

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MERCK SHARP & DOHME LLC,
Petitioner

v.

HALOZYME, INC.,
Patent Owner

Case PGR2025-00087
U.S. Patent No. 12,371,685

PATENT OWNER'S MOTION TO SEAL

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Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
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 Exhibits 2401-2406, 2426-2444, and the confidential version of Patent Owner’s Motion for Additional Discovery. 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 Motion for Additional Discovery
2. EX2401: E-mail Correspondence between Counsel for Petitioner and Patent Owner, November 11, 2025 – January 6, 2026
3. EX2402: MERCK_PGR00006-34 – MERCK_PGR00006 - 30November2023 Merck 031988 Master Agreement - executed 4932-6153-3216 1_Redacted
4. EX2403: MERCK_PGR00056-85 – MSA - Term 4 - Dechert LLP_Signed_Redacted
5. EX2404: MERCK_PGR00467-473 – Mark Stewart Offer Letter_Redacted
6. EX2405: MERCK_PGR00052-55 – Hecht Engagement Letter (7-19)_Signed (Redacted)_Redacted
7. EX2406: MERCK_PGR00086-89 – Park Engagement Letter with signature - sjp (redacted)_Redacted
8. EX2426: MERCK_PGR00035 – 20250813 Payment Remittance_Redacted
9. EX2427: MERCK_PGR00042-44 – Dechert T360 Halozyme - 202500327_Redacted
10. EX2428: MERCK_PGR00045 – FW_ Attn_ Accounts Receivable Dept - PAYMENT REMITTANCE DETAIL (Nov 2025)_Redacted

- 11.EX2429: MERCK_PGR00049 – Halozyme - 202000447 - Invoices
5_1_2024-12_22_2025_1 of 3_Redacted
- 12.EX2430: MERCK_PGR00465-466 – Mark Stewart Payroll Statement
for Dec 12 2025_Redacted
- 13.EX2431: MERCK_PGR00001 – Workday - Ginkel Organization
Screen Shot
- 14.EX2432: MERCK_PGR00002 – Workday - Lally Organization
Screen Shot
- 15.EX2433: MERCK_PGR00003 – Workday - Majchrzak Organization
Screen Shot
- 16.EX2434: MERCK_PGR00004 – Workday - Stewart Organization
Screen Shot
- 17.EX2435: MERCK_PGR00005 – Workday - Su Organization Screen
Shot
- 18.EX2436: MERCK_PGR00036 – 20250903 Payment
Remittance_Redacted
- 19.EX2437: MERCK_PGR00037 – 20251001 Payment
Remittance_Redacted
- 20.EX2438: MERCK_PGR00038-39 – 20251203 Payment
Remittance_Redacted
- 21.EX2439: MERCK_PGR00040-41 – 20251215 Payment
Remittance_Redacted
- 22.EX2440: MERCK_PGR00046 – FW_Attn_Accounts Receivable
Dept - PAYMENT REMITTANCE DETAIL (Oct 2025)_Redacted
- 23.EX2441: MERCK_PGR00047 – FW_Attn_Accounts Receivable
Dept - PAYMENT REMITTANCE DETAIL (Sept 2025)_Redacted
- 24.EX2442: MERCK_PGR00048 – Halozyme - 202000447 - Invoice
IN00125072310 Review History

25.EX2443: MERCK_PGR00050 – Halozyme - 202000447 - Invoices
5_1_2024-12_22_2025_2 of 3_Redacted

26.EX2444: MERCK_PGR00051 – Halozyme - 202000447 - Invoices
5_1_2024-12_22_2025_3 of 3_Redacted

A. Patent Owner’s Motion for Additional Discovery

Portions of Halozyme’s Motion for Additional Discovery contain discussions of Petitioner’s information and documents that Petitioner has marked as “PROTECTIVE ORDER MATERIAL.” The discussions of Petitioner’s information and documents include references to the following categories of Petitioner’s confidential information: Petitioner’s representation agreements with Sidley Austin LLP and Dechert LLP; Petitioner’s billing and payment information; Petitioner’s engagement letters with experts; and information related to Petitioner’s employees. Based 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.

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

B. Email correspondence

Portions of EX2401 contain Petitioner’s interrogatory responses and discussions of documents (EX2402–EX2406; EX2426–EX2444) that Petitioner

has designated as confidential pursuant to the Board's Default Protective Order.

The confidential information relates to the following categories: representation agreements with Sidley Austin LLP and Dechert LLP; Petitioner's billing and payment information; Petitioner's engagement letters with experts; and information related to Petitioner's employees. By designating this information as confidential, Petitioner has represented to Halozyme that the information and documents have not been published or otherwise made public.

To the best of Halozyme's knowledge, and based on Petitioner's representation that portions of EX2401 and the information contained therein are indeed confidential, the information sought to be sealed has not been published or otherwise made public. A redacted version of EX2401 will be filed as soon as possible after this Motion.

C. Petitioner's documents that it designated as confidential

Petitioner has designated EX2402–EX2406 and EX2426–EX2444 as confidential, which Petitioner has produced in response to Halozyme's request for production. The confidential information relates to the following categories: representation agreements with Sidley Austin LLP and Dechert LLP; Petitioner's billing and payment information; Petitioner's engagement letters with experts; and information related to Petitioner's employees. By designating this information as confidential, Petitioner has represented to Halozyme that the information and

documents have not been published or otherwise made public.

To the best of Halozyme's knowledge, and based on Petitioner's representation that EX2402–EX2406, and EX2426–EX2444, and the information contained therein, are 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 the underlying Exhibits (EX2401–EX2406, and EX2426–EX2444) as "PROTECTIVE ORDER MATERIAL," Petitioner has represented that public disclosure of the agreements and 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 Exhibits 2401-2406, 2426-2444, and the confidential version of Patent Owner's Motion for Additional Discovery.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX PLLC

/Eldora L. Ellison/

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Date: January 6, 2026

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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 January 6, 2026, upon the following parties via electronic mail:

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Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX PLLC

/Eldora L. Ellison/

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Lead Attorney for Patent Owner

Date: January 6, 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]