



7020-02

INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-1125

Certain Height-Adjustable Desk Platforms and Components Thereof

Issuance of a General Exclusion Order and Cease and Desist Orders; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to issue a general exclusion order (“GEO”) prohibiting the unlicensed importation of platforms that sit on an existing desk or work surface and can be adjusted to different heights that infringe one or more of claims 1-2, 4, and 10-11 of U.S. Patent No. 9,113,703 (“the ’703 patent”); claims 11, 16, 18, and 22-26 of U.S. Patent No. 9,277,809 (“the ’809 patent”); claims 1, 4-5, 11-12, 26, and 33-36 of U.S. Patent No. 9,554,644 (“the ’644 patent”); and claims 20-21 and 40-50 of U.S. Patent No. 9,924,793 (“the ’793 patent”); and cease and desist orders (“CDO”) against certain respondents that had not participated in the above-captioned investigation. The investigation is terminated in its entirety.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2392. Copies of non-confidential documents filed in connection with this investigation are or will be 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 SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The

public record for this investigation may be viewed on the Commission's Electronic Docket Information System ("EDIS") (<https://edis.usitc.gov>). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On July 30, 2018, the Commission instituted this investigation based on a complaint and supplements thereto filed on behalf of Varidesk LLC ("Varidesk") of Coppell, Texas. 83 FR 36621 (July 30, 2018). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain height-adjustable desk platforms and components thereof by reason of infringement of one or more claims of the '703, the '809, the '644, and the '793 patents. *Id.* The complaint further alleges that an industry in the United States exists as required by section 337. *Id.*

The Commission's notice of investigation named thirty-one respondents: (1) Albeit LLC of San Francisco, California ("Albeit"); (2) ATC Supply LLC of Plainfield, Illinois ("ATC Supply"); (3) Shenzhen Atc Network Scienology CO., LTD. of Guangdong, China ("Shenzhen ATC"); (4) Best Choice Products of Ontario, California ("Best Choice"); (5) Huizhou Chang He Home Supplies Co., Ltd. of Guangdong, China ("Chang He"); (6) Dakota Trading, Inc. of Emerson, New Jersey ("Dakota"); (7) Designa Inc. of Guangdong, China ("Designa"); (8) Designa Group, Inc. of El Dorado Hills, California ("Designa Group"); (9) Eureka LLC of El Dorado Hills, California ("Eureka"); (10) LaMountain International Group LLC of Elk Grove, California ("LaMountain"); (11) Amazon Import Inc. of El Monte, California ("Amazon Imports"); (12) Hangzhou Grandix Electronics Co., Ltd. of Zhejiang, China ("Grandix");

(13) Ningbo GYL International Trading Co., Ltd. of Zhejiang, China (“Ningbo GYL”); (14) Knappe & Vogt Manufacturing Co. of Grand Rapids, Michigan (“Knappe & Vogt”); (15) JV Products Inc. of Milpitas, California (“JV Products”); (16) Vanson Distributing, Inc. of Milpitas, California (“Vanson Distributing”); (17) Vanson Group, Inc. of Milpitas, California (“Vanson Group”); (18) S.P. Richards Co. DBA Lorell of Smyrna, Georgia (“Lorell”); (19) Nantong Jon Ergonomic Office Co., Ltd. of Jiangsu, China (“Nantong Jon”); (20) Jiangsu Omni Industrial Co., Ltd. of Jiangsu, China (“Jiangsu Omni”); (21) OmniMax USA, LLC of Anna, Texas (“OmniMax USA”); (22) Haining Orizeal Import and Export Co., Ltd. of Zhejiang, China (“Haining Orizeal”); (23) Qidong Vision Mounts Manufacturing Co., Ltd. of Jiangsu, China (“Vision Mounts”); (24) Hangzhou KeXiang Keji Youxiangongsi of Hangzhou, China (“Hangzhou KeXiang”); (25) Smugdesk, LLC of La Puente, California (“Smugdesk”); (26) Venditio Group, LLC of Elkton, Florida (“Venditio”); (27) Versa Products Inc. of Los Angeles, California (“Versa”); (28) Victor Technology, LLC of Bolingbrook, Illinois (“Victor”); (29) CKnapp Sales, Inc. DBA Vivo of Goodfield, Illinois (“Vivo”); (30) Wuhu Xingdian Industrial Co., Ltd. of Anhui, China (“Wuhu Xingdian”); and (31) Wuppessen, Inc. of Ontario, California (“Wuppessen”). *Id.* The Office of Unfair Import Investigations (“OUII”) was also named as a party in this investigation. *Id.*

During the course of the investigation, Varidesk settled with the following respondents: Venditio, Jiangsu Omni, OmniMax USA, Knappe & Vogt, Wuppessen, Victor, Versa, Designa, Designa Group, Eureka, Chang He, Vision Mounts, Vivo, Nantong Jon, Best Choice, Grandix, Hangzhou KeXiang, Lorell, and Dakota. Order No. 7, *unreviewed*, Notice (Sept. 18, 2018); Order No. 11, *unreviewed*, Notice (Sept. 25, 2018); Order No. 12, *unreviewed*, Notice (Oct. 4, 2018); Order No. 13, *unreviewed*, Notice (Oct. 4, 2018); Order No. 16, *unreviewed*, Notice (Nov.

