

1 David J, Miclean (#115098/miclean@fr.com)
 FISH & RICHARDSON P.C.
 2 500 Arguello Street, Suite 500
 Redwood City, California 94063
 3 Telephone: (650) 839-5070
 Facsimile: (650) 839-5071

4 Lisa M. Martens (#195824/martens@fr.com)
 5 Andrew M. Abrams (#229698/abrams@fr.com)
 FISH & RICHARDSON P.C.
 6 12390 El Camino Real
 San Diego, California 92130
 7 Telephone: (858) 678-5070
 Facsimile: (858) 678-5099

8 Attorneys for Plaintiff
 9 APPLE COMPUTER, INC.

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 (OAKLAND DIVISION)
 13

14 APPLE INC.,

15 Plaintiff,

16 v.

17 PODFITNESS, INC., and DOES 1-100,
 18 inclusive,

19 Defendants.

Case No. C 06-5805 SBA

**MOTION TO FILE A DOCUMENT
 UNDER SEAL**

Honorable Sandra B. Armstrong

20 PODFITNESS, INC.,

21 Counterclaim Plaintiff

22 v.

23 APPLE INC.,

24 Counterclaim Defendant
 25

26
 27 Plaintiff Apple Inc. (“Apple”) is filing a Memorandum of Points and Authorities in
 28 Opposition to the Motion for Partial Summary Judgment filed by Defendant Podfitness, Inc.

1 (“Defendant” or “Podfitness”). Counsel for Apple believes that in order to adequately address the
2 issues raised in Defendant’s Motion for Partial Summary Judgment, all of the relevant information
3 and documents obtained in discovery must be presented to the Court, including documents
4 designated as “Confidential” or “Attorneys’ Eyes Only.” In order to avoid public disclosure of a
5 document designated as “Confidential” or “Attorneys’ Eyes Only” pursuant to the Stipulated
6 Protective Order entered into by the parties, Apple requests and moves the Court to file the
7 unredacted version of the Opposition under seal.

8
9 Dated: April 28, 2008

FISH & RICHARDSON P.C.

10
11 By: /s/ David J. Miclean
12 David J. Miclean

13 Attorneys for Plaintiff and
14 Counterclaim Defendant
APPLE INC.

1 **PROOF OF SERVICE**

2 I am employed in the County of San Diego, my business address is Fish & Richardson P.C.,
3 12390 El Camino Real, San Diego, California 92103. I am over the age of 18 and not a party to the
4 foregoing action.

5 I am readily familiar with the business practice at my place of business for collection and
6 processing of correspondence for personal delivery, for mailing with United States Postal Service,
7 for facsimile, and for overnight delivery by Federal Express, Express Mail, or other overnight
8 service.

9 On April 28, 2008, I caused a copy of the following document(s):

10 **MOTION TO FILE A DOCUMENT UNDER SEAL**

11 to be served on the interested parties in this action by placing a true and correct copy
12 thereof, enclosed in a sealed envelope, and addressed as follows:

13 James E. Magleby
14 Jason A. McNeill
15 Magleby & Greenwood, P.C.
16 170 South Main Street, Suite 350
17 Salt Lake City, UT 84101
18 (801) 359-9011 (facsimile)

Attorneys for Defendant
PODFITNESS, INC.

19 **FEDERAL**
20 **EXPRESS:**

Such correspondence was deposited on the same day
in the ordinary course of business with a facility
regularly maintained by Federal Express.

21 James M. Wagstaffe
22 Kerr & Wagstaffe LLP
23 100 Spear Street, Suite 1800
24 San Francisco, CA 94105-1528
25 (415) 371-0500 (facsimile)

Attorneys for Defendant
PODFITNESS, INC.

26 **PERSONAL:**

Such envelope was delivered by hand to the offices of
the addressee.

27 I declare that I am employed in the office of a member of the bar of this Court at
28 whose direction the service was made.

I declare under penalty of perjury that the above is true and correct. Executed on
April 28, 2008, at San Diego, California.

/s/Nicole C. Pino
Nicole C. Pino

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