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Attorneys for Defendants  
and Counterclaim Plaintiff  
Podfitness, 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  
  
**STIPULATED DISMISSAL WITH  
PREJUDICE**  
  
Honorable Sandra B. Armstrong

PODFITNESS, INC.,  
  
Counterclaim Plaintiff  
  
v.  
  
APPLE INC.,  
  
Counterclaim Defendant

1 Pursuant to agreement and stipulation between the parties to the above-entitled lawsuit,  
2 the above action (including all claims in the complaint, and any cross-action filed therein), are  
3 hereby dismissed with prejudice.

4 Dated: June 6, 2008

FISH & RICHARDSON P.C.

6 By: /s/ David J. Miclean  
7 David J. Miclean

8 Attorneys for Plaintiff and  
9 Counterclaim Defendant  
APPLE INC.

10 Dated: June 6, 2008

MAGLEBY & GREENWOOD, P.C.

12 By: /s/ James E. Magleby  
13 James E. Magleby

14 Attorneys for Defendants and  
15 Counterclaim Plaintiff  
PODFITNESS, INC.

16 **DECLARATION OF CONSENT**

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

20 Dated: June 6, 2008

FISH & RICHARDSON P.C.

22 By: /s/ David J. Miclean  
23 David J. Miclean

24 Attorneys for Plaintiff and  
25 Counterclaim Defendant  
APPLE INC.

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IT IS SO ORDERED:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Honorable Sandra B. Armstrong  
United States District Judge

**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 6, 2008, I caused a copy of the following document(s):

**STIPULATED DISMISSAL WITH PREJUDICE**

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  
Kerr & Wagstaffe LLP  
100 Spear Street, Suite 1800  
San Francisco, CA 94105-1528  
Telephone: (415) 371-8500  
Facsimile: (415) 371-0500

Attorneys For Defendant  
PODFITNESS, INC.

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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 June 6, 2008, at Redwood City, California.

/s/Diane M. Arceo-Lowenstein

Diane M. Arceo-Lowenstein