9, 2018); Order No. 18, *unreviewed*, Notice (Nov. 29, 2018); Order No. 20, *unreviewed*, Notice (Feb. 21, 2019); Order No. 23, *unreviewed*, Notice (Mar. 12, 2019); Order No. 25, *unreviewed*, Notice (Apr. 5, 2019); Order No. 31, *unreviewed*, Notice (May 16, 2019). In addition, the investigation terminated as to LaMountain based on a consent order stipulation. Order No. 15, *unreviewed*, Notice (Oct. 22, 2018). The investigation has also previously terminated as to certain claims of each asserted patent. Order No. 30, *unreviewed*, Notice (May 13, 2019).

On April 11, 2019, Varidesk moved for summary determination of a violation of section 337 as to the remaining eleven respondents, who were served with a copy of the complaint, but had not filed a response or participated in the investigation. On April 24, 2019, Varidesk filed a supplement to the motion. The remaining respondents (collectively, “the Non-Participating Respondents”) are: (1) Albeit, (2) ATC Supply, (3) Shenzhen ATC, (4) Amazon Imports, (5) Ningbo GYL, (6) JV Products, (7) Vanson Distributing, (8) Vanson Group, (9) Haining Orizeal, (10) Smugdesk, and (11) Wuhu Xingdian. On April 26, 2019, OUII filed a response supporting Varidesk’s motion in substantial part.

On September 13, 2019, the presiding administrative law judge (“ALJ”) issued an initial determination (“ID”) (Order No. 33), and a recommended determination (“RD”) on remedy and bonding. The ID granted the motion in part. Specifically, the ALJ found, *inter alia*, (1) that Varidesk established the importation requirement as to each Non-Participating Respondent, except for Haining Orizeal; (2) that Varidesk established infringement as to all accused products and all remaining asserted claims (claims 1-2, 4, and 10-11 of the ’703 patent; claims 11, 16, 18, and 22-26 of the ’809 patent; claims 1, 4-5, 11-12, 26, and 33-36 of the ’644 patent; and claims 20-21 and 40-50 of the ’793 patent); and (3) that Varidesk satisfied the domestic industry requirement for each asserted patent. In addition, the ALJ recommended that the Commission

issue a general exclusion order and impose a 100 percent bond during the period of Presidential review. The ALJ also recommended that the Commission not issue cease and desist orders directed to the Non-Participating Respondents.

On October 29, 2019, the Commission determined not to review the ID. 84 FR 59417 (Nov. 4, 2019). The Commission's determination resulted in finding a violation of section 337 as to Albeit, ATC Supply, Shenzhen ATC, Amazon Imports, Ningbo GYL, JV Products, Vanson Distributing, Vanson Group, Smugdesk, and Wuhu Xingdian, but not as to Haining Orizeal. *See id.* The Commission also requested written submissions on remedy, the public interest, and bonding. *See id.* On November 13, 2019, Varidesk and OUII submitted their briefs on remedy, the public interest, and bonding. Varidesk further filed a response brief on November 20, 2019.

The Commission has determined that the appropriate remedy in this investigation is:

- (1) a GEO prohibiting the unlicensed importation of platforms that sit on an existing desk or work surface and can be adjusted to different heights that infringe one or more of claims 1-2, 4, and 10-11 of the '703 patent; claims 11, 16, 18, and 22-26 of the '809 patent; claims 1, 4-5, 11-12, 26, and 33-36 of the '644 patent; and claims 20-21 and 40-50 of the '793 patent; and
- (2) CDOs prohibiting respondents Albeit, ATC Supply, Amazon Import, JV Products, Vanson Distributing, Vanson Group, and Smugdesk from further importing, selling, and distributing infringing products in the United States. (Chairman Johanson and Commissioner Stayin dissent with respect to the Commission's determination to issue CDOs in this investigation.)

The Commission has also determined that the public interest factors enumerated in paragraphs 337(d)(1) and (f)(1), 19 U.S.C. 1337(d)(1) and (f)(1), do not preclude issuance of these remedial orders. Finally, the Commission has determined that the bond during the period of Presidential review pursuant to 19 U.S.C. 1337(j) shall be in the amount of 100 percent of the entered value

of the imported articles. The Commission's order was delivered to the President and to the United States Trade Representative on the day of its issuance. The investigation is hereby terminated.

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.

Lisa Barton
Secretary to the Commission

Issued: January 22, 2020

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