

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

JENZABAR, INC., LING CHAI, and
ROBERT A MAGINN, JR.,

Plaintiffs,

v.

LONG BOW GROUP, INC.,

Defendant.

CIVIL ACTION NO. 07-2075-H

PLAINTIFF, JENZABAR, INC.'S, EMERGENCY
MOTION FOR PROTECTIVE ORDER

The plaintiff, Jenzabar, Inc., pursuant to Mass.R.Civ.P. 26(c), moves on an emergency basis for a protective order to prevent having to further respond to discovery and testify at depositions because of its legitimate concern that the defendant, Long Bow Group, Inc. ("LB"), (which is already without authorization using Jenzabar's marks as "metatags" in pages on LB's website and publicizing this case through false statements and disclosure of confidential information (including settlement discussions in this action)), will take confidential and private information produced by Jenzabar during discovery and "slant it" and highlight such information on its website (since LB has refused to execute an appropriate confidentiality order). This motion is being filed on an emergency basis because LB has noticed Jenzabar's deposition for this Monday, June 1, 2009, and has refused to continue the deposition until these issues can be resolved. Therefore, Jenzabar is left with no alternative but to file this motion and seek a protective order from this court.

More specifically, Jenzabar states:

1. Jenzabar is a leading provider of software and internet solutions to institutions of higher education, including numerous colleges and universities. Jenzabar's founder, Chai Ling, was a student leader of the 1989 protests in Tiananmen Square in China. "Jenzabar" and "Jenzabar.com" are federally registered marks owned by the plaintiff.

2. LB's website contains multiple pages regarding the subjects "About Chai Ling and Jenzabar, Inc.". The website publicizes this lawsuit (with regular "updates"), including now containing the following:

Update, Spring 2009

Twenty years after the events of 1989, Chai Ling and her company, Jenzabar, are attempting to censor this website. Click the following links to read a summary of their lawsuit against the Long Bow Group, and to read an online appeal for support.

In addition to falsely stating that the plaintiffs are attempting "to censor this website", LB in its online appeal states that Jenzabar has no interest in settling the case (which is both false- LB has refused to meet with Chai Ling, and it publicizes confidential negotiations). Copies of pages from LB's website regarding this action are attached as Exhibit A.

3. Each of LB's web pages use the Jenzabar registered marks as "metatags" within the site to attract traffic to LB's website. (Upon a recent attempt, typing "Jenzabar" into the Google search engine results in LB's site as the third "hit" on the list.) Therefore, numerous persons interested in Jenzabar and its products and services, including existing and potential business customers of Jenzabar, are instead diverted to LB's site. Copies of the "metatags" and the Google search are attached as Exhibits B and C, respectively.

4. Jenzabar is entitled to a protective order (and, ultimately, injunctive relief) under both statutory law and general equitable principles, since LB's website is illegally making use of Jenzabar's marks and contains false and misleading statements (including regarding confidential

settlement negotiations), all intended to harm and damage Jenzabar's reputation and affect the fair adjudication of Jenzabar's claims in this action.

(a) Massachusetts General Laws, chapter 110H, §13 provides:

Likelihood of injury to business reputation or of dilution of the distinctive quality of a mark registered under this chapter, or a mark valid at common law, or a trade name valid at common law, shall be a ground for injunctive relief notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services.

Id. (emphasis added). Therefore, Jenzabar is entitled to injunctive relief where there is a likelihood of injury to its business reputation, resulting from LB's misuse of the marks.

(b) Similarly, LB's conduct, in disseminating and publicizing the lawsuit, through false and misleading statements (including disclosure of confidential settlement discussions), violates both the plaintiffs' rights and the authority of the court to maintain and insure a fair adjudicative process. See Rule 3.6 (S.J.Ct.) (prohibiting extrajudicial statements which are likely to be disseminated by means of public communication and would reasonably be expected to prejudice an adjudicative proceeding). See also Ottaway Newspapers, Inc. v. Appeals Court, 372 Mass. 539, 546 (1977) (affirming authority and discretion of courts to impose impoundment of files, cloture, when found necessary to insure fair trial); NCR Credit Corp. v. Underground Camera, Inc., 581 F.Supp. 609, 613-14 (D.Mass. 1984) (while court may order parties to refrain from making extra judicial statements regarding case, such remedy not appropriate where no suggestion "that any individuals affiliated with the case contributed in any manner to the writing of the...article").

5. Any defense or argument by LB that it is simply engaging in free speech and, therefore, the content on its web pages is protected by the First Amendment fails because LB is violating Jenzabar's registered marks and the webpages contain false and misleading information (including confidential settlement discussions).

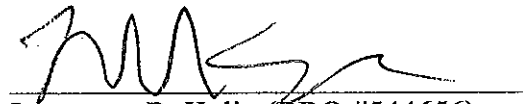
6. There is a substantial likelihood of injury to Jenzabar's business reputation, since its customers are institutions of higher education. The false accusations by LB that Jenzabar is involved in "censorship" is inflammatory and specifically intended to harm Jenzabar's standing in the academic community.

7. Long Bow has refused to execute an appropriate confidentiality order. Copy attached as Exhibit D. Therefore, Jenzabar is justifiably concerned that any information provided in discovery, including the Rule 30b6 deposition noticed for June 1, will be immediately posted on LB's website (and slanted in such a manner that it benefits LB and further disparages Jenzabar).

