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571-272-7822

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)	PGR2025-00046 (12,091,692 B2)
PGR2025-00004 (12,018,298 B2)	PGR2025-00024 (12,060,590 B2)
PGR2025-00006 (12,152,262 B2)	PGR2025-00030 (12,054,758 B2)
PGR2025-00009 (12,123,035 B2)	PGR2025-00052 (12,264,345 B1)
PGR2025-00017 (12,110,520 B2)	PGR2025-00042 (12,037,618 B2)
PGR2025-00033 (12,049,652 B2)	PGR2025-00050 (12,077,791 B2)
PGR2025-00039 (12,104,185 B2)	PGR2025-00053 (12,195,773 B2)

Before JEFFREY N. FREDMAN, SUSAN L. C. MITCHELL, CYNTHIA M. HARDMAN, and MICHAEL A. VALEK, *Administrative Patent Judges.*[1]

PER CURIAM

ORDER
Granting Patent Owner's Motion 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. This is not a decision by an expanded panel of the Board. Rather, the listed judges are paneled on various of the listed cases.

Patent Owner Halozyme, Inc. ("Patent Owner") filed a motion to seal the confidential version of its Reply in Support of the Motion to Terminate (Paper 99). *See* Paper 101[2] ("Mot.") 1–4.

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 portions of its Reply in Support of the Motion to Terminate that it seeks to seal discuss "Merck's information and documents that Petitioner has marked as 'PROTECTIVE ORDER MATERIAL.'" Mot. 2. Patent Owner further states "[b]ased on Petitioner's representation that the documents and information contained therein are indeed confidential, the information sought to be sealed has not been published or otherwise made public." *Id.* Moreover, Patent Owner states that "to the best of its ability" it has "limited the material in its Reply in Support of the Motion to Terminate to alleged non-confidential information" and filed a public, redacted version of its Reply (Paper 100). *Id.*

We find that the information Patent Owner seeks to seal is limited and is the type of information typically kept confidential as commercially sensitive information. Moreover, the redactions to Patent Owner's Reply

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

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 Patent Owner's Motion. 37 C.F.R. §§ 42.14, 42.54.

We remind the parties that confidential information that is subject to a protective order ordinarily becomes public 45 days after final judgment in a trial.[3] *See* Consolidated Office Trial Practice Guide[4] 21–22. There is an 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. *Id.* at 22. 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.

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

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

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that, Patent Owner's Motion to Seal (Paper 101) is *granted*.

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