

TRADEMARK ASSIGNMENT

Electronic Version v1.1
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SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Helio LLC		01/04/2008	LIMITED LIABILITY COMPANY: DELAWARE
RECEIVING PARTY DATA			
Name:	uLocate Communications, Inc.		
Street Address:	60 Canal Street		
Internal Address:	2nd Floor		
City:	Boston		
State/Country:	MASSACHUSETTS		
Postal Code:	02114		
Entity Type:	CORPORATION: DELAWARE		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Serial Number:	77013034	BUDDY BEACON	
CORRESPONDENCE DATA			
Fax Number:	(617)338-2880		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	617-338-2943		
Email:	kherman@sandw.com		
Correspondent Name:	Kim Herman		
Address Line 1:	One Post Office Square		
Address Line 2:	Sullivan & Worcester LLP		
Address Line 4:	Boston, MASSACHUSETTS 02109		
ATTORNEY DOCKET NUMBER:	20909.1		
NAME OF SUBMITTER:	Kim Herman		
Signature:	/Kim Herman/		

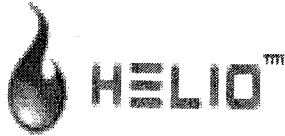
CH \$40.00 77013034

Date:

02/19/2008

Total Attachments: 13

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TRADEMARK ASSIGNMENT AND LICENSE AGREEMENT

This Trademark Assignment and License Agreement (this "Agreement") is made as of January 4, 2008 (the "Effective Date"), by and between uLocate Communications, Inc., a Delaware corporation with its principal place of business at 60 Canal Street, 2nd Floor, Boston, MA 02114 ("uLocate"), and Helio LLC, a Delaware limited liability company with its principal place of business at 10960 Wilshire Boulevard, Suite 700, Los Angeles, CA 90024 ("Helio")(hereinafter referred to collectively as the "Parties" and individually as a "Party").

BACKGROUND

WHEREAS, uLocate and Helio previously entered into that certain uLocate Service Agreement dated July 5, 2006 (the "Service Agreement"), pursuant to which uLocate developed software and related cross-platform technology and infrastructure in support of identifying and sharing the graphic location of individuals via wireless communication devices and networks (the "Technology");

WHEREAS, Helio markets and sells the Technology as a service offering to subscribers (the "Service") and, as of the Effective Date, has a customer base of 90,000+;

WHEREAS, the Service is marketed and sold under the "Buddy Beacon" trademark (the "Buddy Beacon"), such Buddy Beacon trademark (the "Trademark") and the Friend Beacon Trademark (the "Friend Beacon Trademark") to be assigned to uLocate as set forth below;

WHEREAS, uLocate shall grant to Helio a perpetual, royalty-free, world-wide, non-exclusive, license back to use the Trademark for any purpose as mutually agreed in writing by the parties;

WHEREAS, the Parties now wish to collaborate further in an effort to deploy Buddy Beacon in a manner that may make it the leading brand - Buddy Beacon - in the mobile social networking category by, among other things, creating interoperability across mobile virtual network operators and carrier networks, integrating Buddy Beacon with existing online social networks such as Facebook and MySpace, and signing up new subscribers (collectively, the "Subscribers") as more fully articulated in the Master Service Agreement; and

WHEREAS, the Parties, as of the Effective Date, are executing a Distribution Agreement (the "Distribution Agreement"), and a Master Service Agreement ("Master Service Agreement") contemplating that, pursuant to the Master Service Agreement, the Service Agreement shall terminate (the "Collective Agreements").

NOW, THEREFORE, in consideration of one dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the following:

Section 1 – Definitions

- 1.1 “Friend Beacon Trademark” means Friend Beacon and all common law rights related thereto identified on Exhibit A attached hereto and made a part hereof.
- 1.2 “Trademark” means Buddy Beacon and all common law rights related thereto identified on Exhibit A attached hereto and made a part hereof.
- 1.3 “Territory” means the United States and its territories, South Korea and all other countries where Helio offers or will offer any service.
- 1.4 “Beacon Trademarks” means the Trademark and the Friend Beacon Trademark.
- 1.5 “Affiliates” means any entity that, directly or indirectly, (i) owns a controlling interest in Helio, (ii) is a wholly owned subsidiary of Helio, or (iii) is under common control with Helio.
- 1.6 “Subsidiaries” means any entity in which Helio owns at least a majority of the voting control of such entity.

