Trials@uspto.gov
571-272-7822

Paper 127
Entered: May 18, 2026

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)[1]

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

HARDMAN, *Administrative Patent Judge*.

ORDER
Granting Patent Owner's and Petitioner's
Renewed Motions to Seal
37 C.F.R. §§ 42.14, 42.54

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[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.

Patent Owner Halozyme, Inc. filed an unopposed *Renewed 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 121[2] ("PO Mot."). Petitioner Merck Sharp & Dohme LLC filed an unopposed *Renewed Second Motion to Seal*, directed to sealing a confidential version of its demonstratives that discuss RPI issues (filed as Paper 105). *See* Paper 119 ("Pet. Mot."). The parties filed these renewed motions in response to our earlier order denying the original motions to seal without prejudice. *See* Paper 117. For the reasons discussed below, we *grant* both motions.

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 represents that the confidential portions of the demonstratives filed as Exhibit 2501 that it seeks to seal contain allegedly confidential material belonging to Petitioner or Petitioner's corporate parent company, Merck & Co., Inc. PO Mot. 1. Patent Owner states that "[b]ased on Petitioner's representation that the documents and information contained

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

therein are indeed confidential, the information sought to be sealed has not been published or otherwise made public." *Id.* at 2. Patent Owner also states that "Petitioner has represented that public disclosure of information contained in Patent Owner's RPI Demonstratives would significantly harm Petitioner." *Id.* at 2–3. Moreover, Patent Owner states that it has "limited material in its RPI Demonstratives to non-confidential information" and filed a public, redacted version of the demonstratives (revised Exhibit 2501, filed April 2, 2026). *Id.*

Petitioner asserts that it seeks to seal "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. Mot. 2. Petitioner filed a public, redacted version of its RPI demonstratives at Paper 120.

We have reviewed the information sought to be sealed and find that it is limited and is the type of information typically kept confidential as commercially sensitive information. Moreover, the redactions to revised Exhibit 2501 and to Paper 120 appear to be reasonably limited to protecting this information, and therefore strike an appropriate balance with the public's interest in an open record. Accordingly, we grant the parties' renewed motions to seal. 37 C.F.R. §§ 42.14, 42.54.

We remind the parties that confidential information that is subject to a protective order may become public 45 days after final judgment in a trial.[3] *See* Consolidated Office Trial Practice Guide[4] Section 1.E.6. There is an

[3] For purposes of this order, final judgment includes conclusion of any appeal.

[4] *Available at* https://www.uspto.gov/TrialPracticeGuideConsolidated.

expectation that information will be made public where the existence of the information is referred to in a decision to grant or deny a request to institute a review or is identified in a final written decision following a trial. *Id.* A party seeking to maintain the confidentiality of information, however, may file a motion to expunge the information from the record prior to the information becoming public. *Id.*; 37 C.F.R. § 42.56.

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner's and Petitioner's renewed motions to seal (Papers 119, 121 in PGR2025-0003; Papers 115, 117 in PGR2025-0004; Papers 118, 120 in PGR2025-0006; Papers 113, 115 in PGR2025-0009) are *granted*.

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FOR PETITIONER:

Jeffrey Kushan
SIDLEY AUSTIN LLP
jkushan@sidley.com

Mark Stewart
MERCK SHARP & DOHME LLC
mark.stewart@merck.com

Blaine Hackman
DECHERT LLP
Blaine.hackman@dechert.com

FOR PATENT OWNER:

Eldora Ellison
Trey Powers
Jennifer Chagnon
Tyler Liu
STERNE, KESSLER, GOLDSTEIN & FOX PLLC
eellison-ptab@sternekessler.com
tpowers-ptab@sternekessler.com
jchagnon-ptab@sternekessler.com
tliu-ptab@sternekessler.com

Aubrey Haddach
HALOZYME, INC.
Ahaddach@halozyme.com

David Kappos
CRAVATH, SWAINE & MOORE
dkappos@cravath.com