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The Apple of My Eye: A History of René Magritte's, the Beatles', and Steve Jobs' Entwined Trademarks

Rene Magritte, *"Au Revoir,"* 1966

Paul McCartney first saw the apple on his dining room table in the summer of 1967. Large, vivid green, with "Au Revoir" written across it, McCartney immediately considered the image of the fruit, painted by the Belgian graphic designer, René Magritte, a year earlier, to be iconic. As McCartney recalled, "This big green apple, which I still have now, became the inspiration for the logo" of the Beatles' multimedia company, Apple Corps, that the band founded in 1968. McCartney and his three bandmates—John Lennon, George Harrison, and Ringo Starr—used Magritte's apple image, a recurring theme in the artist's work, as the starting point for their new company's logo. Imitating Magritte's style which presented familiar objects in strange and unexpected ways, they printed their small, green Granny Smith apple on records, CDs, and other merchandise.[1] Remarkably, the marketing potential of Magritte's apple image did not end there.

Steve Jobs grew up listening to the Beatles. When the tech entrepreneur wanted to start his own company with the engineer, Steve Wozniak, he called it "Apple" in tribute to the band. The pair launched Apple Computer, with the logo of a small, rainbow coloured apple with a bite taken out of it, in 1976.[2] But the Beatles did not want to share the apple branding and sued Apple Computer three times for trademark infringement. Over the course of the next three decades, the two companies fought for the right to use their version of the "Apple" name and logo. The recycled apple image that brought together a graphic designer, pop band, and computer company sat at the heart of an intellectual property battle defining computer and music innovation in the late twentieth and early twenty-first century.

Ceci n'est pas une pomme

René Magritte did not live a typical bohemian artist's life. Born in Lessines, Belgium, in 1898, he and his childhood sweetheart and later wife, Georgette Berger, lived in the suburbs of Brussels. Magritte spent his early career designing wallpaper and creating posters for the Brussels couture house, Norine. He began adopting a more figurative style of painting in the mid-1920s and in 1927, René and Georgette moved to Paris to explore the flourishing Surrealist movement. In France the couple encountered artists experimenting with new creative styles that centred the imagination of dreams and the subconscious

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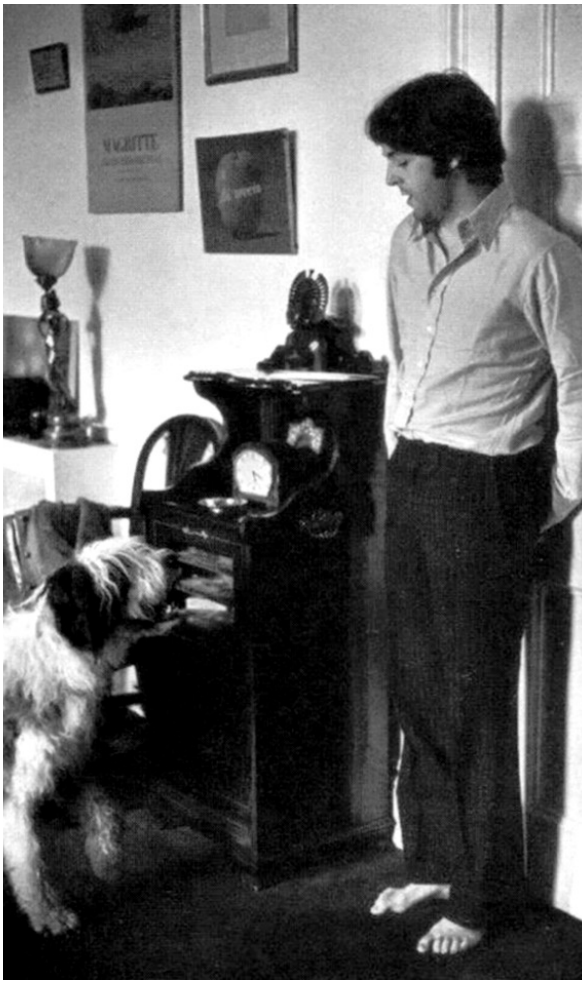
mind to challenge bourgeois values, but they decided that the quiet suburbs suited them better. They returned to Brussels and Magritte resumed his work in advertising. In his spare time, he took to his dining room to paint. Craving routine, he painted at the same time every day dressed in a suit, tie, and slippers. The surrealist art Magritte created appeared to contradict his conventional lifestyle. The gap between Magritte's art and his appearance surprised people, with some even labelling him an imposter and a con man.[3] While his signature bowler hat and dark suit coded him as bourgeois and respectable, his work– which drew inspiration from numerous sources, including earlier art movements such as impressionism, cubism, and futurism, as well as film, photography, Georgette, and what he described as "the banal" in everyday life–nonetheless confirmed his place among the Belgium avant-garde.[4]

