

DATE February 24, 1981
 TO _____
 OFFICE _____ CI CRI CMP
 FROM _____
 OFFICE _____ CI CRI CMP
 SUBJECT: _____



MEMO

APPLE (NY) CLAIM FOR RATE DIFFERENTIAL AND INTEREST THROUGH 6-30-79

The following material has been prepared at your direction:

The latest Apple audit claim covering the period 9/1/69 through 6/30/79 includes a claim for (1) exchange rate differential, and (2) interest, on all the items claimed in the audit of June 30, 1979 as follows (See Exhibit 'A' for more detail):

	<u>Exchange Rate</u>	<u>Interest</u>	<u>Total</u>
U.S.	\$1,092,000	\$5,084,000	\$6,176,000
Canada	167,000	723,000	890,000
Mexico	(3000)	42,000	39,000
AFM (U.S. & Canada)	<u>4,000</u>	<u>179,000</u>	<u>183,000</u>
	<u>\$1,260,000</u>	<u>\$6,028,000</u>	<u>\$7,288,000</u>

The audit states the above amount is due on June 30, 1980, and since it was not paid at that time "a more up-to-date calculation will be necessary based on the then current exchange rate." (Exhibit 'B', page 4)

Note: The above amounts can be broken down by periods should it be deemed necessary from the mass of detail supplied in audit schedules 23 and supporting schedules A through F.

Prior Klein Claim for Interest on Initial Payment

Before proceeding further it should be noted that the above claim for interest and exchange rates is computed only on the amount of their audit claims. They have assumed all payments made by Capitol as of June 30, 1980 were on time and at the correct exchange rates. I can find no claim for the interest on the initial payments which Capitol made August 24, 1970 covering the first 10 months of the Agreements (Sept. 1, 1969 though June 30, 1970). Previously Klein had claimed interest was due on this payment, which could not be made until Apple's Letter of Direction dated August 11, 1970 was received. I will discuss this claim further on in this memo.

SIGNED: _____

Now as to the claim for difference in exchange rates: The reasons given in the Audit report to justify this claim are as follows (Exhibit 'B', page 1):

In accordance with your fully executed Letter Agreement dated August 12, 1970 with EMI, Capitol Records, Inc. was to pay EMI:

"... all net monies which became due to Apple Records, Inc. under the terms of the Capitol-Apple Agreement less mechanical royalties, as and when those monies become due for payment..."

EMI, in turn was to:

"... pay the sterling proceeds of such net monies subject to the rights of Nemper Holdings Limited, to Apple Corps. Limited within 5 business days of receipt from Capitol. . ."

We have discussed this provision with Counsel who have indicated to us that the same practice of reporting to you in pounds sterling should apply to the additional amounts due as shown in Schedules 1 through 22.

You will note that the above refers to a Letter Agreement dated August 12, 1970. The Letter of Direction to Capitol is dated August 11, 1970 (Exhibit 'C', page 1). The Letter of Direction dated August 12, 1970 is to EMI (Exhibit C-2). (I obtained a copy of the latter in the appendix to the Auditor's report.)

Capitol's obligation in regard to payment under the 9-1-69 Agreement was to pay the money in U.S. dollars to Apple in New York (Exhibit 'D'). This was modified by Apple's Letter of Direction of August 11, 1970 (Exhibit 'C') which directed the payment be made to EMI in England on Apple's behalf. There is no indication in the Letter of Direction that payment is due in pound sterling.

The Auditor's then say in their second quote above that EMI "pay the sterling proceeds of such net monies... within 5 business days of receipt from Capitol". This quote is from the August 12th Letter of Direction to EMI (Exhibit 'C', page 2). In any event it would seem from the quote that EMI's obligation is to pay Apple the sterling proceeds within 5 days of receipt from Capitol of U.S. dollars. Since EMI has not received any proceeds from Capitol for the current audit claims, it would seem that EMI is under no obligation to pay Apple until 5 days after such receipt, if any. Therefore, perhaps the rate of exchange at that future time would apply rather than as Apple claims the rate of exchange for some prior period.

The above discussion refers to the claims for the period Sept. 1, 1969 through April 30, 1976, when EMI withdrew the manufacturing license from Apple and licensed Capitol once again to be the manufacturer. The payment for claims after the April 30, 1976, therefore seem to be governed by the following:

- 1.) EMI's 1962 Beatle Artist Contract for masters recorded under it.
- 2.) EMI's 1967 Beatle Artist Contract for masters recorded under it.
- 3.) EMI's Licensing Agreement with Capitol, and
- 4.) a paragraph in EMI's 1969 Licensing Agreement with Apple (Exhibit 'E') which states that if the EMI/Apple Licensing Agreement is terminated, EMI shall pay Apple a sum on sales after that date equal to that Apple would have received had the said records been sold under the 9-1-69 Agreement.

Therefore, after April 30, 1976, it would seem that Capitol had the obligation to pay EMI the same U.S. dollars as it would have been obligated to pay Apple if the 9-1-69 Agreement were still in effect. In conclusion, I find nothing to support Apple's claim for the exchange rate differential in the written documents.

Now as to the claim for interest: The earliest written correspondence I can find in regard to interest is Apple's demand for interest on August 28, 1970 (Exhibit 'F') to which Mr. Tillinghast replied in his response of 8th September 1970 "I know of no agreement to pay interest on any of the money paid or to be paid" (Exhibit 'G').

Apple replied on Sept. 16, 1970 "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."

Mr. Carp relied in his letter of Sept 21, 1970 "I cannot find any officer of this Company who reached any understanding with Apple covering interest. If you contend that anyone did, I request that you state which person acting on behalf of Apple talked to the person at Capitol...." (Exhibit 'I')

The next reference Capitol received from Apple in regard to interest appears to be in the list of claims against Capitol handed to EMI in Dec. 1970, but not presented directly to Capitol (Mr. Menon) until August 1971. Capitol's written reply to the claim for interest was made on Sept. 23, 1971 per Exhibit 'J'

attached. The copy of Exhibit 'J' attached has Apple's position and the summary inserted below the original letter comments. The insertions were made and distributed within Capitol on 10-25-71, after the Capitol/Apple meeting in New York on Oct. 21 and 22, 1971.

