

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS

Jose Abadin, Nelson Thall, John Petrovitz and Christopher Belland, individually and derivatively on behalf of Stan Lee Media, Inc.

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Martin Garbus, Esq., Martin Garbus LLC, 100 West 57th Street, Suite 7C
New York, NY 10019
(631) 613-2021

DEFENDANTS

Marvel Entertainment, Inc., Marvel Enterprises, Inc., Marvel Characters B.V., Stan Lee, Joan Lee, Joan C. Lee, Isaac

Podmutter, Avi Arad, and Arthur M. Lieberman
ATTORNEYS (IF KNOWN)

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

PLEASE SEE ATTACHED

Has this or a similar case been previously filed in SDNY at any time? No Yes Judge Previously Assigned Paul A. Crotty

If yes, was this case Vol. Invol. Dismissed. No Yes If yes, give date November 2007 & Case No. 07 Civ. 2238

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

TORTS		ACTIONS UNDER STATUTES			
CONTRACT	PERSONAL INJURY	PERSONAL INJURY	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
[] 110 INSURANCE	[] 310 AIRPLANE	[] 362 PERSONAL INJURY -	[] 610 AGRICULTURE	[] 422 APPEAL	[] 400 STATE
[] 120 MARINE	[] 315 AIRPLANE PRODUCT	MED MALPRACTICE	[] 620 OTHER FOOD &	28 USC 158	REAPPORTIONMENT
[] 130 MILLER ACT	LIABILITY	[] 365 PERSONAL INJURY	DRUG	[] 423 WITHDRAWAL	[] 410 ANTITRUST
[] 140 NEGOTIABLE	[] 320 ASSAULT, LIBEL &	PRODUCT LIABILITY	[] 625 DRUG RELATED	28 USC 157	[] 430 BANKS & BANKING
INSTRUMENT	SLANDER	[] 368 ASBESTOS PERSONAL	SEIZURE OF		[] 450 COMMERCE
[] 150 RECOVERY OF	[] 330 FEDERAL	INJURY PRODUCT	PROPERTY	PROPERTY RIGHTS	[] 460 DEPORTATION
OVERPAYMENT &	EMPLOYERS'	LIABILITY	[] 630 LIQUOR LAWS		[] 470 RACKETEER INFLU-
ENFORCEMENT	LIABILITY		[] 640 RR & TRUCK	[] 820 COPYRIGHTS	ENCED & CORRUPT
OF JUDGMENT	[] 340 MARINE	PERSONAL PROPERTY	[] 650 AIRLINE REGS	[] 830 PATENT	ORGANIZATION ACT
[] 151 MEDICARE ACT	[] 345 MARINE PRODUCT		[] 660 OCCUPATIONAL	[] 840 TRADEMARK	(RICO)
[] 152 RECOVERY OF	LIABILITY	[] 370 OTHER FRAUD	SAFETY/HEALTH		[] 480 CONSUMER CREDIT
DEFAULTED	[] 350 MOTOR VEHICLE	[] 371 TRUTH IN LENDING	[] 690 OTHER	SOCIAL SECURITY	[] 490 CABLE/SATELLITE TV
STUDENT LOANS	[] 355 MOTOR VEHICLE	[] 380 OTHER PERSONAL		[] 861 HIA (1395ff)	[] 810 SELECTIVE SERVICE
(EXCL VETERANS)	PRODUCT LIABILITY	PROPERTY DAMAGE	LABOR	[] 862 BLACK LUNG (923)	[] 850 SECURITIES/
[] 153 RECOVERY OF	[] 360 OTHER PERSONAL	PROPERTY DAMAGE	[] 710 FAIR LABOR	[] 863 DIWC/DIWW (405(g))	COMMODITIES/
OVERPAYMENT	INJURY	PRODUCT LIABILITY	STANDARDS ACT	[] 864 SSID TITLE XVI	EXCHANGE
OF VETERAN'S			[] 720 LABOR/MGMT	[] 865 RSI (405(g))	[] 875 CUSTOMER
BENEFITS	ACTIONS UNDER STATUTES	PRISONER PETITIONS	RELATIONS		CHALLENGE
[] 160 STOCKHOLDERS	CIVIL RIGHTS	[] 510 MOTIONS TO	[] 730 LABOR/MGMT	FEDERAL TAX SUITS	12 USC 3410
SUITS	[] 441 VOTING	VACATE SENTENCE	REPORTING &	[] 870 TAXES (U.S. Plaintiff or	[] 890 OTHER STATUTORY
[] 190 OTHER	[] 442 EMPLOYMENT	28 USC 2255	DISCLOSURE ACT	Defendant)	ACTIONS
CONTRACT	[] 443 HOUSING/	[] 530 HABEAS CORPUS	[] 740 RAILWAY LABOR ACT	[] 871 IRS-THIRD PARTY	[] 891 AGRICULTURAL ACTS
[] 195 CONTRACT	ACCOMMODATIONS	[] 535 DEATH PENALTY	[] 790 OTHER LABOR	26 USC 7609	[] 892 ECONOMIC
CONTRACT	[] 444 WELFARE	[] 540 MANDAMUS & OTHER	[] 791 EMPL RET INC		[] 893 STABILIZATION ACT
PRODUCT	[] 445 AMERICANS WITH	[] 550 CIVIL RIGHTS	SECURITY ACT		[] 894 ENVIRONMENTAL
LIABILITY	DISABILITIES -	[] 555 PRISON CONDITION		IMMIGRATION	MATTERS
[] 196 FRANCHISE	EMPLOYMENT		[] 462 NATURALIZATION		[] 895 FREEDOM OF
	[] 446 AMERICANS WITH		APPLICATION		INFORMATION ACT
REAL PROPERTY	DISABILITIES -OTHER		[] 463 HABEAS CORPUS-		[] 900 APPEAL OF FEE
[] 210 LAND	OTHER CIVIL RIGHTS		ALIEN DETAINEE		DETERMINATION
CONDEMNATION			OTHER IMMIGRATION		UNDER EQUAL
[] 220 FORECLOSURE			ACTIONS		ACCESS TO JUSTICE
[] 230 RENT LEASE &					[] 950 CONSTITUTIONALITY
EJECTMENT					OF STATE STATUTES
[] 240 TORTS TO LAND					
[] 245 TORT PRODUCT					
LIABILITY					
[] 290 ALL OTHER					
REAL PROPERTY					

