.

AppleJazz Records began with promoting the recordings of the "AppleJazz Band", a festival band that performed once a year at the AppleJazz Festival in upstate New York. This concert was recorded "live" each year, and much of the recorded material was well worth releasing. The "AppleJazz" label was formed to manufacture CDs to be sold at The AppleJazz Festival and other similar festivals across the US. By keeping costs low and applying a great attention to detail and the artistry behind the music, AppleJazz has been able to provide unique, emotional recordings.

Throughout the Jazz and Dixieland festival circuit, many fine bands have similar recordings. The fact that these groups have limited or no distribution prompted us to include their CDs on this web site as well as on our mailing list. AppleJazz Records is dedicated to these groups and their listeners, who often have difficulty locating these artists and their recordings.

Charlie Bertini served as executive director of the annual AppleJazz Festival held in upstate NY. He has played in 45 states, Europe, and China. As a teacher and clinician he has led workshops and lectures at high schools and universities and is a member of FMEA and Florida Bandmasters Association. Still based in Orlando, Charlie enjoys a variety of musical settings and challenges and continues to be one of the most versatile and respected trumpeters and producers in the industry.

If you need any additional information, please contact us at [info@applejazz.com](mailto:info@applejazz.com)



http://applejazz.com/services.htm  JUN OCT NOV  
8 captures 6 Feb 2015 - 22 Oct 2016 2015 **22** 2016 2017 About this capture



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## Welcome to AppleJazz Services

AppleJazz is happy and proud to be able specialized services in the production and recording arena.

- Recording Evaluation
- Recording Production
- Event Production

If you would like more information about AppleJazz Services, please contact us at: [info@applejazz.com](mailto:info@applejazz.com).

**Exhibit 124 p3**

http://applejazz.com/recording-evaluation.htm Go JUN OCT NOV  
8 captures 22  
6 Feb 2015 - 22 Oct 2016 2015 2016 2017 About this capture



Exhibit 124 p4

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## Recording Evaluation

Already have your project recorded and mixed? We provide an evaluation service that can take your mixes to a higher level before you go to mastering and manufacturing.

We listen to your mixes and make meticulous notes on balance, EQ, panning, levels, editing, song order, and overall presentation. This is done on a song-by-song basis. Our notes will be sent to you, and you may take these notes to your mix engineer for your revisions.

THEN you will be ready to go to mastering with a better and smoother musical project, saving you money in the mastering studio and resulting in a higher level of sonic quality for your recording.

Please email or call us to discuss your project. We'd be happy to help make your tracks the best they can be!

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http://applejazz.com/future-concerts.htm  JUN OCT NOV  
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## Welcome to AppleJazz Future Concerts

### Wingate Clubhouse concert featuring TRI OLOGY

**Exhibit 124 p5**

Join us for another fund-raiser concert at the Clubhouse. We have been providing live jazz concerts at Wingate since 2009!  
 Next concert November 5, 2016. [Click now to get the details!](#)

If you would like more information about holding or promoting an AppleJazz event, please contact us at: [events@applejazz.com](mailto:events@applejazz.com).

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# AppleJazz RECORDS



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## Welcome to AppleJazz



### New Release Wayne Bergeron Full Circle

[Click for more info](#)



### AppleJazz Band Final Festival Now on DVD & Blu-ray

To learn more and purchase...  
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We offer online sales of Jazz, Big Band, and Swing album CDs, of unique, emotional recordings of independent jazz artists, as well as merchandise for the jazz enthusiast. We also offer services that aid in music recording and production.

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## Exhibit 124 p6

### Featured Albums



#### **Let's Duet**

Yve Evans & Tom Hook  
[Check it out](#)



#### **FULL CIRCLE**

Wayne Bergeron  
[Check it out](#)



#### **LIVE & UNPLUGGED!**

John Allred & Charlie Bertini  
[Check it out](#)



#### **CHLOE**

Orlando Jazz Orchestra  
[Check it out](#)



#### **TO FRED WITH LOVE**

2-disc set  
[Check it out](#)

#### **TRIOLOGY**

Charlie Bertini  
[Check it out](#)



#### **LIVE AT APPLEJAZZ**

Ronnie Leigh  
[Check it out](#)



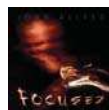
#### **PLAYS WELL WITH OTHERS**

Wayne Bergeron  
[Check it out](#)



#### **CLASSIC PERFORMANCES**

Charlie Bertini's AppleJazz Band  
[Check it out](#)



#### **FOCUSED**

John Allred  
[Check it out](#)

#### **JEWELS**

Charlie Bertini  
[Check it out](#)

and lectures at high schools and universities and is a member of FMEA and Florida Bandmasters Association. Still based in Orlando, Charlie enjoys a variety of musical settings and challenges and continues to be one of the most versatile and respected trumpeters and producers in the industry.

If you need any additional information, please contact us at [info@applejazz.com](mailto:info@applejazz.com)



**Exhibit 124 p7**



## iPhone 4S

Dual-core A5 chip.  
All-new 8MP camera and optics.  
iOS 5 and iCloud.  
And introducing Siri.

It's the most amazing iPhone yet.



[Watch the iPhone 4S video ▶](#)



[Watch the iPhone 4S TV ad ▶](#)

### iOS 5 Software Update

Get over 200 new features – free for iPhone, iPad, and iPod touch.



### iCloud is here.

iCloud stores your content and wirelessly pushes it to your devices.



### iPod touch

It has fun written all over it. Now starting at \$199.



### iPad 2

Now with iOS 5 and iCloud, it just got even harder to put down.



### Steve Jobs, 1955-2011

Share your condolences and read others from around the world.



### Celebrating Steve.

Watch the October 19 special event.



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- Seminars and Events
- User Groups

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- iLife
  - iPhoto | iMovie | iDVD
  - iWeb | GarageBand
- iWork
  - Pages | Keynote | Numbers
- QuickTime 7
- AppleWorks
- Aperture
- Final Cut Pro
  - Top Features | All Features
- Motion
- Compressor
- Logic Studio
- Logic Express
- Apple Remote Desktop 3

#### Developer

- Apple Developer Connection
- WWDC
- Reference Library
- Contact ADC
- Mac Developer Program
- iPhone Developer Program

#### Markets

- Creative Pro
- Science
- Business

#### Education

- For Teachers
- For Students
- Apple Online Store for Education

#### Support

- Where can I buy a Mac?
- AppleCare
- Online Support
- Genius Bar
- Workshops
- One to One
- ProCare
- Accessibility

### iPod ⓘ

#### iPod

- iPod touch
- iPod classic
- iPod nano

#### More iPod

- In-Ear Headphones
- Accessories
- Apple TV

#### iPod Resources

- Download iTunes 10
- iPod touch in Education
- iPod touch for Students



iPod shuffle  
(PRODUCT) RED  
Compare iPod Models

Corporate Gifting

iPod Support  
Accessibility

iPod Everywhere  
Nike + iPod  
iPod Car Integration  
iPod Tours

**Exhibit 125 p3**

## iPhone

About iPhone 4S  
Features  
Built-in Apps  
From the App Store  
iOS  
iCloud  
Tech Specs

More iPhone  
iPhone 4 Tech Specs  
iPhone 3GS Tech Specs  
Compare iPhone models  
iOS Software Update  
Tips and Tricks  
iPhone in Education  
iPhone for Students  
iOS for Developers  
Accessibility

iPhone in Business  
Overview  
Business Features  
Integration  
Apps for iPhone  
Profiles

Support  
Online Support  
iPhone Discussions  
User Guide (PDF)  
Workshops  
One to One

## iPad

About iPad  
Features  
Built-in Apps  
From the App Store  
iOS  
iCloud  
Tech Specs  
Smart Cover

iPad Guided Tours  
FaceTime  
Mail  
Safari  
iBooks  
Videos  
Photos  
iTunes  
App Store

More iPad  
TV Ads  
iPad with Wi-Fi + 3G  
Accessories  
iPad in Business  
iPad for Developers  
Accessibility  
Batteries

Support  
AppleCare  
Online Support  
User Guide  
Discussions  
Workshops  
One to One

## iTunes

iTunes  
Download iTunes 10  
What is iTunes?  
What's on iTunes  
iTunes Charts  
A-Z Features  
How Tos

More iTunes  
Digital Music Basics  
iTunes Ping  
Airplay  
iTunes Gifts  
iTunes U  
iPod + iTunes Support  
Accessibility

Partner with iTunes  
Overview  
Content Providers  
Companies and Organizations  
iTunes LP and iTunes Extras

iTunes Store  
Browse iTunes Store  
Browse App Store  
Buy Music Now  
Buy iTunes Gift Cards  
Redeem iTunes Gift Cards  
iTunes Corporate Sales  
App Store Volume Purchase  
Free Single of the Week  
New On iTunes  
iTunes Plus  
Music Requests

## iOS and iCloud

iOS  
Overview  
Features  
Gallery

iOS Applications  
Cards  
iMovie  
Pages  
Keynote  
Numbers

iCloud  
Overview  
What is iCloud?  
Features

## Downloads

Download iTunes 10  
Download Safari  
Download Quicktime

iOS Software Update  
Apple Software Updates

Contact Support  
Online Support & Service  
Apple Discussions  
Downloads and Updates  
Product Manuals

AppleCare Products & Services  
Request a Repair or Parts (DIY)  
Check Repair Status  
Exchange + Repair Extension Programs  
Apple Service Programs

Apple Training  
Apple Consultants Network  
Support Site Map

**Exhibit 125 p4**

iTunes

What's New

What is iTunes

What's on iTunes

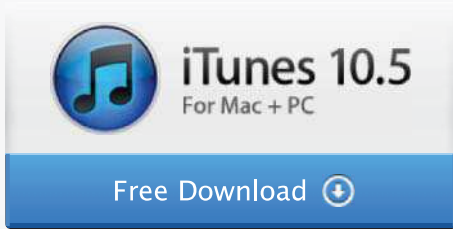
iTunes Charts

How To

Download iTunes

# Your entertainment. Everywhere.

With iTunes in the Cloud, the music, apps, and books you purchase automatically appear on all your devices. Or you can download only the stuff you want to just the devices you want.<sup>1</sup> It's all part of iCloud and iTunes 10.5.



### Purchase History

See a history of everything you've bought from iTunes and download past purchases on whichever device you choose.



## What's new in iTunes? iTunes in the Cloud and iTunes Match.

With iCloud, now it's easy to have the great things you buy from the iTunes Store on your iPhone, iPad, iPod touch, Apple TV, and Mac or PC. And iTunes Match lets you store your entire music collection in iCloud — even songs you've imported from CDs.<sup>2</sup> [Learn more](#) ▶



## What is iTunes? Everything you need to be entertained.

iTunes is how you play all your media on your Mac or PC and add it to your iPhone, iPad, iPod, or Apple TV. And it's a store that's always open and just a click away. [Learn more](#) ▶



## Gift Cards Give the gift of music. (And apps, movies, TV shows, and books.)

Let them choose just about anything on the iTunes Store with an iTunes Gift Card. It's a hit for any occasion, so get ready for big thanks.

[Purchase iTunes Gift Cards](#) ▶  
[Redeem iTunes Gift Cards](#) ▶



## Apple TV Now there's always something good on TV.

Rent HD movies and buy TV shows right from your Apple TV. Browse and watch previously purchased TV shows. And stream photos, music, and videos. [Learn more](#) ▶





iTunes in the Cloud is part of iCloud.  
It's the new way to store your music and TV shows,  
and enjoy them on all your devices.

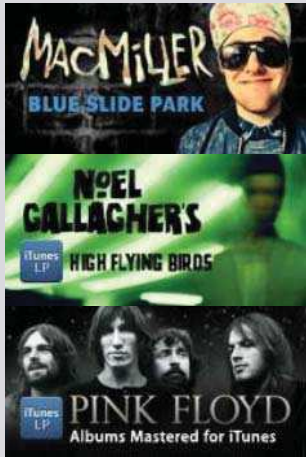
[Learn more](#) ▶

**Exhibit 125 p29**

iTunes this week

[See All iTunes Charts](#) ▶

Music



Movies + TV Shows



Games + Apps



iTunes on Facebook



Like the iTunes page to enjoy free exclusive offers, and much more.

17.5m



App Store on Facebook



Discover new apps, and share favorites with friends.

3.2m



iTunes on Twitter



Follow us on @iTunesMusic, @AppStore, @iTunesTV, @iTunesMovies, @iBookstore, and @iTunesPodcasts.

1. Automatic downloads and downloading previous purchases require iOS 4.3.3 or later on iPhone 3GS or later, iPod touch (3rd and 4th generation), iPad, or iPad 2; iOS 5 on iPhone 4 (CDMA model); or a Mac or PC with iTunes 10.3.1 or later. Previous purchases may be unavailable if they are no longer in the iTunes Store, App Store, or iBookstore. **Download iTunes 10.5 free.**
2. iTunes Match coming soon.

