

JOSH A. KREVITT (SBN 208552)  
jkrevitt@gibsondunn.com  
ANDREW ROBB (SBN 291438)  
arobb@gibsondunn.com  
**GIBSON, DUNN & CRUTCHER LLP**  
310 University Avenue  
Palo Alto, CA 94301  
Telephone: 650.849.5300  
Facsimile: 650.849.5333

CHARLOTTE JACOBSEN (*pro hac vice*)  
cjacobsen@gibsondunn.com  
**GIBSON, DUNN & CRUTCHER LLP**  
200 Park Avenue  
New York, NY 10166-0193  
Telephone: 212.351.3961  
Facsimile: 212.716.0781

JAYSEN S. CHUNG (SBN 280708)  
jschung@gibsondunn.com  
**GIBSON, DUNN & CRUTCHER LLP**  
555 Mission Street, Suite 3000  
San Francisco, CA 94105-0921  
Telephone: 415.393.8200  
Facsimile: 415.393.8306

*Attorneys for Plaintiff*  
DENTAL MONITORING SAS

Renée E. Rothauge (SBA 271239)  
RRothauge@perkinscoie.com  
**PERKINS COIE LLP**  
505 Howard Street, Suite 1000  
San Francisco, CA 94105  
T: (415) 344-7000 / F: (415) 344-7050

Hari Santhanam (*pro hac vice*)  
HSanthanam@perkinscoie.com  
**PERKINS COIE LLP**  
110 North Wacker Drive, Suite 3400  
Chicago, IL 60606  
T: (312) 324-8400 / F: (312) 324-9400

John Gray (*pro hac vice*)  
JHGray@perkinscoie.com  
**PERKINS COIE LLP**  
2901 North Central Avenue, Suite 2000  
Phoenix, AZ 85012  
T: (602) 351-8000 / F: (602) 648-7000

Sarah Fowler (SBA 264838)  
SFowler@perkinscoie.com  
**PERKINS COIE LLP**  
3150 Porter Drive  
Palo Alto, CA 94304  
T: (650) 838-4300 / F: (650) 838-4350

*Attorneys for Defendant*  
ALIGN TECHNOLOGY, INC.

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

Dental Monitoring SAS,  
  
Plaintiff,  
  
v.  
  
Align Technology, Inc.,  
  
Defendant.

CASE NO. 3:22-cv-07335-WHA

**JOINT STIPULATION AND  
[PROPOSED] ORDER**

ALIGN - EXHIBIT 1027

1 Pursuant to Civil Local Rule 7-12, Plaintiff Dental Monitoring (“Plaintiff”) and Defendant  
2 Align Technology, Inc. (“Defendant”), by and through their respective undersigned counsel of record,  
3 and subject to the approval of the Court, hereby jointly stipulate and agree as follows:

4 WHEREAS, pursuant to the Court’s Notice and Order RE Procedure for Patent Cases, dated  
5 December 6, 2022, the Court employs a patent showdown procedure in which the parties each select  
6 a claim to proceed on expedited fact and expert discovery and summary judgment motions;

7 WHEREAS, the Court held an Initial Case Management Conference on July 14, 2023;

8 WHEREAS, the Court entered a Patent Showdown Scheduling Order on July 14, 2023;

9 WHEREAS, the parties wish to clarify their discovery and disclosure obligations relating to  
10 the non-showdown claim(s) and relating to remedies, including damages and injunctive relief;

11 WHEREAS, consistent with the discussion with the Court during the Initial Case Management  
12 Conference, the parties continue to believe that good cause exists to reserve all discovery solely  
13 related to non-showdown claims, and not relevant to the showdown claim(s), until after resolution of  
14 summary judgment motions on the showdown claim(s);

15 WHEREAS, consistent with the discussion with the Court during the Initial Case Management  
16 Conference, the parties desire to focus and limit discovery before resolution of summary judgment  
17 motions on the showdown claim(s) to whether Defendant’s accused products and services infringe  
18 the showdown claim(s) and whether the showdown claim(s) are valid and enforceable;

19 WHEREAS, consistent with the discussion with the Court during the Initial Case Management  
20 Conference, the parties continue to believe that good cause exists to reserve all discovery solely  
21 related to remedies, including damages and injunctive relief, until after resolution of summary  
22 judgment motions on the showdown claim(s);

23 WHEREAS, the parties do not intend for this stipulation to limit third-party discovery, so as  
24 to permit the parties sufficient time to seek such discovery;

25 WHEREAS, to further facilitate the patent showdown proceedings and consistent with the  
26 July 14, 2023 Patent Showdown Scheduling Order (Dkt. No. 56 at 2), the parties shall address any  
27 claim construction issues related to the showdown summary judgment motions in their briefing on  
28 those motions, and the parties propose that the deadlines under Patent Local Rules 4-1 to 4-5 for