Check if demanded in complaint:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND \$ _____ OTHER _____ JUDGE Paul A. Crotty DOCKET NUMBER 07 Civ. 2238

Check YES only if demanded in complaint

JURY DEMAND: YES NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- 1 Original Proceeding
- 2a. Removed from State Court
- 2b. Removed from State Court AND at least one party is pro se.
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from (Specify District)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judge Judgment

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

IF DIVERSITY, INDICATE CITIZENSHIP BELOW. (28 USC 1322, 1441)

- 1 U.S. PLAINTIFF
- 2 U.S. DEFENDANT
- 3 FEDERAL QUESTION (U.S. NOT A PARTY)
- 4 DIVERSITY

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

	PTF	DEF		PTF	DEF		PTF	DEF
CITIZEN OF THIS STATE	[]	[]	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	[]	[]	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	[]	[]
CITIZEN OF ANOTHER STATE	[]	[]	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[]	[]	FOREIGN NATION	[]	[]

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

SEE ATTACHED SERVICE LIST

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

SEE ATTACHED SERVICE LIST

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: WHITE PLAINS MANHATTAN
(DO NOT check either box if this a PRISONER PETITION.)

DATE 1/26/09 SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

[] NO
[] YES (DATE ADMITTED Mo. March Yr. 1961)
Attorney Bar Code #

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

J. Michael McMahan, Clerk of Court by _____ Deputy Clerk, DATED _____.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

CAUSE OF ACTION:

Stan Lee Media, Inc.'s shareholders are filing a class action derivative suit claiming, amongst other things, the wrongful misappropriation copyrights. This Court has jurisdiction over the copyright infringement claims pursuant to the Copyright Act of 1976, 17 U.S.C. §§ 101 *et seq.*, the Lanham Act claims by virtue of 15 U.S.C. § 1121, 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a), and all other claims by virtue of 28 U.S.C. § 1338(b) and pendent jurisdiction.

WHY THE CASES ARE DEEMED RELATED:

The case before Judge Crotty is set forth at Allegation 64 of the Complaint. In that case, the corporation, SLMI's action was dismissed pending renewal. The plaintiffs in this action are the shareholders of SLMI.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSE ABADIN, NELSON THALL, JOHN
PETROVITZ, and CHRISTOPHER BELLAND,
individually and derivatively on behalf of STAN
LEE MEDIA, INC., a Colorado Corporation

Plaintiffs,

-against-

MARVEL ENTERTAINMENT, INC., a Delaware
Corporation, MARVEL ENTERPRISES, INC.,
MARVEL CHARACTERS B.V., a Delaware
Corporation, STAN LEE, JOAN LEE, JOAN C.
LEE, ISAAC PERLMUTTER, AVI ARAD, and
ARTHUR M. LIEBERMAN,

Defendants.

09 Civ. _____

**SHAREHOLDERS DERIVATIVE
COMPLAINT**

JURY TRIAL DEMANDED

SERVICE LIST

Plaintiffs:

Jose Abadin, Nelson Thall, John Petrovitz and Christopher Belland
c/o Martin Garbus, Esq.
Martin Garbus LLC
100 West 57th Street, Suite 7 C
New York, NY 10019

Defendants:

Marvel Entertainment, Inc.
417 Fifth Avenue
New York, NY 10016

Marvel Enterprises, Inc.
c/o Marvel Entertainment, Inc.
417 Fifth Avenue
New York, NY 10016

Marvel Characters B.V.
2240 Palm Beach Lakes Blvd., Suite 101
West Palm Beach, FL 33409

Stan Lee
9143 Oriole Way
Los Angeles, CA 90068

Joan Lee
9143 Oriole Way
Los Angeles, CA 90068

Joan C. Lee
c/o Stan Lee
9143 Oriole Way
Los Angeles, CA 90068

Isaac Perlmutter
Marvel Entertainment, Inc.
417 Fifth Avenue
New York, NY 10016

Avi Arad
Arad Productions
9242 Beverly Blvd., Suite 350
Beverly Hills, CA 90210

Arthur M. Lieberman, Esq.
Ganfer & Shore LLP
360 Lexington Avenue, 14th Floor
New York, NY 10017

MARTIN GARBUS LLC
Martin Garbus, Esq.
100 West 57th Street, Suite 7 C
New York, New York 10019
(631) 613-2021
Martin.garbus@yahoo.com

Attorney for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSE ABADIN, NELSON THALL, JOHN
PETROVITZ, and CHRISTOPHER BELLAND,
individually and derivatively on behalf of STAN
LEE MEDIA, INC., a Colorado Corporation

Plaintiffs,

-against-

MARVEL ENTERTAINMENT, INC., a Delaware
Corporation, MARVEL ENTERPRISES, INC.,
MARVEL CHARACTERS B.V., a Delaware
Corporation, STAN LEE, JOAN LEE, JOAN C.
LEE, ISAAC PERLMUTTER, AVI ARAD, and
ARTHUR M. LIEBERMAN,

Defendants.