Section 2 - Assignment of the Trademark

- 1.1 *Transfer of the Beacon Trademarks.* Helio hereby assigns, transfers and sets over to uLocate all right, title and interest in and to the Beacon Trademarks, together with all goodwill related thereto and any and all renewals and extensions of the applications or registrations for the Beacon Trademarks that may be secured under any applicable law now or hereafter in effect, and the right to oppose an application to register a trademark or cancel a registration for a trademark which may be confusing with the Beacon Trademarks.
- 1.2 *Cooperation.* Helio shall provide to uLocate, its successors, assigns or other legal representatives, all reasonable cooperation and assistance (including the execution and delivery of any and all affidavits, declarations, oaths and other documentation, and the delivery of any and all samples, exhibits, specimens and the like in the control of Helio):
- (i) in the preparation and prosecution of any applications for registration or any applications for renewal of registrations covering the Beacon Trademarks;
 - (ii) in the prosecution or defense of any opposition, interference, infringement suits or other proceedings that may arise in connection with the Beacon Trademarks, including testifying as to any facts relating to the Beacon Trademarks or this Trademark Assignment and License Agreement (however, in the event of any opposition, interference, infringement suit or other proceedings that may arise in

connection with the Beacon Trademarks or this Assignment Agreement, uLocate shall bear the entire cost thereof including reimbursing Helio for any substantiated expenses or disbursements associated with such actions and shall be entitled to retain the entire amount of any recovery or settlement, and Helio may, if it so desires, also be represented by counsel of its own selection, the fees for which counsel shall be paid by Helio); and

- (iii) in the implementation or perfection of this Trademark Assignment and License Agreement.

Section 2 – Trademark License to Helio

2.1 *License Grant.* uLocate grants Helio a perpetual, royalty-free, world-wide, non-exclusive non-assignable, non-transferable right and license to use the Trademark, always preceded with the term “Helio” (*Helio Buddy Beacon*), for any purpose as mutually agreed in writing by the parties.

2.2 *Sublicenses to Affiliates or Subsidiaries.* uLocate further authorizes Helio to grant appropriate sublicenses hereunder to Affiliates or Subsidiaries, all subject to the terms and conditions hereinafter stated. Notwithstanding any language to the contrary in this Agreement, Helio shall not have the right to sublicense the Trademark or to provide the Service to any third parties outside of the scope set forth in the Collective Agreements.

2.3 *Sublicenses to Third Parties.* In the event Helio wishes to market and sell the Service identified by the Trademark to third parties, Helio shall first notify uLocate in writing and obtain uLocate’s prior written consent.

Section 3 – Quality Control

3.1 *Generally.* uLocate and Helio will mutually agree to maintain the validity of the Trademark and to protect the goodwill associated therewith.

3.2 *Prior Use of Trademark.* uLocate recognizes and approves the quality of the Service heretofore sold by Helio under the trademark now termed the Trademark in the territory now termed the Territory and Helio will not deviate materially from those standards without prior written approval from uLocate.

Section 4 – Use of the Trademark

4.1 *Goodwill.* Helio recognizes the value and goodwill associated with the Trademark and acknowledges uLocate’s ownership in same. Use made by Helio of the Trademark inures to the benefit of the parties for all purposes including trademark registration. Helio shall not, however: challenge the validity of the Trademark or any registration therefor; contest the fact that its rights under this Agreement are solely those of a licensee; attempt to register any of the Trademark in its own name;

use the trademarks in any manner that would jeopardize uLocate's rights in the Trademark; or knowingly do any act that would invalidate or be likely to invalidate the uLocate's trademark registrations.

4.2 *Notice.* If requested by uLocate, Helio shall affix as a trademark registration notice to materials associated with the Service, and on the mobile products and devices, packaging, advertising, and promotional items used in conjunction with the Service.

