

**\*\* E-filed July 30, 2010 \*\***

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 9 Counterdefendants,  
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 724 SOLUTIONS (US) INC. and 724  
 SOLUTIONS SOFTWARE INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

19 OPENWAVE SYSTEMS, INC.,  
 a Delaware corporation, and  
 20 OPENWAVE SYSTEMS (ROI) LTD., its  
 Republic of Ireland subsidiary,

Plaintiffs,

v.

23 724 SOLUTIONS (US) INC., a Delaware  
 24 corporation, and 724 SOLUTIONS  
 25 SOFTWARE INC., a Delaware  
 corporation,

Defendants.

AND RELATED COUNTERCLAIMS

Case No. 09-CV-03511 (RS, HRL)

**STIPULATION AND ~~PROPOSED~~ ORDER  
 WITHDRAWING PLAINTIFFS' MOTION  
 FOR PERMISSION TO DISCLOSE  
 PROTECTED MATERIAL TO CHETAN  
 SHARMA**

1 Plaintiffs and Counterdefendants Openwave Systems, Inc. and Openwave Systems (ROI)  
2 Ltd. (together, “Openwave”), by and through their undersigned counsel, and Defendants and  
3 Counterclaimants 724 Solutions (US) Inc. and 724 Solutions Software Inc. (together, “724  
4 Solutions”), by and through their undersigned counsel, hereby stipulate as follows:

5 WHEREAS, on March 29, 2010, as required by the Protective Order entered in this case  
6 (Dkt. No. 53), Openwave submitted a written request to 724 Solutions that it be permitted to  
7 disclose information designated “confidential” or “highly confidential” by 724 Solutions  
8 (“Protected Material”) to its retained and disclosed expert for claim construction and liability  
9 issues, Chetan Sharma;

10 WHEREAS, 724 Solutions’ predecessor counsel, Fish & Richardson P.C. (“Fish”),  
11 objected to such disclosure to Mr. Sharma;

12 WHEREAS, 724 Solutions’ predecessor counsel and Openwave’s counsel met and  
13 conferred and, in an attempt to resolve 724 Solutions’ purported concerns, Openwave proposed to  
14 limit Mr. Sharma’s exposure to 724 Solutions’ purportedly Protected Material by not providing  
15 him with any sales or other market-related information produced and designated by 724 Solutions  
16 as “confidential” or “highly confidential”;

17 WHEREAS, 724 Solutions’ predecessor counsel rejected Openwave’s counsel’s proposed  
18 restriction;

19 WHEREAS, on April 14, 2010, Openwave filed its Motion for Permission to Disclose  
20 Protected Material to Chetan Sharma (the “Sharma Motion,” Dkt. No. 162), noticed for hearing  
21 on May 18, 2010, before Magistrate Judge Lloyd;

22 WHEREAS, on April 22, 2010, Judge Seeborg issued an Order disqualifying Fish from  
23 representing 724 Solutions in this case and vacating the May 18, 2010 hearing date on the Sharma  
24 Motion (“Order,” Dkt. No. 167);

25 WHEREAS, Openwave’s counsel engaged in further meet and confer regarding the  
26 Sharma Motion with 724 Solution’s new counsel, Quinn Emanuel, in attempt to resolve the  
27 matter without the Court’s intervention, but were initially unable to resolve the issues;

28 WHEREAS, Openwave re-noticed the Sharma Motion for hearing before the Court, and

1 the Court set the matter for hearing on Tuesday, August 3, 2010, at 10:00 a.m. (Dkt. No. 187);

2 WHEREAS, Openwave continued to meet and confer with 724 Solutions and made  
3 additional proposals to try to resolve the pending motion, further delimiting the scope of  
4 information it proposed to disclose to Mr. Sharma. Specifically, Openwave proposed to provide  
5 Mr. Sharma with the following set of user manuals regarding the accused products that 724  
6 Solutions designated as “highly confidential” under the Protective Order:

