

1 Charles J. Veverka (Admitted *Pro Hac*
Vice)/cveverka@wnlaw.com
 2 Robert E. Aycock (Admitted *Pro Hac*
Vice)/raycock@wnlaw.com
 3 WORKMAN | NYDEGGER
 1000 Eagle Gate Tower
 4 60 East South Temple
 Salt Lake City, UT 84111
 Telephone: (801) 533-9800
 5 Facsimile: (801) 328-1707

6 William S. Farmer
 (#46694)/wfarmer@collette.com
 7 Jacob Alpren (#235713)/jalpren@collette.com
 COLLETTE ERICKSON FARMER & O'NEILL LLP
 8 235 Pine Street, Suite 1300
 San Francisco, CA 94104
 Telephone: (415) 788-4646
 9 Facsimile: (415) 788-6929

10 Attorneys for Defendant
 11 PODFITNESS, INC.

David J. Miclean
 (#115098)/miclean@fr.com
 FISH & RICHARDSON P.C.
 500 Arguello Street, Suite 500
 Redwood City, California 94063
 Telephone: (650) 839-5070

Lisa M. Martens
 (#195824)/martens@fr.com
 Andrew M. Abrams
 (#229698)/abrams@fr.com
 FISH & RICHARDSON P.C.
 12390 El Camino Real
 San Diego, California 92130
 Telephone: (858) 678-5070

Attorneys for Plaintiff
 APPLE COMPUTER, INC.

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

17 APPLE COMPUTER, INC.,

18 Plaintiff,

19 v.

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

21 Defendants.

Case No. C 06-5805 SBA

**[PROPOSED] STIPULATED ADDENDUM
 TO STIPULATED PROTECTIVE ORDER**

Hon. Sandra B. Armstrong

23
 24 A discovery dispute has arisen in this matter between plaintiff Apple Computer, Inc.
 25 (“Apple”) and defendant Podfitness, Inc. (“Podfitness”) [collectively the “Parties”], regarding
 26 third-party discovery by Apple to Podfitness’ business associates, which Podfitness contends has

27
 28 [Proposed] Stipulated Addendum
 to Stipulated Protective Order
 Case No. C 06-5805 SBA

1 disrupted its business relationships and/or associations with such third parties (the “Third
2 Parties”). Apple contends that it has the right to subpoena Third Parties in order to obtain
3 relevant information without prior approval from Podfitness. In the interest of resolving this
4 dispute without the necessity of motion practice, the Parties have reached the following
5 agreement.

6 Accordingly, the Parties, by and through their respective attorneys, stipulate and agree to
7 the following terms and conditions, in addition to the terms and conditions set forth in the
8 Stipulated Protective Order, signed by the Court on February 9, 2007:

9 1. Apple agrees not to serve any Third Parties with subpoenas or otherwise contact
10 such Third Parties without first seeking the same documents from Podfitness, through
11 appropriate discovery channels.

12 2. If Podfitness is unable to produce the requested documents, Apple’s counsel will
13 give Podfitness’ counsel ten days advance notice of its intent to issue subpoenas or otherwise
14 contact any Third Parties.

15 3. Apple also agrees to cooperate with Podfitness’ counsel to meet and confer during
16 the ten day period should Podfitness’ counsel request such a meet and confer.

17 4. Apple further agrees not to serve any subpoenas or otherwise contact the Third
18 Parties during the ten day period, and if Podfitness’ counsel files a motion for a protective order,
19 not until such motion is ruled upon by the Court.

20 Dated: April 13, 2007

FISH & RICHARDSON P.C.

21
22 By: /s/ Andrew M. Abrams

23 David J. Miclean

24 Lisa M. Martens

25 Andrew M. Abrams

26 Attorneys for Plaintiff

27 APPLE COMPUTER, INC.

1 Dated: April 13, 2007

WORKMAN NYDEGGER

2
3 By: /s/ Robert E. Aycock
4 Charles J. Veverka
5 Robert E. Aycock

6 Attorneys for Defendant
7 PODFITNESS, INC.

8 **DECLARATION OF CONSENT**

9 Pursuant to General order No. 45, § X(B) regarding signatures, I attest under penalty of
10 perjury that concurrence in filing this document has been obtained from Andrew M. Abrams.
11

12 WORKMAN NYDEGGER

13
14 By: /s/ Robert E. Aycock
15 Charles J. Veverka
16 Robert E. Aycock

17 Attorneys for Defendant
18 PODFITNESS, INC.

ORDER

IT IS SO ORDERED.

Dated: _____

Honorable Sandra B. Armstrong or Joseph C. Spero
United States District Court Judge / Magistrate