



Roylance, Abrams, Berdo & Goodman, L.L.P.
Intellectual Property Attorneys

1300 19th Street, N.W., Suite 600
Washington, D.C. 20036-1649 U.S.A.
Tel: 202-659-9076 Fax: 202-659-9344
www.roylance.com

Megan E. Gray
202-530-7365
mgray@roylance.com

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COPYRIGHT LEGISLATION AND AMERICAN TEXTILE COMPETITIVENESS

Executive Summary

The American textile and apparel industries are in a state of transition. For years, they have suffered under a flood of Asian textile imports, which unfairly benefit from corrupt government subsidization and illegal design piracy. American textiles, however, have come up with a response. Once confined solely to manufacturing and distribution, the industry is now putting greater emphasis on fabric design, new production models, and niche consumerism. Realizing that today's apparel retailers are constantly demanding new and unique designs to fill specialized markets, the textile industry is employing a "flash fashion" model which relies heavily on an updated jacquard method of fabric weaving. This allows companies to quickly produce limited quantities of highly complex fabric designs in response to changing fashion currents. As textile and apparel companies become increasingly reliant on copyrights to protect these fabric designs, they place themselves in a prime position to both reap the benefits and face the dangers of an emerging intellectual property-based economy. While such a transition can harness the innovative spirit of the American designers, it also makes these companies uniquely vulnerable to piracy from unscrupulous Asian competitors. The future of the American textile and apparel industry fundamentally relies on strong copyright protection.

United States Textile Industry: Weaving America's Future

The textile and apparel industries are indispensable components of both the American labor market, and American economy writ large. With 2005 exports totaling well over \$16 billion dollars, the U.S. textile industry is the world's fourth largest exporter of textile products, supplying quality fabrics to more than 50 countries.¹ According to the 2002 U.S. Economic Census, there are over 3,900 textile manufacturing mills in the United States, which collectively employ almost 270,000 workers, and have total shipments valued at over \$45 billion.² But the textile/apparel industry does not

¹ "The US Textile Industry." <http://www.ncto.org/ustextiles/index.asp>. National Council of Textile Organizations. December 19, 2006.

² "Manufacturing – By Subsector." 2002 Economic Census. 2002. US Census Bureau. October 27, 2006. http://www.census.gov/econ/census02/data/us/US000_31.HTM. p. 5.

simply mass produce of vast amounts of raw fabric; it also involves the parallel activity of turning that fabric into finished products for homes, automobiles and consumers. Textile product mills employ over 183,000 Americans and represent a \$32 billion dollar segment of the economy.³ Likewise, apparel manufacturing employs 343,450 workers, and has total shipments valued at over \$45 billion dollars.⁴ Not counting retail or management-related markets, the American textile and apparel industries employ almost 800,000 workers and produce almost \$122 billion worth of shipments.⁵

In California alone, the textile and apparel industries employ almost 126,000 people and produce total shipments valued at almost \$16 billion.⁶ Boasting a major port, the largest concentration of fashion designers, and an emerging roster of new designers, Southern California hosts the nation's largest apparel industry and plays a dominant role in fashion design and the creation of mass culture.⁷ Fashion apparel and textile-related products, for instance, make up the largest manufacturing sector in Los Angeles, and the second largest in California.⁸ Los Angeles is home to almost 7,860 firms involved in apparel design and textile production, and supports 120,255 jobs in the textile/apparel sector.⁹ In addition, the earnings of the textile industry produce another 130,000 "indirect" jobs in the Southern California region, bringing the total employment impact to 250,000.¹⁰

It is important to understand that the textile industry is a fundamental pillar of both rural America and the middle class. Far from supplying often tenuous "McJobs," which leave people struggling to support a family, jobs in the textile industry are highly valued, and give employees the ability earn a sustainable livelihood. Jobs in the textile industry typically pay an average of 13% higher than jobs in the service and retail industry, and often provide substantial benefits including health care and pension plans that service and retail jobs simply cannot offer.¹¹ Textile plants are also located in many rural communities, and thus are often the only major source of employment for many towns in the rural Southeast.¹²

The impact of textiles on regional economies is huge, with textile and apparels playing a key role in other creative industries such as entertainment, toys, furniture and

³ *Ibid.* (p. 6.)

