

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

|                            |   |                                   |
|----------------------------|---|-----------------------------------|
| VARIDESK LLC,              | § |                                   |
|                            | § |                                   |
| Plaintiff,                 | § |                                   |
|                            | § | CIVIL ACTION NO. _____            |
| v.                         | § |                                   |
|                            | § | COMPLAINT FOR PATENT              |
| QIDONG VISION MOUNTS       | § | INFRINGEMENT                      |
| MANUFACTURING CO., LTD.,   | § |                                   |
| NANTONG JON ERGONOMIC      | § | <b><u>JURY TRIAL DEMANDED</u></b> |
| OFFICE CO., LTD., HANGZHOU | § |                                   |
| GRANDIX ELECTRONICS CO.,   | § |                                   |
| LTD., AND HANGZHOU KEXIANG | § |                                   |
| TECHNOLOGY CO., LTD.,      | § |                                   |
|                            | § |                                   |
| Defendants.                | § |                                   |
|                            | § |                                   |

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Plaintiff Varidesk LLC (“Varidesk”) files this complaint for utility and design patent infringement against Qidong Vision Mounts Manufacturing Co., Ltd. (hereinafter “Vision Mounts”), Nantong Jon Ergonomic Office Co., Ltd. (“Nantong Jon”), Hangzhou Grandix Electronics Co., Ltd. (“Grandix”), and Hangzhou Kexiang Technology Co., Ltd. (“Kexiang”), collectively “Defendants,” alleging on its own knowledge and on information and belief as follows:

**PARTIES**

1. Varidesk is a Texas limited liability corporation having its headquarters at 1221 South Belt Line Road #500, Coppell, Texas 75019. Varidesk is a pioneer and leader in the field of height-adjustable desk technology.

2. Upon information and belief, Vision Mounts is a company organized under the laws of the People's Republic of China, with its principal place of business at No. 899 Lingfeng Road, HaiHong Industry Park, Qidong, Jiangsu, China 226220.

3. Upon information and belief, Nantong Jon is a company organized under the laws of the People's Republic of China, with its principal place of business at Building D, Jingyang Square, Chongchuan District, Nantong City, Jiangsu Province, China 226001.

4. Upon information and belief, Grandix is a company organized under the laws of the People's Republic of China, with its principal place of business and headquarters at 1-1804, New Youth Plaza, Gongshu District, Hangzhou, Zhejiang, China.

5. Upon information and belief, Kexiang is a company organized under the laws of the People's Republic of China, with its principal place of business and headquarters at Binjiang Qu Changhe Jeidao Binhe Lu 1174, Hangzhou, China 310052.

### **JURISDICTION AND VENUE**

6. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code § 1, *et seq.*

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. Defendants are subject to this Court's specific and general personal jurisdiction under due process and/or the Texas Long Arm Statute due at least to Defendants' substantial business in this forum, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this District.

9. Venue is appropriate in this District pursuant to 28 U.S.C. §§ 1391(b) and (c), and/or 28 U.S.C. § 1400(b). Upon information and belief, Defendants have transacted business in this District and have committed acts of patent infringement in this District.

#### **VARIDESK'S PATENTS**

10. Varidesk's claims are based on Defendants' unlawful and unauthorized direct and indirect infringement of the following utility and design patents for height-adjustable desk platforms and components thereof: U.S. Patent No. 9,113,703 ("the '703 Patent"), U.S. Patent No. 9,277,809 ("the '809 Patent"), U.S. Patent No. 9,554,644 ("the '644 Patent"), U.S. Patent No. 9,924,793 ("the '793 Patent"), and U.S. Patent No. D832,623 ("the '623 Patent"), collectively the "Asserted Patents." Copies of the Asserted Patents are attached hereto as Exhibits 1, 2, 3, 4 and 5.

11. Varidesk is the owner by assignment of the entire right, title, and interest to the Asserted Patents, including the sole and exclusive right to prosecute this action, enforce the Asserted Patents against infringers, and to collect damages on the Asserted Patents for all relevant times.

#### **DEFENDANTS' INFRINGING ACTIVITIES**

12. Upon information and belief, Defendants develop, manufacture, and/or sell height-adjustable desk platforms and components thereof, which are sold in competition with Plaintiff Varidesk.

