

ORAL ORDER: Having considered the parties' respective positions on consolidation of C.A. No. 22-487 (the "trade secret case") with C.A. Nos. 21-691-GBW, 21-1138-GBW, and 21-1594-GBW (the "patent cases") (D.I. 348), IT IS HEREBY ORDERED that Avadel's motion for consolidation is DENIED. The mere existence of common issues, a prerequisite to consolidation, does not require consolidation. *U.S. v. Dentsply Int'l, Inc.*, 190 F.R.D. 140, 143 (D.Del. 1999); *Rohm & Haas Co. v. Mobil Oil Corp.*, 525 F. Supp. 1298, 1309 (D.Del. 1981). Indeed, the Court "must balance the savings of time and effort gained through consolidation against the inconvenience, delay or expense that might result from simultaneous disposition of the separate actions." *Rohm & Haas Co.*, 525 F. Supp. at 1309. Here, the Court finds that any efficiency to be gained by consolidating Jazz's patent cases with Avadel's trade secret misappropriation case is outweighed by the delay that consolidation would cause to Jazz's patent cases, possible overcomplication of issues, and the potential for jury confusion. The patent cases are already consolidated, fact discovery has been completed and expert discovery is nearly complete in them, and trial in those cases is scheduled to begin on February 26, 2024. Under Avadel's proposed consolidated schedule, the trial in the further consolidated case would not begin until October 2024 at the earliest. See D.I. 348 in C.A. No. 21-00691-GBW, Attachment 1 (Avadel's proposed order). Jazz, in its opposition to the request for consolidation, disputes whether an October 2024 trial is realistic given the number of witnesses that will need to be deposed for the trade secrets case, particularly given that many of those witnesses are located overseas. See also *Borough of Olyphant v. PPL Corp.*, 153 Fed. Appx. 80, 82 (3d Cir. 2005) ("it is within a district court's broad discretion to deny a motion to consolidate if it would cause delay in one of the cases."). Also, in the patent cases, Jazz and Avadel are already

litigating infringement and invalidity issues involving six patents from two different patent families. See C.A. No. 22-cv-00487-GBW, D.I. 53 at 2. In the trade secrets case, Avadel asserts that Jazz engaged in breach of contract and trade secret misappropriation. Id.; see D.I. 2 in C.A. No. 22-cv-00487-GBW. The Court finds that the patent cases and the trade secrets case do not share enough common issues of law to justify consolidation under the circumstances. One trial to resolve all three disputes would be unwieldy and overly complex because of the number of witnesses, the amount of evidence which would need to be presented on the disparate legal theories and the six patents, and the potential for jury confusion. Accordingly, Avadel's motion for consolidation is denied. ORDERED by Judge Gregory B. Williams on 11/3/23. Associated Cases: 1:21-cv-00691-GBW, 1:21-cv-01138-GBW, 1:21-cv-01594-GBW, 1:22-cv-00487-GBW (ntl) (Entered: 11/03/2023)