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7 Attorneys for Plaintiff  
 OPENWAVE SYSTEMS INC.,  
 8 a Delaware corporation

9  
 10 **UNITED STATES DISTRICT COURT**  
 11 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

12 OPENWAVE SYSTEMS INC., a Delaware  
 13 corporation,

14 Plaintiff,

15 v.

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

22 Defendants.

Case No. CV 08-05683 SI

**STIPULATED REQUEST TO CONTINUE  
 CASE MANAGEMENT CONFERENCE,  
 AND [PROPOSED] ORDER**

[Declaration of Howard A. Slavitt filed  
 concurrently herewith]

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1 Pursuant to Civil Local Rule 6-1(b) and Rule 6-2, Plaintiff Openwave Systems Inc.  
2 ("Openwave) and Defendants Richard S. Fuld, Jr., Michael L. Ainslie, Roland A. Hernandez,  
3 David Goldfarb, John F. Akers, Roger S. Berlind, Joseph M. Gregory, Thomas H. Cruikshank,  
4 Marsha Johnson Evans, Henry Kaufman, John D. Macomber, Thomas A. Russo, Christopher M.  
5 O’Meara, Melissa Conroy Whitney, and Tim Ford (“Defendants”), by and through their respective  
6 counsel, request and stipulate that the Case Management Conference currently scheduled for May  
7 22, 2009 at 2:30 p.m. be continued until June 5, 2009 at 2:00 p.m.

8 WHEREAS, as set forth in the Declaration of Howard A. Slavitt, dated May 18, 2009 and  
9 filed concurrently herewith, on or about November 21, 2008, Plaintiff filed a complaint against  
10 Defendants in the Superior Court of the State of California, San Francisco County (the  
11 “Complaint”);

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

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

17 WHEREAS Oral argument on the Motions took place on April 24, 2009 at 9:00 a.m.;;  
18 WHEREAS the Case Management Conference currently is scheduled for May 22, 2009, at  
19 2:30 p.m.;

20 WHEREAS Plaintiff and Defendants agree that, given that the Court has not yet ruled on  
21 the Motions, the Case Management Conference should be continued for an additional two weeks  
22 to provide the Court with additional time to issue a ruling;

23 WHEREAS by entering into this stipulation, neither Plaintiff nor Defendants limit or  
24 waive any rights or defenses they may have in this Action;

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

- 27 1. The Case Management Conference in this Action will be continued from May 22,  
28 2009 until June 5, 2009, at ~~2:00 p.m.~~ 2:30 p.m.

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1 Dated: May 18, 2009

SIMPSON THACHER & BARTLETT LLP

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By: \_\_\_\_\_ /s/

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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*

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

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

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Dated: May 18, 2009

JONES DAY

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15

16

By: \_\_\_\_\_ /s/

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Philip Cook  
*Attorneys for Defendants Melissa Conroy Whitney  
and Tim Ford*

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19

Dated: May 18, 2009

COBLENTZ, PATCH, DUFFY & BASS LLP

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By: \_\_\_\_\_ /s/

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Howard A. Slavitt  
*Attorneys for Plaintiff Openwave Systems Inc.*

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

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Dated: \_\_\_\_\_

\_\_\_\_\_  
THE HONORABLE SUSAN ILLSTON  
United States District Court Judge

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