13. Upon information and belief, Defendants have made, used, sold, offered for sale, and/or imported into the United States at least the following models of infringing height-adjustable desk platforms reflected in Defendant Vision Mounts' product catalog: VM-LD02, VM-LD04, VM-LD07, VM-SD07, VM-SD08, VM-LD08, and all sub-models thereof

(collectively, the “Accused Products”). An excerpt from Defendant Vision Mounts’ catalog showing the Accused Products is attached as Exhibit 6.

14. Upon information and belief, either directly or through distributors and resellers, Defendants make, use, offer to sell, sell, and/or import some or all of the Accused Products in the United States.

15. In addition, upon information and belief, either directly or through distributors and resellers, Defendants knowingly and intentionally make, use, offer to sell, and sell some or all of the Accused Products to others for importation into the United States.

16. The Accused Products are sold within the United States under various brand names, including Fezibo, Vivo, Songmics, Voyadesk, and SITA-Office.

17. Defendants offer their products for sale in the United States through websites directed to U.S. consumers and at exhibitions in the United States. For example, Defendants Vision Mounts, Nantong Jon, and Grandix market and sell their products through alibaba.com, where they list the prices of the Accused Products in U.S. dollars and offer “Ocean Shipping Service from China to U.S.” *See* Exhibits 7, 8, 9. Defendant Kexiang offers its products for sale to U.S. consumers on Amazon.com. *See* Exhibit 10. In addition, certain Defendants, including Defendant Vision Mounts, exhibit their products at trade shows in the United States, including the CES Conference in Las Vegas, where upon information and belief Defendant Vision Mounts plans to market and exhibit Accused Products in January 2019. *See* Exhibit 11. Defendant Vision Mounts also touts on its website ([www.v-mounts.com](http://www.v-mounts.com)) that its products are “widely exported” to the United States and lists North America as a “major market[ ]served” by Defendant.

18. The Accused Products are currently the subject of an Investigation commenced by the U.S. International Trade Commission (“ITC”) into violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“ITC Investigation”), for infringement of the utility patents asserted herein. (The design patent asserted herein, the ’623 Patent, is not asserted in or otherwise part of the ITC Investigation.) The ITC’s Notice of Institution of Investigation is attached hereto as Exhibit 12. The Defendants are named Respondents in the ITC Investigation.

19. The Defendants have had notice of Varidesk’s patent rights since at least the time they learned of Varidesk’s ITC complaint, filed on June 22, 2018, yet continue to infringe Varidesk’s patent rights through their continued sale, offer for sale, and importation of the Accused Products.

20. Defendants’ conduct alleged herein constitutes knowing and intentional direct and indirect infringement of the Asserted Patents.

### **COUNT I – INFRINGEMENT OF THE ’703 PATENT**

21. Varidesk restates and incorporates by reference the paragraphs above as if stated fully herein.

22. Upon information and belief, in violation of 35 U.S.C. § 271(a), Defendants have, literally and under the doctrine of equivalents, directly infringed the ’703 Patent by, among other things, making, using, offering for sale, and/or selling the Accused Products, and will continue to do so unless such infringing activities are enjoined by this Court. A sample claim chart showing infringement of the ’703 Patent by an Accused Product is attached as Exhibit 13.

23. Upon information and belief, in violation of 35 U.S.C. § 271(b), Defendants have actively induced infringement of the ’703 Patent by knowingly and specifically intending that

others directly infringe the '703 Patent, including by encouraging others to purchase the Accused Products for importation and sale in the United States.

24. Varidesk has suffered, and continues to suffer, damages and irreparable harm as a result of Defendants' past and ongoing infringement.

25. Unless Defendants' infringement is enjoined, Varidesk will continue to be damaged and irreparably harmed.

26. Varidesk meets the criteria for, and is entitled to, a permanent injunction.

27. Defendants had knowledge of the '703 Patent at least as of the date they were notified of Varidesk's complaint leading to the ITC Investigation.

28. Upon information and belief, Defendants' ongoing infringement of the '703 Patent has been willful and deliberate, making this an exceptional case and entitling Varidesk to recover enhanced damages and attorneys' fees pursuant to 35 U.S.C. §§ 284, 285.

