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8 Attorneys for Plaintiff
 9 APPLE COMPUTER, INC.

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

14 APPLE INC.,

Plaintiff,

16 v.

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

19 Defendants.

20 PODFITNESS, INC.,

Counterclaim Plaintiff

22 v.

23 APPLE INC.,

24 Counterclaim Defendant

Case No. C 06-5805 SBA

DECLARATION OF ANDREW M. ABRAMS IN SUPPORT OF MOTION TO FILE A DOCUMENT UNDER SEAL

Honorable Sandra B. Armstrong

1 I, Andrew M. Abrams, declare as follows:

2 1. I am an associate of Fish & Richardson P.C., counsel of record in this action for
3 Apple Inc. (“Apple”). I am a member of the Bar of the State of California and am admitted to this
4 Court. I have personal knowledge of the matters stated in this declaration and would testify
5 truthfully to them if called upon to do so.

6 2. Apple is filing a Memorandum of Points and Authorities in Opposition to the Motion
7 for Partial Summary Judgment filed by Defendant Podfitness, Inc. (“Defendant” or “Podfitness”).

8 3. I believe that in order to adequately address the issues raised in Defendant’s Motion
9 for Partial Summary Judgment, all of the relevant information and documents obtained in discovery
10 must be presented to the Court, including documents designated as “Confidential” or “Attorneys’
11 Eyes Only.”

12 4. In order to avoid public disclosure of a document designated as “Confidential” or
13 “Attorneys’ Eyes Only” pursuant to the Stipulated Protective Order entered into by the parties, I
14 believe that it is necessary to file the unredacted version of the Opposition under seal.

15
16 I declare under the penalty of perjury under the laws of the State of California that the
17 foregoing is true and correct.

18 Executed at San Diego, California on the 28th day of April, 2008.

19
20 _____
21 /s/ Andrew M. Abrams
22 Andrew M. Abrams
23
24
25
26
27
28

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 92130. 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 **DECLARATION OF ANDREW M. ABRAMS IN SUPPORT OF MOTION TO FILE A**
11 **DOCUMENT UNDER SEAL**

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

Attorneys for Defendant
PODFITNESS, INC.

18

**FEDERAL
EXPRESS:**

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

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

Attorneys for Defendant
PODFITNESS, INC.

24

PERSONAL:

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

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

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

/s/Nicole C. Pino

Nicole C. Pino

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