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 10 PODFITNESS, INC.

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 SAN FRANCISCO DIVISION

14 APPLE COMPUTER, INC.,

15 Plaintiff,

16 v.

17 PODFITNESS, INC., and DOES 1-100,
 18 inclusive

19 Defendants.

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

**PODFITNESS' REPLY TO APPLE'S
 OPPOSITION TO PODFITNESS'
 MOTION TO STAY PROCEEDINGS FOR
 THIRTY DAYS PENDING
 20 ENGAGEMENT
 21 OF SUBSTITUTE COUNSEL**

Date: _____, 2007

Time: 1:00 pm

Judge: Hon. Sandra B. Armstrong

22 Defendant Podfitness, Inc. ("Podfitness") hereby submits this reply to plaintiff Apple
 23 Computer, Inc.'s ("Apple's") Opposition to Podfitness' Motion to Stay Proceedings for Thirty
 24 Days Pending Engagement of Substitute Counsel ("Opposition").

25 In support of its Opposition, Apple relies upon the presence of and involvement by
 26 Steven R. Hutchinson ("Mr. Hutchinson") as in-house counsel for Podfitness. It is Apple's
 27 position that Mr. Hutchinson would be competent to represent Podfitness, obviating the need of a
 28

1 temporary stay of proceedings. Since Apple’s opposition, these circumstances have changed.
2 On October 15, 2007 Mr. Hutchinson resigned as in-house counsel for Podfitness, with his
3 resignation effective immediately. (Declaration of Jeff Hays (“Hays decl.”), filed concurrently
4 herewith, ¶ 3). Mr. Hutchinson’s departure has made the additional time needed to locate and
5 engage substitute counsel even more critical.

6 As of the date of his departure, Mr. Hutchinson had failed to locate and/or retain
7 substitute counsel. (Hays decl., ¶ 4). Podfitness must now find and educate substitute counsel to
8 represent Podfitness. Jeff Hays, President of Podfitness, has undertaken the task of doing so.
9 (Hays decl., ¶ 2, 5). However, because the location and engagement of substitute counsel was
10 the sole responsibility of Mr. Hutchinson, upon Mr. Hutchinson’s resignation, Mr. Hays was
11 forced to begin the search for substitute counsel from square one. (Hays decl., ¶ 6). Even more
12 importantly, once found and retained, educating substitute counsel is a task that will take more
13 time now that Podfitness is without in-house counsel present to facilitate the transition. (Hays
14 decl., ¶ 7).

15 Based on the foregoing, Podfitness seeks the thirty-day stay of this action.

16 DATED: October 22, 2007

Respectfully submitted,

17 WORKMAN | NYDEGGER

18
19 /s/ Charles J. Veverka
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CERTIFICATE OF SERVICE

I hereby certify that on October 22, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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