## **COUNT II – INFRINGEMENT OF THE '809 PATENT**

29. Varidesk restates and incorporates by reference the paragraphs above as if stated fully herein.

30. Upon information and belief, in violation of 35 U.S.C. § 271(a), Defendants have, literally and under the doctrine of equivalents, directly infringed the '809 Patent by, among other things, making, using, offering for sale, and/or selling the Accused Products, and will continue to do so unless such infringing activities are enjoined by this Court. A sample claim chart showing infringement of the '809 Patent by an Accused Product is attached as Exhibit 14.

31. Upon information and belief, in violation of 35 U.S.C. § 271(b), Defendants have actively induced infringement of the '809 Patent by knowingly and specifically intending that

others directly infringe the '809 Patent, including by encouraging others to purchase the Accused Products for importation and sale in the United States.

32. Varidesk has suffered, and continues to suffer, damages and irreparable harm as a result of Defendants' past and ongoing infringement.

33. Unless Defendants' infringement is enjoined, Varidesk will continue to be damaged and irreparably harmed.

34. Varidesk meets the criteria for, and is entitled to, a permanent injunction.

35. Defendants had knowledge of the '809 Patent at least as of the date they were notified of Varidesk's complaint leading to the ITC Investigation.

36. Upon information and belief, Defendants' ongoing infringement of the '809 Patent has been willful and deliberate, making this an exceptional case and entitling Varidesk to recover enhanced damages and attorneys' fees pursuant to 35 U.S.C. §§ 284, 285.

### **COUNT III – INFRINGEMENT OF THE '644 PATENT**

37. Varidesk restates and incorporates by reference the paragraphs above as if stated fully herein.

38. Upon information and belief, in violation of 35 U.S.C. § 271(a), Defendants have, literally and under the doctrine of equivalents, directly infringed the '644 Patent by, among other things, making, using, offering for sale, and/or selling the Accused Products, and will continue to do so unless such infringing activities are enjoined by this Court. A sample claim chart showing infringement of the '644 Patent by an Accused Product is attached as Exhibit 15.

39. Upon information and belief, in violation of 35 U.S.C. § 271(b), Defendants have actively induced infringement of the '644 Patent by knowingly and specifically intending that

others directly infringe the '644 Patent, including by encouraging others to purchase the Accused Products for importation and sale in the United States.

40. Varidesk has suffered, and continues to suffer, damages and irreparable harm as a result of Defendants' past and ongoing infringement.

41. Unless Defendants' infringement is enjoined, Varidesk will continue to be damaged and irreparably harmed.

42. Varidesk meets the criteria for, and is entitled to, a permanent injunction.

43. Defendants had knowledge of the '644 Patent at least as of the date they were notified of Varidesk's complaint leading to the ITC Investigation.

44. Upon information and belief, Defendants' ongoing infringement of the '644 Patent has been willful and deliberate, making this an exceptional case and entitling Varidesk to recover enhanced damages and attorneys' fees pursuant to 35 U.S.C. §§ 284, 285.

#### **COUNT IV – INFRINGEMENT OF THE '793 PATENT**

45. Varidesk restates and incorporates by reference the paragraphs above as if stated fully herein.

46. Upon information and belief, in violation of 35 U.S.C. § 271(a), Defendants have, literally and under the doctrine of equivalents, directly infringed the '793 Patent by, among other things, making, using, offering for sale, and/or selling the Accused Products, and will continue to do so unless such infringing activities are enjoined by this Court. A sample claim chart showing infringement of the '793 Patent by an Accused Product is attached as Exhibit 16.

47. Upon information and belief, in violation of 35 U.S.C. § 271(b), Defendants have actively induced infringement of the '793 Patent by knowingly and specifically intending that



others directly infringe the '793 Patent, including by encouraging others to purchase the Accused Products for importation and sale in the United States.

48. Varidesk has suffered, and continues to suffer, damages and irreparable harm as a result of Defendants' past and ongoing infringement.