The insert for Apple's position was handed to Capitol by Allen Klein at the October meeting. Mr. Tillinghast's re the interest discussion at that meeting is attached as Exhibit 'K'.

Capitol's position therefore remains that no interest is due.

(The matter of interest was not specifically mentioned in the February 1973 settlement proposals. The claim would therefore have been cancelled by the clause providing for acceptance of Capitol's auditing on all matters not specifically mentioned in the settlement letters had they been signed.)

The P & F Audit claim of Jan. 1976 contained the following sentence on page 16 "Interest, if any, due on the delayed payments or underpayments disclosed herein has not been determined" (Exhibit 'L') Mr. Tillinghast did not comment on interest in Capitol's response of June 15, 1976 to the audit other than to say he was not responding to those items on which not specific claim had been made (Exhibit 'M').

I find nothing in Capitol's paperwork to indicate that interest is due as claimed in the latest audit.

The only other correspondence I can find in regard to interest occurred after Klein was terminated by Apple as of Feb. 28, 1973. At that time Capitol was requested by Apple and later by the sheriff of New York to hold certain sums of money due Apple because of litigation by Klein against Apple. On Feb. 7, 1975 Apple's accountants suggested that Capitol hold these funds subject to interest (Exhibit 'N'). Mr. Tillinghast had Mr. Burdick reply on Feb. 25, 1975 that the interest so accrued would be credited to the entitled principle. (Exhibit 'O')

On Oct. 31, 1976, Apple asked for confirmation that such interest be accrued (Exhibit 'P'). Mr. Tillinghast responded on Oct. 27, 1976 that no interest was due or would be paid. (Exhibit 'Q')

List of Exhibits Re Exchange Rate and Interest Claim

<u>Exh.</u>	<u>No. of</u> <u>Pages</u>	
A	1	Audit Claim Summary for Exchange Rate Differential & Interest Due
B	4	Audit Commentary Re Claim
C	1	8-11-70 Apple Letter of Direction re Payment
D	4	9-1-69 Contract Abstracts Re Payment
E	3	9-1-69 EMI License Agreement with Apple
F	1	8-28-70 Demand for Interest
G	2	9-8-70 Capitol Reply to Apple Re Interest
H	2	9-16-70 Apple Reply to Capitol
I	2	9-21-70 Capitol Reply to Apple
J	2	9-23-71 Capitol Response to Claims - Abstracts Re Interest
K	1	10-27-71 Tillinghast Comments Re Interest Discussion
L	2	1/-/76 P & F Audit Remarks Re Interest
M	4	6-15-76 Capitol Response to Audit
N	1	2-7-75 Apple Letter Re Interest on Monies Withheld in Litigation
O	1	2-25-75 Capitol Reply to 2-7-75 Letter
P	1	10-13-76 Apple's Request for Interest
Q	2	10-27-76 Capitol's Reply to 10-13-76 Request

royalty percentage rate by the excess deductions (as converted to United States dollars in Schedule 22E-1.1), we have calculated the difference in your unit royalty rate based on regular price spreads and have applied these differences to units reported for the major selection numbers in each period tested to calculate additional royalties due. We have estimated additional royalties due for selection numbers not tested by applying the percentage of error found for those numbers tested in each period. Our calculations appear in Schedules 22E-1, 22E-2, 22E-3, 22E-4 and 22E-5.

Schedule 22E summarizes royalties due from excess packaging deductions in Mexico. We have estimated additional royalties due for periods not tested by applying the average percentage of error found for periods tested. This average percentage of error has also been applied to royalties due on unreported sales for the period from July 1, 1969 to August 31, 1969 since our calculations of royalties due made for unreported sales in Schedule 22B were only based upon regular buy-sell price spreads used by DCM. Our calculations in Schedules 22E-1 through 22E-5 have been made based on 100% of the bare record price. We have applied a factor of the 90% to the total amount due as shown in Schedule 22E based on Capitol's procedure of using 90% of the bare record price to calculate your royalties in Canada. The net amount due to you for excess packaging deductions totals \$8,544.06.

Schedule 22 summarizes additional royalties due to you from sales by Discos Capitol de Mexico and totals \$66,354.20.

EXCHANGE RATE DIFFERENTIAL AND INTEREST (UNITED STATES, CANADA AND MEXICO)

In accordance with your fully executed Letter Agreement dated August 12, 1970 with EMI, Capitol Records, Inc. was to pay EMI:

"... all net monies which became due to Apple Records, Inc. under the terms of the Capitol-Apple Agreement less mechanical royalties, as and when those monies become due for payment..."

EMI, in turn was to:

"... pay the sterling proceeds of such net monies subject to the rights of Nemperor Holdings Limited, to Apple Corps. Limited within 5 business days of receipt from Capitol. . ."

We have discussed this provision with Counsel who have indicated to us that the same practice of reporting to you in pounds sterling should apply to the additional amounts due as shown in Schedules 1 through 22.

We have found that if Capitol Records had paid you the amounts due herein on a timely basis, you would have received more pounds sterling than if such amounts were paid to you at the exchange rate in effect as of June 30, 1980, resulting in overall loss to Apple (assuming all such payments were made as of June 30, 1980) based upon fluctuations in the exchange rates (herein referred to as the exchange rate differential).

We have also been instructed by counsel to determined the amount of interest due on the additional royalties due in Schedules 1 through 22 as shown in the Summary of Findings. Your counsel have advised us to use the rate of interest of 7% throughout the period under examination, and to calculate the amount due for interest and the exchange rate differential as of June 30, 1980.

The Agreement indicates that domestic earnings are reportable by Capitol to EMI within 30 days after the end of each accounting period. From inception to April 30, 1976, accountings were reportable monthly. Thereafter, they were reportable quarterly. In order to simplify the calculation of interest and exchange rate differentials, we have combined the monthly accountings into calender quarters. With regard to Canadian and Mexican royalties, Capitol was obligated to report to EMI within 60 days following the end of each calendar quarter. Accordingly, our interest calculations assume payment dates 30 days and 60 days after the end of each accounting period for the USA, and Canada and Mexico, respectively.

As noted above, the August 12, 1970 Letter Agreement indicates that earnings are payable by EMI within 5 days of receipt from Capitol. Accordingly, our exchange rate calculations assume payment dates 35 days and 65 days after the end of each accounting period for the USA, and Canada and Mexico, respectively. In order to simplify the exchange rate calculations for domestic earnings prior to July 1, 1976 we have averaged the exchange rates in effect 35 days after the end of each month to arrive at an average exchange rate for each quarterly period.

