

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MERCK SHARP & DOHME LLC,
Petitioner

v.

HALOZYME, INC.,
Patent Owner

Case IPR2026-00313
U.S. Patent No. 11,041,149

PATENT OWNER'S MOTION TO SEAL

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Patent Trial and Appeal Board
U.S. Patent and Trademark Office
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Alexandria, VA 22313-1450

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I. INTRODUCTION

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner Halozyme, Inc. (“Halozyme”) respectfully submits this Motion to Seal Exhibit 2027, and the confidential version of Patent Owner’s Discretionary Denial Brief. Patent Owner also respectfully requests entry of the Default Protective Order, attached to this Motion as Appendix A.

All of the allegedly confidential material submitted in this Motion belongs to Petitioner Merck Sharp & Dohme LLC (“Petitioner”). The parties have met and conferred regarding the Motion to Seal and entry of the Default Protective Order, as required by 37 C.F.R. § 42.54(a), and Petitioner has stated it will not oppose this Motion.

II. GOVERNING RULES AND PTAB GUIDANCE

In determining whether to grant a motion to seal, the Director must find “good cause,” 37 C.F.R. § 42.54(a), and “strike a balance between the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive information,” Consolidated Trial Practice Guide, November 2019 (“TPG”), 19. Confidential information is identified in a manner “consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for ... confidential research, development, or commercial information.” *Id.*

Based on the procedure set forth in the TPG, Halozyme seeks to prevent the disclosure of information Petitioner has alleged is confidential.

III. IDENTIFICATION OF CONFIDENTIAL INFORMATION

Specifically, based on procedure provided in the TPG, Halozyme seeks to prevent the disclosure of information Petitioner has alleged is confidential contained in the following documents:

1. Patent Owner's Discretionary Denial Brief
2. EX2027: Transcript of the Deposition of Kelly Grez, in PGR2025-00003, -00004, -00006, -00009, -00017, -00033, -00039, -00046, -00024, -00030, -00052, -00042, -00050, and -00053, March 26, 2026

A. Patent Owner's Discretionary Denial Brief

Portions of Patent Owner's Discretionary Denial Brief contain discussions of Petitioner's information and documents that Petitioner may deem confidential, and the information sought to be sealed, based on Petitioner's representations, has not been published or otherwise made public.

Halozyme has, to the best of its ability, limited material in its Discretionary Denial Brief to non-confidential information. To protect any confidential information, a redacted version of Halozyme's Discretionary Denial Brief will be filed as soon as possible after this Motion.

B. The Deposition Testimony of Kelly Grez (EX2027)

Portions of the Deposition Testimony of Kelly Grez (EX2027) contain information that Petitioner has marked as "CONFIDENTIAL." Based on

Petitioner's representation that the information contained therein is indeed confidential, the information sought to be sealed has not been published or otherwise made public.

IV. GOOD CAUSE EXISTS FOR GRANTING HALOZYME'S MOTION TO SEAL

By designating portions of Exhibit 2027 as "CONFIDENTIAL," Petitioner has represented that public disclosure of the information contained therein would significantly harm Petitioner.

The public interest will not be harmed by granting this Motion to Seal. To the contrary, at least according to Petitioner's representations regarding the confidentiality of the underlying information, granting this Motion to Seal would achieve "a balance between the public's interest in maintaining a complete and understandable file history and the parties' interest in protecting truly sensitive information." 77 Fed. Reg. 48,755, 48,760 (Aug. 14, 2012). Therefore, good cause exists for granting this Motion to Seal.

V. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that the Director enter Default Protective Order and seal Exhibit 2027 and the confidential version of Patent Owner's Discretionary Denial Brief.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX PLLC

/Eldora L. Ellison/

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

I certify that the above-captioned **PATENT OWNER'S MOTION TO SEAL** was served in its entirety on May 27, 2026, upon the following parties via electronic mail:

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Respectfully submitted,

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Registration No. 39,967
Lead Attorney for Patent Owner

Date: May 27, 2026

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APPENDIX A

DEFAULT PROTECTIVE ORDER

The following Standing Protective Order will be automatically entered into the proceeding upon the filing of a petition for review or institution of a derivation:

Standing Protective Order

This standing protective order governs the treatment and filing of confidential information, including documents and testimony.