WHEREFORE, the plaintiff respectfully requests that the court allow its motion.

Respectfully submitted,

By its attorneys,



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Dated: May 29, 2009

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by (hand/mail) on

5/29/09


EXHIBIT A

EXHIBIT A

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The information on these pages about Chai Ling and Jenzabar, the software company she runs with her husband, Robert Maginn, contains excerpts from and links to articles about Jenzabar in *The Boston Globe*, *Forbes*, *Business Week*, and other publications, and is intended to provide the reader with additional information about Chai Ling, one of the most well-known and controversial figures from the Tiananmen Square protests of 1989. These web pages are the sole responsibility of the Long Bow Group, and are in no way affiliated with or sponsored by Jenzabar, Inc.

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About Chai Ling and Jenzabar, Inc. | [News Accounts](#)

Update, Spring 2009:

Twenty years after the events of 1989, Chai Ling and her company, Jenzabar, are attempting to censor this website.
Click the following links to read [a summary of their lawsuit against the Long Bow Group](#), and to read [an online appeal for support](#).

See also the *Times* of London, May 4, 2009: [Tiananmen activist Chai Ling sues makers of film about 1989 protest](#)
and the *New Yorker*, May 7, 2009: [The American Dream: The Lawsuit](#)

¶

In 1998, Chai Ling founded a software company, Jenzabar, of which she is President and COO; her husband, Robert Maginn, is the CEO. Jenzabar has received considerable publicity in part because of Chai Ling's role in the 1989 Tiananmen Square protests.

Jenzabar itself, according to *The Chronicle of Higher Education*, "plays up the past celebrity of its founder, Chai Ling. ...Company press releases, which invariably note that Ms. Chai was 'twice nominated for the Nobel Peace Prize,' breathlessly describe Jenzabar as a tool to 'create another kind of revolution,' fueled by communications technology." (Sept. 3, 1999, "[Colleges Get Free Web Pages, but With a Catch: Advertising](#)")

Chai Ling has also actively cultivated her public image and openly expressed her desire to use her connection to Tiananmen Square to promote her current activities. As stated in the *South China Morning Post* ("Seizing the Day All for Herself", written on the 10th anniversary of the June 4 massacre):

Ms Chai's publicist has been reminding the world that Ms Chai's job prior to being smuggled out of China to the United States was "leading thousands of students against a communist government more ruthless than Microsoft".

She also suggested that June 4 would be a good opportunity to write about Ms Chai's Internet start-up which runs a site called jenzabar.com.

"Ling is a dynamic personality who has found many similarities between running a revolution and an Internet start up," journalists have been told. "Ling used the techniques and charisma of a true revolutionary to impress the CEOs of Reebok, WebTV/Microsoft and Bain to back Jenzabar."

As a public persona, Chai Ling has attracted attention from multiple media sources. A number of stories published about Jenzabar begin with the saga of the student leader from China who became a successful entrepreneur in America. For example, a *Business Week* (June 23, 1999) headline reads, "Chai Ling: From Tiananmen Leader to Netpreneur." *Computerworld* (May 6, 1999) leads with: "Tiananmen activist turns software entrepreneur." Or as *Forbes* (May 10, 1999) puts it, "From Starting a Revolution to Starting a Company."

Other articles from the international press present different perspectives on Chai Ling and her relationship with the 1989 Tiananmen Square protests. See, for example, *American Dream* (*The Boston Globe*, Aug. 8, 2003, byline: Steve Bailey), which concludes:

After Tiananmen, Chai detractors said her hero's image did not square with her hardball tactics. Now her critics are saying much the same again, this time about her corporate life. Meanwhile, Chai continues to sell her story of the Tiananmen heroine-turned-American-entrepreneur. "Today, I am living the American dream," Chai told *Parade* magazine in June.

With Ling Chai, distinguishing the dream from the reality has always been the hardest part of all.

Daniel Lyons, in *Forbes.com* (Great Story, Bad Business, *Forbes.com*, Feb. 17, 2003, byline: Daniel Lyons), notes:

Chai Ling would like total control over her biography. In her version, she risks her life leading student protests in Tiananmen Square in 1989, escapes China stowed in a crate and is twice nominated for the Nobel Peace Prize. Then she moves to America and marries a millionaire venture capitalist who bankrolls her promising internet startup. Alas, the market crashes before the company can go public, and it is unfairly besieged by lawsuits from former executives....

"You're not going to write about that, are you?" Chai says, when asked about the suits. "Do you really have to mention those things?" Chai's seeming naiveté is a little out of character. She has frequently scored points in the press by recalling her glory days as onetime 'commander-in-chief' of rebel students in Beijing.

Lyons may have been referring to an article written about Jenzabar by Chai Ling herself, which is headlined: "Revolution Has Its Price: In Tiananmen Square, she was a student leader who stood up to tanks. In the U.S., she became a software executive who had to deal with venture capitalists. Guess which one was the tougher opponent." In the article, Chai Ling wrote:

For me, the longest hour and the longest night I ever lived was in Tiananmen Square, in 1989, when the student movement tried to demand democracy of our nation's unyielding governors. My role was to lead a hunger strike for seven days and nights. We tried to be peaceful. We tried to be rational. But the end result was tanks, bloodshed and the massacre of innocent people.

Here, at least, power in Washington can change hands without bloodshed, according to the expressed will of the people. And economic revolution, even a minor one such as that fostered by Jenzabar, occurs without bloodshed. Even in the dot com bust, no one had to die.

