

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN DIGITAL MODELS, DIGITAL DATA, AND TREATMENT PLANS FOR USE, IN MAKING INCREMENTAL DENTAL POSITIONING ADJUSTMENT APPLIANCES MADE THEREFROM, AND METHODS OF MAKING THE SAME

Inv. No. 337-TA-833

NOTICE REGARDING INITIAL DETERMINATION ON VIOLATION OF SECTION 337 AND RECOMMENDED DETERMINATION ON REMEDY AND BOND

(May 6, 2013)

On this date, I issued an initial determination on violation of section 337 and recommended determination on remedy and bond in the above-referenced investigation. Below are the conclusions of law from said filing, which are a matter of public record. A complete public version of the Initial Determination and Recommended Determination on Remedy and Bond will be issued when all the parties have submitted their redactions and I have had an opportunity to review the redactions.

CONCLUSIONS OF LAW

1. The Commission has subject matter jurisdiction, *in rem* jurisdiction, and *in personam* jurisdiction.
2. There has been an importation into the United States, sale for importation, or sale within the United States after importation of the accused digital data sets, which are the subject of the alleged unfair trade allegations.

3. An industry does exist in the United States that exploits U.S. Pat. Nos. 6,217,325; 6,722,880; 8,070,487; 6,471,511; 6,705,863; and 7,134,874 as required by 19 U.S.C. § 1337(a)(2).

4. An industry does not exist in the United States that exploits U.S. Pat. No. 6,626,666 as required by 19 U.S.C. § 1337(a)(2).

5. Claims 1, 2, 3, 11, 13, 14, 21, 30, 31, 32, 33, 34, 35, 38, and 39 of U.S. Pat. No. 6,217,325 are not invalid pursuant to 35 U.S.C. §§ 102 and 103.

6. Claims 1 and 3 of U.S. Pat. No. 6,722,880 are not invalid pursuant to 35 U.S.C. §§ 102 and 103.

7. Claims 1, 3, 5, 7, 8, and 9 of U.S. Pat. No. 8,070,487 are not invalid pursuant to 35 U.S.C. §§ 102 and 103.

8. Claim 1 of U.S. Pat. No. 6,471,511 is not invalid pursuant to 35 U.S.C. §§ 102 and 103.

9. Claims 1, 3, 7, and 9 of U.S. Pat. No. 6,626,666 are not invalid pursuant to 35 U.S.C. §§ 102 and 103.

10. Claims 1, 4, 5, 6, 7, and 8 of U.S. Pat. No. 6,705,863 are not invalid pursuant to 35 U.S.C. §§ 102 and 103.

11. Claims 1, 2, 38, 39, 41, and 62 of U.S. Pat. No. 7,134,874 are not invalid pursuant to 35 U.S.C. §§ 102 and 103.

12. The accused digital models, digital data sets, and treatment plans for use in making incremental dental positioning adjustment appliances, the appliances made therefrom, and the methods of making the same, infringe claims 1, 2, 3, 11, 13, 14, 21, 30, 31, 32, 33, 34, 35, 38, and 39 of U.S. Pat. No. 6,217,325.

13. The accused digital models, digital data sets, and treatment plans for use in making incremental dental positioning adjustment appliances, the appliances made therefrom, and the methods of making the same, infringe claims 1 and 3 of U.S. Pat. No. 6,722,880.

14. The accused digital models, digital data sets, and treatment plans for use in making incremental dental positioning adjustment appliances, the appliances made therefrom, and the methods of making the same, infringe claims 1, 3, and 5 of U.S. Pat. No. 8,070,487.

15. The accused digital models, digital data sets, and treatment plans for use in making incremental dental positioning adjustment appliances, the appliances made therefrom, and the methods of making the same, do not infringe claims 7, 8, and 9 of U.S. Pat. No. 8,070,487.

16. The accused digital models, digital data sets, and treatment plans for use in making incremental dental positioning adjustment appliances, the appliances made therefrom, and the methods of making the same, infringe claim 1 of U.S. Pat. No. 6,471,511.

17. The accused digital models, digital data sets, and treatment plans for use in making incremental dental positioning adjustment appliances, the appliances made therefrom, and the methods of making the same, infringe claims 1, 3, 7, and 9 of U.S. Pat. No. 6,626,666.

18. The accused digital models, digital data sets, and treatment plans for use in making incremental dental positioning adjustment appliances, the appliances made therefrom, and the methods of making the same, infringe claims 1, 4, 5, 6, 7, and 8 of U.S. Pat. No. 6,705,863.

19. The accused digital models, digital data sets, and treatment plans for use in making incremental dental positioning adjustment appliances, the appliances made therefrom, and the methods of making the same, infringe claims 1, 2, 38, 39, 41, and 62 of U.S. Pat. No. 7,134,874.

20. There is a violation of 19 U.S.C. § 1337(a)(1)(B) with respect to U.S. Pat. Nos. 6,217,325; 6,722,880; 8,070,487; 6,471,511; 6,705,863, and 7,134,874.

SO ORDERED.



Robert K. Rogers, Jr.
Administrative Law Judge