

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

Perlmutter, 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(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)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		
<b>CONTRACT</b>	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<b>FORFEITURE/PENALTY</b>	<b>BANKRUPTCY</b>	<b>OTHER STATUTES</b>
<input type="checkbox"/> 110 INSURANCE	<input type="checkbox"/> 310 AIRPLANE	<input type="checkbox"/> 362 PERSONAL INJURY -	<input type="checkbox"/> 610 AGRICULTURE	<input type="checkbox"/> 422 APPEAL	<input type="checkbox"/> 400 STATE
<input type="checkbox"/> 120 MARINE	<input type="checkbox"/> 315 AIRPLANE PRODUCT	<input type="checkbox"/> MED MALPRACTICE	<input type="checkbox"/> 620 OTHER FOOD &	<input type="checkbox"/> 28 USC 158	<input type="checkbox"/> REAPPORTIONMENT
<input type="checkbox"/> 130 MILLER ACT	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> 365 PERSONAL INJURY	<input type="checkbox"/> DRUG	<input type="checkbox"/> 423 WITHDRAWAL	<input type="checkbox"/> 410 ANTITRUST
<input type="checkbox"/> 140 NEGOTIABLE	<input type="checkbox"/> 320 ASSAULT, LIBEL &	<input type="checkbox"/> PRODUCT LIABILITY	<input type="checkbox"/> 625 DRUG RELATED	<input type="checkbox"/> 28 USC 157	<input type="checkbox"/> 430 BANKS & BANKING
<input type="checkbox"/> INSTRUMENT	<input type="checkbox"/> SLANDER	<input type="checkbox"/> 368 ASBESTOS PERSONAL	<input type="checkbox"/> SEIZURE OF		<input type="checkbox"/> 450 COMMERCE
<input type="checkbox"/> 150 RECOVERY OF	<input type="checkbox"/> 330 FEDERAL	<input type="checkbox"/> INJURY PRODUCT	<input type="checkbox"/> PROPERTY	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 460 DEPORTATION
<input type="checkbox"/> OVERPAYMENT &	<input type="checkbox"/> EMPLOYERS'	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> 21 USC 881	<input type="checkbox"/> 820 COPYRIGHTS	<input type="checkbox"/> 470 RACKETEER INFLU-
<input type="checkbox"/> ENFORCEMENT	<input type="checkbox"/> LIABILITY	<b>PERSONAL PROPERTY</b>	<input type="checkbox"/> 630 LIQUOR LAWS	<input checked="" type="checkbox"/> 820 COPYRIGHTS	<input type="checkbox"/> ENCED & CORRUPT
<input type="checkbox"/> OF JUDGMENT	<input type="checkbox"/> 340 MARINE		<input type="checkbox"/> 640 RR & TRUCK	<input type="checkbox"/> 830 PATENT	<input type="checkbox"/> ORGANIZATION ACT
<input type="checkbox"/> 151 MEDICARE ACT	<input type="checkbox"/> 345 MARINE PRODUCT		<input type="checkbox"/> 650 AIRLINE REGS	<input type="checkbox"/> 840 TRADEMARK	<input type="checkbox"/> (RICO)
<input type="checkbox"/> 152 RECOVERY OF	<input type="checkbox"/> LIABILITY	<input type="checkbox"/> 370 OTHER FRAUD	<input type="checkbox"/> 660 OCCUPATIONAL		<input type="checkbox"/> 480 CONSUMER CREDIT
<input type="checkbox"/> DEFAULTED	<input type="checkbox"/> 350 MOTOR VEHICLE	<input type="checkbox"/> 371 TRUTH IN LENDING	<input type="checkbox"/> SAFETY/HEALTH	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 490 CABLE/SATELLITE TV
<input type="checkbox"/> STUDENT LOANS	<input type="checkbox"/> 355 MOTOR VEHICLE	<input type="checkbox"/> 380 OTHER PERSONAL	<input type="checkbox"/> 690 OTHER	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 810 SELECTIVE SERVICE
<input type="checkbox"/> (EXCL VETERANS)	<input type="checkbox"/> PRODUCT LIABILITY	<input type="checkbox"/> 385 PROPERTY DAMAGE	<b>LABOR</b>	<input type="checkbox"/> 862 BLACK LUNG (923)	<input type="checkbox"/> 850 SECURITIES/
<input type="checkbox"/> 153 RECOVERY OF	<input type="checkbox"/> 360 OTHER PERSONAL	<input type="checkbox"/> PRODUCT LIABILITY	<input type="checkbox"/> 710 FAIR LABOR	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> COMMODITIES/