But the creation of a company is no less stressful than running a hunger strike in Tiananmen Square.

... But I am happy, because I am the leader of another student movement. I have been given the chance, by fate, to help the youth of America prepare for the next century.

... As we found in China, even the most determined authority can't put technology back in the bottle.

Which makes its dispersion the greatest revolution any student, faculty member or administrator who cares about freedom of thought can be involved in.

In other contexts, Chai Ling has appeared more reluctant to discuss her role in the 1989 events. In "Anatomy of a Massacre" (*Village Voice*, June 4, 1996), Richard Woodward made multiple attempts to interview Chai Ling for a cover story about *The Gate of Heavenly Peace* and her role in the student protest movement. "At first she was 'too busy.' When I offered to call at another time, she said with fatigue, 'It's over. I don't want to get involved.'"

Similarly, in his book **Bad Elements: Chinese Rebels from Los Angeles to Beijing**, Ian Buruma describes a meeting he had with Chai Ling in 1999:

We met for a cappuccino in a nice outdoor café in Cambridge, Massachusetts... Chai handed me a folder with promotional material. It contained references to her career at the Harvard Business School and her "leadership skills" on Tiananmen Square. She spoke to me about her plans to liberate China via the Internet. She joked that she wanted to be rich enough to buy China, so she could "fix it." But although she was not shy to use her celebrity to promote her business, she was oddly reluctant to discuss the past. When I asked her to go over some of the events in 1989, she asked why I wanted to know "about all that old stuff, all that garbage." What was needed was to "find some space and build a beautiful new life." What was wanted was "closure" for Tiananmen. I felt the chilly presence of Henry Ford's ghost hovering over our cappuccinos in that nice outdoor café. From being an icon of history, Chai had moved into a world where all history is bunk.

[Ian Buruma, **Bad Elements: Chinese Rebels from Los Angeles to Beijing** (New York: Random House, 2001), pp. 9-10.]

Because of her status as a public figure, future media coverage will continue to throw light on Chai Ling for those who are interested in following her story.

[Home](#) | [Film/Media](#) | [Tour](#) | [Themes](#) | [Chronology](#) | [Readings/Links](#) | [Site Map](#) | [Chinese](#)
[Frontline](#) | [ITVS](#) | [Center for Asian American Media](#) | [PBS](#)

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Related Pages: [Summary of Lawsuit](#) | [About Chai Ling and Jenzabar, Inc.](#)



For nearly two years the Long Bow Group tried to negotiate a settlement with Chai Ling and Jenzabar's lawyers. During this time, we were careful not to publicize the lawsuit. In April 2009, Jenzabar's lawyers declared that they had no interest in settling the case; given our limited resources, Long Bow has decided to appeal to the public for help.

The following open letter asks for your support of the principles of free speech and academic freedom which we feel are being threatened by this lawsuit. Please know that signing this appeal letter carries no legal obligations, responsibilities, or commitments of any kind, nor does it mean that you necessarily agree with opinions expressed in either the Long Bow Group's films or its websites.

An Appeal

*In Memoriam-
Tiananmen 1989, Free Speech & its Advocates
The Long Bow Group, Boston
(15 April 2009)*

We commemorate the twentieth anniversary of the 1989 Protest Movement in China and recall with heavy hearts its brutal suppression. During that movement millions of people in China demonstrated in support of freedom of expression and media openness.

In making the documentary film *The Gate of Heavenly Peace* (天安门, 1995), and with the creation of its archival website (www.tsquare.tv), the Long Bow Group attempted to reflect the complex motives and stories behind the events of 1989 in an accessible format, and to provide specialists and the public with an ongoing research resource.

The film was attacked sight unseen both by the Chinese government and by several former student activists prior to its premiere at the New York Film Festival in October 1995. Subsequently, the Chinese authorities demanded it be banned from international film festivals, claiming that showing it would 'mislead the audience and hurt the feelings of 1.2 billion Chinese people.' Meanwhile, the student activists who opposed the film accused us of working for the Chinese government and denounced us as 'a pack of flies, a true disease of our era.' (他们是一群苍蝇, 是我们这个时代真正的疾病.)

Despite controversy *The Gate of Heavenly Peace* went on to win numerous prestigious film and academic awards in the United States and overseas. The film has continued to draw attention in the mass media, among researchers and educators and, together with the related website, it forms part of the international discussion of China's modern history. We believe that the kind of independent research and cinematic work we produce has only been possible through the support of academic colleagues, public funding agencies, private donations, and under the protective umbrella of free speech.

We are now deeply concerned because our very existence as an independent film and archive group is being threatened by a lawsuit launched by one of the people who, during the 1989 Protest Movement in Beijing, professed support for freedom of speech and democracy.

Chai Ling (Ling Chai), President of Jenzabar, Inc., and in 1989 Commander-in-Chief of the Defend Tiananmen Square Headquarters, and her husband, Robert Maginn, CEO of Jenzabar and a former Senior Partner and Director at Bain & Company, sued the Long Bow Group in 2007 in Boston, Massachusetts, for defamation and trademark infringement. [\[Click here to read a summary of the lawsuit.\]](#)

The lawsuit accused us of defamation because our website links to mainstream media news articles that reported critical information about Jenzabar, Chai Ling, and Robert Maginn. [\[Click here to visit the relevant pages on this site.\]](#) The trademark allegations are based on our use of the name 'Jenzabar' in the website. In the early stages of the litigation, the court threw out the defamation claims but not the trademark claims. The court recognized that 'Jenzabar seems unlikely to prevail on [the trademark claims],' but nevertheless decided to give Jenzabar a chance to try to prove its claims.