Rene Magritte, *"The Son of Man"*, self-portrait, 1946

Magritte not only took inspiration from everything around him; he also inspired others. Probing the relationship between what people perceive and what is real, Magritte's work informed Dadaism, an art movement that critiqued the First World War through the repetition of satirical and nonsensical images, as well as its successor, Surrealism. Magritte's questioning of art's ability to represent reality also inspired the pop artists of the mid-century from Britain and the United States who, like surrealists and dadaists, wanted to challenge traditional approaches to art which they believed reflected little of their daily lives. Instead, pop artists drew inspiration from, incorporated, and critiqued everyday items and sources of "low-brow" culture including Hollywood movies, adverts, and cartoons. They also used commercial advertising methods like silk screening to challenge the notion that art is bespoke and original.[5] Drawing a direct lineage between their subversion of common images and Magritte's, pop artists like Jasper Johns and Robert Rauschenberg heralded the Belgian painter as the "father" of popular culture.[6] The nineteenth century writer Isidore Lucien Ducasse considered such borrowing of ideas a natural part of the artistic process, writing that "plagiarism is necessary. Progress implies it."[7] The scholar George Basalla concurred that "Continuity prevails throughout the made world."[8] While artists commonly draw inspiration from the work of others, Magritte nevertheless disliked this association, viewing pop art as "mere window dressing, advertising art" that lacked originality or imagination: "pop art is nothing but a [sugar-coated] version of…good old Dadaism."[9] Despite Magritte's reservations, the Pop art movement nevertheless claimed him as their own.

Rene Magritte, *"Ceci n'est pas une pomme,"* 1964

Although Magritte rejected Pop art's appropriation of his ideas, the rise of the new movement which also elevated the everyday helped raise his profile. While Magritte painted many of his most iconic works around his stay in Paris in the late 1920s and 1930s, he only began enjoying international, critical acclaim with the rise of Pop art in the 1950s and 1960s. In 1965, Magritte travelled to the US for the first time to attend the opening of a major retrospective on his work at New York's Museum of Modern Art (MoMA). Favourable reviews highlighted Magritte's relevance for Pop art.[10] Magritte also became fashionable in wider popular culture circles. In what began the Beatle's life-long obsession with the Belgian artist, Paul McCartney bought his first Magritte painting in Paris a year after MoMa's retrospective from the influential art dealer, Alexander Iolas.[11] Much to McCartney's delight, in the summer of 1967 (the same year that Magritte died), McCarney's friend and London gallery owner, Robert Fraser, brought him a Magritte painting ("*Au Revoir*," 1966) that, like many others, featured an unusual depiction of an apple.[12] A similar green apple, which had obscured Magritte's face in his self-portrait, *The Son of Man* (1946), had "Goodbye" ("*Au Revoir*") scrawled across the image, perhaps anticipating his death a year later. Yet, in the hands of the global pop star, Magritte's apple, which wasn't really an apple (like his famous painting of non-existent pipe, "*The Treachery of Images*," 1929), took on a new meaning and a valuable trademark value.



