



Signed: September 07, 2006

RANDALL J. NEWSOME  
U.S. Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

In re  
**PREDI WAVE CORPORATION,**  
a California Corporation,  
Debtor.

Case No.: 06-40547 (RJN)

Chapter 11

**JOINT STIPULATED ORDER  
AMENDING AND RESTATING  
ORDER APPROVING INFORMATION  
ACCESS PROTOCOL UNDER  
SECTION 1102(b)(3) OF THE  
BANKRUPTCY CODE<sup>1</sup>**

Fed. Tax I.D. No. 77-0494328

Date: July 27, 2006

Time: 10:00 a.m.

Judge: The Hon. Randall J. Newsome

This Joint Stipulated Order is agreed to by the Official Committee of Unsecured Creditors (the "Committee"), PrediWave Corporation (the "Debtor"), and New World TMT Limited ("New World") (collectively, the "Parties"), by and through their respective counsel, with reference to the following agreed upon facts and circumstances:

**RECITALS**

A. On July 27, 2006, the *Motion of the Official Committee of Unsecured Creditors for Order Approving Information Access Protocol Under Section 1102(b)(3) of the Bankruptcy Code*

<sup>1</sup> All amended text contained in this Joint Stipulated Order which was erroneously not included in the Original Order is highlighted herein with underlining.

1 [Docket No. 136] (the “Motion”) came on for hearing in the above-captioned court (the “Court”) and  
2 was granted.

3 B. After the hearing on the Motion, counsel for the Committee prepared a form of order  
4 consistent with the Court’s ruling and circulated it for comment to counsel for the Debtor and New  
5 World.

6 C. Counsel for the Debtor suggested that additional text be added to the end of paragraph  
7 5 of the proposed form of order, which counsel for the Committee agreed to do. Thereafter, counsel  
8 for New World suggested a change to the language proposed by the Debtor, which counsel for the  
9 Committee also agreed to make. Counsel for the Committee then circulated a proposed form of  
10 order reflecting the changes requested and counsel for the Debtor and New World approved the  
11 proposed form of order as to form.

12 D. An error resulted in counsel uploading the original proposed draft of the order to the  
13 Court rather than the subsequent version that included the added text in paragraph 5 requested by the  
14 Debtor as modified by the comment offered by New World. This incorrect version was entered on  
15 the docket by the Court on August 11, 2006 as Docket No. 254 (the “Original Order”).

16 E. The Parties agree that the error in the Original Order described in the preceding  
17 paragraph and should be corrected by amending and completely restating the Original Order as  
18 follows:

19 **STIPULATED ORDER**

20 **IT IS HEREBY ORDERED:**

21 1. In satisfaction of the Committee's obligations to provide access to information for  
22 creditors (“Creditor Information Protocol”) in accordance with section 1102(b)(3)(A) and (B) of the  
23 Bankruptcy Code, the Committee shall, until the earliest to occur of dissolution of the Committee,  
24 dismissal, or conversion of these chapter 11 case, and a further order of the Court:

25 (a) Establish and maintain an Internet-accessed website (the “Committee  
26 Website”) that provides, without limitation:

1 (i) general information concerning the chapter 11 case of Prediwave, Inc.  
2 (the “Debtor”), including, case dockets, access to docket filings, and general information concerning  
3 significant parties in the case;

4 (ii) monthly Committee written reports summarizing recent proceedings,  
5 events and public financial information;

6 (iii) highlights of significant events in the case;

7 (iv) a calendar with upcoming significant events in the case;

8 (v) access to the claims docket if established by the Debtor or any claim  
9 agent retained in the case;

10 (vi) press releases (if any) issued by each of the Committee and the Debtor;

11 (vii) a non-public form to submit creditor questions, comments and requests  
12 for access to information;

13 (viii) responses to creditor questions, comments and requests for access to  
14 information; provided, that the Committee may privately provide such responses in the exercise of  
15 its reasonable discretion, including in light of the nature of the information request and the creditor's  
16 agreements to appropriate confidentiality and trading constraints;

17 (ix) answers to frequently asked questions; and

18 (x) links to other relevant websites.

19 (b) Distribute case updates via electronic mail for creditors that have registered  
20 for this service on the Committee website.

21 (c) Establish and maintain a telephone number and electronic mail address for  
22 creditors to submit questions and comments.