As a result, we are facing the accusation that Long Bow -- a non-profit documentary film producer -- is violating the commercial trademark of Jenzabar, a company that sells administrative and management software systems to large educational institutions. Although we clearly have no connection to Jenzabar and do not compete in any respect with Jenzabar, the lawsuit claims that our site diverts and confuses Jenzabar's potential customers. In fact, not one person has ever contacted the Long Bow Group about software or Jenzabar.

Over the years, mainstream US media publications (in particular, *The Boston Globe*, *Forbes* and *The Chronicle of Higher Education*) have produced and archived materials related to Jenzabar and its President, Chai Ling. The Long Bow website merely quotes from these materials, yet we are not aware of any action against these larger publications. In our opinion, this lawsuit is clearly intended to intimidate us into removing these news accounts and other information about Chai Ling and Jenzabar from our website. Indeed, Chai Ling's lawyers have demanded that we remove any reference to the company from our website. We believe that this material is of public interest and it is already in the public domain through other sources. Despite long months of discussion and conciliatory action on our part, undertaken in the hope of bringing an end to what we believe is malicious litigation, the case continues at great expense and risk to us.

The following excerpts from the Complaint filed against Long Bow in May 2007 demonstrate the seriousness of this lawsuit, as a threat to Long Bow and to the principles of political and expressive freedom that we hold so dearly:

--'Motivated by ill-will, their sympathy for officials in the Communist government of China, and a desire to discredit Chai, a former student leader in the pro-democracy movement in China's Tiananmen Square, Long Bow Group, Inc. ("Long Bow") has published false content concerning the Plaintiffs on the website it maintains (the "Site") and has collected a misleading sample of statements from outdated articles to circulate half-truths and falsehoods, and to create false impressions about Jenzabar, Chai, and Maginn. To ensure that this content is widely viewed and as damaging as possible, Long Bow makes unauthorized use of Jenzabar's protected trademarks to direct traffic to the Site. As a consequence, Jenzabar's clients and prospective clients are diverted to the Site and its defamatory content, causing reputational injury and loss of business opportunities.'

--'Upon information and belief, Long Bow's defamatory statements are motivated by malice toward Chai, as well as Long Bow's desire to discredit Chai and advance Long Bow's divergent political agenda.'

The Complaint also makes a demand:

--'For an accounting of the gains and profits realized by Long Bow from its aforesaid wrongful acts, and restitution and/or disgorgement to Jenzabar of Long Bow's ill-gotten gains.'

We believe this is a concerted attempt to undermine a nonprofit film and research organization that has for nearly thirty years presented audiences and educators throughout the world with work on Chinese life and history. Chai and Jenzabar appear determined to drain the limited resources of the Long Bow Group for not complying with their demands that we remove historical materials and data, as well as all references to Jenzabar, from our website. We are of the view that such demands and tactics have dire implications not only for us, but more widely for free speech and independent scholarship. We believe that in commemorating the events of 1989 twenty years on, it is important to reflect also on the value of independent thought, unfettered historical research, the collection and protection of archival materials and the freedom of speech in our own environment.

It is for this reason that we appeal to you--fellow researchers, colleagues in the media, educators and members of the interested public--to visit our website (www.tsquare.tv) to read the materials that have prompted this lawsuit and the legal filings from the case. We ask you to draw your own conclusions about the issues and freedoms at stake.

Please do not take this appeal as an attack on Jenzabar's business or the products and services it provides to its customers. We have no interest in prompting or participating in a boycott and no interest whatsoever in causing harm to Jenzabar's business or its employees. We seek only to preserve our rights, to stand up for the principle of free speech, and to defend ourselves and our work from this unjustified challenge.

If you would like to help, please sign this appeal as a modest gesture of your support for our stand. Please know that your signature carries no legal obligations, responsibilities, or commitments of any kind, nor does it mean that you necessarily agree with opinions expressed in either the Long Bow Group's films or its websites. Rather, it indicates that any instance of a corporation using its money and its power to stifle debate and suppress the historical record is cause for concern, in the academic community and beyond. If you are interested in lending your support, you may add yourself to the list below by emailing your

name, title, and affiliation (if any) to: info@longbow.org.

Written and Signed by

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EXHIBIT B

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                                jenzabar[1]
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<blockquote>
  <p>The information on these pages about Chai Ling and Jenzabar, the
software company she runs with her husband, Robert Maginn, contains
excerpts from and links to articles about Jenzabar in <em>The Boston
Globe</em>, <em>Forbes</em>, <em>Business Week</em>, and other
publications, and is intended to provide the reader with additional
information about Chai Ling, one of the most well-known and
controversial figures from the Tiananmen Square protests of 1989. These
web pages are the sole responsibility of the Long Bow Group, and are in
no way affiliated with or sponsored by Jenzabar, Inc.</p>
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  <div class="c167">About Chai Ling and Jenzabar, Inc. | <a
href="american_dream.html">News Accounts</a></div>
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  <br>
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style="color: rgb(255, 0, 0);">Update, Spring 2009:<br>
  </strong><br>
  Twenty years
  after the events of 1989, Chai Ling and her company, Jenzabar, are
  attempting to censor this website.<br>
  Click the following links to
  read <a href="jenzabar_lawsuit.html">a summary of their lawsuit
  against the Long Bow Group</a>, and
  to read <a href="appeal-online.html">an online appeal for support</a>.<br>
  <br>
  See also the <em>Times</em> of London, May 4, 2009: <a
href="http://www.timesonline.co.uk/tol/news/world/asia/article6221258.ece"
target="_blank">Tiananmen
  activist Chai Ling sues makers of film about 1989 protest</a><br>
  and the <em>New Yorker</em>, May 7, 2009: <a
href="http://www.newyorker.com/online/blogs/evanosnos/2009/05/the-american-dream-the
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jenzabar[1]

