

Apple wins iPod hearing loss lawsuit

December 31 2009



An Apple iPod plays an iPod commercial at an Apple Store in July 2009 in San Francisco, California. A US appeals court on Wednesday upheld the dismissal of a class action lawsuit filed against Apple Inc. which claimed the iPod was defective and could cause hearing loss.

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"The plaintiffs simply do not plead facts showing that [hearing loss](#) from iPod use is actual or imminent," the San Francisco-based US Court of Appeals for the Ninth Circuit said in upholding the ruling of a district court.

"The iPod has an 'ordinary purpose of listening to music,' and nothing they allege suggests iPods are unsafe for that use or defective," the court said.

The suit against [Apple](#) was filed by Joseph Birdsong of Louisiana and Bruce Waggoner of California. They claimed the iPod "is defective because it poses an unreasonable risk of noise induced hearing loss."

Birdsong and Waggoner said the iPod is capable of playing music as loud as 115 decibels and users may listen at unsafe levels.

"Taken as true, such statements suggest only that users have the option of using an iPod in a risky manner, not that the product lacks any minimum level of quality," the court said.

The [court](#) also noted that Apple issues a warning with each iPod which states that "permanent hearing loss may occur if earphones or headphones are used at high volume."

Apple sold 10.2 million [iPods](#) in the latest quarter of its financial year.

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Citation: Apple wins iPod hearing loss lawsuit (2009, December 31) retrieved 30 June 2024 from <https://phys.org/news/2009-12-apple-ipod-loss-lawsuit.html>

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