09 Civ. _____

**SHAREHOLDERS DERIVATIVE
COMPLAINT**

JURY TRIAL DEMANDED

Jose Abadin, Nelson Thall, John Petrovitz, and Christopher Belland, individually and derivatively on behalf of Stan Lee Media, Inc. (“SLMI”), by its attorney, Martin Garbus, for its Complaint against Defendants, states as follows:

JURISDICTION AND VENUE

1. SLMI bring this action as a derivative action within the meaning of Rule 23.1 of the Federal Rules of Civil Procedure (the “Federal Rules”) on behalf of itself and all other shareholders of SLMI that are similarly situated.

2. SLM I seeks a declaratory judgment, pursuant to 28 U.S.C. §§ 2201 and 2202.

3. At all times material hereto, the defendants knew that their wrongful actions would cause the damages claimed herein within the Southern District of New York and abroad, such that it would not offend principles of fairness for this court to exercise jurisdiction over the named defendants.

4. This Court has jurisdiction over the copyright infringement claims pursuant to the Copyright Act of 1976, 17 U.S.C. §§ 101 *et seq.*, the Lanham act claims by virtue of 15 U.S.C. § 1121, 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a), and all other claims by virtue of 28 U.S.C. § 1338(b) and pendent jurisdiction.

5. Venue in this District is proper under 28 U.S.C. §§ 1391(a) and (c) because a substantial part of the activities and events occurred within this district and the defendants are conducting business, have principal office locations and/or are residents within this district.

PARTIES

6. Christopher Belland is a resident of Florida; Jose Abadin and John Petrovitz are residents of California, and Nelson Thall is a citizen and resident of Canada.

7. Stan Lee Media, Inc. is a corporation organized and existing under the laws of the State of Colorado, which is the successor in interest to Stan Lee Media, Inc., a Delaware Corporation, which was the successor in interest to Stan Lee Entertainment, Inc., a Delaware Corporation.

8. Defendant, Marvel Entertainment, Inc., is a corporation organized and existing under the laws of the State of Delaware, and at all times material hereto has regularly

and continually conducted business and had a principal office located within the Southern District of New York.

9. Defendant, Marvel Enterprises, Inc., is a corporation organized and existing under the laws of the State of Delaware, and at all times material hereto has regularly and continually conducted business and had a principal office located within the Southern District of New York.

10. Defendant, Marvel Characters B.V., is a corporation organized and existing under the laws of the State of Delaware, and at all times material hereto has regularly and continually conducted business and had a principal office located within the Southern District of New York.

11. Defendants set forth at Paragraphs 8, 9 and 10 are hereinafter referred to as "Marvel."

12. Defendants, Stan Lee, his wife Joan Lee and his daughter Joan C. Lee are residents of the State of California.

13. Defendant, Stan Lee, regularly conducts business within the Southern District of New York and did so at the time the events in this Complaint occurred.

14. Defendant, Avi Arad, who then regularly conducted business in New York, is now a resident of California.

15. Defendant Arthur M. Lieberman, is a resident of New York, and has a principal place of business in New York, New York, located within the Southern District of New York.

16. Defendant Isaac Perlmutter resident of New York is the Chairman of “Marvel”, and has a principal place of business in New York, New York, located within the Southern District of New York.

THE NATURE OF THIS ACTION

This is an action brought by SLMI against all defendants regarding certain assets, properties, claims, trademark claims and rights, and other intellectual property rights and interests, including a right, title and interest to the use of the name and trademark of “Marvel” and the likeness, name and image of Stan Lee (hereinafter individually and collectively called and referred to in the complaint as the ““Assets””) of SLMI, to obtain an accounting and award of damages for the unlawful and unauthorized use of SLMI’s “Assets”, to obtain injunctive relief against any attempt by defendants to continue to use SLMI’s “Assets”, and to obtain a judgment for damages as against defendant, Stan Lee, for breach of contract.

Upon information and belief, the gross revenue of the “Assets” wrongfully taken now exceed \$750,000,000 and in the future will exceed a multiple of that number. They include a share in the profits from monies earned from the various SLMI “Assets,” including “Marvel” movies (“X-Men,” “Spider Man 1, 2 and 3”, “The Incredible Hulk,” “Fantastic Four,” “Iron Man” and “Daredevil”) as well as a share in the profits from additional assets.

Upon information and belief, Marvel, Arad, and its Chairman, Perlmutter, along with Stan Lee and Lieberman, knowing of an assignment dated October 15, 1998 signed by Stan Lee, and knowing that by that assignment Stan Lee transferred, among other things, all his interest in the Marvel Characters and his interest in the name and trademark “Marvel” to SLMI, decided to ignore that assignment.

