

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MERCK SHARP & DOHME LLC,
Petitioner,

v.

HALOZYME, INC.,
Patent Owner.

PGR2025-00003 (11,952,600 B2)
PGR2025-00004 (12,018,298 B2)
PGR2025-00006 (12,152,262 B2)
PGR2025-00009 (12,123,035 B2)

Before JEFFREY N. FREDMAN, SUSAN L. C. MITCHELL, and
CYNTHIA M. HARDMAN, *Administrative Patent Judges*.¹

HARDMAN, *Administrative Patent Judge*.

ORDER

Denying Without Prejudice Patent Owner's and Petitioner's
Motions to Seal

37 C.F.R. §§ 42.14, 42.54

¹ This Order addresses issues in each of the identified proceedings. We exercise our discretion to issue one Order to be filed in each proceeding. The parties are not authorized to use this style heading in subsequent papers.

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Patent Owner Halozyme, Inc. filed an unopposed *Fourth Motion to Seal*, directed to the confidential version of its demonstratives that discuss real party in interest (“RPI”) issues (filed as Exhibit 2501). *See* Paper 104² (“PO Mot.”). Petitioner Merck Sharp & Dohme LLC filed a *Second Motion to Seal*, directed to the confidential version of its demonstratives that discuss RPI issues (filed as Paper 105). *See* Paper 106 (“Pet. Mot.”). For the reasons discussed below, we deny both motions without prejudice.

The standard for granting a motion to seal is “for good cause.” 37 C.F.R. § 42.54(a). That standard includes a showing that (1) the information sought to be sealed is truly confidential, (2) a concrete harm would result upon public disclosure, (3) there exists a genuine need to rely in the trial on the specific information sought to be sealed, and (4) on balance, an interest in maintaining confidentiality outweighs the strong public interest in having an open record. *Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 (PTAB Jan. 19, 2018) (informative), 3–4.

Patent Owner states that it seeks to seal information in its demonstratives that Petitioner has represented is confidential and has not been published or otherwise made public. PO Mot. 2.

Petitioner states that its demonstratives contain “confidential and highly sensitive information relating to employee records of Petitioner, engagement letters with counsel, and Petitioner’s tax filings and payment records that have not been published or otherwise made public.” Pet.

² We cite Papers and Exhibits in PGR2025-00003. Similar papers and exhibits were filed in all other captioned proceedings.

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Mot. 2. Petitioner further states that “[t]he documents and information contained therein are indeed confidential, the information sought to be sealed has not been published or otherwise made public.” *Id.*

Both parties have filed a public, redacted version of their demonstratives. *See* Paper 107; Exhibit 2501.

The parties’ justifications in the motions to seal fail to satisfy the good cause requirement of 37 C.F.R. § 42.54(a). Both motions request to seal information that appears to have been made public. *See, e.g.*, Ex. 2501, slides 25–29; Paper 105, slide 10. For this information as well as other information (*see, e.g.*, Paper 105, slide 4), Petitioner has not explained how the information sought to be sealed is truly confidential or how a concrete harm would result upon public disclosure of the demonstratives. For these reasons, we deny the motions without prejudice.

The materials that are the subject of the motions to seal (Papers 104 and 106) shall continue to be provisionally sealed until the Board rules on any renewed motion(s) to seal these materials. *See* 37 C.F.R. § 42.14 (discussing Board’s authority to provisionally seal information). Should a party not file a motion to seal within the timeframe provided below, the Board will unseal the demonstratives that are sought to be sealed in Papers 104 and 106.

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner’s and Petitioner’s motions to seal (Papers 104, 106) are *denied* without prejudice;

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FURTHER ORDERED that if a party seeks to seal the materials referenced in these motions, then within fourteen calendar days of the date of this Order, that party shall file a renewed motion to seal, together with any revised redacted version of the material sought to be sealed (if applicable); and

FURTHER ORDERED that, should a party not timely file a motion to seal as authorized above, the Board will unseal the materials that are sought to be sealed in Papers 104 and 106.

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