Available on iTunes. Title availability is subject to change.

The iTunes Store is available only to persons age 13 or older in the U.S. Requires compatible hardware and software and Internet access (fees may apply). Terms apply. See <http://www.apple.com/itunes/what-is/store.html> for more information.



## Exhibit 125 p34

Coming Soon

iTunes and iTunes Match.  
You can take it with you.

If you're an iTunes Match subscriber, you can access your entire music collection from iCloud — including songs you've imported from CDs or bought somewhere other than iTunes — right from your Apple TV. Play them on Apple TV or any iPhone, iPad, iPod touch, or computer for just \$24.99 a year.<sup>4</sup> iTunes Match has an amazing scan-and-match feature — all the songs in your iTunes library are scanned and then matched with those available on the iTunes Store. Matched songs are instantly added to your iCloud library with no uploading needed. Any remaining songs are automatically uploaded from your computer to iCloud.

Photo Stream.

Say Grandma couldn't make it to your kid's first soccer game. You snapped enough pictures, but the thought of uploading all those photos was daunting. Until now. With Photo Stream in iCloud, your last 1000 photos automatically appear on all your devices — including Apple TV. No matter which device you used to take the picture. No syncing. No sending. Your photos are just there on your HDTV. For Grandma, and everyone, to enjoy.



## AirPlay and AirPlay Mirroring. What you see is what you show.

[Back to top](#) ▲

Your content. Large and in charge.

Not only can you stream music, photos, and videos to Apple TV from your computer — but thanks to AirPlay, you can also stream it all from your iPhone, iPad, and iPod touch.<sup>5</sup> So if you feel like watching a movie you have on one of your devices, you don't need to rent or buy it again. You can also stream a home video you just recorded or videos from websites and AirPlay-enabled apps. Simply tap to start playing content on your iPhone, iPad, or iPod touch, then tap again to instantly stream whatever you're watching — or listening to — directly to Apple TV.

And now with AirPlay Mirroring, you can wirelessly and securely stream what's on your iPad 2 or iPhone to your HDTV. So you can show off just about anything you can do on your iPad or iPhone for the whole room to see. Like that awesome new app and your gaming skills (or lack thereof). [Learn more about AirPlay](#) ▶

# Exhibit 125 p39

## Hot News

**Watch the keynote.**  
See Apple CEO Tim Cook unveil iPhone 4S, iOS 5, iCloud, and more.



**iPhone 4S**  
It's the most amazing iPhone yet.



**iOS 5 software update.**  
We've taken iOS to a whole new level with over 200 new features.



**iPod touch**  
It has fun written all over it. Now starting at \$199.

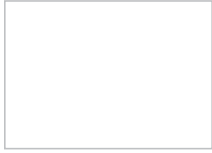


### Latest News RSS



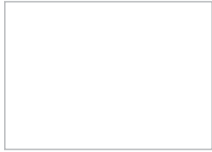
**Apple Announces iPhone 4S, iOS 5, and iCloud**  
October 4, 2011

Apple today announced **iPhone 4S**, the most amazing iPhone yet, packed with new features like Apple's dual-core A5 chip for blazing fast performance and stunning graphics; an 8MP camera with advanced optics; full 1080p HD resolution video recording; and Siri, an intelligent assistant that helps you get things done just by asking. iPhone 4S also ships with **iOS 5** — the world's most advanced mobile operating system, with over 200 new features — and **iCloud**. Read more: [apple.com/iphone](http://apple.com/iphone)



**iCloud Available October 12**  
October 4, 2011

Apple today announced that **iCloud** — a breakthrough set of free cloud services that includes iTunes in the Cloud, Photo Stream, and Documents in the Cloud — will be available on October 12. iCloud stores your music, photos, apps, contacts, calendars, documents, and more, keeping them up to date across all your devices, including iPhone, iPad, iPod touch, Mac, or PC. When content changes on one device, all your other devices are updated automatically and wirelessly. Read more: [apple.com/icloud](http://apple.com/icloud)



**New Features and Pricing for iPod touch and iPod nano**  
October 4, 2011

Apple today announced great new features and more affordable pricing for both **iPod touch** and **iPod nano**. iPod touch, which includes iOS 5 and iCloud, will be available in new black and white models starting at just \$199. The new iPod nano is available today starting at just \$129 and features a redesigned user interface, 16 new digital clock faces, and improved built-in fitness features. Read more: [apple.com/ipod](http://apple.com/ipod)

**GarageBand Now Available for iPhone and iPod touch**  
November 2, 2011

Apple announced that **GarageBand**, its breakthrough music creation app, is now available for iPhone and iPod touch. Introduced earlier this year on iPad, GarageBand uses Apple's Multi-Touch interface to make it easy for anyone to create and record their own songs, even if they've never played an instrument before. GarageBand 1.1 for iPad, iPhone, and iPod touch is available on the App Store for \$4.99 (US) to new users, or as a free update for existing GarageBand for iPad customers. Read more: [apple.com/apps](http://apple.com/apps)

**Apple's Newsstand a Huge Success for Digital Publishers**  
November 2, 2011

Wired Magazine reports that **Newsstand**, a new feature of iOS 5, is "hitting it big with traditional media publishers thanks to its windfall delivery of new digital subscriptions." Newsstand keeps all app subscriptions for newspapers, magazines, and journals in one convenient place on the iOS 5 home screen and makes it easy to shop for new reading material. Wired cites Conde Nast and The New York Times among publishers seeing large spikes in app subscriptions since Newsstand launched. Read more: [wired.com](http://wired.com)

**New Cards App Delivers "Vintage Innovation"**  
November 2, 2011

### Featured on iTunes



### iTunes Movie Trailers

iTunes Movie Trailers



Download the App Available now for iPad, iPhone and iPod touch.

### Top Web apps

1. Color Mail
2. 4G Speed – Internet Speed Test
3. Funny Pictures
4. iTrailers – Movie Trailers and Reviews
5. microBleach

Vogue's "Need It Now" column features the new **Cards** from Apple, which lets users create and mail beautifully crafted cards personalized with their own text and photos from their iPhone or iPod touch. Each card is just \$2.99 when sent within the U.S. and \$4.99 when sent to or from anywhere else — postage included. Vogue calls the Cards app "nothing short of genius" for reviving the almost forgotten pleasure of receiving a "real, honest-to-goodness paper greeting card in the mail" and concludes: "This is the kind of vintage innovation we would all do well to download." Read more: [vogue.com](#)

#### iPhone 4S: Faster, More Capable, and You Can Talk to It

October 26, 2011

Reviewing **iPhone 4S** at TechCrunch, columnist MG Siegler finds much to like, including its faster speed, improved camera, iOS 5 with Notification Center, and Siri, which he calls "the true killer feature of the device." He adds: "The iPhone 4 was a great product. The best smartphone ever made. Now it cedes that title to the iPhone 4S." Read more: [techcrunch.com](#)

#### Fashion Forward with iPad

October 26, 2011

The Benetton Group, headquartered in Venice, Italy, is internationally known for its lively fashions and memorable ad campaigns. Recently, they created a fast, color-accurate **iPad** catalog app that replaces bulky, production-intensive hardcopy catalogs. As a result, the company saves 60 days per year in preparing its sales materials for its staff and is able to adapt instantly to changes. Read more: [apple.com/ipad](#)

#### With Siri, the iPhone Finds Its Voice

October 26, 2011

Wired reviewer Brian X. Chen writes that a superb new camera and speedy dual-core processor are great additions to **iPhone 4S** and that Siri alone is reason enough to buy the phone: "To give you an idea of how convenient Siri is, it takes about three seconds to create a reminder with a voice command, as opposed to the 10 seconds it takes me to manually type an event into a to-do list or calendar entry." Chen concludes: "...both inside and out, this is a magnificent smartphone." Read more: [wired.com](#)

#### Apple Reports Highest September Quarter Revenue and Earnings Ever

October 18, 2011

Apple today announced financial results for its fiscal 2011 fourth quarter ended September 24, 2011. The Company posted quarterly revenue of \$28.27 billion and quarterly net profit of \$6.62 billion, or \$7.05 per diluted share. These results compare to revenue of \$20.34 billion and net quarterly profit of \$4.31 billion, or \$4.64 per diluted share, in the year-ago quarter. Gross margin was 40.3 percent compared to 36.9 percent in the year-ago quarter. International sales accounted for 63 percent of the quarter's revenue. Read more: [apple.com/pr](#)

#### Apple Again Tops ACSI Customer Satisfaction Survey

September 20, 2011

Apple has topped the American Customer Satisfaction Index (ACSI) in the personal computer category for an eighth consecutive year, achieving a score of 87 points. This is Apple's highest score ever on the index and nine points ahead of second place HP. The ACSI includes tablets in the PC category, and the organization says in its press release, "Apple's winning combination of innovation and product diversification — including spinning off technologies into entirely new directions — has kept the company consistently at the leading edge." Read more: [theacsi.org](#)

#### Many U.S. Schools Adding iPad, Trimming Textbooks

September 9, 2011

Stephanie Reitz of Associated Press reports on the growing use of **iPad** in public secondary school classrooms this fall, noting a "move away from textbooks in favor of the lightweight tablet computers." Educator benefits range from using iPad for interactive demonstrations of math solutions to teaching children with autism spectrum disorders and learning disabilities. Principal Patrick Larkin of Boston's Burlington High School calls iPad a better long-term investment than textbooks, saying, "The bottom line is that the iPads will give our kids a chance to use much more relevant materials." Read more: [finance.yahoo.com](#)

#### Creating Media-Savvy Journalists with Mac

August 15, 2011

At the world-famous Missouri School of Journalism, the **MacBook Pro** is now a universal presence in a curriculum designed to give students the hands-on experience they need to produce work at the same level as any professional journalist. Students use their Mac notebooks with **iLife** and **Final Cut Pro** to report, write, edit, and produce stories for the school's newspaper, TV station, and online news service. Says Associate Dean Brian Brooks, "The Mac can really transform how we teach journalism in this country." Read more: [apple.com/education](#)

6. Carbon Footprint Calculator

7. Gold Nuggets

8. Memory Vitamins Game

9. Puck Billiards

10. Free Calendar Wallpaper for iPhone

[View All](#)

#### Recent Press Releases

[RSS](#)

11/01/2011 GarageBand Now Available for iPhone and iPod touch Users  
iPhone 4S Arrives in Hong Kong & South Korea on November 11

10/18/2011 Apple Reports Fourth Quarter Results

10/17/2011 iPhone 4S First Weekend Sales Top Four Million

10/13/2011 FY 11 Fourth Quarter Results Conference Call

**Exhibit 125 p40**

# Exhibit 125 p41

- 10/10/2011 iPhone 4S Pre-Orders Top One Million in First 24 Hours
- 10/05/2011 Apple Media Advisory  
Statement by Apple's Board of Directors
- 10/04/2011 Apple Launches iPhone 4S, iOS 5 & iCloud  
Apple to Launch iCloud on October 12  
Apple Brings Great New Features & More Affordable Pricing to iPod touch & iPod nano
- 08/24/2011 Letter from Steve Jobs  
Steve Jobs Resigns as CEO of Apple
- 07/21/2011 Lion Downloads Top One Million in First Day
- 07/20/2011 Mac OS X Lion Available Today From the Mac App Store  
Apple Updates MacBook Air With Next Generation Processors, Thunderbolt I/O & Backlit Keyboard  
Apple Introduces World's First Thunderbolt Display  
Apple Updates Mac mini
- 07/19/2011 Apple Reports Third Quarter Results
- 07/15/2011 FY 11 Third Quarter Results Conference Call
- 07/07/2011 Apple's App Store Downloads Top 15 Billion
- 06/21/2011 Apple Revolutionizes Video Editing With Final Cut Pro X
- 06/06/2011 Apple Introduces iCloud  
New Version of iOS Includes Notification Center, iMessage, Newsstand, Twitter Integration Among 200 New Features  
Mac OS X Lion With 250 New Features Available in July From Mac App Store

More press releases...



