

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 ISSUANCE OF INITIAL DETERMINATION ON VIOLATION
OF SECTION 337 WITH RECOMMENDATION ON REMEDY AND BOND**

Administrative Law Judge MaryJoan McNamara

(April 30, 2020)

Pursuant to the Notice of Investigation, 84 Fed. Reg. 7933, dated March 5, 2019, I have issued today the Initial Determination (“ID”) of the Investigation in the Matter of Certain Dental and Orthodontic Scanners and Software, United States International Trade Commission Investigation No. 337-TA-1144. *See* 19 C.F.R. § 210.42(a).

I have found that Complainant Align Technology, Inc. (“Align” or “Complainant”) has proven by a preponderance of evidence that Respondents 3Shape A/S, 3Shape Trios A/S, and 3Shape, Inc. (collectively, “3Shape” or “Respondents,” and with Align, the “Parties”) have violated subsection (b) of Section 337 of the Tariff Act of 1930, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain dental and orthodontic scanners and software.

I have found that 3Shape has infringed asserted claims 1 and 18 of U.S. Patent No. 7,077,647 (“the ’647 patent”). I have found that the asserted claims of the ’647 patent are valid.

I have found that 3Shape has infringed asserted claims 2 and 20 of U.S. Patent No. 7,156,661 (“the ’661 patent”). I have found that the asserted claims of the ’661 patent are valid.

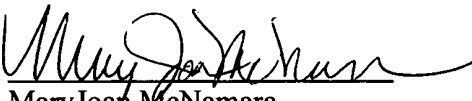
I have found that 3Shape has not infringed asserted claims 1 and 18 of U.S. Patent No. 8,102,538 (“the ’538 patent”). I have found that the asserted claims of the ’538 patent are valid.

I have found that 3Shape has infringed asserted claims 2, 28, and 29 of U.S. Patent No. 9,299,192 (“the ’192 patent”). I have found that asserted claims 2, 28, and 29 of the ’192 patent are invalid.

I have found that one or more of Align’s domestic industry products have satisfied the technical industry prong of the domestic industry requirement for the ’647, ’661, ’538, and ’192 patents. I have found that Align has satisfied the economic prong of the domestic industry requirement under Section 337(a)(3)(A) and (B).

I have recommended a Limited Exclusion Order and a Cease and Desist Order with a standard service and repair exception. I have not recommended a bond during the Presidential Review Period.

SO ORDERED.


MaryJoan McNamara
Administrative Law Judge