A COMIC BOOK ARTIST KO'D

Jack Kirby's Six-Year Slugfest With Marvel

The ad was a grabber, a razzmatazz double-page spread in the March 6, 1985, *Variety*. Cannon Films was promoting its upcoming blockbuster, CAPTAIN AMERICA. Above the title the all-caps copy blared: "AMERICA'S STAR-SPANGLED SUPER HERO BATTLES THE FORCES OF EVIL!" And there, dominating the layout loomed the lantern-jawed, megamuscled Captain America himself. Armed only with a circular shield and his pow-argh fist, he hurtled across a Manhattan of silhouetted high-rises. In smaller print, on the lower left side, ran the billing: "The Cannon Group, Inc, in Association with Marvel Entertainment Presents Golan-Globus Production Captain America Based on Stan Lee's Marvel Comic Strip Character . . ."

Jack Kirby doesn't like to talk about how he responded when he saw that ad, but he does mention a time he got so angry he ripped a tie rack off a wall. The problem was that Kirby and his then-partner Joe Simon had been the ones to dream up Captain America. And almost from the start, December 20, 1940, their comic book hero captured the nation's spirit. Newsstand circulation soared to a phenomenal 900,000 per month, making the character one of the most successful ever. True, in the '60s Kirby and Marvel Comics writer-art director Stan Lee had revived him for another run that continues to this day. But the superpatriot's origins can be traced back to the eve of World War II.

"America was building up to go to war. People were being drafted. Joe and I wanted to do something for them, and take on our own competition, give Superman a run for his money. Superman was infallible. Captain America would be a regular guy, but with *terrific* reflexes, a credit to any fitness center," says Kirby in a voice that still rattles from the too many cigars he once smoked. "Captain America, maybe more than the other characters I created, was me—or what I thought I was. So to me, that ad said Marvel and Stan Lee were killing my reputation, my character, me."

Although Cannon deferred to Marvel, which eventually agreed the ad was inaccurate, it was one more skirmish in the ongoing war between the comic book artist and the comic book giant. Since 1981 Kirby and his lawyer had been asking Marvel to return his original artwork, estimated to be worth millions. Marvel, however, claimed ownership of the pages, asserting that Kirby had given up all rights to them years ago. What was at issue, though, went beyond physical custody of the drawings themselves.

For Kirby, one of the field's acknowledged geniuses, the stakes were as high as they come: his place in comic book history. The man who invented the Fantastic Four, the Incredible Hulk, the Silver Surfer, Thor, the X-Men, and was responsible for the genesis of Spiderman, among others, didn't want to be written off, as he had been in the *Variety* ad. For Marvel, the stakes were also enormous. The company, which grossed $100 million in 1986, risked losing the copyright of those characters and hundreds more that Kirby had created during his years freelancing there.

For Kirby's colleagues, the issue was nothing less than artists' rights. Marvel was humiliating a beloved figure, a founding father. In 1986, more than 150 cartoonists and comic book professionals, from Garry Trudeau to Lynda Barry to Art Spiegelman, signed a petition demanding the return of Kirby's artwork. Marvel's response was as it had been all along: to drag out the negotiations. Kirby and Marvel finally reached an agreement late this spring. He received 2100 of the 13,000 pages he had drawn for the company; in exchange, Marvel retained the copyright on all the characters. "I'm grateful but traumatized. It's not that enthusiastic a moment," said Kirby after concluding the deal.

"You look at these closing panels, and you wonder, 'What's wrong with this picture?'" says Mark Evanier, a comic book historian who followed the case closely. "Well, what's wrong is Marvel exploited, robbed, and used Jack Kirby. If you read enough comic books, you can't help feel that there's an injustice being done. In your heart, you want to don a cape and run out to help him. You want a happy ending."

Born Jacob Kurtzberg, in 1917, to Eastern European immigrant parents, Jack Kirby was raised in a Lower East Side walk-up on Suffolk Street. "I was a tough guy in a neighborhood filled with gangsters and cops and crooked politicians," recalls Kirby, a Jimmy Cagney look-alike. "It was a Jewish-Italian-Irish ghetto, with fights the only way to get acquainted."

