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 Jr., Michael L. Ainslie, Roland A.  
 8 Hernandez, David Goldfarb, John F. Akers,  
 Roger S. Berlind, Joseph M. Gregory,  
 9 Thomas H. Cruikshank, Marsha Johnson  
 Evans, Henry Kaufman, John D. Macomber,  
 10 Thomas A. Russo, and Christopher M.  
 O'Meara

11 *Additional counsel listed on signature page*

12 UNITED STATES DISTRICT COURT  
 13 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 14 SAN FRANCISCO DIVISION  
 15

16 OPENWAVE SYSTEMS INC.,

17 Plaintiff,

18 v.

19 RICHARD S. FULD, JR., MICHAEL L. AINSLIE,  
 ROLAND A. HERNANDEZ, DAVID GOLDFARB,  
 20 JOHN F. AKERS, ROGER S. BERLIND, JOSEPH  
 M. GREGORY, THOMAS H. CRUIKSHANK,  
 21 MARSHA JOHNSON EVANS, HENRY  
 KAUFMAN, JOHN D. MACOMBER, THOMAS A.  
 22 RUSSO, CHRISTOPHER M. O'MEARA,  
 MICHAEL GELBAND, ALEX KIRK, MELISSA  
 23 CONROY WHITNEY, TIM FORD, and DOES 1 -  
 50, inclusive,

24 Defendants.  
 25  
 26

CV 08 5683 (SI)

**STIPULATED REQUEST TO  
 RESCHEDULE CASE  
 MANAGEMENT CONFERENCE**

**Prior CMC Date:** March 27, 2009

**New CMC Date:** April 24, 2009

[Declaration of Simona G. Strauss  
 filed concurrently herewith]

1 Pursuant to Civil Local Rule 6-1(b) and Rule 6-2, Defendants Richard S. Fuld, Jr.,  
2 Michael L. Ainslie, Roland A. Hernandez, David Goldfarb, John F. Akers, Roger S. Berlind,  
3 Joseph M. Gregory, Thomas H. Cruikshank, Marsha Johnson Evans, Henry Kaufman, John D.  
4 Macomber, Thomas A. Russo, Christopher M. O’Meara, Melissa Conroy Whitney, and Tim Ford  
5 (“Defendants”), by and through their respective counsel, request that the Case Management  
6 Conference currently scheduled for March 27, 2009 at 2:00 pm be continued until April 24, 2009  
7 at 9:00 am. Plaintiff Openwave Systems Inc. (“Plaintiff”) stipulates to the request.

8 WHEREAS, as set forth in the Declaration of Simona G. Strauss, dated February  
9 26, 2009 and filed concurrently herewith, on or about November 21, 2008, Plaintiff filed a  
10 complaint against Defendants in the Superior Court of the State of California, San Francisco  
11 County (the “Complaint”);

12 WHEREAS on December 19, 2008, Defendants removed this action (the “Action”)  
13 to the United States District Court for the Northern District of California;

14 WHEREAS on February 9, 2009, Defendants timely moved to dismiss the Action  
15 for failure to state a claim and, for some Defendants, for lack of personal jurisdiction, and moved  
16 to strike portions of the Complaint (the “Motions”);

17 WHEREAS the Motions are scheduled for oral argument on April 24, 2009 at 9:00  
18 am;

19 WHEREAS Plaintiff and Defendants agree that it would be most efficient, both for  
20 the Court and the parties, to hold the Case Management Conference on the date of oral argument  
21 on the Motions;

22 WHEREAS the Case Management Conference currently is scheduled for March  
23 27, 2009, at 2:00 pm, four weeks before oral argument on the Motions; and

24 WHEREAS by entering into this stipulation, neither Plaintiff nor Defendants limit  
25 or waive any rights or defenses they may have in this Action, including but not limited to rights to  
26 jurisdictional discovery;

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NOW THEREFORE, IT IS HEREBY STIPULATED by and between counsel for the undersigned parties as follows:

1. The Case Management Conference in this Action will be continued from March 27, 2009 until ~~April 24, 2009, at 9:00 am.~~ May 1, 2009, at 2:30 p.m.

Dated: February 26, 2009

SIMPSON THACHER & BARTLETT LLP

By \_\_\_\_\_ /s/  
James G. Kreissman  
*Attorneys for Defendants Richard S. Fuld, Jr., Michael L. Ainslie, Roland A. Hernandez, David Goldfarb, John F. Akers, Roger S. Berlind, Joseph M. Gregory, Thomas H. Cruikshank, Marsha Johnson Evans, Henry Kaufman, John D. Macomber, Thomas A. Russo, and Christopher M. O'Meara*

Patricia M. Hynes (admitted *pro hac vice*)  
Todd S. Fishman (admitted *pro hac vice*)  
Allen & Overy LLP  
1221 Avenue of the Americas  
New York, New York 10020

*Attorneys for Defendant Richard S. Fuld, Jr.*

Dated: February 26, 2009

JONES DAY

By \_\_\_\_\_ /s/  
Philip Cook  
*Attorneys for Defendants Melissa Conroy Whitney and Tim Ford*

Dated: February 26, 2009

COBLENTZ, PATCH, DUFFY & BASS LLP

By \_\_\_\_\_ /s/  
Howard A. Slavitt  
*Attorneys for Plaintiff Openwave Systems Inc.*

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**PURSUANT TO STIPULATION, IT IS SO ORDERED.**



DATED: February \_\_, 2009

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The Honorable Susan Illston  
United States District Judge

**ECF FILER'S ATTESTATION**

1  
2 I, James G. Kreissman, as the e-filing signatory, attest that concurrence in filing  
3 this document has been obtained from the signatories hereto, Phillip Cook and Howard A. Slavitt,  
4 and that concurrence in filing the Declaration of Simona G. Strauss in Support of Stipulated  
5 Request to Reschedule Case Management Conference has been obtained from Simona G. Strauss.  
6 In accordance with General Order 45 Section X(B), I shall maintain a record of the original  
7 signatures to support this concurrence for subsequent production for the Court if so ordered or for  
8 inspection upon request by a party until one year after final resolution of the action.

9 Dated: February 26, 2009

10 By \_\_\_\_\_ /s/  
11 James G. Kreissman