For all amounts due, with the exception of AF of M fees withheld, we have calculated interest and exchange rate differentials as follows:

1. We have determined the percentage of earnings reported by quarterly period in each territory (USA, Canada and Mexico). Separate calculations have been made for the periods covered by the prior examination, as revised, and the

current examination reports, respectively. Our calculations for the USA appear in Schedules 23A-1.1 and 23B-1.1 respectively; for Canada in Schedules 23C-1.1 and 23D-1.1; and for Mexico Schedule 23E-1.1 (no Mexican sales were reported to Capitol in the current examination period).

2. We have prorated the amounts found to be due in Schedules 1 through 22 (with the exception of Schedule 6) to each quarter based on the same ratio that the net amounts reported by Capitol during that quarter bear to the total amount reported throughout the period examined. By applying these percentages determined in Schedules 23A-1.1 through 23E-1.1 to total amounts shown to be due in Schedules 1 through 22, we have allocated these amounts by quarterly period, as shown in Schedules 23A through 23E.
3. Based on actual exchange rates we have computed the average historical exchange rates for each applicable period through June 30, 1976, as shown in Schedules 23A-2 through 23E-2. We have applied such exchange rates to the pro-rated amount due in each quarterly period to determine the pro-rated amount due which you should have received in pounds sterling at historical rates as shown in Schedules 23A through 23E.
4. The total pro-rated amount due in dollars has been converted to pounds sterling at the exchange rate in effect at June 30, 1980 and compared to the amount due in pounds sterling based on the historical exchange rates to determine any gain or loss due to the exchange rate differential. Since the pounds sterling value based on the June 30, 1980 exchange rate is less than the pounds sterling value based on historical exchange rates you have suffered an "Exchange Rate Loss". Such a loss would have occurred had Capitol paid you the amounts due as shown herein on a timely basis.
5. We have then applied a simple interest rate of 7% (1-3/4% quarterly) to amounts due in pounds sterling and converted the net results to U.S. dollars to determine the amount of interest due. Our computations appear on Schedules 23A through 23E and are summarized on Schedule 23.

With respect to AF of M fees withheld we have calculated the interest and exchange rate differential through June 30, 1980 in Schedule 23F as follows:

1. Using the AF of M withholdings as shown in Schedule 6, we have calculated interest from 30 days and 60 days after the mid point of each quarter for the United States and Canada, respectively. If the period reported is greater than

one quarter, we used the midpoint of the period during which such withholdings were made in the United States and Canada, respectively. Capitol Records began to withhold these fees beginning August 1, 1974 and July 1, 1974 from earnings in the USA and Canada, respectively.

2. We have computed the average exchange rates in effect 35 and 65 days after each month for the United States and Canada, respectively, in Schedule 23F-1, for each period covered, and applied such rates to the amount of AF of M fees withheld during each period. The only exception is for the period January 1, 1970 to July 31, 1974 during which the fees were being withheld by EMI (see item 3 below).
3. AF of M fees through July 31, 1974 for the USA, and June 30, 1974 for Canada were actually withheld by EMI in England through January 20, 1977. The dollar value of these reserves, totaling \$389,723.90, was equivalent to £167,792 in pounds sterling, actually withheld by EMI. Therefore, we have used this amount of pounds sterling in our computations hereunder. The examination report for England includes the appropriate calculations for interest based on applicable U.K. interest rates from September, 1970 through January 20, 1977, but does not include a claim of credit for the exchange rate differential.
4. Subsequent to January 20, 1977 this reserve was transferred from the books of EMI to Capitol. We have calculated interest due on the reserve from January 21, 1977 to June 30, 1980.
5. We have compounded the interest due at the rate of 7% annually.

We have summarized the amounts due from exchange rate differentials and the interest due on claims in the United States, Canada and Mexico from September 1, 1969 through June 30, 1979 on Schedule 23, which totals \$7,287,880.23.

We recognize that Capitol has not paid the amounts due as shown herein as of June 30, 1980. Per the instructions of counsel this date was used as a cut-off point in order to quantify the amounts due for interest and the exchange rate differential. We recognize that at the time Capitol pays you the amounts due as shown in Schedules 1 through 22, a more up-to-date calculation will be necessary based on the then current exchange rate.

August 11, 1970

LETTER OF DIRECTION

Capitol Records, Inc.,
Capitol Records Distributing Corp.
1750 North Vine Street
Los Angeles, California 90028, U.S.A.

Gentlemen:

Reference is made to the Agreement made as of September 1, 1969, between Capitol Records, Inc. and Capitol Records Distributing Corp., on the one hand (herein jointly called "Capitol"), and Apple Records, Inc., on the other (herein called "The Capitol-Apple Agreement"); and to the Agreement of September 1, 1969, between The Gramophone Company Limited trading as E.M.I. Records (herein called "E.M.I.R.") and Apple Records, Inc., (herein called the E.M.I.R. - Apple License); and to the various agreements conditioning, implementing and supplementing same.

Capitol is hereby directed to pay to E.M.I.R. in England on our behalf for onward transmission to Apple Corps. Limited all net moneys that become due to us under the terms of the Capitol-Apple Agreement, less mechanical royalties and fabrication costs, as and when those moneys become due for payment.

This direction shall continue only as long as Apple Records, Inc., shall continue to be the Licensee of E.M.I. under the E.M.I.-Apple License.

Yours faithfully,

APPLE RECORDS INC.

BY: 

- An Authorised Signer

12th August, 1970.