Paul McCartney at home with Magritte's *"Au Revoir,"* undated

The making of Apple Corps

The same year that McCartney acquired Magritte's "Au Revoir" painting, the Beatles began to head in new creative and business directions. Exploding onto the British music scene in the early 1960s with hits like "Love Me Do (1962) and "She Loves You (1963)", the four Liverpudlian men became incredibly wealthy very quickly. In 1967, their accountants advised them to invest their growing capital in a business to pay less tax, and the bandmates formed a company which they collectively owned, called Beatles and Co. Ltd., that April. With the founding of Beatles and Co. Ltd., the band entered a legal partnership in which they agreed to share their income from any group, live, or solo work in a deal that legally bound them together for a decade.[13] The following month, they released *Sgt. Pepper's Lonely Hearts Club Band*, an experimental album with bold aesthetics and songs that provided that soundtrack to the "summer of love" and which, at twenty-five thousand pounds, cost more than any previous album to produce. With a little green apple image printed on the record sleeve, it also hinted at the band's new business ventures. In November, the Beatles agreed on McCartney's idea to rename Beatles Ltd. to Apple Music Ltd in homage to Magritte. The band's manager, Brian Epstein, who also ran an artist management company, New End Music Store (NEMS), their accountant, Alistair Taylor, and solicitor, Neil Aspinall became the company's directors.[14] Tragedy struck in August when Epstein, whom the band heavily relied on to manage the entirety of their business dealings, died of an accidental overdose.[15]

The Beatles saw Epstein's death as an opportunity to bring their music, profits, and finances more closely under their own control. First, they had to agree on the nature of their new business.[16] Rejecting the company directors' original idea to sell greetings cards, the band opened a hip new boutique clothing store in Marylebone in December 1967. In January 1968, the band decided to expand their business horizons and Apple Music Ltd. became Apple Corps Ltd.–the "core" of their various business operations. The multimedia company controlled a series of other business enterprises including film, publishing, merchandise, and other creative pursuits. This included a record label, Apple Records, on which the Beatles released new albums, re-released old songs, and signed artists like James Taylor and Jackie Lomax.[17] Unlike Lennon who likened himself to Magritte for living in the suburbs, McCartney, who owned a flat in the heart of London and embraced the capital's experimental cultural scene, saw Apple Corps as an opportunity to discover new talent.[18]

The Beatles, *"Hey Jude,"* 45 Single, 1968

The Beatles' new company also needed a logo. Taking inspiration from Magritte's apple images, the Beatles hired graphic designer Gene Mahon to design it. Mahon wanted to use a photograph of an apple on the A-side of the label's records, and an image of an apple cut in half on the B-side which would also contain the track's name, the running time, artist, publishing, and copyright information. Mahon commissioned photographer, Paul Castell, to photograph a series of apples set against different coloured backgrounds. Six months later, the band settled on a picture of a vibrant, shiny green Granny Smith. With the logo finished, Aspinall, now the company's managing director, wasted no time registering the Apple Corps trademark in a total of forty-seven countries.[19] In August 1968, the band released "Hey Jude," the first on their new record label and the single was an instant hit. Apple records released three more popular albums in quick succession: Yellow Submarine in January 1969, Abbey Road in September 1969, and Let it Be in May 1970.

Despite the success of their new music, fractures emerged among the four bandmates. They lacked business savvy and, often high on psychedelic drugs, failed to properly manage the finances of Apple Corps which quickly began losing large sums of money. The appointment of Allen Klein, an American business manager, to oversee their finances in 1969, exacerbated growing tensions. While Lennon, Starr, and Harrison believed in Klein's ability to put their financial affairs in order, McCartney distrusted him, and instead wanted to hire his wife, Linda's, brother, as their manager. Tensions came to a head in the Spring of 1970, when McCartney announced publicly that the Beatles no longer existed. To prevent his bandmates signing everything over to Klein, McCartney moved to legally dissolve the Beatles. On December 31, 1970, he sued the Beatles in London's High Court of Justice. The judge ruled in favour of dissolution, ending the band's contractual partnership. While the Beatles split, Apple Corps remained intact, and the owners doubled down on their commitment to maintaining the Apple branding in the next decade.[20]

