From:	Kushan, Jeffrey P.
To:	Trey Powers; Lauren Martin
Cc:	Eldora L. Ellison; Jennifer Chagnon; Tyler Liu; David J. Kappos; Aubrey Haddach; David H. Holman; mark.stewart@merck.com; Halozyme PGRs; Josh Mack; Mark Snyder; Elliot Choi; Zach Summers
Subject:	RE: Park deposition
Date:	Thursday, August 14, 2025 6:28:58 PM
Attachments:	image001.png Mutational Analysis Table 2024-11-9 for Printing.xlsx Mutational Analysis Table 2024-11-7.xlsx

EXTERNAL EMAIL: Use caution before clicking links or attachments.

Trey,

Merck would agree to a one-week extension for Halozyme to file its patent owner replies, with Merck's reply dates in the four proceedings being maintained as is. We believe that is a sufficient accommodation, given that we have agreed to your request for an additional deposition of Dr. Park of 3.5 hours, arranged for it to occur next week prior to Dr. Hecht's deposition, and provided the document in question at Dr. Park's deposition.

You have requested that we provide you with native versions of the spreadsheet reflecting Dr. Park's analysis of amino acid substitutions within the PH20(1-447) sequence, in addition to the contents of that spreadsheet that you were provided at Dr. Park's deposition. We do not believe this is necessary, as the native versions do not provide any relevant information that you have not already been provided. Further, your portrayal of the putative significance of this document to Dr. Park's analysis of substitutions at the particular positions analyzed in his four declarations is inaccurate and does not reflect Dr. Park's testimony or his declarations. Merck has fully complied with its obligations under 37 C.F.R. § 42.65, as the basis of Dr. Park's opinions are set forth in his declaration, including the appendices to that declaration and other exhibits provided with the petition.

Nonetheless, as a courtesy to you, we are providing two Microsoft Excel files in native format with metadata intact.

- The first file (Mutational Analysis Table 2024-11-7) contains Dr. Park's analysis of substitutions at positions within PH20(1-447) that was based on homologous sequences that were published by December 29, 2011. This file contains several sheets, many of which include facts or data that were provided in appendices to Dr. Park's declarations. This file's last modification date is November 8, 2024.

- The second file (Mutational Analysis Table 2024-11-9 for Printing) was derived from the first file (Mutational Analysis Table 2024-11-07). Several sheets from that first file were removed, and the remaining sheet was formatted, printed and provided to you on paper and in PDF format on the day of Dr. Park's deposition. This file's last modification date is August 7, 2025.

Please confirm your receipt of these files, and that you can accept a one-week (rather than two week) extension for the patent owner replies in the four proceedings.

Sincerely,

Jeff Kushan
JEFFREY P. KUSHAN

SIDLEY AUSTIN LLP
+1 202 736 8914
jkushan@sidley.com

From: Trey Powers <TPOWERS@sternekessler.com>
Sent: Thursday, August 14, 2025 7:04 AM
To: Kushan, Jeffrey P. <jkushan@sidley.com>; Lauren Martin <laurenmartin@quinnemanuel.com>
Cc: Eldora L. Ellison <EELLISON@sternekessler.com>; Jennifer Chagnon <JChagnon@sternekessler.com>; Tyler Liu <TLIU@sternekessler.com>; David J. Kappos <dkappos@cravath.com>; Aubrey Haddach <ahaddach@halozyme.com>; David H. Holman <DHOLMAN@sternekessler.com>; mark.stewart@merck.com; Halozyme PGRs <HalozymePGRs@sidley.com>; Josh Mack <jmack@halozyme.com>; Mark Snyder <msnyder@halozyme.com>; Elliot Choi <elliotchoi@quinnemanuel.com>; Zach Summers <zachsummers@quinnemanuel.com>
Subject: RE: Park deposition

Jeff,

We accept your offer of a 3.5 hour deposition of Dr. Park in person in Buffalo on August 21 starting at 10:30 am. We agree that the subject matter of the deposition will be limited to topics reasonably related to the newly produced spreadsheet. Please let us know the precise location of the deposition as soon as you have it.

Also, given the late production of the spreadsheet and the attendant prejudice and extra burden to Halozyme at

Halozyme EX2177
Merck v. Halozyme
PGR2025-00050

the end of our discovery period, a two week extension of Due Date 1 for the four instituted PGRs is required. That would alter the POR due dates as follows:

Proceeding	*Current Due Date 1*	*New Due Date 1*
PGR2025-0003	9/9/2025	9/23/2025
PGR2025-0004	9/16/2025	9/30/2025
PGR2025-0006	9/16/2025	9/30/2025
PGR2025-0009	9/25/2025	10/9/2025

No other Due Date would be altered. Please confirm you agree to this proposal so that we may file joint stipulations. If you do not agree, please provide your availability for a call with the Board on Monday or Tuesday of next week so that we can explain the circumstances to the panel and seek appropriate relief. Please respond to this email by COB today, August 14, 2025.