Upon information and belief, the defendants, including Perlmutter, Lieberman and Stan Lee, conspired to and have otherwise engaged in acts of fraud upon SLMI and since 1998, have wrongfully taken monies owed to them, and taken “Assets”.

Marvel, Perlmutter and Lee have for nearly 20 years been producing, marketing and selling co-creator’s “Assets” that belong to SLMI, including all of his interest in the name “Marvel.” Most of Marvel’s financial success, including from the films, comes out of “Assets” created by Stan Lee that are the subject of this suit.

FACTS COMMON TO ALL CAUSES OF ACTION

17. Stan Lee Entertainment, Inc., a Delaware corporation, was established on or about October 13, 1998.

18. Stan Lee Entertainment, Inc., a Delaware corporation, is the ultimate predecessor in interest to SLMI.

19. Stan Lee, while employed in the offices of Marvel as Chief Editor, engaged in freelance writing for Marvel and others at home, for which he was paid separately.

20. That writing included the creation of new comic book characters that were subsequently reduced to pages published in comic books with the assistance of artists supervised by Stan Lee.

21. Marvel compensated Lee with both a salary for his work in Marvel’s office as Editor and Art Director, and with a separate income in each of the freelance story scripts he conceived, created and produced at-will from his home, which introduced the characters that were subsequently copyrighted and trademarked by Marvel.

22. The characters created by Stan Lee as a freelance writer at home, outside the scope of his employment as Editor and art Director, include "Spider Man," "X-Men," "Fantastic Four," "Ironman," "Incredible Hulk," and "Daredevil," among others.

23. As a result of the foregoing, Stan Lee created "Assets" in which he had a financial interest and an intellectual property interest, including in the ownership of the name and trademark "Marvel."

24. Since the creation by Stan Lee of the various "Assets" and the name and trademark "Marvel," Marvel has recognized Stan Lee's joint creation and copyright interest in those "Assets".

25. On or about October 15, 1998, Stan Lee executed a document with SLMI concerning both his employment and his assignment of all his rights, properties and "Assets." That assignment is hereinafter referred to as the "October 15, 1998 Assignment."

26. Stan Lee had retained his co-creator's copyright interest in all his creations and these "Assets", and other interests that Stan Lee owned, were assigned to SLMI in the October 15, 1998 Assignment.

27. Lieberman, Marvel, Arad, Perlmutter and Stan Lee knew about the creation, existence and effect of the October 15, 1998 Assignment and all defendants knew that Stan Lee was no longer free to dispose of any interest he had in the Marvel Characters and "Assets" thereafter, since he had already done so by virtue of the October 15, 1998 Assignment.

28. The October 15, 1998 Assignment required that the defendant Stan Lee's services be exclusive to SLMI with only one stated exception: those part-time services provided under a new lifetime non-exclusive agreement with Marvel Enterprises, Inc., which could require no more than an average of 10-15 hours per week on its behalf.

29. The October 15, 1998 Assignment provided that SLMI was entitled to the benefits and proceeds of all other services performed and intellectual property created by defendant Stan Lee both directly for SLMI and for any other entity.

30. The October 15, 1998 Assignment expressly required that defendant Stan Lee obtain the written consent of the SLMI prior to performing any services of any kind for any other entity.

31. At no point in time has SLMI ever provided to defendant Stan Lee any form of written consent for him to perform any services of any kind for any other entity.

32. Furthermore, the October 15, 1998 Assignment in favor of Stan Lee Entertainment, Inc., states, in pertinent part, as follows:

“I [Stan Lee] assign, convey and grant to [Stan Lee Entertainment, Inc.] forever, all right, title and interest I may have or control, now or in the future, in the following: Any and all ideas, names, titles, characters, symbols, logos, designs, likenesses, visual representations, artwork, stories, plots, scripts, episodes, literary property, and the conceptual universe related thereto, including myname and likeness (the ‘Property’) which will or have been in whole or in part disclosed in writing to, published, merchandised, advertised, and/or licensed by [Stan Lee Entertainment, Inc.]l its affiliates and successors in interest and licensees (which by agreement inures to [Stan Lee Entertainment, Inc.’s] benefit) or any of them and my copyrights, trademarks, statutory rights, common law, goodwill, moral rights and any other rights whatsoever in the Property in any and all media and/or fields, including all rights to renewal or extensions of copyright and make applications or institute suits therefore (the ‘Rights’).” (underlining ours)

33. In return for Stan Lee’s assignment of all of his “Assets,” properties and interests of any kind to his entire past, present and future creative work (including any copyright or trademark claims and other claims against those who breached those rights), Stan Lee Entertainment, Inc. and its successors in interest conveyed to Stan Lee shares in the companies.

34. Stan Lee Entertainment, Inc. and its successors in interest agreed to pay and did, in fact, pay to Stan Lee approximately \$250,000.00 per year in salary, bonuses, stock

options, expenses, fringe benefits, insurance and other consideration, including over 3.5 million shares in SLMI's stock, which had a market value of over \$100 million in February of 2000, in addition to options and other compensation.

35. Upon information and belief, the defendant Stan Lee continues to own and retain all of the shares that were issued to him and has never tendered them back to the SLMI.

36. At the time the October 15, 1998 Assignment was executed, Stan Lee was not under contract with any other person or entity with regard to any of his "Assets," intellectual property rights or financial claims.

37. At the time the October 15, 1998 Assignment was executed, the defendant, Stan Lee, had full authority and right to convey all of his rights and claims to Stan Lee Entertainment, Inc.

