



November 10, 2015

Align Technology Provides Update on Federal Circuit's Review of ITC's Jurisdiction

Decision Is Limited to Jurisdiction and Does Not Address the ALJ's and Commission's Substantive Findings of Patent Infringement Against ClearCorrect

SAN JOSE, CA -- (Marketwired) -- 11/10/15 -- Align Technology, Inc. (NASDAQ: ALGN) today provided an update on the status of the Federal Circuit's review of the International Trade Commission's (ITC) final determination issued against the ClearCorrect entities (ClearCorrect Operating, LLC, based in Houston, Texas and ClearCorrect Pakistan (Private) Ltd., based in Lahore, Pakistan). The ITC previously found in its April 3, 2014 order that both ClearCorrect entities infringe Align's valid patents and issued a cease-and-desist order. On June 2, 2014, the Commission temporarily stayed enforcement of the cease-and-desist orders on procedural grounds pending a determination on ClearCorrect's appeal of the Commission's decisions to the Federal Circuit.

In its November 10 order, a three-judge panel of the Federal Circuit reversed the Commission's earlier ruling that the ITC has jurisdiction over the case. The decision expressly did not address or alter the substantive merits of the Commission's prior determination that ClearCorrect infringes 18 claims of 5 valid Align patents. The panel's decision is limited to the ITC's jurisdiction to resolve disputes involving the transmission of digital data over the Internet. The 2-1 decision states that the Commission's jurisdiction does not extend to transmissions of digital data and is instead limited to importation of tangible goods, which has drawn the attention of numerous third parties involved in the development and sale of digital information, including digital movies and books.

"This is not a decision against Align and it is not a decision about patent infringement -- it's about jurisdiction. And if it is determined that the ITC cannot enforce the previously determined finding of infringement of Align's patents then we will pursue relief in a venue that can. The panel's opinion and the ITC jurisdictional issue have no bearing on Align's stayed litigation against ClearCorrect in Texas, which Align will continue to pursue. We are conferring with the Commission regarding appropriate next steps, including the possibility of seeking en banc review of the ITC jurisdictional issue by the entire Federal Circuit," said Roger E. George, Align Technology vice president and general counsel. "In an increasingly digital world, this case has raised precedent-setting issues regarding the limits of what the ITC can and cannot enforce regarding the patent rights of U.S. companies, but for Align this remains a basic tenant of our right to defend our patents against infringement. The Federal Circuit panel's opinion that ClearCorrect's transmission of infringing digital data falls outside the scope of the ITC's jurisdiction, even if it stands, in no way undermines the ALJ's and Commission's substantive findings that the ClearCorrect entities infringe Align's valid patents."

Align initially filed an ITC complaint against ClearCorrect in March 1, 2012, asserting that ClearCorrect's aligners are made using digital data and treatment plans imported from Pakistan that infringe Align's patents. Align also has a patent infringement action pending against ClearCorrect in the United States District Court for the Southern District of Texas alleging infringement of nine Align patents, including four additional patents not included in the ITC litigation. The District Court action has been stayed pending resolution of the ITC proceeding.

About Align Technology, Inc.

Align Technology is the leader in modern clear aligner orthodontics that designs, manufactures and markets the Invisalign® system, which provides dental professionals with a range of treatment options for adults and teenagers. Align also offers the iTero® 3D digital scanning system and services for orthodontic and restorative dentistry. Align was founded in March 1997 and received FDA clearance to market the Invisalign system in 1998. Visit www.aligntech.com for more information.

For additional information about the Invisalign system or to find an Invisalign provider in your area, please visit www.invisalign.com. For additional information about the iTero 3D digital scanning system, please visit www.itero.com.

Source: Align Technology

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