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In 1998, Chai Ling founded a software company, Jenzabar, of which she is President and COO; her husband, Robert Maginn, is the CEO. Jenzabar has received considerable publicity in part because of Chai Ling's role in the 1989 Tiananmen Square protests.

<p>Jenzabar itself, according to The Chronicle of Higher Education, "plays up the past celebrity of its founder, Chai Ling. ...Company press releases, which invariably note that Ms. Chai was 'twice nominated for the Nobel Peace Prize,' breathlessly describe Jenzabar as a tool to 'create another kind of revolution,' fueled by communications technology." (Sept. 3, 1999, "Colleges Get Free Web Pages, but With a Catch: Advertising")</p>

<p>Chai Ling has also actively cultivated her public image and openly expressed her desire to use her connection to Tiananmen Square to promote her current activities. As stated in the South China Morning Post ("Seizing the Day All for Herself", written on the 10th anniversary of the June 4 massacre):</p>

<blockquote>

<p>Ms Chai's publicist has been reminding the world that Ms Chai's job prior to being smuggled out of China to the United States was "leading thousands of students against a communist government more ruthless than Microsoft".

She also suggested that June 4 would be a good opportunity to write about Ms Chai's Internet start-up which runs a site called jenzabar.com.

"Ling is a dynamic personality who has found many similarities between running a revolution and an Internet start up," journalists have been told. "Ling used the techniques and charisma of a true revolutionary to impress the CEOs of Reebok, WebTV/Microsoft and Bain to back Jenzabar."

</p>

</blockquote>

<p>As a public persona, Chai Ling has attracted attention from multiple media sources. A number of stories published about Jenzabar begin with the saga of the student leader from China who became a successful entrepreneur in America. For example, a Business Week (June 23, 1999) headline reads, "Chai Ling: From Tiananmen Leader to Netpreneur." Computerworld (May 6, 1999) leads with: "Tiananmen activist turns software entrepreneur." Or as Forbes (May 10, 1999) puts it, "From Starting a Revolution to Starting a Company."

Other articles from the international press present different perspectives on Chai Ling and her relationship with the 1989 Tiananmen Square protests. See, for example, <i>American Dream</i> (The Boston Globe, Aug. 8, 2003, byline: Steve Bailey), which concludes: </p>

<blockquote> After Tiananmen, Chai detractors said her hero's image did not square with her hardball tactics. Now her critics are saying much the same again, this time about her corporate life. Meanwhile, Chai continues to sell her story of the Tiananmen heroine-turned-American-entrepreneur. "Today, I am living the American dream," Chai told Parade magazine in June.

with Ling Chai, distinguishing the dream from the reality has always been the hardest part of all. </blockquote>

Daniel Lyons, in Forbes.com (Great Story, Bad Business, Forbes.com, Feb. 17, 2003, byline: Daniel Lyons), notes:

<blockquote>

<p>Chai Ling would like total control over her biography. In her version, she risks her life leading student protests in Tiananmen Square in 1989, escapes China stowed in a crate and is twice nominated for the Nobel Peace Prize. Then she moves to America and marries a millionaire venture capitalist who bankrolls her promising internet startup. Alas, the market crashes before the company can go public, and it is unfairly besieged by lawsuits from former executives....

"You're not going to write about that, are you?" Chai says, when asked about the suits. "Do you really have to mention those things?" Chai's seeming naiveté; is a little out of character. She has frequently scored points in the press by recalling her glory days as onetime 'commander-in-chief' of rebel students in Beijing.</p>

</blockquote>

<p>Lyons may have been referring to an article written about Jenzabar by Chai Ling herself, which is headlined: "Revolution Has Its Price: In Tiananmen Square, she was a student leader who stood up to tanks. In the U.S., she became a software executive who had to deal with venture capitalists. Guess which one was the tougher opponent." In the article, Chai Ling wrote:

</p>

<blockquote>For me, the longest hour and the longest night I ever lived was in Tiananmen Square, in 1989, when the student movement tried to demand democracy of our nation's unyielding governors. My role was to lead a hunger strike for seven days and nights. We tried to be peaceful. We tried to be rational. But the end result was tanks, bloodshed and the massacre of innocent people.

Here, at least, power in Washington can change hands without bloodshed, according to the expressed will of the people. And economic revolution, even a minor one such as that fostered by Jenzabar, occurs without bloodshed. Even in the dot com bust, no one had to die.

But the creation of a company is no less stressful than running a hunger strike in Tiananmen Square.

... But I am happy, because I am the leader of another student movement. I have been given the chance, by fate, to help the youth of America prepare for the next century.

