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

22 Defendants.

Case No. CV 08-05683 SI

**STIPULATION AND [PROPOSED]  
 ORDER REGARDING FILING OF  
 CORRECTED FIRST AMENDED  
 COMPLAINT**

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1 Pursuant to Civil Local Rule 7-12, Plaintiff Openwave Systems Inc. (“Openwave”) and  
2 Defendants Richard S. Fuld, Jr., Michael L. Ainslie, Roland A. Hernandez, David Goldfarb, John  
3 F. Akers, Roger S. Berlind, Joseph M. Gregory, Thomas H. Cruikshank, Marsha Johnson Evans,  
4 Henry Kaufman, John D. Macomber, Thomas A. Russo, Christopher M. O’Meara, Melissa  
5 Conroy Whitney, and Tim Ford (“Defendants”), by and through their respective counsel, stipulate  
6 that Openwave may file the *Corrected* First Amended Complaint, a copy of which is attached  
7 hereto as Exhibit A.

8 WHEREAS, on or about July 2, 2009, Plaintiff filed a First Amended Complaint [Doc. No.  
9 82], against Defendants in this action;

10 WHEREAS, Plaintiff made several typographical and/or grammatical errors in the First  
11 Amended Complaint and would like to correct them;

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

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

16 1. Plaintiff may file the *Corrected* First Amended Complaint, which is attached hereto  
17 as Exhibit A;

18 2. Such *Corrected* First Amended Complaint shall in all respects substitute for and  
19 replace the First Amended Complaint, which was filed on July 2, 2009, Doc. No. 82, in this  
20 action; and

21 3. The filing of the *Corrected* First Amended Complaint shall not affect any deadlines  
22 in this action. Defendants shall have until August 14, 2009, to file any motions to dismiss or to  
23 otherwise respond to the *Corrected* First Amended Complaint.

24 Dated: August 10, 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*

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

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

Dated: August 10, 2009

JONES DAY

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

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

Dated: August 10, 2009

COBLENTZ, PATCH, DUFFY & BASS LLP

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

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

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

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



THE HONORABLE SUSAN ILLSTON  
United States District Court Judge