

DATE February 19, 1981
TO _____
OFFICE _____
FROM _____
OFFICE _____

AVILEGG
 CI CRI CMP
 CI CRI CMP



MEMO

SUBJECT: Apple (NY) - Supplements to my memos: (1) 2/17/81 Chronological Listing of Claims" and (2) 2/12/81 "Claims For Promotion

The following material has been prepared at your direction: In reviewing the material you requested in regard to the claim for "Interest & Exchange Rate Differential", I have run across a further claim from Apple dated August 28, 1970, which would precede the others listed in my subject (1) memo as follows:

- August 28, 1970 Apple Complaint to Capitol (Exh. A)
- September 8, 1970 Capitol Reply to Apple (Exh. B)
- September 16, 1970 Apple Reply to Capitol (Exh. C)
- September 21, 1970 Capitol Reply to Apple (Exh. D)

In regard to my subject (2) memo, please note Apple acknowledges in its September 16, 1970 letter that "no payment is due from Capitol to Apple until records are sold by Capitol to its customers." (Exh. C)

I suggest you file a copy of this memo with each of the subject memos - 2 copies are therefor being provided.

The exhibits will surface again in my memo re "Interest & Exchange Rate Differential" now in process.

SIGNED. _____

Apple

*a) I believe it is time we over
them for all units
manufactured & purchased
from CRD, the cash
payment is contingent on
CRD actually selling
the noise. (Cash is due
within 30 days after the
month CRD sells it.) The
statements we sent supported the
cash does not the total debt.
In Canada & Mexico were sent ~~separately~~
separately.*

8/31

August 28, 1970

James, Cal

Capitol Records, Inc.
P. O. Box 2391
Hollywood, California 90028

Attention: Secretary

Gentlemen:

This will acknowledge receipt of the Sterling equivalent of the sum of \$4,487,728.05 from Electric and Musical Industries, Ltd., (EMI) on your behalf to our designee, Apple Corp., Ltd.

This sum has been deposited without prejudice to any claims, rights and remedies which we may have by reason of your failure to properly account and remit all monies due in connection with sales of phonograph records embodying performances of the Beatles from and after September 1, 1969 through and including June 30, 1970, as provided for under the September 1, 1969 Agreement.

A review of our sales figures for this period indicates that the amount remitted is grossly understated. Without prejudice to any other basis upon which you have failed to properly account and remit, it would appear that such underpayments are the result of (a) improper accounting for all units manufactured and purchased from us in the United States; (b) the omission of Canadian, Mexican and record club sales; and (c) sales relating to the licensing of Ampex with respect to reel to reel and 4-track tapes.

In addition to the interest due on all monies which have not been properly remitted, demand is also made for the payment of interest as we have previously agreed on those monies which have been remitted.

Very truly yours,

APPLE RECORDS, INC.

Henry L. Newfeld
Henry L. Newfeld, Secretary

hln:ew

B

cc of same letter dtd 9/4/70.
to H. Newfeld

September
8th
1970

orig retyped to bring
letter date into a point
w/ date registered w/ Post
Mail machine on
file on 9/4

6192 REGISTERED MAIL
RETURN RECEIPT REQUESTED

Apple Records, Inc.
c/o ABKCO Enterprises, Inc.
1700 Broadway
New York, New York 10019

Gentlemen:

We have your letter of August 28, 1970 acknowledging receipt of the sterling equivalent of \$4,487,728.05.

With reference to the third paragraph in your letter, Capitol Records, Inc. presses records for Apple Records, Inc. Apple Records, Inc. in turn sells these records to Capitol Records Distributing Corp. (now Capitol Records, Inc.). Capitol then sells the records to its customers. Under the provisions of Section 10 of Article III of the agreement of September 9, 1969 no payment is due from Capitol to Apple until records are sold by Capitol to its customers. Capitol has accounted to Apple for all records sold by Capitol to its customers.

Payment in sterling for Canadian and Mexican sales will be made by The Gramophone Company to Apple Corps Ltd. in London on or before September 12, 1970.

The right of Capitol's licensee, Longines Symphonette Society, to distribute records recorded prior to January 27, 1967 through the record club has never been revoked. In the absence of a final agreement on the subject between Capitol and Apple those records are distributed subject to the rates

date of 2nd recording contract
but ~~not~~ commencing date necessarily

Apple Records, Inc.

-- 2 -

September 8, 1970

set forth in the January, 1967 agreement. Accordingly Capitol will account for such sales in accordance with the 1967 agreement until such time as a new record club royalty rate is agreed upon. These royalties together with the Ampex royalties will also be paid on or before September 12.

