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[Microsoft Lawyer Out to Get Apple](#)

When will we see the case against Apple because they didn't warn against swallowing your iPod?

The story of the latest iPod trial has spread like wildfire and many news sources have shown images with the iPod and the word defective stamped in big letters on top of it. One of the most interesting developments is the realization that the lawyer who is representing John Kiel Patterson also happens to be the lawyer in the case against Apple over the iPod that 'scratches too easily'; furthermore, Steve W. Berman is on retainer at Microsoft. "More recently, Microsoft recognized Mr. Berman's experience and expertise when the company retained him to be part of the core national team representing the company in antitrust class actions arising from Judge Jackson's Findings of Fact in the Department of Justice antitrust case against the company." Quite a coincidence. First it was that the iPod 'scratches too easily' or 'is prone to scratching.' And just as the line between any smooth glass finish can be scratched if not handled properly, and 'scratches too easily' is very fine indeed, this latest lawsuit seems to hold just as much water. The latest lawsuit claims that the iPod has the potential to cause irreparable hearing loss. "He's bought a product which is not safe to use as currently sold on the market," Berman said. "He's paying for a product that's defective, and the law is pretty clear that if someone sold you a defective product they have a duty to repair it." "The iPod is not defective. On page 13 of the iPod User Guide, Apple clearly warns the user of the potential danger that lies in not using the device properly: "Permanent hearing loss may occur if earphones or headphones are used at high volume. You can adapt over time to a higher volume of sound, which may sound normal but can be damaging to your hearing. Set your iPod's volume to a safe level before that happens. If you experience ringing in your ears, reduce the volume or discontinue use of your iPod." The safety instructions were there to be read and followed, and lack of adherence to them is the responsibility of the individual, or so one would think. It seems Mr. Berman has learned differently from his interaction with Microsoft.