4.3 *Combination of Trademarks.* Helio may not combine the Beacon Trademarks as a brand or service name relating to friend finding service with any other marks, names or symbols unless it obtains uLocate's prior written consent, which will not be unreasonably withheld.

4.4 *Registration.* uLocate shall be responsible for trademark registration and maintenance and all costs and fees associated with such registration and maintenance. Helio shall cooperate with uLocate and shall execute any documents reasonably required by uLocate or supply uLocate with any samples or other materials reasonably necessary to maintain the Trademark.

4.5 *Advertisements.* Helio is authorized to use the Trademark in connection with the advertisement of the Service in any manner it deems appropriate, including without limitation use of the Trademark on mobile products and devices and on the Internet.

Section 5 – Trademark Enforcement

5.1 *Trademark Enforcement Actions.* In the event that Helio learns of any infringement or unauthorized use of the Beacon Trademarks, it shall promptly notify uLocate. uLocate has the right to transmit notices of infringement to or bring infringement actions against infringing parties. If requested to do so, Helio shall cooperate with and assist uLocate in any such action, including joining the action as a party if necessary, at uLocate's expense. Any award, or portion of an award, recovered by uLocate in any such action or proceeding commenced by uLocate shall belong solely to uLocate after recovery by both parties of their respective actual out-of-pocket costs.

5.2 *Helio May Bring Action.* If uLocate determines not to bring any such action with respect to the Trademark only, Helio may then bring such action in its own name at its own expense provided it obtains the consent of uLocate, which consent shall not be unreasonably withheld. If requested to do so, uLocate shall cooperate with Helio in any such action, including joining the action as a party if necessary, at the expense of Helio. Any award, or portion of an award, recovered by Helio in any such action or proceeding commenced by Helio shall belong solely to Helio after recovery by both parties of their respective actual out-of-pocket costs.

Section 6 - Indemnity

6.1 *By Helio.* Helio shall indemnify and hold harmless uLocate and its affiliated entities and their respective officers, employees, and agents, from any and all claims, suits, damages, reasonable attorney's fees, costs, and expenses arising from the performance and activities of Helio under this Agreement, including for a breach of its representations and warranties whenever and however asserted and established.

6.2 *By uLocate.* uLocate shall indemnify and hold harmless Helio and its affiliated entities and their respective officers, employees, and agents, from any and all third party claims, suits, damages, reasonable attorney's fees, costs, and expenses arising from the performance and activities of uLocate under this Agreement, including for a breach of its representations and warranties whenever and however asserted and established and any claim by any other person, firm or corporation of either a superior right in and to the Service or any feature thereof arising out of the marketing and sale of the Service hereunder.

6.3 *Procedures.* An indemnified Party shall promptly notify the indemnifying Party of any third party claims commenced or asserted against the indemnified Party. Upon receipt of such notice, the indemnifying Party shall (within twenty (20) days thereafter) (i) defend the indemnified Party against such third party claim with counsel of the indemnifying Party's choice reasonably satisfactory to the indemnified Party; and (ii) permit the indemnified Party to participate in the defense thereof and to retain separate counsel. The indemnifying Party shall not settle a third party claim without the prior written consent of the indemnified Party (which consent shall not be unreasonably withheld); provided, however, if notice is given to the indemnifying Party of the commencement of any action and the indemnifying Party does not, within twenty (20) days after receipt of the indemnified Party's notice of such third party claim, give notice to the indemnified Party of its election to assume the defense thereof, the indemnifying Party shall be bound by any determination made in such action, or any compromise or settlement effected by the indemnified Party. In the event that the indemnified Party reasonably concludes that an actual or potential conflict of interest exists between the indemnifying Party and the indemnified Party in connection with the defense of such action, the indemnified Party may employ its own counsel and assume its own defense, and the reasonable fees and expenses of such counsel shall be paid by the indemnifying Party; provided, however, that in the event that the indemnified Party is simultaneously represented by more than one law firm, then during such period of simultaneous representation, the indemnifying Party shall only be required to pay the fees and expenses of one law firm.