38. SLMI is currently the rightful owner and holder of all rights, claims and assets set forth in the October 15, 1998 Assignment, as SLMI is the ultimate successor in interest to Stan Lee Entertainment, Inc., a Delaware corporation.

39. The October 15, 1998 Assignment was ratified by Stan Lee over a year later, on or about October 19, 1999, in an Amendment to the Assignment Agreement. The Amendment contained express representations by Stan Lee that the Amendment was being signed after consultation with his financial consultants and legal counsel.

40. Except as provided in Paragraph 39 above, the October 15, 1998 Assignment has never been terminated or modified and remains in full force and effect.

41. On November 17, 1998, Stan Lee, Joan Lee, Joan C. Lee, in exchange for present and future consideration, and Marvel executed a document that allegedly gave Marvel

many of the “Assets” that the October 15, 1998 Assignment transferred to SLMI (hereinafter called the “Purported November 1998 Document”).

42. Defendants, including Stan Lee, Joan Lee and Joan C. Lee fraudulently received and will receive further “Assets” belonging to SLMI, in consideration for their signing of the Purported November 1998 Document.

43. Upon information and belief, thereafter, the defendants Perlmutter, Marvel, Lieberman, Stan Lee, Joan Lee and Joan C. Lee, knowing the Purported November 1998 Document was invalid and of no force and effect, relied on that document, and caused others to rely on that agreement, to assert ownership of “Assets” belonging to SLMI.

44. Upon information and belief, Defendants, including Perlmutter, Marvel, Stan Lee and Lieberman, did not disclose the Purported November 1998 Document to SLMI shareholders, and never disclosed they would use that document to make a claim to any of the “Assets” conveyed by the October 15, 1998 Assignment.

45. Upon information and belief, thereafter, Perlmutter, Arad, Lieberman, Stan Lee and Marvel paid monies to Stan Lee and Marvel that rightfully belonged to SLMI and its shareholders and used their fiduciary control positions as Chairmen and major shareholders of SLMI and Marvel to conceal from the shareholders of SLMI the nature of their scheme to defraud.

46. The October 15, 1998 Assignment was recorded on behalf SLMI on or about November 28, 2006 with the United States Copyright Office.

47. Upon information and belief, the Purported November 1998 Document was never recorded.

48. The “Assets” existing at the time of the October 15, 1998 Assignment and transferred to SLMI include, among other things:

(a) Stan Lee’s Name and Likeness – The October 15, 1998 Assignment expressly assigned, conveyed and granted to SLMI Stan Lee’s name and likeness in perpetuity.

(b) Spider-Man Comic Strip – In 1977, the defendant, Stan Lee, introduced Spider-Man as a syndicated newspaper strip that went on to become the most successful of all syndicated adventure strips. The Spider-Man comic strip appears in more than 500 newspapers worldwide – making it the longest running of all superhero strips. All of defendant Stan Lee’s financial interest in creations with regard to the stories, artwork, names, titles, ideas, designs, visual representations and plots from 1977 to the present are the assets and properties of SLMI. In addition, a share of income and/or revenue obtained by defendant Stan Lee from October 15, 1998 through the present from the Spider-Man Comic Strip property belongs to SLMI pursuant to the express terms of the October 15, 1998 Assignment.

- (c) Spiderman
- (d) Iron-Man
- (e) The Incredible Hulk
- (f) X-Men
- (g) Fantastic Four
- (h) Daredevil

49. Since October 15, 1998, the defendant Stan Lee, while employed by SLMI, created certain assets, copyrights and trademarks and intellectual properties, which, by the express terms of the October 15, 1998 Assignment, inured to the benefit and ownership of SLMI. They include, but are not limited to, the following:

- (a) Stanlee.NET web site and portal –
- (b) The Accuser –
- (c) The Drifter –
- (d) Stan's Evil Clone –
- (e) Chrysallis –
- (f) The Stone Giant –
- (g) Battle School Tranquility –
- (h) Lee Schultz Partnership –
- (i) DC Comics/Stan Lee Project –
- (j) Scuzzle Project and Scuzzle Design Project –
- (k) Marvel Income/Revenues/Compensation Outside of Compensation

for 10-15 hours of weekly work for Marvel Enterprises, Inc. – Pursuant to the terms of the October 15, 1998 Assignment, SLMI was entitled to all assets and revenues from all services performed by defendant Stan Lee, with the exception only of compensation from Marvel Enterprises, Inc. to defendant Stan Lee, for those services of 10-15 hours per week, from November 1998 forward. To the extent that defendant Stan Lee obtained any other compensation for any services or other things beyond the 10-15 hours per week of work for Marvel Enterprises,

inc., SLMI was entitled to 100% of such income and an interest in any of the “Assets” pursuant to the express provisions of the October 15, 1998 Assignment.

(l) All other publications written, produced and/or otherwise participated in by defendant, Stan Lee – The defendant Stan Lee receives royalties directly from publishers and others on a variety of projects and publications, for which he has participated as a writer, producer and/or in some other capacity or affiliation. The October 15, 1998 Assignment assigned all such rights in such properties and the royalties generated by such properties to the SLMI.

(m) Stan Lee’s interest in the use of the name and trademark of “Marvel” in every intellectual property manifestation.