⁴ *Ibid.* (p. 7.)

⁵ *Ibid.* (p. 5-7.)

⁶ "Industry Statistics by Subsectors for Selected States: 2002." 2002 Economic Census, 2002. US Census Bureau. October 27, 2006. <http://www.census.gov/prod/ec02/ec0231aca.pdf>. p.25-26.

⁷ "Recapturing a Dream: A Winning Strategy for the LA Region. Detailing a Prospective for the Apparel and Textile Industry." 2002. California Fashion Association. December 19, 2006. <http://www.californiafashionassociation.org>

⁸ "Fact Sheet: Los Angeles County." 2004. California Fashion Association. December 19, 2006. <http://www.californiafashionassociation.org>

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ "The US Textile Industry." National Council of Textile Organizations. December 11, 2006. <http://www.ncto.org/ustextiles/index.asp>.

¹² *Ibid.*

home furnishings.¹³ Textile and apparel production not only employs manufacturers, contractors, and retailers, but a whole host of other players as well: laundry and dye houses, textile producers, full-garment packagers, cutting, grading and other specialty contractors, notions manufacturers and distributors, truckers, and countless retailers and distribution outlets. Apparel-specific industries also support such diverse fields as real estate, legal services, finance, advertising, sales and marketing, equipment manufacturing, and repair, hardware and software suppliers, and countless others.¹⁴ The simple fact is that when textile plants close, entire communities suffer, as spikes in unemployment lead to higher crime, drug use, and continued economic recession.

The Looming Dragon: The Threat from Asian IP Piracy

The textile industry is vital to American workers and consumers, but it is increasingly coming under attack by Asian markets using grossly unfair manufacturing and marketing practices. The National Council of Textile Organizations argues that “China has mounted the biggest export surge in history,” expanding its exports to the United States by *850 million garments*,¹⁵ while the American Journal of International Law determined that “China could capture 50 to 70 percent of the U.S. [textile] market after quotas end.”¹⁶

China has acquired this position, not because it produces a superior product, or possesses a more talented workforce, but because it engages in ruthless practices to gain market share. These practices include currency manipulation, (which provides an estimated 40% subsidy for Chinese exports), illegal direct-government subsidies, illegal export tax rebates, and of course, gross intellectual property violations.¹⁷ In one instance, the Chinese government spent over \$600 million to bail out “World’s Best,” the largest textile company in China.¹⁸ Because of its unscrupulous business practices, China has managed to slash its average textile prices by over 58%, which has allowed China over the last three years to create a near monopoly (74% of the market) in the textile industry.¹⁹

While China has signed six bilateral trade agreements with the United States over the past 20 years, it has managed to break every single one of them.²⁰ According to www.textileworld.com, “China illegally smuggles more than \$4 billion worth of textiles

¹³ “Fashion Forward: Assessing the Future of Apparel Manufacturing in Los Angeles County (September 2005).” 2002. [California Fashion Association](http://www.californiafashionassociation.org/PDF/FashionForward04.pdf). December 12, 2006.
<http://www.californiafashionassociation.org/PDF/FashionForward04.pdf>.

¹⁴ *Ibid.*

¹⁵ “Citing Chinese Intransigence, U.S. Industry Files Petitions to Limit Textile and Clothing Imports from China in 2006.” 2005. [National Council of Textile Organizations](http://www.ncto.org). December 19, 2006.

¹⁶ “Requests for Safeguards on Apparel from China.” [The American Journal of International Law](http://www.ajil.org). (Vol. 99, No. 1., January, 2005). (p. 257-258.)

¹⁷ “Trade and Jobs.” [National Council of Textile Organizations](http://www.ncto.org). December 19, 2006.
<http://www.ncto.org/tradejobs/index.asp>.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ Phillips, Jim. “Eyes on Asia.” [Textile World](http://www.textileworld.com). 2001. October 27, 2006.
<http://www.textileworld.com/News.htm?CD=159&ID=771>.

