

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

CASE NO. C 06 7754 SBA

HELIO LLC
Plaintiff,
vs.
PALM, INC.
Defendant.

**[PROPOSED] ORDER DENYING
PLAINTIFF HELIO LLC'S
APPLICATION FOR A TEMPORARY
RESTRAINING ORDER**

**ORDER DENYING PLAINTIFF HELIO'S APPLICATION FOR TEMPORARY
RESTRAINING ORDER**

1. On December 19, 2006, plaintiff Helio LLC ("Helio") filed its complaint in this action asserting claims of trademark infringement and violation of the Lanham Act, 15 U.S.C § 1125(a). Concurrently with its complaint, Helio filed its Application For Temporary Restraining Order And For Order To Show Cause Why Preliminary Injunction Should Not Issue. Plaintiff's Application was supported by the declarations of Kathryn M. Wheble and Jessica Weeks, as well as the exhibits thereto.

2. On December 20, 2006, defendant Palm, Inc. ("Palm") filed its Opposition to Helio's Application. Palm's Opposition was supported by the declarations of Scott Hancock and Doug Colt, as well as the exhibits thereto.

3. The Court held oral argument on this matter on December 21, 2006.

1 4. Kevin C. Trock of Kirkpatrick & Lockhart Nicholson Graham appeared and argued for
2 plaintiff Helio. Deborah Bailey-Wells, and Harold H. Davis, Jr. also appeared on behalf of Helio.

3 5. Brian C. Cannon of Quinn Emanuel Urquhart Oliver & Hedges appeared and argued for
4 defendant Palm. Charles Verhoeven, Doug Colt and Kathryn Cole also appeared on behalf of
5 Palm and Claude M. Stern appeared on Palm's brief.

6 6. In accordance with Fed. R. Civ. P. 65 and Civ. L.R. 65-1, the Court has given full
7 consideration to the papers and evidence in support of and in opposition to Plaintiff's Application,
8 the relevant authorities, and the respective arguments of counsel. Following an extensive hearing
9 on December 21, 2006, and based upon the findings and rulings announced at that hearing, **IT IS**

10 **HEREBY ORDERED:**

11 7. Plaintiff's Application for a Temporary Restraining Order is DENIED.

12 8. A hearing on a motion for a preliminary injunction shall be held on March 6, 2007 at 1:00
13 p.m. in the courtroom of the Honorable Judge Armstrong located at 1301 Clay Street, Oakland,
14 CA 94612.

15 9. Plaintiff's papers in support of the motion shall be filed by January 30, 2007.

16 10. Defendant's papers in opposition to the motion shall be filed by February 13, 2007.

17 11. Any reply papers in support of the motion shall be filed by February 20, 2007.

18 12. Each party shall be entitled to take up to two depositions prior to the hearing and the
19 parties shall be entitled to serve Requests for Production of Documents prior to the hearing.

20 Expedited discovery shall close on January 26, 2007. No other written discovery shall be
21 permitted, except upon stipulation of the parties or by further order of the Court. The parties shall
22 meet and confer to develop a schedule in connection with this expedited discovery.

23 DATED: _____, 2006 SO ORDERED.

24

25

26

27

28

By _____
The Honorable Sandra Brown Armstrong
United States District Court Judge