... As we found in China, even the most determined authority can't put technology back in the bottle.

which makes its dispersion the greatest revolution any student, faculty member or administrator who cares about freedom of thought can be involved in.

</blockquote>

<p>In other contexts, Chai Ling has appeared more reluctant to discuss her role in the 1989 events. In "Anatomy of a Massacre" (Village Voice, June 4, 1996), Richard Woodward made multiple attempts to interview Chai Ling for a cover story about The Gate of Heavenly Peace and her role in the student protest movement. "At first she was 'too busy.' when I offered to call at another time, she said with fatigue, 'It's over. I don't want to get involved.'"</p>

jenzabar[1]

Similarly, in his book **Bad Elements: Chinese Rebels from Los Angeles to Beijing**, Ian Buruma describes a meeting he had with Chai Ling in 1999:

<blockquote>

<p>We met for a cappuccino in a nice outdoor cafe; in Cambridge, Massachusetts; Chai handed me a folder with promotional material. It contained references to her career at the Harvard Business School and her "leadership skills" on Tiananmen Square. She spoke to me about her plans to liberate China via the Internet. She joked that she wanted to be rich enough to buy China, so she could "fix it." But although she was not shy to use her celebrity to promote her business, she was oddly reluctant to discuss the past. When I asked her to go over some of the events in 1989, she asked why I wanted to know "about all that old stuff, all that garbage." What was needed was to "find some space and build a beautiful new life." What was wanted was "closure" for Tiananmen. I felt the chilly presence of Henry Ford's ghost hovering over our cappuccinos in that nice outdoor cafe;. From being an icon of history, Chai had moved into a world where all history is bunk.

[Ian Buruma, **Bad Elements: Chinese Rebels from Los Angeles to Beijing** (New York: Random House, 2001), pp. 9-10.]</p>

</blockquote>

<p>Because of her status as a public figure, future media coverage will continue to throw light on Chai Ling for those who are interested in following her story.

</p>

</blockquote>

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Lawrence R. Kulig, Esq.
617.342.6875
lkulig@eckertseamans.com

May 7, 2009

BY HANDT. Christopher Donnelly, Esquire
Donnelly, Conroy & Gelhaar, LLP
One Beacon Street, 33rd Flr.
Boston, Massachusetts 02108Re: Jenzabar, Inc., et al. v. Long Bow Group, Inc.
Suffolk Superior Court, Civil Action No. 07-2075-H

Dear Christopher:

Enclosed please find three (3) sets of each Plaintiff's Response to Defendant's First Request for Production of Documents.

Also enclosed is a proposed Joint Motion for Entry of Protective Order.

Please feel free to call me at your convenience.

Very truly yours,



Lawrence R. Kulig

LRK/kac
Enclosures

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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

JENZABAR, INC., LING CHAI, and
ROBERT A MAGINN, JR.,

Plaintiffs,

v.

LONG BOW GROUP, INC.,

Defendant.

CIVIL ACTION NO. 07-2075-H

JOINT MOTION FOR ENTRY OF PROTECTIVE ORDER

Plaintiffs Jenzabar, Inc. ("Jenzabar"), Ling Chai, and Robert A. Maginn, Jr. (collectively "Plaintiffs") and defendant Long Bow Group, Inc. ("Long Bow" or "Defendant," and together with Plaintiffs, the "parties") hereby jointly move that the Court enter the following as a Protective Order governing the conduct of discovery and trial in this case. The Parties note that this proposed Protective Order takes into account the provisions of the Uniform Rules Of Impoundment Procedure.

WHEREAS, the proceedings in this action may involve the production or disclosure of confidential, sensitive or proprietary business information and trade secrets; and

WHEREAS, the parties are in agreement that the following Protective Order shall govern the production or disclosure of such business information during the course of this action in order to ensure the continued confidentiality of such information and to ensure that no competitive advantage is obtained by any person as a result of the disclosure thereof, upon the following conditions and safeguards;

IT IS HEREBY ORDERED that:

1. Scope.

This Stipulated Protective Order ("Order") shall be applicable to and govern all depositions, documents produced in response to requests for production of documents, answers to interrogatories, responses to requests for admissions and all other discovery taken pursuant to the Massachusetts Rules of Civil Procedure, as well as all documents produced by either party in response to informal discovery requests, and testimony adduced at trial, matters in evidence and computerized records which the disclosing party (the "Disclosing Party") designates as "Confidential Information" in accordance with the terms of this Order. Such information shall not include information that at, or prior to, disclosure to the party receiving the information (the "Receiving Party") is known to or independently developed by the Receiving Party or is public knowledge or becomes available to the public without violation of this Order; that, after disclosure, is revealed to the public by a person having the unrestricted right to do so; or that is acquired by the Receiving Party from a third party which lawfully possesses the information and/or owes no duty of nondisclosure to the Disclosing Party.

The provisions of this Order also shall apply to any non-party who provides testimony, documents or information in such discovery proceedings and who agrees to be bound by the terms of this Order. Reference to a "party" or "parties" herein shall also include such non-parties.

2. Definition of "Confidential Information."

For the purpose of this order, a Disclosing Party may designate as "Confidential Information" only non-public testimony, information, documents, and data that the party in good

faith reasonably believes contains trade secret or other confidential, competitive, proprietary, or personal information that is used by it in or in connection with its business, and which the party takes appropriate efforts to keep confidential or the party is otherwise required to keep confidential by agreement or law.

