

EXHIBIT 18



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[iPod Claims 82% HD-Based Retail Market Share; 42% All Players \(UPDATE\)](#)

iPod Claims 82% HD-Based Retail Market Share; 42% All Players (UPDATE)

by [Bryan Chaffin](#), 3:30 PM EDT, October 11th, 2004

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Apple's **iPod** and **iPod mini** had a 82% market share among hard drive-based portable music players in the last year, according to August figures from market research firm NPD Group. For all types of portable music players, Apple market share was 41.9%, the company told The Mac Observer, Monday.

A [published report from Bloomberg News](#) on Monday mistakenly gave the impression the 82% share was for all players.

The figure are for the month of August and are for US retail stores only, excluding direct sales and other online sales. The numbers are calculated using a percentage of actual unit sales reported by major retailers, such as Apple's retail stores, together with consumers surveys of buying habits.

The 82% market share of hard drive-based players is up from 64% from a year ago and 33% from two years ago, NPD said.

Among hard drive-based players, [Creative Technology](#) placed far second with a 3.7% share, followed by [Rio](#) at 3.2%.

Among all portable music players - hard drive-based as well as flash-based - Apple was first with 41.9%, Rio in second with 10.0%, [iRiver](#) in third with 9.3%, and [RCA](#) in fourth with 9.0%.

Brad Gibson contributed to this article.

[Bloomberg Article](#)

Observer Comments

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Name: AFCdtLoeb Posts: 2533 Joined: 20 Jul 2004

[Close](#)

Subject:

Mon Oct 11, 2004 3:25 pm

82%?! Holy mother of Pearl!!!!

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Name: Guest

[Close](#)

Subject: [Bring on the 60 Gig](#)

Mon Oct 11, 2004 4:47 pm

Àçâ, -Â! my credit card is in hand and ready. Oh, and you can also bring on the lower capacity flash-based Apple players (iChips? microPods?), I'm sure there are legions waiting for those sub \$100 players as well.

Question: how are they going to fit a click wheel on increasingly tiny players as well as a decent size screen?

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Name: Guest

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Subject: [NPG Group claims iPods hold a 82% market share](#)

Mon Oct 11, 2004 4:59 pm

Funny, that we're not seeing Reality Check's comments on this.

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Name: Guest

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Subject:

Mon Oct 11, 2004 5:02 pm

> Question: how are they going to fit a click wheel on increasingly tiny
> players as well as a decent size screen?

My guess:

Apple flash players won't be (much) smaller than Mini's, just thinner.

I bet market research shows that if something is smaller than a credit card, people start to lose them. Probably there is also a point of diminishing returns on usability (big fingers and all that).

[Reply](#) | [Quote](#)

Name: Guest

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Subject: [He's busy](#)

Mon Oct 11, 2004 5:08 pm

Quote

Guest wrote:

Funny, that we're not seeing Reality Check's comments on this.

That's because he's out right now trying to buy up as many non-iPod players as he can, to single-handedly try and change the numbers.

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Name: Guest

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Subject: [Missing MP3 players built into phones, palm/pda, etc.](#)

Mon Oct 11, 2004 5:37 pm

Do these numbers include video players? [Phones](#) that play MP3? Palms?

Name another hard drive based music player! Can't? That's because they're no comparison to the iPod.

[Reply](#) | [Quote](#)

Name: slinky259 Posts: 91 Joined: 24 Jun 2004

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Subject:

Mon Oct 11, 2004 8:40 pm

Quote

Guest wrote:

Do these numbers include video players? Phones that play MP3? Palms?

Name another hard drive based music player! Can't? That's because they're no comparison to the iPod.

Umm... that Rio one... think it's called Karma or something... Creative Nomad Zen thing... [dell](#) jukebox... just off the top of my head.

not saying they are any competition - but people know they exist 😊

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Name: Guest

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Subject:

Mon Oct 11, 2004 8:58 pm

Quote

Guest wrote:

Funny, that we're not seeing Reality Check's comments on this.

Yeah, I was hoping for some insightful comments from him as well.

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Name: Guest

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Subject: [Will your next MP3 player be a cell phone?](#)

Mon Oct 11, 2004 10:41 pm

http://reviews.cnet.com/4520-6450_7-5535370-1.html?tag=cnetfd.sd

Could this be the iPods undoing?

Maybe in about a year from now. [Cell phones](#) seem to be the more logical vector to assimilate these peripheral technologies like PDAs, cameras, etc.

And all the iPod fans shuddered at the thought.

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Name: Intruder - TMO Mac Specialist Posts: 3149 Joined: 07 Jul 2004 [Close](#)
Subject: **Mon Oct 11, 2004 11:15 pm**

Nope.

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Name: Guest [Close](#)
Subject: [Cell Phones?????](#) **Tue Oct 12, 2004 12:24 am**

I'd be happy if they made a [cell phone](#) that worked like a phone, only a phone, and they can shove the rest of the "features" where the sun don't shine.

