

1 IAN C. BALLON (SBN 141819)
ballon@gtlaw.com
2 DAVID M. LISI (SBN 154926)
lisid@gtlaw.com
3 JORDAN D. GROTZINGER (SBN 190166)
grotzingerj@gtlaw.com
4 MONICA A. HERNANDEZ (SBN 280195)
hernandezmo@gtlaw.com
5 GREENBERG TRAUIG, LLP
1900 University Ave., 5th Floor
6 East Palo Alto, California 94303
Telephone: (650) 328-8500
7 Facsimile: (650) 328-8508

8 Attorneys for Plaintiff,
OPENWAVE MESSAGING, INC.
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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**

14 OPENWAVE MESSAGING, INC., a
Delaware corporation,

15 Plaintiff and
16 Counterclaim-defendant,

17 v.

18 OPEN-XCHANGE, INC., a Delaware
corporation,

19 Defendant and
20 Counterclaimant.
21

CASE NO. 3:16-cv-00253-WHO

**STIPULATION AND
ORDER SETTING TIME FOR OPEN-
XCHANGE, INC. TO RESPOND TO
OPENWAVE MESSAGING, INC.'S
MOTION TO DISMISS AMENDED
COUNTERCLAIMS AND STRIKE
AMENDED AFFIRMATIVE
DEFENSES AND RESCHEDULING
MOTION HEARING DATE**

Courtroom: 2

Judge: The Hon. William H. Orrick

1 WHEREAS, on July 29, 2016, Open-Xchange, Inc. (“Open-Xchange”) filed its Amended
2 Counterclaims and Answer to Openwave Messaging, Inc.’s (“Openwave”) Second Amended
3 Complaint (Dkt. 49);

4 WHEREAS, Openwave filed its Motion to Dismiss Amended Counterclaims and Strike
5 Amended Affirmative Defenses (Dkt. 50) (“Motion”) on August 22, 2016;

6 WHEREAS, Open-Xchange’s opposition to Openwave’s Motion presently is due by
7 September 6, 2016;

8 WHEREAS, the hearing date for the Motion is currently scheduled for September 28, 2016 at
9 2:00 p.m.;

10 WHEREAS, the parties have conferred and agreed that Open-Xchange should be given an
11 extra week to prepare its opposition, and the hearing date should be adjusted accordingly¹;

12 IT IS ACCORDINGLY STIPULATED, pursuant to Civil L.R. 6-2 and 7-12, by and between
13 the undersigned counsel for the parties, that:

- 14 (i) Open-Xchange has no objection and expressly consents to Openwave having filed its
15 Motion and supporting papers on August 22, 2016;
- 16 (ii) Assuming that Open-Xchange is provided an additional week to file its opposition to
17 Openwave’s Motion, Open-Xchange will agree it suffered no prejudice as a result of
18 Openwave’s filing. Open-Xchange is to file its opposition by September 13, 2016, and
19 Openwave will file its reply by September 20;
- 20 (iii) The hearing date for the Motion is rescheduled from September 28 to October 5, 2016
21 at 2:00 p.m.

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27 ¹ The present hearing date presents a conflict for both parties, as a deposition in this case has been confirmed to go forward
28 on that same day.