To: The Gramophone Company Ltd., trading as EMI Records.
From: Apple Records Inc. (New York)

Gentlemen:

- Reference is made
- a) to the Agreement made as of September 1, 1969, between Capitol Records Inc. and Capitol Records Distributing Corp., on the one hand (herein jointly called "Capitol") and Apple Records Inc., on the other and
 - b) to the letter Agreement dated September 12, 1969, amending Section 13 of Article II of the Capitol - Apple Agreement,
 - c) to the letter Agreement dated September 12, 1969, dealing inter alia with Schedules "A" and "B" of the Capitol-Apple Agreement
 - d) to the Artists Acknowledgment (all of which documents are called "the Capitol-Apple Agreement")
 - e) to the Agreement of September 1, 1969, between The Gramophone Company Limited trading as EMI Records (herein called "EMIR") and Apple Records Inc. (herein called "the EMIR-Apple Licence") and
 - f) to the "Naxos Letter" dated 31 December 1969
 - g) to the "Amending Letter" dated 31 December 1969

We have directed Capitol to pay to you in England all monies which became due to Apple Records Inc. under the terms of the Capitol-Apple Agreement less mechanical royalties, as and when those monies become due for payment, as indicated by the attached letter of direction to Capitol dated August 11, 1970.

You hereby undertake to pay the sterling proceeds of such monies subject to the rights of Naxos Holdings Limited, to Apple Corps Limited within 5 business days of receipt from Capitol. This direction shall continue only as long as Apple Records Inc. shall continue to be your licensee under the EMIR-Apple Licence.

Read and accepted:
THE GRAMOPHONE CO. LTD.
[Signature]
An authorized signer

Yours faithfully,
APPLE RECORDS INC.
[Signature]
An authorized signer

AGREEMENT made as of September 1, 1969,
between CAPITOL RECORDS, INC., a California corporation,
1750 North Vine Street, Hollywood, California 90028 (called
"Capitol"), CAPITOL RECORDS DISTRIBUTING CORP., a
Delaware corporation, 1750 North Vine Street, Hollywood,
California 90028 (called "Distributor") and APPLE
RECORDS, INC., a New York corporation, c/o ABKCO INDUSTRIES,
INC., 1700 Broadway, New York, New York 10019 (called
"Apple").

WHEREAS, Capitol has heretofore acted as
manufacturer and distributor under certain contractual
arrangements with ELECTRIC & MUSICAL INDUSTRIES, LIMITED,
(called "EMI"), whose address is Blyth Road, Hayes,
Middlesex, England, with respect to Beatles' masters;
and

WHEREAS, EMI has now licensed Apple for the
United States, Mexico and Canada with respect to Beatles'
masters which agreement is herein called the "Licensing
Contract" (a copy of which is attached hereto); and

WHEREAS, Capitol has facilities for and is engaged
in the processing and pressing of records derived from
masters owned by others, and Apple desires to process
and press records through Capitol's facilities; and

WHEREAS, Distributor is engaged in distributing
and selling records in the United States and Apple has and
will have records for distribution which records Distributor

~~in the same ratio as obtained in the applicable purchase
or purchases. The amount of credit or refund shall be
computed in accordance with Schedule "A".~~

10. At the end of each month, Apple will
invoice Distributor for all records purchased by Distributor
hereunder during said month. Within not more than Thirty
(30) days after the end of each month of the term, and
thereafter, so long as may be required, Distributor will
render to Apple a statement of the net quantities of
records sold by Distributor during such month, and the
credits to which Distributor is entitled, and, concurrently
therewith, Distributor will pay Apple the amount shown
to be due with no cash or other discount provided that
Distributor may subtract from such payment and pay direct
to Capitol on Apple's behalf such sums as may then be due
Capitol under Section 2 of Article II and such payment
shall discharge Apple's obligation to pay such indebtedness.

Amendment adds 11.

c. Section 11. is added to Article III to read in full as follows:

"11. If Apple requests that Distributor alter any packaging of Apple records or include in such packaging any additional elements with the result that Distributor's out-of-pocket cost for such packaging exceeds the cost normal for that prefix of record as set forth in Capitol's then current Manufacturing Handbook, Distributor will accede to Apple's request and Apple will pay to Distributor a sum equal to 50 percent of such excess out-of-pocket cost plus 10 percent of such excess out-of-pocket cost as an allowance for overhead."

ARTICLE V
GENERAL PROVISIONS:

1. The term of this agreement shall commence on September 1, 1969 and shall expire on January 25, 1976. Each 12-month period during the term commencing on September 1 and expiring on August 31 is referred to as a "year of the term" and the period from September 1, 1975 through January 25, 1976, is referred to as the "final year of the term". Provided, however, notwithstanding the expiration of the term, the provisions of this agreement other than those pertaining to the delivery of Beatles masters shall continue in force and effect if and so long as Apple continues to be the licensee of EMI on substantially the same terms as those contained in The Licensing Contract.

2. No casual or inadvertent failure to comply with a provision of this agreement shall give rise to a cause of action under this Agreement unless the aggrieved party shall give notice to the other thereof and such failure thereafter persists.

3. Any notices, demands, or the like which are required to be given under this Agreement or which either party may desire to give to the other, shall be given in writing and may be served upon the party by registered airmail, postage prepaid, or by telegram prepaid, addressed as follows:

As to notices to be served on Capitol:

CAPITOL RECORDS, INC.
P.O. Box 2391
Hollywood, California 90028
Attention: Secretary

As to notices to be served on Apple:

APPLE RECORDS, INC.
c/o ABKCO Industries, Inc.
1700 Broadway
New York, New York 10019

or to such other persons and/or addresses as the respective parties may from time to time designate by notice given in conformance with the above. In all cases, the date of sending such notice shall be the effective date thereof.

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4. Capitol shall maintain at its Executive Offices in Hollywood, California, true and accurate books and records relating to the manufacturing, to purchases and sales of Apple's records made pursuant to the provisions of this Agreement. Apple shall be entitled, by means of an independent certified public accountant, to make an examination and audit of said books and records at Apple's own expense, upon at least seven days notice in writing of its desire to do so. Said examination and audit shall be conducted during normal business hours and in such manner as not unreasonably to interfere with Capitol's usual business operations. Apple shall be deemed to have consented to all statements and accountings rendered hereunder and the same shall be binding upon Apple and not subject to objection by it for any reason whatever unless specific

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(B)

Eml-apple
H.B.

