

Office of the Secretary



**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
WASHINGTON, DC 20436

February 18, 2020

Adam R. Hess, Esq.  
Squire Patton Boggs  
2550 Street NW  
Washington DC 20037

Re: Exclusion Order in *Certain Height-Adjustable Desk Platforms and Components Thereof*, Inv. No. 337-TA-1125

Dear Mr. Hess:

On January 22, 2020, the Commission, having found a violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the above-referenced investigation, issued a general exclusion order. The exclusion order directs U.S. Customs and Border Protection to exclude certain height-adjustable desk platforms and components thereof from entry into the United States while U.S. Patent Nos. 9,113,703, 9,277,809, 9,554,644, and 9,924,793 remain in force. A copy of the order is attached to this letter.

Should the Complainant, Varidesk LLC, have questions about the administration of this order, it may contact the Intellectual Property Rights Branch of U.S. Customs and Border Protection at (202) 325-0020. Although Customs will be administering the exclusion order, you may also contact Megan Valentine, the Commission's Assistant General Counsel for Section 337 investigations at (202) 708-2301, if you have questions pertaining to the exclusion order.

Since FY 2000, the Commission has conducted four surveys of exclusion order holders to help assess the effectiveness of such orders, and the Commission anticipates conducting another such survey in the future. To facilitate future communications with Complainant about the anticipated survey, the Commission requests that Complainant identify a person at Varidesk LLC with knowledge of the order who may be contacted in the future regarding the survey. It would be particularly helpful if Complainant would provide an e-mail address, along with a name and mailing address, for this contact. The requested contact information may be e-mailed to [secretary@usitc.gov](mailto:secretary@usitc.gov) or provided by mail to the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa R. Barton".

Lisa R. Barton  
Secretary to the Commission

Enclosure

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

**In the Matter of**

**CERTAIN HEIGHT-ADJUSTABLE  
DESK PLATFORMS AND  
COMPONENTS THEREOF**

**Investigation No. 337-TA-1125**

**GENERAL EXCLUSION ORDER**

The Commission has determined that there is a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the unlawful importation, sale for importation, or sale within the United States after importation of certain height-adjustable desk platforms and components thereof 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”).

Having reviewed the record in this investigation, including the written submissions of the parties, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that a general exclusion from entry for consumption is necessary to prevent circumvention of an exclusion order limited to products of named persons because there is a pattern of violation of section 337 and it is difficult to identify the source of infringing products. Accordingly, the Commission has determined to issue a general exclusion order prohibiting the unlicensed importation of infringing platforms that sit on an existing desk or work surface and can be adjusted to different heights.

The Commission has also determined that the public interest factors enumerated in 19 U.S.C. § 1337(d) do not preclude issuance of the general exclusion order, and that the bond during the Presidential review period shall be in the amount of one hundred (100) percent of the entered value of the articles in question.

Accordingly, the Commission hereby **ORDERS** that:

1. 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 ("covered articles") are excluded from entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, for the remaining terms of the patents, except under license of the patent owner or as provided by law.
2. Notwithstanding paragraph 1 of this Order, covered articles are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, under a bond in the amount of one hundred (100) percent of entered value of the products pursuant to subsection (j) of section 337 (19 U.S.C. § 1337(j)), and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 *Fed Reg.* 43251), from the day after this Order is received by the United States Trade Representative and until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than sixty (60) days after the date of

receipt of this Order. All entries of covered articles made pursuant to this paragraph are to be reported to U.S. Customs and Border Protection (“CBP”), in advance of the date of the entry, pursuant to procedures CBP establishes.

3. At the discretion of CBP and pursuant to procedures it establishes, persons seeking to import covered articles that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are not excluded from entry under paragraph 1 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.
4. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to covered articles that are imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.
5. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.76).
6. The Commission Secretary shall serve copies of this Order upon each party of record in this investigation and upon CBP.
7. Notice of this Order shall be published in the *Federal Register*.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'LRB', is positioned above the typed name.

Lisa R. Barton  
Secretary to the Commission

Issued: January 22, 2020

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.