

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

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

Investigation No. 337-TA-1091

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION GRANTING A MOTION FOR PARTIAL
TERMINATION OF THE INVESTIGATION BASED ON WITHDRAWAL OF
CERTAIN CLAIMS**

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. 27) of the presiding administrative law judge (“ALJ”), granting complainant’s unopposed motion to withdraw certain claims from the investigation.

FOR FURTHER INFORMATION CONTACT: Amanda Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 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, 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 20, 2017, based on a complaint, as amended and supplemented, filed on behalf of Align Technology, Inc. of San Jose, California (“complainant”). 82 FR 60418 (Dec. 20, 2017). The complaint, as amended and supplemented, alleges violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain color intraoral scanners and related hardware and software by reason of infringement of certain

claims of U.S. Patent No. 8,363,228, U.S. Patent No. 8,451,456 (“the ’456 patent”), U.S. Patent No. 8,675,207, U.S. Patent No. 9,101,433 (“the ’433 patent”), U.S. Patent No. 6,948,931 (“the ’931 patent”), and U.S. Patent No. 6,685,470 (“ the ’470 patent”). The Notice of Investigation, as amended, named 3Shape A/S of Copenhagen, Denmark, 3Shape, Inc. of Warren, New Jersey, and 3Shape Trios A/S of Copenhagen, Denmark as respondents. The Office of Unfair Import Investigations was not named as a party in this investigation.

On July 5, 2018, the complainant filed an unopposed motion for partial termination of the investigation based on the withdrawal of certain claims. Specifically, complainant withdraws claim 7 of the ’456 patent; claims 1-4, 7, and 10 of the ’433 patent; claims 4-12 of the ’470 patent; and claims 4-12 of the ’931 patent. Complainant represented that there are no agreements, written or oral, express or implied, between the parties concerning the subject matter of the investigation.

On July 10, 2018, the ALJ issued the subject ID, granting complainant’s unopposed motion. The ALJ found no extraordinary circumstances exist that would prevent the requested partial termination of the investigation. No petitions for review were filed.

The Commission has determined not to review the ID.

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.



Lisa R. Barton
Secretary to the Commission

Issued: August 6, 2018