He loved to read, though, and still talks about poring over the N. C. Wyeth illustrations of the classics, science fiction, and the comics, and being "thunderstruck and galvanized" the day he came across his first rocket ship and outer space city on the cover of a pulp. "I began to realize the possibilities of telling stories with pictures and words," he says, before adding how much he loved movies, too.

"When I was about 12, I tried to convince my mother I should go to Hollywood to become an actor. She told me, 'No, they have naked women there.' Instead, I answered a do-you-want-to-draw ad with the words, 'I do.'" Kirby's limited art training began with a correspondence course.

"I drew my first cartoons for the weekly newsletter of the BBR, the Boys' Brotherhood Republic, a club for the underprivileged. It was the depression; we all qualified." Kirby offers two accounts about any further education. One goes that he tried to attend art school, but was thrown out because he drew too fast. "They said in order to make a good illustration, you have to spend at least a month on it," he explains, then smiles, because he would become the fastest pen-

BY JANET BODE

BEST COPY AVAILABLE

SOME SORT OF MONSTROUS *ROBOT* WHICH-- UNNHHH!

CHARACTER COPYRIGHT MARVEL COMICS GROUP

CLAUDIA KUNIN

JACK KIRBY: "MARVEL AND STAN LEE WERE KILLING MY REPUTATION, MY CHARACTER, ME."

ciler in the comic book business. In the somber version that he's more hesitant to share, he quit Pratt Institute almost immediately after enrolling when his father lost a tailoring job.

In the summer of 1935 Kirby got lucky. He was hired to do piecework, "inbetweening" on *Popeye*, at the Max Fleischer Studio, the hot animation house of its day. "The pay was steady; the work was lousy," he says with a shrug. "You sat at a table surrounded by rows and rows of other tables, 300 people, and I thought of my father's garment shop. And I thought of Chester Gould breaking the mold with *Dick Tracy*, and my idol, my art school, Milton Caniff with *Terry and the Pirates*. I got impatient." The only choice, he decided, was to risk freelancing in a profession that wasn't much older than he was.

He signed on with Lincoln Features, a syndicate that reached 700 weekly newspapers, where soon he was writing and drawing five separate strips in five styles under five names. A couple months later, he picked up more work doing his first daily strip, *The Lone Rider*. By 1940 he'd worked at almost every shop in the business, six weeks here, 12 weeks there, banging out stuff, meeting people, helping colleagues find jobs.

"It was a wild, wonderful time. Once I found out about the first comic magazine, I saw my chance to tell a complete story in 20 pages, one sitting. I didn't need fancy dialogue. I'd get my first real action scenes: WOW POW BAM. Next thing I know, I'm penciling, inking, writing. But the comic book work wasn't that regular so I started over at Fox Features Syndicate. That's where I met Joe Simon and we became partners." Simon, known for his editorial skills (he did some penciling as well) handled "all the business parts," says Kirby, a man "without a tradition of lawyers, of accountants."

At Simon's suggestion they first headed over to Timely, Marvel Comics's precursor, and with *Captain America*, began a string of hits that lasted for the next 15 years. "Jack was under tremendous pressure, penciling as many as nine pages a day," says Greg Theakston, author of *The Jack Kirby Treasury*. "And because of that, his figurework took on a distorted look that gave it more power. With issue number one, he was already experimenting with characters leaping across multiple panels, intentionally making it closer to a movie than a comic book. In issue four he drew comic's first full-page panel; in issue six the first double-page center spread. He was on his way to being the most innovative and imitated artist in every decade in which he worked."

Kirby was, in his own words, "a concept man, an idea man, and a story teller." Early in his career, he developed or perfected types of characters and themes that became industry standards. Gerard Jones, coauthor with Will Jacobs of *The Comic Book Heroes*, stresses that "beyond the patriotic hero Jack gave us the quintessential kid gangs and teenage friends; the concept of the hero as the neighborhood guardian, the scrappy little guy trying to live his life, but being provoked by gangsters, villains, Nazis, whatever. Already in the '40s Jack was playing with his big cosmic scope: gods on earth and god-like aliens, lost civilizations, sorcerers. And he created the prototype of the ultimate comic book villain—the man with no face, but a distinctive mask."

