

ESTTA Tracking number: **ESTTA922924**

Filing date: **09/19/2018**

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

Proceeding	91229891
Party	Plaintiff Charles Bertini
Correspondence Address	JAMES BERTINI 423 KALAMATH STREET DENVER, CO 80204 UNITED STATES jamesbertini@yahoo.com, iklych@yahoo.com 303 572-3122
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>10/01/2018</b>
Filer's Name	James Bertini
Filer's email	jamesbertini@yahoo.com
Signature	/james bertini/
Date	09/19/2018
Attachments	Exhibits 117-120 Charlie Bertini.pdf(4408491 bytes ) Exhibits 121-131 Irina Bertini.pdf(3429701 bytes ) Exhibits 123 and 132 Charlie Bertini.pdf(1122127 bytes ) Exhibits 135-143 Irina Bertini.pdf(4594537 bytes ) Exhibits 140 144 145 Irina Bertini.pdf(2307929 bytes ) James Bertini Exhibits.pdf(362579 bytes )





# The Stars Reception Hall

PO Box 783  
Cortland, NY 13045  
Phone: (607)753-6161 Fax: (607)753-0047  
cortlandrep@hotmail.com www.cortlandrep.org

**Exhibit 117 p1**

## CLIENT CONTRACT

### Producing Artistic

#### Director

Kerby Thompson

Client Name: Charlie Bertini

### Business Manager

Barclay Diamond

Event: Applejazz

### Asst to the Director

Jim Bumgardner

Contact: Charlie Bertini

### Board of Directors

John Folmer

President

Phone Numbers: 407-363-5914, 407-248-2898,

Date of Event: 6/4/2011 Time: \_\_\_\_\_ 9am-11pm # Expected: 200

*Max Occupancy: 200 seated  
400 standing*

Donald Hay  
Vice President

Garrison Marsted  
Treasurer

Dorothea Fowler  
Secretary

Kimberly Allen  
Michele Ball  
Robert Barber  
David Blatchley  
Brenda Cottone  
Tom Knobel  
William Lee  
Robert Lescarbeau  
Michael May  
Adam McGivern  
Kellyann O'Mara  
Mark Re  
Michael Sills  
Chris Xavier

**1. Agreement:** This hereby serves as a use agreement between Cortland Repertory Theatre ("CRT") and the client for use of *The Stars Reception Hall* at the Pavilion complex, located in Dwyer Memorial Park at 6288 Little York Lake Road in Little York, New York.

CRT represents and warrants that the County of Cortland is the owner of the Pavilion and has given the right and authority to CRT to act as booking manager for said property.

It is agreed that:

- a. The premises shall be used only for the event planned by the client, listed above;
- b. The client accepts full responsibility for attendants and participants, and their actions;
- c. This contract includes the use of the hall, food staging area, and tables and chairs located within the Reception Hall.
- d. The client agrees to comply with and enforce state and local alcohol policies, as pertaining to a county owned public park. CRT and it's representatives are not liable for this compliance.
- e. The parking area and other parts of the park are available for public use and will not be reserved for the sole use of the client, unless specific arrangements are made with the Park Authorities.

### Guild Co-Presidents

Dianne Galutz  
Karen Holcomb

**2. Hours:** The hall will be opened for the Client at **9:00 am** on day of event, unless otherwise arranged. It is understood that the Client and participants at event **must vacate** the Pavilion no later than **6:30 pm** on event date when CRT has a performance scheduled and no later than **10:00 pm** on non performance days, unless otherwise arranged. The Client will peacefully yield to CRT said premises in as good order and in the same repair as when presented.

**3. Fee:** The Reception Hall fee is \$450.00 per day, paid in two installments: a \$250.00 nonrefundable reservation deposit (paid on \_\_\_\_\_) and the remaining balance of \$200.00, due ninety (90) days prior to the event. Usual and customary hall cleaning and garbage removal is included in this fee.

**4. Refundable Damage Deposit:** Client also agrees to pay a \$200.00 refundable damage and excessive cleaning deposit, ninety (90) days in advance. It is agreed that the organization or person making the arrangements is responsible for all materials and equipment that are broken, damaged, lost or stolen during the event. Charges will be based on replacement/repair costs if CRT deems this to be acceptable. All items not previously noted as damaged or deficient shall be presumed to have been in good repair and free of defects at the commencement of Clients entry to the Hall.



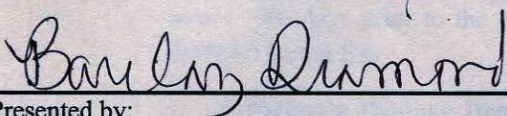


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**Exhibit 117 p2**

5. **Use and Occupancy** The Client covenants that no damage shall be committed upon or to the contracted premises; that the premises shall be used for the purpose hereinabove stated, and shall not be used or permitted to be used for any other purpose; that said premises shall not be used for any unlawful purpose and no violations of law or ordinance shall be committed thereon; that nothing shall be done which will increase the fire hazard or to cause the insurance rates thereon to be increased; and that any additions or improvements placed upon the premises by either party during the term, except the unattached and moveable property of the Client, shall be the sole property of CRT.
6. **Fire and Unsafe Building Clause.** The Client agrees to peaceably enforce Fire and Safety codes maintained by CRT and Cortland County. **Space Heaters, candles or other open flame decorative items are not permitted for use.**
7. **Client's Responsibility.** The Client agrees to be responsible for any damage to the property of the CRT which may result from any use of the contracted premises, or any act done thereon by the Client or any person coming or being thereon by the license of the Client, expressed or implied, and will also save the CRT harmless from any liability to any other person, for damage to person or property resulting from any such causes.
8. **CRT and Client's Mutual Waiver of Subrogation Rights.** The CRT and Client do hereby mutually release each other from any subrogation rights which could result under insurance policies or otherwise from any claims or liability which could be asserted arising out of loss or damage to this real estate, building, CRT's property or Client's property and chattels, from fire or any other risk for which the CRT and Client becomes entitled to receive proceeds from insurance policies.
9. **Eviction:** CRT reserves the right to evict any person(s) acting in an offensive, harmful, damaging or otherwise inappropriate manner. If this is to occur, the client is entitled to no refunds.
10. **Smoking:** Inside the Pavilion is prohibited at all times.
11. **Decorating:** In the event that the reception hall is available the day before the event, the client may rent the hall at \$15 per hour up to 4 hours to decorate. In the event that the reception hall is available the day after the event the client may rent the hall at \$15 per hour up to 4 hours to remove client's property only with notice prior to your event. In the event that you exceed the 4 hour maximum time limit there will be a charge of \$225 for up to 7 hours and \$450 for time exceeding 7 hours. **Day before and day after decorating and property removal times are not guaranteed.**

This contract is void if it cannot be performed because of government regulations, weather or other natural disasters or accidents. This contract is interpreted under New York law.

