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Attorneys for HELIO LLC

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

HELIO LLC,

Plaintiff,

vs.

PALM INC.

Defendant.

Case No. \_\_\_\_\_

**DECLARATION OF HAROLD H. DAVIS,  
JR. REGARDING NOTICE OF HELIO'S  
APPLICATION FOR A TEMPORARY  
RESTRAINING ORDER**

1 I, Harold H. Davis, do hereby declare as follows:

2 1. I am an attorney duly licensed to practice before the courts in the State of  
3 California and this Court, and am an associate with the law firm of Kirkpatrick & Lockhart  
4 Nicholson Graham LLP, attorneys of record herein for Plaintiff Helio LLC. I am personally  
5 familiar with the facts set forth to competently testify to them if required to do so.

6 2. I submit this Declaration in support of Helio's Application for a Temporary  
7 Restraining Order and Order Showing Cause Why A Preliminary Injunction Should Not  
8 Issue pursuant to Fed. R. Civ. P. Rule 65 and Civ. L.R. 65-1(b).

9 3. On December 18, 2006, I emailed a copy of Helio's Application for a  
10 Temporary Restraining Order, the Declaration of Jessica Weeks, and the Declaration of  
11 Kathryn Wheble, and a Proposed Order Granting Helio LLC's Application for a Temporary  
12 Restraining Order to Mary E. Doyle, General Counsel of Palm Inc. at  
13 mary.doyle@palm.com.

14 4. On December 19, 2006, I caused Helio's Application for a Temporary  
15 Restraining Order, the Declaration of Jessica Weeks, and the Declaration of Kathryn  
16 Wheble, and a Proposed Order Granting Helio LLC's Application for a Temporary  
17 Restraining Order to be personally served upon Ms. Mary Doyle at Palm, Inc., 950 W.  
18 Maude Avenue, Sunnyvale, California 94085.

19 5. Also on December 19, 2006, I faxed a copy of Helio's Application for a  
20 Temporary Restraining Order, the Declaration of Jessica Weeks, and the Declaration of  
21 Kathryn Wheble, and a Proposed Order Granting Helio LLC's Application for a Temporary  
22 Restraining Order to Ms. Doyle at Palm's listed fax number (408) 617-0100.

23 6. Despite these efforts to notify Defendant Palm, notice should not be required  
24 because of the irreparable harm that Helio LLC has and continues to suffer due to Palm's  
25 actions as more fully alleged in Helio's complaint filed on December 19, 2006 and described  
26 in the Memorandum of Points and Authorities in support of Helio's Application for a  
27 Temporary Restraining Order.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 19<sup>th</sup> day of December, 2006 in San Francisco.



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Harold H. Davis, Jr.