I know of no agreement to pay interest on any of the money paid or to be paid.

Very truly yours,

CAPITOL RECORDS, INC.

9.18.720

Apple

EXHIBIT C
1 of 2 pages

Registered

September 16, 1970

Capitol Records, Inc.
Hollywood and Vine
Hollywood, California

Gentlemen:

This will acknowledge receipt of your letter of September 4, 1970, the contents of which we have duly noted. ⁸

To clarify any confusion that might exist, we do not disagree that under the provisions of Section 10 Article III of the September 9, 1969 Agreement, no payment is due from Capitol to Apple until records are sold by Capitol to its customers. However, as to those sales (assuming the correctness thereof), it would appear that Capitol has understated moneys properly due thereon, primarily because of the use of improper mechanical royalties in the "Hey Jude" album. A detailed analysis showing these particular accounting inaccuracies has previously been forwarded to your accounting department. It would also appear that you have not remitted to us all moneys in connection with publisher reserves for mechanicals which were on Capitol's books as of August 31, 1969, as well as any other publisher reserves which you may have maintained to date.

With respect to the fourth paragraph of your letter, it should be noted that as of September 1, 1969, all rights in the United States, Canada and Mexico, for Beatle recordings (regardless of release date) were licensed by EMI to Apple Records, Inc. (N.Y.) exclusively, and this company then entered into a manufacturing and distribution agreement with you as of September 1, 1969. Therefore, any existing agreements with respect to club rights which you granted to your licensee, Longines Symphonette Society, Inc., should have been terminated as of September 1, 1969, and this was obviously intended by the language of Paragraph 7 of Article IV of said agreement.

In the absence of any record club agreement as called for in said Paragraph 7, no Beatle recordings are to be released or sold by Longines Symphonette Society, Inc. or through any other record club. Furthermore, pending such agreement, any moneys received by you and remitted to us are without prejudice to our position that such sales are unauthorized and shall be deemed advances against any and all moneys due under a new record club royalty rate, in the event such an

Capitol Records, Inc.
September 16, 1970
page 2.

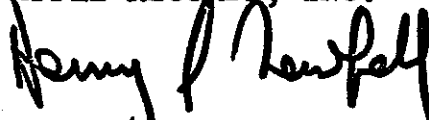
agreement is reached with Longines Symphonette Society, Inc. In this regard, we should like you to forward to us a copy ✓ of your agreement with Longines Symphonette Society, Inc. as well as copies of the accounting statements rendered to you by that license for the period September 1, 1969 to date, in so far as such accounting statements relate to sales of Beatle records.

We have been advised by Apple Corp. Ltd. that you have remitted to EMI on our behalf the sterling equivalent of \$519,601.36, which sum represents sales with respect to Canada, Mexico, Record Club and Ampex. In the absence of the relevant accounting statements which will provide us with the details supporting the correctness of the moneys remitted, we reserve our right to object to same upon receipt of such data. Indeed, we fail to understand why such data was not sent to us previously, since the manner of payment to EMI was to satisfy the Bank of England and was never intended to waive any of our rights to such data.

With respect to the issue of interest on any of the moneys paid or to be paid to this Company, we suggest that you confirm this understanding with those officers of your company who made such an agreement.

Very truly yours,

APPLE RECORDS, INC.



Henry Newfeld, Secretary

HN:asn

Registered
R.R.R.

September 21, 1970

Mr. Henry Newfeld, Secretary
Apple Records, Inc.
1700 Broadway
New York, N.Y. 10019

Dear Mr. Newfeld:

Your September 16th letter arrived in Mr. Tillinghast's absence on vacation. He will respond to you on all of the technical matters. This letter will deal only with interest.

1. On August 28, 1970 Apple wrote a letter which reads in part:

"In addition to the interest due on all monies which have not been properly remitted, demand is also made for the payment of interest as we have previously agreed on those monies which have been remitted."

2. In his response Mr. Tillinghast made the statement:

"I know of no agreement to pay interest on any of the money paid or to be paid."

3. In its September 16th letter, Apple says:

"With respect to the issue of interest, on any of the moneys paid or to be paid to this Company, we suggest that you confirm this understanding with those officers of your company who made such an agreement."

I cannot find any officer in this Company who reached any understanding with Apple covering interest. If you can find that anyone did, I request that you state which person acting on behalf of Apple talked to which person at Capitol

Mr. Henry Newfeld
Page Two.
September 21, 1970

Records, Inc., on what day. Then recount for me please what your man said and what CRI's man said which forms the basis for your contention.

Unless you cease being coy about the facts we are never going to get anywhere in resolving these differences. Please cooperate.

Sincerely,