

3Shape A/S of Copenhagen, Denmark; 3Shape, Inc. of Warren, New Jersey; and 3Shape Trios A/S of Copenhagen, Denmark (together, “3Shape”). *Id.* The Office of Unfair Import Investigations is not participating in the investigation. *Id.*

The Commission subsequently terminated the investigation with respect to the '958 patent based on Align's withdrawal of those complaint allegations. Order No. 17 (Jul. 2, 2019), *not reviewed* Notice (Jul. 23, 2019). On October 8, 2019, Align stated that it would no longer pursue a violation with respect to claims 4 and 20 of the '647 patent, claims 1 and 19 of the '661 patent, and claims 1, 3–5, and 22 of the '192 patent. On October 21, 2019, Align stated that it would no longer pursue a violation with respect to claim 2 of the '647 patent. Accordingly, at the time of the Final ID, Align asserted claims 1 and 18 of the '647 patent, claims 2 and 20 of the '661 patent, claims 1 and 2 of the '538 patent, and claims 2, 28, and 29 of the '192 patent.

On April 30, 2020, the ALJ issued the Final ID finding a violation of section 337 with respect to the '647 and '661 patents, and no violation with respect to the '538 and '192 patents. Specifically, the ALJ found that claims 1 and 18 of the '538 patent are not infringed and that claims 2, 28, and 29 of the '192 patent are invalid. The ALJ found that Align satisfied the remaining requirements for a violation with respect to the '538 and '192 patents.

On May 12, 2020, 3Shape and Align each filed a petition for review of the Final ID. On May 20, 2020, the parties responded to each other's petitions. The Commission also received four comments on the public interest.

On January 31, 2020, the Commission determined to review the Final ID in part. Specifically, the Commission determined to review the following issues: (1) The findings regarding importation and induced infringement; (2) the construction of limitation 1.5/18.5 of the '647 patent (“individually matching [match] each of the dental objects in the subsequent digital model with a dental object in the initial digital model to determine corresponding dental objects, the matching comprising [including instructions to]”) in the asserted claims of the '647 patent, and the application of that construction regarding infringement, invalidity, and the technical prong of the domestic industry; (3) the findings regarding whether the asserted claims of the '647 and '661 patents are directed to patentable subject matter; (4) the construction of the limitation “wherein the device is configured for maintaining a spatial disposition with respect to the

portion that is substantially fixed during operation of the optical scanner and imaging means” in the asserted claims of the '538 patent, and the application of that construction regarding infringement, invalidity, and the technical prong of the domestic industry requirement; (5) the findings regarding whether Okamoto anticipates the asserted claims of the '538 patent; (6) the findings regarding whether Paley-Kriveshko anticipates or renders obvious the asserted claims of the '192 patent; and (7) the findings regarding the satisfaction of the economic prong of the domestic industry requirement.

Having examined the record of this investigation, including the Final ID, the petitions, responses, and other submissions from the parties, the Commission has determined that Align has failed to show a violation of section 337. Specifically, the Commission has determined to: (1) Modify the Final ID's findings on importation; (2) reverse the Final ID's finding that Align showed induced infringement for the '647 and '661 patents; (3) modify the Final ID's interpretation of the limitation “to determine corresponding dental objects” in the asserted claims of the '647 patent, but find that the modification does not affect the application of the construction to infringement, the domestic industry, or invalidity; (4) take no position on the Final ID's finding that the asserted claims of the '647 and '661 patents are directed to patentable subject matter; (5) modify the ALJ's construction of “wherein the device is configured for maintaining a spatial disposition with respect to the portion that is substantially fixed during operation of the optical scanner and the imaging means” of the asserted claims of the '538 patent, and find that, under the modified construction, Align established infringement and the technical prong of the domestic industry requirement but that the asserted claims are invalid; (6) reverse the Final ID's finding that the asserted claims of the '538 patent are not anticipated by Okamoto; (7) reverse the Final ID's finding that the asserted claims of the '192 patent are not anticipated by Paley-Kriveshko, and affirm the Final ID's finding that the asserted claims are invalid as obvious under modified reasoning; and (8) take no position on whether Align satisfied the economic prong of the domestic industry requirement.

Accordingly, the Commission finds no violation of section 337. Specifically, the Commission finds that Align failed to establish a violation with respect to the asserted claims of the '647 and '661

patents because Align failed to show infringement; that Align failed to establish a violation with respect to the asserted claims of the '538 patent because Align failed to show infringement and because the claims are invalid; and that Align failed to establish a violation with respect to the asserted claims of the '192 patent because the claims are invalid. The Commission's determinations are explained more fully in the accompanying Opinion. All other findings in the ID under review that are consistent with the Commission's determinations are affirmed. The investigation is hereby terminated.

The Commission vote for these determinations took place on November 17, 2020.

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.

Issued: November 17, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

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## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to The National Cooperative Research and Production Act of 1993—The Open Group, L.L.C.

