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## **Align Technology Provides Update on Enforcement Complaint Filed Against ClearCorrect With the US International Trade Commission (ITC)**

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- *Commission reverses earlier ruling by the presiding Administrative Law Judge and terminates the Enforcement Proceeding*
- *Commission determines 2006 Consent Order entered in the prior OrthoClear ITC proceeding could not be enforced against ClearCorrect based on contractual interpretation of Consent Order*
- *Ruling is unrelated to the merits of the Patent Infringement Complaint against ClearCorrect scheduled for trial in February 2013*

Align Technology, Inc. (NASDAQ: ALGN) today provided an update on its Enforcement Complaint, one of two complaints filed against ClearCorrect Operating LLC, based in Houston, TX, and ClearCorrect Pakistan (Private) Ltd. (ClearCorrect Pakistan), based in Lahore, Pakistan with the United States International Trade Commission (ITC) in March 2012. The Enforcement Complaint sought enforcement against ClearCorrect of a prior Consent Order entered by the ITC on October 27, 2006 in the OrthoClear ITC action. The Consent Order prevented OrthoClear from importing its dental aligner products into the U.S., either directly or through third parties, such as ClearCorrect Operating, ClearCorrect Pakistan, and certain former OrthoClear employees who now own, manage, and are employed by ClearCorrect Pakistan in Lahore, Pakistan.

On January 4, 2013, the Commission reversed an earlier ruling by the presiding Administrative Law Judge and terminated the Enforcement Proceeding instituted by the Commission on April 25, 2012, which sought enforcement of the 2006 OrthoClear Consent Order against ClearCorrect Operating, ClearCorrect Pakistan, and four officers of ClearCorrect Pakistan. In the Notice issued January 4, the Commission determined that the 2006 OrthoClear Consent Order could not be enforced against ClearCorrect and its former OrthoClear employees.

The Commission's decision is limited to the contractual issue of whether the Consent Order could be applied against ClearCorrect's current method of operation. While the Consent Order expressly prohibits the importation of physical dental aligner products and generally prohibits the importation of any other products that infringe Align's patents, the Commission nevertheless found it dispositive that the Consent Order does not contain a specific, express prohibition of the transmission of digital treatment data, such as the digital data imported from Pakistan by ClearCorrect to manufacture its aligners.

In an effort to avoid the prohibitions of the Consent Order, ClearCorrect structured its relationship with the former OrthoClear operation in Pakistan to rely on the transmission of digital treatment data, with the aligners themselves being manufactured in Houston, Texas. In the presiding Administrative Law Judge's Order issued November 28, 2012, Administrative Law Judge Robert K. Rogers found that digital transmission of data was within the general provisions of the Consent Order prohibitions and thus covered by the terms of the 2006 Consent Order. The Office of Unfair Import Investigation also supported Align's position on the issue.

The Commission's decision regarding the Enforcement Proceeding does not impact the Patent Infringement Proceeding instituted by the Commission on April 1, 2012 against ClearCorrect Operating and ClearCorrect Pakistan.

"While we are disappointed that the Commission decided that it could not enforce its own Consent Order against obvious acts of infringement, we are pleased by Judge Rogers' rulings detailing the intertwined relationship between ClearCorrect Operating and ClearCorrect Pakistan, ClearCorrect's attempts to conceal that relationship (which Judge Rogers' Order termed a 'sham') and his ultimate finding that the two entities must be considered a single entity in the Enforcement Proceeding," said Roger E. George, Align Technology vice president and general counsel. "ClearCorrect Pakistan is merely a successor to OrthoClear Pakistan and thus should be bound by the OrthoClear Consent Order, regardless of how they reconfigure the importation process to avoid the Consent Order's prohibitions. This is the first step in a very protracted litigation process and we look forward to commencing our patent infringement trial against these same entities in a few weeks and are very confident that our intellectual property rights will ultimately be vindicated again against this persistent foreign infringement."

Align's federal court patent infringement case in Houston against ClearCorrect Operating remains stayed pending the ITC

process and remains an available remedy to Align should ClearCorrect attempt to use domestic technicians to provide its digital treatment services.

*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, 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).

Cadent Holdings, Inc. is a subsidiary of Align Technology and is a leading provider of 3D digital scanning solutions for orthodontics and dentistry. The Cadent family of products includes the iTero intra-oral scanning systems, OrthoCAD iCast and OrthoCAD iRecord. For additional information, please visit [www.cadentinc.com](http://www.cadentinc.com).

Source: Align Technology

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