

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

**APPLE INC. and
GOOGLE LLC,**
Petitioner,

v.

SPACETIME3D, INC.
Patent Owner

Case IPR2023-00343¹
U.S. Patent No. 9,304,654

DECLARATION OF TODD FITZSIMMONS

REDACTED PUBLIC VERSION

¹ Google LLC, which filed a petition in IPR2023-00579, has been joined as a petitioner in this proceeding.

I, Todd Fitzsimmons, declare and state:

1. I am an attorney admitted to practice law in the State of California and registered to practice before the United States Patent and Trademark Office. I am associated with the law firm of Fitzsimmons IP Law, P.C., counsel of record for Patent Owner SpaceTime3D, Inc. (“SpaceTime3D”). I make this Declaration in support of Patent Owner’s Response to Petition for *Inter Partes* Review of the ‘654 Patent (“Petition”) in IPR2023-00343.

2. The ‘654 Patent is the subject of litigation pending in the Western District of Texas, captioned *SpaceTime3D, Inc. v. Apple Inc.*, Case No. 6:22-cv-00149. The ‘654 Patent was also the subject of litigation in the Eastern District of Texas, captioned *SpaceTime3D, Inc. v. LG Electronics Inc. et al.*, Case No. 2:22-cv-00049 (“LG Litigation”), *SpaceTime3D, Inc. v. Samsung Electronics Co., Ltd. et al.*, Case No. 2:19-cv-00372 (“Samsung Litigation”).

3. In the Samsung Litigation, SpaceTime3D alleged that the mobile computing devices (*e.g.*, smartphones) manufactured and sold by Samsung infringed claims of the ‘654 Patent, U.S. Patent No. 8,881,048 (“the ‘048

Patent”), and U.S. Patent No. 9,696,868 (“the ‘868 Patent”), all three of which shared a common specification and claim priority to U.S. Patent No. 7,735,018, which claims priority Provisional Patent Application 60/717,019.

4. The claims of the ‘048, ‘654, and ‘868 Patents are similar in that they are directed to the presentation of images in 3D space, where individual, active applications (*e.g.*, webpages) are presented in 2D space in response to a user interacting with a particular image in 3D space. Petitioner has also filed Petitions for *Inter Partes* Review of the ‘048 Patent in IPR2023-00242 and the ‘868 Patent in IRP2023-00344.

5. In resolving the Samsung litigation, Samsung entered into a confidential Settlement and License Agreement, a true and correct copy of which is attached hereto as **Exhibit A.** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6. In the LG litigation, SpaceTime3D alleged that the mobile computing devices (*e.g.*, smartphones) manufactured and sold by LG infringed claims of the ‘048, ‘654, and ‘868 Patents.

7. In resolving the LG litigation, LG entered into a confidential Settlement and License Agreement, a true and correct copy of which is attached hereto as **Exhibit B**. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8. With respect to the smartphone market, the industry leader in U.S. sales is Apple. This is followed by Samsung and others including LG. This can be seen, for example, in statistical information provided by www.bankmycell.com, a true and correct copy of which is attached hereto as **Exhibit C**. In the LG license agreement, it is provided that “LG closed its