<input type="checkbox"/> OVERPAYMENT	<input type="checkbox"/> INJURY		<input type="checkbox"/> STANDARDS ACT	<input type="checkbox"/> 864 SSID TITLE XVI	<input type="checkbox"/> EXCHANGE
<input type="checkbox"/> OF VETERAN'S			<input type="checkbox"/> LABOR/MGMT	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 875 CUSTOMER
<input type="checkbox"/> BENEFITS			<input type="checkbox"/> RELATIONS		<input type="checkbox"/> CHALLENGE
<input type="checkbox"/> 160 STOCKHOLDERS			<input type="checkbox"/> 730 LABOR/MGMT	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 12 USC 3410
<input type="checkbox"/> SUITS	<b>ACTIONS UNDER STATUTES</b>	<b>PRISONER PETITIONS</b>	<input type="checkbox"/> REPORTING &	<input type="checkbox"/> 870 TAXES (U.S. Plaintiff or	<input type="checkbox"/> 890 OTHER STATUTORY
<input type="checkbox"/> 190 OTHER	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 510 MOTIONS TO	<input type="checkbox"/> DISCLOSURE ACT	<input type="checkbox"/> Defendant)	<input type="checkbox"/> ACTIONS
<input type="checkbox"/> CONTRACT	<input type="checkbox"/> 441 VOTING	<input type="checkbox"/> VACATE SENTENCE	<input type="checkbox"/> 740 RAILWAY LABOR ACT	<input type="checkbox"/> 871 IRS-THIRD PARTY	<input type="checkbox"/> 891 AGRICULTURAL ACTS
<input type="checkbox"/> 195 CONTRACT	<input type="checkbox"/> 442 EMPLOYMENT	<input type="checkbox"/> 28 USC 2255	<input type="checkbox"/> 790 OTHER LABOR	<input type="checkbox"/> 26 USC 7609	<input type="checkbox"/> 892 ECONOMIC
<input type="checkbox"/> PRODUCT	<input type="checkbox"/> 443 HOUSING/	<input type="checkbox"/> 530 HABEAS CORPUS	<input type="checkbox"/> LITIGATION		<input type="checkbox"/> STABILIZATION ACT
<input type="checkbox"/> LIABILITY	<input type="checkbox"/> ACCOMMODATIONS	<input type="checkbox"/> 535 DEATH PENALTY	<input type="checkbox"/> 791 EMPL RET INC		<input type="checkbox"/> 893 ENVIRONMENTAL
<input type="checkbox"/> 196 FRANCHISE	<input type="checkbox"/> 444 WELFARE	<input type="checkbox"/> 540 MANDAMUS & OTHER	<input type="checkbox"/> SECURITY ACT		<input type="checkbox"/> MATTERS
	<input type="checkbox"/> 445 AMERICANS WITH	<input type="checkbox"/> 550 CIVIL RIGHTS	<b>IMMIGRATION</b>		<input type="checkbox"/> 894 ENERGY
<b>REAL PROPERTY</b>	<input type="checkbox"/> 446 AMERICANS WITH	<input type="checkbox"/> 555 PRISON CONDITION	<input type="checkbox"/> 462 NATURALIZATION		<input type="checkbox"/> ALLOCATION ACT
<input type="checkbox"/> 210 LAND	<input type="checkbox"/> 440 OTHER CIVIL RIGHTS		<input type="checkbox"/> APPLICATION		<input type="checkbox"/> 895 FREEDOM OF
<input type="checkbox"/> 220 CONDEMNATION			<input type="checkbox"/> 463 HABEAS CORPUS-		<input type="checkbox"/> INFORMATION ACT
<input type="checkbox"/> FORECLOSURE			<input type="checkbox"/> ALIEN DETAINEE		<input type="checkbox"/> APPEAL OF FEE
<input type="checkbox"/> 230 RENT LEASE &			<input type="checkbox"/> OTHER IMMIGRATION		<input type="checkbox"/> DETERMINATION
<input type="checkbox"/> EJECTMENT			<input type="checkbox"/> ACTIONS		<input type="checkbox"/> UNDER EQUAL
<input type="checkbox"/> 240 TORTS TO LAND					<input type="checkbox"/> ACCESS TO JUSTICE
<input type="checkbox"/> 245 TORT PRODUCT					<input type="checkbox"/> 950 CONSTITUTIONALITY
<input type="checkbox"/> LIABILITY					<input type="checkbox"/> OF STATE STATUTES
<input type="checkbox"/> 290 ALL OTHER					
<input type="checkbox"/> 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    ☐ 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
- ☐ 2b. Removed from State Court **AND** at least one party is pro se.

