

APPLE INC
Form 8-K
October 18, 2010

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of
The Securities Exchange Act of 1934

October 18, 2010

Date of Report (date of earliest event reported)

APPLE INC.

(Exact name of Registrant as specified in its charter)

California
(State or other jurisdiction of

incorporation)

000-10030
(Commission

File Number)

1 Infinite Loop, Cupertino, CA 95014

(Address of principal executive offices)

(408) 996-1010

(Registrant's telephone number, including area code)

94-2404110
(I.R.S. Employer

Identification Number)

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(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- .. Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

- .. Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

- .. Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

- .. Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 2.02 Results of Operations and Financial Condition.

On October 18, 2010, Apple Inc. (Apple) issued a press release regarding Apple s financial results for its fourth fiscal quarter ended September 25, 2010 and a related data sheet. A copy of Apple s press release is attached hereto as Exhibit 99.1 and a copy of the related data sheet is attached hereto as Exhibit 99.2.

The information contained in this Current Report shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the Exchange Act), or incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such a filing.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits.

The following exhibits are furnished herewith:

Exhibit

Number	Description
99.1	Text of press release issued by Apple Inc. on October 18, 2010.
99.2	Data sheet issued by Apple Inc. on October 18, 2010.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

APPLE INC.

Date: October 18, 2010

By: /s/ Peter Oppenheimer
Peter Oppenheimer
Senior Vice President,

Chief Financial Officer

EXHIBIT INDEX
Exhibit

Number	Description
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99.1	Text of press release issued by Apple Inc. on October 18, 2010.
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s and our experience in procurements of this nature. For certain multi-year projects relating to fiber deployments for one of our significant customers, we have included in the April 28, 2007 backlog amounts relating to anticipated work through the remainder of calendar year 2007. These fiber deployment projects, when initially installed, are not required for the day-to-day provision of services by that customer. Consequently, the fiber deployment projects of this customer generally have been subject to more uncertainty, as compared to those of our other customers, with regards to activity levels. Our estimates of a customer's requirements during a particular future period may not be accurate at any point in time.

Our backlog at April 28, 2007 and July 29, 2006 was \$1.482 billion and \$1.425 billion, respectively. We expect to complete approximately 58% of our current backlog during the next twelve months.

Seasonality and Quarterly Fluctuations

Our revenues are affected by seasonality as a significant portion of work is performed outdoors. Consequently, our operations are impacted by extended periods of inclement weather. Generally, inclement weather is more likely to occur during the winter season which falls during our second and third fiscal quarters. In addition, a disproportionate percentage of total paid holidays fall within our second quarter, which decreases the number of available workdays. Additionally, our customer premise equipment installation activities for cable providers historically decreases around calendar year end holidays as their customers generally require less activity during this period.

In addition, we have experienced and expect to continue to experience quarterly variations in revenues and net income as a result of other factors, including:

- the timing and volume of customers' construction and maintenance projects,
- seasonal budgetary spending patterns of customers,
- the commencement or termination of master service agreements and other long-term agreements with customers,
- costs incurred to support growth internally or through acquisitions,
- fluctuation in results of operations caused by acquisitions,
- fluctuation in the employer portion of payroll taxes as a result of reaching the limitation on social security withholdings and unemployment requirements,
- changes in mix of customers, contracts, and business activities, and
- fluctuations in insurance expense due to changes in claims experience and actuarial assumptions.

Accordingly, operating results for any fiscal period are not necessarily indicative of results that may be achieved for any subsequent fiscal period.

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Item 3. Quantitative and Qualitative Disclosures About Market Risk

We have market risk exposure related to interest rates on our cash and equivalents and our debt obligations. The effects of market changes on interest rates are monitored and we manage the interest rate risk by investing in short-term investments with market rates of interest and by maintaining a mix of fixed and variable rate debt. The impact on cash and equivalents held as of April 28, 2007 using a hypothetical 100 basis point change in interest rates would result in a change to annual interest income of less than \$0.2 million.

As of April 28, 2007, outstanding long-term debt included our \$150.0 million Notes due in 2015, which bear a fixed rate of interest of 8.125%. Due to the fixed rate of interest on the Notes, changes in interest rates would not have an impact on our interest expense. The fair value of the Notes totaled approximately \$157.7 million as of April 28, 2007 based on quoted market prices. There exists market risk sensitivity on the fair value of the fixed rate Notes with respect to changes in interest rates. A hypothetical 50 basis point change in the market interest rates in effect at April 28, 2007 would result in an increase or decrease in the fair value of the Notes of approximately \$4.5 million, calculated on a discounted cash flow basis.

As of April 28, 2007, \$25.0 million of borrowings were outstanding under our Credit Agreement at an interest rate of 8.5%. Our Credit Agreement generally permits borrowings at variable rate of interest. Assuming a hypothetical 100 basis point change in the rate at April 28, 2007, our annual interest cost on Credit Agreement borrowings would change by approximately \$0.3 million. In addition, we have \$7.8 million of capital leases with varying rates of interest due through fiscal 2011. A hypothetical 100 basis point change in interest rates in effect at April 28, 2007 on these capital leases would not have a material impact on the fair value of the leases or on our annual interest cost.