23 2. The Committee shall not be required to disseminate to any entity (all references to  
24 “entity” herein shall be as defined in section 101(15) of the Bankruptcy Code, “Entity”): (i) without  
25 further order of the Court, confidential, proprietary, or other non-public information concerning the  
26 Debtor or the Committee, including (without limitation) with respect to the acts, conduct, assets,  
27 liabilities and financial condition of the Debtor, the operation of the Debtor's business and the  
28 desirability of the continuance of such business, or any other matter relevant to these case or to the

1 formulation of one or more chapter 11 plans (including any and all confidential, proprietary, or other  
2 nonpublic materials of the Committee) whether provided (voluntarily or involuntarily) by or on  
3 behalf of the Debtor or by any third party or prepared by or for the Committee (collectively, the  
4 “Confidential Information”) or (ii) any other information if the effect of such disclosure would  
5 constitute a general waiver of the attorney-client, work-product, or other applicable privilege  
6 possessed by the Committee.

7           3. Any information received (formally or informally) by the Committee from any Entity  
8 in connection with an examination pursuant to Rule 2004 of the Federal Rules of Bankruptcy  
9 Procedure or in connection with any formal or informal discovery in any contested matter, adversary  
10 proceeding or other litigation shall not be governed by the terms of this Order but, rather, by any  
11 order governing such discovery.

12           4. The Debtor shall assist the Committee in identifying any Confidential Information  
13 concerning the Debtor that is provided by the Debtor or its agents or professionals, or by any third  
14 party, to the Committee, its agents and professionals.

15           5. If a creditor (the “Requesting Creditor”) submits a written request (including on the  
16 Committee Website or by electronic mail) (the “Information Request”), for the Committee to  
17 disclose information, the Committee shall as soon as practicable, but no more than twenty (20) days  
18 after receipt of the Information Request, provide a response to the Information Request (including on  
19 the Committee Website) (the “Response”), including providing access to the information requested  
20 or the reasons the Information Request cannot be complied with. If the Response is to deny the  
21 Request because the Committee believes the Information Request implicates Confidential  
22 Information that need not be disclosed pursuant to the terms of this Order or otherwise under 11  
23 U.S.C. § 1102(b)(3)(A), or that the Information Request is unduly burdensome, the Committee may,  
24 after a good faith effort to meet and confer with an authorized representative of the Requesting  
25 Creditor regarding the Information Request and the Response, seek a protective order to prevent  
26 such disclosure for cause pursuant to a motion. Such motion shall be served and the hearing on such  
27 motion shall be scheduled on a regular omnibus hearing date on notice consistent with the Court’s  
28 local rules. The Committee shall not object to any Requesting Creditor's request to participate in any

1 such hearing by telephone conference. Nothing herein shall be deemed to preclude the Requesting  
2 Creditor from requesting (or the Committee objecting to such request) that the Committee provide  
3 the Requesting Creditor a log or other index of any information specifically responsive to the  
4 Requesting Creditor's request that the Committee deems to be Confidential Information or protected  
5 by the attorney/client, work product, or any other privilege. Furthermore, nothing herein shall be  
6 deemed to preclude the Requesting Creditor from requesting that the Court conduct an in camera  
7 review of any information specifically responsive to the Requesting Creditor's request that the  
8 Committee claims is Confidential Information or subject to the attorney/client, work product, or  
9 other privilege. Within three (3) days after receipt of an Information Request, the Committee shall  
10 serve notice thereof on the Debtor and its counsel, and the Debtor shall have independent standing to  
11 seek a protective order or any other relief to prevent the disclosure of any Confidential Information  
12 of the Debtor upon notice to the Committee and the Requesting Creditor. Notwithstanding anything  
13 to the contrary in this Paragraph 5 of the Order, if any, the Committee shall not be (x) required (or  
14 otherwise compelled) to disseminate any Confidential Information absent further order of the Court  
15 with notice of any request for such relief served on the Debtor and, if applicable, the Entity that is  
16 the subject of the Confidential Information and (y) permitted to disseminate any Confidential  
17 Information except as expressly permitted in Paragraph 7 of this Order.