(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 <u>and</u> PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	[ ]	[ ]
CITIZEN OF ANOTHER STATE	[ ]	[ ]	INCORPORATED <u>or</u> 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)

RECEIPT #

Attorney Bar Code #

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

Magistrate Judge \_\_\_\_\_ is so Designated.

J. Michael McMahon, 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 57<sup>th</sup> 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, 14<sup>th</sup> Floor  
New York, NY 10017

MARTIN GARBUS LLC  
Martin Garbus, Esq.  
100 West 57<sup>th</sup> 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  
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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. SLMi 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.], 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/Stam 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., SLM I 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 SLM I.

(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 SLM I 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, SLM I, 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

defendants, Marvel and other entities for the financial benefit of all defendants, and to the detriment of SLMI, its shareholders and creditors.

139. All of the defendants agreed or understood that the purpose of their meetings and agreements was as described in the preceding paragraph, understood that both their purpose and their methods of achieving this purpose were improper, fraudulent, unlawful and tortious, and would result in injury to SLMI, its shareholders and creditors, and agreed and understood that each would act in concert with the others to achieve this purpose.

140. Upon information and belief, in furtherance of the conspiracy described herein, defendant Stan Lee caused entities to be formed and convinced and caused former principals of SLMI to thereafter make false representations in written agreements.

141. Upon information and belief, defendants have fraudulently transferred, concealed, and dissipated many of the "Assets", properties, copyrights and trademarks they received, and they continue to dissipate those "Assets."

142. Defendants undertook the acts described in this cause of action with malice and intent to cause damage to SLMI, its shareholders and its creditors.

143. Defendants undertook the acts described herein for their own financial gain.

144. With regard to defendant Stan Lee, he also engaged in the acts described herein while purportedly acting in his capacity as agent, fiduciary, officer and director of SLMI.

145. With regard to Marvel, they conspired with Stan Lee to continue to market, distribute, produce and sell Marvel characters.

146. The acts described herein are improper, unlawful and tortious, constituting conversion of corporate assets and the unlawful conveyance of property.

147. As a result of the acts described herein, SLMI has suffered damages.

148. Unless prevented by appropriate injunctive measures, the defendants will continue to inflict damages upon SLMI by continuing to use the “Assets” for their own financial gain.

**COUNT IX: DEMAND FOR ACCOUNTING OF PROFITS**  
**[As Against All Defendants]**

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

150. This is an action in equity seeking a damages award against defendants for certain income, proceeds and profits, obtained by defendants by and through defendants’ unilateral and unauthorized use, marketing, licensing, merchandising, promotion, advertising and exploitation of the “Assets”.

151. At all times material hereto, the defendants had no entitlement or right of any kind to the “Assets” owned by SLMI and those “Assets” assigned in the October 15, 1998 Assignment.

152. Contrary to SLMI’s exclusive ownership rights to same, the defendants have used, marketed, licensed, merchandised, promoted, advertised and otherwise exploited the creations for their own financial benefit, and without the participation, authority and consent of SLMI.

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

154. The defendants have a duty to account to and pay to SLMI the income, proceeds and profits derived from defendants' use, marketing, licensing, merchandising, promotion, advertising and exploitation of the "Assets".

155. Equity and justice require that defendants account to SLMI for any and all income, proceeds and profits from the defendants' use, marketing, licensing, merchandising, promotion, advertising and exploitation of the "Assets".

156. Equity and justice require that defendants pay to SLMI, and that this Court enter an award of damages in favor of SLMI, in an amount equal to any and all income, proceeds and profits derived from the defendants' use, marketing, licensing, merchandising, promotion, advertising and exploitation of the "Assets".