[Reply](#) | [Quote](#)

Name: Small White Car Posts: 1960 Joined: 02 Jul 2004 [Close](#)
Subject: [Re: Will your next MP3 player be a cell phone?](#) **Tue Oct 12, 2004 12:28 am**

Quote

Anonymous wrote:

http://reviews.cnet.com/4520-6450_7-5535370-1.html?tag=cnetfd.sd

Could this be the iPods undoing?

Maybe in about a year from now. Cell phones seem to be the more logical vector to assimilate these peripheral technologies like PDAs, cameras, etc.

And all the iPod fans shuddered at the thought.

Whoo! \$500 cell phones! Yeah, those'll take right off!

If they cost any less than that their features will be much less appealing than the iPod's.

[Reply](#) | [Quote](#)

Name: AyaSofya Posts: 137 Joined: 11 May 2004 [Close](#)
Subject: [\\$500 cell phone, I bought one](#) **Tue Oct 12, 2004 1:32 am**

"Whoo! \$500 cell phones! Yeah, those'll take right off!"

I bought my wife one, a Treo 600, because she is deaf and could use it for email communication.

The full keyboard makes it easier to compose messages, than trying to wrestle with the standard [phone](#) keypad found on most cell phones. With the cell phone feature we thought it a better deal than Blackberry. Actually the phone had a rebate at the time and the total cost was not much more than higher end cell phone.

However, this summer she had a cochlear implant, this unit bypasses her damaged inner ear and directly stimulates the audio nerve. She has regained over 50% of her hearing!
<http://www.cochlearamericas.com/>

[Reply](#) | [Quote](#)

Name: Guest

[Close](#)

Subject:

Tue Oct 12, 2004 9:09 am

AyaSofya, nice to hear about the positive news concerning the wife.

oharag

[Reply](#) | [Quote](#)

Name: Biff Posts: 1479 Joined: 08 Apr 2004

[Close](#)

Subject: [Re: Will RC's next MP3 player be a cell phone?](#)

Tue Oct 12, 2004 11:03 am

Quote

Guest wrote:

http://reviews.cnet.com/4520-6450_7-5535370-1.html?tag=cnetfd.sd

Could this be the iPods undoing?

Maybe in about a year from now. Cell phones seem to be the more logical vector to assimilate these peripheral technologies like PDAs, cameras, etc.

And all the iPod fans shuddered at the thought.

Predictions of an iPod killer! All the others have been wrong but not this one! I mean come on could this guy be wrong?

http://i.i.com.com/cnwk.1d/i/col/hed_mi.jpg

I'll just wait for a nice top secret bluetooth accessory that will be out for 4G iPod.

[Reply](#) | [Quote](#)

Name: jimothy Posts: 612 Joined: 04 Jun 2004

[Close](#)

Subject:

Tue Oct 12, 2004 2:19 pm

Quote

AyaSofya wrote:

However, this summer she had a cochlear implant, this unit bypasses her damaged inner ear and directly stimulates the audio nerve. She has regained over 50% of her hearing! <http://www.cochlearamericas.com/>

Best of luck to your wife! First thing I'd do for her after the operation--get her an iPod! 😊

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Name: Guest

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Subject: [iRiver](#)

Fri Oct 15, 2004 5:26 pm

iRiver make *much* better hdd mp3 players than apple's ipod.

The iHP140 - a 40GB player, plays ogg vorbis files, builtin fm tuner, builtin recorder, mounts directly as usb mass storage... the benefits go on an on.

And when I bought my iRiver, it was about \$200AU cheaper than the same sized iPod, unbelievable!

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Name: Guest

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Subject: [Will APPLE bring Flash iPod?](#)

Wed Dec 01, 2004 3:19 am

I've read some blog and news that Apple is contacting one chipmaker, a competitor of current chipmaker.

And Apple is ready to introduce flas memory player by the end of this year.

Could it be true?

[Reply](#) | [Quote](#)

Name: Suffolkmina Posts: 2 Joined: 01 Dec 2004

[Close](#)

Subject: [Will Apple bring Flash iPod?](#)

Wed Dec 01, 2004 3:30 am

I've heard the same thing.

That'll cannibalize iPod, mini, and photo.

[Reply](#) | [Quote](#)

Name: Mace Posts: 9604 Joined: 07 Aug 2003

[Close](#)

Subject:

Wed Dec 01, 2004 1:09 pm

Flash based iPod will not cannibalize the other iPod because those going for flash based are casual buyers who do not buy much songs. Whereas those who have bought iPod tend to own/buy many songs. They are two separate market segment.

The market share figures are confusing me. SJ reported during the last quarter results that iPod has 92% of hdd based and 65% of all music players. Why this article said is 82% and 42%, are those figures for the whole year and SJ is talking about Q4 04 quarter only?