  
Presented by:  
Cortland Repertory Theatre

9/28/10  
Date

  
Accepted by (signature of client)

10-14-10  
Date



**Apple Jazz**

**Exhibit 117 p3**

**TABLE SEATING**

**CONCERT SEATING**

**THE PAVILION AT  
DWYER MEMORIAL PARK**

**June 4, 2011**  
CONCERT BEGINS AT 6 PM

**\$35.00**

**THE PAVILION AT  
DWYER MEMORIAL PARK**

**June 4, 2011**  
CONCERT BEGINS AT 6 PM

**\$35.00**





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# "The Stars" Reception Hall

Exhibit 118 p1

**Producing Artistic Director**  
Kerby Thompson

**Business Manager**  
Barclay Diamond

**Asst to the Director**  
Jim Bumgardner

**Board of Directors**  
John Folmer  
President

Thomas Knobel  
Vice President

Garrison Marsted  
Treasurer

Dorothea Fowler  
Secretary

Kimberly Allen  
Michele Ball  
Robert Barber  
David Blatchley  
Brenda Cottone  
Anna Marie Garcia  
Donald Hay  
William Lee  
Robert Lescarbeau  
Michael May  
Adam McGivern  
Kellyann O'Mara  
Mark Re  
Michael Sills  
Chris Xavier

**Guild Co-Presidents**  
Dianne Galutz  
Karen Holcomb

## Reservation Form

Client Name: Charlie Bertini

Contact Name: Charlie Bertini

Address: 10825 Wheaton Court, Orlando, FL 32821

Phone Number(s): 407-363-5914

Name of Event: Applejazz

Date(s) of Event: 6/2/2012

Time of Event: 9AM - 10PM

Estimated number of attendees 250 (Max Seating Capacity: 200 people)  
(Max Standing Capacity: 400 people)

MASTERCARD ON FIVE. CALL FOR #

Non-refundable deposit (\$250.00 per day) paid on \_\_\_\_\_ (Date)

Note: Receipt of the deposit reserves the date(s) and time for the function. It is non-refundable. Please return one copy of this form with your \$250.00 per day check. Keep the other copy for your records. The reception hall will not be considered secure until the deposit check is received and cleared by the bank.

Remaining balance of \$250.00 per day is due ninety (90) days prior to the scheduled event, at which time a \$200.00 refundable Damage Deposit will also be due.

*There is a \$25.00 charge for any check returned by the bank.*





# The Stars Reception Hall

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**Exhibit 118 p2**

## CLIENT CONTRACT

### Producing Artistic

#### Director

Kerby Thompson

Client Name: Charlie Bertini

#### Business Manager

Barclay Diamond

Event: Applejazz

#### Asst to the Director

Jim Bumgardner

Contact: Charlie Bertini

#### Board of Directors

John Folmer

*President*

Phone Numbers: 407-363-5914, 407-248-2898,

Date of Event: 6/2/2012

Time: 9am-11pm

# Expected: 200

*Max Occupancy: 200 seated  
400 standing*

Thomas Knobel

*Vice President*

Garrison Marsted

*Treasurer*

Dorothea Fowler

*Secretary*

Kimberly Allen

Michele Ball

Robert Barber

David Blatchley

Brenda Cottone

Anna Maria Garcia

Donald Hay

William Lee

Robert Lescarbeau

Michael May

Adam McGivern

Kellyann O'Mara

Mark Re

Michael Sills

Chris Xavier

**1. Agreement:** This hereby serves as a use agreement between Cortland Repertory Theatre ("CRT") and the client for use of *The Stars Reception Hall* at the Pavilion complex, located in Dwyer Memorial Park at 6288 Little York Lake Road in Little York, New York.

CRT represents and warrants that the County of Cortland is the owner of the Pavilion and has given the right and authority to CRT to act as booking manager for said property.

It is agreed that:

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- e. The parking area and other parts of the park are available for public use and will not be reserved for the sole use of the client, unless specific arrangements are made with the Park Authorities.

### Guild Co-Presidents

Dianne Galutz

Karen Holcomb

**2. Hours:** The hall will be opened for the Client at **9:00 am** on day of event, unless otherwise arranged. It is understood that the Client and participants at event **must vacate** the Pavilion no later than **6:30 pm** on event date when CRT has a performance scheduled and no later than **10:00 pm** on non performance days, unless otherwise arranged. The Client will peacefully yield to CRT said premises in as good order and in the same repair as when presented.

**3. Fee:** The Reception Hall fee is \$500.00 per day, paid in two installments: a \$250.00 nonrefundable reservation deposit (paid on \_\_\_\_\_) and the remaining balance of \$250.00, due ninety (90) days prior to the event. Usual and customary hall cleaning and garbage removal is included in this fee.

**4. Refundable Damage Deposit:** Client also agrees to pay a \$200.00 refundable damage and excessive cleaning deposit, ninety (90) days in advance. It is agreed that the organization or person making the arrangements is responsible for all materials and equipment that are broken, damaged, lost or stolen during the event. Charges will be based on replacement/repair costs if CRT deems this to be acceptable. All items not previously noted as damaged or deficient shall be presumed to have been in good repair and free of defects at the commencement of Clients entry to the Hall.





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**Exhibit 118 p3**

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4. **Fire and Unsafe Building Clause.** The Client agrees to peaceably enforce Fire and Safety codes maintained by CRT and Cortland County. **Space Heaters, candles or other open flame decorative items are not permitted for use.**
5. **Client's Responsibility.** The Client agrees to be responsible for any damage to the property of the CRT which may result from any use of the contracted premises, or any act done thereon by the Client or any person coming or being thereon by the license of the Client, expressed or implied, and will also save the CRT harmless from any liability to any other person, for damage to person or property resulting from any such causes.
6. **CRT and Client's Mutual Waiver of Subrogation Rights.** The CRT and Client do hereby mutually release each other from any subrogation rights which could result under insurance policies or otherwise from any claims or liability which could be asserted arising out of loss or damage to this real estate, building, CRT's property or Client's property and chattels, from fire or any other risk for which the CRT and Client becomes entitled to receive proceeds from insurance policies.
7. **Eviction:** CRT reserves the right to evict any person(s) acting in an offensive, harmful, damaging or otherwise inappropriate manner. If this is to occur, the client is entitled to no refunds.
8. **Smoking:** Inside the Pavilion is prohibited at all times.
9. **Decorating:** In the event that the reception hall is available the day before the event, the client may rent the hall at \$15 per hour up to 4 hours to decorate. In the event that the reception hall is available the day after the event the client may rent the hall at \$15 per hour up to 4 hours to remove client's property only with notice prior to your event. In the event that you exceed the 4 hour maximum time limit there will be a charge of \$250 for up to 7 hours and \$500 for time exceeding 7 hours. **Day before and day after decorating and property removal times are not guaranteed.**

This contract is void if it cannot be performed because of government regulations, weather or other natural disasters or accidents. This contract is interpreted under New York law.

*Barclay Quinn*

Presented by:  
Cortland Repertory Theatre

11/14/11

Date

*CB*

Accepted by (signature of client)

11-17-11

Date



Exhibit 118 p4







# The Stars Reception Hall

**Exhibit 119 p1**

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## CLIENT CONTRACT

### Producing Artistic

#### Director

Kerby Thompson

Client Name: Charlie Bertini

### Business Manager

Barclay Diamond

Event: Applejazz

### Board of Directors

John Folmer

*President*

Contact: Charlie Bertini

Phone Numbers: 407-363-5914, 407-248-2898,

Thomas Knobel

*Vice President*

Date of Event: 5/31/14

Time: 9am-11pm

# Expected: 200

*Max Occupancy: 200 seated  
400 standing*

Garrison Marsted

*Treasurer*

Dorothea Fowler

*Secretary*

**1. Agreement:** This hereby serves as a use agreement between Cortland Repertory Theatre ("CRT") and the client for use of *The Stars Reception Hall* at the Pavilion complex, located in Dwyer Memorial Park at 6799 Little York Lake Road in Preble, New York.