# Exhibit 125 p42

## Apple Info

[Contact Us](#) [Public Relations](#) [Investors](#) [Jobs](#) [Environment](#) [Working with Apple](#) [Legal](#)

### Contact Us

Apple Inc.  
1 Infinite Loop  
Cupertino, CA 95014  
408-996-1010

Apple Retail Store  
Find a store ▶

Apple Online Store  
Visit the Apple Online Store  
Or call 1-800-MY-APPLE

Sales Support  
Find order status online  
Or call 1-800-676-2775

Contact Apple Support ▶  
Find Authorized Resellers ▶

### Latest Press Releases

RSS

- 11/01/2011 GarageBand Now Available for iPhone and iPod touch Users  
iPhone 4S Arrives in Hong Kong & South Korea on November 11
- 10/18/2011 Apple Reports Fourth Quarter Results
- 10/17/2011 iPhone 4S First Weekend Sales Top Four Million
- 10/13/2011 FY 11 Fourth Quarter Results Conference Call
- 10/10/2011 iPhone 4S Pre-Orders Top One Million in First 24 Hours
- 10/05/2011 Apple Media Advisory  
Statement by Apple's Board of Directors
- 10/04/2011 Apple Launches iPhone 4S, iOS 5 & iCloud  
Apple to Launch iCloud on October 12  
Apple Brings Great New Features & More Affordable Pricing to iPod touch & iPod nano
- 08/24/2011 Letter from Steve Jobs  
Steve Jobs Resigns as CEO of Apple
- 07/21/2011 Lion Downloads Top One Million in First Day
- 07/20/2011 Mac OS X Lion Available Today From the Mac App Store  
Apple Updates MacBook Air With Next Generation Processors, Thunderbolt I/O & Backlit Keyboard  
Apple Introduces World's First Thunderbolt Display  
Apple Updates Mac mini
- 07/19/2011 Apple Reports Third Quarter Results
- 07/15/2011 FY 11 Third Quarter Results Conference Call

[View all ▶](#)

### Job Opportunities



Want to work at Apple?

- Overview ▶
- Search Jobs ▶
- Apple Corporate ▶
- Apple Retail ▶
- New Grads ▶

Apple and the environment.  
Bigger picture. Better products.  
Smaller impact.



### Apple Supplier Responsibility

Read about Apple's standards.



### Apple Developer Connection

Learn about iPhone and Mac developer programs.



Hot News  
Get the latest news about Apple.

# Exhibit 126 p1

74,018 captures

22 Oct 1996 - 19 May 2018

Welcome to Apple

Find It

Product Information

Customer Support

Technology & Research

Developer World

Groups & Interests

Resources Online

About Apple

POWERBOOK & CD-ROM: Cool New Ways to Go Mobile

FOCUS: Bring Learning Home - Classrooms of Tomorrow

QUARTERLY RESULTS: Apple Scores Profit

What's Hot

### New PowerBook Family

Addressing the needs of customers in small offices, home offices, business and education, Apple announced the [Macintosh PowerBook 1400 series](#), combining 117MHz PowerPC speed with a removable CD-ROM drive and expansion options.

### New Color Solutions

Apple launches the [Color LaserWriter 12/660 PS](#) and introduces the [Color PhotoGrade Print Kit](#) for the [Apple Color StyleWriter 2500](#).

### Performa News

Check out the new [Performa 6360](#) and the [6400/200 Video Editing Edition](#), plus [big savings on other Performa models](#). See the whole product line and the latest price reductions in the [new Performa Website](#).

### Faster GeoPort

Apple [announced](#) a new version of the GeoPort Telecom Adapter Kit, increasing modem speed to 28.8 Kbps and adding enhancements for easier faxing, phoning and personal business management. GeoPort & Express Modem Updater 3.0 is now available from [Apple Software Updates](#).

### Chat with Guy

Apple Fellow Guy Kawasaki, the legendary hardware and software evangelist, will reveal the future of Macintosh as he sees it in a ["Developers and the Mac" chat](#) Tuesday, Oct. 22, 5-6 pm PT.

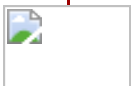
### HOT TIP

#### Cost of Color

What does a color laserprint cost? Here's a handy [chart](#) you can use to calculate the per-

- Annle Sites
- Asia
- Australia
- Belgium
- Canada
- Chile
- Denmark

Go



Where to Buy

**SUCCESS STORY #207****"Now We Surf the Net"**

AppleTalk technology [networked the Kansas State Legislature](#) 300 Macintosh, Power Macintosh and PowerBook computers which replaced the non-memory, electric typewriters they formerly used.

---

**Strong Apple Results**

Tight operating expenses and strong education and business sales led Apple Wednesday to [announce a \\$25 million profit](#) in the quarter ending Sep. 27.

---

**Apple Ships System 7.5.5**

Apple releases U.S. English [System 7.5.5 Update](#), which improves reliability and performance of the Mac OS. For more details, go to the [Mac OS Web site](#) or the [press announcement](#).

page cost of using an Apple Color LaserWriter 12/600.

---

**APPLE SITE OF THE DAY****TIME for Teachers**

K-12 teachers across America are invited to participate in a curriculum software [competition](#) sponsored by Apple and TIME magazine. Win a trip for two to Washington, DC, worth more than \$5,000.

---

**Homework Indeed**

New theme for Apple's FOCUS: section is ["Bring Learning Home."](#) Find out how results of Apple's nearly 20-year partnership with teachers and educational institutions can benefit you and what's happening with Performa computers and special software bundles.

---

**Software & Hardware Galore**

[The Mac OS Software & Hardware Guide](#) lists the hottest software and hardware products from retail stores, product catalogs, online and directly from the publisher. Includes some shareware and freeware.

**Exhibit 126 p2**



[Product Information](#) | [Customer Support](#) | [Technology & Research](#) | [Developer World](#)  
[Groups & Interests](#) | [Resources Online](#) | [About Apple](#)

[What's New](#) | [Find It](#) | [Apple Computer, Inc.](#) | [Contact Us](#) | [Help](#)

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**Exhibit 126 p3**

http://apple.com:80/  OCT NOV FEB  
 74,012 captures 22 Oct 1996 - 19 May 2018 1998 1999 2000  
 About this capture

# Apple

iMac.  
Re-birth announcement.



▶ See the new iMac TV ads in QuickTime.

November 16, 1999, 6:41 p.m. PT



Your Internet co-pilot.



iBook. iMac unplugged.



Power Mac G4.

The Apple Store	Hot News	Products	Design & Publishing	Developer	
	About Apple	Support	Education	Where to Buy	

[Search Tips](#) | [Site Map](#) | [Extended](#) | [Index](#)

[The Apple Store](#) | [Hot News](#) | [About Apple](#) | [Products](#) | [Support](#)  
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[Mac Products Guide](#) | [Job Opportunities at Apple](#) | [Apple & Year 2000](#)

**Exhibit 126 p4**



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**Exhibit 126 p5**



United States Patent and Trademark Office

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Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Fri Jan 5 04:51:02 EST 2018

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG BOTTOM HELP

Logout Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

TSDR ASSIGN Status TTAB Status ( Use the "Back" button of the Internet Browser to return to TESS)

AppleJaxx

Exhibit 127 p1

Word Mark APPLEJAXX

Goods and Services IC 041. US 100 101 107. G & S: entertainment, namely live performances by the musician Ernest Owens; entertainment namely, performing live musical concerts featuring Ernest Owens. FIRST USE: 20000600. FIRST USE IN COMMERCE: 20000600

Standard Characters Claimed

Mark Drawing (4) STANDARD CHARACTER MARK Code

Serial Number 77239699

Filing Date July 26, 2007

Current Basis 1A

Original Filing Basis 1A

Published for January 15, 2008

Opposition

Registration Number 3519038

Registration Date October 21, 2008

Owner (REGISTRANT) Owens, Ernest DBA AppleJaxx INDIVIDUAL UNITED STATES 48 Old Morton Street

Boston MASSACHUSETTS 02126

**Attorney of Record**

Brian Price

**Type of Mark**

SERVICE MARK

**Register**

PRINCIPAL

**Affidavit Text**

SECT 15. SECT 8 (6-YR).

**Live/Dead Indicator**

**LIVE**

**Exhibit 127 p2**

[TESS HOME](#)

[NEW USER](#)

[STRUCTURED](#)

[FREE FORM](#)

[BROWSE DICT](#)

[SEARCH OG](#)

[TOP](#)

[HELP](#)

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## United States Patent and Trademark Office

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### Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Sat Mar 4 03:47:02 EST 2017

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

## Record 1 out of 1

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) ( Use the "Back" button of the Internet Browser to return to TESS)

# Apple Jam

**Exhibit 129**

**Word Mark** APPLE JAM

**Goods and Services** IC 041. US 100 101 107. G & S: Arranging and conducting of music concerts. FIRST USE: 20090622. FIRST USE IN COMMERCE: 20100601

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 85084021

**Filing Date** July 14, 2010

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** December 28, 2010

**Registration Number** **3930903**

**Registration Date** March 15, 2011

**Owner** (REGISTRANT) Figley, Joseph Dean INDIVIDUAL UNITED STATES 834 Dunbar Hill Road Grantham NEW HAMPSHIRE 03753

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [TOP](#) [HELP](#)



Search the history of over 327 billion web pages on the Internet.



Q enter URL or keywords

**Exhibit 135**



**Internet Archive** is a non-profit library of millions of free books, movies, software, music, websites, and more.

327B	16M	4.2M	4.2M	1.6M	212K	3.1M	190K	353K

Q Search

GO

[Advanced Search](#)

### Announcements

Internet Archive Meets Pineapple Fund's \$1M Challenge

SAVE THE DATE: Decentralized Web Summit 2018

Google Summer of Code 2018: Thank you Google and welcome students!

[SEE MORE](#)