50. Upon information and belief, the defendant Stan Lee has, before and after the October 15, 1998 Assignment, performed work for a company by the name of Marvel Characters B.V. and other Marvel companies, has created “Assets” and other intellectual property interests, and has obtained payment for services and the use of his name, likeness and slogans and for his interest in the name and trademark of Marvel, and other things, to all of which SLMI is entitled.

51. Upon information and belief, at all times material hereto, all of the defendants, as well as all of the relevant officers, executives, directors and principal shareholders of the defendant entities, had actual and/or constructive knowledge of the continuing existence and validity of the October 15, 1998 Assignment.

52. At all times material hereto, SLMI, as well as its predecessors in interest, did all things required of them pursuant to the October 15, 1998 Assignment in order to retain exclusive ownership and right to all of the “Assets.”.

53. Upon information and belief, Marvel since November 1998 and up until the present time has paid or promised to pay third parties and Stan Lee, and has obligated itself to pay and has paid Joan Lee and Joan C. Lee monies, rather than SLMI.

54. Upon information and belief, defendants thereafter continued a course of action to defraud SLMI, including keeping secret settlement terms and a settlement document dated on or about April 2005 in the New York Federal Court for the Southern District of New York in an action entitled Stan Lee v. Marvel Entertainment, 1-02 CIV 08945, an action then pending before Judge Robert Sweet.

55. Upon information and belief, a settlement was made between Lee and Marvel on Lee's claims and those settlement terms were sealed at the request of Marvel, Perlmutter and Stan Lee, for they knew, amongst other things, that the full terms of the settlement would show the extent of SLMI's rights, that Marvel acknowledged Stan Lee's rights and that defendants intentionally defrauded SLMI.

56. Upon information and belief, if all the sealed documents were released, along with all the other details leading to the settlement and all details of that litigation, it would not only reveal information of defendants' frauds, but the terms of the settlement would show that defendants have previously taken positions, and presently take positions, that contradict each other.

57. Those sealed documents would also prove that Marvel and Perlmutter have always recognized Stan Lee's "Assets" and co-creation rights and copyright interests, as well as his intellectual property interests in the Marvel name and trademark.

58. Contrary to SLMI's ownership rights to the "Assets," the defendants have used, marketed, licensed, merchandised, promoted, advertised and otherwise exploited the

“Assets” for their own financial benefit, and without the participation, authority and consent of SLMI.

59. Contrary to SLMI’s ownership rights to the “Assets,” the defendants have not paid to SLMI the income, proceeds and profits from defendants’ unauthorized use, marketing, licensing, merchandising, promotion, advertising and exploitation of the “Assets”.

60. As the defendants have received income, proceeds and profits from the defendants’ use, marketing, licensing, merchandising, promotion, advertising and exploitation of the “Assets”, the defendants have a duty to account to and pay to SLMI.

61. The defendants have utilized Stan Lee’s name, “Assets”, likeness, persona, and signature slogans, which they cannot utilize for any purpose because he had assigned them to SLMI.

62. Defendants have attempted to use Stan Lee’s interest in the Marvel name and trademark while failing to account to SLMI as the joint owner thereby.

63. No demand has been made on the SLMI company by plaintiffs to commence this litigation, for such a demand would have been futile because SLMI cannot presently authorize such a suit.

64. Stan Lee, through Marvel and Marvel, in a New York Federal Court litigation in the Southern District of New York, Stan Lee Media, Inc. v. Marvel, 07 CIV 2238 (PAC), have attempted to stop SLMI from asserting its rights against them.

65. Marvel, through Stan Lee, and Stan Lee, in a Colorado litigation (In re Application of P.F.P. Family Holdings, L.P. and Concerning Stan Lee Media, Inc., Docket No. 2008 CV 8584), have attempted to block a quorum and have attempted to block the formation of a Board of Directors of SLMI and have attempted to stop SLMI from recovering its “Assets.”

66. Upon information and belief, Marvel, Perlmutter, Stan Lee, Joan Lee and Joan C. Lee will continue to litigate in Colorado, New York, California and elsewhere to try to stop SLMI from asserting its rights against them.

COUNT I: ACTION FOR DECLARATORY RELIEF
[As Against All Defendants As To The
Ownership of the “Assets”, Including the “Assets” in the
October 15, 1998 Assignment]

67. SLMI repeats and realleges each and every allegation contained in paragraphs 1 through 66 above as if fully set forth herein.

68. SLMI seeks a declaratory judgment that SLMI is the owner of the “Assets”, together with a claim for damages and other injunction relief as set forth herein.

69. SLMI brings this action for a declaratory judgment that defendants are not the rightful and legal owner of all of the “Assets” and that defendants are barred from so contending.

70. SLMI is the rightful and legal owner of certain “Assets” and a sole owner of others.

71. The defendants have asserted an actual, present, adverse and antagonistic interest to SLMI’s claims.

72. As a direct and proximate result of the actions of the defendants as described herein, SLMI has also suffered damages.

73. With regard to those equitable aspects of this cause, SLMI has no adequate remedy at law.

74. Based upon the foregoing, there is a bona fide, actual, present and practical need for a declaratory judgment from this Court.

75. Based upon the foregoing, the declaratory judgment sought deals with a present, ascertained, or ascertainable state of facts and/or a present controversy as to the state of facts.

76. Based upon the foregoing, SLMI seeks to end uncertainty and insecurity with respect to its rights, status and other equitable and legal relations regard the October 15, 1998 Assignment, by the issuance of declaratory relief.