Kimberly Allen

Michele Ball

Robert Barber

David Blatchley

Brenda Cottone

Nicole Cottone

Dr. Anna Marie Garcia

Harriet Pratt Higgins

Tracy Koenig

William Lee

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**3. Fee:** The Reception Hall fee is \$550.00 per day, paid in two installments: a \$275.00 nonrefundable reservation deposit (paid on \_\_\_\_\_) and the remaining balance of \$275.00, due ninety (90) days prior to the event. Usual and customary hall cleaning and garbage removal is included in this fee.

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Exhibit 119 p2

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6. CRT and Client's Mutual Waiver of Subrogation Rights. The CRT and Client do hereby mutually release each other from any subrogation rights which could result under insurance policies or otherwise from any claims or liability which could be asserted arising out of loss or damage to this real estate, building, CRT's property or Client's property and chattels, from fire or any other risk for which the CRT and Client becomes entitled to receive proceeds from insurance policies.
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This contract is void if it cannot be performed because of government regulations, weather or other natural disasters or accidents. This contract is interpreted under New York law.

[Signature]

10/2/13

Presented by:
Cortland Repertory Theatre

Date

[Signature]

10-20-2013

Accepted by (signature of client)

Date





# Aurora Video Productions

132 Grove St  
N Syracuse, NY 13212  
315-427-7825

# INVOICE

DATE: June 11, 2014  
INVOICE # 20140611

**Bill To:**  
Charlie Bertinni

**Ship To:**

**Exhibit 119 p3**

P.O. #	Sales Rep. Name	Ship Date	Ship Via	Terms	Due Date

Product ID	Description	Quantity	Unit Price	Line Total
	4 camera shoot	1	800.00	800.00

SUBTOTAL	800.00
PST 8.00%	64.00
GST	-
SHIPPING & HANDLING	-
<b>TOTAL</b>	<b>864.00</b>
PAID	-
<b>TOTAL DUE</b>	<b>864.00</b>

THANK YOU FOR YOUR BUSINESS!





**Exhibit 120 p1**

## **Artist's Contract**

This contract, for Syracuse & Onondaga County, for the exclusive personal services of musicians at & on the date of the engagement described below, and exclusively for the summer of 2015 (June, July, August 2015) in Syracuse and Onondaga County, is made this 2<sup>th</sup> day of February 2015 between the undersigned "Purchaser" of music (herein called "Purchaser") and the undersigned Artist (herein called "Musician").

- 1) Name of Engagement **33<sup>rd</sup> Annual M&T Syracuse Jazz Fest**
- 2) Location: **Onondaga Community College Campus; Festival Main Stage**
- 3) Name of Artist / "Musician" **AppleJazz: Special Encore Presentation!**
- 4) Number of Musicians **7** Number of Vocalists: **2** Total # of Musicians: **9**
- 5) Date & Time of Engagement: **6:00 pm, Friday, July 17, 2015 (one 75-minute set)**
- 6) Type of Engagement: **Outdoor Jazz Festival**
- 7) Compensation Agreed Upon: **\$5,700 (five thousand seven hundred dollars), as follows:**
- 8) "Purchaser" Will Make Payment As Follows:
  - redacted** 50% Deposit to Artist (AppleJazz Records) on **June 17, 2015**
  - 50% Balance to Artist, in cash, prior to performance, on show date of **July 17 2015**
- 9) **Stage Plot, Rider & Back Line /Tech Needed (please use additional sheets if necessary)**





Exhibit 120 p2

Syracuse JazzFest Production, Inc.  
Print "Purchaser's" Name

Charlie Bertini dba AppleJazz Records  
Print Name of Signatory "Musician"

\_\_\_\_\_  
Signature of "Purchaser" (Frank Malfitano)

Charlie Bertini (APPLEJAZZ RECORDS)  
Signatory "Musician" (Charlie Bertini)

\_\_\_\_\_  
Date

2-3-2015  
Date

314 North Avenue, Suite Two  
Street Address

10825 WHEATON CT.  
Street Address

Syracuse, NY 13206-2833  
City, State, Zip

ORLANDO, FL 32821  
City, State, Zip

(315) 437-5627 / (315) 635-8045  
Telephone Number(s)

( ) 407-496-8178  
Telephone Number(s)



**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**

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KIMBERLY PERRY, EXAMINING ATTORNEY



*David J. Kyffers*

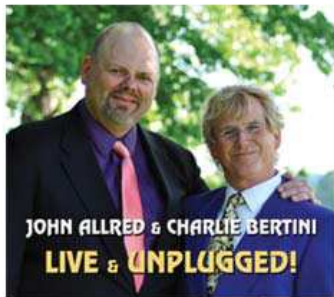
Director of the United States Patent and Trademark Office





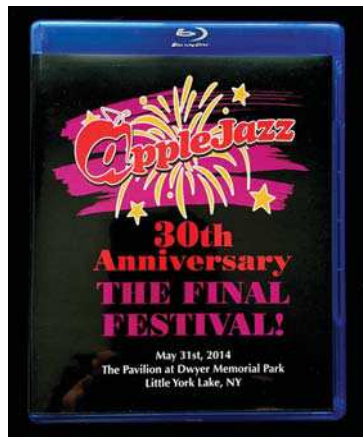
[Home](#) [About Us](#) [AppleJazz Events](#) [Services](#) [Music Store](#) [Contact Us](#) [Links](#)

## 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  
[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  JUN OCT NOV  
8 captures  
6 Feb 2015 - 22 Oct 2016 2015 2016 2017      



**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  
 7 captures 6 Feb 2015 - 22 Oct 2016 2015 2016 2017 About this capture



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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...  
[click here](#)

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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

## 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](#)



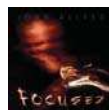
#### **PLAYS WELL WITH OTHERS**

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.





# Apple.com Site Map

## Exhibit 125 p2

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- RSS Feeds
- Apple Events
- Seminars and Events
- User Groups

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  - Website Feedback
- Public Relations
- Investors
- Working at Apple
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- Recycling
- Working with Apple
  - Procurement
  - Supplier Responsibility
- Legal Information
- Choose your country or region

#### Where to Buy

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- Apple Store for Education
- Apple Online Store Country Selector
- Apple Retail
- Find a Reseller
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- Compare all Macs
- FAQs
- Try a Mac

#### Find out how

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- Movies
- Web
- Music
- iWork

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- MacBook Pro
- iMac
- 802.11n

#### Accessories

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- Magic Trackpad
- Keyboard
- Thunderbolt Display
- Apple Battery Charger

#### Wi-Fi Base Stations

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- AirPort Extreme
- Time Capsule
- Which Wi-Fi are you?

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- Mac OS X Server

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  - What's New
  - What is OS X?
  - OS X Apps
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- One to One
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#### More iPod

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- Accessories
- Apple TV

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- iPod touch for Students

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(PRODUCT) RED  
Compare iPod Models

Corporate Gifting

iPod Support  
Accessibility

iPod Everywhere  
Nike + iPod  
iPod Car Integration  
iPod Tours

**Exhibit 125 p3**

## iPhone

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Tech Specs

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iPhone 4 Tech Specs  
iPhone 3GS Tech Specs  
Compare iPhone models  
iOS Software Update  
Tips and Tricks  
iPhone in Education  
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Photos  
iTunes  
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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  
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Features  
Gallery

iOS Applications  
Cards  
iMovie  
Pages  
Keynote  
Numbers

iCloud  
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## 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

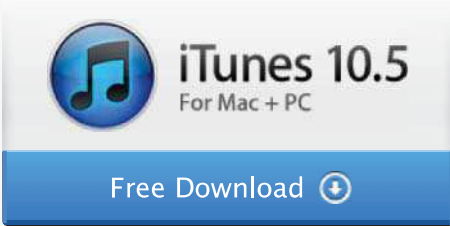
**Exhibit 125 p4**

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.