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

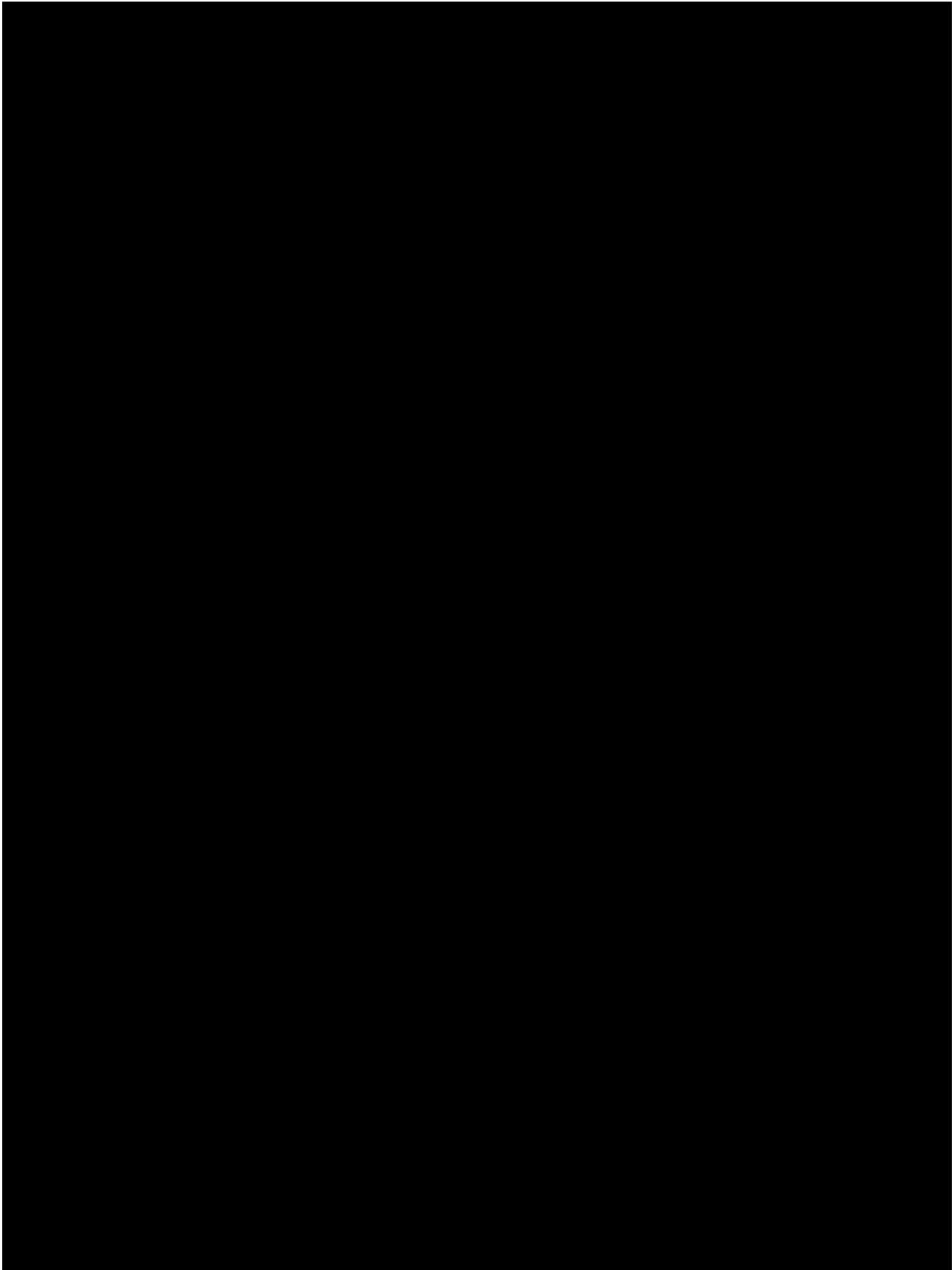
mobile phone business worldwide in 2021.” As such, their U.S. market share has gone down from 7.36% in 2017 to 1.61% in 2023. *See Exhibit C* at 18. This is compared to Samsung, whose U.S. market share went from 5.27% in 2010 to 27.83% in 2023. *See Exhibit C* at 10-11.

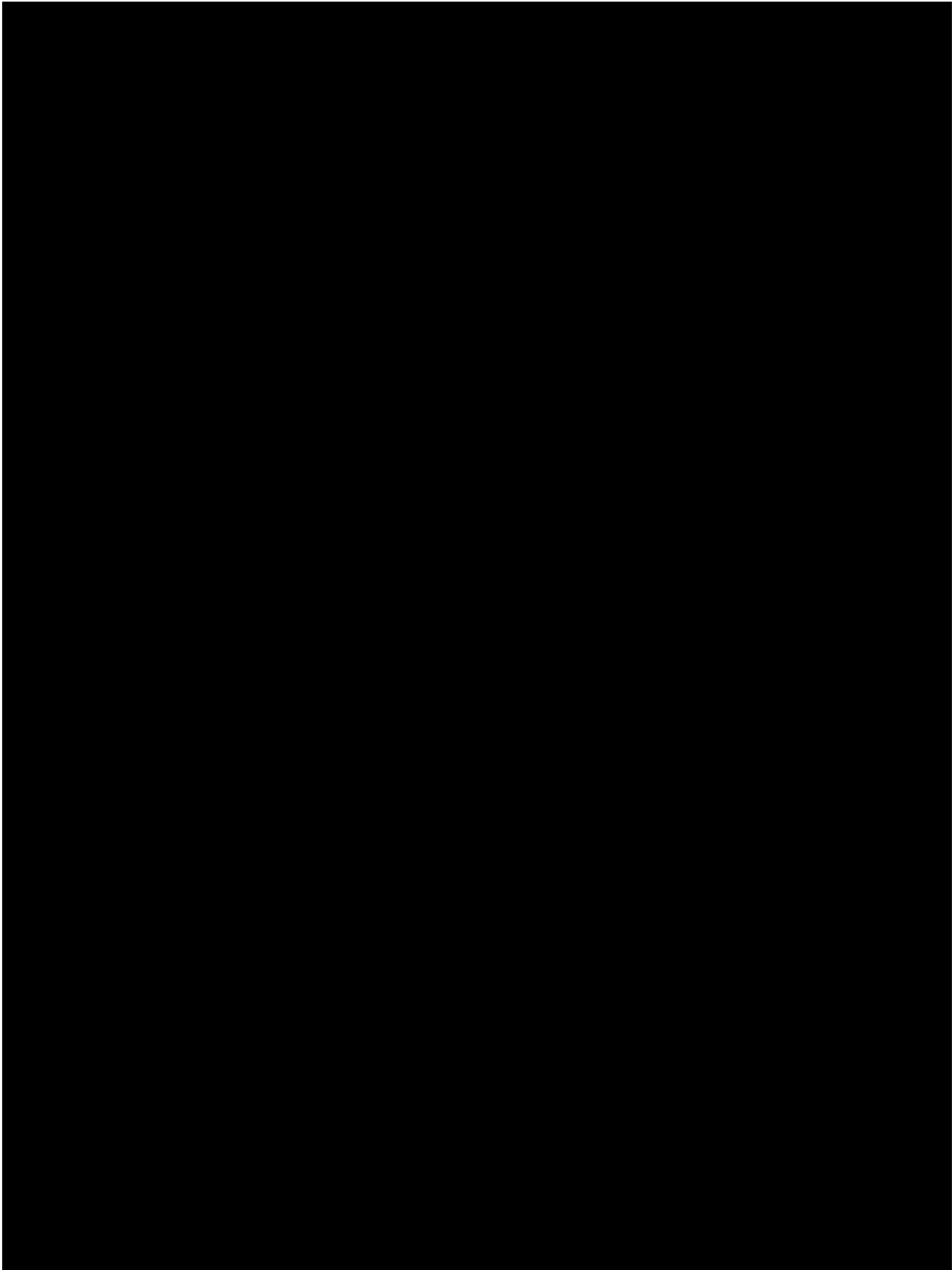
I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 19th date of October 2023, at Gardena, California.

