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7	Facsimile: (650) 328-8508		
8	Attorneys for Plaintiff,		
9	OPENWAVE MESSAGING, INC.		
10			
	UNITED STATES DISTRICT COURT		
11			
12	NORTHERN DISTRICT OF CALIFORNIA		
13	SAN FRANCISCO DIVISION		
14	OPENWAVE MESSAGING, INC., a	CASE NO. 3:16-cv-00253-WHO	
15	Delaware corporation,	STIPULATION AND	
16	Plaintiff and Counterclaim-defendant,	ORDER SETTING TIME FOR OPEN- XCHANGE, INC. TO RESPOND TO OPENWAVE MESSAGING, INC.'S	
17	v.	MOTION TO DISMISS AMENDED	
18	OPEN-XCHANGE, INC., a Delaware	COUNTERCLAIMS AND STRIKE AMENDED AFFIRMATIVE	
19	corporation,	DEFENSES AND RESCHEDULING MOTION HEARING DATE	
20	Defendant and Counterclaimant.		
21	Countercrannant.	Courtroom: 2 Judge: The Hon. William H. Orrick	
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WHEREAS, on July 29, 2016, Open-Xchange, Inc. ("Open-Xchange") filed its Amended Counterclaims and Answer to Openwave Messaging, Inc.'s ("Openwave") Second Amended Complaint (Dkt. 49);

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

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

WHEREAS, the hearing date for the Motion is currently scheduled for September 28, 2016 at

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

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

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

¹ The present hearing date presents a conflict for both parties, as a deposition in this case has been confirmed to go forward

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on that same day. 28 1

STIPULATION AND ORDER SETTING TIME TO RESPOND TO MOTION TO DIMISS AND STRIKE AND RESCHEDULING MOTION HEARING DATE

Case No. 3:16-cv-00253-WHO

1	Re	espectfully submitted,
2	DATED: August 31, 2016	REENBERG TRAURIG, LLP
3		
4	B	y: <u>/s/ <i>David M. Lisi</i></u> David M. Lisi
5	;	
6	5	Attorneys for Plaintiff OPENWAVE MESSAGING, INC.
7	1	
8	DATED: August 31, 2016 FI	ENWICK & WEST LLP
9		
10	B	y: <u>/s/ <i>Jennifer L. Kelly</i></u> Jennifer L. Kelly
11		
12		Attorneys for Defendant OPEN-XCHANGE, INC.
13		
14	Pursuant to Civil Local Rule 5-1(i)(3), all signatories concur in filing this stipulation.	
15		
16	DATED: August 31, 2016	y:/s/ David M. Lisi
17	,	David M. Lisi
18		
19	* * *	
20	ORDER	
21	PURSUANT TO STIPULATION, IT IS SO ORDERED.	
22	1/1/0	
23	Dated: September 2, 2016	- N.Qe
24	The Honorable William H. Orrick United States District Judge	
25		es District Judge
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