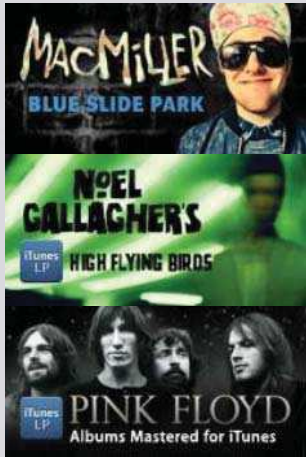
[Learn more](#) ▶

**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.

- 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.**
- 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



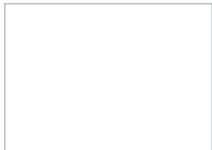
**Apple Announces iPhone 4S, iOS 5, and iCloud**  
October 4, 2011

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

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#### Recent Press Releases

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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

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### Contact Us

Apple Inc.  
1 Infinite Loop  
Cupertino, CA 95014  
408-996-1010

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Find order status online  
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### 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

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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

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Developer World

Groups & Interests

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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

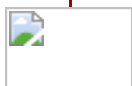
### Cost of Color

What does a color laserprint cost? Here's a handy [chart](#) you can use to calculate the per-

Apple 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**





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Maintained online by [webmaster@apple.com](mailto:webmaster@apple.com)

**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.

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**Exhibit 126 p4**





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**Exhibit 126 p5**



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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**

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### Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Sat Mar 4 03:47:02 EST 2017

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[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

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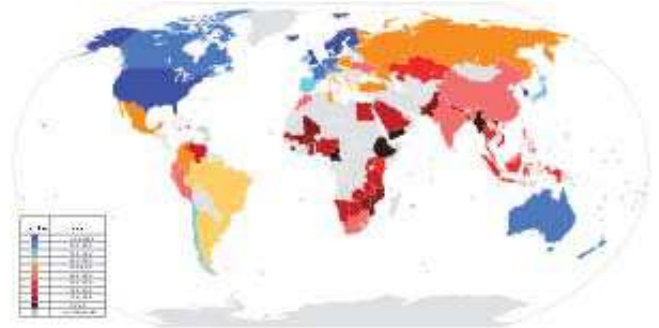




# World Wide Web

## Exhibit 131

The **World Wide Web** (**WWW**), also called **the Web**, is an information space where documents and other web resources are identified by Uniform Resource Locators (URLs), interlinked by hypertext links, and accessible via the Internet.<sup>[1]</sup> **English scientist Tim Berners-Lee invented the World Wide Web in 1989.** He wrote the first web browser in 1990 while employed at CERN in Switzerland.<sup>[2][3]</sup> The browser was released outside CERN in 1991, first to other research institutions starting in January 1991 and to the general public on the Internet in August 1991.



A global map of the web index for countries in 2014

The World Wide Web has been central to the development of the Information Age and is the primary tool billions of people use to interact on the Internet.<sup>[4][5][6]</sup> Web pages are primarily text documents formatted and annotated with Hypertext Markup Language (HTML).<sup>[7]</sup> In addition to formatted text, web pages may contain images, video, audio, and software components that are rendered in the user's web browser as coherent pages of multimedia content.

Embedded hyperlinks permit users to navigate between web pages. Multiple web pages with a common theme, a common domain name, or both, make up a website. Website content can largely be provided by the publisher, or interactively where users contribute content or the content depends upon the users or their actions. Websites may be mostly informative, primarily for entertainment, or largely for commercial, governmental, or non-governmental organisational purposes.

## Contents

### History

### Function

- Linking
- Dynamic updates of web pages
- WWW prefix
- Scheme specifiers

### Web security

### Privacy

### Standards

### Accessibility

### Internationalisation

**Exhibit 123 p1**





**Exhibit 123 p2**

***The AppleJazz Band in concert!***

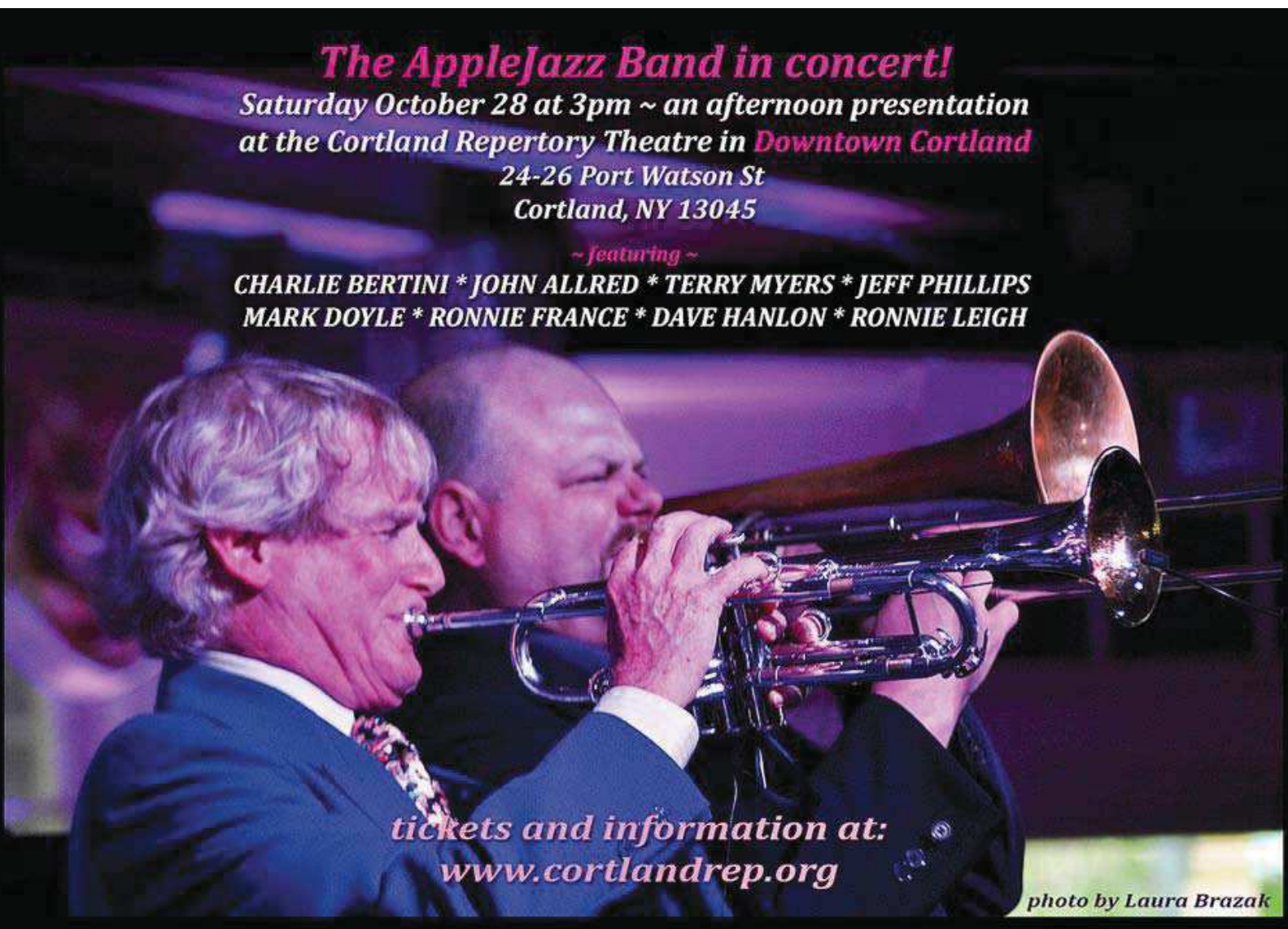
*Saturday October 28 at 3pm ~ an afternoon presentation  
at the Cortland Repertory Theatre in **Downtown Cortland**  
24-26 Port Watson St  
Cortland, NY 13045*

