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10	Attorneys for Plaintiff and	Podfitness, Inc.
11	Counterclaim Defendant APPLE INC.	
12	UNITED STATES D	DISTRICT COURT
13	NORTHERN DISTRICT OF CALIFORNIA	
14	(OAKLAND DIVISION)	
15	APPLE INC.,	Case No. C 06-5805 SBA
16	Plaintiff,	
17	v.	STIPULATED REQUEST FOR ORDER CHANGING TIME
18	PODFITNESS, INC., and DOES 1-100,	Honorable Saundra B. Armstrong
19	inclusive,	
20	Defendants.	
21		
22	PODFITNESS, INC.,	
23	Counterclaim Plaintiff	
24	v.	
25	APPLE INC.,	
26	Counterclaim Defendant	
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Pursuant to Local Rule 6-2, Plaintiff and Counterclaim Defendant Apple Inc. ("Apple") and Defendant and Counterclaim Plaintiff Podfitness, Inc. ("Podfitness") file this stipulation requesting an enlargement of the schedule in this case. In support of this stipulation, the parties submit the declaration of James E. Magleby, counsel for Podfitness, which sets forth the facts that necessitated the requested enlargement. The parties believe good cause for the enlargement exists for the following reasons.

A. FILING OF AMENDED COMPLAINT AND COUNTERCLAIM

Since the Court's January 25, 2007 Order for Pretrial Preparation setting forth the original trial schedule, the scope of this matter has expanded. On August 1, 2007, Apple filed an amended complaint adding causes of action for cybersquatting and for breach of contract. Magleby Decl., ¶ 2. Apple's amendment arose from new information uncovered during the discovery process. *Id.* Podfitness answered the amended complaint on August 31, 2007, and counterclaimed, alleging intentional and negligent interference with contractual relations, negligent interference with prospective economic advantage, and unlawful, unfair and deceptive practices in violation of the California Business and Professions Code. Podfitness' counterclaims arose from conduct which purportedly occurred during the discovery process, and after the scheduling order had been put into place. Magleby Decl., ¶ 3. Both Apple's new claims and Podfitness' new counterclaims invoke the need for additional discovery. Further, pursuant to Podfitness' efforts to obtain new counsel and the courts order staying this action, discovery has not gone forward for several months.

B. WITHDRAWAL OF PODFITNESS' COUNSEL AND STAY OF THE PROCEEDINGS

On September 19, 2007, Podfitness' outside counsel, Workman Nydegger, filed its motion to withdraw as counsel. Subsequently, on October 16, 2007, in-house counsel for Podfitness, Steve Hutchinson, filed notice with the Court that he was no longer employed with Podfitness. Magleby Decl., ¶ 4. On October 31, 2007, the Court permitted a withdrawal of outside counsel and ordered a temporary stay of the case for thirty (30) days pending Podfitness' engagement of substitute counsel. *Id.* Podfitness retained Magleby & Greenwood, P.C. as new outside counsel

on November 30, 2007, and retained local California counsel, Kerr & Wagstaffe, LLP on December 6, 2007. Magleby Decl., ¶ 5.

During this time, in the months of August, September, October and November 2007, the parties participated in numerous settlement negotiations. Magleby Decl., ¶ 6. Ultimately, the parties did not succeed in reaching a settlement. *Id.* As such, the parties now must reschedule the discovery activities that were postponed during the stay of the action. Further, new counsel for Podfitness requires additional time to review Apple's document production and propound additional discovery.

D. PROPOSED SCHEDULE WITH EXTENDED DEADLINES

To allow the parties adequate time to complete discovery and prepare for trial, the parties have stipulated and agreed to the following schedule:

Fact discovery closes	March 14, 2008
Last day to designate experts and to submits reports on those issues the party bears the burden of proof	April 8, 2008
Last day to serve rebuttal expert reports	May 15, 2008
Expert discovery closes	June 14, 2008
Deadline for dispositive motions to be filed	June 10, 2008
Deadline for dispositive motions to be heard	July 15, 2008
Settlement conference	July 30, 2008
Filing of pretrial preparation due	August 13, 2008
Motions in Limine and Objections to Evidence due	August 19, 2008
Responses to Motions in Limine and Objections due	August 27, 2008
Pretrial conference	September 24, 2008
Jury trial begins	October 13, 2008

1	There have been no prior modifications to the schedule set forth in the Court's January 25,		
2	2007 Order. Magleby Decl., ¶ 7. The requested time modification would re-set the entire		
3	schedule for this case, and the parties would be prepared to try the case in mid-October 2008. <i>Id.</i>		
4	Based on the foregoing, the parties respec	ctfully request that the Court grant the parties	
5	stipulated request.		
6	Dated: December 19, 2007	FISH & RICHARDSON P.C.	
7			
8	F	By: /s/ David J. Miclean	
9		David J. Miclean	
10		Attorneys for Plaintiff and Counterclaim Defendant	
11		APPLE INC.	
12	Dated: December 19, 2007	MAGLEBY & GREENWOOD, P.C.	
13			
14		By: /s/ James E. Magleby James E. Magleby	
15			
16		Attorneys for Defendants and Counterclaim Plaintiff	
17		PODFITNESS, INC.	
18	DECLARATION	N OF CONSENT	
19	Pursuant to General Order No. 45, Sectio	n X(B) regarding signatures, I attest under	
20	penalty of perjury that concurrence in the filing of this document has been obtained from James		
21	E. Magleby.		
22	Dated: December 19, 2007	FISH & RICHARDSON P.C.	
23			
24	I	By: /s/ David J. Miclean	
25		David J. Miclean	
26		Attorneys for Plaintiff and Counterclaim Defendant	
27		APPLE INC.	
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1	PURSUANT TO STIPULATION, IT IS SO ORDERED:
2	Dated:
3	Dated: United States District Judge
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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 STIPULATED REQUEST FOR ORDER CHANGING TIME 8 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: 9 James M. Wagstaffe Attorneys For Defendant 10 Kerr & Wagstaffe LLP PODFITNESS, INC. 11 100 Spear Street, Suite 1800 San Francisco, CA 94105-1528 12 Telephone: (415) 371-8500 Facsimile: (415) 371-0500 13 14 James E. Magleby Attorneys For Defendant Jason A. McNeill PODFITNESS, INC. 15 Magleby & Greenwood, P.C. 170 South Main Street, Suite 350 16 Salt Lake City, UT 84101-3606 Telephone: (801) 359-9000 17 Facsimile: (801) 359-9011 18 **MAIL:** Such correspondence was deposited, postage fully paid, with the X 19 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 email addresses as stated above. MAIL: 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 Nicole C. Pino 26 27

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