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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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Discovery that is not related to the showdown claim(s) and is related solely to non-showdown claims is reserved until after resolution of summary judgment motions on the showdown claim(s).

2. Discovery that is not related to the showdown claim(s) and is related solely to alleged willfulness or remedies, including damages and injunctive relief, is reserved (if at all) until after resolution of summary judgment motions on the showdown claim(s).

3. Nothing in the paragraphs 1 or 2 above shall limit the parties in seeking timely third-party discovery.

4. In the event that any issues relating to Plaintiff's asserted patents are not resolved through the showdown summary judgment motions, the Court will hold, subject to its availability, a single jury trial on any such remaining issues relating to Plaintiff's asserted

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

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

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

IT IS SO STIPULATED.

Dated: August 30, 2023

Respectfully submitted,

/s/ Charlotte Jacobsen
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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