Todd Fitzsimmons

Todd Fitzsimmons

EXHIBIT A





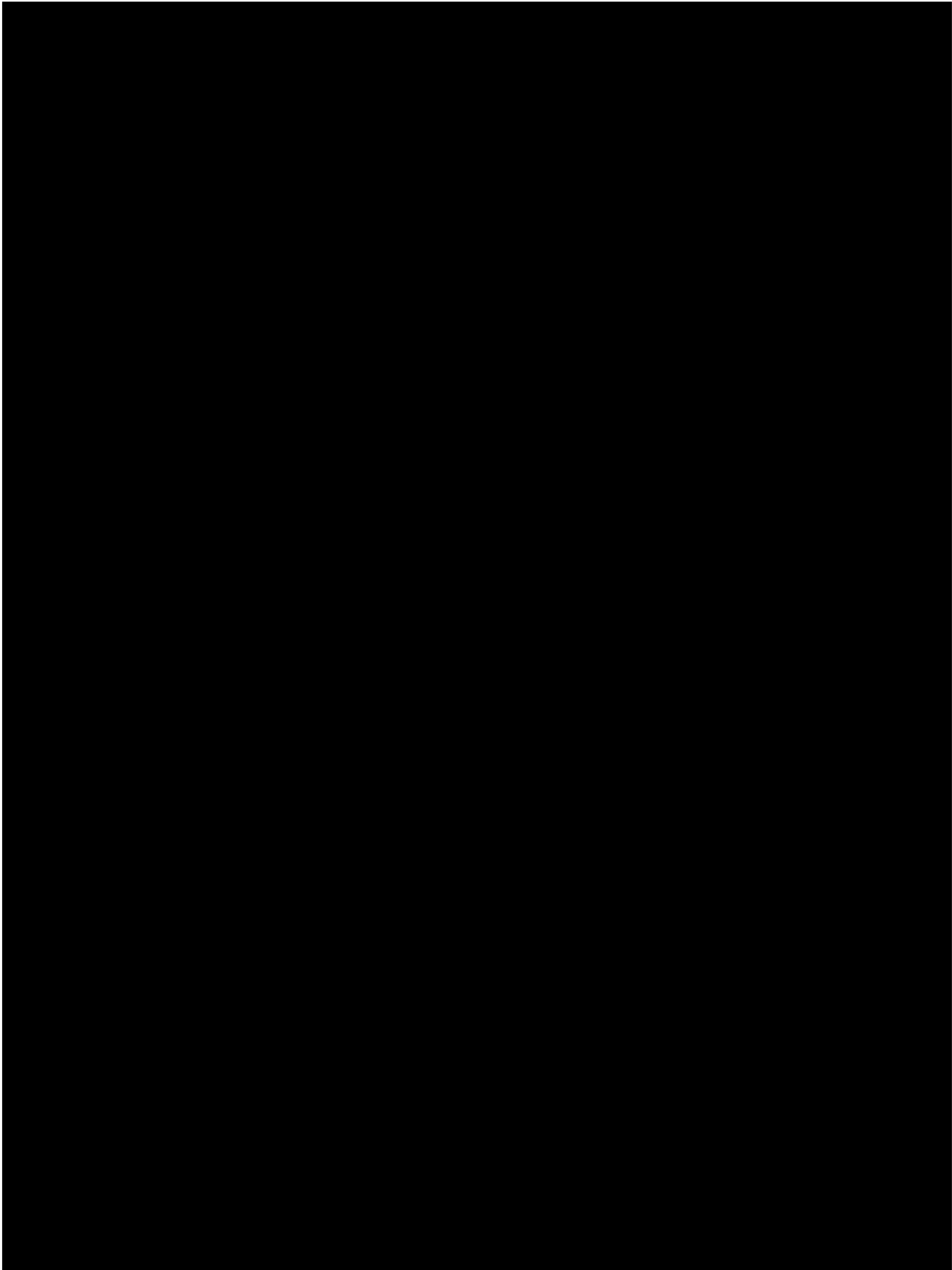


EXHIBIT B

EXHIBIT C

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OUR BLOG

US Smartphone Market Share (Sep 2023)



Home / Research / US Smartphone Market Share (Sep...