*~ 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>
	<p><a href="#">\\TICRS\EXPORT16\IMAGEOUT16\870\606\87060640\xml1\APP0005.JPG</a></p>
	<p><a href="#">\\TICRS\EXPORT16\IMAGEOUT16\870\606\87060640\xml1\APP0006.JPG</a></p>
	<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>



STATE	Colorado
COUNTRY	United States
ZIP/POSTAL CODE	80204
PHONE	303 572-3122
EMAIL ADDRESS	jamesbertini@yahoo.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>CORRESPONDENCE INFORMATION</b>	
NAME	James Bertini
STREET	423 Kalamath Street
CITY	Denver
STATE	Colorado
COUNTRY	United States
ZIP/POSTAL CODE	80204
PHONE	303 572-3122
EMAIL ADDRESS	jamesbertini@yahoo.com;iklych@yahoo.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	/james bertini/
SIGNATORY'S NAME	James Bertini
SIGNATORY'S POSITION	Attorney of record, Colorado bar member
SIGNATORY'S PHONE NUMBER	303 572-3122
DATE SIGNED	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:**

James Bertini  
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  
69708-87060640-5508a2e974271aa3cca8e8d50  
dda4b58fccf074a7d9e8634525eac9f99c0225f3  
4-CC-7532-20160605175322621781



# 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.



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**Exhibit 135**



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### 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](#)

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American Libraries

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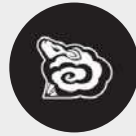
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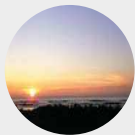


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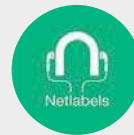
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Grateful Dead

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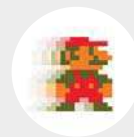
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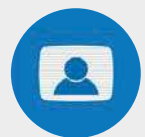
United States



Television Archive



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 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 ERP N 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

**ADDITIONAL STATEMENTS SECTION**

<b>PRIOR REGISTRATION(S)</b>	The applicant claims ownership of U.S. Registration Number(s) 2649455, 3317089, 3226289, and others.
------------------------------	------------------------------------------------------------------------------------------------------

**ATTORNEY INFORMATION**

<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

**CORRESPONDENCE INFORMATION**

<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 ASPINALLSignatory'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:

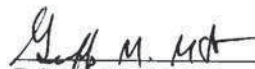
Attached are the following items in regard to the above-identified registration:

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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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

https://support.apple.com/en-us/HT204956  JUN JUL 04 AUG 2014 2015 2016 [About this capture](#)

26 captures  
4 Jul 2015 - 16 Feb 2018

# Availability of Apple Music, Apple Music Radio, and iTunes Match

Find out in which countries you can join Apple Music, listen to Apple Music Radio and Beats 1 Radio, or subscribe to iTunes Match.

Find your country below to check the availability of Apple Music, Apple Music Radio and Beats 1 Radio, and iTunes Match:



Anguilla

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Germany

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Nigeria

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Antigua & Barbuda

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Ghana

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Norway

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Argentina

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Greece

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Oman

- Apple Music
- Apple Music Radio<sup>1</sup>
- iTunes Match



Armenia

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Grenada

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Panama

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match





Australia

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



Guatemala

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Papua New Guinea

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Austria

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Guinea-Bissau

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Paraguay

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Azerbaijan

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Honduras

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Peru

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Bahamas

- iTunes Match



Hong Kong

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Philippines

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Bahrain

- Apple Music
- Apple Music Radio<sup>1</sup>
- iTunes Match



Hungary

- Apple Music
- Apple Music Radio<sup>1</sup>
- iTunes Match



Poland

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Barbados

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



India

- Apple Music
- Apple Music Radio<sup>1</sup>



Portugal

- Apple Music



Belarus

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Belgium

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Belize

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Bermuda

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Bolivia

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Botswana

- Beats 1 Radio
- iTunes Match



Indonesia

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Ireland

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Israel

- iTunes Match



Italy

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Japan

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Jordan

- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Qatar

- iTunes Match



Romania

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio



Russia

- Apple Music
- Apple Music Radio<sup>1</sup>
- iTunes Match



St. Kitts &amp; Nevis

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Saudi Arabia

- Apple Music
- Apple Music Radio<sup>1</sup>
- iTunes Match



Singapore

- Apple Music
- Apple Music Radio<sup>1</sup>

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Brazil

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



British Virgin Islands

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Bulgaria

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Burkina-Faso

- iTunes Match



Cambodia

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match

- Apple Music
- Apple Music Radio<sup>1</sup>
- iTunes Match



Kazakhstan

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Kenya

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Kyrgystan

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Laos

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Latvia

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match

- iTunes Match



Slovakia

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Slovenia

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



South Africa

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Spain

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Sri Lanka

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match





Canada

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Cape Verde

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Cayman Islands

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Chile

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Colombia

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Costa Rica

- Apple Music



Lebanon

- Apple Music
- Apple Music Radio<sup>1</sup>
- iTunes Match



Lithuania

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Luxembourg

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Macau

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Malaysia

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Malta, Republic of



Swaziland

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Sweden

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Switzerland

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Taiwan

- iTunes Match



Tajikistan

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- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
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Thailand

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- Apple Music Radio<sup>1</sup>
- Apple Music Radio
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- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Cyprus

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- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Czech Republic

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- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Denmark

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Dominica

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- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Dominican Republic

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- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
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- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Mauritius

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Mexico

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Micronesia, Federated States of

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Moldova

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Mongolia

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- Apple Music Radio<sup>1</sup>
- Beats 1 Radio



Trinidad &amp; Tobago

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Turkey

- iTunes Match



Turkmenistan

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Uganda

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Ukraine

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



United Arab Emirates

- Apple Music
- Apple Music Radio<sup>1</sup>



Ecuador

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Egypt

- Apple Music
- Apple Music Radio<sup>1</sup>
- iTunes Match



El Salvador

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Estonia

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Fiji

- Apple Music
- Apple Music Radio<sup>1</sup>
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- iTunes Match



Finland

- Apple Music
- Apple Music Radio<sup>1</sup>

- iTunes Match



Mozambique

- iTunes Match



Namibia

- iTunes Match



Nepal

- Apple Music
- Apple Music Radio<sup>1</sup>
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- iTunes Match



Netherlands

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



New Zealand

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- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Nicaragua

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- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match

- iTunes Match



United Kingdom

- Apple Music
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- Beats 1 Radio
- iTunes Match



United States

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Uzbekistan

- Apple Music
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- Beats 1 Radio
- iTunes Match



Venezuela

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- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
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Vietnam

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



- Beats 1 Radio
- iTunes Match



France

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Gambia

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Niger

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match



Zimbabwe

- Apple Music
- Apple Music Radio<sup>1</sup>
- Beats 1 Radio
- iTunes Match

<sup>1</sup> In this country, an Apple Music membership is required to listen to Apple Music Radio.