1. Confidential information shall be clearly marked “PROTECTIVE ORDER MATERIAL.”

2. Access to confidential information is limited to the following individuals who have executed the acknowledgment appended to this order:

(A) Parties. Persons who are owners of a patent involved in the proceeding and other persons who are named parties to the proceeding.

(B) Party Representatives. Representatives of record for a party in the proceeding.

(C) Experts. Retained experts of a party in the proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of the proceeding.

(D) In-house counsel. In-house counsel of a party.

(E) Other Employees of a Party. Employees, consultants or other persons performing work for a party, other than in-house counsel and in-house counsel's support staff, who sign the Acknowledgement shall be extended access to confidential information only upon agreement of the parties or by order of the Board upon a motion brought by the party seeking to disclose confidential information to that person. The party opposing disclosure to that person shall have the burden of proving that such person should be restricted from access to confidential information.

(F) The Office. Employees and representatives of the Office who have a need for access to the confidential information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

(G) Support Personnel. Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in the proceeding shall not be required to sign an Acknowledgement, but shall be informed of the terms

and requirements of the Protective Order by the person they are supporting who receives confidential information.

3. Persons receiving confidential information shall use reasonable efforts to maintain the confidentiality of the information, including:

(A) Maintaining such information in a secure location to which persons not authorized to receive the information shall not have access;

(B) Otherwise using reasonable efforts to maintain the confidentiality of the information, which efforts shall be no less rigorous than those the recipient uses to maintain the confidentiality of information not received from the disclosing party; (C) Ensuring that support personnel of the recipient who have access to the confidential information understand and abide by the obligation to maintain the confidentiality of information received that is designated as confidential; and

(D) Limiting the copying of confidential information to a reasonable number of copies needed for conduct of the proceeding and maintaining a record of the locations of such copies.

4. Persons receiving confidential information shall use the following procedures to maintain the confidentiality of the information:

(A) Documents and Information Filed With the Board.

(i) A party may file documents or information with the Board under seal, together with a non-confidential description of the nature of the confidential information that is under seal and the reasons why the information is confidential and should not be made available to the public. The submission shall be treated as confidential and remain under seal, unless, upon motion of a party and after a hearing on the issue, or sua sponte, the Board determines that the documents or information do not to qualify for confidential treatment.

(ii) Where confidentiality is alleged as to some but not all of the information submitted to the Board, the submitting party shall file confidential and non-confidential versions of its submission, together with a Motion to Seal the confidential version setting forth the reasons why the information redacted from the non-confidential version is confidential and should not be made available to the public. The nonconfidential version of the submission shall clearly indicate the locations of information that has been redacted. The confidential version of the submission shall be filed under seal. The redacted information shall remain under seal unless, upon motion of a party and after a hearing on the issue, or sua sponte, the Board determines that some or all of the redacted information does not qualify for confidential treatment.

(B) Documents and Information Exchanged Among the Parties. Information designated as confidential that is disclosed to another party during discovery or other proceedings before the Board shall be clearly marked as “PROTECTIVE ORDER MATERIAL” and shall be produced in a manner that maintains its confidentiality.

(j) Standard Acknowledgement of Protective Order. The following form may be used to acknowledge a protective order and gain access to information covered by the protective order:

[CAPTION]

Standard Acknowledgment for Access to Protective Order Material

I _____, affirm that I have read the Protective Order; that I will abide by its terms; that I will use the confidential information only in connection with this proceeding and for no other purpose; that I will only allow access to support staff who are reasonably necessary to assist me in this proceeding; that prior to any disclosure to such support staff I informed or will inform them of the requirements of the Protective Order; that I am personally responsible for the requirements of the terms of the Protective Order and I agree to submit to the jurisdiction of the Office and the United States District Court for the Eastern District of Virginia for purposes of enforcing the terms of the Protective Order and providing remedies for its breach.

[Signature]