In 2023, Apple leads the smartphone market share in the United States at 58.37%, followed by Samsung at 27.83%. Together, they have the bulk of the market share, with a total of 86.2% combined. Lenovo-acquired Motorola takes third place at 4.52%

We are living in a world where smartphones are dominating the market. The US Census Bureau estimated the smartphone sales value at USD 74.7 Billion in 2022-2023. Meanwhile, the global smartphone market share is estimated by Fortune Business Insights to rise to USD 520.2 billion in 2023 at a 7.3% CAGR.

Most Popular Phone Brands in the US (Most Recent Quarter)

Brand	Quarterly Market Share (%)
Apple	57.79
Samsung	26.29
Motorola*	4.34
Google	2.11
LG	1.47
Others	5.99

**Motorola was acquired by Lenovo in 2014.*

Apple is the most popular phone brand in the US in the most recent quarter of 2023. This is evident based on their 57.79% market share in the country. The company takes the lead with a 231.50% difference from Samsung, which comes in second at 26.29% brand share.

The rest of the phone brands share around 15.92% of the market share. Motorola, which was acquired by Lenovo, is in third place with 4.34%, followed by Google, LG, and other brands.

Editors Picks:

- › **Top 5 smartphone brands in the US:** The top 5 brands in the US in Q2 2023 by quarterly market share are Apple at 59.79%, Samsung at 26.29%, Motorola at 4.34%.
- › **Top smartphone brand in the US:** Apple continues to dominate the market share with 59.79% this quarter, which shows how in-demand iPhones are in the US.
- › **Second smartphone brand in the US:** Samsung comes second in the US with a 26.29% market share this quarter. The company's market share declined by 1.12% compared to the first quarter of 2022.
- › **Third smartphone brand in the US:** Motorola, ranking third, has a 4.34% market share this quarter, an increase of 0.09% compared to Q1 2022.
- › **Fourth smartphone brand in the US:** Google ranks fourth this quarter with a 2.11% market share. It outperformed LG, with a market share of 1.47%.
- › **Apple vs. Samsung in the US:** Out of all the smartphone brands, Apple and Samsung take the lion's share of the US smartphone market, totaling 86.08%

In this Article:

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US Market Share of Cell Phones

Cellphone Market Share in the US (This Month)

Data Table

Data Graph

Brands	Market Share
Apple	57.38%
Samsung	26.76%

Brands	Market Share
Motorola*	4.41%
Google	2.52%
LG	1.30%
Others	7.61%

**Motorola was acquired by Lenovo in 2014.*

The monthly data for the smartphone market share in America currently shows Apple and Samsung leading all the brands at 57.38% and 26.76% market share, respectively. This indicates that more than half of the earnings made from all smartphone sales in America were from iPhones. Motorola is at the third spot with a 4.41% market share, Google at fourth with 2.52%, and LG in fifth place with 1.30%.

US Smartphone Market Share (Quarterly)

Data Table >

Data Graph

Brand	Q2 2022 (%)	Q3 2022 (%)	Q4 2022 (%)	Q1 2023 (%)	Q2 2023 (%)
Apple	57.23	55.91	55.31	57.12	59.79
Samsung	28.32	29.87	30.16	29.21	26.29
Motorola*	4.79	4.9	5.07	4.68	4.34
Google	2.42	2.27	2.26	2.11	2.11
LG	2.62	2.33	1.93	1.74	1.47
Others	4.64	4.72	5.27	5.14	5.99

**Motorola was acquired by Lenovo in 2014.*

The most recent quarter of 2023 shows Apple leading the market share of mobile phones in the US at 59.79%, followed by Samsung at 26.29% brand share. The rest of the phone brands share less than 15% of the US smartphone sales revenue.

Data shows that Apple has constantly taken the highest market share and smartphone sales over the last four quarters, taking more than half of the total US market share. Samsung, which takes around a solid quarter of the US market share, also constantly came in second place.

Sources



US Market Share by Year (2013–2023)

US Smartphone Market Share by Year from 2013 to 2023 (%)

Data Table



Data Graph

Brand	2013	2014	2015	2016	2017	2018	2019	2020	2021
Apple	52.76	52.28	50.85	53.19	53.89	54.82	55.23	59.54	58.58
Samsung	18.38	25.34	26.57	26.79	26.62	24.76	25.67	24.72	25.64
Motorola*	4.7	3.62	3.59	3.2	3.15	3.49	3.68	3.17	3.65
Google	0.84	0.84	0.88	1.16	1.14	1.85	2.45	2.53	2.24
LG	4.09	5	6.62	6.61	7.36	7.01	6.26	4.89	4.15
OnePlus	-	0.01	0.1	0.09	0.14	0.12	0.43	0.59	0.67
Xiaomi	-	0.01	0.15	0.09	0.16	0.43	0.71	0.49	0.83
Huawei	1.28	0.74	0.54	0.62	0.69	0.92	0.97	0.99	0.83



Brand	2013	2014	2015	2016	2017	2018	2019	2020	2021
T-Mobile	0.02	0	0	0	0.01	0.05	0.05	0.07	0.17
OPPO	-	-	0.05	0.04	0.08	0.16	0.26	0.14	0.25
Others	17.96	12.16	10.65	8.2	6.74	6.38	4.27	2.86	2.97

**Motorola was acquired by Lenovo in 2014.*

Apple Smartphone Market Share Trends

Apple has consistently topped the US smartphone sales with more than 50% market share for years, starting from 2011 up to the present.