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

**COUNT X: CONSTRUCTIVE TRUST**  
**[As Against All Defendants]**

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

159. Based upon the foregoing, the defendants have knowingly and wrongfully used, marketed, licensed, merchandised, promoted, advertised and exploited the "Assets", of which SLMI is the rightful and legal owner.

160. At all times material hereto, the defendants have had actual and constructive notice of the October 15, 1998 Assignment, Stan Lee's interest in his characters and creations, and SLMI's rights to the "Assets".

161. Equity and justice require that defendants be deemed to hold any and all income, proceeds and profits from the defendants' use, marketing, merchandising, promoting, advertising and exploitation of the "Assets" in constructive trust for SLMI.

162. SLMI seeks the imposition of a constructive trust over the entirety of the income, proceeds and profits from the defendants' use, marketing, merchandising, promoting, advertising and exploitation of the "Assets".

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

**COUNT XI: VIOLATION OF SECTION 43(a) LANHAM ACT**  
**[As Against All Defendants]**

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

165. SLMI is the assignee of defendant Stan Lee, pursuant to the October 15, 1998 Assignment, of any and all of defendant Stan Lee's name, likeness, signature, symbols, logos, designs, and visual representations, as well as any trademarks (including Stan Lee's interest in the Marvel trademark), including those set forth in said October 15, 1998 Assignment.

166. None of the defendants have any right of any kind to use the name, likeness, signature, symbols, logos, designs, and visual representations of Stan Lee or any trademarks including or evidencing the same.

167. SLMI is protected by Section 43(a) of the Lanham Act as assignee of defendant Stan Lee.

168. Defendants have and continue to use, market, merchandise, promote, advertise, license and exploit the name, likeness, signature, symbols, logos, designs, visual



representations of Stan Lee, as well as trademarks (including the Marvel Trademark), including and evidencing the same, for their financial benefit.

169. Defendants have used, marketed, merchandised, promoted, advertised, licensed and exploited the name, likeness, signature, symbols, logos, designs and visual representations of Stan Lee, as well as trademarks (including the Marvel trademark), evidencing the same, without any authority from SLMi and in violation of Section 43(a) of the Lanham Act.

170. Upon information and belief, defendants have derived a financial benefit from utilizing Stan Lee's name, likeness, signature, symbols, logos, designs and visual representations, as well as trademarks (including the Marvel trademark), evidencing the same, in the manner described in this cause of action.

171. Defendants, in connection with goods and services, have used false designations of origin, false or misleading descriptions of fact, false or misleading representations of fact which are likely to cause confusion or mistake or to deceive as to the affiliation, connection or association of Stan Lee with the defendants.

172. Defendants, in connection with goods and services, have used false designations of origin, false or misleading descriptions of fact, false or misleading representations of fact which misrepresent the ownership, nature, characteristics, qualities or geographic origin of the "Assets".

173. Defendants' false claims regarding their rights in and to the "Assets" and their use of Stan Lee's name, likeness, signature, symbols, logos, designs and visual representations, as well as trademarks (including the Marvel trademark), evidencing the same, constitute a false or misleading description of fact or a false or misleading representations of fact.

Defendants' misrepresentations falsely characterize and describe the ownership and control of the "Assets" in violation of the Lanham Act.

174. By engaging in the conduct alleged herein, the defendants have deprived SLMI of its right to receive the goodwill and value that if otherwise would receive as the sole and exclusive owner of the "Assets" and the assignee of any and all rights to Stan Lee's name, likeness, signature, symbols, logos, designs and visual representations, as well as trademarks, including the Marvel trademark. Such recognition would enhance SLMI's name, reputation and goodwill and create opportunities for future business and future economic benefit. Defendants have unjustly and intentionally deprived SLMI of these rights, interests and benefits for defendants' own financial gain.

175. As a direct and proximate result of defendants' wrongful conduct as alleged herein, SLMI has been damaged in an amount not yet ascertained but in excess of the jurisdictional minimum of this Court.

176. Pursuant to 15 U.S.C. § 1117, SLMI is entitled to receive a judgment equal to three times the amount of defendants' profits or to recover the amount of SLMI's actual damages, whichever is greater, plus costs of suit, prejudgment and post-judgment interest on all amounts awarded, and reasonable attorney's fees.