Section 7 – Representations and Warranties

7.1 *Duly Incorporated.* Each Party is a corporation duly incorporated, organized, validly existing and in good standing under the laws of its jurisdiction of incorporation, with the corporate power and authority to own, operate and lease its properties and to carry on its business as now conducted. Each Party is duly qualified to do business and in good standing in all jurisdictions in which its ownership of property or the character of its business requires such qualification.

7.2 *Authority to Enter into Agreement.* Each Party has the corporate right, power, legal capacity and authority to enter into and perform its obligations under this Assignment Agreement. The execution, delivery and performance of this Assignment Agreement has been duly and validly approved and authorized by all necessary corporate action on the part of each party. No filing with, authorization from or approval of any governmental body, agency, official or authority is necessary or required to be made or obtained to enable a Party to enter into, and to perform its obligations under, this Trademark Assignment and License Agreement.

7.3 *No Conflict.* Neither the execution and delivery of this Assignment Agreement, nor the consummation of the transactions provided for herein, will conflict with, or (with or without notice or lapse of time, or both) result in a termination, breach or violation of (a) any provision of the Certificate of Incorporation or By-laws of a Party, as currently in effect, (b) any instrument or contract to which a Party is a party or by which a Party is bound, or (c) any federal, provincial, local or foreign law, judgment, decree, order, statute, or regulation applicable to a Party or its assets or properties.

7.4 *True and Lawful Owner of the Beacon Trademarks.* Immediately prior to the consummation of the transaction contemplated by this Trademark Assignment and License Agreement, to Helio's knowledge, Helio was the true and lawful owner of the Beacon Trademarks, and has the right to transfer to uLocate good and marketable title to the Beacon Trademarks, free and clear of any lien, pledge, mortgage, charge, option, or other encumbrance of any character whatsoever ("*Liens*"). The delivery to uLocate of this assignment shall vest good and marketable title to the Beacon Trademarks in uLocate, free and clear of all Liens.

7.5 *No Infringement.* Helio warrants that to Helio's knowledge the Beacon Trademarks do not violate or infringe any trademark or other proprietary right of any third party, and that Helio as of the Effective Date is not aware of any facts upon which such a claim for infringement could be based. Helio will promptly notify uLocate if it becomes aware of any claim.

Section 8 – Term and Termination

8.1 *Term.* This Agreement shall be effective as of the Effective Date and shall continue in perpetuity unless otherwise terminated in accordance with the balance of this Section 8.

8.2 *Termination.* In the event either Party commits a material breach of this Agreement, the other Party may, upon written notice terminate the Agreement; provided, however, that the Agreement will not be terminated if the breaching Party cures the breach within forty-five (45) days of receipt of said notice (the "*Cure Period*"). Further, if the breaching Party is unable to cure its breach within the Cure Period for reasons of force majeure, or because of actions or omissions of the non-breaching Party, the breaching Party shall have up to an additional forty-five (45) days in which to cure, so long as this Agreement has not expired.

8.3 *Change of Control.* Notwithstanding anything to the contrary in Section 8, a Party may terminate this Agreement, by written notice to the other Party, if there is a change in majority ownership of the other Party and such change shall be to the material detriment of the other Party. Further, either Party may, by written notice to the other Party, terminate this Agreement if any of the following events occur:

the other Party goes into liquidation other than a voluntary liquidation for the purpose of reorganization; or,

the other Party ceases to carry on business.

8.4 *Termination due to non-performance.* uLocate agrees that it will make commercially reasonable efforts to promote the Buddy Beacon service and commits to the following (Helio having termination rights should any of these goals not be met):

- Distribution of Buddy Beacon on no fewer than two (2) North American carriers in the nine (9) months following the effective date of this agreement, and;
- The addition of at least 50,000 interoperable Buddy Beacon users (in addition to the Helio Buddy Beacon user base) by the end of 2008, and;
- Fulfillment of all Buddy Beacon Deliverables as mutually agreed in the SOWs and Change Requests related to such Deliverables.

8.5 *Effect of Termination.*

(a) Upon termination of this Agreement by uLocate under section 8.2 or 8.3, all rights granted herein shall revert to uLocate, and Helio shall thereafter refrain from all further use of the Trademark and the Service.

