

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

**In the Matter of**

**CERTAIN DENTAL AND  
ORTHODONTIC SCANNERS AND  
SOFTWARE**

**Inv. No. 337-TA-1144**

**NOTICE OF INSTITUTION OF INVESTIGATION**

Institution of Investigation Pursuant to 19 U.S.C.1337

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

**ACTION:** Notice

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 10, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Align Technology, Inc. of San Jose, California. The complaint alleges violations of 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 dental and orthodontic scanners and software by reason of infringement of certain claims of U.S. Patent No. 9,299,192 (“the ’192 patent”); U.S. Patent No. 7,077,647 (“the ’647 patent”); U.S. Patent No. 7,156,661 (“the ’661 patent”); U.S. Patent No. 9,848,958 (“the ’958 patent”); and U.S. Patent No. 8,102,538 (“the ’538 patent”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

**ADDRESSES:** The complaint, except for any confidential information contained therein, is 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, S.W., Room 112, Washington, D.C. 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (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>.

**FOR FURTHER INFORMATION CONTACT** Katherine Hiner, Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205-1802.

**SUPPLEMENTARY INFORMATION:**

**AUTHORITY:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

**SCOPE OF INVESTIGATION:** Having considered the complaint, the U.S. International Trade Commission, on February 27, 2019, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1-32 of the '192 patent; claims 1-13 and 18-21 of the '647 patent; claims 1-9 and 19-26 of the '661 patent; claims 1-20 of the '958 patent; and claims 1 and 2 of the '538 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “dental and orthodontic scanners and software that provide a digital impression of a patient's dentition and related dental and orthodontic software design tools”;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Align Technology, Inc.  
2820 Orchard Parkway  
San Jose, CA 95134

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

3Shape A/S  
Holmens Kanal 7,  
1060 Copenhagen K,  
Denmark

3Shape, Inc.  
10 Independence Boulevard,  
Suite 150  
Warren, NJ 07059

3Shape Trios A/S  
Holmens Kanal 7,  
1060 Copenhagen K,  
Denmark

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.



Lisa R. Barton  
Secretary to the Commission

Issued: February 27, 2019