177. The acts and omissions of defendants were willful and malicious, and done with an intent to injury SLMI and with full knowledge of the adverse effects such acts would have on SLMI, and with a conscious disregard of SLMI's rights and willful and deliberate disregard for the consequences to SLMI, such as to constitute oppression, fraud or malice thus entitling SLMI to exemplary and punitive damages in an amount appropriate to punish or set an example of defendants and to deter such conduct in the future.

178. A monetary award, alone, is not adequate to compensate SLMI with regard to this cause of action. SLMI, therefore, also seeks a temporary restraining order and permanent injunction under 15 U.S.C. § 1125(c) and other applicable law prohibiting defendants from continuing to wrongfully violate SLMI's rights as set forth herein.

**COUNT XII: VIOLATION OF COMMON LAW RIGHT OF PUBLICITY**  
**[As Against All Defendants]**

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

180. Pursuant to the October 15, 1998 Assignment, the 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, visual representations, . . . including my name and likeness (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, these items shall be referred to, for simplicity purposes, as “Stan Lee’s Names and Likeness.”

181. Based upon the foregoing, SLMI is the assignee of defendant Stan Lee pursuant to the October 15, 1998 Assignment, of any and all of defendant Stan Lee’s name, likeness, signature and persona, among other things.

182. None of the defendants has any right of any kind to use the name, likeness, signature and/or persona of Stan Lee.

183. Stan Lee’s name, likeness, signature and persona have substantial commercial value.

184. SLMI has never authorized any of the defendants to use Stan Lee's name, likeness, signature and/or persona for any reason.

185. None of the defendants has legally obtained any authorization of any kind to use Stan Lee's name, likeness, signature and/or persona for any reason.

186. Defendants have used Stan Lee's name, likeness, signature and persona for various commercial reasons, and have financially benefited from such uses.

187. Defendants' unauthorized use of Stan Lee's name, likeness, signature and persona constitute violations and misappropriations of SLMI's common law rights of publicity as assignee of Stan Lee, in that defendants have misappropriated Stan Lee's name, likeness, signature, photographs and persona by engaging in such acts without the consent of SLMI.

188. The misappropriation was for defendants' advantage, in that Stan Lee's name, likeness, signature and persona were used by defendants to create and enhance defendants' future pecuniary gain and profit and to convince internet users, as well as Marvel's shareholders, lenders, potential lenders, the general public, and those who have done and/or may in the future do business with the defendants, that defendants have the right to do so.

189. As a proximate result of the defendants' conduct, SLMI has been damaged and will continue to be damaged.

190. SLMI is entitled to a temporary restraining order and permanent injunctive relief enjoining defendants from violating SLMI's common law publicity rights to Stan Lee's name, likeness, signature and persona.

191. The conduct of the defendants as alleged herein was intentional and/or performed with a conscious disregard for SLMI's rights, and with the intent to vex, injure and annoy SLMI, such as to constitute oppression, fraud and/or malice, thus entitling SLMI to an

award of exemplary and punitive damages in an amount sufficient to punish or make an example of defendants and to deter such conduct in the future.

**COUNT XIII: UNFAIR BUSINESS PRACTICES**  
**[As Against All Defendants]**

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

193. Defendants have represented to the Securities and Exchange Commission (SEC), to the public in general, through press releases, information published on their websites and otherwise made available through the medium of the Internet, to lenders, to investors, to competitors of SLM I and otherwise that they own the rights to the “Assets” described herein.

194. Defendants have also represented to the Securities and Exchange Commission (SEC) to the public in general, through press releases, information published on their websites and otherwise made available through the medium of the Internet, to lenders, to investors, to competitors of SLM I and otherwise that they own the rights, in perpetuity, to exclusively use the name, likeness and signature slogans of Stan Lee, including but not limited to “Excelsior!”

195. The aforescribed information is false and misleading.

196. At all times material hereto, defendants were fully aware that the information was false and misleading.

197. None of defendants have any authority of any kind to claim in any publication or otherwise that they own any rights to the “Assets,” the name “Stan Lee,” the likeness of “Stan Lee” and/or the signature slogans of “Stan Lee” such as “Excelsior!”

198. Defendants continue to use Stan Lee’s name, likeness and persona to promote the entirety of their business ventures.