COUNT II: ACTION FOR DECLARATORY RELIEF
[As Against All Defendants]
[As to Ownership of the Properties, Copyrights, Trademarks and Claims,
Including the Properties As Described in the October 15, 1998 Assignment]

77. SLMI repeats and realleges each and every allegation contained in paragraphs 1 through 66 above as if fully set forth herein.

78. SLMI seeks a declaratory judgment that SLMI is the owner of the Properties, together with a claim for damages and other injunctive relief as set forth herein.

79. SLMI brings this action for a declaratory judgment that the defendant, Stan Lee, is not the rightful and legal owner of the “Assets” and that defendant Stan Lee is barred from so contending.

80. SLMI is the rightful and legal owner of the “Assets.”

81. Defendant Stan Lee has asserted an actual, present, adverse and antagonistic interest to some of the “Assets.”

82. As a direct and proximate result of the actions of defendant Stan Lee as described herein, SLMI has also suffered damages.

83. With regard to those equitable aspects of this cause, SLMI has no adequate remedy at law.

84. Based upon the foregoing, there is a bona fide, actual, present and practical need for a declaratory judgment from this Court.

85. Based upon the foregoing, the declaratory judgment sought deals with a present, ascertained, or ascertainable state of facts and/or a present controversy as to the state of facts.

COUNT III: ACTION FOR DECLARATORY RELIEF
[As Against All Defendants]
[As to Rights to Stan Lee's Name and Likeness
And SLMI's Interest in the Name and Trademark of Marvel]

86. SLMI repeats and realleges each and every allegation contained in paragraphs 1 through 66 above as if fully set forth herein.

87. SLMI seeks a declaratory judgment that SLMI has the right to use the name, likeness, symbols, logos, designs, and visual representations of Stan Lee and the Marvel name and trademark.

88. Pursuant to the October 15, 1998 Assignment, defendant Stan Lee conveyed to SLMI the following:

“I [Stan Lee] assign, convey and grant to [Stan Lee Entertainment, Inc.] forever, all right, title and interest I may have or control, now or in the future, in the following: Any and all . . . symbols, logos, designs, likenesses (the ‘Property’) . . . and any copyrights, trademarks, statutory rights, common law, goodwill, moral rights and any other rights whatsoever in the Property in any and all media and/or fields, including all rights to renewal or extensions of copyright and make applications or institute suits therefore (the ‘Rights’).

(For purposes of this cause of action, the items described in the foregoing quoted paragraph shall be referred to, for simplicity purposes, as “Stan Lee’s Name and Likeness.”)

89. SLMI seeks a declaratory judgment from this Court that defendants are not the rightful and legal owner of Stan Lee’s Name and Likeness, and the Marvel name and trademark, and that defendants are barred from so contending.

90. SLMI is the rightful and legal owner of Stan Lee's Name and Likeness and an interest in the Marvel name and trademark.

91. The defendants have asserted an actual, present, adverse and antagonistic interest to SLMI's ownership of Stan Lee's Name and Likeness and the Marvel name and trademark.

92. As a direct and proximate result of the actions of the defendants, as described herein, SLMI has also suffered damages.

93. With regard to those equitable aspects of this cause, SLMI has no adequate remedy at law.

94. Based upon the foregoing, there is a bona fide, actual, present and practical need for a declaratory judgment from this Court.

95. Based upon the foregoing, the declaratory judgment sought deals with a present, ascertained, or ascertainable state of facts and/or a present controversy as to the state of facts.

96. Based upon the foregoing, SLMI is insecure and uncertain with respect to its rights, status and other equitable and legal relations regarding the October 15, 1998 Assignment, and is in need of a declaratory judgment from this Court establishing certainty and security.

COUNT IV: MISAPPROPRIATION OF CORPORATE OPPORTUNITY
[As Against All Defendants]

97. SLMI repeats and realleges each and every allegation contained in paragraph 1 to 66 through above as if fully set forth herein.

98. SLMI brings this action against all the defendants who attempt to divest SLMI of its "Assets" and other intellectual property interests.

99. At all times material to this cause of action, defendant Stan Lee was a director and officer of SLMI.

100. At all times material to this cause of action, defendant Stan Lee owed a fiduciary duty to SLMI, which is the highest standard of duty implied by law.

101. At all times material to this cause of action, defendant Stan Lee owed a duty to SLMI to act in the best interests of SLMI, subordinating his own personal interests to those of SLMI.

102. At all times material to this cause of action, defendant Marvel has been substantially controlled by Perlmutter.

103. While defendant Stan Lee was purportedly acting as a director and officer of SLMI, he intentionally failed to perform his duties as director and officer, so that the "Assets" of SLMI were mismanaged, wasted, and diverted to defendants, and its copyright interests were infringed upon and ignored.

104. SLMI has thereby suffered great loss, the value of SLMI's stock and dividends has suffered great loss, and other shareholders have been similarly damaged.

105. Defendant Stan Lee intentionally failed to perform his duties as director and officer, in that he permitted property, property rights, and contractual rights of SLMI to be diverted to defendants for their personal benefit.

106. All defendants have been unjustly enriched as the result of his intentional failure to perform defendant Stan Lee's duties as director and officer of SLMI.

107. As a result, plaintiffs are entitled to compensatory and punitive damages, including prejudgment and post judgment interest.

