

SAM GLASSCOCK III
VICE CHANCELLOR

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

COURT OF CHANCERY COURTHOUSE
34 THE CIRCLE
GEORGETOWN, DELAWARE 19947

Date Submitted: May 15, 2023

Date Decided: May 18, 2023

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RE: *Teuza – A Fairchild Technology Venture Ltd. v. Lindon, et al.*, C.A.
No. 2022-0130-SG

Dear Counsel:

My April 27, 2023 Memorandum Opinion directed the parties “to submit a form of order consistent with [that] decision.”¹ The parties submitted competing orders, which differ only in whether the counts dismissed will be with or without prejudice.² Plaintiff argues that “discovery in this case will reveal as-yet non-public

¹ *Teuza - A Fairchild Tech. Venture Ltd. v. Lindon*, 2023 WL 3118180, at *11 (Del. Ch. Apr. 27, 2023).

² *Compare* [Proposed] Order from Kevin M. Gallagher regarding the Ct.’s April 27, 2023 Memorandum Opinion, Dkt. No. 76, *with* Pl.’s Version of Proposed Order, Dkt. No. 75.

facts concerning the complex and intertwined relationships among the various Defendants, and therefore there is good cause for the dismissals to be without prejudice [under Rule 15(aaa).]”³ Speculation about what evidence discovery *might* uncover does not constitute good cause.⁴ Dismissal of the counts in question is therefore with prejudice.

To the extent evidence unearthed through discovery provides a compelling reason to do so, Plaintiff is free to raise this issue again, subject to law of the case doctrine.⁵

An order is attached.

Sincerely,

/s/ Sam Glasscock III
Vice Chancellor

cc: All counsel of record (by *File & ServeXpress*)

³ Letter to the Ct. from Stephen E. Jenkins concerning the Ct.’s direction to the parties to submit a form of order 5, Dkt. No. 75.

⁴ See *Quadrant Structured Products Co., Ltd. v. Vertin*, 2014 WL 5465535, at *5 (Del. Ch. Oct. 28, 2014) (rejecting Plaintiff’s argument that the potential for discovery of relevant evidence warrants dismissal without prejudice).

⁵ See *id.*; *In re EZCORP Inc. Consulting Agreement Derivative Litig.*, 2016 WL 197814, at *10 (Del. Ch. Jan. 15, 2016).

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

TEUZA – A FAIRCHILD
TECHNOLOGY VENTURE LTD.,
Individually and On Behalf of All Others
Similarly Situated,

Plaintiff,

vs.

MARK LINDON, MICHAEL
DREYER, ANOOSHEH BOSTANI,
DAVID SCOTT, NICHOLAS
TERRAFRANCA, JOSEPH RUBLE,
ALFRED E. MANN TRUST, MANN
GROUP, LLC, BIOVENTUS LLC, and
BIOVENTUS INC.

Defendants.

C.A. No. 2022-0130-SG

ORDER

WHEREAS, on April 27, 2023, the Court issued a Memorandum Opinion (D.I. 116) granting in part and denying in part Defendants’ motions to dismiss under Rules 12(b)(2) and 12(b)(6);

IT IS HEREBY ORDERED this 18th day of May 2023, for the reasons stated in the Memorandum Opinion, that:

1. The Motion to Dismiss under Rule 12(b)(2) filed by Defendants Michael Dreyer and Anoosheh Bostani (D.I. 34) is hereby continued pending jurisdictional discovery. Plaintiff shall be permitted to conduct

jurisdictional discovery to explore the connections between the Trustees, Michael Dreyer and Anoosheh Bostani, and the sale to Bioventus for the purpose of demonstrating personal jurisdiction.

2. The Motion to Dismiss under Rule 12(b)(6) filed by Defendants Michael Dreyer, Anoosheh Bostani, Alfred E. Mann Trust, and Mann Group, LLC (D.I. 34) is hereby GRANTED with prejudice as to Count I, Count V, and Count VII, and DENIED as to Count IV, Count VI and Count X.
3. The Motion to Dismiss filed by Defendant Mark Lindon (D.I. 31) is hereby DENIED;
4. The Motion to Dismiss filed by David Scott, Nicholas Terrafranca, and Joseph Ruble (D.I. 30) is hereby GRANTED with prejudice; and
5. The Motion to Dismiss filed by Defendants Bioventus LLC and Bioventus Inc. (D.I. 33) is hereby GRANTED with prejudice.
6. Defendants Michael Dreyer, Anoosheh Bostani, Alfred E. Mann Trust, Mann Group, LLC, and Mark Lindon's Answer shall be filed on or before June 16, 2023.

The parties shall confer and submit a proposed pre-trial scheduling stipulation within 21 days of this Order.

IT IS SO ORDERED THIS 18th DAY OF May, 2023

/s/ Sam Glasscock III
Vice Chancellor