and apparel into the United States each year,”²¹ while the U.S. Chamber of Commerce estimates that intellectual property violations cost the U.S. economy as a whole \$250 billion a year, with the apparel industry losing over \$12 billion a year,²² \$2 billion of which is attributable to Chinese counterfeiting and piracy.²³ Indeed, China’s rampant disregard of intellectual property rights poses a significant threat not only to the textile and apparel industries, but also to the American economy as a whole. While a new bilateral trade agreement between the U.S. and China has imposed trade quotas on China’s most damaging exports, this will only put off the day of reckoning for America’s textile and apparel sectors. On January 1, 2009, these quotas will permanently expire; leaving the U.S. completely exposed to a resurgent flood of pirated Chinese textiles.²⁴

These numbers have certainly taken their toll. According to the 2002 U.S. Economic Census, between 1997 and 2002, the number of U.S. textile mills fell by 16 percent, while the number of U.S. apparel manufacturing mills fell by over 23 percent.²⁵ What does this mean in terms of real U.S. jobs? Between 1997 and 2002, the number of jobs in textile mills fell by almost 32 percent, with total annual payrolls falling by over 24 percent. Apparel manufacturers have suffered the worst: in the same time period, they lost a whopping 52.4 percent of their workforce, with a decrease in total annual payrolls of 41.4 percent.²⁶ These numbers are truly disturbing: literally hundreds of thousands of hardworking Americans are losing their livelihood, as a vibrant and crucial section of the U.S. economy is being shipped overseas. As Lloyd Wood, spokesman for American Manufacturing Trade Action Coalition (AMTAC), claims, “China is a huge problem. If we don’t do something about China, we’re out of business. It’s that simple.”²⁷

Nevertheless, however, the United States textile industry still remains one of the largest manufacturing employers in the United States, while the entire nexus of textile-related industries (e.g., apparel, machinery, chemicals, cotton, and synthetic fibers) employs over 1 million American workers.²⁸ Whether or not it stays that way depends on whether legislators are willing to stand up to China’s dishonest business practices, and help foster the innovative spirit already present in U.S. textile firms.

²¹ *Ibid.*

²² Morrissey, James A. “USTR Outlines Plans to Attack Piracy.” *Textile World*. 2006. Textile Industries Media Group. October 27, 2006. <http://www.textileworld.com/News.htm?CD=3536&ID=11813>.

²³ Phillips, Jim. “Eyes on Asia.” *Textile World*. 2001. October 27, 2006. <http://www.textileworld.com/News.htm?CD=159&ID=771>.

²⁴ “Trade and Jobs.” *National Council of Textile Organizations*. December 19, 2006. <http://www.ncto.org/tradejobs/index.asp>.

²⁵ “Comparative Statistics: Manufacturing.” *2002 Economic Census*. 2002. *US Census Bureau*. October 27, 2006. http://www.census.gov/econ/cesus02/data/comparative/USCS_31.HTM.

²⁶ *Ibid.*

²⁷ Fine, Howard. “Outsourcing, Piracy and Quotas Pose Foreign Policy Challenges.” *Los Angeles Business Journal*. 2004. October 27, 2006.

²⁸ “Trade and Jobs.” *National Council of Textile Organizations*. December 19, 2006. <http://www.ncto.org/tradejobs/index.asp>.

America's Response: Innovation and Flash Fashion

In response to the unscrupulous competition from Asian businesses, the U.S. textile and apparel industries have attempted capitalize on new market models and production methods. Recognizing the increasing rapidity with which fashions change throughout the year, the apparel industry has adopted a “quick response” manufacturing model known as “flash fashion.” This retailer-based model seeks to drastically decrease the time of production, from initial design to finished product, to keep up with the fickle demands of retailers and consumers.²⁹ As Raye Rudie states in *Bobbin*, “Take a close look at California’s leading textile firms, and you’ll find success stories based on creativity, unique products, and perhaps most importantly, a willingness to work close to market on a custom basis.”³⁰ Unlike the traditional model, which focuses on unskilled labor to produce the maximum amount of output, the “flash fashion” model focuses more on creative fabric design, speedy and limited production, and consumer segmentation.