(b) Upon termination of this Agreement by Helio under this section 8.2, 8.3, or 8.4, uLocate will return all rights to the Beacon Trademarks and all interest, title, and ownership of all Beacon Trademarks will fully revert back to Helio.

Section 9 – Dispute Resolution

(a) Controversies between uLocate and Helio shall be resolved, to the extent possible, by informal meetings and discussions in good faith between the Parties. Such meetings and discussions shall, upon commencement, occur daily for three (3) consecutive days and for at least two (2) hours each day.

Section 10 - Compensation

10.1 *Warrant.* As partial consideration for the transfer of the Trademark, uLocate will issue to Helio a warrant (the “Warrant”) to purchase up to Five Hundred Thousand (500,000) shares of Series C Convertible Preferred Stock, par value \$0.00001 per share, at a price per share of \$1.055307, all as more fully set forth in the Warrant Agreement executed by and between the Parties as of January 4, 2008.

Section 11 – Confidential Information

11.1 *General.* During the term of this Agreement and thereafter in perpetuity, each Party shall treat as confidential all Confidential Information of the other Party, shall not use such Confidential Information except as expressly set forth herein or otherwise authorized in writing, shall implement reasonable procedures to prohibit the unauthorized use, disclosure, duplication or misuse of the other Party’s Confidential Information and shall not disclose such Confidential Information to any third party except as shall be necessary and required in connection with the rights and obligations of such Party under this Agreement, and subject to confidentiality obligations at least as protective as those set forth herein. Without limiting the foregoing, each

of the Parties shall use at least the same procedures and degree of care which it uses to prevent the disclosure of its own confidential information of like importance to prevent the disclosure of Confidential Information disclosed to it by the other Party under this Agreement, but in no event less than reasonable care. Except as expressly authorized in this Agreement, neither Party shall copy Confidential Information of the other Party without the Disclosing Party's prior written consent.

11.2 *Confidential Information.* For purposes of this Agreement, "Confidential Information" means any and all technical, business, client or proprietary information disclosed by one Party (the "Disclosing Party") to the other Party (the "Receiving Party"), directly or indirectly, including, but not limited to, information regarding the Disclosing Party's business strategies and practices, methodologies, trade secrets, know-how, pricing, technology, software, product plans, services, relationships with any third party, client lists and information regarding the Disclosing Party's employees, clients, vendors, consultants and Affiliates. The terms of this Agreement shall be deemed Confidential Information. "Confidential Information" shall not, however, include any portion of information which the Receiving Party can demonstrate by documented evidence is: (a) or becomes known or available by publication, commercial use or otherwise through no fault of the Receiving Party; (b) known and has been reduced to tangible form by the Receiving Party at the time of disclosure by the Disclosing Party and is not subject to restriction; (c) independently developed by an employee of the Receiving Party who neither had access to nor in any manner benefited from the Disclosing Party's Confidential Information; (d) lawfully obtained by the Receiving Party from a third party who has the right to make such disclosure to the Receiving Party; or (e) released, in writing, for public disclosure by the owner of the Confidential Information. Insofar as any information falling within any of the foregoing exemptions is the subject of any patent now or hereafter issued to the Disclosing Party or to any third party(s), no provision of this Agreement shall be deemed to grant the Receiving Party any rights or licenses under any such patents to use the exempted information.

11.3 *Court Order.* The Receiving Party may disclose Confidential Information of the other Party only pursuant to the order or requirement of a court, administrative agency, or other governmental body and only provided that the Receiving Party provides prompt, advance written notice thereof to enable the Disclosing Party to seek a protective order or otherwise prevent such disclosure. In the event such a protective order is not obtained by the Disclosing Party, the Receiving Party shall disclose only that portion of the Confidential Information which its legal counsel advises that it is legally required to disclose. Confidential Information so disclosed shall continue to be deemed Confidential Information.

11.4 *Remedies.* If either Party breaches any of its obligations with respect to confidentiality or use or disclosure of Confidential Information hereunder, the other Party is entitled to obtain equitable and injunctive relief in addition to all other remedies that may be available to protect its interest.