AN AGREEMENT made the _____ day of _____ One thousand
nine hundred and _____ BETWEEN THE GRAMOPHONE COMPANY
LIMITED (trading as E.M.I. Records) of Hayes, Middlesex,
England (hereinafter called "E.M.I.R.") of the first part
APPLE RECORDS INC a New York corporation, c/o Akkco Industries
Inc., 1700 Broadway, New York, N.Y. 10019, U.S.A. (hereinafter
called "the LICENSEE") of the second part

WHERE IT IS AGREED as follows:-

1. FOR the purpose of this agreement:-

(a) "Matrix" means recorded tape, disc, master, mother or
stamper or any other sound bearing contrivance or device
intended for use in the manufacture of records, reproducing
the recordings referred to in Schedule Clause 1 (hereinafter
called "the recordings")

(b) "Record" means disc record, tape record or any other
sound bearing contrivance or device (not being a matrix)
reproducing the recordings

(c) "The Territory" means the United States of America,
Mexico and Canada

(d) "Schedule" means the provisions set out in the clauses
of the schedule hereto and which shall be deemed to be
incorporated herein

2. E.M.I.R. grants to the LICENSEE the sole and exclusive right
to manufacture, advertise, distribute and sell in the Territory
under such trademark as the LICENSEE may select records derived
from all the recordings PROVIDED THAT the LICENSEE enters into
a Manufacturing and Distribution Agreement with CAPITOL RECORDS
INC of 1750 North Vine Street, Hollywood, California 90028
including any of its United States subsidiaries (hereinafter
collectively referred to as "CAPITOL") in the form attached
hereto

3. (a) E.M.I.R. shall supply free of cost to the LICENSEE sample
records of the recordings the LICENSEE bearing all shipping
charges

(b) E.M.I.R. shall supply or cause to be supplied to the

3 Savile Row London W.1 its successors or assigns instead of LICENSEE in respect of records sold in the territory subsequent to termination a sum equal to that which LICENSEE would have received had the said records been sold under the Agreement referred to in Clause 2 hereof

(ii) a breach by the LICENSEE of any of the exclusivity provisions contained in Article II.1 and Article III.1 and 2 of the Agreement referred to in Clause 2 hereof which breach shall not have been remedied within thirty (30) days of notice being given to E.M.I.R. to the LICENSEE to remedy such breach

In the event of E.M.I.R. terminating this Agreement under this sub-paragraph then in respect of records sold in the territory subsequent to the date of termination E.M.I.R. shall cause to be paid to LICENSEE a sum equal to that which LICENSEE would have received had the said records been sold under the Agreement referred to in Clause 2 hereof

(b) In the event of E.M.I.R. terminating this Agreement or procuring the termination of this Agreement for any other cause E.M.I.R. in respect of records sold in the territory subsequent to the date of such termination shall pay to LICENSEE a sum equal to that which LICENSEE would have received had the said records been sold under the Agreement referred to in Clause 2 hereof

(c) On the expiration of the term of this Agreement the LICENSEE shall continue to have the sole and exclusive right to use for the manufacture of records the matrices supplied hereunder together with all derivative copies thereof PROVIDED THAT and so long as the Agreement referred to in Clause 2 hereof shall continue upon substantially the same terms and PROVIDED also that if for any reason E.M.I.R. shall terminate the rights granted under this sub-clause (c) either with or without cause or if the relationship of manufacturer and distributor between LICENSEE and Capitol shall be terminated E.M.I.R. will thereafter pay in respect of records sold in

the territory sums of money calculated on the same basis as set out in sub-clause (b) of this Clause

10. SUBJECT to Clause 9 above the duration of this Agreement shall be for the period from 1st September 1969 until the 26th January 1976

11. All notices, writs, legal process or any other documents served under or in respect of this Agreement shall be addressed to the party to be served at the address of that party hereinbefore appearing or at such other address for service as may be agreed in writing and shall be sent by registered air mail post and shall be deemed to have been delivered in the ordinary course of such post

12. NO modification amendment or waiver of this Agreement or any provisions thereof shall be binding upon E.M.I.R. and/or the LICENSEE unless confirmed by a written instrument signed by an officer of the company to be bound. No waiver of any provision of or default under this Agreement shall affect E.M.I.R.'s and/or the LICENSEE's right thereafter to enforce such provision or to exercise any right or remedy in the event of any other default whether or not similar. This Agreement shall be construed and given effect to according to the laws of England and the High Court of Justice in England shall be the Court of Jurisdiction

SCHEDULE

1. The Recordings

All recordings made by "The Beatles" either jointly or severally during the period of this Agreement and all records previously made by the Beatles which are owned by and are available to E.M.I.R. for the territory.

Signed by KEN EAST
on behalf of THE GRAMOPHONE
COMPANY LIMITED in the
presence of:-

T. J. HOWARD

T. J. Howard

20, DUNELEY RD.,
WRAYSBURY, BUCKS.



Ken East
.....
Authorized Signatory

Apple

August 28, 1970

8/31
Apple

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

cc: Mr. S. Ianucci

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

B

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

September
8th
1970

orig retyped to bring
letter date into a print
w/ date registered in 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

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.

9.15.720

Registered

Apple

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 contend 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,

September 23, 1971

Apple Records, Inc.
1700 Broadway
New York, New York 10019

Attention: Mr. Joel Silver

Dear Joel:

I must say I was greatly surprised to see much of the content of the schedules of what you call "open items" on Beatle and non-Beatle product which Allen handed to Bhaskar several weeks ago in New York.

I say "surprised" since Capitol and Apple have been operating under the Beatle product agreement since 9-1-69, and the non-Beatle agreement since 10-1-69 (2 years!) and this is the first time Apple has presented such a schedule to Capitol.

You and I have, of course, discussed a few of the matters on the phone and I thought I had given you the answers. On other matters, I am not quite certain just what is being questioned. Therefore, I thought I would write you to confirm Capitol's position on some items and to ask you for clarification of Apple's position on others.

Let's discuss the schedules in regard to Beatle product first. The following are the items listed, although I have changed the listing order for convenience into dollar importance.

D) Scrapped Records, 9/30/70	\$ 715,961.77
E) Promotional Records, 9/30/70	395,837.19
F) Interest (7/31/70)	189,089.19
B) Mexican Sales, 12/31/70	80,508.16
A) Canadian Sales, 3/31/71	61,103.14
G) Advertising (Beatle Trade Ads)	24,050.58
C) Ampex Tape, 6/30/70	13,731.01
Sub-Total	\$1,480,281.04
H) John Lennon/Plastic Ono Band Credit	(501,960.91)
Total	\$ 978,320.13

Apple states that Mr. Klein and Mr. Iannucci agreed verbally that Capitol would pay interest on the money that Capitol was holding until Apple could get the necessary approvals from governmental authorities in England to make payment in the manner in which Apple desired.