Apple v Apple

Flicking through an in-flight magazine in 1978, an advertisement for a new computer company caught George Harrison's attention. Founded two years earlier by the tech entrepreneurs Steve Jobs and Steve Wozniak, their new company logo, a large, rainbow coloured apple with a bite taken out of it, and name, Apple Computer, seemed very similar to the Beatle's company's own brand and logo. Although Harrison didn't know it, the designer, Rob Janoff, had devised Apple's new logo to emphasize the innovative color display on the new Apple II computer with the leaf, in green, at the top at Steve Jobs' request.

Born in February 1955 and raised in Mountain View, Santa Clara County, just south of Palo Alto, Jobs' father's passion for mechanics instilled in him an understanding of electronics and an appreciation for good design. As a central hub of military research and development, the valley's growing technology industry meant that the Jobs' family's neighbourhood teemed with young engineers. As the Cold War heated up, the opening of the NASA Ames Research Center and other government and privately funded defence contractors transformed Silicon Valley into the technological capital of the world. In 1967, Paul Jobs and his wife, Clara, spent all their savings to move to the more affluent Cupertino neighbourhood and enrol their son in the academically rigorous Homestead High School, where Steve became involved in the burgeoning counterculture movement alongside his studies. He grew his hair long, took LSD, and listened to the Beatles, immersing himself in Cupertino's dual worlds of arts and technology. He dated artist Chrisenn Brennan and during the summer of 1968 got a job at the multinational information technology company, Hewlett-Packard (HP), and early spinout from Stanford University. There, in 1971, aged seventeen, Jobs met fellow Homestead alumni and HP employee Steve Wozniak, aged twenty, who designed calculators for Hewlett Packard. The intertwining of the counter-culture and electrical engineering cultures coalesced in the making of Apple Computer.[21]

Original Apple Computer logo, 1976

Steve Wozniak loved experimenting with technology. In 1970, "Woz" built his first tiny computer: "The Cream Soda." Later that year, Ron Rosenbaum's article on "Secrets of the Little Blue Box" in *Esquire* magazine's Autumn edition gave Wozniak an idea for a new project. Rosenbaum relayed stories of so-called phone "phreaks" who created devices called blue boxes that imitated the noise of someone dropping coins into a phone machine, allowing the user to hack the phone network and make free calls anywhere in the world. Wozniak immediately shared the story with his friend, Jobs, and the two excitedly rushed to the Stanford Linear Accelerator Center library to hunt for a phone manual that listed the tone frequencies they needed to mimic the noise and to build their own box. After finding the phone company specifications, they hurried to a store to buy an analog tone generator kit. After a long night spent constructing the analog blue box, unfortunately, Wozniak couldn't make it work work. Blaming the imprecision of analog circuits, and uspecting that digital circuits might work better, Wozniak set about building a digital blue box made up of the chips that he already used in making computers. Wozniak was right, and the digital blue box proved much more successful in imitating the precise tones used by AT&T, the American phone company. Steve

Jobs demonstrated early signs of his ability to adapt existing ideas for profit when he suggested that the pair sell their digital blue boxes to Berkeley college students for $170 a piece. The pair invested the $6,000 they raised into their new computer company founded in Cupertino, California.[22]

Redesigned Apple Logo for Apple II computer, 1977

After their initial success, Wozniak and Jobs began selling their first personal computer four years later. Having spent years experimenting with new ways to build computer systems, Wozniak shared with Jobs the basic design for the first Apple Computer in 1976. After Wozniak failed to sell the computer model to HP, Jobs suggested that they set up their own company. On April 1, 1976, the pair launched the Apple Computer Company which they ran from Jobs' parents' garage. One year later, they settled on the company logo: a rainbow filled apple with a bite taken out of it.[23]

