

1 Deborah Bailey-Wells (114630, deborah.bailey-wells@klgates.com)
 2 Kevin C. Trock (161787, kevin.trock@klgates.com)
 3 Harold H. Davis, Jr. (235552, harold.davis@klgates.com)
 4 KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP
 55 Second St., Suite 1700
 4 San Francisco, CA 94105
 Telephone (415) 882-8200
 5 Fax: (415) 882-8220

6 Attorneys for Plaintiff HELIO LLC

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 FOR THE
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

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

Case No. C 06-7754 SBA

**DECLARATION OF HAROLD H. DAVIS,
 JR. IN SUPPORT OF PLAINTIFF HELIO
 LLC'S MOTION TO DISMISS**

Judge: Hon. Sandra B. Armstrong
 Date: April 10, 2007
 Time: 1:00 PM

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 Preston Gates Ellis LLP ("KL Gates"), attorneys of record herein for Plaintiff Helio LLC. I am
5 personally 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 Motion to Dismiss.

7 3. Palm asserts that Helio first knew of Palm's campaign "three weeks earlier
8 than Helio originally claimed." This is a wholly deceptive statement and factually incorrect.

9 4. Palm's assertion is based on a typographical error on a privilege log sent to
10 Palm's counsel. In that privilege log, there is an entry that bears an erroneous date of
11 "11/18/2006". The actual date of the document is **December 18, 2006**.

12 5. Attached as Exhibit A to this declaration is a true and correct copy of the
13 document marked P-E-HEL00001550 – 1560. As this document clearly shows, the date of
14 the communication was **December 18, 2006** not November 18, 2006 as incorrectly entered
15 on the privilege log.

16
17 I declare under penalty of perjury under the laws of the United States of America that
18 the foregoing is true and correct.

19
20 Executed this 5th day of April, 2007 in San Francisco.

21 

22
23

Harold H. Davis, Jr.

EXHIBIT A

From: Osborne, Chanell <cosborne@kIng.com>
Sent: Monday, December 18, 2006 4:14 PM
To: Jessica Weeks
Cc: Trock, Kevin C. <ktrock@kIng.com>; Bailey-Wells, Deborah <dbaileywells@kIng.com>; Davis, Harold H. Jr. <hdavis@kIng.com>; Wheble, Kathryn M. <kwheble@kIng.com>
Subject: Helio Matters
Attach: SF-#1239.pdf

REDACTED

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

REDACTED

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

REDACTED

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

REDACTED

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

REDACTED

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

REDACTED

- 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

REDACTED

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

REDACTED

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

REDACTED

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

REDACTED

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

REDACTED