

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

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

Inv. No. 337-TA-992

**ORDER No. 3: REGARDING TARGET DATE, CASE MANAGEMENT
CONFERENCE, AND PROCEDURAL SCHEDULE**

(May 4, 2016)

By publication of a notice in the Federal Register on April 25, 2016, the U.S.

International Trade Commission ordered that:

Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or 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 of claims 1-2, 4, 6-8, and 10-11 of the [U.S. Patent No. 9,113,703] and claims 1-2, 5-18, and 22-26 of the [U.S. Patent No. 9,277,809], and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

81 F.R. 24129 (Apr. 25, 2016).

The Complainant in this Investigation is Varidesk LLC, and Respondents are Nortek, Inc. and Ergotron, Inc. The Office of Unfair Import Investigations will not participate as a party in this Investigation.

The target date for this Investigation shall be Friday, August 25, 2017, which is sixteen months from the date that the Notice of Investigation was published in the Federal Register. *See* 19 C.F.R. § 210.51(a). Consequently, any final initial determination would be due by Tuesday, April 25, 2017. *See* 19 C.F.R. § 210.42(a)(1)(i).

Initial Case Management Conference

Pursuant to Ground Rule 6, I will hold the initial case management conference in this Investigation on **Monday, June 6, 2016 at 10:00 AM**. The conference will be held telephonically. Complainants shall be responsible for setting up the teleconference number, ensuring a court reporter is present to transcribe the call, and filing the transcript of the teleconference on EDIS. As set forth in Ground Rule 6.3, each party shall file a case management statement two (2) business days prior to the scheduled initial case management conference, *i.e.*, on **Wednesday, June 1, 2016** by the close of business.

Procedural Schedule

I hereby order that the Procedural Schedule attached hereto as Appendix A is now in effect. A technology tutorial will commence at 8:45 AM on Monday, August 29, 2016. The tutorial shall be immediately followed by a *Markman* hearing, which shall conclude no later than 4:45 PM on Tuesday, August 30, 2016. The pre-hearing conference in this Investigation shall commence at 8:45 AM on Friday, December 9, 2016, and shall conclude no later than 11:45 AM that day. The Hearing in this Investigation shall commence at 8:45 AM on Monday, December 12, 2016, and shall conclude no later than 11:45 AM on Friday, December 16, 2016.

The parties shall meet and confer to jointly propose deadlines for those events in the Procedural Schedule where no deadline is indicated. The parties may also propose additional deadlines or modifications to the listed deadlines. The parties shall include a proposed joint procedural schedule at the time the parties file their initial case management statements.

SO ORDERED.



Thomas B. Pender
Administrative Law Judge

APPENDIX A

PROCEDURAL SCHEDULE, CASE NO. 337-TA-992	
Event	Date
Initial Case Management Conference	Monday, June 6, 2016
Deadline for Propounding Ground Rule 6.2 Interrogatories	Friday, June 17, 2016
File identification of expert witnesses, including their expertise and curriculum vitae	
Deadline for Ground Rule 7.1 Disclosure of Priority Dates and Dates of Conception/Reduction to Practice	Friday, July 1, 2016
Exchange list of claim terms for construction	Friday, July 8, 2016
Exchange proposed claim constructions	Friday, July 15, 2016
File joint claim construction chart	Friday, July 22, 2016
First settlement conference	
Submit first settlement conference joint report	
Deadline for Ground Rule 7.2 Disclosure of Products	Friday, July 29, 2016
Deadline for Ground Rule 7.3 Disclosure of Domestic Industry Contentions	Friday, July 29, 2016
File initial claim construction briefs	Friday, August 5, 2016
File reply claim construction briefs	Friday, August 19, 2016
Technology Tutorial	Monday, August 29, 2016
Markman Hearing	Monday, August 29, 2016 through Tuesday, August 30, 2016
Deadline for Ground Rule 7.4 Disclosure of Infringement Contentions	Friday, September 9, 2016
Deadline for Ground Rule 7.5 Disclosure of Invalidity Contentions	Friday, September 9, 2016
Fact discovery cutoff and completion	Friday, September 16, 2016

PROCEDURAL SCHEDULE, CASE NO. 337-TA-992

Event	Date
Second settlement conference	
Submit second settlement conference joint report	
Issue Order Construing Terms (*tentative date*)	Friday, September 30, 2016
Serve initial expert reports	Friday, September 30, 2016
Deadline for filing summary determination motions	Friday, October 7, 2016
Serve rebuttal expert reports	Friday, October 14, 2016
Expert discovery cutoff and completion	Friday, October 28, 2016
Third settlement conference	
Submit third settlement conference joint report	
File requests for receipt of evidence without a witness	
Serve proposed exhibit lists	
Serve proposed direct exhibits (including witness statements), with available proposed physical and demonstrative exhibits	
File objections to proposed direct exhibits (including witness statements)	
File responses to objections to proposed direct exhibits (including witness statements)	
Serve proposed rebuttal exhibits (including witness statements), with available proposed rebuttal physical and demonstrative exhibits	
File pre-hearing statements and briefs	Monday, November 14, 2016
Submit on electronic media proposed direct and proposed rebuttal exhibits (including witness statements) with available proposed direct and proposed rebuttal physical and demonstrative exhibits	Monday, November 14, 2016
Deadline for filing motions <i>in limine</i>	
File objections to proposed rebuttal exhibits (including witness statements)	

PROCEDURAL SCHEDULE, CASE NO. 337-TA-992

Event	Date
File responses to objections to proposed rebuttal exhibits (including witness statements)	
File responses to motions <i>in limine</i>	Monday, November 28, 2016
Pre-hearing conference	Friday, December 9, 2016
Hearing	Monday, December 12, 2016 through Friday, December 16, 2016
File initial post-hearing briefs	Friday, January 6, 2017
File final exhibit lists	Friday, January 6, 2017
Submit final direct and rebuttal exhibits (including witness statements) with direct and rebuttal physical and demonstrative exhibits	Friday, January 6, 2017
File responsive post-hearing briefs	Friday, January 20, 2017
File reply post-hearing briefs	Friday, January 27, 2017
Initial Determination Due	Tuesday, April 25, 2017
Target date for completion of investigation	Friday, August 25, 2017

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CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **PUBLIC ORDER NO. 03** has been served upon the **Commission Investigative Attorney, Jeffrey Hsu.**, and the following parties as indicated on MAY -4 2016 .



Lisa R. Barton, Secretary
U.S. International Trade Commission
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FOR COMPLAINANTS VARIDESK LLC:

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() Other: _____

FOR RESPONDENT NORTEK, INC. ERGOTRON INC & :

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