Notice is hereby given that, on November 3, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), The Open Group, L.L.C. (“TOG”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 3ES Innovation Inc., Calgary, CANADA; Asesorías y Desarrollos Corporativos S.A., San José, COSTA RICA; Asia eHealth Information Network, Kowloon, PEOPLE'S REPUBLIC OF CHINA; Atkins Limited, Epsom, UNITED KINGDOM; Bridewell Consulting Ltd, Reading, UNITED KINGDOM; Brunei Shell Petroleum Company Sendirian Berhad, Seria, BRUNEI; Chameleon

Consulting Group, L.L.C., Leesburg, VA; CloudReplica, Houston, TX; CS Communication & Systems, Inc., East Hartford, CT; Cyient, Inc., Melbourne, FL; dataVediK LLC, Houston, TX; Digital Petroleum LLC; Moscow, RUSSIAN FEDERATION; Easthome Beijing Consulting & Service Co., LTD, Beijing, PEOPLE'S REPUBLIC OF CHINA; Edgelox, Duluth, GA; Embassy of Things, San Diego, CA; GaN Corporation, Huntsville, AL; Geoprocesados, SA de CV, Villahermosa, MEXICO; Hippo Software Limited, Livingston, UNITED KINGDOM; i2k Connect Inc, Houston, TX; INPEX Corporation, Tokyo, JAPAN; Intertek, Spring, TX; Kansas Geological Survey, Lawrence, KS; Lyrn, Copenhagen, DENMARK; MIT Lincoln Laboratory, Lexington, MA; Mr Doc SRL, Rome, ITALY; National Institute of Standards and Technology, Gaithersburg, MD; New Wave DV, Minneapolis, MN; NovaTech Process Solutions, LLC, Owings Mills, MD; OOO Reksoft Co. Ltd., Moscow, RUSSIAN FEDERATION; Pacific Star Communications, Inc., Portland, OR; Pariveda Solutions, Inc., Dallas, TX; PJSC Gazprom Neft, St. Petersburg, RUSSIAN FEDERATION; Questlabs, Chandigarh, INDIA; Rogerson Kratos, Irvine, CA; Saab, Inc., East Syracuse, NY; Tatsoft LLC, Arlington Heights, IL; Vanke Service Co., Ltd, Shenzhen, PEOPLE'S REPUBLIC OF CHINA; and WX Geo Services Sdn. Bhd., Kuala Lumpur, MALAYSIA, have been added as parties to this venture.

Also, AGESIC, Montevideo, URUGUAY; Autopro Grande Prairie, CANADA; Beijing Pitaya Software Engineering Technology Center; Beijing, PEOPLE'S REPUBLIC OF CHINA; Chinese Culture University, Taipei, TAIWAN; Electronic Warfare Associates-Canada, Ltd., Ottawa, ON, CANADA; GrammaTech, Inc., Ithaca, NY; Harmonic, Ilminster, UNITED KINGDOM; Helium Consulting, Pune, INDIA; Impetus FZE, Dubai, UNITED ARAB EMIRATES; InProgress sp. z.o.o., Krakow, POLAND; Kluger Training, Bucharest, ROMANIA; KnowNXT, L.L.C., Dubai, UNITED ARAB EMIRATES; LRDC Systems LLC, Alexandria, VA; Momentum Management Consulting, Camp Hill, PA; UMBRiO B.V., Rijswijk, THE NETHERLANDS; Unversidad Iberoamericana, Mexico City, MEXICO; University of South Florida, St. Petersburg, FL; VTS, Inc., Folsom, CA; and White Cloud Software Ltd., Bowen Island, CANADA have withdrawn as parties to this venture.

In addition, Praxair, Inc. has changed its name to Linde, Inc., Tanawanda, NY.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and TOG intends to file additional written notifications disclosing all changes in membership.

On April 21, 1997, TOG filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 13, 1997 (62 FR 32371).

The last notification was filed with the Department on July 27, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 28, 2020 (85 FR 53399).

**Suzanne Morris**,

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2020-25722 Filed 11-20-20; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Spectrum Consortium

Notice is hereby given that, on November 10, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), National Spectrum Consortium (“NSC”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Qwest Government Services, Inc. dba CenturyLink QGS, Herndon, VA; Viavi Solutions, Inc., Germantown, MD; Sierra Nevada Corporation, Sparks, ND; Boonton Electronics, A Wireless Telecom Group Company, Parsippany, NJ; QinetiQ, Inc., Lorton, VA; Rampart Communications, Inc., Hanover, MD; Red Hat Professional Consulting, Inc., Raleigh, NC; CTIA-The Wireless Association, Washington, DC; PathFinder Digital, LLC, Sanford, FL; Aarna Networks, Inc., San Jose, CA; James River Design & MFG LLC DBA Avcom of Virginia North Chesterfield, VA; M2 Technology, Inc., San Antonio, TX; Mercury Systems, Inc. Andover, MA; Vision Engineering Solutions, Inc., Merritt Island, FL; Vitruvian Labs, LLC, Havre De Grace, MD; Emerging

Technology Ventures, Inc., Alamogordo, NM; John Mezzalingua Associates, LLC (JMA), Liverpool, NY; Connected Devices LLC (Applied Data Decisions), Chapel Hill, NC; NetObjex Inc, Santa Ana, CA; Mentor Graphics Corporation, Wilsonville, OR; Techximus Corp, Joppa, MD; Cohere Technologies, Inc., Santa Clara, CA; GenOne Technologies LLC, Cambridge, MA; TITENN, Inc., Oviedo, FL; Paul Christoforou dba Lociva, Haymarket, VA; and Aperio Global, LLC, Reston, VA have been added as parties to this venture.

Also, X-COM Systems LLC Reston, VA; Aspen Consulting Group, Manasquan, NJ; AVANTech Inc, Columbia, SC; Institute for Building Technology and Safety (IBTS), Ashburn, VA; Power Fingerprinting Inc., Vienna, VA; and Sentrana, Arlington, VA have withdrawn from this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NSC intends to file additional written notifications disclosing all changes in membership.

On September 24, 2014, NSC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 4, 2014 (72 FR 65424).

The last notification was filed with the Department on July 13, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 31, 2020 (85 FR 46178).

**Suzanne Morris**,

*Chief, Premerger and Division Statistics Antitrust Division.*

[FR Doc. 2020-25718 Filed 11-20-20; 8:45 am]

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## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to The National Cooperative Research and Production Act of 1993—Telemanagement Forum

Notice is hereby given that, on October 30, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), TM Forum, A New Jersey Non Profit Corporation (“The Forum”) filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of