

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAREPTA THERAPEUTICS, INC.,

Petitioner,

v.

GENZYME CORPORATION,

Patent Owner

Case IPR2026-00166
U.S. Patent No. 12,298,313

PETITIONER'S MOTION TO WITHDRAW PETITION

Petitioner filed the above-captioned petition on December 2, 2025, challenging the patentability of claims 1-27 of U.S. Patent No. 12,298,313 (“the ’313 patent”), which issued on May 13, 2025. Pursuant to 35 U.S.C. § 311(c), the challenged claims of the ’313 patent were not yet eligible for *inter partes* review at the time the petition was filed. Petitioner therefore respectfully requests withdrawal of the Petition. Patent Owner has informed Petitioner that it does not oppose withdrawal of the Petition. This motion was authorized by the Board on February 24, 2026 via email to the parties.

The petition in this proceeding was filed as one of three related IPRs challenging patents in the same family. *See* IPR2026-00167 (challenging U.S. Patent No. 11,698,377) and IPR2026-00168 (challenging U.S. Patent No. 12,123,880). The challenged claims in the other proceedings were eligible for *inter partes* review as of the December 2, 2025 filing date for these IPRs. By contrast, the challenged claims of the ’313 patent became eligible for *inter partes* review after February 13, 2026.

The Board has broad discretion to dismiss petitions to promote efficiency and minimize unnecessary costs, and it routinely permits withdrawal of a petition at an early stage of the proceeding, prior to an institution decision. *See, e.g., SharkNinja, Inc. v. Dyson Tech. Ltd.*, IPR2023-01323, Paper 7 at 2-3 (PTAB Nov. 28, 2023); *VMware, Inc. v. Cirba IP, Inc.*, IPR2021-01211, Paper 16 at 2-3 (PTAB Dec. 28,

2021); *Micron Technology, Inc. v. Yangtze Memory Technologies Co., Ltd.*, IPR2025-00229, Paper 20 at 2-3 (PTAB Jun. 12, 2025); *see also Neurent Medical Inc. v. The Foundry LLC*, IPR2024-00281, Paper 10 at 6-7 (PTAB Apr. 24, 2024).

Here, Patent Owner has not yet filed a preliminary response, and the Board has not issued an institution decision. Patent Owner recently filed a request for discretionary denial, raising the issue of eligibility of the challenged claims for *inter partes* review. IPR2026-00166, Paper 9 (PTAB Feb. 4, 2026). Petitioner has not yet responded to Patent Owner's discretionary denial request. Dismissal of the Petition at this juncture would promote efficiency and minimize unnecessary expenditure of party and Board resources. As stated above, Patent Owner has informed Petitioner that it does not oppose withdrawal of this Petition.

Petitioner refiled the Petition on February 26, 2026, after the challenged claims of the '313 patent became eligible for *inter partes* review. The refiled petition, IPR2026-00270, is substantively the same as the petition originally filed on December 2, 2025, and remains well within the one-year period under 35 U.S.C. § 315(b) from service of the complaint in the related district court action. *Genzyme Corp. v. Sarepta Therapeutics, Inc., et al.*, C.A. No. 24-cv-00882-RGA (D.I. 74) (served on May 27, 2025).

The parties do not have any settlement agreement or other agreements made in connection with, or in contemplation of, the requested withdrawal of the Petition.

The Board has granted a motion to withdraw a petition in similar circumstances where challenged claims were not yet eligible for *inter partes* review, the patent owner did not oppose withdrawal of the petition, and the petitioner intended to refile the petition when the claims became IPR-eligible. *See, e.g., SharkNinja*, IPR2023-01323, Paper 7 at 2-3.

For these reasons, Petitioner respectfully requests withdrawal of the Petition.

Respectfully submitted,

Date: February 26, 2026

By: /Robert B. Wilson/

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, I hereby certify that on February 26, 2026 the foregoing paper was served via email on the following counsel of record for Patent

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/s/ Robert B. Wilson

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