49. Unless Defendants' infringement is enjoined, Varidesk will continue to be damaged and irreparably harmed.

50. Varidesk meets the criteria for, and is entitled to, a permanent injunction.

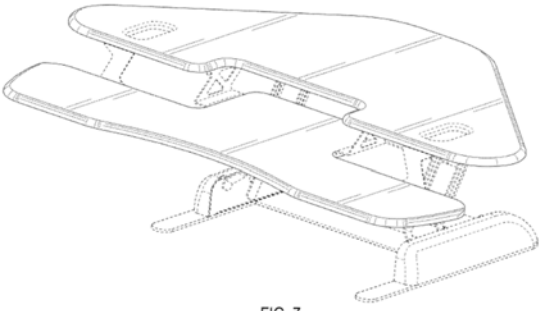

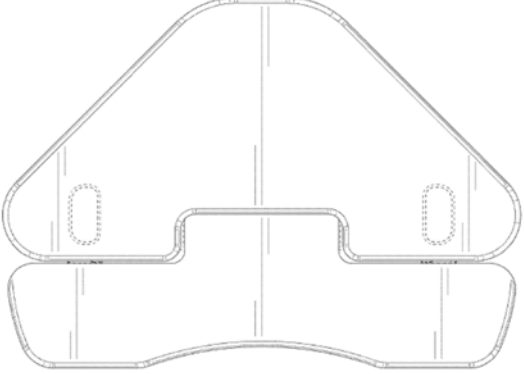

51. Defendants had knowledge of the '793 Patent at least as of the date they were notified of Varidesk's complaint leading to the ITC Investigation.

52. Upon information and belief, Defendants' ongoing infringement of the '793 Patent has been willful and deliberate, making this an exceptional case and entitling Varidesk to recover enhanced damages and attorneys' fees pursuant to 35 U.S.C. §§ 284, 285.

#### **COUNT V – INFRINGEMENT OF THE '623 PATENT**

53. Varidesk restates and incorporates by reference the paragraphs above as if stated fully herein.

54. Upon information and belief, in violation of 35 U.S.C. § 271(a), Defendants have directly infringed the '623 Patent by, among other things, making, using, offering for sale, and/or selling an Accused Product, model VM-LD02T (pictured below), that embodies, or is a colorable imitation of, the innovative ornamental design covered by the '623 Patent. In the eye of an ordinary observer, the design of the Accused Product and the patented design are substantially the same by comparison to the prior art as can be seen by a side-by-side comparison of the Accused Product and patented design:

| '623 Patent  | Accused Product (VM-LD02T)  |
|--|---|
|  <p data-bbox="480 558 522 579">FIG. 7</p>    |   |
|  <p data-bbox="480 1024 522 1045">FIG. 6</p> |  |

55. Upon information and belief, in violation of 35 U.S.C. § 271(b), Defendants have actively induced infringement of the '623 Patent by knowingly and specifically intending that others directly infringe the '623 Patent, including by encouraging others to purchase the Accused Products for importation and sale in the United States.

56. Varidesk has suffered, and continues to suffer, damages and irreparable harm as a result of Defendants' past and ongoing infringement. Varidesk is entitled to all available remedies, including Defendants' total profits pursuant to 35 U.S.C. § 289.

57. Unless Defendants' infringement is enjoined, Varidesk will continue to be damaged and irreparably harmed.

58. Varidesk meets the criteria for, and is entitled to, a permanent injunction.

59. Defendants had knowledge of the '623 Patent at least as of the date they learned of this complaint.

60. Upon information and belief, Defendants' ongoing infringement of the '623 Patent has been willful and deliberate, making this an exceptional case and entitling Varidesk to recover enhanced damages and attorneys' fees pursuant to 35 U.S.C. §§ 284, 285.

### **JURY DEMAND**

Varidesk hereby requests a trial by jury on all issues so triable.

### **PRAYER FOR RELIEF**

Varidesk requests that the Court find in its favor and against Defendants and grant Varidesk the following relief:

- a. Judgment be entered that Defendants have infringed one or more claims of the Asserted Patents, literally and/or under the doctrine of equivalents;
- b. Judgment be entered that Defendants' infringement of the Asserted Patents was willful;
- c. An accounting be had for the damages resulting from Defendants' infringement of the Asserted Patents, including, without limitation, lost profits caused by Defendants' infringing activities and/or a reasonable royalty for the infringement pursuant to 35 U.S.C. §§ 284, 289, and that the damages so ascertained be trebled pursuant to 35 U.S.C. § 284 and awarded together with interests and costs;
- d. An injunction be issued, restraining and enjoining Defendants and their respective officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in privity or in concert with them, from engaging in the commercial

manufacture, use, offer for sale, or sale within the United States, or importation into the United States, of products infringing the Asserted Patents;

e. Judgment be entered that this is an exceptional case, and that Varidesk is entitled to its reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285; and

f. The Court award such other and further relief as the Court may deem just and proper under the circumstances.

Dated: December 12, 2018

Respectfully submitted,

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