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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(OAKLAND DIVISION)

APPLE INC.,

 Plaintiff,

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

 Defendants.

Case No. C 06-5805 SBA

**[PROPOSED] ORDER DENYING
DEFENDANT PODFITNESS, INC.’S
PARTIAL MOTION FOR SUMMARY
JUDGMENT**

Honorable Sandra B. Armstrong

PODFITNESS, INC.,

 Counterclaim Plaintiff

 v.
APPLE INC.,

 Counterclaim Defendant

AND NOW, the Court, having considered Plaintiff Apple Inc.’s (“Apple”) Opposition to Defendant Podfitness, Inc.’s Partial Motion for Summary Judgment.

IT IS HEREBY ORDERED that Podfitness’ Motion is denied.

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IT IS SO ORDERED.

Dated: _____

Honorable Sandra B. Armstrong
UNITED STATES DISTRICT COURT JUDGE

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PROOF OF SERVICE

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I am employed in the County of San Diego. My business address is Fish & Richardson P.C., 12390 El Camino Real, San Diego, California 92130. I am over the age of 18 and not a party to the foregoing action.

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

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

[PROPOSED] ORDER DENYING DEFENDANT PODFITNESS, INC.'S PARTIAL MOTION FOR SUMMARY JUDGMENT

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

Attorneys for Defendant
PODFITNESS, INC.

FEDERAL EXPRESS:

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

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San Francisco, CA 94105-1528
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Attorneys for Defendant
PODFITNESS, INC.

PERSONAL:

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

I declare that I am employed in the office of a member of the bar of this Court at 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