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15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA
 17 OAKLAND DIVISION

18 CASE NO. C 06 7754 SBA

19 HELIO LLC

20 Plaintiff,

21 vs.

22 PALM, INC.

23 Defendant.

24 **DECLARATION OF ANDREA PALLIOS**
 25 **ROBERTS IN SUPPORT OF**
 26 **DEFENDANT PALM, INC.'S**
 27 **OPPOSITION TO PLAINTIFF'S MOTION**
 28 **TO DISMISS WITHOUT PREJUDICE:**
REQUEST FOR CONDITIONS OR, IN
THE ALTERNATIVE, DISMISSAL WITH
PREJUDICE

29 I, Andrea Pallios Roberts, declare as follows:

30 1. I am an attorney duly authorized to practice law in the State of California. I am an
 31 associate with the firm of Quinn Emanuel Urquhart Oliver & Hedges, LLP, counsel of record for
 32 defendant Palm, Inc. in this matter. I make this declaration in support of Palm's Opposition to
 33 Plaintiff's Motion to Dismiss Without Prejudice: Request for Conditions or, in the Alternative,
 34 Dismissal with Prejudice. I have personal knowledge of the facts stated herein and if called to
 35 testify could and would competently testify thereto.

1 2. In January 2007, the parties, through their counsel, discussed the possibility of
2 settling this case. In connection with these discussions, plaintiff's counsel asked Palm for
3 information regarding the length of its campaign. In response, Palm's counsel informed plaintiff
4 that all outdoor advertising was only scheduled to run through the end of December. Palm further
5 informed plaintiff that its interactive kiosks were scheduled to run through January 2007 and only
6 ten additional print advertisements were scheduled to run in early 2007. Palm even provided
7 plaintiff with the detail of which specific magazines were scheduled to run Palm advertisements
8 and in which issues, the latest of which were the May issues of Real Simple and Men's Health.
9 Attached as Exhibit A is a true and correct copy of the email from defendant's counsel to
10 plaintiff's counsel, dated January 16, providing this information.

11 3. On February 2, 2007, plaintiff deposed Julie Patterson, the Rule 30(b)(6) designee
12 for Palm's advertising agency, AKQA. The deposition was transcribed by a certified shorthand
13 reporter. Attached as Exhibit B is a true and correct copy of cited portions of Ms. Patterson's
14 deposition transcript.

15 4. On February 26, 2007, plaintiff deposed Scott Hancock. The deposition was
16 transcribed by a certified shorthand reporter. Attached as Exhibit C is a true and correct copy of
17 cited portions of Mr. Hancock's deposition transcript.

18 5. On March 9, 2007, plaintiff's counsel, Kevin Trock, send Palm's counsel an email,
19 offering to give Palm additional time to prepare its opposition to plaintiff's motion for a
20 preliminary injunction. Attached as Exhibit D is a true and correct copy of the March 9 email.

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

23 DATED: March 29, 2007

24
25 By Andrea Pallios Roberts
26 Andrea Pallios Roberts
27
28