1 addressing all other claim constructions issues unrelated to the issues raised in the showdown  
2 summary judgment motions be extended as set forth in the parties' Joint Case Management Statement  
3 (Dkt. No. 51 at 15);

4 WHEREAS, in a recent case where the showdown summary judgment order did not resolve  
5 all of the pending issues, the Court canceled the patent showdown trial and directed the parties to  
6 address all remaining issues at the main trial (*see Google LLC v. Sonos, Inc.*, No. 3:20-cv-06754, Dkt.  
7 No. 339);

8 WHEREAS, in the interest of judicial efficiency, to preserve the resources of the parties, and  
9 to avoid the potential for multiple jury trials on Plaintiff's asserted patents, the parties jointly propose  
10 that the Court allow the parties to complete fact and expert discovery on any issues relating to  
11 Plaintiff's asserted patents that remain after the Court's ruling on the showdown summary judgment  
12 motions and hold a single jury trial thereafter on any such remaining issues;

13 WHEREAS, the parties expect to complete fact and expert discovery and be ready for trial on  
14 any remaining issues relating to Plaintiff's asserted patents by November 2024, subject to the Court's  
15 availability;

16 NOW, THEREFORE, Plaintiff and Defendant hereby jointly stipulate, agree, and respectfully  
17 submit for approval by the Court the following:

- 18 1. Discovery that is not related to the showdown claim(s) and is related solely to non-  
19 showdown claims is reserved until after resolution of summary judgment motions on the  
20 showdown claim(s).
- 21 2. Discovery that is not related to the showdown claim(s) and is related solely to alleged  
22 willfulness or remedies, including damages and injunctive relief, is reserved (if at all) until  
23 after resolution of summary judgment motions on the showdown claim(s).
- 24 3. Nothing in the paragraphs 1 or 2 above shall limit the parties in seeking timely third-  
25 party discovery.
- 26 4. In the event that any issues relating to Plaintiff's asserted patents are not resolved  
27 through the showdown summary judgment motions, the Court will hold, subject to its  
28 availability, a single jury trial on any such remaining issues relating to Plaintiff's asserted

1 patents after the parties have completed fact and expert discovery on such remaining issues.

2 5. The deadlines for claim construction disclosures under Patent Local Rules 4-1 to 4-5  
3 for addressing claim constructions issues unrelated to the issues raised in the showdown  
4 summary judgment motions shall be extended as set forth in Dkt. No. 51 at 15.

5 6. For the avoidance of doubt, this stipulation does not alter the parties' obligations  
6 pursuant to the Patent Local Rules 3-1 to 3-4, except that Defendant's production pursuant to  
7 Patent Local Rule 3-4(c) to (e) that is related solely to remedies, including damages and  
8 injunctive relief (e.g., sales and financial information and agreements), is reserved until after  
9 resolution of summary judgment motions on the showdown claim(s).

**IT IS SO STIPULATED.**

Dated: August 30, 2023

Respectfully submitted,

/s/ Charlotte Jacobsen

JOSH A. KREVITT (SBN 208552)

jkrevitt@gibsondunn.com

ANDREW ROBB (SBN 291438)

arobb@gibsondunn.com

**GIBSON, DUNN & CRUTCHER LLP**

310 University Avenue

Palo Alto, CA 94301

Telephone: 650.849.5300

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CHARLOTTE JACOBSEN (*pro hac vice*)

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New York, NY 10166-0193

Telephone: 212.351.3961

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JAYSEN S. CHUNG (SBN 280708)

jschung@gibsondunn.com

**GIBSON, DUNN & CRUTCHER LLP**

555 Mission Street, Suite 3000

San Francisco, CA 94105-0921

Telephone: 415.393.8200

Facsimile: 415.393.8306

*Attorneys for Plaintiff*

DENTAL MONITORING SAS

/s/ Hari Santhanam

Renée E. Rothauge (SBA 271239)

RRothauge@perkinscoie.com

**PERKINS COIE LLP**

505 Howard Street, Suite 1000

San Francisco, CA 94105

T: (415) 344-7000 / F: (415) 344-7050

Hari Santhanam (*pro hac vice*)

HSanthanam@perkinscoie.com

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110 North Wacker Drive, Suite 3400

Chicago, IL 60606

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Phoenix, AZ 85012

T: (602) 351-8000 / F: (602) 648-7000

Sarah Fowler (SBA 264838)

SFowler@perkinscoie.com

**PERKINS COIE LLP**

3150 Porter Drive

Palo Alto, CA 94304

T: (650) 838-4300 / F: (650) 838-4350

*Attorneys for Defendant*

ALIGN TECHNOLOGY, INC.

**ATTESTATION**

Pursuant to Civil Local Rule 5-1(h)(3), I hereby attest that all signatories to this document concur in its filing.

/s/ Charlotte Jacobsen  
Charlotte Jacobsen

**[PROPOSED] ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
THE HONORABLE WILLIAM H. ALSUP  
UNITED STATES DISTRICT JUDGE