This question came up before. Mr. Iannucci was asked if he had in fact made such a verbal agreement with Mr. Klein and Mr. Iannucci says he made no such agreement.

As stated above, you will recall the payments were held up at Apple's request, in order that Apple could get the necessary approvals from the Bank of England to have payment made to Apple in the U.S. If Capitol had not honored Apple's request, payment would have been made to EMI in England. When the approval first sought was not obtained, Apple changed its tack and asked Bank of England for a different approval. It was not until August, 1970 that Apple received Bank of England approval which was a condition precedent to the effectiveness of the September 1, 1969 agreement.

It is not reasonable to demand that Capitol pay interest on moneys the payment of which was held up because of Apple's failure to obtain Bank of England permission for Capitol to make payment.

APPLE'S POSITION: (Taken from a series of conversations between Apple & Capitol personnel during December 1969 and January 1970) by Allen Klein.

Apple Records, Inc. had received no funds on sales of records from September of 1969 through December of 1969. Capitol was most anxious to release an album entitled "Hey Jude", which was an Apple record. I, on behalf of Apple, indicated we would not be willing to turn over this product unless we received payment on our past sales. EMI (Len Wood) informed Mr. Iannucci and myself that a payment to Apple by Capitol on these sales prior to Bank of England approval being received on all of the contracts would, in their opinion, put EMI in breach of the Bank of England provisions. Mr. Iannucci volunteered to place the money in an escrow account for Apple and Apple would receive interest thereon. EMI again indicated any payment whether in an escrow account or otherwise, would present EMI with same Bank of England problem. Mr. Iannucci then indicated after much prodding that he would be willing to pay interest to Apple on the money at a rate of 5% until the monies which were due would be remitted. In speaking to Len Wood during the early part of 1970 about this particular matter, I indicated our position. He was aware of it, so was Mr. Iannucci and so was Mr. Silver who listened in and spoke to Mr. Iannucci when I was on the phone with him in California. One of the economic reasons which, in my judgement, influenced Mr. Iannucci to offer the interest on the unpaid money was the fact that an excess of 2 million "Hey Jude" discs had been manufactured and no jackets had been manufactured because Apple withheld the album design, and therefore the cost of scrapping was far more than far less.

SUMMARY:

1. Apple states that Mr. Klein and Mr. Iannucci agreed verbally to the payment of interest on the funds withheld from Apple while necessary approvals were being obtained from governmental authorities in England to make payment in the manner in which Apple desired. The reason why Mr. Iannucci was willing to do this was to get the "Hey Jude" album, which Apple was holding up.
2. Capitol states that Mr. Iannucci says he made no such agreement and that it is not reasonable for Apple to demand that Capitol pay interest on moneys the payment of which was held up because of Apple's failure to obtain Bank of England permission for Capitol to make payment.

w. I'd like some basis for handling secondary
market sales.

EXHIBIT K

b. Klein again not satisfied with proof of scrapping.

2. Item E - Klein's complaint is that there is insufficient documentation to support this and not satisfied that all of these records are promotional. Klein wants a certificate that every promotional record has a hole punched in it - Wants puncher to say so. Klein says how can Capitol give away 45,000 albums - on Yellow Submarine he says we gave away 100,000 albums.

b. Klein says it could be that our branches have records missing and so they're lumped in as promotional.

c. Klein says just show Apple what Capitol gives away. Capitol says some are subscription service to radio stations which are paid. Klein says "Oh, Capitol is paid and Apple is not?" Burdick says it's in agreement. Klein doesn't press.

3. Item 3 - Klein says Silver was present when Iannucci promised to pay interest.

b. Seider says there was discussion in England to effect that because of monthly withhold for Maclen moneys Capitol agrees to pay interest on the unpaid money. Chaum says he remembers such a discussion but not in England and that apparently no agreement was reached.

Apple Records, Inc.
(A New York Corporation)

REGISTERED POST

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

January 1976.

Attention the Secretary

Dear Sirs,

You will be aware that an examination and audit of Capitol's books and records has been made pursuant to Article V.4 of the Agreement dated 1st September 1969 between Apple Records, Inc., ("Apple"), Capitol Records, Inc., ("Capitol") and Capitol Records Distributing Corporation ("Distributor") regarding Beatle recordings by Messrs. Prager & Fenton, certified public accountants, who have now completed their report.

A copy of their Report dated 31st October 1975 is enclosed with this letter.

You will note that there are a number of matters referred to in Messrs. Prager & Fenton's report as apparent breaches or violations of the Agreement and we therefore give you notice in this letter of the breaches or violations of the Agreement referred to in the report and request you to remedy all such breaches within fourteen days of the date of this letter.

We also notify you that for the purposes of Article V.4. we object to statements and accountings rendered under the Agreement by reason of the matters outlined in the enclosed report.

We also hereby notify you for the purposes of Article V.3. that all notices provided by the Agreement to be served on Apple should be sent to Apple Corps Limited at 29 St. James's Street, London, S.W.1. marked for the attention of Mr. N.S. Aspinall with a copy to B.V. Grakal, Esq., c/o Schwartzman and Greenberg, 9777 Wilshire Boulevard, Suite 1018, Beverly Hills, California, 90212, U.S.A.

The report of Messrs. Prager & Fenton refers to a number of explanations which were requested by Messrs. Prager & Fenton on our behalf and have still not been supplied. We hereby formally request these explanations within the said period of fourteen days.

The very considerable sum of US\$3,206,312.18 is shown to be due to the undersigned and we hereby formally request payment of this amount immediately while reserving our rights in respect of any further sums subsequently shown to be due and interest thereon.

You will appreciate that Messrs. Prager & Fenton's audit report is in respect of the period ending 31st December 1975. We would like to make it clear that our rights in respect of the periods thereafter are expressly reserved.

/.....

others, it will pay to Apple an amount equal to 17.5% of 100% of the retail list price for all sales by such licensees. As previously discussed, Capitol contended that Apple agreed to a rate of 13-3/4% of the retail list price for sales made by Ampex. However, Capitol could furnish no documentation for such an acceptance. Schedule 12 therefore sets forth additional royalties due, to adjust the rate to 17.5% of the retail price, and totals \$45,198.67.