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<b>Accused Product</b>	<b>Product Manual Identified By Openwave For Review By Chetan Sharma</b>
AGW	5.0 Administration Guide (7240035941) (2008) 5.0 Architecture (7240036139) (2008) 5.0 Product Description (7240037073) (2008)
XSAM	Overview 3.1 (7240117071) (Feb. 2007) Administrator's Guide 3.0 (7240082080) (Apr. 2006) Sentinel Overview 1.0 (7240116994) (Aug. 2006)
XAP	7.0 System Overview (7240011661) (Jan. 2009) 7.0 Deployment and Operations Manual (7240011011) (May 2009)
XMG	Operator's Guide 3.1 (7240049702) (Apr. 2005) Administrator's Guide (7240047430) (July 2002) Product Description (7240047717) (2005)
SAS/XMP	Operator's Guide (v4.1) (7240001135) (Apr. 2009) Overview (4.1) (7240001571) (Apr. 2009) Administrator's Guide 4.0 (7240053669) (June 2007)

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18 In addition, Openwave proposed that it would identify to 724 Solutions’ counsel any additional  
19 Protected Material (“Additional Protected Material”) that it may want to provide to Mr. Sharma,  
20 and that it would meet and confer with 724 Solutions’ counsel regarding the Additional Protected  
21 Material before providing the Additional Protected Material to Mr. Sharma;

22 WHEREAS, by July 27, 2010, 724 Solutions responded to Openwave’s proposal by  
23 granting permission for all of the above-identified documents to be shared with Mr. Sharma and  
24 agreeing that Openwave and 724 Solutions will meet and confer regarding any Additional  
25 Protected Material that Openwave may propose to disclose to Mr. Sharma;

26 IT IS HEREBY STIPULATED by and between the parties hereto through their respective  
27 attorneys of record that (1) Openwave hereby withdraws its Motion for Permission to Disclose

1 Protected Material to Chetan Sharma (Dkt. No. 162); and (2) Openwave may seek to disclose  
2 Additional Protected Material to Mr. Sharma by identifying the document(s) to 724 Solutions in  
3 advance of any such disclosure and meeting and conferring with 724 Solutions regarding the  
4 Additional Protected Material. Openwave will not provide any Additional Protected Material to  
5 Mr. Sharma without permission from 724 Solutions. Both parties reserve their rights to seek the  
6 Court's assistance, as provided under the Protective Order, if they are unable to resolve future  
7 disputes regarding Additional Protected Material.

8 Respectfully submitted,

9 Dated: July 29, 2010

MORGAN, LEWIS & BOCKIUS LLP

11 By /s/ Brett M. Schuman

12 Brett M. Schuman

13 *Attorneys for Plaintiffs and Counterdefendants,*  
14 OPENWAVE SYSTEMS, INC. AND  
OPENWAVE SYSTEMS (ROI) LTD.

16 Dated: July 29, 2010

QUINN EMANUEL URQUHART &  
SULLIVAN, LLP

19 By /s/ Evette D. Pennypacker

20 Evette D. Pennypacker

21 *Attorneys for Defendants and*  
22 *Counterclaimants, 724 SOLUTIONS (US)*  
23 *INC. AND 724 SOLUTIONS SOFTWARE*  
24 *INC.*

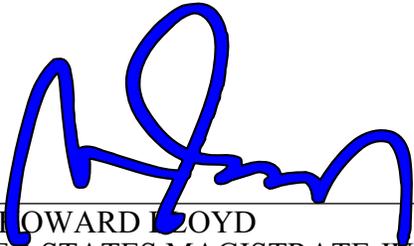
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~~PROPOSED~~ ORDER

PURSUANT TO THE ABOVE JOINT STIPULATION (1) Openwave's Motion for Permission to Disclose Protected Material to Chetan Sharma (Dkt. No. 162) is withdrawn and ordered off calendar; and (2) Openwave and 724 Solutions shall meet and confer regarding any request by Openwave to disclose Additional Protected Material to Mr. Sharma.

**IT IS SO ORDERED.**

Dated: July 30, 2010

By   
HON. HOWARD LOYD  
UNITED STATES MAGISTRATE JUDGE

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**FILER'S ATTESTATION**

I, Ahren C. Hoffman, am the ECF user whose identification and password are being used to file this Stipulation and [Proposed] Order Withdrawing Plaintiffs' Motion for Permission to Disclose Protected Material to Chetan. In compliance with General Order 45.X.B, I hereby attest that Brett M. Schuman and Evette D. Pennypacker concur in this filing.

Dated: July 29, 2010

By /s/ Ahren C. Hoffman  
Ahren C. Hoffman  
*Attorneys for Plaintiffs and*  
*Counterdefendants*, OPENWAVE  
SYSTEMS, INC. AND OPENWAVE  
SYSTEMS (ROI) LTD.