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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARVEL WORLDWIDE, INC.,
MARVEL CHARACTERS, INC. and
MVL RIGHTS, LLC,

Plaintiffs,

-against-

LISA R. KIRBY, BARBARA J. KIRBY,
NEAL L. KIRBY and SUSAN M. KIRBY,

Defendants.

Civil Action No. 10-141 (CM) (KF)

[Hon. Colleen McMahon]

[ECF Case]

**DECLARATION OF MARC TOBEROFF, ESQ. IN SUPPORT OF
DEFENDANTS' OBJECTION TO THE DECLARATION OF JAMES W. QUINN**

I, Marc Toberoff, hereby declare as follows:

1. I represent the defendants in this action. I am familiar with the facts set forth below and make this declaration in support of defendants' objection to the declaration of James W. Quinn. The facts set forth herein are known to me of my own personal firsthand knowledge and, if called as a witness, I could and would testify competently thereto under oath.

2. Plaintiffs have produced over sixteen thousand pages of documents in this case. The "artwork" documents were scattered in clusters throughout the entire production. Pursuant to the Court's Order, my associate focused on locating a fully executed copy of the October 31, 1986 artwork agreement alleged in defendants' fourth claim. Within plaintiffs' production he found copies of a document entitled "Artwork Release" dated June 16, 1987 bearing only what appears to be Jack Kirby's signature. It appears my associate inadvertently missed the allegedly fully executed "Artwork Release" attached as Exhibit C to Mr. Quinn's declaration. I apologize to the Court for any confusion this honest mistake may have caused.

I declare under the penalty of perjury that to the best of my knowledge the foregoing is true and correct.

Dated: November 5, 2010



Marc Toberoff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served electronically by the Court's ECF system and by first class mail on those parties not registered for ECF pursuant to the rules of this Court.

Dated: November 5, 2010

TOBEROFF & ASSOCIATES, P.C.

By: s/Marc Toberoff
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