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Align Technology Provides Update on Pending German Patent Infringement Litigation Against Ortho Caps

SAN JOSE, CA and DUSSELDORF, GERMANY -- (Marketwired) -- 12/21/16 -- Align Technology, Inc. (NASDAQ: ALGN) today provided an update concerning its December 2011 patent infringement lawsuit against Hamm-based Ortho Caps GmbH. Align has asserted six patents in Germany against Ortho Caps. The District Court of Dusseldorf found that Ortho Caps infringes four of the patents. Ortho Caps challenged the validity of two of the patents in the German courts. In November 2016, the German Federal Court of Justice, Bundesgerichtshof, upheld a decision that one of Align's patents is invalid, and that one is partially invalid. Align, however, is not relying upon either of these two patents to enforce the infringement judgments against Ortho Caps. With regard to the patents upon which Align is relying, the European Patent Office (EPO) has already upheld in the first instance the validity of two (one as amended) of the other patents already found to have been infringed by Ortho Caps, and these decisions are now on appeal. Align ultimately requires only one infringed patent to be upheld as valid for the litigation to succeed.

"Our claims against Ortho Caps involve multiple alleged infringements of multiple patents," said Roger E. George, Align Technology vice president and general counsel. "We are, of course, disappointed that the German Court has held even a single German patent invalid. However, the German Courts have also found that Ortho Caps infringes additional Align patents. It is premature for Ortho Caps to claim victory, in view of its losses in the German infringement courts -- there is a long way to go and we are confident we will be able to enforce the existing infringement judgments against Ortho Caps."

In its lawsuit Align asserts Ortho Caps infringes six Align patents in Germany. In July 2013, the patent chamber of the District Court of Dusseldorf in the Federal Republic of Germany found that Ortho Caps infringes the German parts of four European patents (EP 2 263 599, EP 2 263 598, EP 1 369 091, and EP 1 143 872). Align also asserted the German parts of EP 0 989 828 and EP 2 295 004 against Ortho Caps, but these cases were stayed in view of an invalidity suit and EPO opposition respectively filed by Ortho Caps. The German parts of EP 2 263 599, EP 2 263 598, and EP 1 143 872, which the District Court of Dusseldorf found to be infringed by Ortho Caps, remain in force while the patents are the subject of opposition proceedings at the European Patent Office.

In November 2016, the German Federal Court of Justice, Bundesgerichtshof, upheld the Federal Patent Court's decision that the German part of EP 0 989 828 is invalid, while also finding that modified claims for the German part of EP 1 369 091 are valid.

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.

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