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20 Attorneys for Defendant
 21 PODFITNESS, INC.

22 UNITED STATES DISTRICT COURT
 23 NORTHERN DISTRICT OF CALIFORNIA
 24 SAN FRANCISCO DIVISION

25 APPLE, INC.,
 26
 27 Plaintiff,
 v.
 28 PODFITNESS, INC., and DOES 1-100,
 29 inclusive
 30 Defendants.

Civil Action No. 4:06-cv-05805 SBA

**NOTICE AND MOTION FOR LEAVE TO
 WITHDRAW OF
 WORKMAN NYDEGGER AND
 COLLETTE ERICKSON FARMER &
 O'NEILL**

Hon. Sandra B. Armstrong

Pursuant to Local Rule 11-5, Larry R. Laycock, Charles J. Veverka, Robert E. Aycock,
 Brett I. Johnson and Mark W. Ford of WORKMAN NYDEGGER, and William B. Farmer and Jacob

1 Alpren of COLLETTE ERICKSON FARMER & O'NEILL (collectively "Counsel"), counsel for
2 Defendant Podfitness, Inc. ("Podfitness") hereby notify the parties of their intent to withdraw as
3 attorneys of record for Podfitness, and move the Court to permit withdrawal. The following are
4 grounds for this notice and motion:

- 5 1. Irreconcilable differences have developed between Counsel and Podfitness, which
6 differences make it impossible for Counsel to effectively represent Podfitness in
7 this action.
- 8 2. Podfitness has full-time in-house counsel, Mr. Steve Hutchinson, Esq., that has
9 actively participated in this action with Counsel and has interfaced directly with
10 counsel for Plaintiff Apple, Inc. ("Apple").
- 11 3. Apple recently added claims in the present action through its First Amended
12 Complaint, filed on August 1, 2007.
- 13 4. Podfitness responded to the First Amended Complaint and added counterclaims
14 through its Answer to First Amended Complaint and Counterclaims filed on
15 August 31, 2007.
- 16 5. The parties have completed much of the written discovery necessary in this case:
17 -Podfitness has responded to Apple's First Sets of Interrogatories,
18 Requests for Admissions and Requests for Production. Podfitness has also
19 produced over 5000 pages of documents and things.
20 -Apple has responded to Defendant's First Sets of Interrogatories and
21 Requests for Production and has produced approximately 290,000 pages
22 of documents and things. The great majority of Apple's production
23 occurred throughout July of 2007.
- 24 6. Approximately three months remain for the parties to complete fact discovery,
25 with the fact discovery cutoff presently set for December 14, 2007.
- 26 7. Approximately six months remain for the parties to complete expert discovery,
27 with the expert discovery cutoff presently set for March 14, 2008.

- 1 8. Counsel submits that ample time remains for Podfitness to either engage
- 2 substitute outside counsel or proceed through representation by its in-house
- 3 counsel without prejudice to Podfitness.
- 4 9. Counsel has provided prior notice to Podfitness of the present motion. Apple will
- 5 receive notice through contemporaneous service of this motion.
- 6 10. Papers may continue to be served on WORKMAN NYDEGGER until either Mr.
- 7 Hutchinson or other substitute counsel file their Notice(s) of Appearance or
- 8 Podfitness files a Notice to Appear *Pro Se*. WORKMAN NYDEGGER will forward
- 9 all such papers to Podfitness until such time as Notice(s) of Appearance are filed
- 10 on behalf of Podfitness.

11 Based on the foregoing, Counsel respectfully requests that the Court grant them leave to
12 withdraw, effective immediately. A proposed form of order is simultaneously filed herewith.

13 DATED: September 18, 2007.

Respectfully submitted,

14 WORKMAN | NYDEGGER

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 16 /s/ Charles J. Veverka
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23 Attorneys for Defendant and Counterclaimant
Podfitness, Inc.

PROOF OF SERVICE

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I hereby certify that on September 18, 2007, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which sent notification of such filing to the following: Abrams@fr.com; jacobalpren@quinnemanuel.com; raycock@wnlaw.com; wfarmer@collette.com; rlawrence@collette.com; llaycock@wnlaw.com; jlewis@wnlaw.com; martens@fr.com; miclean@fr.com; cveverka@wnlaw.com and served Podfitness' in-house counsel separately at shutchinson@podfitness.com.

DATED September 18, 2007.

WORKMAN | NYDEGGER

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