COUNT V: ACTION FOR FRAUD
[Against All Defendants]

108. SLMI repeats and realleges each and every allegation contained in paragraphs 1 through 66 above as if fully set forth herein.

109. This is a cause of action for fraud against all defendants.

110. The actions of the defendants, as previously alleged, constituted a fraud on the shareholders of SLMI.

111. That fraud was malicious, willful and intentional.

112. All of the defendants have been unjustly enriched as a result of these frauds.

113. As a result, plaintiffs are entitled to both compensatory and punitive damages.

COUNT VI: BREACH OF FIDUCIARY DUTY AND INDUCING A BREACH OF A FIDUCIARY DUTY
[Against All Defendants]

114. SLMI repeats and realleges each and every allegation contained in paragraphs 1 through 66 above as if fully set forth herein.

115. SLMI brings this action against the defendant Stan Lee and against Perlmutter, Lieberman, Marvel and others who conspired, induced and pressured Stan Lee to violate his obligation of duty.

116. At all times material to this cause of action, defendant Stan Lee was a director and officer of SLMI.

117. At all times material to this cause of action, defendant Stan Lee owed a duty to SLMI to act in the best interests of SLMI, while subordinating his own personal interests to those of SLMI.

118. At all times material to this cause of action, corporate entities substantially owned or controlled by Stan Lee, Lieberman and Perlmutter and Marvel were doing business in New York.

119. At all times material hereto, these entities have been in direct competition with the business of SLMI.

120. While defendant Stan Lee was purportedly acting in his fiduciary capacity as a director and officer of SLMI, he failed to perform his fiduciary duties as director and officer so that the "Assets" of SLMI were mismanaged, wasted, and diverted to defendants.

121. While defendant Stan Lee was purportedly acting in his fiduciary capacity as a director and officer of SLMI, he participated in, organized and conspired with the other defendants in a plan, and/or knowingly allowed, former principals of SLMI to be taken from their positions at SLMI and placed in high level executive positions in other companies which have always been in direct competition with the business of SLMI.

122. While defendant Stan Lee was purportedly acting in his fiduciary capacity as a director and officer of SLMI, he permitted himself to be wrongfully pressured by Perlmutter, Marvel and others to allow Marvel, Perlmutter, Lieberman, Joan Lee and Joan C. Lee, and former principals of SLMI, to cause "Assets" to be assigned to businesses in direct competition with SLMI.

123. Defendants did not have the right or legal authority to do so.

124. While defendant Stan Lee was purportedly acting in his fiduciary capacity as a director and officer of SLMI, he conspired with the other defendants to exploit SLMI's "Assets" for his and the other defendants' financial benefit, all the while knowing that these

other entities had no legal authority to be in possession of such “Assets”; and that SLMI and its creditors would suffer great financial harm as a result.

125. Based upon the totality of his actions, defendant Stan Lee has breached his fiduciary duty as a director and officer of SLMI, and he was induced to so breach his fiduciary duty by virtue of the wrongful and knowing actions of all the other defendants.

126. As a direct result of defendant Stan Lee’s breach of his fiduciary duty to SLMI and his conspiracy with the remaining defendants, SLMI has thereby suffered great loss, the value of SLMI’s stock and dividends has suffered great loss, and other shareholders have been similarly damaged.

127. All defendants have been unjustly enriched as the result of his actions.

COUNT VII: BREACH OF CONTRACT and INDUCING A BREACH OF CONTRACT
[Against All Defendants]

128. SLMI repeats and realleges each and every allegation contained in paragraphs 1 through 66 above as if fully set forth herein.

129. This is a cause of action for breach of contract against defendant Stan Lee, and against all other defendants, who conspired with Stan Lee in that breach, and who therefore benefitted from it.

130. Pursuant to the terms of the October 15, 1998 Assignment, SLMI is entitled to the possession, ownership and all revenues, profits and payments realized from the “Assets”.

131. The October 15, 1998 Assignment expressly provides that, with the exception of the 10-15 hours of services per week provided by defendant Stan Lee to Marvel Enterprises, Inc., all other payments, revenues, profits and proceeds realized as a result of

defendant Stan Lee's services and/or creations either for SLMI or for any other entity, are the property of SLMI.

132. Defendant Stan Lee has breached his contractual obligations to SLMI by taking the "Assets" from SLMI, as well as the revenues, profits and payments realized from the "Assets".

133. Defendant Stan Lee has breached his contractual obligations to SLMI by failing to pay to SLMI the entirety of all revenues, profits, payments and income realized by any of his services and/or creations above and beyond the 10-15 hours per week of services to Marvel Enterprises, Inc.

134. As a result of defendant Stan Lee's breach of his contractual obligations and all other defendants' wrongfully and knowingly inducing that breach of contract, SLMI has suffered damages.

135. As a result of the defendants acting in conspiracy with Stan Lee and inducing a breach of contract, SLMI has suffered damages.

136. SLMI is entitled to be awarded its costs of suit with regard to this cause of action.

COUNT VIII: CIVIL CONSPIRACY
[As Against All Defendants]

137. SLMI repeats and realleges each and every allegation contained in paragraph 1 through 66 above as if fully set forth herein.

138. Upon information and belief, beginning on or about November 1998 and at various other times thereafter, defendants Stan Lee, Lieberman and Perlmutter met, joined together, planned, and conspired to take "Assets" of SLMI, and convey such assets to

