Superman Copyright Termination Litigation

The firm was part of the defense team for clients Time Warner Inc., Warner Communications, Inc., Warner Bros. Entertainment Inc., Warner Bros. Television Production Inc. and DC Comics in the ongoing litigation in the U.S. District Court for the Central District of California over the copyright termination interest in certain works featuring the Superman and Superboy characters allegedly owned by the heirs of co-creator,More

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Siegel v. Warner Bros. Entm't Inc.

658 F. Supp. 2d 1036 (C.D. Cal. 2009)

In a lengthy opinion resolving certain additional issues that the parties raised with the Court following its March 2008 decision on the parties' cross motions for summary judgment, the court held that the vast majority of key elements associated with the Superman character that were developed after Action Comics #1 – including Lex Luthor, Kryptonite and Superman's ability to fly – are not part of the copyrights recaptured by the heirs of Jerry Siegel and therefore remain solely owned by DC Comics.

Siegel v. Warner Bros. Entertainment Inc.

542 F. Supp. 2d 1098 (C.D. Cal. 2008)

On March 26, 2008, the Court issued a ruling granting-in-part and denying-in-part the parties' cross-motions for summary judgment, and setting the stage for trial. Despite the fact that the Court 's holding that the Siegels had, under Section 304(c) of the Copyright Act, successfully terminated the first grant of rights in Superman – resulting in a recapture of a one-half share of rights to the first Superman comic story and entitling them to an accounting of profits attributable to that story as exploited in new comics, films and other works by the defendants after 1999, the effective date of the termination – the Court made several further rulings limiting the scope of that termination, including denying the plaintiffs the right to recover profits from foreign exploitation of Superman, profits arising from exploitation of pre-1999 Superman derivative works and profits attributable to DC's famous Superman related trademarks, the first time a court has applied such limiting provisions and exceptions provided for in Section 304(c). The Court also held that a black-and-white depiction of the iconic cover of Action Comics #1 was not subject to termination because it was published outside of the statutory timeframe for serving a termination notice.

Siegel v. Warner Bros. Entertainment Inc.

581 F.Supp.2d 1067 (C.D. Cal. 2008)

On October 6, 2008, the Court granted Defendants' motion to strike Plaintiffs' jury demand in the remaining accounting and "sweetheart deal" claims (see above). The Court held that the Siegels' claim seeking an accounting of profits bore direct historical basis cognizable in equity, and the agency relationship between copyright's co-owners, which was grounded in principles of tenancy in common and duties of a trustee, meant the co-owners had duty to equitably account to other co-owners for any profits. As a result, the Siegels had no right to a trial by jury on that claim. The Court further held that the Siegels' claim that DC Comics was the alter ego of its corporate siblings was similarly equitable in nature, and there was thus no right to jury trial on that question, either.

Siegel v. Warner Bros. Entertainment Inc.

2009 WL 2014164, Case. No. 04-CV-8400 (C.D. Cal. Jul. 9, 2009)

Following a 10 day bench trial conducted over several weeks in which the Court explored the question of whether agreements between defendant DC Comics and its corporate sibling Warner Bros. Entertainment Inc. were made for fair market terms, on July 9, 2009 the Court determined that such agreements were not, in fact, "sweetheart" deals creating a deleterious effect on the Siegels' right to an

accounting for their share of the profits attributable to their recaptured copyright in Action Comics No. 1. In a lengthy decision, the Court provided a detailed analysis of entertainment industry contracts presented by the parties, as well as Defendants' testimony concerning the licensing of comic book and other properties for film, television and merchandise. As a result of this ruling, the Siegels are now able to seek their one-half share of the profits attributable to the recaptured first Superman work only from DC Comics, rather than from Warner Bros. as well. The Court also ruled that defendant Time Warner Inc. has no accounting obligation to the Plaintiffs.

Siegel v. Time Warner, Inc.

496 F. Supp. 2d 1111 (C.D. Cal. 2007)

In this decision in the co-pending Superboy case, the Court granted defendants' motion for reconsideration of its March 23, 2006 ruling that a 1948 decision of the New York State Supreme Court between the parties' predecessors-in-interest determining various claims under state law precluded defendants from asserting several copyright law defenses to the plaintiffs' attempts under section 304(c) of the 1976 Copyright Act, applicable to works created before 1978, to terminate a grant of rights in Superboy. The Court vacated the prior ruling, holding that all such defenses were found to be grounded in copyright law and not subject to any preclusive effect of the 1948 litigation, which involved state law. By its ruling, the court reinstated potentially dispositive defenses that the first Superboy story was (1) a derivative work of Superman containing little new material beyond the idea for depicting the character at age 12, (2) like Superman, a joint work that remains co-owned by DC Comics, and (3) not subject to termination because it was never published so as to be copyrighted before January 1, 1978, and requested supplemental briefing on these issues.