199. Defendants have profited from their unauthorized exploitation of the “Assets,” as well as their use of the name “Stan Lee,” the likeness of “Stan Lee” and/or the signature slogans of “Stan Lee” such as “Excelsior!”

200. Defendants have solicited and entered into contractual relations as a result of their unauthorized exploitation of the “Assets”, as well as their use of the name “Stan Lee,” the likeness of “Stan Lee” and/or the signature slogans of “Stan Lee” such as “Excelsior!”

201. As a result of defendants’ wrongful conduct as described herein, SLMI is entitled to restitution and disgorgement from defendants of any income and profits realized by them as a result, and damages to be proven at trial.

202. SLMI is also entitled to a temporary and permanent injunction against the defendants’ further attempts to utilize and exploit the “Assets,” as well as the name “Stan Lee,” the likeness of “Stan Lee” and/or the signature slogans of “Stan Lee” such as “Excelsior!”

### **PRAYER FOR RELIEF**

WHEREFORE, SLMI requests judgment

On the First Cause of Action – For declaratory relief against all defendants, and attorneys fees and costs;

On the Second Cause of Action – For declaratory relief against all defendants, and attorneys fees and costs;

On the Third Cause of Action – For declaratory relief against all defendants, and attorneys fees and costs;

On the Fourth Cause of Action – For an amount in excess of \$750,000,000 and attorneys fees and costs, and prejudgment and post-judgment interest;

On the Fifth Cause of Action – For an amount to be determined by the Court, including prejudgment and post-judgment interest, and attorneys fees and costs;

On the Sixth Cause of Action – For an amount to be determined by the Court, including prejudgment and post-judgment interest, and attorneys fees and costs;

On the Seventh Cause of Action – For an amount to be determined by the Court, including prejudgment and post-judgment interest. and attorneys fees and costs;

On the Eighth Cause of Action – For an amount to be determined by the Court, including prejudgment and post-judgment interest, and attorneys fees and costs;

On the Ninth Cause of Action – An Accounting of Profits and attorneys fees and costs;

On the Tenth Cause of Action – The Imposition of a Constructive Trust against all defendants and attorneys fees and costs;

On the Eleventh Cause of Action – An amount to be determined by the Court, but not less than \$750,000,000 in damages, and prejudgment and post-judgment interest, and attorneys fees and costs, and equitable relief, including a temporary restraining order and a permanent injunction;

On the Twelfth Cause of Action – For an amount to be determined by the Court, including prejudgment and post-judgment interest, and equitable relief, including a temporary restraining order and a permanent injunction, and attorneys fees and costs;

On the Thirteenth Cause of Action – An Amount to be determined by the Court, including prejudgment and post-judgment interest, and equitable relief, and attorneys fees and costs;

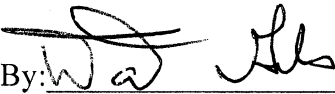
And for such other legal and equitable relief that the court may deem just and proper

**DEMAND FOR JURY TRIAL**

SLMI, by and through its undersigned counsel, hereby demands a jury trial on any and all issues so triable.

Dated: New York, New York  
January 26, 2009

MARTIN GARBUS LLC

By: 

Martin Garbus  
100 West 57<sup>th</sup> Street, Suite 7 C  
New York, New York 10019  
(631) 613-2021  
Martin.garbus@yahoo.com

Attorney for Attorneys for  
Jose Abadin, Nelson Thall, John  
Petrovitz, and Christopher Belland,  
derivatively on behalf of Stan Lee  
Media, Inc



# UNITED STATES DISTRICT COURT

Southern

District of

New York

JOSE ABADIN, NELSON THALL, et al,

## SUMMONS IN A CIVIL ACTION

V.

MARVEL ENTERTAINMENT, INC., et al.,

CASE NUMBER:

TO: (Name and address of Defendant)

MARVEL ENTERTAINMENT, INC.  
417 Fifth Avenue  
New York, NY 10016

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Martin Garbus, Esq.  
Martin Garbus LLC  
100 West 57th Street, Suite 7 C  
New York, NY 10019

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

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TRAVEL	SERVICES	TOTAL \$0.00
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# UNITED STATES DISTRICT COURT

Southern

District of

New York

JOSE ABADIN, NELSON THALL, et al,

## SUMMONS IN A CIVIL ACTION

V.

