

ORAL ORDER: The Court, having reviewed Defendant's motion to stay the case pending the completion of the deposition of Masanori Imazu ("Motion"), (D.I. 344), the letter briefing related thereto, (D.I. 345; D.I. 349; D.I. 351), and having considered the three stay-related factors, hereby ORDERS that the Motion is GRANTED. Cf. Chugai Pharm. Co., Ltd. v. Alexion Pharm., Inc., Civil Action No. 18-1802-MN, (D.I. 211) (D. Del. Nov. 16, 2020). It is hard to deny that, in terms of his positioning relative to the issues in this case, Mr. Imazu is an important witness. He is a longtime employee of Plaintiff Sysmex Corp., he is one of four inventors on both of the two patents-in-suit (there are only four inventors total; the same four inventors are on both of the two patents) and he worked on the creation of (and at certain points, was a team leader with regard to) Sysmex products that are asserted prior art to the patents-in-suit or that are asserted to read on the claims of those patents. (D.I. 345 at 1 & exs. E, G) Due at least in significant part to COVID-related issues, Defendant has not been permitted to depose Mr. Imazu; the deposition (if it does not get further postponed) is now scheduled to go forward on September 26-27, 2021. (D.I. 349 at 3) Meanwhile, fact discovery is long closed, the deadline for submitting summary judgment motions is currently scheduled for this Friday, and trial is currently scheduled to begin on February 14, 2022. (D.I. 216) With regard to the simplification factor, it favors Defendant. It certainly seems possible that Mr. Imazu would have relevant information regarding certain currently pleaded defenses, including anticipation, obviousness and inequitable conduct. (D.I. 345 at 2) If either Plaintiffs or Defendant file summary judgment motions as to those issues (and it seems very possible that they might), that summary judgment process would be simplified by having all relevant evidence, including Mr. Imazu's testimony, available to all parties and the Court (instead of having to disrupt the process in mid-stream by accounting for Mr. Imazu's testimony belatedly). A stay would also simplify the process of preparing for trial; without it, Defendant would be forced to get within a few months of trial without knowing how a key inventor's testimony will shake out. With regard to the "status of the case" factor, we are no doubt late in the case schedule. But the Court is unsure why that factor should really redound against Defendant here, who has been diligently seeking Mr. Imazu's testimony since December 2020. And with regard to the undue prejudice factor, it also favors Defendant. It is not hard to see why the absence of a stay would cause Defendant real prejudice. Imagine that your company was being sued for patent infringement, and that you were told at the beginning of the case that you would only be able to take the deposition testimony of a key inventor (who works for the opposing party, and who should know quite a lot about the issues at play in the case), until long after discovery closes, at a time when the summary judgment process is nearly over and just a few months before trial is to start. What reasonable patent attorney or client representative in those shoes would not say: "I am unduly prejudiced!" (See *id.* at 3) No later than five business days after the completion of Mr. Imazu's deposition, the parties shall jointly submit a new proposed pre-trial schedule to the Court. The remaining deadlines in the current Scheduling Order, (D.I. 216), are hereby VACATED. The Court has also reviewed the parties August 23, 2021 and August 24, 2021 letters requesting a discovery dispute teleconference regarding certain discovery disputes, (D.I. 354; D.I. 355; D.I. 356); in light of the stay of the case, the parties shall re-raise their requests after the stay has been lifted. Ordered by Judge Christopher J. Burke on 8/25/2021. (dlb) (Entered: 08/25/2021)

As of August 26, 2021, PACER did not contain a publicly available document

associated with this docket entry. The text of the docket entry is shown above.

*Sysmex Corporation et al v. Beckman Coulter, Inc.*  
1-19-cv-01642 (DDE), 8/25/2021, docket entry 357