



August 26, 2013

## **Align Technology Announces Enforcement of Permanent Injunctions Against Ortho Caps and Rasteder KFO for Patent Infringement**

### **Align Offers to Allow Completion of In-Progress Clear Aligner Cases**

SAN JOSE, CA and DUSSELDORF, GERMANY -- (Marketwired) -- 08/26/13 -- Align Technology, Inc. (NASDAQ: ALGN) today announced the enforcement of permanent injunctions granted by a patent chamber of the District Court of Dusseldorf in the Federal Republic of Germany against Hamm-based Ortho Caps GmbH and Rastede-based Rasteder KFO Spezial-Labor GmbH. The District Court's decision was previously announced by Align on July 18, 2013. In December 2011, Align filed separate patent infringement lawsuits against both Ortho Caps and Rasteder KFO asserting they both infringe Align patents by making, offering to sell, and selling their respective clear aligner therapy systems in Germany.

The permanent injunctions are based on the Düsseldorf Court's finding that Ortho Caps and Rasteder KFO separately infringe the German parts of European Patents EP 2 263 599, EP 2 263 598, and EP 1 369 091, and that Ortho Caps also infringes the German parts of European Patent EP 1 143 872. European Patents EP 2 263 599 and EP 2 263 598 cover the broad methods of digital treatment planning and manufacturing of aligners, while European Patent EP 1 143 872 covers the physical template for applying attachments. With regard to European Patent EP 1 269 091, which covers the providing of aligners in a single package, the Düsseldorf Court limited its finding of infringement to instances where a set of all aligners manufactured pursuant to a treatment plan are received by the dentist or orthodontist in a single package. Align is not enforcing the judgments based on European Patent EP 1 269 091 against Ortho Caps and Rasteder KFO.

The permanent injunctions require Ortho Caps and Rasteder KFO to 1) provide Align with an accounting of the sales for the infringing products; 2) pay any damages resulting from their infringement; and 3) cease and desist from making, offering to sell, and selling in Germany the products the Court found to infringe the above patents. The defendants have appealed the granting of these injunctions against them. The appeals as such do not prevent Align from enforcing the judgments.

The judgments against Ortho Caps and Rasteder KFO were handed down notwithstanding the fact that each of the aforementioned patents have been opposed by Ortho Caps and Rasteder KFO in oppositions pending before the European Patent Office (EP 2 263 599, EP 2 263 598, EP 1 143 872) or invalidity suits (EP 1 369 091).

Ortho Caps and Rasteder KFO must use a process that does not infringe the patents on which the enforced judgments are based to continue the sales of aligners in Germany.

Align also asserted the German parts of European Patents EP 2 295 004 and EP 0 989 828 against Ortho Caps and Rasteder KFO. These cases were stayed by the Düsseldorf Court in view of oppositions (EP 2 295 004) and invalidity suits (EP 0 989 828) pending against the patents. A first instance decision on these oppositions and invalidity suits is expected in mid to late 2014. Align is confident that all patents will be upheld in oppositions and invalidity suits respectively in their asserted form.

Align has offered to help minimize treatment disruptions for Ortho Caps' and Rasteder KFO's customers and their patients by allowing Ortho Caps and Rasteder KFO to complete their in-progress clear aligner cases manufactured in violation of Align's patents for which they received an impression or scan and a binding order from the customer prior to August 27, 2013, and provided each company a) promptly accepts Align's offer, b) abides by the terms of the permanent injunctions being enforced with respect to accounting and accepting and/or fulfilling new orders, and c) provides certain non-patient private information required by Align concerning the in-progress cases until those cases are complete.

"We are pleased by the judge's finding that several permanent injunctions be entered against both Ortho Caps and Rasteder KFO," said Roger E. George, Align Technology vice president and general counsel. "The Düsseldorf Court's rulings, combined with the Initial Determination issued by the U.S. International Trade Commission Administrative Law judge in May that ClearCorrect Houston and ClearCorrect Pakistan infringe seven Align patents, should send a strong and clear message to infringers of Align's patents."

"Unfortunately, there are numerous doctors and their patients who may be affected by Ortho Caps' and Rasteder KFO's infringement of Align patents," continued Mr. George. "As the innovator and market leader of clear aligner therapy, we want to

help these existing patients and customers achieve their treatment goals and have therefore offered to allow Ortho Caps and Rasteder KFO to complete existing in-process clear aligner cases on conditions that have been offered to them."

***About Align Technology, Inc.***

Align Technology designs, manufactures and markets Invisalign, a proprietary method for treating malocclusion, or the misalignment of teeth. Invisalign corrects malocclusion using a series of clear, nearly invisible, removable appliances that gently move teeth to a desired final position. Because it does not rely on the use of metal or ceramic brackets and wires, Invisalign significantly reduces the aesthetic and other limitations associated with braces. Invisalign is appropriate for treating adults and teens. Align Technology was founded in March 1997 and received FDA clearance to market Invisalign in 1998. The Invisalign product family includes Invisalign, Invisalign Teen, Invisalign Assist, Invisalign Express 10, Invisalign Express 5, Invisalign Lite, Invisalign i7, and Vivera Retainers. To learn more about Invisalign or to find an Invisalign trained doctor in your area, please visit [www.invisalign.com](http://www.invisalign.com).

Source: Align Technology

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