3. Notice Of Designation.

Parties shall designate information as Confidential Information as follows:

(a) In the case of records, documents, interrogatory answers, responses to requests for admissions, and other written discovery, by stamping the legend "Confidential" prior to their production. Stamping such a legend on the cover of any multi-page document shall so designate all pages of such document, unless otherwise indicated by the Disclosing Party. Documents to be inspected shall be treated as Confidential during inspection.

(b) In the case of deposition or trial testimony, designation of the portion of the transcript (including exhibits) which contains information that is Confidential Information shall be made by a statement to such effect on the record in the course of the deposition or, upon review of such transcript by counsel for the party to whose Confidential Information the deponent has had access, said counsel shall designate in writing to the other party within thirty (30) days after counsel's receipt of the transcript. Pending such designation by counsel, the entire deposition transcript, including exhibits, shall be deemed Confidential Information; if no designation is made within thirty (30) days after receipt of the transcript, the transcript shall be considered not to contain any information that is Confidential Information. The pages of the transcript which contain Confidential Information and the numbers (but not the descriptions) of the confidential deposition exhibits shall be appropriately noted on the front of the deposition transcript and the

entire transcript shall be marked as being confidential information. However, only those portions of the transcript and exhibits noted on the front of the transcript need to be treated as Confidential Information as appropriate.

4. Inadvertent Failure to Designate.

Failure to designate information as Confidential at the time of production shall not be a waiver of the protection for Confidential Information provided that counsel for the Disclosing Party notifies the Receiving Party within 5 days after realizing the omission. The Receiving Party shall not be in violation of this Order for any disclosure made prior to receiving notice. Following notice, the Receiving Party shall make reasonable efforts to retrieve and appropriately reclassify the previously disclosed materials.

5. Objection to Designation.

A party shall not be obligated to challenge the propriety of a designation as Confidential Information at the time made, and failure to do so shall not preclude a subsequent challenge thereto. In the event that a party disagrees at any stage of these proceedings with a designation of any information as Confidential, the party's counsel shall so advise the Disclosing Party in writing of such objections and the reasons therefor, and the parties shall try to resolve the dispute on an informal basis. If the Producing Party objects to the proposed disclosure and the dispute can not be resolved, all the items shall be treated as Confidential pending a resolution of the parties' dispute. The burden of proving that the records or information have been properly designated Confidential Information shall be on the party making such designation.

6. Disclosure of Confidential Information.

Documents, things, and information designated as Confidential Information shall not be shown, communicated, paraphrased, summarized or disclosed, in whole or in part or in any manner whatsoever, except by prior written consent of the Disclosing Party or pursuant to a further order of the Court, to anyone other than:

- a. the parties' attorneys of record and the employees of such attorneys who are actively engaged in assisting counsel in this action;
- b. independent experts and consultants not affiliated with a party who have been separately retained by the party and/or party's attorneys of record for purposes of this action subject to the provisions of paragraph 9 herein;
- c. any officer, agent, or employee of the Receiving Party;
- d. the authors, addressees and copy recipients of confidential documents, including but not limited to the producing party's present and former employees, agents, consultants and attorneys;
- e. any witnesses who appear for deposition or trial in this matter, during the course of their testimony, after the witness has been advised of the need to keep the information confidential and agrees to do so in writing in the form of Appendix A attached hereto;
- f. certified court reporters taking testimony involving such confidential documents; and
- g. the Court, provided that any document that contains or refers to "Confidential Information" shall be filed under seal, in accordance with paragraph 11 of this Order in envelopes prominently marked with the caption of this action, the title of the document or other description identifying the material filed, and the following notation:

**THIS DOCUMENT IS FILED UNDER SEAL PURSUANT TO A
PROTECTIVE ORDER. IT CONTAINS CONFIDENTIAL
INFORMATION AND SHALL BE OPENED ONLY AS DIRECTED BY
THE COURT.**

7. Additional Protection For Highly Confidential Documents.

In addition to the other protections afforded by this Order for Confidential Information, any party who believes it may suffer damage as a result of its confidential, sensitive or proprietary business information or trade secrets as a result of disclosure of Confidential

{K0395749.1}

Information directly to a party may designate the information with the legend "Confidential – Attorneys' Eyes Only," or a similar designation. When Confidential Information has been designated "Confidential – Attorneys' Eyes Only," then notwithstanding the provisions of Section 6c herein, that Confidential Information may not be disclosed to any individual whose only right to receive that Confidential Information arises from Section 6c. In all other respects, information designated as "Confidential – Attorneys' Eyes Only" shall be treated as Confidential Information under the terms of this Order.

8. Use of Confidential Information.

All Confidential Information shall be used solely for the purpose of this action and not for any business or other purpose whatsoever.

9. Terms of Disclosure For Experts and Consultants.

Before any Confidential Information is shown, disclosed or otherwise communicated to any person referenced in paragraph 6(b), such person shall be provided with a copy of this Order and such person shall execute a written Certification in the form attached hereto as Appendix A, which Certification shall, *inter alia*, acknowledge that such person (a) has received a copy of this Order, (b) is familiar with the provisions of it, (c) agrees to be bound by it, (d) agrees not to copy or to use any confidential information for any purpose other than in connection with the above-captioned action, and (e) agrees not to reveal any or all such confidential information to any person not authorized by this Order. A copy of the Certification, as executed by such person, shall be maintained by counsel for the Receiving Party and shall be available for inspection by the Court or counsel for the Disclosing Party upon request.