11.5 *Return.* Upon the Disclosing Party's written request, the Receiving Party shall promptly return or destroy, at the Disclosing Party's option, all tangible copies of the Disclosing Party's Confidential Information.

Section 12 – General Provisions

(a) All notices required to be sent to either party shall be in writing addressed to the party as set forth below (or to such other address of which either party may notify the other hereunder) and shall be deemed given only when delivered on a day when offices are generally open for business in the city to which the notice is delivered. Notices shall be delivered only by the following methods: in person, by certified or registered U.S. mail, postage prepaid, return receipt requested, or by reputable overnight courier, charges prepaid, such as UPS or FedEx and,

If to: uLocate Communications, Inc.
60 Canal Street, 2nd Floor
Boston, MA 02114
Attn: Walter Doyle, CEO
Fax:

With a copy to: Kimberly B. Herman, Esq.
Sullivan & Worcester LLP
One Post Office Square
Boston, MA 02109
kherman@sandw.com

If to: Helio LLC
10960 Wilshire Boulevard
Suite 700
Los Angeles, CA 90024
Attn: General Counsel

(b) This Agreement does not create a partnership or joint venture among the parties and Helio shall have no power to obligate or bind uLocate, and uLocate shall have no power to obligate or bind Helio, in any manner whatsoever.

(c) The Parties to this Agreement acknowledge and agree that Helio is an independent contractor and that the sole relationship of the parties is as licensor and licensee. In no event shall this Agreement be construed to create an agency, partnership, or other legal relationship between the Parties, and neither Party shall at any time represent that such relationship exists. Helio shall, where reasonably feasible, ensure that all advertising and packaging utilizing the Trademark as permitted herein contains the following statement: “Buddy Beacon is a trademark of uLocate Communications, Inc.”

(d) Neither Party shall have the right to assign this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; provided, however, that either Party may freely assign this Agreement to Affiliates, Subsidiaries or successors-in-interest or successors-in-title with thirty (30) days prior written notice to the

non-assigning Party, in the event of a merger, consolidation or acquisition of all or substantially all of the assets or business of such Party. This Agreement shall be binding upon and inure to the benefit of the successors and the permitted assigns of the respective Parties hereto.

(e) This Agreement shall be governed by the laws of the State of Delaware without giving effect to its choice of law principles. No waiver by either party of a breach or a default hereunder shall be deemed a waiver by such party of a subsequent breach or default of a like or similar nature.

(f) In the event that any term or provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or enforceability shall not affect any other term or provision and this Agreement shall be interpreted and construed as if such term or provision, to the extent the same shall have been held to be invalid, illegal or unenforceable, had never been contained herein. The parties further agree to replace such unenforceable, invalid or illegal provision with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of the unenforceable, illegal or invalid provision.

(g) This Agreement represents the entire understanding between the Parties hereto with respect to the subject matter hereof and this Agreement supersedes all previous representations, understandings or agreements, oral or written, between the parties with respect to the subject matter hereof and cannot be modified except by a written instrument signed by the parties hereto.

(h) Subject to applicable law and except as expressly provided herein, this Agreement may be amended, modified or supplemented only by a written agreement signed by the parties hereto.

(i) This Agreement will inure to the benefit of and be binding upon the parties hereto, and their respective successors and assigns.

(j) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed by facsimile signatures.

(k) Except as expressly provided herein, all remedies provided for in this Agreement are cumulative and are not exclusive of one another or of any other remedies available in law or equity.

(l) The provisions of this Agreement relating to payment obligations, confidentiality, indemnification and remedies shall survive the expiration or termination of this Agreement.

(m) No person or entity other than those specifically identified herein shall be deemed to have acquired any rights by reason of anything contained in this Agreement except as expressly provided.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Trademark Assignment and License Agreement as of the Effective Date.

ULOCATE COMMUNICATIONS, INC.

By: Jerry King

Name: Jerry King

Title: EVP

HELIO LLC

By: Todd Tappin

Name: Todd Tappin

Title: CFO

Exhibit A

Trademark

Mark	Filing Date	Serial Number
BUDDY BEACON	10/3/2006	77013034
FRIEND BEACON	10/3/2006	77012577