

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
**Washington, D.C.**

**In the Matter of**

**CERTAIN INTRAORAL SCANNERS  
AND RELATED HARDWARE AND  
SOFTWARE**

**Investigation No. 337-TA-1090**

**NOTICE OF A COMMISSION DETERMINATION TO REVIEW  
A FINAL INITIAL DETERMINATION IN ITS ENTIRETY**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review in its entirety the presiding administrative law judge's ("ALJ") final initial determination ("ID") issued on April 26, 2019, finding no violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the above-referenced investigation.

**FOR FURTHER INFORMATION CONTACT:** Cathy Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2392. 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, DC 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:** The Commission instituted this investigation on December 19, 2017, based on a complaint filed on behalf of Align Technology, Inc. ("Align") of San Jose, California. 82 FR 60215 (Dec. 19, 2017). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain intraoral scanners and related hardware and software by reason of infringement of one or more claims of U.S. Patent Nos. 9,615,901 ("the '901 patent"); 8,638,448 ("the '448 patent"); 8,638,447 ("the '447 patent"); 6,845,175 ("the '175 patent"); and 6,334,853 ("the '853 patent"). *Id.* The complaint further alleges that a domestic industry exists. The Commission's notice of investigation named as respondents 3Shape A/S of Copenhagen K, Denmark and 3Shape, Inc., of

Warren, New Jersey. The notice of investigation was amended to add 3Shape Trios A/S of Copenhagen K, Denmark as a respondent. 83 FR 13782 (Mar. 30, 2018). The Office of Unfair Import Investigations is not participating in the investigation. The investigation was terminated as to the '853 and '175 patents and certain claims of the '447, '448, and '901 patents based on the withdrawal of Align's allegations. *See* ID at 1-2.

On April 26, 2019, the ALJ issued the final ID, finding no violation of section 337 with respect to the '901, '448, and '447 patents. That same day, the ALJ issued her Recommended Determination on Remedy and Bonding. On May 13, 2019, Align filed a petition for review of the final ID, and Respondents filed a joint contingent petition for review of the final ID. The parties filed responses to the petitions on May 21, 2019.

Having examined the record of this investigation, including the final ID, the petitions for review, and the responses thereto, the Commission has determined to review the final ID in its entirety.

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 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 19, 2019