Thanks very much,
Trey

R. Wilson "Trey" Powers III, Ph.D.
Director
Sterne, Kessler, Goldstein & Fox P.L.L.C.
Email: tpowers@sternekessler.com
Direct: 202.772.8876

Administrative Assistant: Cheryl Wagner
Direct: 202.772.8961 **Main:** 202.371.2600

From: Kushan, Jeffrey P. <jkushan@sidley.com>
Sent: Wednesday, August 13, 2025 7:22 PM
To: Trey Powers <TPOWERS@sternekessler.com>; Lauren Martin <laurenmartin@quinnemanuel.com>
Cc: Eldora L. Ellison <EELLISON@sternekessler.com>; Jennifer Chagnon <JChagnon@sternekessler.com>; Tyler Liu <TLIU@sternekessler.com>; David J. Kappos <dkappos@cravath.com>; Aubrey Haddach <ahaddach@halozyme.com>; David H. Holman <DHOLMAN@sternekessler.com>; mark.stewart@merck.com; Halozyme PGRs <HalozymePGRs@sidley.com>; Josh Mack <jmack@halozyme.com>; Mark Snyder <msnyder@halozyme.com>; Elliot Choi <elliotchoi@quinnemanuel.com>; Zach Summers <zachsummers@quinnemanuel.com>
Subject: RE: Park deposition

EXTERNAL EMAIL: Use caution before clicking links or attachments.

Trey,

We have been able to arrange for Dr. Park to sit for a 3.5 hour deposition next Thursday, August 21, starting at 10:30 am. His availability is constrained due to his teaching obligations, which have commenced for the semester, and his ongoing family responsibilities.

If you wish to take this deposition remotely, please let me know asap. Otherwise, we will arrange for the deposition to take place in a location in Buffalo. Please also confirm your agreement with the scope of the deposition that I described in my prior email.

We will respond to your request regarding production of native files by tomorrow.

Jeff

JEFFREY P. KUSHAN

SIDLEY AUSTIN LLP
+1 202 736 8914
jkushan@sidley.com

From: Kushan, Jeffrey P.
Sent: Tuesday, August 12, 2025 11:04 PM
To: 'Trey Powers' <TPOWERS@sternekessler.com>; Lauren Martin <laurenmartin@quinnemanuel.com>
Cc: Eldora L. Ellison <EELLISON@sternekessler.com>; Jennifer Chagnon <JChagnon@sternekessler.com>; Tyler Liu <TLIU@sternekessler.com>; David J. Kappos <dkappos@cravath.com>; Aubrey Haddach

<ahaddach@halozyme.com>; David H. Holman <DHOLMAN@sternekessler.com>; mark.stewart@merck.com; Halozyme PGRs <HalozymePGRs@sidley.com>; Josh Mack <jmack@halozyme.com>; Mark Snyder <msnyder@halozyme.com>; Elliot Choi <elliotchoi@quinnemanuel.com>; Zach Summers <zachsummers@quinnemanuel.com>
Subject: RE: Park deposition

Trey,

I apologize for not getting my response to you earlier today. I was traveling, and was unable to get an email out to you until now.

To avoid burdening the Board with having to resolve a dispute over whether an additional deposition is warranted, we are prepared to agree to have Dr. Park sit for an additional deposition of up to 3.5 hours. The deposition would be limited to Dr. Park's spreadsheet that was produced and issues directly linked to that document. We note that you declined to use the full seven-hour period in Dr. Park's first deposition, and any examination on any issues you could have raised but declined to would be improper in this second deposition.

To be clear, we do not believe a second deposition is warranted. Dr. Park explained that he evaluated numerous positions and substitutions to ensure that his methodology was objective. His analysis of individual positions was based on each specific position at issue, and his position-specific analysis was provided with his declaration.

We are investigating Dr. Park's available next week, which would precede Dr. Hecht's presently scheduled deposition. If that is not possible, we will work with you and the witnesses to adjust Dr. Hecht's date of deposition to follow Dr. Park's second deposition.

Jeff

JEFFREY P. KUSHAN

SIDLEY AUSTIN LLP
+1 202 736 8914
jkushan@sidley.com

From: Trey Powers <TPOWERS@sternekessler.com>
Sent: Tuesday, August 12, 2025 9:17 AM
To: Kushan, Jeffrey P. <jkushan@sidley.com>; Lauren Martin <laurenmartin@quinnemanuel.com>
Cc: Eldora L. Ellison <EELLISON@sternekessler.com>; Jennifer Chagnon <JChagnon@sternekessler.com>; Tyler Liu <TLIU@sternekessler.com>; David J. Kappos <dkappos@cravath.com>; Aubrey Haddach <ahaddach@halozyme.com>; David H. Holman <DHOLMAN@sternekessler.com>; mark.stewart@merck.com; Halozyme PGRs <HalozymePGRs@sidley.com>; Josh Mack <jmack@halozyme.com>; Mark Snyder <msnyder@halozyme.com>; Elliot Choi <elliotchoi@quinnemanuel.com>; Zach Summers <zachsummers@quinnemanuel.com>
Subject: RE: Park deposition

Jeff,

Under the circumstances, we are requesting an additional 3.5 hours with Dr. Park.