10. Copying and Abstracting Confidential Information.

Nothing in this Order shall restrict a qualified recipient from making working copies, abstracts, digests and analyses of such information for use in connection with the above-

captioned action. Such working copies, abstracts, digests and analyses shall be deemed to have the same level of protection as the information from which they were taken. Further, a qualified recipient may convert or translate such information into machine-readable form for incorporation into a data retrieval system used in connection with the above-captioned action provided that access to such information, in whatever form stored or reproduced, shall be limited to qualified recipients.

11. Limitation on Disclosure.

No person to whom Confidential Information is disclosed shall disclose such Confidential Information in any manner whatsoever to any person to whom disclosure is not authorized by the terms hereof or make any disclosure for any purpose whatsoever, commercial or otherwise. Each person to whom disclosure is made hereby agrees to and shall subject himself or herself to the jurisdiction of the Suffolk County Division of the Superior Court Department of the Trial Court of the Commonwealth of Massachusetts for the purpose of contempt proceedings in the event of any violation of this Order.

12. Filing of Confidential Information.

Any party seeking to file Confidential Information with the Court in any form, as part of a pleading, motion, or any other paper filed with the Court, shall first or simultaneously therewith file a motion for impoundment of the Confidential Information in accordance with the Uniform Rules Of Impoundment Procedure. With respect to any filing of Confidential Information made by a Receiving Party, the filing party shall also make arrangements with the Clerk, pursuant to Rule 9 of the Uniform Rules Of Impoundment Procedure, so that the impounded material shall be returned to the filing party (or the Disclosing Party) at the end of the impoundment period, and shall not be returned to the publicly accessible portion of the case file.

The nonfiling party shall assent to such motion for impoundment. The Confidential Information shall be submitted to the Court in a separate sealed envelope or other sealed container which shall bear the proceeding number and name, and indication of the general nature of the contents, and the cover page of any such paper or document shall contain the notation provided in Paragraph 6(g). If the court does not allow the assented-to motion for impoundment, the parties shall consult and cooperate in order to obtain an order of impoundment prior to any disclosure of the Confidential Information.

13. Maintenance and Disposition of Confidential Information.

The Receiving Party shall maintain Confidential Information in a secure, safe area and shall exercise the same standard of due and proper care with respect to the storage, custody, use and/or dissemination of such information as is exercised by the recipient with respect to its own proprietary information. Any originals or copies of same (other than copies of exhibits or records filed with the Court) shall be returned to the Producing Party or be destroyed within sixty (60) days after the action is concluded (including all appeals) and shall not be retained by any other person, with the exception of materials which in the judgment of counsel in possession of such materials are work product materials, as to which those attorneys will take reasonable steps to ensure the continued protection of Confidential Information contained therein. At the request of a Producing Party, no later than sixty (60) days after the conclusion of this action, Counsel for a Receiving Party shall certify in writing that all such Confidential Information has been properly returned, destroyed or otherwise protected in accordance with the terms hereof, and that Confidential Information has not been disclosed in violation of this Order, and that there has been full compliance with the terms of this Order.

14. Objections Preserved.

Nothing in this Order constitutes a finding or admission that any of the Confidential Information covered hereby is in fact confidential, nor does any party receiving such materials waive any right to later contest that any of these materials is not confidential, secret and/or proprietary. Nothing in this Order shall prevent any party receiving materials and or information which may be designated as Confidential from raising objections on any ground whatsoever to the admission of such materials and/or information in proceedings before the Court.

15. Amendment of This Order.

This Order may be amended by agreement of the parties' attorneys in the form of a written stipulation that has been approved by the Court.

16. Survival of Terms.

The terms and provisions of this Order shall not terminate at the conclusion of this action but rather shall survive the conclusion thereof and shall continue to be binding upon all the parties herein and their directors, officers, agents, employees and counsel, until modified, terminated, or superseded by consent of the parties or by Order of the Court.

IT IS SO ORDERED.

Entered this _____ day of _____, 2009.

Justice, Suffolk Superior Court

STIPULATED TO BY:

JENZABAR, INC., LING CHAI, and
ROBERT A MAGINN, JR.,

By their attorneys

Lawrence R. Kulig (BBO# 544656)
Eckert Seamans Cherin & Mellott, LLC
One International Place, 18th Floor
Boston, MA 02110
(617) 342-6875

Dated: May __, 2009

LONG BOW GROUP, INC.,

By its attorneys

T. Christopher Donnelly
Donnelly, Conroy & Gelhaar, LLP
One Beacon Street, 33rd Floor
Boston, MA 02108

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

JENZABAR, INC., LING CHAI, and
ROBERT A MAGINN, JR.,

Plaintiffs,

v.

LONG BOW GROUP, INC.,

Defendant.

CIVIL ACTION NO. 07-2075-H

CERTIFICATION

1. I, _____, hereby acknowledge receipt of a copy of the Stipulation and Protective Order ("Order") in the above captioned action.

2. I am familiar with the provisions of the Order and agree to be bound by it.

3. I agree not to copy or to use any Confidential Information for any purpose other than in connection with the instant action, and agree not to reveal any or all such Confidential Information to any person not authorized by this Order.

Name:

Title:

(i.e., Witness/Expert for Plaintiff/Defendant)

Dated: _____

