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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MISTY SNOW, individually and on behalf of
others similarly situated,

Plaintiff,

v.

ALIGN TECHNOLOGY, INC.,

Defendant.

No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

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1 Plaintiffs bring this action on behalf of themselves individually and on behalf of a plaintiff
2 class consisting of all persons and entities who purchased Invisalign Aligners for personal use sold
3 by Align Technology, Inc. (“Align” or “Defendant”) from at least March 15, 2015 until the present
4 (Class Period).

5 I. NATURE OF THE CASE

6 1. Aligners are orthodontic devices that, in essence, are a plastic form of dental braces.
7 Over a course of treatment, a patient generally uses a successive series of aligners that slowly realign
8 the teeth. Aligners possess several significant advantages over dental braces. Aligners, unlike braces,
9 can be removed from the mouth for short periods of time, such as for eating, brushing, or flossing.
10 Aligners, made out of clear plastic, are also more visually inconspicuous than dental braces that are
11 usually made out of metal.



22 Braces



23 Invisalign

24 2. For decades, Align dominated the market for Aligners with its Invisalign products.
25 Align controlled more than 80 percent of the market and earned consistent, durable profit margins.
26 Align used its intellectual property to protect its dominant market position. Align frequently filed
27 litigation, such as patent infringement lawsuits, against potential competitors in the aligner market
28 who threatened Align's dominance.

1 3. However, by 2017, Align’s intellectual property that had helped drive its market
2 dominance had begun to expire. Align publicly acknowledged the risk that “[w]hen patents expire,
3 we lose the protection and competitive advantages they provided to us, which could negatively
4 impact . . . operating results.”

5 4. Align had been able to charge high prices and earn high profit margins on Invisalign
6 because the product was protected by a thicket of hundreds of patents that Align wielded
7 aggressively to protect its Aligner monopoly. As Align CEO Joe Hogan stated in 2017: We’ve been
8 in business now for almost 20 years, and we’ve had so few competitors and people think it’s because
9 we have this great IP, it’s true we have good intellectual property, but it took 15 years for people to
10 really believe that you can move teeth with plastics[.] ... It gave us this period of time to really iterate
11 and learn *without the outside influence of other competitors coming in*.¹

12 5. Faced with competition from the loss of patent exclusivity, Align implemented a
13 anticompetitive scheme to willfully acquire and maintain its monopoly position. Align’s scheme
14 centered around its efforts to foreclose competition in the linked markets of (1) aligners; and (2) hand-
15 held digital intraoral scanners (“scanners”).

16 6. Dental offices use scanners to take digital images of the jaws, teeth, and bite of a
17 patient. These digital images are then used by aligner manufacturers to create individualized Aligners
18 for patients. During the course of a treatment, patients will generally take regular scans and have a
19 series of individual Aligners manufactured for their usage.

20 7. Align sells a scanner product called the iTero. Align’s primary competitor in the
21 Scanner market is 3Shape, who sells a “Trios” scanner. Digital scanners make it more convenient
22 and efficient for Dental Practices to order Aligners. Align has stated that “Invisalign doctors with an
23 iTero scanner have notably higher utilization rates than non-iTero doctors” i.e. – Invisalign doctors
24 with an iTero scanner order Invisalign Aligners at significantly higher levels than doctors without
25 iTero scanners. Align itself has also emphasized that Dental Practices need a fast and accurate way to
26

27
28 ¹ Michela Tindera, *Out of Silicon Valley, A Billion-Dollar Orthodontics Business Built with Plastic and Patents*, Forbes (April 25, 2017) (emphasis added).

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