## Top Collections at the Archive



Community Audio

2,828,790 ITEMS



Community Video

1,019,285 ITEMS



Live Music Archive

185,239 ITEMS



Community Media

499,501 ITEMS



American Libraries

2,813,997 ITEMS



Community Texts

840,002 ITEMS



The LibriVox Free Audiobook Collection

11,797 ITEMS



Electric Sheep

514 ITEMS

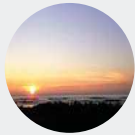


Canadian Libraries

566,676 ITEMS

Community Arabic Texts

186,467 ITEMS



Community Spirituality and Religion

104,008 ITEMS



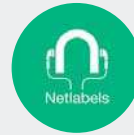
University of Toronto - Robarts Library

213,368 ITEMS



Folksoundomy: A Library of Sound

157,039 ITEMS



Netlabels

68,040 ITEMS



California Digital Library

191,919 ITEMS



Prelinger Archives

6,975 ITEMS



Feature Films

5,330 ITEMS



Grateful Dead

12,679 ITEMS



Biodiversity Heritage Library

192,488 ITEMS



European Libraries

629,336 ITEMS



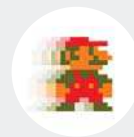
Internet Arcade



United States



Television Archive



Speed Runs




Television Archive News Search Service

1,532,418 ITEMS

 1,785  
ITEMS

Patent and Trademark Office documents

 1,542,547  
ITEMS

 4,096  
ITEMS

highbandwidth



Old Time Radio

 409,692  
ITEMS




Journals



Iraq War: Non-English Language Videos

 4,134  
ITEMS

 2,530  
ITEMS

 1,465,331  
ITEMS

 36,193  
ITEMS



Universal Library

 110,444  
ITEMS

# United States of America

United States Patent and Trademark Office

# APPLE

Exhibit 136, p 1

Reg. No. 4,088,195

Registered Jan. 17, 2012

Int. Cl.: 41

SERVICE MARK

PRINCIPAL REGISTER

APPLE INC. (CALIFORNIA CORPORATION)  
1 INFINITE LOOP  
CUPERTINO, CA 95014

FOR: EDUCATION AND TRAINING SERVICES, NAMELY, ARRANGING AND CONDUCTING PERSONAL TRAINING, CLASSES, WORKSHOPS, CONFERENCES AND SEMINARS IN THE FIELD OF COMPUTERS, COMPUTER SOFTWARE, ONLINE SERVICES, INFORMATION TECHNOLOGY, WEBSITE DESIGN, AND CONSUMER ELECTRONICS; ARRANGING PROFESSIONAL WORKSHOP AND TRAINING COURSES; COMPUTER EDUCATION TRAINING SERVICES; TRAINING IN THE USE AND OPERATION OF COMPUTERS, COMPUTER SOFTWARE AND CONSUMER ELECTRONICS; ONLINE JOURNALS, NAMELY, BLOGS FEATURING GENERAL INTEREST TOPICS COVERING A WIDE VARIETY OF TOPICS AND SUBJECT MATTER; PROVIDING ON-LINE PUBLICATIONS IN THE NATURE OF MAGAZINES, NEWSLETTER AND JOURNALS IN THE FIELD OF COMPUTERS, COMPUTER SOFTWARE AND CONSUMER ELECTRONICS; PROVIDING INFORMATION, PODCASTS AND WEBCASTS IN THE FIELD OF ENTERTAINMENT VIA THE INTERNET CONCERNING MOVIES, MUSIC, VIDEOS, TELEVISION, SPORTS, NEWS, HISTORY, SCIENCE, POLITICS, COMEDY, CHILDREN'S ENTERTAINMENT, ANIMATION, CULTURE, AND CURRENT EVENTS; DIGITAL VIDEO, AUDIO AND MULTIMEDIA PUBLISHING SERVICES; PROVIDING ENTERTAINMENT INFORMATION REGARDING MOVIES, MUSIC, VIDEOS, TELEVISION, SPORTS, NEWS, HISTORY, SCIENCE, POLITICS, COMEDY, CHILDREN'S ENTERTAINMENT, ANIMATION, CULTURE, AND CURRENT EVENTS; PROVIDING INFORMATION, REVIEWS AND PERSONALIZED RECOMMENDATIONS OF MOVIES, MUSIC, VIDEOS, TELEVISION, SPORTS, NEWS, HISTORY, SCIENCE, POLITICS, COMEDY, CHILDREN'S ENTERTAINMENT, ANIMATION, CULTURE, AND CURRENT EVENTS IN THE FIELD OF ENTERTAINMENT; ENTERTAINMENT SERVICES, NAMELY, PRODUCTION OF LIVE MUSICAL PERFORMANCES; ENTERTAINMENT SERVICES, NAMELY, PROVIDING LIVE MUSICAL PERFORMANCES ONLINE VIA A GLOBAL COMPUTER NETWORK; RENTAL OF DIGITAL ENTERTAINMENT CONTENT IN THE NATURE OF MOVIES, MUSIC, VIDEOS, TELEVISION, SPORTS, NEWS, HISTORY, SCIENCE, POLITICS, COMEDY, CHILDREN'S ENTERTAINMENT, ANIMATION, CULTURE, AND CURRENT EVENTS, BY MEANS OF COMMUNICATIONS NETWORKS, NAMELY, PROVISION OF NON-DOWNLOADABLE AUDIO AND AUDIOVISUAL PROGRAMS VIA AN ONLINE VIDEO-ON-DEMAND SERVICE; PROVIDING A DATABASE OF DIGITAL ENTERTAINMENT CONTENT IN THE NATURE OF MOVIES, MUSIC, VIDEOS, TELEVISION, SPORTS, NEWS, HISTORY, SCIENCE, POLITICS, COMEDY, CHILDREN'S ENTERTAINMENT, ANIMATION, CULTURE, AND CURRENT EVENTS VIA ELECTRONIC COMMU-



*David J. Kappas*

Director of the United States Patent and Trademark Office

**Reg. No. 4,088,195** NICATION NETWORKS; ENTERTAINMENT SERVICES, NAMELY, PROVIDING PRERECORDED AUDIO AND AUDIOVISUAL CONTENT, INFORMATION AND COMMENTARY IN THE FIELDS OF MUSIC, CONCERTS, VIDEOS, MOVIES, TELEVISION, BOOKS, NEWS, SPORTS, GAMES AND CULTURAL EVENTS ALL VIA A GLOBAL COMPUTER NETWORK, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 3-1-1981; IN COMMERCE 3-1-1981.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

PRIORITY CLAIMED UNDER SEC. 44(D) ON ERPN CMNTY TM OFC APPLICATION NO. 6313316, FILED 9-28-2007.

OWNER OF U.S. REG. NOS. 2,649,455, 3,317,089, AND OTHERS.

SN 77-428,980, FILED 3-22-2008.

MARILYN IZZI, EXAMINING ATTORNEY

**Exhibit 136, p 2**

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

***First Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

***Second Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or  
reminder of these filing requirements.**

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**



## Trademark/Service Mark Application, Principal Register

Serial Number: 77428980  
 Filing Date: 03/22/2008

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	77428980
<b>MARK INFORMATION</b>	
*MARK	<a href="#">APPLE</a>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	APPLE
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Apple Inc.
*STREET	1 Infinite Loop
*CITY	Cupertino
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	95014
PHONE	408-996-1010
FAX	408-253-0186
<b>LEGAL ENTITY INFORMATION</b>	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	California
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
*INTERNATIONAL CLASS	009
	Education and training services, namely, arranging and conducting personal training, classes, workshops, conferences and seminars in the field of computers, computer software, online services, information technology, website design, and consumer electronics; arranging professional workshop and training courses; computer education training services; training in the use and operation of computers, computer software and consumer electronics; providing a website for the uploading, sharing, viewing and posting of photographs, digital images, movies, videos, and online journals, namely web blogs in

Exhibit 138, p1

**\*IDENTIFICATION**

**Exhibit 138, p2**

general interest fields, and other related multimedia entertainment materials over a global computer network; providing on-line publications in the field of computers, computer software and consumer electronics; providing information, podcasts and webcasts in the field of entertainment via the Internet concerning movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events; digital video, audio and multimedia publishing services; providing entertainment information; providing information, reviews and personalized recommendations in the field of entertainment; entertainment services, namely, production and distribution of live musical performances; rental of digital entertainment content by means of communications networks; providing access to a database of digital entertainment content via electronic communication networks; entertainment services, namely, providing prerecorded audio and audiovisual content, information and commentary in the fields of music, concerts, videos, movies, television, books, news, sports, games and cultural events all via a global computer network

<b>FILING BASIS</b>	SECTION 1(b)
<b>FILING BASIS</b>	SECTION 44(d)
<b>FOREIGN APPLICATION NUMBER</b>	6313316
<b>FOREIGN APPLICATION COUNTRY</b>	European Community
<b>FOREIGN FILING DATE</b>	09/28/2007
<b>ADDITIONAL STATEMENTS SECTION</b>	
<b>PRIOR REGISTRATION(S)</b>	The applicant claims ownership of U.S. Registration Number(s) 2649455, 3317089, 3226289, and others.
<b>ATTORNEY INFORMATION</b>	
<b>NAME</b>	Thomas R. La Perle
<b>FIRM NAME</b>	Apple Inc.
<b>STREET</b>	1 Infinite Loop
<b>INTERNAL ADDRESS</b>	MS: 3TM
<b>CITY</b>	Cupertino
<b>STATE</b>	California
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	95014
<b>PHONE</b>	408-974-2385
<b>FAX</b>	408-253-0186
<b>CORRESPONDENCE INFORMATION</b>	
<b>NAME</b>	Thomas R. La Perle
<b>FIRM NAME</b>	Apple Inc.
<b>STREET</b>	1 Infinite Loop
<b>INTERNAL ADDRESS</b>	MS: 3TM

<b>CITY</b>	Cupertino
<b>STATE</b>	California
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	95014
<b>PHONE</b>	408-974-2385
<b>FAX</b>	408-253-0186
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	325
<b>*TOTAL FEE DUE</b>	325
<b>*TOTAL FEE PAID</b>	325
<b>SIGNATURE INFORMATION</b>	
<b>SIGNATURE</b>	/Thomas R. La Perle/
<b>SIGNATORY'S NAME</b>	Thomas R. La Perle
<b>SIGNATORY'S POSITION</b>	Senior Intellectual Property Counsel
<b>DATE SIGNED</b>	03/22/2008

**Exhibit 138, p3**

## Trademark/Service Mark Application, Principal Register

Serial Number: 77428980

Filing Date: 03/22/2008

**Exhibit 138, p4**

### To the Commissioner for Trademarks:

**MARK:** APPLE (Standard Characters, see [mark](#))

The literal element of the mark consists of APPLE.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Apple Inc., a corporation of California, having an address of

1 Infinite Loop  
Cupertino, California 95014  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

International Class 009: Education and training services, namely, arranging and conducting personal training, classes, workshops, conferences and seminars in the field of computers, computer software, online services, information technology, website design, and consumer electronics; arranging professional workshop and training courses; computer education training services; training in the use and operation of computers, computer software and consumer electronics; providing a website for the uploading, sharing, viewing and posting of photographs, digital images, movies, videos, and online journals, namely web blogs in general interest fields, and other related multimedia entertainment materials over a global computer network; providing on-line publications in the field of computers, computer software and consumer electronics; providing information, podcasts and webcasts in the field of entertainment via the Internet concerning movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events; digital video, audio and multimedia publishing services; providing entertainment information; providing information, reviews and personalized recommendations in the field of entertainment; entertainment services, namely, production and distribution of live musical performances; rental of digital entertainment content by means of communications networks; providing access to a database of digital entertainment content via electronic communication networks; entertainment services, namely, providing prerecorded audio and audiovisual content, information and commentary in the fields of music, concerts, videos, movies, television, books, news, sports, games and cultural events all via a global computer network

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

Priority based on foreign filing: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services and asserts a claim of priority based on European Community application number 6313316, filed 09/28/2007. 15 U.S.C. Section 1126(d), as amended.

The applicant claims ownership of U.S. Registration Number(s) 2649455, 3317089, 3226289, and others.

The applicant hereby appoints Thomas R. La Perle of Apple Inc.

MS: 3TM  
1 Infinite Loop  
Cupertino, California 95014  
United States

to submit this application on behalf of the applicant.

Correspondence Information: Thomas R. La Perle

MS: 3TM  
1 Infinite Loop  
Cupertino, California 95014  
408-974-2385(phone)  
408-253-0186(fax)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

### Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Thomas R. La Perle/ Date Signed: 03/22/2008

Signatory's Name: Thomas R. La Perle

Signatory's Position: Senior Intellectual Property Counsel

**Exhibit 138, p5**

RAM Sale Number: 3402

RAM Accounting Date: 03/24/2008

Serial Number: 77428980

Internet Transmission Date: Sat Mar 22 20:00:09 EDT 2008

TEAS Stamp: USPTO/BAS-XX.XXX.XX.XXX-2008032220000956

4866-77428980-400e16699eed94af937c89d5e0

c0acaec6-DA-3402-20080322194359520589

# APPLE

**Exhibit 138, p6**

## Trademark/Service Mark Application, Principal Register

**Serial Number: 78430230**  
**Filing Date: 06/04/2004**

**The table below presents the data as entered.**

Input Field	Entered
<b>MARK SECTION</b>	
MARK	<a href="#">APPLE</a>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	APPLE
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>OWNER SECTION</b>	
NAME	Apple Corps Limited
STREET	27 Ovington Square
CITY	London SW3 1LJ
COUNTRY	United Kingdom
AUTHORIZED EMAIL COMMUNICATION	No
<b>LEGAL ENTITY SECTION</b>	
TYPE	COMPANY
STATE/COUNTRY UNDER WHICH ORGANIZED	United Kingdom
<b>GOODS AND/OR SERVICES SECTION</b>	
INTERNATIONAL CLASS	009
DESCRIPTION	sound records, video records, cinematographic films; musical sound recordings; musical video recordings; audio and visual recordings featuring or relating to music, entertainment and films; pre-recorded compact discs, audio tapes, gramophone records, video tapes, video discs, DVDs, CD-ROMs and interactive compact discs, all featuring or relating to music and films; digitally recorded sound and video records; downloadable musical sound and video records; downloadable sound and video records featuring or relating to music, entertainment and films
FILING BASIS	Section 44(e)
FOREIGN REGISTRATION NUMBER	218990
FOREIGN REGISTRATION COUNTRY NAME	CTM
FOREIGN REGISTRATION DATE	11/16/2000
FOREIGN EXPIRATION DATE	04/01/2006

**Exhibit 139, p1**

**ADDITIONAL STATEMENTS SECTION**

PRIOR REGISTRATION(S)	Applicant claims ownership of U.S. Registration Number(s) 2034964.
-----------------------	--

**SIGNATURE SECTION**

SIGNATORY FILE	<a href="#">\\fics\EXPORT10\IMAGEOUT 10\784\302\78430230\xml1\APP0003.JPG</a>
SIGNATORY NAME	Mr. Neil Stanley Aspinall
SIGNATORY POSITION	Company Secretary

**PAYMENT SECTION**

NUMBER OF CLASSES	1	<b>Exhibit 139, p2</b>
NUMBER OF CLASSES PAID	1	
SUBTOTAL AMOUNT	335	
TOTAL AMOUNT	335	

**ATTORNEY**

NAME	Brian J. McNamara
FIRM NAME	Foley & Lardner LLP
INTERNAL ADDRESS	Suite 500
STREET	Washington Harbour, 3000 K Street, N.W.
CITY	Washington
STATE	DC
ZIP/POSTAL CODE	20007-5101
COUNTRY	USA
PHONE	202-672-5300
FAX	202-672-5399
AUTHORIZED EMAIL COMMUNICATION	No
ATTORNEY DOCKET NUMBER	016787/0257
OTHER APPOINTED ATTORNEY(S)	all attorneys

**DOMESTIC REPRESENTATIVE SECTION**

NAME	Brian J. McNamara
FIRM NAME	Foley & Lardner LLP
INTERNAL ADDRESS	Suite 500
STREET	Washington Harbour, 3000 K Street, N.W.
CITY	Washington
STATE	DC
ZIP/POSTAL CODE	20007-5101
COUNTRY	USA
PHONE	202-672-5300
FAX	202-672-5399



AUTHORIZED EMAIL COMMUNICATION	No
<b>CORRESPONDENCE SECTION</b>	
NAME	Brian J. McNamara
FIRM NAME	Foley & Lardner LLP
INTERNAL ADDRESS	Suite 500
STREET	Washington Harbour, 3000 K Street, N.W.
CITY	Washington
STATE	DC
ZIP/POSTAL CODE	20007-5101
COUNTRY	USA
PHONE	202-672-5300
FAX	202-672-5399
AUTHORIZED EMAIL COMMUNICATION	No
<b>FILING INFORMATION</b>	
SUBMIT DATE	Fri Jun 04 15:51:15 EDT 2004
TEAS STAMP	USPTO/BAS-XXXXXXXXXX-2004 0604155115852384-78430230 -200e7706cf59d639d661be27 a93e5cc9c-DA-133-20040604 154552296622

**Exhibit 139, p3**

## Trademark/Service Mark Application, Principal Register

**Serial Number: 78430230**

**Filing Date: 06/04/2004**

### To the Commissioner for Trademarks:

**MARK:** (Standard Characters, see [mark](#))

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The literal element of the mark consists of APPLE.

