

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. IPR2024-00110
Patent No. 11,109,945

PETITIONER'S OBJECTIONS TO EVIDENCE

I. INTRODUCTION

Pursuant to 37 C.F.R. §42.64(b)(1), Align Technology, Inc. (“Petitioner”) submits the following objections to Dental Monitoring SAS’s (“Patent Owner”) Exhibits 2002-2007 and 2009-2013.

Petitioner’s objections are made pursuant to the Code of Federal Regulations (“C.F.R.”) governing this proceeding, including without limitation 37 C.F.R. §§42.61-42.65 and §42.6(a)(3). As required by 37 C.F.R. §42.62, Petitioner’s objections below apply the Federal Rules of Evidence (“F.R.E.”).

II. OBJECTIONS

1. Declaration of John T. Mongan (Exhibit 2002)

Grounds for Objection: F.R.E. 401 (Test for Relevant Evidence); F.R.E. 402 (General Admissibility of Relevant Evidence); F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons); F.R.E. 701, 702, 703 (Expert Foundation and Opinions); F.R.E. 801, 802, 803 (Hearsay Inadmissible).

Exhibit 2002 is the declaration of Dr. John T. Mongan and is objected to in its entirety. Dr. Mongan fails to provide a reasoned basis for his opinions. Moreover, Dr. Mongan’s opinions are not the product of reliable principles and methods. Exhibit 2002 is not relevant at least insofar as it is not cited in any

briefing other than Patent Owner's preliminary response. To the extent exhibit 2002 is deemed relevant, its admission would be unduly prejudicial, misleading, and a waste of time. Exhibit 2002 is further objected to under F.R.E. 801-803 as resting on statements constituting hearsay without satisfying any of the hearsay exceptions.

2. Declaration of Budi Kusnoto (Exhibit 2004)

Grounds for Objection: F.R.E. 401 (Test for Relevant Evidence); F.R.E. 402 (General Admissibility of Relevant Evidence); F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons); F.R.E. 701, 702, 703 (Expert Foundation and Opinions); F.R.E. 801, 802, 803 (Hearsay Inadmissible).

Exhibit 2004 is the declaration of Dr. Budi Kusnoto and is objected to in its entirety. Dr. Kusnoto fails to provide a reasoned basis for his opinions. Moreover, Dr. Kusnoto's opinions are not the product of reliable principles and methods. Exhibit 2004 is not relevant at least insofar as it is not cited in any briefing other than Patent Owner's preliminary response. To the extent exhibit 2004 is deemed relevant, its admission would be unduly prejudicial, misleading, and a waste of time. Exhibit 2004 is further objected to under F.R.E. 801-803 as resting on statements constituting hearsay without satisfying any of the hearsay exceptions.

3. Exhibits 2003, 2005-2007, 2009-2013

Grounds for Objection: F.R.E. 401 (Test for Relevant Evidence); F.R.E. 402 (General Admissibility of Relevant Evidence); F.R.E. 403 (Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons).

Exhibits 2003, 2005-2007, and 2009-2013 are not relevant to the current proceedings, and their probative value is minimal and is substantially outweighed by the risk of confusing the issues, wasting time, and needlessly presenting cumulative evidence. Exhibits 2003, 2005-2007, and 2009-2013 are not relevant at least insofar as none of them have been cited in any briefing beyond the preliminary response. Further, exhibits 2006 and 2012 do not appear from their face to be prior art publications, and it has not been established how these exhibits are relevant to any fact of consequence in this trial. Moreover, to the extent any of exhibits 2003, 2005-2007, and 2009-2013 are deemed relevant, their admission would be unduly prejudicial, misleading, and a waste of time.

III. CONCLUSION

The aforementioned exhibits were submitted with Patent Owner's preliminary response. These objections are made within 10 business days of institution pursuant to 37 C.F.R. §42.64.

Respectfully submitted,

Dated: May 3, 2024

/ Matthew A. Argenti /
Matthew A. Argenti, Lead Counsel
Reg. No. 61,836

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Petitioner's Objections to Evidence was served on May 3, 2024, at the following electronic service addresses:

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Respectfully submitted,

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