

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALIGN TECHNOLOGY, INC.,

Petitioner,

v.

DENTAL MONITORING SAS,

Patent Owner.

Case No. IPR2024-00052

U.S. Patent No. 11,049,248

**PATENT OWNER'S LISTING OF
NEW ARGUMENTS IN PETITIONER'S REPLY**

Mail Stop **Patent Board**
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

As authorized by the Board’s October 16, 2024, email, Patent Owner provides the following chart identifying improper new argument and evidence submitted in Petitioner’s Reply (Paper 25).

Citation	Subject Matter
Exhibits 1030-1031	Supplemental evidence purporting to authenticate exhibits (EX1006, EX1022-1023, and EX1025-1026), improperly filed in response to Patent Owner’s objections (Paper 16).
Paper 25, §V.A; EX1048, ¶¶12-16	Relying on separately published neural networks cited in Maninis to satisfy “deep learning device” limitation of claims on the basis that the other networks can be coupled to Maninis’s COB architecture and despite Petition relying exclusively on Maninis’s COB “deep learning architecture” to satisfy the claim limitation. Paper 2, 36-37 (citing EX1007, Fig. 2 (depicting COB “architecture”) and Abstract, 3-6, 9, Table 3, Figs. 3-5 (discussing and depicting same), and citing EX1002, ¶¶97–100 (same)).
Paper 25, § V.B.1 (fifth paragraph) and § V.C.2	Proposing new, alternative combination involving Kim purportedly teaching computer-aided analysis, not human review, of images. <i>Cf.</i> Paper 2, 20 (“photographic or video images may be transmitted to an orthodontist to provide information”); <i>id.</i> , 28

(third paragraph)	(“Kim teaches evaluating an aligner by reviewing an image”); EX1002, ¶¶45-46, 70, 84 (same).
Paper 25, § V.B.1 (final paragraph); EX1048, ¶24	To the extent Petitioner is proposing a combination of Maninis with Salah that uses “differences in contour strength” to identify different objects in an image (Paper 25, 17), that is a new, alternative combination. <i>Cf.</i> EX1002, ¶131 (the only reference to “contour strength” in Petition or supporting declaration, which describes “partitions at different granularities when thresholding at various contour strength values”).
IPR2023-01369, EX1035	Declaration from new expert, improperly incorporated by reference in its entirety in Reply, and for which Align refuses to make the expert available for deposition. Paper 25, 2 (citing Valley declaration in unrelated IPR). Declaration also improperly offers dental perspective for the first time despite necessity to Petitioner’s prima facie case. <i>E.g.</i> , Paper 2, 14 (POSA includes dental expertise “as appropriate”), 6-9 (addressing undisputedly dental ground references).

Date: October 23, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e), the undersigned certifies that on October 23, 2024, a complete copy of **PATENT OWNER'S LISTING OF NEW ARGUMENTS IN PETITIONER'S REPLY** was served in its entirety on the Petitioner's counsel of record by email to:

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