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Attorneys for Defendants
 and Counterclaim Plaintiff
 Podfitness, Inc.

Attorneys for Plaintiff and
 Counterclaim Defendant
 APPLE INC.

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

**STIPULATION AND [PROPOSED]
 ORDER SETTING BRIEFING
 SCHEDULE**

Honorable Sandra B. Armstrong

PODFITNESS, INC.,

Counterclaim Plaintiff

v.

APPLE INC.,

Counterclaim Defendant

1 WHEREAS Defendant and Counterclaim Plaintiff Podfitness, Inc. ("Podfitness") filed its
2 Partial Motion for Summary Judgment on February 22, 2008 for a hearing on April 8, 2008.

3 WHEREAS in response to the parties stipulated request, this Court issued an Order on
4 March 19, 2008 continuing the motion hearing date to June 3, 2008;

5 WHEREAS Plaintiff and Counterclaim Defendant Apple Inc.'s Opposition papers were
6 served and filed on April 28, 2008;

7 AND WHEREAS the parties now desire additional time to negotiate settlement;

8 IT IS HEREBY STIPULATED by and between the parties, through their counsel of
9 record, that the remaining briefing and hearing schedule on Podfitness' Partial Motion for
10 Summary Judgment will be as follows:

- 11 • Podfitness' Reply papers shall be served and filed on **May 27, 2008**; and
- 12 • The parties request that the motion hearing date remain on June 3, 2008 at
13 1:00p.m.

14 Based on the foregoing, the parties respectfully request that the Court grant the parties
15 stipulated request.

16 Dated: May 9, 2008

FISH & RICHARDSON P.C.

17
18 By: /s/ Andrew M. Abrams
Andrew M. Abrams

19
20 Attorneys for Plaintiff and
Counterclaim Defendant
21 APPLE INC.

22 Dated: May 9, 2008

MAGLEBY & GREENWOOD, P.C.

23
24 By: /s/ James E. Magleby
James E. Magleby

25
26 Attorneys for Defendants and
Counterclaim Plaintiff
27 PODFITNESS, INC.
28

DECLARATION OF CONSENT

Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under penalty of perjury that concurrence in the filing of this document has been obtained from James E. Magleby.

Dated: May 9, 2008

FISH & RICHARDSON P.C.

By: /s/ Andrew M. Abrams
Andrew M. Abrams

Attorneys for Plaintiff and
Counterclaim Defendant
APPLE INC.

PURSUANT TO STIPULATION, IT IS SO ORDERED:

Dated: _____
United States District Judge

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PROOF OF SERVICE

I am employed in the County of San Diego. My business address is Fish & Richardson P.C., 500 Arguello Street, Ste. 500, Redwood City, California 94063. 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 May 9, 2008, I caused a copy of the following document(s):

STIPULATION AND [PROPOSED] ORDER SETTING BRIEFING SCHEDULE

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

James M. Wagstaffe
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Attorneys For Defendant
PODFITNESS, INC.

MAIL: Such correspondence was deposited, postage fully paid, with the United States Postal Service on the same day in the ordinary course of business.

ELECTRONIC MAIL: Such document was transmitted by electronic mail to the addressees' email addresses as stated above.

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 May 9, 2008, at Redwood City, California.

/s/ Diane M. Arceo-Lowenstein
Diane M. Arceo-Lowenstein

#50483348