

**FILED**  
Superior Court of California  
County of Los Angeles

**AUG 07 2017**

Sherri R. Carter, Executive Officer/Clerk  
By Maria Frances Lopez Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

**THE PEOPLE OF THE STATE OF  
CALIFORNIA,**

Plaintiff,

v.

**NINGBO BEYOND HOME TEXTILE CO.,  
LTD., NINGBO BEYOND IMPORT &  
EXPORT CO., LTD., NINGBO BEYOND  
KIDS GLOBAL BRAND CO., LTD., AND  
NINGBO BEYOND FASHION CO., LTD.,**

Defendants.

Case No. BC499771

**ORDER AND FINAL JUDGMENT**

Date: August 4, 2017  
Time: 8:30 a.m.  
Dept: 52  
Judge: Honorable Susan Bryant-Deason

Action Filed: January 24, 2013

This matter came on for an Order to Show Cause Regarding Entry of Default or Default Judgment in Department 52 of this Court on February 17, 2017, March 29, 2017, and April 28, 2017, and for Civil Default Prove Up Hearings on June 2 and 28, 2017. Plaintiff the People of the State of California ("Plaintiff") appeared through their attorney, Xavier Becerra, Attorney General of the State of California, by Deputy Attorneys General Winston H. Chen and Emilio E. Varanini. Defendants Ningbo Beyond Home Textile Co., Ltd., Ningbo Beyond Import & Export Co., Ltd., Ningbo Beyond Kids Global Brand Co., Ltd., and Ningbo Beyond Fashion Co., Ltd. (collectively, "Defendants" or "Ningbo") are in default. The Court finds that a default judgment

1 may be entered against Defendants pursuant to Article 15 of the Hague Convention on the Service  
2 Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters ("Hague  
3 Convention") and that the proposed Order and Final Judgment is proper and supported by the  
4 allegations in Plaintiff's Complaint, the filed documents, evidence proffered at the Civil Default  
5 Prove Up Hearings, and the arguments of counsel for the Plaintiff.

6 THEREFORE, the Court having considered the matter and good cause appearing therefor,

7 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

- 8 1. This Court has jurisdiction over the parties to this action and to enter this Judgment.  
9 2. Venue has been reviewed and is proper pursuant to Code of Civil Procedure section  
10 395(a).  
11 3. Default judgment may be entered against Defendants pursuant to Article 15 of the  
12 Hague Convention.

13 **PLAINTIFF**

- 14 4. Plaintiff is the People of the State of California. Plaintiff brings this action by and  
15 through Xavier Becerra, Attorney General. The Attorney General is authorized by Business and  
16 Professions Code sections 17204, 17206, and 17207 to bring actions to enforce the Unfair  
17 Competition Law ("UCL").

18 **DEFENDANTS**

- 19 5. Defendants Ningbo Beyond Home Textile Co., Ltd., Ningbo Beyond Import &  
20 Export Co., Ltd., Ningbo Beyond Kids Global Brand Co., Ltd., and Ningbo Beyond Fashion Co.,  
21 Ltd., are companies organized and existing under the laws of the People's Republic of China  
22 ("China").

- 23 6. Defendants are located in China and have no known agents for service in California.

- 24 7. On December 8, 2016, Defendants were found by this Court to have been adequately  
25 served pursuant to the provisions of the Hague Convention on the Service Abroad of Judicial and  
26 Extrajudicial Documents in Civil and Commercial Matters ("Hague Convention") as incorporated  
27 in Code of Civil Procedure section 413.10(c).  
28

8. Defendants were not at the time they were deemed to be served on December 8, 2016, and are not now, infants or minors; are not financially incapable, incapacitated or incompetent persons; or in the military service as defined by Article 1 of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 U.S.C. section 501 et seq.)