We also have market risk for foreign currency exchange rates related to our operations in Canada. As of April 28, 2007, the market risk for foreign currency exchange rates was not significant as our operations in Canada have not been material.

Item 4. Controls and Procedures

The Company, under the supervision and with the participation of our Chief Executive Officer and Chief Financial Officer, carried out an evaluation of the effectiveness of the Company's disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) as of the end of the period covered by this report on Form 10-Q. Based on that evaluation, the Chief Executive Officer and the Chief Financial Officer each concluded that the Company's disclosure controls and procedures are effective

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in providing reasonable assurance that information required to be disclosed by the Company in reports that it files under the Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the time periods specified by the rules and forms of the Securities and Exchange Commission.

There were no changes in the Company's internal control over financial reporting (as such term is defined in Rule 13a-15(f) and 15(d) 15 (f) under the Securities Exchange Act of 1934, as amended), that occurred during the three months ended April 28, 2007 that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting. In making our assessment of changes in internal control over financial reporting as of April 28, 2007, we have excluded Cable Express Holdings, Inc., which was acquired in September 2006. These operations represent approximately 10.3% and 6.9% of our total assets and total liabilities at April 28, 2007, respectively, and approximately 6.1% of our total contract revenues for the nine months ended April 28, 2007.

PART II. OTHER INFORMATION**Item 1. Legal Proceedings**

In December 2006, two former employees of Apex Digital, LLC (Apex), a wholly-owned subsidiary that was discontinued during the second quarter of fiscal 2007, commenced a lawsuit against the subsidiary in Illinois State Court. The lawsuit alleges that Apex violated certain minimum wage laws under the Fair Labor Standards Act and related state laws by failing to comply with applicable minimum wage and overtime pay requirements. The plaintiffs seek damages and costs. They also seek to certify, and eventually notify, a class consisting of former employees who, since December 2004, have worked for Apex. On January 30, 2007 the case was removed to the United States District Court for the Northern District of Illinois. It is too early to evaluate the likelihood of an outcome to this matter or estimate the amount or range of potential loss, if any. The Company intends to vigorously defend itself against this lawsuit.

The Company and its subsidiaries also have pending claims and legal proceedings in the normal course of business. It is the opinion of the Company's management, based on information available at this time, that none of such pending normal course of business claims or proceedings will have a material effect on the Company's condensed consolidated financial statements.

With respect to other allegations regarding the Fair Labor Standards Act and state wage and hour laws, see Note 16, Commitments and Contingencies, in the notes to condensed consolidated financial statements.

Item 1A. Risk Factors

There have been no material changes from the risk factors disclosed in our fiscal 2006 Form 10-K under the heading Risk Factors in Part I, Item 1A of Form 10-K.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds Issuer Purchases of Equity Securities

(a) During the nine months ended April 28, 2007, we did not sell any of our equity securities that were not registered under the

Securities Act of 1933.

(b) Not applicable.

(c) The following table summarizes the Company's purchases of its common stock:

Period	Total Number of Shares Purchased	Average Price Paid Per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Number of Shares that May Yet Be Purchased Under the Plan or Programs
November 26, 2006	41,949	\$ 20.94		
December 23, 2006 (1)				
December 24, 2006 - January 27, 2007(2)	10,384	\$ 21.12		

January 28, 2007	March 24, 2007		
March 25, 2007	April 28, 2007	94	\$ 27.25

(3)

(1) The Company acquired 41,949 shares of common stock related to income tax withholdings for restricted stock that vested on December 14, 2006 and December 15, 2006.

(2) The Company acquired 10,384 shares of common stock related to income tax withholdings for restricted stock that vested on December 31, 2006.

(3) The Company acquired 94 shares of common stock related to income tax withholdings for restricted stock that vested on April 17, 2007.

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Item 6. Exhibits

Exhibits furnished pursuant to the requirements of Form 10-Q:

Exhibit number

- 11 Statement re computation of per share earnings; All information required by Exhibit 11 is presented within Note 2 of the Company's condensed consolidated financial statements in accordance with the provisions of SFAS No. 128
- 31.1+ Certification of Chief Executive Officer Pursuant to Rule 13a-14(a)/15d-14(a) as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 31.2+ Certification of Chief Financial Officer Pursuant to Rule 13a-14(a)/15d-14(a) as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 32.1+ Certification of Chief Executive Officer Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
- 32.2+ Certification of Chief Financial Officer Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

+ **Filed herewith**

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

DYCOM INDUSTRIES, INC.

Registrant

Date: May 25, 2007

/s/ Steven E. Nielsen

Name: Steven E. Nielsen

Title: President and Chief Executive
Officer

Date: May 25, 2007

/s/ Richard L. Dunn

Name: Richard L. Dunn

Title: Senior Vice President and Chief
Financial Officer

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