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- [Join Apple Music.](#)
- [Subscribe to iTunes Match.](#)

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 [United States \(English\)](#) >

# Availability of Apple Music, Apple Music Radio, and iTunes Match

Find out in which countries you can join Apple Music, listen to Apple Music Radio and Beats 1 Radio, or subscribe to iTunes Match.

Find your country below to check the availability of Apple Music, Apple Music Radio and Beats 1 Radio, and iTunes Match:



Anguilla

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



Gambia

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



Nigeria

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



Antigua & Barbuda

- Apple Music
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- Beats 1 Radio
- iTunes Match



Germany

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



Norway

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



Argentina

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



Ghana

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



Oman

- Apple Music
- Apple Music Radio
- iTunes Match



Armenia

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



Greece

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



Panama

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match





## Australia

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



## Austria

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



## Azerbaijan

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



## Bahamas

- iTunes Match



## Bahrain

- Apple Music
- Apple Music Radio
- iTunes Match



## Barbados

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



## Grenada

- Apple Music
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- iTunes Match



## Guatemala

- Apple Music
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- iTunes Match



## Guinea-Bissau

- Apple Music
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- Beats 1 Radio
- iTunes Match



## Honduras

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



## Hong Kong

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



## Hungary



## Papua New Guinea

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



## Paraguay

- Apple Music
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- iTunes Match



## Peru

- Apple Music
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- iTunes Match



## Philippines

- Apple Music
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- iTunes Match



## Poland

- Apple Music
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- Beats 1 Radio
- iTunes Match



## Portugal

- Apple Music



Belarus

- Apple Music
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- iTunes Match



Belgium

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



Belize

- Apple Music
- Apple Music Radio
- Beats 1 Radio
- iTunes Match



Bermuda

- Apple Music
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Bolivia

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Botswana

- Apple Music
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India

- Apple Music
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Indonesia

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Ireland

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Italy

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- iTunes Match



Japan

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- iTunes Match



Qatar

- iTunes Match



Romania

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Russia

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St. Kitts &amp; Nevis

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Saudi Arabia

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- iTunes Match



Singapore

- Apple Music
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<ul style="list-style-type: none"> <li>• Apple Music</li> <li>• Apple Music Radio</li> <li>• Beats 1 Radio</li> <li>• iTunes Match</li> </ul>	 Jordan	<ul style="list-style-type: none"> <li>• iTunes Match</li> </ul>
 Brazil <ul style="list-style-type: none"> <li>• Apple Music</li> <li>• Apple Music Radio</li> <li>• Beats 1 Radio</li> <li>• iTunes Match</li> </ul>	 Kazakhstan <ul style="list-style-type: none"> <li>• Apple Music</li> <li>• Apple Music Radio</li> <li>• Beats 1 Radio</li> <li>• iTunes Match</li> </ul>	 Slovakia <ul style="list-style-type: none"> <li>• Apple Music</li> <li>• Apple Music Radio</li> <li>• Beats 1 Radio</li> <li>• iTunes Match</li> </ul>
 British Virgin Islands <ul style="list-style-type: none"> <li>• Apple Music</li> <li>• Apple Music Radio</li> <li>• Beats 1 Radio</li> <li>• iTunes Match</li> </ul>	 Kenya <ul style="list-style-type: none"> <li>• Apple Music</li> <li>• Apple Music Radio</li> <li>• Beats 1 Radio</li> <li>• iTunes Match</li> </ul>	 Slovenia <ul style="list-style-type: none"> <li>• Apple Music</li> <li>• Apple Music Radio</li> <li>• Beats 1 Radio</li> <li>• iTunes Match</li> </ul>
 Bulgaria <ul style="list-style-type: none"> <li>• Apple Music</li> <li>• Apple Music Radio</li> <li>• Beats 1 Radio</li> <li>• iTunes Match</li> </ul>	 Kyrgyzstan <ul style="list-style-type: none"> <li>• Apple Music</li> <li>• Apple Music Radio</li> <li>• Beats 1 Radio</li> <li>• iTunes Match</li> </ul>	 South Africa <ul style="list-style-type: none"> <li>• Apple Music</li> <li>• Apple Music Radio</li> <li>• Beats 1 Radio</li> <li>• iTunes Match</li> </ul>
 Burkina-Faso <ul style="list-style-type: none"> <li>• iTunes Match</li> </ul>	 Laos <ul style="list-style-type: none"> <li>• Apple Music</li> <li>• Apple Music Radio</li> <li>• Beats 1 Radio</li> <li>• iTunes Match</li> </ul>	 Spain <ul style="list-style-type: none"> <li>• Apple Music</li> <li>• Apple Music Radio</li> <li>• Beats 1 Radio</li> <li>• iTunes Match</li> </ul>
 Cambodia <ul style="list-style-type: none"> <li>• Apple Music</li> <li>• Apple Music Radio</li> <li>• Beats 1 Radio</li> <li>• iTunes Match</li> </ul>	 Latvia <ul style="list-style-type: none"> <li>• Apple Music</li> <li>• Apple Music Radio</li> </ul>	 Sri Lanka <ul style="list-style-type: none"> <li>• Apple Music</li> <li>• Apple Music Radio</li> <li>• Beats 1 Radio</li> <li>• iTunes Match</li> </ul>



Canada

- Apple Music
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- Beats 1 Radio
- iTunes Match



Cape Verde

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Cayman Islands

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Chile

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China

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- Apple Music Radio



Colombia

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Lebanon

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Lithuania

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Luxembourg

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Macau

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Malaysia

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Swaziland

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Sweden

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Switzerland

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Taiwan

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Tajikistan

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Thailand

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Costa Rica

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Cyprus

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Czech Republic

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Denmark

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Dominica

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Malta, Republic of

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Mauritius

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Mexico

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Micronesia, Federated States of

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Moldova

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Mongolia

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Trinidad &amp; Tobago

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Turkey

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Turkmenistan

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Uganda

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Ukraine

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## Dominican Republic

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## United Arab Emirates

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## Mozambique

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## Ecuador

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## Namibia

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## United Kingdom

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## Egypt

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## Nepal

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## United States

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## El Salvador

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## Netherlands

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## Uzbekistan

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## Estonia

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## New Zealand

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## Venezuela

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## Fiji

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## Nicaragua

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- Beats 1 Radio



## Vietnam

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Finland

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France

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Niger

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Support > Availability of Apple Music, Apple Music Radio, and iTunes Match

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[United States \(English\) >](#)

# Availability of Apple Music and iTunes Match

Find out in which countries or regions you can join Apple Music or subscribe to iTunes Match.

Find your country or region below to see if you can:

- Join Apple Music.
- Get an Apple Music Student Membership.
- Get access to TV & Movies.
- Listen to Radio.
- Listen to Beats 1 on Radio.
- Subscribe to iTunes Match.