If Jobs chose the Apple name and logo to pay homage to the Beatles, the band did not appreciate the gesture. Enforcing their trademark rights, the Beatles sued Apple Computer for trademark violation in 1978. Having disbanded nearly a decade earlier, Apple Corps relied on re-releasing old Beatles songs to stay in business, and worried that the similarity of Apple Computer's logo might confuse customers. The two companies settled the case out of court in 1981. Apple Computer pledged to pay Apple Corps $80,000 for the right to keep the Apple name, and both companies decided to keep their name and respective logos if Apple Corps agreed to never enter the world of computers and Apple Computers agreed to never enter the world of music, and if both agreed only to use their versions of Magritte's apple image.[24]

The settlement nevertheless failed to anticipate the imminent collision of the previously disparate worlds of music and computers. Within a decade, Apple Computer launched three new computer systems: the Apple Lisa in 1983 –the first personal computer to include a graphical user interface adapted from prototypes at Xerox PARC in Palo Alto— followed by the Macintosh computer in 1984, and the Macintosh II in 1990. Indeed, the Macintosh Computer (so named in a nod to its Apple roots), with a built-in Musical Instrument Digital Interface (MIDI), could play music and interact with musical instruments. In 1988, Apple Computer sued several competitors for copyright infringement, including IBM, Microsoft, and Wozniak and Jobs' former employer, HP, for selling computer systems that used a similar graphical interface that Jobs had first seen at Xerox. Apple Compter would win the case with Microsoft paying a one-time fee and agreeing to make some changes to the Windows interface. But a year later, in 1989, Steve Jobs found himself at the receiving end of litigation when a the Beatles' lawyers filed a second lawsuit claiming that tMacintosh computer's capacity to play music violated the previously agreed terms of the 1981 settlement.

First Apple iPod, 2001

In 1991, Apple Corps and Apple Computer reached a second out-of-court settlement which further clarified Apple Computer's trademark rights to the term "Apple." The judge ruled that Apple Computer could use the Apple name and logo on products with the capacity to "reproduce, run, play, or otherwise deliver" music, but not on "physical media delivering pre-recorded music," such as CDs and cassettes. Apple Computer also agreed to rename sound effects that referred to musical instruments on their Macintosh computers. Honouring this promise, their sound designer, Jim Reekes, renamed the beep sound "chimes" as "Sosumi," pronounced, "so sue me," to mock the Beatles' demands. The tech giant also agreed to pay the British band a further $26.5 million in damages.[25]

As Apple Computer's technology became increasingly sophisticated, Jobs did not let his agreement with Apple Corps stop him from venturing further into the world of digital music. In October 2001, Apple Computer released the iPod, a portable digital music player, and two years later, Steve Jobs launched the iTunes digital Music Store, a service allowing customers to purchase songs to download onto their iPods. Apple signed

deals with record companies to sell their music online through iTunes, which became the world's largest music retailer in less than two years. Unlike rival digital music platforms, iTunes allowed users to play songs purchased through iTunes on different devices or burn them onto other media after they removed their FairPlay Digital Rights Management (DRM) copy protection in 2009.

At the same time, the Beatles suffered several personal losses. Two of their band members, John Lennon, and George Harrison, died, respectively, in 1980 and 2001, leaving Apple Corps under the management of their widows, Yoko Ono and Olivia Harrison, as well as the remaining band members, Ringo Starr and Paul McCartney. The four chose not to licence the Beatles' vast music catalogue for digital sales through iTunes or any other digital platform—one of the few bands not to do so—fearing that people might illegally copy and share songs released digitally. They also took issue with the iTunes branding. Although Apple Computer did not use the name "Apple" in connection with the sale of music on the iTunes store, the apple logo featured prominently. Not surprisingly, the executives at Apple Corps considered Apple Computer's use of the apple logo in connection to the sale of music yet another violation of the 1991 settlement agreement and, in 2003, for the third and final time, Apple Corps sued Apple Computer to stop Steve Jobs from using the apple image on the iTunes music store.

