Subject: RE: Merck v. Halozyme "Second Round" PGRs

Date: 12/16/2025 4:56 PM

From: "Trey Powers" <TPOWERS@sternekessler.com>

To: "Kushan, Jeffrey P." <jkushan@sidley.com>

Cc: "Lauren Martin" <laurenmartin@quinnemanuel.com>, "Jennifer Chagnon" <JChagnon@sternekessler.com>, "David J. Kappos" <dkappos@cravath.com>, "Tyler Liu" <TLIU@sternekessler.com>, "Aubrey Haddach" <ahaddach@halozyme.com>, "David H. Holman" <DHOLMAN@sternekessler.com>, "Josh Mack" <jmack@halozyme.com>, "Mark Snyder" <msnyder@halozyme.com>, "Zach Summers" <zachsummers@quinnemanuel.com>, "Eldora L. Ellison" <EELLISON@sternekessler.com>, "Louis Panzica" <LPanzica@sternekessler.com>, "leif.peterson@sidley.com" <leif.peterson@sidley.com>, "sue.wang@sidley.com" <sue.wang@sidley.com>, "khelm@dechert.com" <khelm@dechert.com>, "Blaine.Hackman@dechert.com" <Blaine.Hackman@dechert.com>, "amy.mahan@sidley.com" <amy.mahan@sidley.com>, "christine.engen@sidley.com" <christine.engen@sidley.com>, "abhatla@sidley.com" <abhatla@sidley.com>, "Brian.Goldberg@dechert.com" <Brian.Goldberg@dechert.com>, "mark.stewart@merck.com" <mark.stewart@merck.com>

Jeff,

Thank you. Halozyme agrees to your proposal below.

Trey

R. Wilson "Trey" Powers III, Ph.D.
Director
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From: Kushan, Jeffrey P. <jkushan@sidley.com>
Sent: Monday, December 15, 2025 6:07 PM
To: Trey Powers <TPOWERS@sternekessler.com>
Cc: Lauren Martin <laurenmartin@quinnemanuel.com>; Jennifer Chagnon <JChagnon@sternekessler.com>; David J. Kappos <dkappos@cravath.com>; Tyler Liu <TLIU@sternekessler.com>; Aubrey Haddach <ahaddach@halozyme.com>; David H. Holman <DHOLMAN@sternekessler.com>; Josh Mack <jmack@halozyme.com>; Mark Snyder <msnyder@halozyme.com>; Zach Summers <zachsummers@quinnemanuel.com>; Eldora L. Ellison <EELLISON@sternekessler.com>; Louis Panzica <LPanzica@sternekessler.com>; 'leif.peterson@sidley.com'; 'sue.wang@sidley.com'; 'khelm@dechert.com'; 'Blaine.Hackman@dechert.com'; 'amy.mahan@sidley.com'; 'christine.engen@sidley.com'; 'abhatla@sidley.com'; 'Brian.Goldberg@dechert.com'; 'mark.stewart@merck.com'
Subject: RE: Merck v. Halozyme "Second Round" PGRs

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Halozyme EX2471
Merck v. Halozyme
PGR2025-00087

Trey,

We are close but believe a few changes to your proposal are necessary.

First, while we can agree to limit any additional deposition of Drs. Petsko and/or Simpson to issues raised by the materially different testimony of the witness(es), we propose a 4-hour limit, which was the time budget for Dr. Park's additional deposition.

Second, we do not believe that requiring Board intervention is necessary. The parties should be able to reach an agreement on whether an additional deposition is warranted, and its scope, by meeting and conferring, again as we did with Dr. Park's additional deposition.

Finally, we propose including the 15th PGR, if it is instituted, given the overlap in the issues with the instituted PGR proceedings.

A revised version of your proposal is set forth below. Let us know if this is acceptable to Halozyme.

1. Halozyme will agree not to depose Drs. Hecht and Park on their declarations submitted in support of Merck's petitions for PGRs 5-15.
2. Merck will agree to not depose Drs. Cherr, Moon, Petsko and Simpson on their declarations submitted in support of Halozyme's PORs for PGRs 5-15, with the proviso that Merck may conduct an additional deposition of Dr. Petsko and/or Dr. Simpson if either of their respective declarations for PGRs 5-15 differs materially from their respective declarations submitted for PGRs 1-4. Any such deposition shall not exceed 4 hours and shall be limited to issues raised by the materially different testimony.
3. The parties agree that deposition transcripts from PGRs 1-4 can be used in PGRs 5-15.

We can also do a phone call if you believe that would be helpful.

Jeff
JEFFREY P. KUSHAN

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From: Trey Powers <TPOWERS@sternekessler.com>
Sent: Monday, December 15, 2025 11:42 AM
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Subject: RE: Merck v. Halozyme "Second Round" PGRs

Thanks for your email, Jeff. Below is a slightly modified proposal. Please let us know if this is acceptable to Merck.

1. Halozyme will agree not to depose Drs. Hecht and Park on their declarations submitted in support of Merck's petitions for PGRs 5-14.
2. Merck will agree to not depose Drs. Cherr, Moon, Petsko and Simpson on their declarations submitted in support of Halozyme's PORs for PGRs 5-14, except that Merck reserves its right to approach the Board to seek an additional 2 hour deposition for Dr. Petsko if his declarations for PGRs 5-14 differ materially from his declarations submitted for PGRs 1-4. Merck agrees to meet and confer with Halozyme in good faith on this issue before approaching the Board. Merck further agrees to limit the scope of the 2 hour deposition to the subject matter it alleges is materially different. The same rule applies for Dr. Simpson.
3. The parties agree that deposition transcripts from PGRs 1-4 can be used in PGRs 5-14.
4. The parties will address depositions for PGR 15 at a later date.

If a phone call would be helpful, please feel free to reach out.

Thanks very much,
Trey

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Hi Trey,

Thank you for reaching out regarding "second round" depositions of the experts (i.e., depositions in connection with declarations experts have or will file in the proceedings in the PGR proceedings other than PGR2025-00003, -00004, -00006 and -00009).

Pursuant to our discussion, in view of Halozyme's decision to not seek "second round" depositions of Drs. Hecht and Park, Merck would agree to not depose Drs. Cherr, Moon, Petsko and Simpson for their second-round declarations, with one caveat. That caveat is that if declarations filed by Drs. Petsko and/or Simpson deviate substantively from the declarations they filed in their first-round declarations, Merck reserves its right to conduct an additional deposition not to exceed four hours of either or both of those witnesses.

Let me know if Halozyme agrees to the above.

Jeff

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