## Anguilla

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Gambia

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Nigeria

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Antigua & Barbuda

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Germany

- Apple Music
  - Apple Music Student Membership
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Norway

- Apple Music
  - Apple Music Student Membership
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Argentina

- Apple Music
  - TV & Movies
  - Radio



## Ghana

- Apple Music
  - TV & Movies



## Oman

- Apple Music
  - Radio



- Beats 1
- iTunes Match



## Armenia

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Australia

- Apple Music
  - Apple Music Student Membership
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Austria

- Apple Music
  - Apple Music Student Membership
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Azerbaijan

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match

- Radio
- Beats 1
- iTunes Match



## Greece

- Apple Music
  - TV & Movies
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  - Beats 1
- iTunes Match



## Grenada

- Apple Music
  - TV & Movies
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  - Beats 1
- iTunes Match



## Guatemala

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
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## Guinea-Bissau

- Apple Music
  - TV & Movies
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  - Beats 1
- iTunes Match



- iTunes Match



## Panama

- Apple Music
  - TV & Movies
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  - Beats 1
- iTunes Match



## Papua New Guinea

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Paraguay

- Apple Music
  - TV & Movies
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  - Beats 1
- iTunes Match



## Peru

- Apple Music
  - TV & Movies
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  - Beats 1
- iTunes Match



## Philippines

- Apple Music
  - TV & Movies



## Bahamas

- iTunes Match



## Bahrain

- Apple Music
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## Barbados

- Apple Music
  - TV & Movies
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## Belarus

- Apple Music
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## Belgium

- Apple Music
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## Honduras

- Apple Music
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## Hong Kong

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## Hungary

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## India

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## Indonesia

- Apple Music
  - Apple Music Student

- Radio

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## Poland

- Apple Music
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## Portugal

- Apple Music
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## Qatar

- iTunes Match



## Romania

- Apple Music
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## Russia

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## Belize

- Apple Music
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- iTunes Match



## Bermuda

- Apple Music
  - TV & Movies
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  - Beats 1
- iTunes Match



## Bolivia

- Apple Music
  - TV & Movies
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  - Beats 1
- iTunes Match



## Botswana

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Brazil

- Apple Music
  - Apple Music Student Membership<sup>1</sup>
  - TV & Movies

Membership<sup>1</sup>

- TV & Movies
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## Ireland

- Apple Music
  - Apple Music Student Membership
  - TV & Movies
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  - Beats 1
- iTunes Match



## Israel

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1



## Italy

- Apple Music
  - Apple Music Student Membership
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Japan

- Apple Music
  - Apple Music Student Membership
  - TV & Movies



## St. Kitts &amp; Nevis

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Saudi Arabia

- Apple Music
  - Radio
- iTunes Match



## Singapore

- Apple Music
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  - TV & Movies
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## Slovakia

- Apple Music
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## Slovenia

- Apple Music
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- Radio
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British Virgin Islands

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Bulgaria

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- iTunes Match



Burkina-Faso

- iTunes Match



Cambodia

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  - Beats 1
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Canada

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Jordan

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- iTunes Match



Kazakhstan

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Kenya

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Kyrgyzstan

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Laos

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South Africa

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South Korea

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Spain

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Sri Lanka

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Swaziland

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- Radio
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- iTunes Match

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Cape Verde

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Latvia

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Sweden

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Cayman Islands

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Lebanon

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Switzerland

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Chile

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Lithuania

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Taiwan

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- iTunes Match



China

- Apple Music
  - Apple Music Student Membership<sup>1</sup>
  - Radio



Luxembourg

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



Tajikistan

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1



Macau

## Colombia

- Apple Music
  - Apple Music Student Membership
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Costa Rica

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Cyprus

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Czech Republic

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Denmark

- Apple Music
  - Apple Music Student Membership

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Malaysia

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Malta, Republic of

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Mauritius

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Mexico

- Apple Music
  - Apple Music Student Membership<sup>1</sup>
  - TV & Movies
  - Radio
  - Beats 1

- iTunes Match



## Thailand

- Apple Music
  - Apple Music Student Membership<sup>1</sup>
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Trinidad &amp; Tobago

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Turkey

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Turkmenistan

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



## Uganda

- Apple Music

- TV & Movies
- Radio
- Beats 1
- iTunes Match



Dominica

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



Dominican Republic

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



Ecuador

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



Egypt

- Apple Music
  - Radio
- iTunes Match



El Salvador

- iTunes Match



Micronesia, Federated States of

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



Moldova

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



Mongolia

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



Mozambique

- iTunes Match



Namibia

- iTunes Match



Nepal

- TV & Movies
- Radio
- Beats 1

- iTunes Match



Ukraine

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



United Arab Emirates

- Apple Music
  - Apple Music Student Membership<sup>1</sup>
  - Radio
- iTunes Match



United Kingdom

- Apple Music
  - Apple Music Student Membership
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



United States

- Apple Music
  - Apple Music Student Membership
  - TV & Movies
  - Radio
  - Beats 1

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



Estonia

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



Fiji

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



Finland

- Apple Music
  - Apple Music Student Membership
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



France

- Apple Music
  - Apple Music Student Membership
  - TV & Movies

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



Netherlands

- Apple Music
  - Apple Music Student Membership
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



New Zealand

- Apple Music
  - Apple Music Student Membership
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



Nicaragua

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



Niger

- Apple Music
  - TV & Movies

- iTunes Match



Uzbekistan

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



Venezuela

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



Vietnam

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



Zimbabwe

- Apple Music
  - TV & Movies
  - Radio
  - Beats 1
- iTunes Match



- Radio
- Beats 1
- iTunes Match

[Back to top >](#)



## Learn more

- [Join Apple Music.](#)
- [Subscribe to iTunes Match.](#)

\*Make sure to connect to your school's Wi-Fi network when you join Apple Music to validate your student eligibility.

Published Date: Jun 16, 2017

Helpful?

64% of people found this helpful.

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Support   Availability of Apple Music and iTunes Match

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United States (English)



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:
			AM Mark: <span style="float: right;"><input type="checkbox"/> MDC:</span>
PY			Owner: <input type="checkbox"/> Name:
			<input type="checkbox"/> Citizenship:
			<input type="checkbox"/> Entity Type:
			DBA/AKA/TA Statement:
			Address: <input type="checkbox"/> Inter <input type="checkbox"/> City <input type="checkbox"/> State/Country <input type="checkbox"/> Zip
			Assignment or Name Change:
CL			Composed of:
			International Class: <span style="float: right;">U.S. Class:</span>
			First Use: <span style="float: right;">First Use in Commerce:</span>
			Goods and Services:
AM			AM Amended Register: <span style="float: right;">P.R.:</span> <span style="float: right;">S.R.:</span>
			AM Amended Reg. Date:
OTHER			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;">Frqn. 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;">Frqn. Reg. Date:</span>
			FN Foreign Registration Expiration Date:
			FN Foreign Renewal Reg. No.: <span style="float: right;">Frqn. Reg. Renewed:</span>
CD			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  
Text Editor

9/2/96  
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:

GS  
AP  
CC

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.

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 Sch  
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**

PAPER NO.

SERIAL NO.

74/693839 Apple Corps Limited

APPLICANT

ADDRESS:

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

MARK

APPLE

*JB*

If no fees are enclosed, the address should include the words "BOX 5."

ADDRESS

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

ACTION NO.

01

Please provide in all correspondence:

MAILING DATE

02/01/96

1. Filing date, serial number, mark, and applicant's name.

REF. NO.

