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8 UNITED STATES DISTRICT COURT FOR THE
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 OAKLAND DIVISION

11 HELIO, LLC,

Case No. C 06-7754 SBA

12 Plaintiff,

**PLAINTIFF'S ADMINISTRATIVE MOTION
 PURSUANT TO CIV. L.R. 79-5(b) TO FILE
 UNDER SEAL DOCUMENTS
 DESIGNATED ATTORNEYS-EYES ONLY**

13 vs.

Date Filed: December 19, 2006

14 PALM INC.

15 Defendant.

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**PLAINTIFF'S ADMINISTRATIVE MOTION PURSUANT TO CIV. L.R. 79-5(b) TO FILE UNDER SEAL
 DOCUMENTS DESIGNATED ATTORNEYS-EYES ONLY**

Case No. C 06-7754 SBA

1 Plaintiff Helio LLC ("Helio") submits this administrative motion pursuant to Civil Local
2 Rules 79-5(b) for an order to seal the following documents attached to the Declaration of
3 Harold H. Davis, Jr. in support of Helio's Motion for a Preliminary injunction:

4 1. Exhibit 4 which contains copies of documents labeled PALM 3338, showing
5 the phrase "Treo by Palm" and PALM10214, showing the phrase "Only Looks Serious."

6 2. Exhibit 5 which contains copies of documents labeled PALM 003329, an e-
7 mail string between Palm and AKQA employees from during June 2006; a PowerPoint
8 presentation dated "6/21/06" labeled PALM 000035-90; and AKQA 3242, a July 17, 2006 e-
9 mail from Page Murray to Rose Rodd and Scott Hancock labeled PALM 003336-3339, and
10 a August 1, 2006 e-mail from Julie Patterson to Bob Pullum regarding the changing Palm
11 advertising campaign.

12 3. Exhibit 6 which is a copy of a Palm organization chart that is labeled PALM
13 009241.

14 4. Exhibit 10 which is a copy of a document titled "Treo Online Advertising" dated
15 August 2, 2006.

16 5. Exhibit 11 which is a copy of a series of June 2006 e-mails labeled PALM
17 003329-003333.

18 6. Exhibit 12 which is a copy of a July 14, 2006 e-mail to Scott Hancock that is
19 labeled PALM 003338.

20 7. Exhibit 13 which is a copy of a series of July 2006 e-mails labeled AKQA
21 004661-4663.

22 8. Exhibit 15 which contains copies of documents labeled AKQA 5415, 5419,
23 5220, 5227, 5420, 5422, 5416 and consist of various e-mails sent to and/or from AKQA
24 employees.

25 9. Exhibit 16 which is a copy of an August 15, 2006 e-mail, labeled AKQA 3246,
26 from Gina Cold to "palmteam" regarding Helio's opening of a Helio branded store.

1 10. Exhibit 17 which is a copy of an August 16, 2006 e-mail, labeled AKQA 3249,
2 referencing Helio's retail store, and Palm's advertising strategy in light of Helio's new retail
3 store.

4 11. Exhibit 18 which is a copy of an August 24, 2006 e-mail, labeled AKQA 3244.

5 12. Exhibit 19 which is a copy of excerpts from the May 2006 Mobile Services
6 Watch publication, labeled PALM 20458-20493.

7 13. Exhibit 20 which is copy of excerpts from the April 2006 Mobile Services
8 Watch publication, labeled PALM 20420, 20424, and 20425.

9 14. Exhibit 21 which is a copy of a June 16, 2006 e-mail to Julie Peterson from
10 CNet mentioning Helio's Hero device.

11 15. Exhibit 22 which is a copy of a July 26, 2006 e-mail from Kate Harris to
12 "palmteam", labeled AKQA 3778, containing a link to an AdWeek article about Helio.

13 16. Exhibit 23 which contains copies of November 2006 e-mails from AKQA to
14 Palm which include articles that mention Helio.

15 17. Exhibit 24 which is a copy of a July 31, 2006 e-mail scheduling a meeting
16 regarding "Discuss POV on Helio campaign."

17 18. Exhibit 25 which is a copy of August 9, 2006 e-mail from Kate Harris, an
18 AKQA employee, regarding "Not Just a tell phone".

19 19. Exhibit 26 which is a copy of a document entitled "Palm OOH Rotation", dated
20 December 19, 2006 and labeled PALM 023007-023010 .

21 20. Exhibit 27 which is a copy of a document with the tag "Media Plan Master" and
22 labeled PALM 015584-15612.

23 21. Exhibit 28 which is a copy of a series of e-mails labeled PALM 002519-2523 .

24 22. Exhibit 29 which is a copy of a document titled "Palm Treo 680 Launch
25 Campaign Activity" that is labeled PALM 021614-21617 .

1 23. Exhibit 33 which contains copies of three December 2006 e-mails which
2 include the AdWeek article in which Mr. Hancock concedes the similarity between Helio and
3 Palm's advertising.

4 24. Exhibit 34 which is a copy of a November 28, 2006 e-mail from Scott Hancock
5 to all Palm employees worldwide discussing the launch of Palm's "Not Just a Cell Phone"
6 advertising campaign.

7 25. Exhibit 36 which is a copy of a series of e-mails labeled PALM 2826 through
8 2827.

9 26. Exhibit 37 which is a copy of a document entitled "Sequence Descriptions",
10 labeled AKQA 004824-4825, that contains a listing of all the different lifestyle features that
11 Palm advertises for its Treo 680 including Fandango, Orbitz, E-Bay, G-mail, Chat, Yahoo
12 Music, Google Maps, and Treo Camera.

13 27. Exhibit 39 which is a true and correct copy of a brand equity study
14 commissioned by Helio.

15 This motion is supported by the accompanying Declaration of Harold Davis in
16 Support of Helio's Administrative Motion pursuant to Civil. L.R. 79-5(b) To File Under Seal
17 Documents Designated Attorneys' Eyes Only (the "Davis Declaration").


18 The Exhibits contain material designated as "Attorneys' Eyes Only" pursuant to a
19 pending protective order. Accordingly, pursuant to Local Rule 79-5(b), Helio is concurrently
20 lodging with the Court Exhibits 4-6, 10-13, 15-29, 33-34, 36-37, 39.

21 As set forth in the Davis Declaration, Exhibits 4-6, 10-13, 15-29, 33-34, 36-37, 39
22 constitute "sealable" material within the meaning to Civil Local Rule 79-5(b). Helio
23 respectively requests that the Court order these documents filed under seal.

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Dated: March 6, 2007

KIRKPATRICK & LOCKHART PRESTON
GATES ELLIS LLP

By:  _____

Deborah Bailey-Wells
Kevin C. Trock
Harold H. Davis, Jr.

ATTORNEYS FOR PLAINTIFF
HELIO LLC