

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN DENTAL AND ORTHODONTIC
SCANNERS AND SOFTWARE**

Investigation No. 337-TA-1144

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION TERMINATING U.S. PATENT NO. 9,848,958 FROM THE
INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 17) terminating U.S. Patent No. 9,848,958 (“the ’958 patent”) from the investigation.

FOR FURTHER INFORMATION CONTACT: Amanda Pitcher Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-2737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: On March 5, 2019, the Commission instituted this investigation based on a complaint filed on behalf of Align Technology, Inc. of San Jose, California (“Align”). 84 FR7933-34 (March 5, 2019). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain dental and orthodontic scanners and software by reason of infringement of one or more claims of U.S. Patent Nos. 9,299,192; 7,077,647; 7,156,661; the ’958 patent; and 8,102,538. The Commission’s Notice of Investigation named three respondents, including

3Shape A/S of Copenhagen, Denmark; 3Shape, Inc. of Warren, New Jersey; and 3Shape Trios A/S of Copenhagen, Denmark (collectively, “3Shape”). *Id.* The Office of Unfair Import Investigations was not named as a party in this investigation. *Id.*

On June 20, 2019, Align moved, pursuant to Commission Rules 210.15 and 210.21 (19 CFR 210.15, 210.21), to partially terminate the investigation by withdrawing its allegations concerning the '958 patent.

On July 2, 2019, the presiding administrative law judge issued Order No. 17, the subject ID, granting the motion. The ID found that no extraordinary circumstances existed. No one petitioned for review of the subject ID.

The Commission has determined not review Order No. 17.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission’s Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: July 23, 2019