The applicant, Apple Corps Limited, a company organized under the laws of United Kingdom, residing at 27 Ovington Square, London SW3 1LJ, United Kingdom, , requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

Based on Foreign Registration: Applicant has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and will submit a copy of CTM registration number 218990, registered 11/16/2000 with a renewal date of \_\_\_\_\_ and an expiration date of 04/01/2006, and translation thereof, if appropriate. 15 U. S.C. Section 1126(e), as amended.

International Class 009: sound records, video records, cinematographic films; musical sound recordings; musical video recordings; audio and visual recordings featuring or relating to music, entertainment and films; pre-recorded compact discs, audio tapes, gramophone records, video tapes, video discs, DVDs, CD-ROMs and interactive compact discs, all featuring or relating to music and films; digitally recorded sound and video records; downloadable musical sound and video records; downloadable sound and video records featuring or relating to music, entertainment and films

Applicant claims ownership of U.S. Registration Number(s) 2034964.

The applicant hereby appoints Brian J. McNamara and all attorneys of Foley & Lardner LLP, Suite 500, Washington Harbour, 3000 K Street, N.W., Washington, DC, USA, 20007-5101 to submit this application on behalf of the applicant. The attorney docket/reference number is 016787/0257.

The applicant hereby appoints Brian J. McNamara of Foley & Lardner LLP, Suite 500, Washington Harbour, 3000 K Street, N.W., Washington, DC, USA 20007-5101 as applicant's representative upon whom notice or process in the proceedings affecting the mark may be served.

A fee payment in the amount of \$335 will be submitted with the application, representing payment for 1 class(es).

### Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature:

Signatory's Name: Mr. Neil Stanley Aspinall

Signatory's Position: Company Secretary

Signatory's Signature: [Signature](#)

Mailing Address:

Brian J. McNamara

Suite 500  
Washington Harbour, 3000 K Street, N.W.  
Washington, DC 20007-5101

RAM Sale Number: 133  
RAM Accounting Date: 06/07/2004

Serial Number: 78430230  
Internet Transmission Date: Fri Jun 04 15:51:15 EDT 2004  
TEAS Stamp: USPTO/BAS-XXXXXXXXXX-2004060415511585238  
4-78430230-200e7706cf59d639d661be27a93e5  
cc9c-DA-133-20040604154552296622

APPLE

Trademark/Service Mark Application, Principal Register

Page 3 of 3

**APPLICANT NAME:** Apple Corps Limited**MARK:** (standard characters)**Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature:  Date: 1.6.04Signatory's Name: MR NEIL STANLEY ASPINWALLSignatory's Position: COMPANY SECRETARY[Go Back](#)

## Combined Declaration of Use and/or Excusable Nonuse/Application for Renewal of Registration of a Mark under Sections 8 & 9

To the Commissioner for Trademarks:

REGISTRATION NUMBER: 2034964

REGISTRATION DATE: 02/04/1997

MARK: (APPLE)

**Exhibit 141, p1**

The owner, APPLE INC., a corporation of California, having an address of

MS: 169-3IPL

1 INFINITE LOOP

CUPERTINO, California 95014

United States

(408) 974-2385

trademarkdocket@apple.com (authorized)

is filing a Combined Declaration of Use and/or Excusable Nonuse/Application for Renewal of Registration of a Mark under Sections 8 & 9.

For International Class 009, this filing does **NOT** cover the following goods or services for this specific class listed in the registration, and these goods or services are to be permanently **deleted** from the registration: pre-recorded audio tape cassettes featuring music; pre-recorded video tape cassettes featuring music

The mark is in use in commerce on or in connection with the following goods or services listed in the existing registration for this specific class; or, the owner is making the listed excusable nonuse claim: Gramophone records featuring music; audio compact discs featuring music; audio recordings featuring music; audiovisual recordings featuring music.

The owner is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in this class, consisting of a(n) digital photos of Registrant's mark in use on CDs and DVDs in connection with the registered goods.

**Original PDF file:**

[SPN0-38104128234-20170202143129463048\\_-\\_Specimen\\_APPLE\\_in\\_Class\\_9\\_RN\\_2034964\\_.pdf](#)

**Converted PDF file(s)** (5 pages)

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

[Specimen File4](#)

[Specimen File5](#)

The following explanation of excusable nonuse has been made of record: Simultaneously filing a Petition to the Director under Section 7 for amendment of the goods under the USPTO's New Technology Evolution Pilot Program.

The registrant's current Attorney Information: Thomas R. La Perle of Apple Inc.

MS: 169-3IPL

1 Infinite Loop

Cupertino, California 95014

United States

The registrant's proposed Attorney Information: Thomas R. La Perle of Apple Inc.

MS: 169-3IPL

1 Infinite Loop

Cupertino, California 95014

United States

The docket/reference number is 1037176.

The Other Appointed Attorney(s): Irene K. Chong, Linda Du, Kimberly Eckhart, Pamela Reid, Jason Cody, Scott Harlan, Hillary Schroeder of Apple Inc..

The phone number is (408) 974-2385.

The email address is trademarkdocket@apple.com.

The registrant's current Correspondence Information: Thomas R. La Perle of Apple Inc.

MS: 169-3IPL  
1 Infinite Loop  
Cupertino, California 95014  
United States

The registrant's proposed Correspondence Information: Thomas R. La Perle of Apple Inc.

MS: 169-3IPL  
1 Infinite Loop  
Cupertino, California 95014  
United States

The docket/reference number is 1037176.

**Exhibit 141 p.2**

The phone number is (408) 974-2385.

The email address is trademarkdocket@apple.com;laperle@apple.com;linda\_du@apple.com.

A fee payment in the amount of \$425 will be submitted with the form, representing payment for 1 class(es), plus any additional grace period fee, if necessary.

#### **Declaration**

Unless the owner has specifically claimed excusable nonuse, the mark is in use in commerce on or in connection with the goods/services or to indicate membership in the collective membership organization identified above, as evidenced by the attached specimen(s).

The specimen(s) shows the mark as currently used in commerce on or in connection with the goods/services/collective membership organization.

The registrant requests that the registration be renewed for the goods/services/collective organization identified above.

To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.

The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of this submission, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /Linda Du/ Date: 02/03/2017

Signatory's Name: Linda Du

Signatory's Position: Attorney of Record, New York bar member

Signatory's Phone: 669-227-9475

#### **Mailing Address (current):**

Apple Inc.  
1 Infinite Loop  
Cupertino, California 95014

#### **Mailing Address (proposed):**

Apple Inc.  
1 Infinite Loop  
Cupertino, California 95014

Serial Number: 74693839

Internet Transmission Date: Fri Feb 03 20:47:20 EST 2017

TEAS Stamp: USPTO/S08N09-XX.XXX.XXX.XXX-201702032047

20386213-2034964-580d095bcbe65d151341667

ed726c720125f2134a2362c78d87ab5c218b730d



Atty. Dkt. No. 016787/0202

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mark: APPLE  
Class(es): 9  
Reg. No.: 2,034,964  
Reg. Date: February 4, 1997  
Owner: Apple Corps Limited

**Exhibit 142, p1**

TRANSMITTAL LETTER

COMMISSIONER OF TRADEMARKS  
2900 Crystal Drive  
Arlington, Virginia 22202-3513:

Madam:

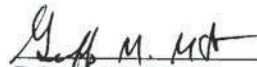
Attached are the following items in regard to the above-identified registration:

1. Combined Declaration of Use and Incontestability of a Mark Under Sections 8 & 15 of the Trademark Act;
2. One specimen of use;
3. Check for \$400.00 to cover the filing fee for one class of goods in the grace period.

Please charge any additional fees or credit any overpayment to Patent & Trademark Office Account No. 19-0741.

Respectfully submitted,

Date: August 4, 2003

  
\_\_\_\_\_  
Brian J. McNamara  
Geoffrey M. McNutt

FOLEY & LARDNER  
Suite 500  
P.O. Box 25696  
3000 K Street, N.W.  
Washington, D.C. 20007-8696  
(202) 672-5300



Atty. Dkt. No. 016787-0202

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mark: APPLE  
Class(es): 9  
Reg. No.: 2,034,964  
Reg. Date: February 4, 1997  
Owner: Apple Corps Limited

**Exhibit 142, p2**

COMBINED DECLARATION OF USE AND INCONTESTABILITY OF A MARK  
UNDER SECTIONS 8 & 15 OF THE TRADEMARK ACT

Box POST REG FEE  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3514

Sir:

The owner of the above-referenced mark, Apple Corps Limited, located at 27 Ovington Square, London SW3 1LJ, has used the mark in commerce for five (5) consecutive years after the date of registration, or the date of publication under § 12(c), and is still using the mark in commerce on or in connection with the following goods/services (check one):

- All goods/services identified in the Registration.
- All goods/services identified in the Registration except (identify goods/services for which either the owner has not used the mark in commerce for five (5) consecutive years or is no longer using the mark in commerce) except: video laser discs featuring music

(cont'd) (If the mark is still in use on or in connection with such goods/services, or nonuse of the mark is excusable, you must file a separate Declaration of Use for those goods/services.)

**Exhibit 142, p3**

Atty. Dkt. No. 016787-0202

The owner is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as currently used in commerce. The mark has been in continuous use in commerce for five (5) consecutive years after the date of registration, or the date of publication under § 12(c), and is still in use in commerce on or in connection with all goods/services identified above. There has been no final decision adverse to the owner's claim of ownership of such mark for such goods/services, or to the owner's right to register the same or to keep the same on the register; and there is no proceeding involving said rights pending and not disposed of either in the Patent and Trademark Office or in the courts.

APPOINTMENT OF DOMESTIC REPRESENTATIVE

The owner hereby appoints the firm of FOLEY & LARDNER, Washington Harbour, 3000 K Street, N.W., Suite 500, Washington, D.C. 20007-5143, as its domestic representative upon whom notices or process in proceedings affecting the mark may be served.

POWER OF ATTORNEY AT LAW

The owner hereby revokes all previous powers of attorney with respect to this registration and appoints the following attorneys of the law firm of FOLEY & LARDNER:

Eric J. Carlson	Peter G. Mack	Charles F. Schill
Mark J. Diliberti	Richard J. McKenna	Richard L. Schwaab
Harry C. Engstrom	Brian J. McNamara	Larry L. Shatzer
Bernard P. Friedrichsen	Geoffrey M. McNutt	Stacy L. Taylor
Mark A. Kassel	Norman J. Rich	James L. Vana

as its principal attorneys to have full power to submit any post-registration documents with respect to the registration, to transact all business in the United States Patent and Trademark Office in connection therewith, and to have full power of substitution, association, and revocation, including the power to revoke the power of attorney of any associate attorney. Every member of the firm of FOLEY & LARDNER and every attorney at law associated with that firm is hereby authorized to have associate power of attorney to sign any paper and to conduct any business on behalf of the owner with respect to this registration.

Atty. Dkt. No. 016787-0202

It is requested that all correspondence be directed to:

Brian J. McNamara  
FOLEY & LARDNER  
Washington Harbour  
3000 K Street, N.W., Suite 500  
Washington, D.C. 20007-5143  
Telephone: (202) 672-5416  
Facsimile: (202) 672-5399


**Exhibit 142, p4**

DECLARATION

The undersigned, being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Apple Corps Limited

Date: 28.7.03

By: 

Name: Neil Stanley Aspinall

Title: Manager

Specimen in support of Declaration of Use and Incontestability

Mark: APPLE  
Reg. No.: 2034964

Produced & Directed by George Martin  
Additional Research: Mark Levinson. Remix Engineer: Geoff Emerick  
For Abbey Road Studios. Coordinator and Assistant to George Martin: Alan Ross  
Thanks To: Paul Hicks, Peter Mew, Chris Blair and Chris Brown  
Cover Concept: Klaus Voormann. Painting: Klaus Voormann and Allison Kahr  
Design/Art Direction: Richard Ward/The Team  
Manufactured by Capitol Records, Inc., 1750 Vine Street, Hollywood, California 90028.  
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Printed in U.S.A.