Kirby was so prolific that when the Army drafted him in 1942 he left behind a big enough backlog to keep his current employer, National Periodicals, in pages until a few months before he was back from the war. He returned in 1945 to a business still run as if it were a lemonade stand. Deals were made on a handshake or an envelope back. "I was making a living, but the publishers grabbed all the rights. Superheroes, once so popular, went out of style, with kid gangs not doing much better," he admits. So Simon and Kirby, the top team in the business, started yet another trend, the romance comic. In addition, they cranked out funny animal stories, crime and horror, anything companies hoped would sell.

By the early '50s television had become a new and powerful competitor. In 1954, the Senate held widely covered hearings on juvenile delinquency that targeted comics as a major cause. Publishers responded with self-imposed censorship in the form of a Comics Code Authority. The freewheeling days were over: Simon went into advertising. Kirby, though, chose to hold on.

The day nearly three decades ago when Kirby knocked on Marvel's door, longtime employee Marie Severin says business was "kaploey." The comic book division had been reduced to about eight magazines, and the page rate was the lowest in town. Over the years Marvel had developed a reputation as a copycat house that rode any trend into the ground. When the owner, Martin Goodman, noticed that the competition, DC Comics, was successfully reviving superheroes, he did what he always had done. He told his cousin-in-law and only writer-

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editor-art director-pasteup-man-office manager, Stan Lee, stop with the monsters. Let's do a superheroes knockoff, our own version.

At least, that's how Marvel tells the story. Marvel and Lee have constructed and perpetuated a series of tales about 1961 to 1969—the period that is considered comics' Silver Age and lies at the center of the Kirby-Marvel dispute. The company version presents Lee as the driving, creative force with Kirby the clever penciler adding a few touches: a Silver Surfer for instance (even though Lee has been known to credit himself with creating that character, too).

The problem is that Marvel and Stan Lee are about the only ones that hold that view—that Jack Kirby got his credit and his due. Everyone else—contemporaries at Marvel, comic historians, other comic book artists—contend that Kirby, already a star, left his strongest mark on Marvel and put the company back on its feet. "There would not be a Marvel Comics if it wasn't for Jack Kirby," says Jim Starlin, creator of *Dreadstar*.

Kirby's perspective is this: "Comics run in cycles. I knew that with interest fading in monsters and westerns, it might be the right time for a kid gang of superheroes, this go-round the Fantastic Four. And I knew that to make sales grow, I've got to feed in new characters. For ideas, for inspiration, I went to the classics, the Bible, Norse legends, the Three Musketeers, Persian fables, Greek mythology, the Sumerians, the news. Then I just started bringing them in, things Marvel had never seen before. Back then, radiation was a big topic, so, of course, my characters got radiated. The only time I was given any kind of written synopsis was *after* I'd give Stan Lee a story and he'd take it from what I told him. I was the one creating the story line, the pictures, the story itself.

"Stan Lee is a charming guy to talk to. He can get along with anybody. But when I began asking for a little more credit, say, a writing credit, he cut the horse up fine and said it was 'plotting.' And no matter what I said, he was the publisher's relative and Goodman was big on family."

Jack Kirby (center) portrays himself and his creations (clockwise from upper left): Mr. Fantastic, the Human Torch, Captain America, the Black Panther (to the right of Cap's shield), Thor, Iron Man and Sub-Mariner (to the left of Thor's hammer), Hercules, the Incredible Hulk, the Amazing Spiderman, the Thing, Dr. Doom, the Silver Surfer, the Beast, and the Black Knight.

Stan Lee wants to be loved. He is the Johnny Carson of comic books: personable, corny, and slick as all get out, casually elegant to Kirby's down-home earthy. The perfect man to promote comics, which he did better than anybody else throughout the '60s and '70s.

"I really don't want to say anything against Jack," Lee says in an interview that begins in a massive, high-tech conference room at Marvel's Van Nuys, California, animation studio and ends in his sculpture-filled office at the other end of the complex. "I love and respect him very much. He's one of the most talented, hard-working guys I know, but I think he thinks he created these characters because he drew them. But I would suggest how I wanted them drawn: 'Make him a little bigger.' 'The head is too wide.' And, of course, the characters' concepts were mine, too. I would give Jack an outline or tell him the plot I wanted and let him break it down to determine what each drawing would be. When I got them back, I would put in the dialogue to inject whatever personality I wanted."

