From:	Argenti, Matthew
To:	Trials
Cc:	Rosato, Michael; Thomas, Tasha; Medley, Patrick; Collins-Chase, Charles; Mathew, Jency; Berlenbach, Anthony; Stach, Jason; ClearCorrect IPR Attorneys; McCammon, Luke
Subject:	RE: IPR2025-00816
Date:	Tuesday, May 26, 2026 7:16:01 PM
Attachments:	RE ClearCorrect v. Align IPR2025-00816.msg RE ClearCorrect v. Align IPR2025-00816.msg

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Honorable Board,

Per the attached emails, Patent Owner solicited input on a joint email to the Board during the meet and confer process. Petitioner's untimely objection below has been waived.

Respectfully,

Matthew A. Argenti
Counsel for Patent Owner Align Technology, Inc.
Wilson Sonsini Goodrich & Rosati
650 Page Mill Rd., Palo Alto, CA 94304
Direct: (650) 354-4154
Fax: (650) 493-6811

From: McCammon, Luke <Luke.McCammon@finnegan.com>
Sent: Tuesday, May 26, 2026 2:25 PM
To: Argenti, Matthew <margenti@wsgr.com>; Trials <trials@uspto.gov>
Cc: Rosato, Michael <mrosato@wsgr.com>; Thomas, Tasha <tthomas@wsgr.com>; Medley, Patrick <pmedley@wsgr.com>; Collins-Chase, Charles <Charles.Collins-Chase@finnegan.com>; Mathew, Jency <Jency.Mathew@finnegan.com>; Berlenbach, Anthony <Anthony.Berlenbach@finnegan.com>; Stach, Jason <Jason.Stach@finnegan.com>; ClearCorrect IPR Attorneys <ClearCorrect-IPR-Attorneys@finnegan.com>
Subject: RE: IPR2025-00816

EXT - luke.mccammon@finnegan.com

Dear Honorable Board,

Petitioner opposes Align's request. Align's argumentative request is a violation of the Board's rules. *See* March 18, 2021, Boardside Chat at 7 (Requesting authorization

"[s]hould **not** include substantive argument or attachments) (emphasis in original) (accessible here).

Align's email itself is also nearly as long as the motion it requests authorization to file and thus circumvents the Board's rules prohibiting the filing of a motion without prior authorization. *See* 37 C.F.R. § 42.20(b); *Samsung Elecs. Co., Ltd., v. Black Hills Media, LLC*, IPR 2014-00717, Paper 6 at 3 (PTAB July 10, 2014) (finding unauthorized correspondence circumvents 37 C.F.R. § 42.20(b)). Thus, Align's request should be denied for violation of the Board's rules.

To the extent that the Board grants Align's request, Petitioner requests authorization to file an equal-length response.

Respectfully submitted,

Luke McCammon
Counsel for Petitioner

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From: Argenti, Matthew <margenti@wsgr.com>
Sent: Tuesday, May 26, 2026 3:34 PM
To: Trials <trials@uspto.gov>
Cc: Rosato, Michael <mrosato@wsgr.com>; Thomas, Tasha <tthomas@wsgr.com>; Medley, Patrick <pmedley@wsgr.com>; McCammon, Luke <Luke.McCammon@finnegan.com>; Collins-Chase, Charles <Charles.Collins-Chase@finnegan.com>; Mathew, Jency <Jency.Mathew@finnegan.com>; Berlenbach, Anthony <Anthony.Berlenbach@finnegan.com>; Stach, Jason <Jason.Stach@finnegan.com>; ClearCorrect IPR Attorneys <ClearCorrect-IPR-Attorneys@finnegan.com>
Subject: IPR2025-00816

Dear Trials,

Patent Owner Align requests authorization in IPR2025-00816 to file a motion to strike the supplemental declaration of Petitioner's expert Dr. Yadav (EX1040), EX1043, and any corresponding portions of the petitioner reply. These materials constitute improper new arguments, evidence and opinions that are untimely and unduly prejudicial.

Specifically, section II.A and II.B of the supplemental declaration change the level of ordinary skill in the art that Dr. Yadav purports to have applied in forming his opinions. As even Dr. Yadav acknowledges, this newly modified level of ordinary skill was not recited in his original declaration and cannot be swapped in at the reply stage.

In addition, section III changes the theory of alleged unpatentability over the Chishti-511 reference relative to what is alleged in the petition. Specifically, where the petition originally argued (incorrectly) certain claim aspects are found in Chishti-511, the reply materials now pivot to arguing those missing aspects could be included in Chishti-511. *Compare*, for example, Pet. at 40 asserting that Chishti-511's "system identifies unacceptable movements, including those resulting in a collision" with Dr. Yadav's new testimony speculating about conditions that "may lead to collisions" (para. 11) or "may result … in collisions" (para. 12). The Federal Circuit has long recognized this type of pivot as a new and untimely change to the thrust of an obviousness case. *In re Leithem*, 661 F.3d 1316, 1321 (Fed. Cir. 2011).

Finally, the reply newly introduces EX1043 in attempt to swap out the Sachdeva (EX1007) reference relied upon in the Petition. The POR identified Sachdeva as missing the alleged teaching for which it was cited in the petition, which cannot be cured by the untimely introduction of a new reference.

Patent Owner requests authorization for a two-page motion to strike briefly identifying improper new argument and evidence. Petitioner opposes our request.

Should the Board find a conference call helpful Align can provide its availability upon request.

Respectfully,

Matthew A. Argenti
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