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ISBN 1-884409-15-6

**DISC 1** 1 Free As A Bird 2 Speech: John Lennon 32 Money (That's What I Want) 33 You Really Got  
3 That'll Be The Day 4 In Spite Of All The Danger A Hold On Me 34 Roll Over Beethoven **DISC 2**  
5 Speech: Paul McCartney 6 Hallelujah, I Love Her So 1 She Loves You 2 Till There Was You 3 Twist And Shout  
7 You'll Be Mine 8 Coyenne 9 Speech: Paul 10 My 4 This Boy 5 I Want To Hold Your Hand 6 Speech: Eric  
Bonnie 11 Ain't She Sweet 12 Cry For A Shadow Morecambe and Ernie Wise 7 Moonlight Boy 8 Can't  
13 Speech: John 14 Speech: Brian Epstein Buy Me Love 9 All My Loving 10 You Can't Do  
15 Searchin' 16 Three Cool Cats 17 The Sheik Of That 11 And I Love Her 12 A Hard Day's Night 13 I  
Araby 18 Like Dreamers Do 19 Hello Wanna Be Your Man 14 Long Tall  
Little Girl 20 Speech: Brian Epstein Sally 15 Boys 16 Shout 17 I'll Be  
21 Besame Mucho 22 Love Me Do Back (Demo) 18 I'll Be Back  
23 How Do You Do It 24 Please (Complete) 19 You Know What To  
Please Me 25 One After 909 (False Do 20 No Reply (Demo) 21 Mr  
Starts) 26 One After 909 27 Land Moonlight 22 Leave My Kitten Alone  
Me Your Comb 28 I'll Get You 23 No Reply 24 Eight Days A Week  
29 Speech: John 30 I Saw Her (False Starts) 25 Eight Days A Week  
Standing There 31 From Me To You 26 Kansas City / Hey-Hey-Hey-Hey!

THE  
BEATLES  
ANTHOLOGY

1

Exhibit 142, p5

**SOU Extension Request  
(15 U.S.C. Section 1051(d))**

To the Commissioner for Trademarks:

**MARK:** APPLE

**SERIAL NUMBER:** 77428980

The applicant, Apple Inc., having an address of  
1 Infinite Loop  
Cupertino, California 95014  
United States

requests a six-month extension of time to file the Statement of Use under 37 C.F.R. Section 2.89 in this application. The Notice of Allowance mailing date was 05/11/2010.

For International Class 041:

Current identification: Education and training services, namely, arranging and conducting personal training, classes, workshops, conferences and seminars in the field of computers, computer software, online services, information technology, website design, and consumer electronics; arranging professional workshop and training courses; computer education training services; training in the use and operation of computers, computer software and consumer electronics; online journals, namely, blogs featuring general interest topics covering a wide variety of topics and subject matter; providing on-line publications in the nature of magazines, newsletter and journals in the field of computers, computer software and consumer electronics; providing information, podcasts and webcasts in the field of entertainment via the Internet concerning movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events; digital video, audio and multimedia publishing services; providing entertainment information regarding movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events; providing information, reviews and personalized recommendations of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events in the field of entertainment; entertainment services, namely, production of live musical performances; entertainment services, namely, providing live musical performances online via a global computer network; rental of digital entertainment content in the nature of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events, by means of communications networks, namely, provision of non-downloadable audio and audiovisual programs via an online video-on-demand service; providing a database of digital entertainment content in the nature of movies, music, videos, television, sports, news, history, science, politics, comedy, children's entertainment, animation, culture, and current events via electronic communication networks; entertainment services, namely, providing prerecorded audio and audiovisual content, information and commentary in the fields of music, concerts, videos, movies, television, books, news, sports, games and cultural events all via a global computer network

The applicant has a continued bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with all of the goods and/or services listed in the Notice of Allowance or as subsequently modified for this specific class.

For International Class 042:

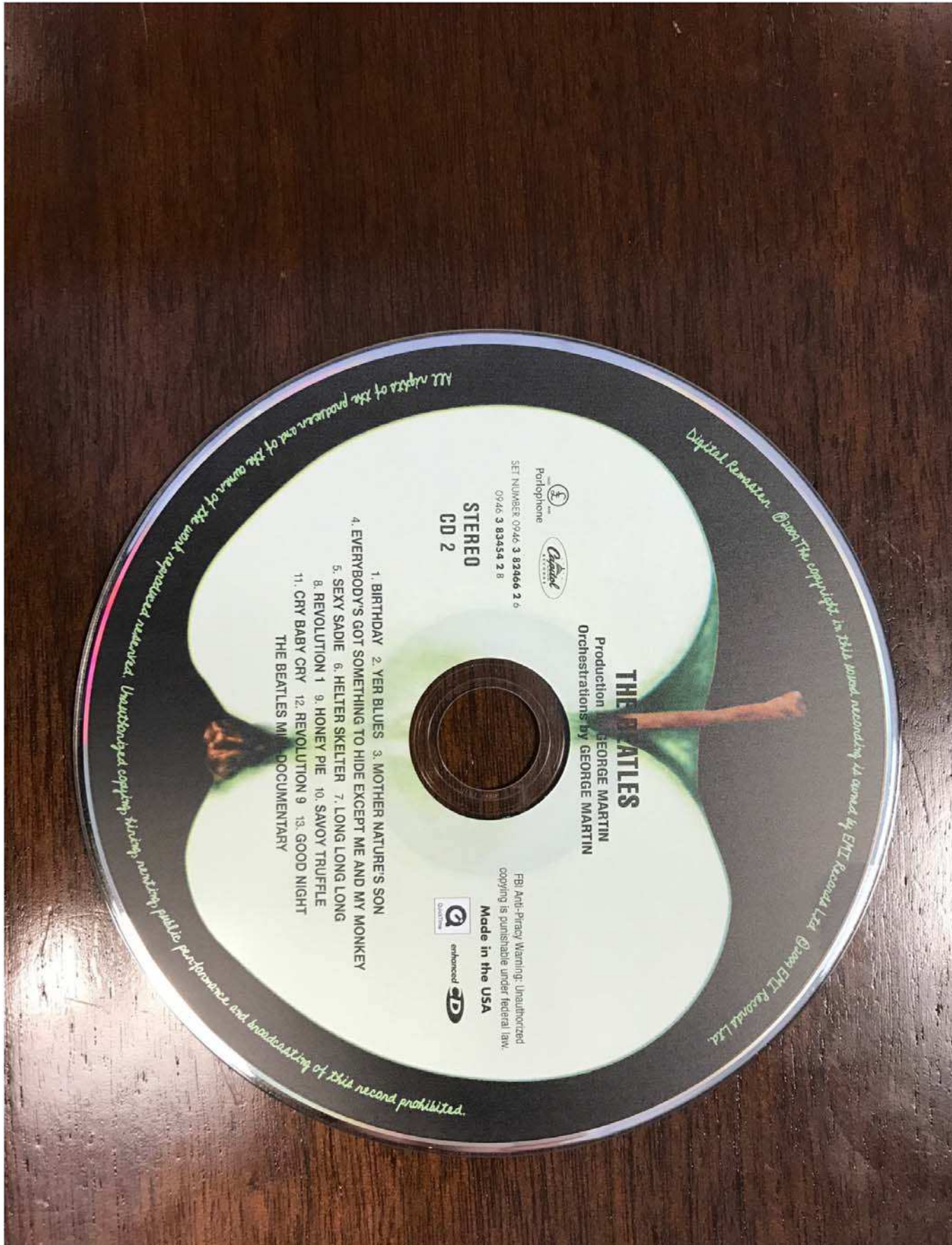
Current identification: Providing a website for the uploading, sharing, viewing and posting of photographs, digital images, movies, videos, online journals covering general interest topics, and other related multimedia entertainment materials over a global computer network covering a wide variety of topics and subjects

This filing does **not** cover this specific class. This **entire class** is either to be permanently **deleted** from the application OR **processed according to a separately filed Statement of Use and Request to Divide**.

**This is the third extension request.** The applicant has made the following ongoing efforts to use the mark in commerce on or in connection with each of those goods and/or services covered by the extension request: **The applicant believes that it has made valid use of the mark in commerce, and is currently filing a Statement of Use (SOU), but that if the USPTO finds the SOU to be fatally defective, the applicant will need additional time to file a new SOU.**

A Statement of Use is being submitted along with the Extension request as evidence that applicant believes that it has made valid use of the mark in commerce. If the USPTO finds the Statement of Use to be fatally defective, the applicant requests additional time to file an amended or

**APPLE000462**



*Digital Remaster © 2001 The copyright in this sound recording is owned by EMI Records Ltd. © 2001 EMI Records Ltd.*

**THE BEATLES**  
Production by GEORGE MARTIN  
Orchestrations by GEORGE MARTIN

Parlophone  
Capitol  
RECORDS

SET NUMBER 0946 3 82466 2 6  
0946 3 83454 2 8

**STEREO**  
CD 2

- 1. BIRTHDAY 2. YER BLUES 3. MOTHER NATURE'S SON
  - 4. EVERYBODY'S GOT SOMETHING TO HIDE EXCEPT ME AND MY MONKEY
  - 5. SEXY SADIE 6. HELTER SKELTER 7. LONG LONG LONG
  - 8. REVOLUTION 1 9. HONEY PIE 10. SAVOY TRUFFLE
  - 11. CRY BABY CRY 12. REVOLUTION 9 13. GOOD NIGHT
- THE BEATLES MUSEUM DOCUMENTARY

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Made in the USA



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APPLE000561

George Harrison  
*The Apple Years*  
1968-75

BOX SET - 7CDS + DVD

ALBUMS INCLUDED:

WONDERWALL MUSIC

ELECTRONIC SOUND

ALL THINGS MUST PASS (2 CD)

LIVING IN THE MATERIAL WORLD

DARK HORSE

EXTRA TEXTURE (READ ALL ABOUT IT)

DVD HOUSED IN A 48 PAGE CASEBOUND BOOK  
WITH NEW ESSAY, PHOTOGRAPHS  
AND PREVIOUSLY UNSEEN CONTENT.

All albums remastered from the original analogue tapes.



DVD INFORMATION

Audio: Stereo. 'Give Me Love (Give Me Peace On Earth)' in Stereo & Surround Sound.  
NTSC Disc. Region 0. DVD 5. Exempt from classification. Approx running time: 40 mins.

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PLEASE PLEASE ME  
WITH THE BEATLES  
A HARD DAY'S NIGHT  
BEATLES FOR SALE  
HELP!

RUBBER SOUL  
REVOLVER

SGT PEPPER'S LONELY HEARTS CLUB BAND  
THE BEATLES (A/K/A/ THE WHITE ALBUM)  
YELLOW SUBMARINE  
MAGICAL MYSTERY TOUR  
ABBAY ROAD  
LET IT BE

PAST MASTERS VOLUMES ONE & TWO

**THE BEATLES • *Album Collection***  
The Complete UK Album Collection - 16 Discs

**THE BEATLES • *E.P. Collection***  
The Complete UK E.P. Collection - 15 Discs

**THE BEATLES • *Singles Collection***  
The Complete UK Singles Collection - 22 Discs

All material available on Compact Disc. For other formats ask your local dealer.



Printed in U.K.