Trey

R. Wilson "Trey" Powers III, Ph.D.
Director
Sterne, Kessler, Goldstein & Fox P.L.L.C.
Email: tpowers@sternekessler.com
Direct: 202.772.8876

Administrative Assistant: Cheryl Wagner
Direct: 202.772.8961 **Main:** 202.371.2600

From: Kushan, Jeffrey P. <jkushan@sidley.com>
Sent: Tuesday, August 12, 2025 12:01 AM
To: Trey Powers <TPOWERS@sternekessler.com>; Lauren Martin <laurenmartin@quinnemanuel.com>
Cc: Eldora L. Ellison <EELLISON@sternekessler.com>; Jennifer Chagnon <JChagnon@sternekessler.com>; Tyler Liu <TLIU@sternekessler.com>; David J. Kappos

<dkappos@cravath.com>; Aubrey Haddach <ahaddach@halozyme.com>; David H. Holman <DHOLMAN@sternekessler.com>; mark.stewart@merck.com; Halozyme PGRs <HalozymePGRs@sidley.com>; Josh Mack <jmack@halozyme.com>; Mark Snyder <msnyder@halozyme.com>; Elliot Choi <elliotchoi@quinnemanuel.com>; Zach Summers <zachsummers@quinnemanuel.com>
Subject: Re: Park deposition

EXTERNAL EMAIL: Use caution before clicking links or attachments.

Trey,

I will respond to your portrayal of the circumstances later. As a preliminary matter, how long of a deposition are you requesting? We need to understand that in order to assess your request.

Jeff

****
This e-mail is sent by a law firm and may contain information that is privileged or confidential.
If you are not the intended recipient, please delete the e-mail and any attachments and notify us immediately.
****

From: Trey Powers <TPOWERS@sternekessler.com>
Sent: Monday, August 11, 2025 7:13:14 PM
To: Kushan, Jeffrey P. <jkushan@sidley.com>; Lauren Martin <laurenmartin@quinnemanuel.com>
Cc: Eldora L. Ellison <EELLISON@sternekessler.com>; Jennifer Chagnon <JChagnon@sternekessler.com>; Tyler Liu <TLIU@sternekessler.com>; David J. Kappos <dkappos@cravath.com>; Aubrey Haddach <ahaddach@halozyme.com>; David H. Holman <DHOLMAN@sternekessler.com>; mark.stewart@merck.com <mark.stewart@merck.com>; Halozyme PGRs <HalozymePGRs@sidley.com>; Josh Mack <jmack@halozyme.com>; Mark Snyder <msnyder@halozyme.com>; Elliot Choi <elliotchoi@quinnemanuel.com>; Zach Summers <zachsummers@quinnemanuel.com>
Subject: Park deposition

Jeff,

We write to request an additional deposition of Dr. Park in view of the new evidence revealed during his deposition last Thursday. Many hours into the deposition, we first learned of a 38-page spreadsheet Dr. Park created containing nearly 3,000 rows of detailed analysis of substitutions at positions across PH20, which he testified "was the backbone" and "formed the foundation" of his declarations. Merck was obligated under 37 C.F.R. § 42.65 to produce this document but intentionally withheld it without any basis. Your suggestion that Halozyme should have inferred the spreadsheet's existence from Merck's pre-institution reply is unfounded, illogical, and directly contrary to the rules. Halozyme had no obligation to seek documents it had no knowledge existed. This late production—just a few weeks before the POR deadline—deprived Halozyme of the opportunity to consult with its experts and prepare cross-examination of Dr. Park on all relevant issues, causing substantial prejudice.

Halozyme also cannot reasonably have been expected to depose Dr. Park on the newly produced spreadsheet during the deposition on Thursday. Halozyme's counsel received an unpaginated, black and white paper copy of the spreadsheet, with small font, during the deposition on Thursday afternoon. The information contained in the spreadsheet is voluminous and highly technical. Halozyme is entitled to have sufficient time to review the document and consult with its own experts to prepare its cross-examination on the spreadsheet.

Please provide Dr. Park's availability for an additional deposition to take place before Dr. Hecht's upcoming deposition. Please also produce the native Excel file of the spreadsheet with all metadata intact (including date of creation, version history, and identity of individuals who created, accessed, or modified the file), and confirm you are not withholding any other materials relied upon by Merck's witnesses. If Merck opposes this request, please provide your availability for a Board call this week. Please respond by 5 PM EDT tomorrow (8/12).

Trey

R. Wilson "Trey" Powers III, Ph.D.
Director
Sterne, Kessler, Goldstein & Fox P.L.L.C.
Email: tpowers@sternekessler.com

Direct: 202.772.8876

Administrative Assistant: Cheryl Wagner
Direct: 202.772.8961 **Main:** 202.371.2600

Notice: The information in this electronic transmission (including any attachments) may contain confidential or legally privileged information and is intended solely for the individual(s) or entity(ies) named above. If you are not an intended recipient or an authorized agent, you are hereby notified that reading, distributing, or otherwise disseminating or copying, or taking any action based on the contents of this transmission is strictly prohibited. Any unauthorized interception of this transmission is illegal under the law. If you have received this transmission in error, please immediately notify the sender by return email and then destroy all copies of the transmission.