

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 Unopposed Motion to Seal and
Entering Default Protective Order
37 C.F.R. §§ 42.14, 42.54

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. filed an unopposed motion to seal its Motion for Additional Discovery (Paper 63) and Exhibits 2401–2406 and 2426–2444. *See* Paper 62² (“Mot.”) 1–4. Patent Owner also requested entry of the Board’s Default Protective Order. *See id.* at 1.

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 material it seeks to seal references 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.” Mot. 4. Patent Owner also states that “[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

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

published or otherwise made public.” *Id.* Patent Owner filed a redacted version of the Motion for Additional Discovery.³ *See* Paper 64.

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. Accordingly, we grant Patent Owner’s Motion. 37 C.F.R. §§ 42.14, 42.54. We also enter the Board’s default protective order (filed as Appendix A to the Motion).

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.⁴ *See* Consolidated Office Trial Practice Guide⁵ 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 Although Patent Owner represented that “[a] redacted version of EX2401 will be filed as soon as possible after this Motion,” the records in the above-captioned proceedings do not appear to include a redacted version of Exhibit 2401. Mot. 5. The parties are directed to file that redacted exhibit as soon as possible.

⁴ For purposes of this order, final judgment includes conclusion of any appeal.

⁵ *Available at* <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that, Patent Owner's Motion to Seal is *granted*; and

FURTHER ORDERED that the Board's default Protective Order is entered.

PGR2025-00003 (11,952,600 B2) et al.

FOR PETITIONER:

Jeffrey Kushan
SIDLEY AUSTIN LLP
jkushan@sidley.com

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

FOR PATENT OWNER:

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

Aubrey Haddach
Joshua Mack
HALOZYME, INC.
ahaddach@halozyme.com
jmack@halozyme.com

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

Lauren Martin
QUINN EMANUEL URQUHART & SULLIVAN, LLP
laurenmartin@quinnemanuel.com