Here, the emphasis is on smaller, more versatile mills, specializing in the rapid production of complex jacquard weaves. Jacquard weaving is a system of weaving which, due to an extremely adaptable pattern-making mechanism, permits the production of very ornate, complex woven fabric designs. Typically, this type of weave is used in tapestries, figured neckties, dress fabrics, and sweaters, but it has expanded to a broader role in designer clothes in general. As Jack Keyser, the chief economist with the Los Angeles County Economic Development Corporation states, “[Retailers] want new, and they want it right away. You can’t have fast fashion if your goods are in a container for a month on the ocean [coming from Asia].”³¹ While China may be able to illegally subsidize a high volume of fabric production, only America’s textile mills can produce fabric with designs that both dazzle the public, and can respond almost immediately to a cresting popular design surge.

And indeed, the “flash fashion” model has achieved results: The sophisticated intricacy of jacquard fabric designs, combined with the innovation of “flash fashion,” have been described as the “raison d’etre for the California industry, and [the] key in servicing the West Coast’s fashion-driven market.”³² One article even proclaims on its cover that the “California textile industry thrives on quick-turn creativity,” while another notes that the California textile industry “is positioning itself as a global service industry.”³³ As a beckoning harbinger of the national textile industry’s future success, the California textile industry recently reversed its trend of declining employment, with

²⁹ “Fashion Forward: Assessing the Future of Apparel Manufacturing in Los Angeles County (September 2005).” 2002. California Fashion Association. December 12, 2006.

<http://www.californiafashionassociation.org/PDF/FashionForward04.pdf>.

³⁰ Rudie, Raye. “California’s Textile Industry Thrives on Quick-Turn Creativity.” 1998. *Bobbin*. December 11, 2006. http://www.findarticles.com/p/articles/mi_m3638/is_n2_v40/ai_21244065.

³¹ Barajas, Erin. “Textiles Take a Dip, Apparel Manufacturing Jobs Maintain Status Quo.” *California Apparel News*. December 15-21, 2006.

³² Rudie, Raye. “California’s Textile Industry Thrives on Quick-Turn Creativity.” 1998. *Bobbin*. December 11, 2006. http://www.findarticles.com/p/articles/mi_m3638/is_n2_v40/ai_21244065.

³³ “L.A.: The Global Content Provider: The Changing Face of the Apparel and Textile Industry.” 2005. California Fashion Association. December 19, 2006. <http://www.californiafashionassociation.org>

the rise of “flash fashion” providing this sector with its first employment increase in several years.³⁴

But this makes the protection of intellectual property rights all the more important. Because the textile and apparel industries are focusing on the complexity and uniqueness of fabric design, they are becoming equally focused on the opportunities for exploiting and exporting their intellectual property and design content.³⁵ If companies are going to invest the time and resources to creating vibrant new fabric designs, they have to be certain their work will not be illegally copied as soon as it leaves the spinning looms. California’s close proximity to the Asian market has made it uniquely vulnerable to the flood of illegal Asian imports. Indeed, the creation of new fabric designs and level of service that “flash fashion” provide are fundamentally necessary for American textiles to compete with the flood of pirated and subsidized fabric imports from Asian manufacturers, which proliferate the market in many different fabric categories.³⁶ Make no mistake about it, **by undercutting strong intellectual property rights, we also undercut the American textile and apparel industry’s best chance at recovery and success.**

We stand today at a stark crossroads for the American textile and apparel industries: Either we preserve the innovation inherent in “flash fashion” and original fabric designs, or we watch it literally be stolen from under our noses by corrupt foreign governments, and unmitigated design piracy. The U.S. textile industry is one that is naturally creative, and important to the American economy as a whole. This creativity should be fostered and protected and not allowed to falter due to imported Asian knockoffs poisoning the domestic market. If we allow Asian manufacturers to dominate the market through dishonest infringements, we lose not only an industry that produces valuable American-made fabrics and stable American-based jobs, but a pillar of American communities and middle-class society.

³⁴ Barajas, Erin. “Textiles Take a Dip, Apparel Manufacturing Jobs Maintain Status Quo.” California Apparel News. December 15-21, 2006.

³⁵ “L.A.: The Global Content Provider: The Changing Face of the Apparel and Textile Industry.” 2005. California Fashion Association. December 19, 2006. <http://www.californiafashionassociation.org>

³⁶ Rudie, Raye. “California’s Textile Industry Thrives on Quick-Turn Creativity.” 1998. Bobbin. December 11, 2006. http://www.findarticles.com/p/articles/mi_m3638/is_n2_v40/ai_21244065.