It is also worth noting that Android devices took over smartphone sales throughout the US in 2010 before Apple snatched it away in 2011 and continued to dominate the market until the present.

Samsung Smartphone Market Share Trends

Data shows that Samsung had a rough start in the US. However, they steadily grew and finally captured a quarter of the US market share starting in 2014 when they released the Galaxy S5. Despite the decline of their global market share due to the rise of smartphone companies from China, such as Xiaomi, their US numbers managed to remain relatively steady, playing around 24 to 29%.

Even though the year is not over, Samsung held its highest market share in the US yet in 2022-2023. This might be partly due to their latest smartphone lines, the A and S series, which cover a wide range of price points. From 2010, the company increased its yearly market share by 22.56%

Sources

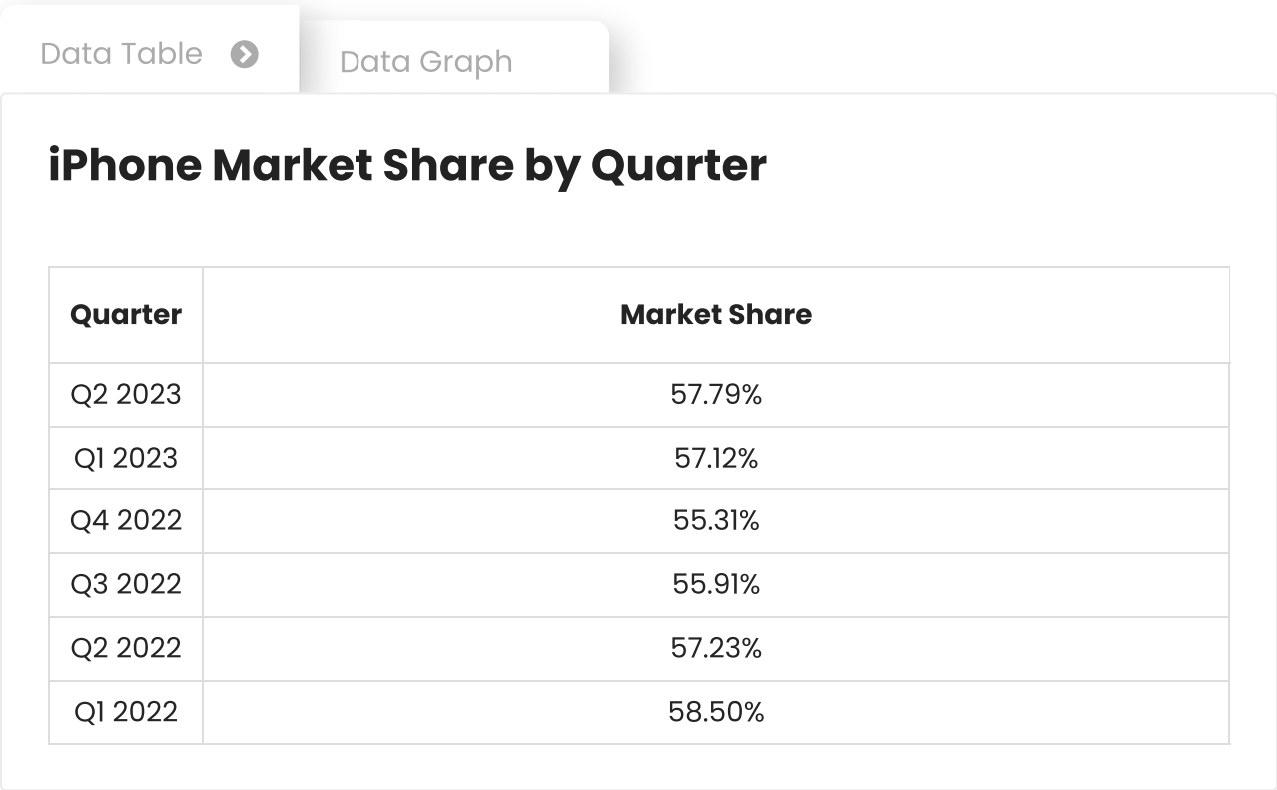


APPLE

Market Share of Apple in the US

Apple’s market share for this month is currently at 57.38%, taking the biggest chunk of the smartphone market share in the US. However, it is a 2.49% decline from the peak monthly market share of the brand in January 2022 at 59.87% market share. Apple still has a significant lead over its competitor, Samsung, with a 30.62% difference in market share this month.

