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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 SmileDirectClub LLC,
10 Petitioner,

11 v.

12 Align Technology Incorporated,
13 Respondent.
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No. MC-21-00021-PHX-DLR

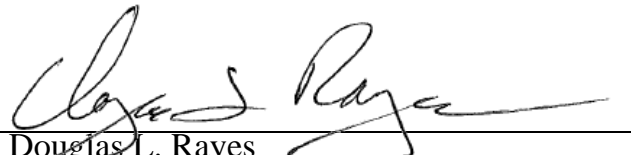
ORDER

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16 Petitioner SmileDirectClub LLC (“SDC”) currently is a defendant in a nationwide
17 class action lawsuit pending in the United States District Court for the Middle District of
18 Tennessee, *Ciccio v. SmileDirectClub, LLC, et al.*, Case No. 3:19-845. As part of that
19 litigation, SDC served a subpoena duces tecum on Respondent Align Technology
20 Incorporated (“Align”), who is not a party to the Tennessee case. SDC’s subpoena seeks
21 production of fifteen categories of documents. Align objected to the subpoena and refused
22 to produce any documents. Consequently, on April 15, 2021, SDC filed a motion with this
23 Court seeking enforcement of its subpoena. (Doc. 1.) SDC filed its motion here because
24 Align is headquartered in Tempe, Arizona. In response, Align both argues the merits of
25 the subpoena and asks that the Court transfer this matter to the Middle District of Tennessee
26 so that the court overseeing the underlying lawsuit can determine whether the subpoena
27 seeks relevant and proportional information. (Doc. 8.) In reply, SDC “takes no position
28 regarding [Align’s] Motion to Transfer[.]” (Doc. 13.)

1 Federal Rule of Civil Procedure 45(f) allows the Court to “transfer a motion under
2 this rule to the issuing court if the person subject to the subpoena consents or if the court
3 finds exceptional circumstances.” Here, the entity subject to the subpoena—Align—not
4 only consents to such a transfer but has affirmatively requested it. The Court therefore
5 may transfer the motion, and in its discretion finds such a transfer warranted. Indeed, the
6 issuing court overseeing the underlying litigation is in a superior position to assess the
7 relevance and proportionality of SDC’s subpoena. Accordingly,

8 **IT IS ORDERED** that Align’s motion to transfer (Doc. 8) is **GRANTED**. This
9 matter is hereby transferred to the United States District Court for the Middle District of
10 Tennessee.

11 Dated this 1st day of June, 2021.

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16 Douglas L. Rayes
17 United States District Judge
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