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Name: Suffolkmina Posts: 2 Joined: 01 Dec 2004

[Close](#)

Subject: **Tue Dec 07, 2004 12:04 am**

I guess the MP3 market is just started market, so that there isn't much information that we can really rely on.
Even when we can get projections about the whole MP3 market, we can't get trustful data for all kinds...
Now, we can listen to MP3 music on our cell phone, and some cell phone mfrs have come up with HDD and memory card slot on cell phones. If we get long-life batteries for our cell phone, we no longer need MP3 player unless we need to store some data.

[Reply](#) | [Quote](#)

Name: Mace Posts: 9604 Joined: 07 Aug 2003 [Close](#)
Subject: **Tue Dec 07, 2004 2:18 am**

Quote
Suffolkmina wrote:
... Now, we can listen to MP3 music on our cell phone, and some cell phone mfrs have come up with HDD and memory card slot on cell phones. If we get long-life batteries for our cell phone, we no longer need MP3 player unless we need to store some data.

You have forgotten that there are guys like me who don't carry cell phone. Electronic gadgets are now a fashion/status symbol just like jewelry not another functional device.

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Name: Guest [Close](#)
Subject: [It's surprising to see](#) **Thu Nov 03, 2005 10:21 pm**

I can't believe apple has so many market shares

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Name: Guest [Close](#)
Subject: [full market share](#) **Mon Jan 08, 2007 2:53 pm**

ahhhh help I'm doing research for my marketing course. Where can i find all the market share levels for mp3 players?!?

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EXHIBIT 19

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SOMTAI TROY CHAROENSAK and
MARIANA ROSEN, Individually and On Behalf
Of All Others Similarly Situated

Plaintiffs,

v.

APPLE COMPUTER, INC.

Defendant.

Case No. 05-CV 37-JW

DECLARATION OF LEE MORSE

I, Lee Morse, hereby declare:

1. I am Director of Emerging Technology for Creative Labs, Inc. located at 1901 McCarthy Blvd., Milpitas, CA 95935. The facts set forth in this declaration are true and correct and, if called as a witness, I could and would testify thereto.

2. This declaration is provided in lieu of the deposition of Creative Labs, Inc., noticed by plaintiffs in this matter to be taken on January 12, 2007. Creative served written objections to the subpoena, which are not waived, and hereby affirmed, by this declaration.

3. Creative Labs, Inc. is the United States subsidiary of its Singapore-based parent company, Creative Technology Ltd. ("Creative"). Creative Labs, Inc. is the sales, marketing, training and customer support organization for Creative in the Americas.

4. Creative is a worldwide leader in digital entertainment products for the personal computer and the Internet. Creative was founded in Singapore in 1981 with the vision that multimedia would revolutionize the way people interact with their personal computers. Among

its product lines, Creative offers for sale the highly acclaimed Zen and MuVo lines of portable digital audio players.

5. Portable digital music players are portable devices that enable their users to listen to digital audio recordings without requiring users to carry any external media, such as a compact discs, cassette tapes, or cartridges.

6. Since January 1, 2003 until the present, Creative Labs, Inc. has offered for sale in the United States the following lines of portable digital audio players: Nomad, Nomad Jukebox, Zen, MuVo and Portable Media Center. These portable digital audio players are or have been available for sale through Creative's website, www.creative.com as well as through other retailers and a number of distributors. Since January 1, 2003, Creative has sold approximately 5.5 million portable digital audio players in the United States.

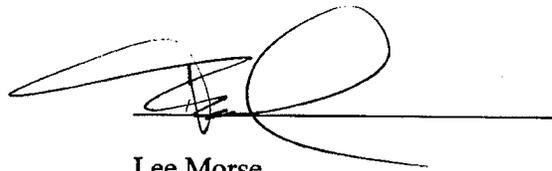
7. Generally, there are two sources from which consumers can legally acquire digital music files for playback on their portable digital music players. The first is to copy compact discs ("CDs") that the consumers have purchased at traditional brick-and-mortar music stores. With few recent exceptions, these audio CDs are not copy protected, and the digital music files contained within these audio CDs can be copied onto a digital music player for playback by the user. The second source for legally acquiring digital music files for playback on portable digital audio players is comprised of legal online music stores that sell digital music files through the Internet. Apple's iTunes Music Store is an example of such an online store. In order for Creative to be successful in selling its line of portable digital music players, it is important for the customer to be able to legally purchase music online.

8. Every file or song purchased from the iTunes Store is encoded with digital rights management (also referred to as "DRM") technology created by Apple. This technology is not

recognized by other digital media players other than Apple's digital media players. As such, songs purchased from the iTunes Store cannot be directly recorded onto or played back on Creative's line of portable digital music players, which Creative believes has a negative impact on its sale of digital music players.

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

Executed this 19 day of January, 2007 in Milpitas, California.

A handwritten signature in black ink, consisting of several loops and a horizontal line extending to the right.

Lee Morse