Apple Market Share in the US (By Quarter)



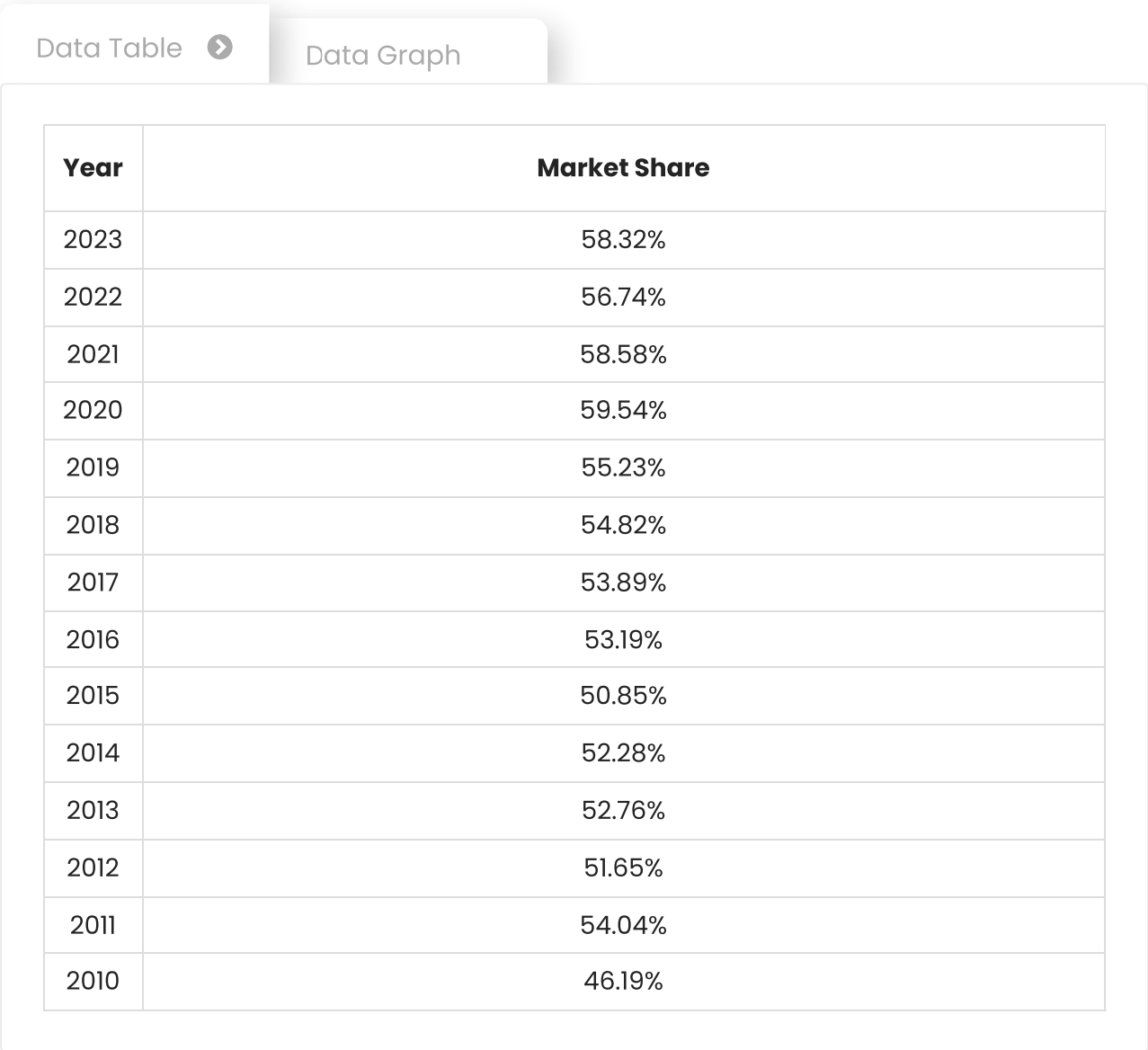
Key Stats:

- › America is the most significant Apple market, accounting for 37.47 billion US dollars in net sales during the third quarter of the company’s fiscal year 2022.
- › America has around 120 million iPhone users in 2022–2023, accounting for 57% of all smartphone users in the country.
- › According to Counterpoint Research, Apple managed to become the top smartphone vendor in the world recently, easing out Samsung from its position.

Apple’s market share for the most recent quarter of 2023 is at 57.38%. This is a 1.29% increase in its market share compared to Q1 2022. The company continues to take more than half of the total smartphone sales in the country.

The first quarter of 2022 showed a slight increase owing to high demand for the iPhone 13 in the premium segment and the launch of the iPhone SE, providing a budget-friendly option to iOS users. However, data shows a decline starting from the second quarter of 2022. It appears that the release of the iPhone 14 created a boost in its 2023 market share.

Apple US Market Share by Year (2010–2023)



For the year 2023, Apple's market share in the US is at 58.32%. This is a 1.58% increase compared to 2022. There are currently 120 million iPhone users in the country.

Key Stats:

- › Apple achieved its major breakthrough in the US market in 2011 when it reached more than 50% market share for the first time. They broke sales records and earned the top spot, besting all the Android-based original equipment manufacturers (OEMs) combined. Over the years, Apple has continued to dominate the market share in America with its premium-segment devices.
- › Apple had a market share of less than 50% in the previous years before 2011, as the companies RIM (maker of BlackBerry), Motorola, and Nokia dominated smartphone sales.
- › Apple's largest market share to date was in the year 2020, taking 59.54% in America despite the COVID-19 pandemic. Apple continues to be the most valuable technology company in market capitalization this year.

