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10 Attorneys for Plaintiff  
 11 APPLE INC.

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

16 APPLE INC.,  
 17 Plaintiff,  
 18 v.  
 19 PODFITNESS, INC., and DOES 1-100,  
 inclusive,  
 20 Defendants.

22 PODFITNESS, INC.,  
 23 Counterclaim Plaintiff,  
 24 v.  
 25 APPLE INC.,  
 26 Counterclaim Defendant,

Case No. C 06-5805 SBA

**LETTER OF INQUIRY RE CONSENT  
 JUDGMENT AND PERMANENT  
 INJUNCTION (DOCUMENT NO. 126)**

1 Counsel for Plaintiff and Counterclaim Defendant Apple Inc. ("Apple") sends this  
2 correspondence to the Court to respectfully inquire as to the status of the Consent Judgment and  
3 Permanent Injunction jointly filed by the parties on May 28, 2008 (Document No. 126). As the  
4 parties have already executed a settlement agreement, Apple respectfully requests that the Court  
5 sign the proposed order accompanying Document No. 126 on an expedited basis, so that the  
6 parties may dismiss this action and avoid upcoming deadlines that cannot be complied with until  
7 the Consent Judgment is signed and entered by the court.

8 Thank you for your time and consideration.

9  
10 Dated June 5, 2008

FISH & RICHARDSON P.C.

11  
12 By: /David J. Miclean/

David J. Miclean

Lisa M. Martens

Andrew M. Abrams

Attorneys for Plaintiff

APPLE INC.

**PROOF OF SERVICE**

I am employed in the County of San Mateo, my business address is Fish & Richardson P.C., 500 Arguello Street, Suite 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 June 5, 2008, I caused a copy of the following document(s):

**LETTER OF INQUIRY RE CONSENT JUDGMENT AND PERMANENT INJUNCTION (DOCUMENT NO. 126)**

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 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.

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

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.
- PERSONAL:** Such envelope was delivered by hand to the offices of the addressee.
- FACSIMILE:** Such document was faxed to the facsimile transmission machine with the facsimile machine number stated above. Upon completion of the transmission, the transmitting machine issued a transmission report showing the transmission was complete and without error.
- ELECTRONIC MAIL:** Such document was transmitted by electronic mail to the addressees' email addresses as stated above.

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**FEDERAL EXPRESS:**

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

**EXPRESS MAIL:**

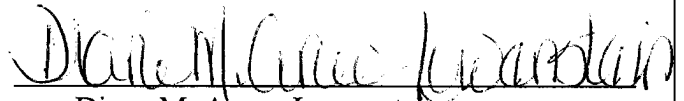
Such correspondence was deposited on the same day in the ordinary course of business with a facility regularly maintained by the United States Postal Service.

**OVERNIGHT DELIVERY:**

Such correspondence was given on the same day in the ordinary course of business to an authorized courier or a driver authorized by that courier to receive documents.

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 June 5, 2008, at Redwood City, California.

  
Diane M. Arceo-Lowenstein