# THE BEATLES

---

## THE CATALOGUE



Atty. Dkt. No. 016787-0202

It is requested that all correspondence be directed to:


Brian J. McNamara  
FOLEY & LARDNER  
Washington Harbour  
3000 K Street, N.W., Suite 500  
Washington, D.C. 20007-5143  
Telephone: (202) 672-5416  
Facsimile: (202) 672-5399

DECLARATION

The undersigned, being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Apple Corps Limited

Date: 28.7.03

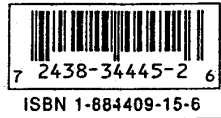
By: 

Name: Neil Stanley Aspinall

Title: Manager

Specimen in support of Declaration of  
 Use and Incontestability  
 Mark: APPLE  
 Reg. No.: 2034964

Produced & Directed by George Martin  
 Additional Research Mark Lewisohn Remix Engineer Geoff Emerick  
 For Abbey Road Studios Coordinator and Assistant to George Martin: Alan Rouse  
 Thanks To Paul Hicks, Peter Mew, Chris Blair and Chris Brown  
 Cover Concept Klaus Voormann Painting Klaus Voormann and Allan Kiefer  
 Design/Art Direction Richard Ward/The Team  
 Manufactured by Capitol Records, Inc., 1750 Vine Street, Hollywood, California 90028.  
 All Rights Reserved. Unauthorized Duplication is a Violation of Applicable Laws.  
 Printed in U.S.A.  
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- DISC 1** 1 Free As A Bird 2 Speech: John Lennon  
 3 That'll Be The Day 4 In Spite Of All The Danger  
 5 Speech: Paul McCartney 6 Hallelujah, I Love Her So  
 7 You'll Be Mine 8 Cayenne 9 Speech: Paul 10 My  
 Bonnie 11 Ain't She Sweet 12 Cry For A Shadow  
 13 Speech: John 14 Speech: Brian Epstein  
 15 Searchin' 16 Three Cool Cats 17 The Sheik Of  
 Araby 18 Like Dreamers Do 19 Hello  
 Little Girl 20 Speech: Brian Epstein  
 21 Besame Mucho 22 Love Me Do  
 23 How Do You Do It 24 Please  
 Please Me 25 One After 909 (False  
 Starts) 26 One After 909 27 Lend  
 Me Your Comb 28 I'll Get You  
 29 Speech: John 30 I Saw Her  
 Standing There 31 From Me To You  
 32 Money (That's What I Want) 33 You Really Got  
 A Hold On Me 34 Roll Over Beethoven **DISC 2**  
 1 She Loves You 2 Till There Was You 3 Twist And Shout  
 4 This Boy 5 I Want To Hold Your Hand 6 Speech: Eric  
 Morecambe and Ernie Wise 7 Moonlight Bay 8 Can't  
 Buy Me Love 9 All My Loving 10 You Can't Do  
 That 11 And I Love Her 12 A Hard Day's Night 13 I  
 Wanna Be Your Man 14 Long Tall  
 Sally 15 Boys 16 Shout 17 I'll Be  
 Back (Demo) 18 I'll Be Back  
 (Complete) 19 You Know What To  
 Do 20 No Reply (Demo) 21 Mr  
 Moonlight 22 Leave My Kitten Alone  
 23 No Reply 24 Eight Days A Week  
 (False Starts) 25 Eight Days A Week  
 26 Kansas City / Hey-Hey-Hey-Hey!

THE  
**BEATLES**  
 ANTHOLOGY  
 1

STRAIGHT UP  
BADFINGER

Stereo

SW-3387  
(SW1-3387)

Side 1

- |                                    |            |
|------------------------------------|------------|
| 1. TAKE IT ALL<br>(Pete Ham)       | ASCAP 4:25 |
| 2. BABY BLUE<br>(Pete Ham)         | ASCAP 3:38 |
| 3. MONEY<br>(Tom Evans)            | ASCAP 3:31 |
| 4. FLYING<br>(T. Evans-J. Molland) | ASCAP 2:37 |
| 5. I'D DIE BABE*<br>(Joey Molland) | ASCAP 2:05 |
| 6. NAME OF THE GAME*<br>(Pete Ham) | ASCAP 5:49 |

Produced by Todd Rundgren  
except \*George Harrison  
Recorded in England

MFG. BY APPLE RECORDS, INC.



RAM

PAUL & LINDA McCARTNEY

Stereo

SMAS-3375  
(SMAS1-3375)

Side 1

1. TOO MANY PEOPLE  
(Paul McCartney) BMI 4:09
2. 3 LEGS  
(Paul McCartney) BMI 2:48
3. RAM ON  
(Paul McCartney) BMI 2:30
4. DEAR BOY  
(Paul & Linda McCartney) BMI 2:14
5. UNCLE ALBERT/ADMIRAL HALSEY  
(Paul & Linda McCartney) BMI 4:50
6. SMILE AWAY  
(Paul McCartney) BMI 4:01

Produced by Paul & Linda McCartney

MFD. BY APPLE RECORDS, INC.

**Exhibit 123 p1**



**Exhibit 123 p2**

***The AppleJazz Band in concert!***

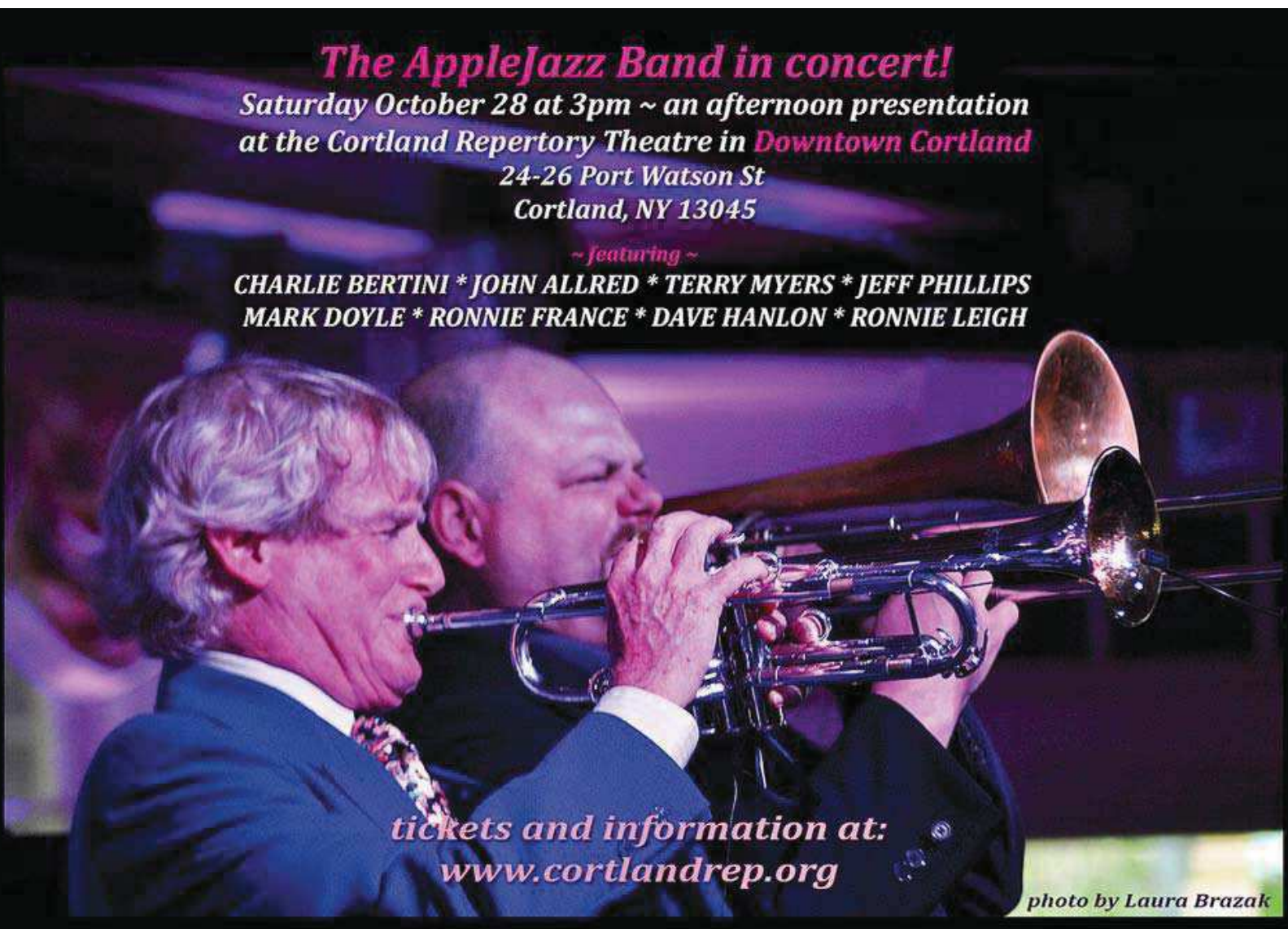
*Saturday October 28 at 3pm ~ an afternoon presentation  
at the Cortland Repertory Theatre in **Downtown Cortland**  
24-26 Port Watson St  
Cortland, NY 13045*

*~ featuring ~*

**CHARLIE BERTINI \* JOHN ALLRED \* TERRY MYERS \* JEFF PHILLIPS  
MARK DOYLE \* RONNIE FRANCE \* DAVE HANLON \* RONNIE LEIGH**

*tickets and information at:  
[www.cortlandrep.org](http://www.cortlandrep.org)*

*photo by Laura Brazak*



## Trademark/Service Mark Application, Principal Register

**Serial Number: 87060640**  
**Filing Date: 06/05/2016**

**The table below presents the data as entered.**

Input Field	Entered
SERIAL NUMBER	87060640
<b>MARK INFORMATION</b>	
*MARK	<a href="#">APPLE JAZZ</a>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	APPLE JAZZ
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Bertini, Charles
DBA/AKA/TA/Formerly	DBA Apple Jazz
*STREET	10825 Wheaton Ct
*CITY	Orlando
*STATE (Required for U.S. applicants)	Florida
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	32821
EMAIL ADDRESS	applejazz@earthlink.net
WEBSITE ADDRESS	http://applejazz.com/
<b>LEGAL ENTITY INFORMATION</b>	
TYPE	sole proprietorship
STATE/COUNTRY WHERE LEGALLY ORGANIZED	Florida
NAME OF INDIVIDUAL & CITIZENSHIP	Charles Bertini, USA
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
INTERNATIONAL CLASS	041
	Arranging, organizing, conducting, and presenting concerts, live musical performances, entertainment special events in the nature of musical and cultural events, arts and cultural events, theatrical entertainment in the nature of live theatrical performances, competitions in the field of entertainment, contests for entertainment purposes, musical or film festivals for cultural or

Exhibit 132

<p><b>*IDENTIFICATION</b></p>	<p>entertainment purposes, and exhibitions for entertainment purposes; production and distribution of television programs and sound recordings; provision of live entertainment and recorded entertainment, namely, musical performances; providing websites featuring entertainment information, music information, news in the fields of music and entertainment, and arts and culture information; providing websites featuring information in the field of entertainment, music, news in the fields of music and entertainment, and arts and culture; entertainment services, namely, providing information, schedules in the nature of concert schedules, reviews and personalized recommendations of entertainment in the nature of music, arts and cultural events, concerts, live musical and cultural performances, competitions in the field of entertainment, music or film festivals for cultural or entertainment purposes, and exhibitions for entertainment purposes; ticket reservation and booking services for entertainment, arts and cultural events, concerts, live musical performances, competitions in the field of entertainment, music or film festivals for entertainment purposes, and exhibitions for entertainment purposes; entertainment services, namely, providing reviews, and providing interactive websites for the posting and sharing of reviews, all relating to entertainment, art and cultural events, concerts, live musical performances, competitions in the field of entertainment, music or film festivals for cultural or entertainment purposes; providing a website for the uploading, storing, sharing, viewing and posting of images, audio, videos, online journals, blogs, podcasts, and multimedia content; publication of newsletters, blogs, journals, and articles, all in the fields of music and entertainment; providing websites featuring non-downloadable publications in the nature of newsletters, blogs, journals, and articles, all in the fields of music and entertainment; arranging, scheduling, producing, billing, researching and providing referrals for music production services; arranging and conducting educational competitions for students in the field of business; arranging and conducting educational competitions for students in the field of entertainment</p>
<p><b>FILING BASIS</b></p>	<p>SECTION 1(a)</p>
<p><b>FIRST USE ANYWHERE DATE</b></p>	<p>At least as early as 06/05/1985</p>
<p><b>FIRST USE IN COMMERCE DATE</b></p>	<p>At least as early as 06/05/1985</p>
<p><b>SPECIMEN FILE NAME(S)</b></p>	
<p><b>ORIGINAL PDF FILE</b></p>	<p><a href="#">SPE0-50170189242-20160605175322621781_ . Specimen.pdf</a></p>
<p><b>CONVERTED PDF FILE(S)</b> (5 pages)</p>	<p><a href="#">\\TICRS\EXPORT16\IMAGEOUT16\870\606\87060640\xml1\APP0003.JPG</a></p>
	<p><a href="#">\\TICRS\EXPORT16\IMAGEOUT16\870\606\87060640\xml1\APP0004.JPG</a></p>
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	<p><a href="#">\\TICRS\EXPORT16\IMAGEOUT16\870\606\87060640\xml1\APP0007.JPG</a></p>
<p><b>SPECIMEN DESCRIPTION</b></p>	<p>Newspaper advertisements, newspaper articles, tickets to musical performances showing use in commerce of the mark since 1985.</p>
<p><b>ADDITIONAL STATEMENTS SECTION</b></p>	
<p><b>DISCLAIMER</b></p>	<p>No claim is made to the exclusive right to use jazz apart from the mark as shown.</p>
<p><b>ATTORNEY INFORMATION</b></p>	
<p><b>NAME</b></p>	<p>James Bertini</p>
<p><b>STREET</b></p>	<p>423 Kalamath Street</p>
<p><b>CITY</b></p>	<p>Denver</p>