Unlike the first two legal cases, the two companies did not settle their final dispute out of court. Instead, the UK High Court of Justice provided the backdrop to the concluding legal battle that began on March 29, 2006. Neither Jobs nor any Beatles members or widows attended the trial, leaving their companies' fates in the hands of their corporate lawyers. Geoffrey Vos, representing Apple Corps, argued that, through iTunes, Apple Computer had unlawfully entered the music selling business. He decked out the High Court with laptops and large video screens to demonstrate how the service worked for Justice Edward Mann, downloading a copy of the disco band Chic's Le Freak hit on a Dell laptop and playing it for the court. Vos also played an iTunes television advertisement promoting the British band, Coldplay, who performed their song, "speed of sound," alongside the apple logo and a reference to iTunes.com. According to Vos, this promotion proved Apple Computer's unlawful use of the apple logo in connection with the sale of music. Vos also argued that Steve Jobs had offered $1 million to buy the rights to the Apple Record name from the Beatles in 2003. Anthony Grabiner, representing Apple Computer, offered a simpler defence: the iTunes store merely acted as a conduit for the transmission, and not the sale, of digital music. Determining that digital music was not the same as physical media, Mann ruled in favour of Apple Computer in May.[26] In the third and final confrontation over René Magritte's artistic invention, Steve Jobs held onto the forbidden fruit.

Conclusion

Steve Jobs unveils the iPhone, January 2007

In January 2007, Steve Jobs stood on the stage of the Moscone Convention Center, in San Francisco, before a crowd of 7,500 people eagerly awaiting his announcement of Apple Computer's latest multimedia product, the iPhone. Combining the iPod, a phone, and an internet communicator, Jobs shared Apple's mission to "reinvent the phone." While demonstrating the phone's iPod feature, Jobs clicked on the iPod icon, scrolled down, and selected the Beatles. Landing on their 1967 album, *Sgt Pepper's Lonely Hearts Club Band*, Jobs chose the song, "With A Little Help from My Friends," and the sound and image of the four Beatles filled the auditorium.[27] The company sold 270,000 iPhones during the first thirty hours it was available for sale. During his announcement of the iPhone, Jobs also explained that Apple Computer would be renamed Apple Inc., reflecting the widening scope of company in personal devices.

One month later, news outlets reported on the agreement reached between the two Apple companies on the Apple trademark. Under the terms of the final settlement agreement, Apple Inc. now owned all the trademarks related to "Apple," allowing the Cupertino juggernaut to keep using its corporate name and logo on iTunes. Apple Inc. also agreed to licence certain trademarks back to Apple Corps. Jobs expressed relief at finally reaching a resolution with a band he "loved."[28] Following the third and final confrontation over René Magritte's artistic invention, Steve Jobs finally held all the rights to the forbidden fruit.

Coincidentally Apple Inc. settled another intellectual property lawsuit in February 2007. Six weeks earlier, the San Jose digital communications technology corporation, Cisco Systems, had sued Apple Inc. for trademark infringement. Lawyers at Cisco had previously trademarked the name "iPhone" in 2000 for their telephone devices which connected to the internet and argued that Apple's use of it violated Cisco's intellectual property. Steve Jobs had chosen to announce Apple's iPhone before settling the case. Eventually, the two companies reached a deal to both continue using the iPhone name regardless, implying a disregard for Cisco's grievance.[29]

Steve Jobs' use of the Beatles in his presentation introducing the iPhone raised many their fan's hopes that the Beatles' music might finally become available via digital download on iTunes. Unfortunately, another three more years passed before iTunes became the only place to buy Beatles songs digitally. In 2010, the two Apple's images finally appeared alongside each another for the first time to promote both companies' products. When Steve Jobs died one year later, Tim Cook took over as CEO of Apple and, in January 2022, 10 years after Steve Jobs death, 52 years after the Beatles disbanded, and 55 years after René Magritte died, Apple became the most valuable company in the world with an estimated "brand value" of nearly one trillion dollars. A remarkable development for a common fruit whose Latin name, "*malus,*" also translates as "evil." René, no doubt, would have been *très amusé.*

The Beatles on iTunes, 2010

Endnotes

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