## **FINDINGS**

9. The Court having reviewed the uncontested evidence submitted by the Plaintiff in support of their application for a default judgment, including the Declarations of Lying Huang (Microsoft), Michael Draper (Adobe), Dipica Patel (Symantec), Shahin Kohan (AIMS360), Scott Allen (AIMS360 and NOTICE), Oralia Salcido (Three Dots), Dr. Carl Shapiro (Plaintiff's expert), and Dr. Peter Kilduff (Plaintiff's expert), the Declaration and Supplemental Declaration of Emilio Varanini (lead counsel for Plaintiff) as well as the allegations in Plaintiff's complaint, has issued a finding of facts and conclusions of law in this Court's Memorandum Opinion Regarding Entry of Default Judgment and Default Prove Up Hearing, which is entered concurrently with this Order and Final Judgment.

10. On the basis of the evidence presented by the Plaintiff as set out above, this Court finds that Defendants, and each of them, have engaged in, aided and abetted, and conspired to engage in business acts or practices that constitute unfair competition as defined in the Unfair Competition Law, Business and Professions Code section 17200 et seq., in that Defendants' acts and practices of using pirated software products (*i.e.*, software products which they have not lawfully purchased or licensed) that are used in or associated with the manufacture, sales, design, ordering, processing, or shipment of apparel products or goods that are shipped to or transiting through California are unfair within the meaning of that statute because of their past, present, and future anti-competitive downstream effects on the apparel industry in California.

11. The Court further finds that each item of apparel manufactured by Defendants that was shipped to or transited through California constitutes a violation of unfair competition within the meaning of the Unfair Competition Law.

12. Judgment is entered in favor of the Plaintiff and against Defendants as to the First Cause of Action for Defendants' violations of Business and Professions Code section 17200.

**INJUNCTION**

13. The Court enters the following injunction, set forth in paragraph 14, against Defendants Ningbo Beyond Home Textile Co., Ltd., Ningbo Beyond Import & Export Co., Ltd., Ningbo Beyond Kids Global Brand Co., Ltd., and Ningbo Beyond Fashion Co., Ltd.

14. Defendants and their employees, agents, successors, assignees and representatives and all persons, corporations, or other entities acting under, by, through or on behalf of Defendants, and/or acting in concert or participating with or for Defendants with actual or constructive notice of this injunction, are permanently enjoined and restrained from engaging in or performing, directly or indirectly, any and all acts of unfair competition arising from the direct or indirect use of pirated software products used in or associated with the manufacture, sales, design, ordering, processing, and/or shipment of apparel products or goods that are shipped to persons or companies in California or transiting through California in violation of Business and Professions Code section 17200, *et seq.*, pursuant to section 17203 of the Business and Professions Code and the Court's inherent equitable powers.

15. All persons, corporations, or other entities acting under, by, through, or on behalf of Defendants, or acting in concert or participation with or for Defendants, including third-parties who directly or indirectly do business with Defendants, with actual or constructive notice of this injunction, be enjoined and restrained from distributing or receiving any of Defendants' apparel products or goods in the State of California until such time as the Defendants certify to the Court that they are in compliance with the licensing requirements of all software programs that are used in connection with the manufacture, sales, design, ordering, processing, or shipment of apparel products or goods that are shipped to persons or companies in California or transiting through California.

16. The provisions of paragraph 15 are stayed for four months from the date of this Order wherein Plaintiff will exercise reasonable diligence to contact companies that have imported, distributed, or sold Ningbo apparel products in California and give notice of this Order and Final Judgment. As part of that exercise of reasonable diligence, the Plaintiff is ordered to publish this

1 Order and Final Judgment forthwith on the California Department of Justice's website  
2 (<https://oag.ca.gov/antitrust/ningbo> ).

3 **CIVIL PENALTIES**

4 17. Based on the evidence submitted by Plaintiff in this matter, the Court assesses civil  
5 penalties against Defendants, jointly and severally, in the amount of \$3,232,310 for violations of  
6 Business and Professions Code section 17200, under Business and Professions Code section  
7 17206.

8 18. Jurisdiction is retained by the Court for the purposes of enabling any party to the  
9 Judgment to apply to the Court at any time for such further orders and directions as may be  
10 necessary or appropriate for the construction or carrying out of this Judgment, for enforcement of  
11 compliance herewith, and for the punishment of violations hereof.

12  
13  
14  
15 Dated: August 7, 2017

Hon. Susan Bryant-Deason  
HON. SUSAN BRYANT-DEASON  
JUDGE OF THE SUPERIOR COURT