Incorrect Charge - #1842 - \$2,432.08

Capitol indicated that in January of 1972 a special accounting was rendered in the case of selection number 1842 in the amount of \$27,260.21, for sales made during December, 1971. This special accounting was necessitated by the fact that Capitol failed to account for this record in its normal monthly accountings for that month, which was the initial month of release. Included in this accounting was a charge for a special vinyl, which Capitol contends was requested by John Lennon. Your representative advised us that there is no basis for making this charge. Therefore, an adjustment is due in the amount of \$2,432.08.

In the event that Apple did not receive the special accounting, a further adjustment to this report in the amount of \$27,260.21 would be warranted.

Interest

Interest, if any, due on the delayed payments or underpayments disclosed herein has not been determined.

Miscellaneous Charges

Included in Capitol's monthly accountings were various adjustments which represented either corrections for errors or special accountings for areas not specifically covered by the Agreement (See Exhibit "E"). Some of these adjustments are discussed in separate sections of this report (i.e. Buy-Sell Adjustment

June
15th
1976

RETURN RECEIPT REQUESTED

Apple Records, Inc.
C/O Apple Corps Limited
29-30 St. James Street
London SW1 1HB, England

Attention: Mr. N.S. Aspinall

Gentlemen:

In reply to your letter of January, 1976 and the audit claim of Prager & Fenton dated October 31, 1975 enclosed therewith, set forth below are the responses of Capitol Records, Inc. to the points raised in said audit.

Part or all of certain claims appear to be barred by the statute of limitations. Accordingly even where Capitol acknowledges the correctness of a claim, it is not always possible to determine the amount actually due.

1. Schedule 1 - Price Escalation:

The argument that appears to be made by the auditors in the first full paragraph on page 8 is that paragraph 6(a) requires Apple to deliver two new albums each year and that since two albums were delivered in the period 9/1/71 through 8/1/72 that Capitol could not elect to take an additional non-Beatle Master in partial satisfaction of the requirements of Section 6.

The answer to this is simple. The album "Sometime in New York City" was not a "non-Beatle Master". Section 5 of Article I defines Beatles Masters as ". . . those masters which feature the performances of all the Beatles who are then performing as the Beatles or masters which EMI has accepted for release as recordings of the Beatles and to which Apple acquired manufacturing rights."

EMI accepted and released "Sometime in New York City" under the 1967 recording agreement as a recording of the Beatles and Apple acquired manufacturing rights to

Apple Records, Inc.
June 15, 1976
Page Two

that album. The album therefore was a Beatles Master without reference to the election letter.

The claim is not valid.

2. Schedule 2 - Adjustment for "Sometime In New York City":

In light of the response to Schedule 1 above, this adjustment is not in order.

3. Schedule 3 - Returns at Higher Rates:

It was the intention of the parties that payments be made by Capitol on net sales. Net sales is gross sales less returns. The additional point should be made that there is no way to tell, with respect to a given record returned, when it was sold. Lifo and Fifo methods are arbitrary in addition to being inconsistent with payment obligations based on net sales.

4. Schedule 4 - Inventory Adjustment:

These records were not distributed. It was, as claimed, an inventory adjustment. The back-up information is available for your examination.

5. Schedule 5 - Excessive Promotional Distribution:

The claim that there is a limit of 5000 units per album and 1000 units per single is nonsense. There is no such provision in the contract and the provision is contrary to record industry practice and common sense. The number of promotional records given by Capitol as a percentage of gross sales is, with respect to Apple (New York) product, lower than the average Capitol has experienced with respect to comparable Capitol label product.

6. Price Escalation on Excess Promotional Distribution:

This claim is answered in items 1 and 5 of this letter.

7. Schedule 6 - Canadian Price Adjustment:

Some of the shipment documents are available and

Apple Records, Inc.
June 15, 1976
Page Three

they refute most of this claim. Capitol concludes the remainder of the claim is not valid.

8. Schedule 7 - Unreported Record Club Sales:

The auditors claim is correct. The claim for \$9,479.49 is valid, at least in part.

9. Schedule 8 - Record Club Sales at Buy-Sell Price:

Under the 1962 recording agreement Capitol had the right to distribute Beatles recordings through record clubs in the United States. Between 1965 when that contract expired and January of 1967 when the 1967 recording agreement was signed, Capitol made records recorded by the Beatles between 1965 and 1967 available to the Capitol Record Club. As of 1967, Capitol was told that such recordings could not be made available through the Club without the consent of the Beatles. Obviously, it was too late to do anything with respect to records made available to the Club before Capitol was aware of the restriction. The 1967 recording agreement provided that in the event records were made available to a record club in the United States, royalties would be paid on 5% of English wholesale and the Record Club was told this. The Record Club continued to sell copies of these records until December 31, 1974 (with a sell-off period ending December 31, 1975). ABKCO, as representative of Apple agreed to accept royalties at 5% of English wholesale.

10. Price Escalation - Record Club Sales:

This claim is answered by item 1 above.

11. Schedule 9 - Price Adjustment - Ampex Sales:

This claim for \$7,279.02 is at least in part, a valid claim.

12. Schedule 10 - Ampex Rate Adjustment:

Capitol and Apple did agree that Apple's share would be 13 3/4%, not 13 1/4%. The claim for \$5,922.65 is valid, at least in part.

Apple Records, Inc.
June 15, 1976
Page Four

13. Schedule 11 - Unreported Ampex Sales:

Payments for the months of April and May, 1972 were sent to EMI for Apple Records, Inc. on November 16, 1972. The claim is not valid.

14. Schedule 12 - Ampex Rate Adjustment:

The 17 1/2% figure set forth in the contract was the amount Ampex had agreed with Capitol to pay for Beatle product. Mr. Klein wished to get more and therefore wanted the contract to show the whole 17 1/2% payable to Apple. Of the 24% Ampex ultimately agreed to pay, Mr. Klein and Mr. Chaum agreed in September of 1969 that it would be split 10 1/4% to Capitol and 13 3/4% to Apple. Mr. Klein has acknowledged that he did make this arrangement with Capitol. This claim is not valid.

