28

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD: PLEASE TAKE NOTICE THAT in light of the parties' stipulated request for an order extending all discovery and pretrial deadlines in this case, Apple Inc. hereby withdraws the following motion: Motion To Quash Podfitness' Notice Of Deposition Under Rule 30(b)(6), and supporting pleadings. Dated: December 19, 2007 FISH & RICHARDSON P.C. By: /s/ Lisa M. Martens/ Lisa M. Martens Attorneys for Plaintiff APPLE INC. 10796602.doc

PROOF OF SERVICE 1 I am employed in the County of San Diego. My business address is Fish & Richardson P.C., 2 12390 El Camino Real, San Diego, California 92130. I am over the age of 18 and not a party to the foregoing action. 3 I am readily familiar with the business practice at my place of business for collection and 4 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 5 service. 6 On December 19, 2007, I caused a copy of the following document(s): 7 APPLE INC.'S NOTICE OF WITHDRAWAL OF ITS MOTION TO OUASH PODFITNESS' NOTICE OF DEPOSITION UNDER RULE 30(b)(6) 8 to be served on the interested parties in this action by placing a true and correct copy thereof, 9 enclosed in a sealed envelope, and addressed as follows: 10 James M. Wagstaffe Attorneys For Defendant PODFITNESS, INC. Kerr & Wagstaffe LLP 11 100 Spear Street, Suite 1800 12 San Francisco, CA 94105-1528 Telephone: (415) 371-8500 13 Facsimile: (415) 371-0500 14 James E. Magleby Attorneys For Defendant Jason A. McNeill PODFITNESS, INC. 15 Magleby & Greenwood, P.C. 16 170 South Main Street, Suite 350 Salt Lake City, UT 84101-3606 17 Telephone: (801) 359-9000 Facsimile: (801) 359-9011 18 **MAIL:** Such correspondence was deposited, postage fully paid, with the 19 X United States Postal Service on the same day in the ordinary course of business. 20 **ELECTRONIC** Such document was transmitted by electronic mail to the addressees' 21 MAIL: email addresses as stated above. 22 I declare that I am employed in the office of a member of the bar of this Court at whose 23 direction the service was made. 24 I declare under penalty of perjury that the above is true and correct. Executed on December 19, 2007, at San Diego, California. 25 /s/Nicole C. Pino 26 Nicole C. Pino 27

28