1   **E-Filed 1/25/2011**

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8   **IN THE UNITED STATES DISTRICT COURT**

9   **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

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12   SAN FRANCISCO TECHNOLOGY, INC.,   Case Number 5:10-cv-02994-JF (PSG)

13   Plaintiff,   ORDER STAYING PROCEEDINGS
                                           AGAINST DEFENDANT OATEY
14   v.   COMPANY

15   AERO PRODUCTS INTERNATIONAL, INC., *et
     al.*,

16   Defendants.

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20   Defendant Oatey Company ("Oatey") moves to dismiss the claims of Plaintiff San

21   Francisco Technology, Inc. ("SF Tech"), because Oatey already has settled a *qui tam* action

22   brought against it by a different party in the Eastern District of Texas ("Texas Action"). SF Tech

23   contends that the Texas Action should not have a preclusive effect on the instant claims because

24   SF Tech was the first party to file a false marking claim as to the patents at issue in the two

25   actions[1]. However, Oatey presents evidence that it already had reached a settlement with the *qui*

26   _____

27   [1] Although the Texas action actually was filed first, an amended complaint asserting false
     marking claims based upon the specific patents at issue in the instant case was filed after the
28   instant case had commenced.

tam plaintiff in the Texas Action prior to the filing of SF Tech's complaint. At oral argument, SF Tech requested that the Court stay the instant proceedings to permit it to intervene in the Texas Action for the purpose of obtaining relief from the settlement.

ORDER

Good cause therefor appearing, the instant proceedings are stayed as to Defendant Oatey Company for a period of thirty (30) days from the date of this order or until the court in the Texas Action has ruled upon SF Tech's proposed motion to intervene. Should SF Tech fail to obtain relief from the settlement, Oatey's motion to dismiss will be granted.

DATED: January 25, 2011

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JEREMY FOGEL
United States District Judge