Sources



SAMSUNG

Market Share of Samsung in the US

Samsung's market share for this month is at 26.76%, a 4.07% decline from 2022's peak monthly market share of 30.83%. They hold the second largest market share in America, 30.62% behind Apple, which has a market share of 57.38% in the same month.

Samsung Smartphone Market Share in the US (By Quarter)

Data Table

Data Graph

Market Share of Samsung in the US by Quarter

Quarter	Market Share
Q2 2023	26.29%
Q1 2023	29.21%
Q4 2022	30.16%
Q3 2022	29.87%
Q2 2022	28.32%
Q1 2022	27.41%

The second largest quarterly market share of smartphones in the US as of 2023 is held by Samsung at 26.29%. Data shows that the company’s market share declined by 1.12% compared to the first quarter of 2022.

Samsung Smartphone Market Share By Year (2010–2023)

Data Table

Data Graph

Samsung US Market Share by Year (2010–2023)

Year	Market Share
2023	27.83%
2022	28.94%
2021	25.64%

Year	Market Share
2020	24.72%
2019	25.67%
2018	24.76%
2017	26.62%
2016	26.79%
2015	26.57%
2014	25.34%
2013	18.38%
2012	12.84%
2011	9.12%
2010	5.27%

Samsung’s market share for the year 2023 is 27.83%. Over the years, Samsung has boosted its market share in the US by more than five times since releasing its first Samsung Galaxy in 2009. From 5.27% market share in 2010 to 27.83% in 2023. The company has maintained the second-largest share in the US from 2012 to the present and has continued to grow in recent years.

Sources



SAMSUNG VS APPLE

Samsung vs. Apple Market Share in the US

Apple and Samsung currently hold the largest market share in the US, with a combined market share of 84.14% this month. Apple leads with 57.38%, and Samsung is second with 26.76%. The staggering 30.62% difference shows a strong demand for Apple products and the iPhone series by consumers in the US. Maintaining shares at around 55%, Apple has bested all Android OEMs in America.

Samsung vs. iPhone Market Share in the US (By Quarter)

Data Table

Data Graph

Quarter	Apple	Samsung
Q2 2023	59.79%	26.29%
Q1 2023	57.12%	29.21%
Q4 2022	55.31%	30.16%
Q3 2022	55.91%	29.87%
Q2 2022	57.23%	28.32%

The most recent quarter of the US smartphone market share in 2023 saw Apple at 59.79% and Samsung at 26.29%. Despite the marginal difference between the two vendors in the global market share, the US market shows a massive difference of 33.50% in Apple’s favor.

Apple has maintained a solid lead in US smartphone sales over the last quarters. However, data shows a slight decline of almost 3% in between, especially with the release of the iPhone 14 in Q3 2022. In contrast, Samsung comes in second with more than a quarter of the US market. The company’s trend appears to keep changing directions over the last recent quarters.

Samsung increased the production of their well-known A series to compete in the mid-to-low-end segment. The company is also refreshing its 2023 portfolio, which includes the flagship Galaxy S23 series.

Sources



MOTOROLA

Motorola Market Share in the US

Motorola currently has a monthly market share of 4.41%, placing Motorola third in rank in the US market. Motorola was acquired by Lenovo in 2014.

Motorola Smartphone Market Share in the US (By Quarter)

Data Table

Data Graph

Market Share of Motorola in the US by Quarter

Quarter	Market Share
Q2 2023	4.34%
Q1 2023	4.68%
Q4 2022	5.07%
Q3 2022	4.90%
Q2 2022	4.79%
Q1 2022	4.25%

**Motorola was acquired by Lenovo in 2014.*

Motorola’s current quarterly market share is at 4.34%. This is an increase of 0.09% compared to the brand’s market share at the beginning of 2022.

Motorola Market Share By Year in the US (2010-2023)

Data Table

Data Graph

Motorola US Market Share by Year

Year	Market Share
2023	4.52%
2022	4.75%
2021	3.65%
2020	3.17%
2019	3.68%
2018	3.49%
2017	3.15%
2016	3.20%
2015	3.59%
2014	3.62%
2013	4.70%
2012	5.78%
2011	2.54%
2010	1.29%

**Motorola was acquired by Lenovo in 2014.*

The above data shows the yearly smartphone market share of Motorola in the US over the years. Motorola currently has a 4.52% market share in 2023, a slight decline of 0.23% from the previous year. The brand has managed to keep a stable 3-5% market share through the years.

GOOGLE PIXEL

Google Market Share in the US

This month, Google ranks fourth in the US smartphone market share with 2.52%, trailing behind Motorola. They have increased significantly over the previous months with the help of their newest Pixel.

Google Smartphone Market Share in the US (By Quarter)

Data Table ▶

Data Graph

Google US Market Share by Quarter

Quarter	Market Share
Q2 2023	2.11%
Q1 2023	2.11%
Q4 2022	2.26%
Q3 2022	2.27%
Q2 2022	2.42%
Q1 2022	2.34%

Google’s smartphone market share for the most recent quarter is at 2.11%. This is a decline of 0.23% compared to the first quarter of 2022. Up until the third quarter of 2022, LG held the fourth rank in terms of market share in the US. The brand’s steady decline in the most recent quarters, however, allowed Google to take the spot.

