

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN INTRAORAL SCANNERS AND
RELATED HARDWARE AND SOFTWARE

Inv. No. 337-TA-1090

NOTICE OF INITIAL DETERMINATION ON VIOLATION OF SECTION 337

(April 26, 2019)

On this date, I have issued an initial determination on violation of section 337 in this investigation pursuant to Commission Rule 210.42(a)(1)(i).¹ For the reasons discussed therein, it is my final initial determination that there is no violation 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, and/or the sale within the United States after importation of certain intraoral scanners and related hardware and software with respect to U.S. Patent No. 8,638,447 (the “447 patent”), U.S. Patent No. 8,638,448 (the “448 patent”), or U.S. Patent No. 9,615,901 (the “901 patent”).

This determination is based on the following conclusions of law:

1. The Commission has subject matter jurisdiction over this investigation, *in personam* jurisdiction over Respondents, and *in rem* jurisdiction over the accused intraoral scanners and related hardware and software.
2. There has been an importation into the United States, sale for importation, or sale within the United States after importation of the accused intraoral scanners and related hardware and software by Respondents.
3. No claims of the '901 patent have been shown to be infringed by the accused products.

¹ A public version shall issue within 30 days, or in the time necessary to identify and redact the confidential business information therein, pursuant to Commission Rule 210.5(f).

4. No claims of the '447 patent have been shown to be infringed by the accused products.
5. No claims of the '448 patent have been shown to be infringed by the accused products.
6. Claim 15 of the '901 patent is invalid for anticipation. No other claims of the '901 patent have been shown to be invalid.
7. No claims of the '447 patent have been shown to be invalid.
8. No claims of the '448 patent have been shown to be invalid.
9. The domestic industry requirement is satisfied with respect to claims 16-19 of the '901 patent.
10. The domestic industry requirement has not been satisfied with respect to any claim of the '447 patent.
11. The domestic industry requirement has not been satisfied with respect to any claim of the '448 patent.

SO ORDERED.

Dee Lord

Dee Lord
Administrative Law Judge

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served to the following parties as indicated, on **April 26, 2019**



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

On Behalf of Complainants Align Technology, Inc.:

Blair M. Jacobs, Esq.
PAUL HASTINGS, LLP
875 15th Street, NW
Washington, DC 20005

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

**On Behalf of Respondents 3Shape A/S, 3Shape Trios A/S,
and 3Shape Inc.:**

Goutam Patnaik
PEPPER HAMILTON LLP
Hamilton Square
2000 K Street, NW, Suite 600
Washington, DC 20006

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____