

**COURT OF CHANCERY
OF THE
STATE OF DELAWARE**

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GEORGETOWN, DELAWARE 19947

Submitted: July 3, 2008
Decided: July 11, 2008

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Re: *In re Yahoo! Inc. S'holders Litig.*
Civil Action No. 3561-CC

Dear Counsel:

On June 13, 2008, defendants moved to dismiss the claims in the First Amended Complaint pursuant to Rules 23.1 and 12(b). Now the Individual Defendants and nominal defendant Yahoo! together move this Court for an order staying discovery pending resolution of their joint motion to dismiss the First Amended Complaint. Rule 26(c) empowers the Court with the authority to impose a stay of discovery.¹ The grant or denial of a motion to stay is within the sound

¹ Rule 26(c) provides, in relevant part: "Upon motion by a party . . . and for good cause shown, the Court . . . may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including 1 or more of the following: (1) That the discovery not be had . . ." Ct. Ch. R. 26(c).

discretion of this Court.² In exercise of that discretion, this Court has often stayed discovery to prevent the unnecessary imposition of undue burden or expense during the pendency of the resolution of a dispositive motion,³ absent special circumstances.⁴

Having read the briefs in support of and opposition to the motion to stay and plaintiffs' additional submissions, I conclude in the exercise of my discretion that a stay of discovery is warranted pending resolution of the dispositive motion to dismiss. No special circumstances exist here that justify denial of the stay and the attendant imposition of the burden of continued discovery. I therefore grant defendants' motion to stay. As such, my ruling obviates the need for defendants to respond to plaintiffs' motion to compel at this time.

Finding unnecessary the oral argument requested by plaintiffs to decide this matter, I must observe that, contrary to plaintiffs' contention in their latest supplemental submission dated July 3, 2008, defendants have not inappropriately raised any new arguments in their reply brief in support of their motion to stay. Instead, defendants merely respond to and rebut arguments that plaintiffs, in their July 1, 2008 supplemental submission, explicitly raised and invited defendants to address.

As I indicated in my June 16, 2008 letter opinion and order, upon prompt and timely completion of briefing by the parties of defendants' motion to dismiss, the Court is prepared to rule with all alacrity to resolve the issue in advance of the Yahoo! annual shareholders' meeting on August 1, 2008. I therefore strongly reiterate my suggestion that the parties confer to set a briefing schedule on defendants' motion.

² See, e.g., *Orloff v. Shulman*, No. 852-N, 2005 WL 333240, at *1 (Del. Ch. Feb. 2, 2005) ("There is no right to stay of discovery, even where a case dispositive motion has been filed. Instead, whether or not to grant a stay of discovery is within the sound discretion of the trial judge.") (internal citations omitted).

³ See, e.g., *Weschler v. Quad-C, Inc.*, No. 18118, 2000 WL 33173170, at *1 (Del. Ch. Sept. 12, 2000) (granting stay and observing that "[a]bsent special circumstances, discovery will normally be stayed pending the determination of a motion to dismiss the complaint").

⁴ See *In re McCrory Parent Corp.*, 1991 WL 137145, at *1 (Del. Ch. July 3, 1991) (describing three "special circumstances" that may justify denial of a stay of discovery, despite the pendency of a motion to dismiss, as situations where: (1) the motion does not offer a "reasonable expectation" of avoiding further litigation; (2) the plaintiff has requested interim relief; and (3) the plaintiff will be prejudiced because the "information may be unavailable later").

IT IS SO ORDERED.

Very truly yours,

A handwritten signature in cursive script that reads "William B. Chandler III". The signature is written in black ink and includes a horizontal line under the "III" at the end.

William B. Chandler III

WBCIII:mpd