<b>STATE</b>	Colorado
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	80204
<b>PHONE</b>	303 572-3122
<b>EMAIL ADDRESS</b>	jamesbertini@yahoo.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>CORRESPONDENCE INFORMATION</b>	
<b>NAME</b>	James Bertini
<b>STREET</b>	423 Kalamath Street
<b>CITY</b>	Denver
<b>STATE</b>	Colorado
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	80204
<b>PHONE</b>	303 572-3122
<b>EMAIL ADDRESS</b>	jamesbertini@yahoo.com;iklych@yahoo.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>APPLICATION FILING OPTION</b>	Regular TEAS
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	325
<b>*TOTAL FEE DUE</b>	325
<b>*TOTAL FEE PAID</b>	325
<b>SIGNATURE INFORMATION</b>	
<b>SIGNATURE</b>	/james bertini/
<b>SIGNATORY'S NAME</b>	James Bertini
<b>SIGNATORY'S POSITION</b>	Attorney of record, Colorado bar member
<b>SIGNATORY'S PHONE NUMBER</b>	303 572-3122
<b>DATE SIGNED</b>	06/05/2016

---

## Trademark/Service Mark Application, Principal Register

**Serial Number: 87060640**

**Filing Date: 06/05/2016**

### To the Commissioner for Trademarks:

**MARK:** APPLE JAZZ (Standard Characters, see [mark](#))

The literal element of the mark consists of APPLE JAZZ.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Bertini, Charles, DBA Apple Jazz, a sole proprietorship legally organized under the laws of Florida, comprising of Charles Bertini, USA, having an address of

10825 Wheaton Ct

Orlando, Florida 32821

United States

applejazz@earthlink.net (not authorized)

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 041: Arranging, organizing, conducting, and presenting concerts, live musical performances, entertainment special events in the nature of musical and cultural events, arts and cultural events, theatrical entertainment in the nature of live theatrical performances, competitions in the field of entertainment, contests for entertainment purposes, musical or film festivals for cultural or entertainment purposes, and exhibitions for entertainment purposes; production and distribution of television programs and sound recordings; provision of live entertainment and recorded entertainment, namely, musical performances; providing websites featuring entertainment information, music information, news in the fields of music and entertainment, and arts and culture information; providing websites featuring information in the field of entertainment, music, news in the fields of music and entertainment, and arts and culture; entertainment services, namely, providing information, schedules in the nature of concert schedules, reviews and personalized recommendations of entertainment in the nature of music, arts and cultural events, concerts, live musical and cultural performances, competitions in the field of entertainment, music or film festivals for cultural or entertainment purposes, and exhibitions for entertainment purposes; ticket reservation and booking services for entertainment, arts and cultural events, concerts, live musical performances, competitions in the field of entertainment, music or film festivals for entertainment purposes, and exhibitions for entertainment purposes; entertainment services, namely, providing reviews, and providing interactive websites for the posting and sharing of reviews, all relating to entertainment, art and cultural events, concerts, live musical performances, competitions in the field of entertainment, music or film festivals for cultural or entertainment purposes; providing a website for the uploading, storing, sharing, viewing and posting of images, audio, videos, online journals, blogs, podcasts, and multimedia content; publication of newsletters, blogs, journals, and articles, all in the fields of music and entertainment; providing websites featuring non-downloadable publications in the nature of newsletters, blogs, journals, and articles, all in the fields of music and entertainment; arranging, scheduling, producing, billing, researching and providing referrals for music production services; arranging and conducting educational competitions for students in the field of business; arranging and conducting educational competitions for students in the field of entertainment

In International Class 041, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 06/05/1985, and first used in commerce at least as early as 06/05/1985, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) Newspaper advertisements, newspaper articles, tickets to musical performances showing use in commerce of the mark since 1985..

#### Original PDF file:

[SPE0-50170189242-20160605175322621781 . \\_ Specimen.pdf](#)

#### Converted PDF file(s) (5 pages)

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

[Specimen File4](#)

[Specimen File5](#)

**Disclaimer**

No claim is made to the exclusive right to use jazz apart from the mark as shown.

For informational purposes only, applicant's website address is: <http://applejazz.com/>

**The applicant's current Attorney Information:**

James Bertini 423 Kalamath Street  
Denver, Colorado 80204  
United States  
303 572-3122(phone)  
jamesbertini@yahoo.com (authorized)

**The applicant's current Correspondence Information:**

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423 Kalamath Street  
Denver, Colorado 80204  
303 572-3122(phone)  
jamesbertini@yahoo.com;iklych@yahoo.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

**Declaration**

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

**Declaration Signature**

Signature: /james bertini/ Date: 06/05/2016  
Signatory's Name: James Bertini  
Signatory's Position: Attorney of record, Colorado bar member  
RAM Sale Number: 87060640  
RAM Accounting Date: 06/06/2016

Serial Number: 87060640  
Internet Transmission Date: Sun Jun 05 18:18:33 EDT 2016  
TEAS Stamp: USPTO/BAS-XX.XXX.XXX.XXX-201606051818334  
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# APPLE JAZZ

Charlie Bertini and Friends —

Cortland Std 6/5/85

## Dixieland Concert Set for June 13

Cortland area residents will have an opportunity to hear dixieland jazz the way it's played in New Orleans, according to Charles Bertini who is returning to Cortland on June 13 for a concert.

Bertini, who developed his musical skills in Cortland school systems in the '60s, is a freelance musician who performs in Florida.

"Last year we gave a performance at the Sirloin Saloon and according to the feedback we got, it was so well received that we decided to do it again," said Bertini.

"I was lucky enough to have the same musicians returning this year," continued Bertini, "and I think they are collectively just about the best there is."

Dave Hanlon, drummer, toured with Louie Belsen on clinics and

concerts on the West Coast. He has performed frequently in the Syracuse area and is currently the leader of Cook Book.

Pianist Larry Arlotta played with the U.S. Navy band and was the White House Pianist for President Lyndon Johnson. He also toured with Melba Moore and played for Maynard Ferguson.

Dick Chave, trombonist, was with Bertini when he was bandmaster of the Clyde Beatty Cole Brothers Circus. He left to spend two years playing on Bourbon Street in New Orleans.

Dave Gannett, bass player, has performed with the Boston "Pops" and Boston Symphony orchestras. He also has played for the Ringling Brothers Barnum and Bailey Circus, Disneyworld and Rose

O'Grady's in Orlando.

John Kane on reeds, Otisco Valley resident and a teacher, "is the best in the area in my book," according to Bertini.

Bertini, who also has a significant background, started his career at 16, playing during the summer for Charlie Spivak. After a tour as first trumpet for the Clyde Beatty Cole Brothers Circus, he left to form his own concert band for the bicentennial celebrations. He later rejoined the circus as bandmaster for three years. Bertini then settled in Orlando, Fla. where he has performed in all the theme parks.

Following his concert in Cortland on June 13, he will be on an extended engagement at Epcot Center giving daily dixieland jazz concerts.

# APPLE JAZZ '85

FEATURING

## CHARLIE BERTINI

THE HOTTEST TRUMPET EAST OF SAN FRANCISCO

IN A

## DIXIELAND JAZZ CONCERT

HOLIDAY INN ADMISSION \$7.50

JUNE 13 8-12 P.M.

Tickets available from — Holiday Inn, Lido Restaurant, Four Flags, Sirloin Saloon, Johnny's Drive In, John Morgan, John Tucci & Joe Healey.

## Jazz At Little York

Charlie Bertini and Cortland Repertory Theatre are presenting Apple Jazz '87, a concert at 8 p.m. June 12 at the Pavilion in Dwyer Memorial Park, Little York Lake.

Mr. Bertini, who plays trumpet, is a graduate of Skaneateles High School as is the trombonist with the Apple Jazz Band, Dick Chave. Others in the group are Dave Hanlon, Larry Arlotta, John Kane and Dave Gannett.

For ticket information, call (607) 753-6161.

THE CORTLAND REPERTORY THEATRE  
&  
CHARLIE BERTINI

# Present Apple Jazz '87

Featuring

CHARLIE BERTINI  
&  
THE  
APPLE JAZZ BAND

DAVE HANLON · LARRY ARLOTTA  
DICK CHAVE · JOHN KANE  
DAVE GANNETT

JUNE 12, 1987 8 P.M.  
at  
THE PAVILION  
DWYER MEMORIAL PARK  
LITTLE YORK LAKE  
Admission \$9.00

### TICKETS AVAILABLE AT:

CRT Business Office - 37 Tompkins St. (607) 753-6161

The Candy Bar - Center City Mall

Master/Visa cards accepted

Bertini Funeral Home - N. Main St., Cortland



Bob Ellis/staff photo

### More Than Oompah

Tuba player Dave Gannett gives it his all while performing Friday in Little York with Charles Bertini and the Apple Jazz Band. The group played to a standing room only crowd.

*Cortland County*  
**FESTIVAL WEEKEND**

*June 3, 4, 5 and 6*



*New York State*  
**ENERGY FAIR**

June 5 and 6  
Cortland County Fairgrounds

**NEW YORK STATE PARKS**

**SENIOR**

G 1 A 9 M 9 E 3 S

**SUNY CORTLAND**

June 3, 4, 5, 6

Transportation will be available between the Energy Fair, Balloon Festival and Senior Games. For additional event information contact the Cortland County Convention and Visitors Bureau at 607-753-8463.

*Get the*  
**FINGER LAKES**  
*Feeling!*



June 4, 5, 6  
County Airport

**APPLE JAZZ FESTIVAL**

June 5, Dwyer Park



**CORTLAND COUNTY**  
*Naturally!*

**GENERAL  
ADMISSION**

**Apple  
Jazz**

**June 19, 1999**

**entertainment  
begins at**

**6:00 P.M.**

**SUNY CORTLAND Campus  
CORTLAND, NY**

**\$15.00**

(Printing provided by the Hollywood Restaurant)

**ADMIT  
ONE**

**Apple  
Jazz**

**JUNE 7, 1996**

**entertainment  
begins at**

**8:00 P.M.**

**DWYER MEMORIAL PARK  
PREBLE N.Y.**

**\$16.00**

(Printing provided by the Hollywood Restaurant)

**ADMIT  
ONE**

**Apple  
Jazz**

**JUNE 10, 1994**

**entertainment  
begins at**

**8:00 P.M.**

**DWYER MEMORIAL PARK  
PREBLE N.Y.**

**\$15.00**

(Printing provided by the Hollywood Restaurant)

**PATRON  
RESERVED**

**Apple  
Jazz**



**THE PAVILION  
at DWYER MEMORIAL PARK**

**JUNE 9, 2001**

**VIP**



# WEEKEND

## INSIDE

THE MOVIE GUIDE/D-6  
TELEVISION/D-8  
COMICS/D-10

# D

KATHY SCHNEIDER, EDITOR 470-2192

THE POST-STANDARD

FRIDAY, JANUARY 10, 1992/PAGE D-1

## Backbone Slip, Apple Jazz Band Plan Shows at Salt City

■ Center Consyrts postpones Dean Brothers show.

By MARK BIALCZAK  
*The Post-Standard*

It'll be a Doyle family affair with back-to-back shows Valentine's weekend at the Salt City Center for Performing Arts.

On Friday, Feb. 14, a trio of local favorites will steam up the place with rock and blues. The night will highlight the return of Backbone Slip, the newest band for old cronies Joe Whiting and Mark

Doyle. Backbone Slip made its stage debut this summer at Cafe by the Bay and almost brought the tent down. Joining the Slip will be Mark's younger brother, Mike Doyle, on bass, Mickey Lee Soule (formerly of Richie Blackmore's Rainbow) on keyboard and Ron Thompson on drums.

It will be the Doyle brothers' first performance together.

Also on the bill Friday are the Back Alley Boys, and Tom Townsley and the Backsliders.

On Saturday, Feb. 15, Charlie

Bertini's Apple Jazz Band and Jazz Minds will take the stage in the 500-seat theater. The Apples call their mix acid jazz. Besides Bertini on trumpet, Larry Arlotta will be on keyboard, Dave Hanlon on drums, Ronnie France on bass, John Kane on sax and Dick Chave on trombone. The Apples usually play just once a year, in the summer in Cortland.

The Jazz Minds include Mark and Mike's father, Bobby Doyle, on keyboards, Kane on sax, Dick Howard on ~~bass~~ drums, Mark Doyle on jazz

bass, and Whiting as guest vocalist. Don't be surprised if Mike Doyle joins them to make it a family reunion.

Tickets will be \$7 and \$5, available at Salt City and SelecTix outlets at Carousel Center and Shoppingtown. They'll be the same price at the door the day of the show.

Center Consyrts promoter Jim Horsman also announced that the Dean Brothers concert, scheduled for Jan. 26, has been postponed. A date for the show at Salt City will be announced later.