MARVEL ENTERTAINMENT, INC., et al.,

CASE NUMBER:

TO: (Name and address of Defendant)

MARVEL ENTERPRISES, INC.  
c/o MARVEL ENTERTAINMENT, INC.  
417 Fifth Avenue  
New York, NY 10016

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Martin Garbus, Esq.  
Martin Garbus LLC  
100 West 57th Street, Suite 7 C  
New York, NY 10019

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# UNITED STATES DISTRICT COURT

Southern

District of

New York

JOSE ABADIN, NELSON THALL, et al,

## SUMMONS IN A CIVIL ACTION

V.

MARVEL ENTERTAINMENT, INC., et al.,

CASE NUMBER:

TO: (Name and address of Defendant)

MARVEL CHARACTERS B.V.  
2240 Palm Beach Lakes Blvd., Suite 101  
West Palm Beach, FL 33409

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Martin Garbus, Esq.  
Martin Garbus LLC  
100 West 57th Street, Suite 7 C  
New York, NY 10019

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# UNITED STATES DISTRICT COURT

Southern

District of

New York

JOSE ABADIN, NELSON THALL, et al,

## SUMMONS IN A CIVIL ACTION

V.

MARVEL ENTERTAINMENT, INC., et al.,

CASE NUMBER:

TO: (Name and address of Defendant)

STAN LEE  
9143 Oriole Way  
Los Angeles, CA 90068

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Martin Garbus, Esq.  
Martin Garbus LLC  
100 West 57th Street, Suite 7 C  
New York, NY 10019

an answer to the complaint which is served on you with this summons, within 30 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

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# UNITED STATES DISTRICT COURT

Southern

District of

New York

JOSE ABADIN, NELSON THALL, et al,

## SUMMONS IN A CIVIL ACTION

V.

MARVEL ENTERTAINMENT, INC., et al.,

CASE NUMBER:

TO: (Name and address of Defendant)

JOAN LEE  
9143 Oriole Way  
Los Angeles, CA 90068

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Martin Garbus, Esq.  
Martin Garbus LLC  
100 West 57th Street, Suite 7 C  
New York, NY 10019

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# UNITED STATES DISTRICT COURT

Southern

District of

New York

JOSE ABADIN, NELSON THALL, et al,

## SUMMONS IN A CIVIL ACTION

V.

MARVEL ENTERTAINMENT, INC., et al.,

CASE NUMBER:

TO: (Name and address of Defendant)

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

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Martin Garbus, Esq.  
Martin Garbus LLC  
100 West 57th Street, Suite 7 C  
New York, NY 10019

an answer to the complaint which is served on you with this summons, within 30 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

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# UNITED STATES DISTRICT COURT

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District of

New York

JOSE ABADIN, NELSON THALL, et al,

## SUMMONS IN A CIVIL ACTION

V.

MARVEL ENTERTAINMENT, INC., et al.,

CASE NUMBER:

TO: (Name and address of Defendant)

ISAAC PERLMUTTER  
c/o MARVEL ENTERTAINMENT, INC.  
417 Fifth Avenue  
New York, NY 10016

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Martin Garbus, Esq.  
Martin Garbus LLC  
100 West 57th Street, Suite 7 C  
New York, NY 10019

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

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V.

MARVEL ENTERTAINMENT, INC., et al.,

CASE NUMBER:

TO: (Name and address of Defendant)

JOAN C. LEE  
c/o STAN LEE  
9143 Oriole Way  
Los Angeles, CA 90068

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Martin Garbus, Esq.  
Martin Garbus LLC  
100 West 57th Street, Suite 7 C  
New York, NY 10019

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# UNITED STATES DISTRICT COURT

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District of

New York

JOSE ABADIN, NELSON THALL, et al.,

## SUMMONS IN A CIVIL ACTION

V.

MARVEL ENTERTAINMENT, INC., et al.,

CASE NUMBER:

TO: (Name and address of Defendant)

ARTHUR M. LIEBERMAN, Esq.  
Ganfer & Shore LLP  
360 Lexington Avenue, 14th Floor  
New York, New York 10017

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Martin Garbus, Esq.  
Martin Garbus LLP  
100 West 57th Street, Suite 7 C  
New York, NY 10019

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