15. Incorrect Charge No. 1842:

Mr. Klein advised Capitol in the fall of 1971 that Mr. Lennon desired his single No. 1842 to be pressed on green vinyl. Capitol advised Mr. Klein that this would be more expensive than black vinyl and Mr. Klein agreed on behalf of Apple to absorb the difference. A document was prepared to this effect but was never signed.

We assume, with respect to the remaining matters mentioned in the audit that no claim has been made. Therefore, we do not respond to the items mentioned, except to say that Capitol had the right to scrap product under the 1969 contract and Capitol did provide evidence of such scrapping to Apple.

Very truly yours,

MAHONEY, COHEN & COMPANY
CERTIFIED PUBLIC ACCOUNTANTS

437 MADISON AVENUE
NEW YORK, NEW YORK 10022
TELEPHONE: MURRAY HILL 6-9222

February 7, 1975

Capitol Records, Inc.
1750 North Vine Street
Hollywood, California 90028

Dear Vaughn:

Since April 1973, it has been my understanding that Capitol Records has been holding in escrow, monies due to either Apple Records (Calif) or Apple Records (N. Y.).

The escrowing of these monies, as you know, is as a result of litigation in which the respective Apple Companies are presently engaged, in the United States. Recently, it has been determined by Capitol Records that funds previously transmitted on a monthly basis to E. M. I. with respect to Beatle Recordings, should no longer be transmitted as a result of an interpretation of an attachment order. Through November 1974, approximately \$1,800,000 of such funds has been accumulated by Capitol Records.

It would seem most appropriate for these funds, as well as funds which previously had been withheld by Capitol Records since March 1973, to bear interest at the prime lending rate, at least.

I would appreciate your thoughts on this subject as soon as you have had a chance to discuss this with your office.

Very truly yours,


Lawrence W. Boger

LWB:sk

February 25, 1975

Mr. Lawrence Boger
Mahoney, Cohen & Company
437 Madison Avenue
New York, New York 10022

Dear Larry:

Re: Your Letter February 7, 1975

I am advised by our law department that the word "escrow" has a very precise meaning and that the sums due to Apple California or Apple New York are not being held in "escrow."

The moneys for Apple are held in Capitol's general account which earns the highest rate of interest available for short term investments. This is between 6% and 6½%. These moneys cannot go in long term investments because of the possibility that a court may order them paid to the Sheriff (or released to Apple) on very short notice.

I have been advised that the interest so accrued will be credited to the account of whatever party is ultimately determined to be entitled to the principal.

I hope this answers your questions.

Sincerely,

Frere Cholmeley & Co.

Solicitors

N A CAMPBELL	
A E L HORROCKS	P A CYWAN
D WISDOM	K E P J HARDING
S J MOSLEY	D G HAWKINS
G H SOUTHERN	J B BRODIE
M B BOREHAM	E T RAZZALL
H R D BILSON	N B BAKER
J B GOUGH	J L DREWITT
W S DIBBS	F G PRESLAND

FRANK P CAOLA
CONSULTANT28 Lincoln's Inn Fields,
London, WC2A 3HH

Telephone: 01-405 7878

Telex: 27623

Cables: Freres. London, W.C.2.

Your Ref.

Our Ref: U

13th October 1976

Dear Sirs,

We act for Apple Corps Limited and Apple Records Inc. and are instructed to write to you in connection with the Agreement dated 1st September 1969 between your company, Capitol Records Distributing Corp. and Apple Records, Inc. of New York relating to exploitation of Beatle recordings.

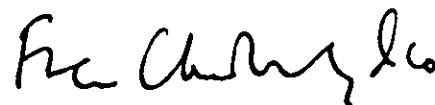
We also write in connection with the Agreement dated 1st October 1969 between your company, Capitol Records Distributing Corp. and Apple Records Inc. of California relating to exploitation of non-Beatle recordings.

Considerable sums of money are and have been held by your company on behalf of our client companies pursuant to the said Agreements and in particular we understand that you are holding sums of approximately U.S. \$589,356 owing to our client company under the latter Agreement.

We write to request confirmation that all such sums have been held at all times in interest bearing accounts for the benefit of our client companies.

Please confirm that your understanding of the arrangement is the same as ours and let us have full details of the amounts held as at today's date together with the rate or rates at which interest has been accruing for our clients.

Yours faithfully,



Capitol Records, Inc.,
1750 North Vine Street
Hollywood
California 90028
U.S.A.

Interest

October
27th
1976

Frere Cholmeley & Co.
28 Lincoln's Inn Fields
London WC2A 3HH, England

Your Reference: U

Gentlemen:

We have your letter of October 13, 1976.

The amounts of money Capitol is "holding" or has withheld from Apple New York and Apple California are not "held" in interest bearing accounts for the benefit of your clients.

At the time of Capitol's letter of February 25, 1975 in which it was stated that interest would be paid, no adjudication had been made that any sums were in fact attached and Capitol was holding the money for its own protection. Subsequently, an order was entered that the money was attached and it was paid to the Sheriff of New York. (I don't believe the Sheriff pays any interest.)

Capitol is holding approximately \$589,000 under the Bangla Desh contract with Apple California. This money was attached but the Sheriff never ordered it paid over to him. If he had, Apple would receive no interest and we see no reason why Capitol should pay interest on this attached money.

The other sums Capitol is holding relate to the solo royalties of Lennon, Starr and Harrison. These gentlemen or any one of them could have had the money paid to him by the simple expedient of filing a claim in the attachment proceeding as McCartney did. The fact that they do not and the fact that Capitol seeks to preserve the status quo by not turning this money over to the Sheriff does not in our view entitle your clients to interest.

Frere Cholmeley & Co.
October 27, 1976
Page Two

Finally, Capitol is holding an amount sufficient to cover the AFM Trust and Special Payments Fund requirements. This, too, could be paid at Apple's direction. Failure to give such direction does not in our view entitle Apple to interest.

All sums in excess of the total amount due the Sheriff under the ABKCO attachment against Apple Corp Limited property have been paid to EMI for onward transmission as required.

The interest Capitol has earned is small enough recompense for the cost and administrative inconvenience of Capitol's role as an innocent victim of Apple's litigation with ABKCO. Capitol's involvement in the attachment proceeding has been substantial, none of it for Capitol's benefit, but only to protect as far as possible the rights of Apple.

Very truly yours,