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12 Attorneys for Defendant PsiNaptic Inc.

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA

15 MODIUS, INC.

16 Plaintiff(s),

17 v.

18 PSINAPTIC, INC., and DOES 1-100,
19 inclusive,

20 Defendant(s).

Case No. C 06-02074 SI

**DECLARATION OF AARON DAGAN IN
 SUPPORT OF DEFENDANTS MOTION TO
 DISMISS FOR IMPROPER VENUE AND
 LACK OF PERSONAL JURISDICTION OR,
 IN THE ALTERNATIVE, TO TRANSFER
 VENUE**

Date: April 28, 2006
 Time: 9:00 a.m.
 Dept: Courtroom 10, 19th Fl.

21 I, Aaron Dagan, declare:

22 1. I am the President and Chief Executive Officer of PsiNaptic, Inc.

23 2. PsiNaptic is a corporation pursuant to the laws of Alberta, Canada and at all material
 24 times maintained offices in Calgary, Alberta. Its principal place of business is located at 10655
 25 Southport Road S.W., Suite 1410, Calgary, Alberta, Canada T2W 4Y1.

26 3. PsiNaptic has no offices in California, and does not own or lease any real property in
 27 California. PsiNaptic has no employees working in California. PsiNaptic has never agreed to be
 28 subject to jurisdiction in California.

4. PsiNaptic did not initiate contact with Modius; Modius contacted PsiNaptic in April
 2004 for the purpose of conducting business. PsiNaptic entered into a Reseller Agreement

1 (“Agreement”) with Modius on June 30, 2004. A true and correct copy of the Agreement is attached
2 hereto as Exhibit A. In 2004 and 2005, I met with Modius representatives on two or three occasions
3 in California. PsiNaptic and Modius have contractually agreed to litigate in Canada, and designated
4 the Court of Queen’s Bench in Calgary, Alberta, Canada as having exclusive jurisdiction to govern
5 disputes between the parties.

6 5. On December 9, 2005 PsiNaptic filed suit in the forum specified in the Agreement: the
7 Court of Queen’s Bench, City of Calgary, Alberta, Canada. A true and correct copy of the action
8 filed in Canada is attached hereto as Exhibit B.

9 6. On February 7, 2006, Modius filed a Statement of Defence (Canada’s equivalent to an
10 Answer), rather than challenge the jurisdiction of the Canadian court. A true and correct copy of the
11 Statement of Defence is attached hereto as Exhibit C.

12 7. PsiNaptic’s CFO was served with notice of this suit in Calgary, Alberta, Canada on
13 February 22, 2006.

14 I have personal knowledge of the facts stated above except as those that have been stated on
15 information and belief and as to those I am informed and believe that they are true. If called as a
16 witness I could, and would, testify competently to the foregoing in a court of law.

17 I declare under penalty of perjury under the laws of the State of California that the foregoing
18 is true and correct, and that this Declaration was executed on March 23, 2006.

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20 /s/ Aaron Dagan _____
21 Aaron Dagan
22 President, PsiNaptic
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