2. Mailing date of this Office action.

3. Your telephone number and ZIP code.

4. Examining attorney's name and law office number.

FORM PTO-1525 (5-90)

U.S. DEPT. OF COMM. PAT. & TM OFFICE

**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".



**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 *corp* (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*  
*65*  
*ppg*

*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

*DR* (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 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

*Arthur Schwart*  
for Arthur Schwart reg. no. 36,880  
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

S - 2

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

ITU: Y or (N)

SERIAL NO.: 74698829

## TRADEMARK APPLICATION FILE DATA WORKSHEET

### CLASS DATA

1. INTERNATIONAL CLASS	9									
2. COLLECTIVE TM or SM	T	S	T	S	T	S	T	S	T	S
3. FEE PAID	<u>(Y)</u>	N	Y	N	Y	N	Y	N	Y	N
4. PRIOR US CLASS(ES)	<u>41, 42, 43, 44</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	1	2
8. IN ANOTHER FORM STATEMENT	AF CODE IN MARGIN TEXT IN [ ]									
9. GOODS/SERVICES	<u>(S)</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	Y	N
2. COUNTRY CODE	<u>GB</u>									
3. FOREIGN APPLICATION	<u>1,318,481</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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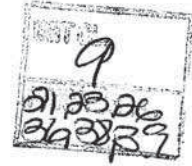


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# Exhibit 140, p11

74693839



APPLICANT: Apple Corps Limited  
ADDRESS: 27 D'Arlington Square  
London SW3 1LJ, ENGLAND

FIRST IN COMMERCE: 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.

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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





PRESS RELEASE  
February 19, 2014

## Exhibit 144 p1

# Apple Announces iTunes Festival Coming to SXSW—Five Amazing Nights, Five Amazing Shows

CUPERTINO, California—February 19, 2014—Apple® today announced the first iTunes® Festival to be held in the US, featuring an amazing lineup of global superstars, running from March 11-15. Taking place at ACL Live at the Moody Theater, home of Austin City Limits, the iTunes Festival at SXSW will feature iTunes chart toppers including Coldplay, Imagine Dragons, Pitbull, Keith Urban, ZEDD and more to come. All five nights of the iTunes Festival will be available to enjoy for free as a live and on-demand stream via the iTunes Store® on your iPhone®, iPad®, iPod touch®, Mac® or PC. Performances can also be seen in the iTunes Festival app on your iOS device or with Apple TV® in stunning HD.

“The iTunes Festival in London has become an incredible way for Apple to share its love of music with our customers,” said Eddy Cue, Apple’s senior vice president of Internet Software and Services. “We’re excited about the incredible lineup of artists performing and SXSW is the perfect place to debut the first iTunes Festival in the US.”

At the iTunes Festival in London over 400 artists have performed in front of more than 430,000 fans and tens of millions more online. Performances are available for purchase and download on the iTunes Store. For additional details on the lineup for the iTunes Festival check out [www.itunes.com/festival](http://www.itunes.com/festival).

Apple designs Macs, the best personal computers in the world, along with OS X, iLife, iWork and professional software. Apple leads the digital music revolution with its iPods and iTunes online store. Apple has reinvented the mobile phone with its revolutionary iPhone and App Store, and is defining the future of mobile media and computing devices with iPad.

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# Exhibit 144 p2

Apple, the Apple logo, Mac, Mac OS, Macintosh, iTunes, iTunes Store, iPhone, iPad, iPod touch and Apple TV are trademarks of Apple. Other company and product names may be trademarks of their respective owners.

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PRESS RELEASE  
August 18, 2015

**Exhibit 145 p1**

# Apple Music Festival Brings Incredible Live Performances to Fans Worldwide in September

Ten Nights of Spectacular Live Shows Including Pharrell Williams, One Direction, Florence + The Machine, Disclosure & More

LONDON — August 18, 2015 — Apple® today announced that Pharrell Williams, One Direction, Florence + The Machine and Disclosure are among the headliners at the 2015 Apple Music™ Festival at London's Roundhouse this September. Apple will broadcast performances to music fans around the world for free, which can be viewed live and on-demand on Apple Music. The Apple Music Festival lets fans get even closer to their favorite performers with coverage on Beats 1<sup>SM</sup> alongside backstage news and footage straight from the artists on Apple Music Connect.

"We wanted to do something really special for music fans this year," said Eddy Cue, Apple's senior vice president of Internet Software and Services. "The Apple Music Festival is a greatest hits set of ten unbelievable nights featuring some of the best performers on the planet appearing live and interacting directly with their fans on Connect and Beats 1."

Apple Music is a single, intuitive app that combines the best ways to enjoy music — all in one place. Beats 1 is Apple's first ever live radio station dedicated entirely to music and music culture. With Apple Music Connect, artists can share lyrics, backstage photos, videos or even release their latest song to fans directly from their iPhone®.

"Wow, I'm so grateful to be performing at the Apple Music Festival. The Roundhouse is such a historic venue ... there's always a special energy in the crowd. Thank you for having me!" - Pharrell Williams

"It'll be great to be back in London and we can't wait to perform for our fans in the Roundhouse and around the world on Apple Music! See you there!" - Niall, One Direction

"We're excited to be playing at this year's Apple Music Festival at the wonderful Roundhouse!" - Florence + The Machine

"We're super excited to play our first ever show for Apple Music Festival at the Roundhouse, one of our favorite venues in London. It's also the day our album's released so that makes it extra special!" - Disclosure

The Apple Music Festival takes place over ten nights from September 19 to September 28. UK residents can apply to win tickets on Apple Music as well as through media partners including the London Evening Standard.

Apple hosted the iTunes® Festival in London for eight years, and now in honor of the launch of Apple Music, has renamed the event the Apple Music Festival. Customers can enjoy the Apple Music Festival via Apple Music or iTunes on their iPhone, iPad®, iPod touch®, Mac®, PC or in stunning HD with Apple TV®.

The iTunes Festival started at London's Institute of Contemporary Arts in 2007, and has seen over 550 artists perform in front of more than half a million fans and tens of millions more online and on-demand. Past performers include Adele, Beck, Coldplay, Elton John, Foo Fighters, Justin Timberlake, Kings of Leon, Lady Gaga, Katy Perry, Maroon 5, Muse, Sir Paul McCartney and many more.

For updates, tickets and additional information visit: [www.applemusicfestival.com](http://www.applemusicfestival.com) or join the conversation on Apple Music Connect.

To learn more about Apple Music Connect and Beats 1 visit: [www.apple.com/music/connect](http://www.apple.com/music/connect) and [www.apple.com/music/radio](http://www.apple.com/music/radio).

Apple revolutionized personal technology with the introduction of the Macintosh in 1984. Today, Apple leads the world in innovation with iPhone, iPad, the Mac and Apple Watch. Apple's three software platforms — iOS, OS X and watchOS — provide seamless experiences across all Apple devices and empower people with breakthrough services including the App Store, Apple Music, Apple Pay and iCloud. Apple's 100,000 employees are dedicated to making the best products on earth, and to leaving the world better than we found it.

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**Exhibit 145 p2**



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**Exhibit 145 p3**

Apple > Newsroom > Apple Music Festival Brings Incredible Live Performances to Fans Worldwide in September

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 United States

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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.

---

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

**\*87060640\***

**CORRESPONDENT ADDRESS:**

JAMES BERTINI  
423 KALAMATH STREET  
DENVER, CO 80204

**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:

**Exhibit 130, p2**

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

**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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Jason M. Gonder  
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.	: Opposition No. 91229891
	:
APPLE INC.,	:
	:
Applicant.	:
-----X	

**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,	:	
	:	Opposition No. 91229891
v.	:	
	:	
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
CITY	Cupertino
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/  
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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