

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

MERCK SHARP & DOHME LLC,
Petitioner,

v.

HALOZYME INC.,
Patent Owner.

PGR2025-00024 (Patent 12,060,590 B2)
PGR2025-00030 (Patent 12,054,758 B2)
PGR2025-00033 (Patent 12,049,652 B2)
PGR2025-00039 (Patent 12,104,185 B2)

Before COKE MORGAN STEWART, *Acting Under Secretary of
Commerce for Intellectual Property and Acting Director of the United States
Patent and Trademark Office.*

DECISION
Referring the Petitions to the Board

PGR2025-00024 (Patent 12,060,590 B2)
PGR2025-00030 (Patent 12,054,758 B2)
PGR2025-00033 (Patent 12,049,652 B2)
PGR2025-00039 (Patent 12,104,185 B2)

Halozyme, Inc. (“Patent Owner”) filed a request for discretionary denial (Paper 16, “DD Req.”) in the above-captioned cases, and Merck Sharp & Dohme LLC. (“Petitioner”) filed an opposition (Paper 18, “DD Opp.”).¹

After considering the parties’ arguments and the record, and in view of all relevant considerations, discretionary denial of institution is not appropriate in these proceedings. This determination is based on the totality of the evidence and arguments the parties have presented.

These cases present essentially the same discretionary considerations as those presented in PGR2025-00006, PGR2025-00009, and PGR2025-00017. *See, e.g., Merck Sharp & Dohme LLC v. Halozyme Inc.*, PGR2025-00006, Paper 29 (Director June 12, 2025). Accordingly, that analysis is incorporated here. *Id.* at 2–3.

The determination not to exercise discretion to deny institution is based on a holistic assessment of all of the evidence and arguments presented. Accordingly, the Petitions are referred to the Board to handle the cases in the normal course, including by issuing a decision on institution addressing the merits and other non-discretionary considerations, as appropriate.

In consideration of the foregoing, it is:

¹ Citations are to papers in PGR2025-00024. The parties filed similar papers PGR2025-00030, PGR2025-00033, and PGR2025-00039

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ORDERED that Patent Owner's request for discretionary denial is *denied*;

FURTHER ORDERED that the Petitions are referred to the Board;
and

FURTHER ORDERED that neither party shall file a request for rehearing or Director Review of this decision until the Board issues a decision on institution.

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