18 6. In its Response to an Information Request for access to Confidential Information, the  
19 Committee shall consider whether (a) the Requesting Creditor is willing to agree to reasonable  
20 confidentiality and trading restrictions with respect to such Confidential Information and represents  
21 that such trading restrictions and any information-screening process complies with applicable  
22 securities laws; and (b) under the particular facts, such agreement and any information-screening  
23 process that it implements will reasonably protect the confidentiality of such information; provided,  
24 however, that if the Committee elects to provide access to Confidential Information on the basis of  
25 such confidentiality and trading restrictions, the Committee shall have no responsibility for the  
26 Requesting Creditor's compliance with, or liability for violation of, applicable securities or other  
27 laws. Any disputes with respect to this paragraph shall be resolved as provided in the preceding  
28 paragraph, and, to the extent applicable, the next paragraph.

1           7.       In addition, if the Information Request implicates Confidential Information of the  
2 Debtor (or any other Entity) and the Committee agrees that such request should be satisfied, or if the  
3 Committee on its own wishes to disclose such Confidential Information to creditors, the Committee  
4 may demand (the “Demand”) for the benefit of the Debtor's creditors: (a) if the Confidential  
5 Information is information of the Debtor, by submitting a written request, each captioned as a  
6 “Committee Information Demand,” to Klee Tuchin Bogdanoff & Stern, LLP, counsel for the Debtor,  
7 2121 Avenue of the Stars, 33<sup>rd</sup> Floor, Los Angeles, CA 90067 (Attention: Thomas Patterson, Esq.  
8 (tpatterson@ktbslaw.com) and Jonathan Shenson, Esq. (jshenson@ktbslaw.com)) (“Debtor's  
9 Counsel”), stating that such information will be disclosed in the manner described in the Demand  
10 unless the Debtor objects to such Demand on or before fifteen (15) days after the service of such  
11 Demand; and, after the lodging of such an objection, the Committee, the Requesting Creditor and the  
12 Debtor may schedule a hearing with the Court on an omnibus hearing date in accordance with the  
13 Court’s local rules seeking a ruling with respect to the Demand under 11 U.S.C. § 704(a)(7); and (b)  
14 if the Confidential Information is information of another Entity, by submitting a written request to  
15 such Entity and its counsel of record, with a copy to Debtor's Counsel, stating that such information  
16 will be disclosed in the manner described in the Demand unless such Entity objects to such Demand  
17 on or before fifteen (15) days after the service of such Demand; and, after the lodging of such an  
18 objection, the Committee, the Requesting Creditor, such Entity and the Debtor may schedule a  
19 hearing with the Court on an omnibus hearing date in accordance with the Court’s local rules  
20 seeking a ruling with respect to the Demand.

21           8.       Nothing in this Order requires the Committee to provide access to information or  
22 solicit comments from any Entity that has not demonstrated to the satisfaction of the Committee, in  
23 its sole discretion, or to the Court, that it holds claims of the kind described in section 1102(b)(3) of  
24 the Bankruptcy Code.

25           9.       Neither the Debtor, the Committee nor any of their respective directors, officers,  
26 employees, members, attorneys, consultants, advisors and agents (acting in such capacity)  
27 (collectively, the “Exculpated Parties”), shall have or incur any liability to any Entity (including the  
28 Debtor and its affiliates) for any act taken or omitted to be taken in connection with the preparation,

1 dissemination, or implementation of the Creditor Information Protocol, the Committee Website and  
2 other information to be provided pursuant to section 1102(b)(3) of the Bankruptcy Code; provided,  
3 however, that the foregoing shall not affect the liability of any Exculpated Party protected pursuant  
4 to this paragraph 9 that otherwise would result from any such act or omission to the extent that such  
5 act or omission is determined in a final non-appealable order to have constituted a breach of  
6 fiduciary duty, gross negligence, or willful misconduct, including, without limitation, fraud and  
7 criminal misconduct, or the breach of any confidentiality agreement or Order. Without limiting the  
8 foregoing, the exculpation provided in this paragraph shall be coextensive with any Exculpated  
9 Party's qualified immunity under applicable law.

10 10. This Order shall be binding in all respects upon the Debtor and any successors  
11 thereto.

12 AGREED TO AND PRESENTED BY:  
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Dated: August 30, 2006

PACHULSKI STANG ZIEHL YOUNG JONES  
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By /s/ John D. Fiero  
John D. Fiero  
Attorneys for the Official Committee of  
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Dated: August 30, 2006

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By /s/ Jonathan S. Shenson  
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Dated: August 30, 2006

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By /s/ Karol K. Denniston  
Karol K. Denniston  
Counsel for New World TMT Limited

\*\*\*END OF ORDER\*\*\*

**Court Service List**

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