Google Pixel Market Share By Year (2010–2023)



Google currently has a yearly market share of 2.11%. The brand gradually entered the market with a market share ranging from 0.25% to 1.85% from 2010 to 2018. With the

Sources

▼

LG

LG Market Share in the US

LG’s market share is currently at 1.30%, showing a decrease of 1.76% from its highest monthly market share in 2022 at 3.06%. The company stopped making smartphones in 2021.

LG Smartphone Market Share in the US (By Quarter)

Data Table ▶

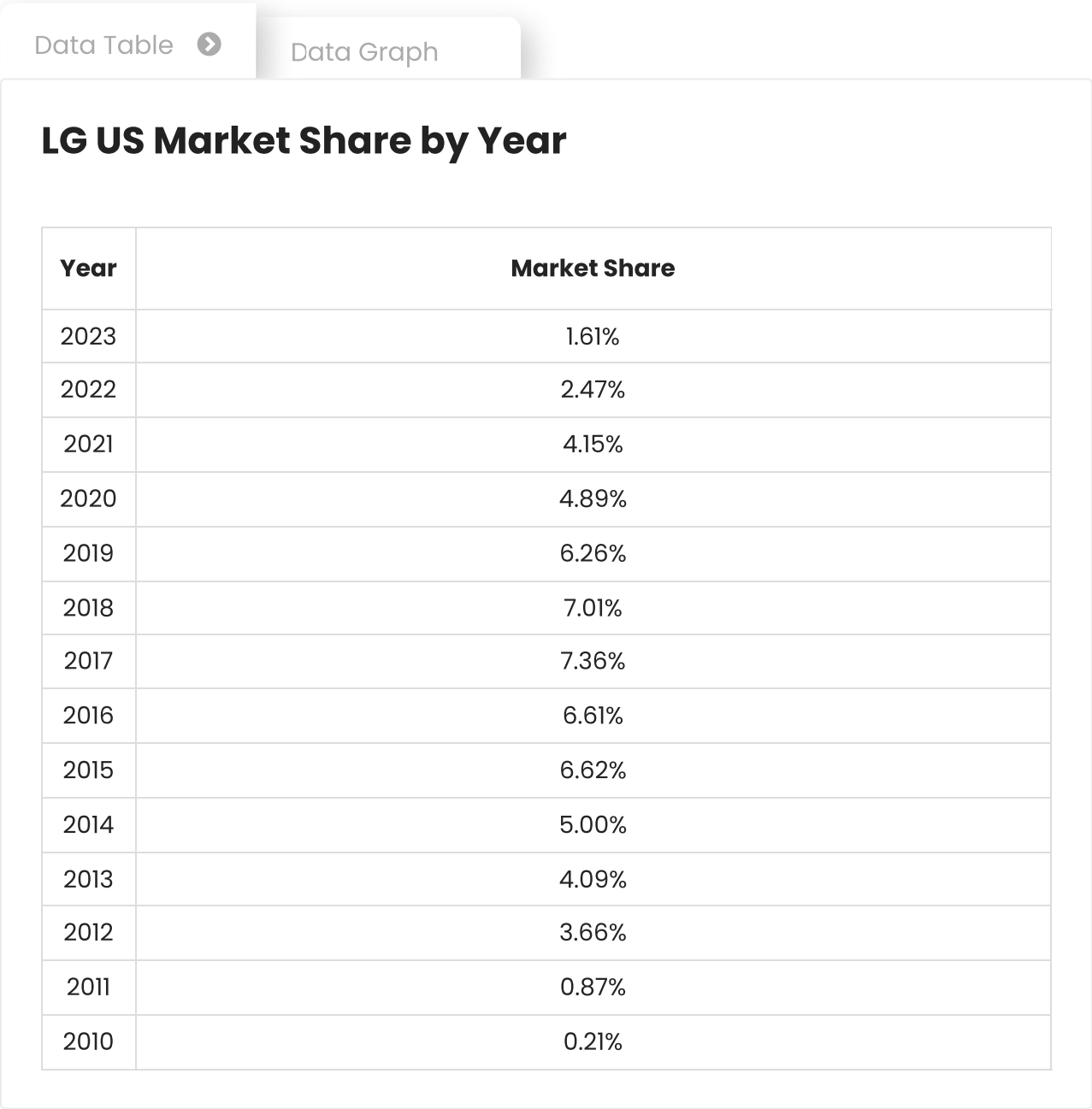
Data Graph

LG US Market Share by Quarter

Quarter	Market Share
Q2 2023	1.47%
Q1 2023	1.74%
Q4 2022	1.93%
Q3 2022	2.33%
Q2 2022	2.62%
Q1 2022	2.98%

LG’s current quarterly market share at 1.47% is a 1.51% decline from its brand share from the first quarter of 2022. The brand’s most recent quarters have been showing a downward trend in the US market following the termination of its phone manufacturing business.

LG Market Share By Year in the US (2015–2023)



LG’s dwindling market share is down to 1.61% in 2023. From a mere 0.21% market share in the US in 2010, they peaked at 7.36% in 2017. Their growth was bolstered by a

diverse portfolio of product devices. Following years, however, of a dwindling market share, the company decided to discontinue its phone lines in 2021.

Sources



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Author: Ash Turner

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