Kirby was doing what he'd always done, says Lee, "drawing beautiful pictures." While they were "not as sophisticated and polished as some artists, they had a raw power. But what brought about the renaissance of comics was the style change in the writing, my writing. I've been in Hollywood since 1981, long enough to know that if Stephen Cannel says I want to do a show called *The A-Team* and it'll consist of these four people, if he says nothing more than that, he's created it."

Stanly Lieber, a self-described *What Makes Sammy Run* type, had worked his

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way through four part-time jobs—as an usher at the Rivoli, delivery boy, press agent, and obit writer—before signing on in 1939 for what he thought would be a temporary gofer position in the comic book business. "Stan always saw himself as the illegitimate son of the king, a superior being," says his contemporary, artist Gil Kane. "Overnight he became a dandy, arriving at work looking like Robert Stack, dressed in jodhpurs and boots from having been riding in Central Park."

Deciding to save his real name for when he "wrote the great American novel," he began to call himself Stan Lee. "Once I got rolling they let me write captions, then full comic book scripts. I was thrilled," he says. Except for a brief stint when he served as a "playwright" of training films during World War II, Lee would never leave Marvel. By 1943, Marvel owner Martin Goodman was sufficiently impressed that he put him in charge of the comic book division. Along with the job came the title, editor-art director, although Lee had never drawn and "couldn't even do a connect-the-dots poster," a colleague says. But he could come up with words, sometimes concocting as many as two comic books a week.

In those days, the standard practice was for the writer to create the entire script—from dialogue to specific panel instructions—and hand it over to an illustrator to pencil the pictures. An inker and letterer would complete each page with color added last. But according to those I interviewed—more than two dozen Marvel employees (past and present), comic book writers, artists, and historians—Kirby and Lee never worked that way. Kirby's storytelling flair and artistic innovation, coupled with Lee's multiple job pressures, made it impossible for Lee to plan even eight books. Instead, they "devised what came to be known as the 'Marvel Method,' transferring the creative power from the writer to the artist," says Kane. However, the policy remained that the typer of the word balloons—Stan Lee—was credited as the writer and Kirby as the penciller. In other words, Lee gave Kirby more work and less credit from the start.

Those I spoke to add other details to the Kirby-Lee collaboration. After they had gotten used to each other's working style, written comments—regardless of how they were generated—all but stopped. There was no time. And what "story conferences" they had, says Continuity Comics publisher Neal Adams, went something like this: "Stan would call Jack and say, 'Well, we've got a lot of requests for Doctor Doom this month.' And Jack would say, 'Okay. Doctor Doom traps the Fantastic Four in a village he controls and they can't get out.' To which Stan would reply, 'Fine, we need it Tuesday.'"

Then in the early evening after he'd helped settle down his four kids, Kirby would go into his East Williston basement-studio, the "Dungeon" as he called it. With no preliminary sketches, he'd plot and draw until three in the morning. Working at the same wooden drawing board he still uses, he created 22-page, five-to-nine-paneled, visually exploding, impressionistic adventures.

The stories, set on identifiable Manhattan streets, in outer space, or between time zones, followed characters as diverse as the love-torn Sue Storm, a/k/a the Invisible Girl; cosmic deity Galactus; and commando leader Nick Fury and his ethnically mixed group of WW II soldiers. Finally, after jotting margin notes about the story to Lee (mostly dialogue suggestions), Kirby would take a commuter train to the city and deliver a comic book. Lee wrote the word balloons.

According to historians Will Jacobs and Gerard Jones, who have analyzed Kirby and Lee's work together and apart, "from the very first issue of the *Fantastic Four* there are more ties to earlier Kirby work than can be enumerated, including the structure." And the big themes of Lee and Kirby's collaboration were "pure Kirby," as is "the whole Marvel 'house look.'"

CLAUDIA KUNIN

STAN LEE: "JACK KIRBY THINKS HE CREATED THESE CHARACTERS BECAUSE HE DREW THEM."

No one denies that Stan Lee made a major contribution to Marvel. It's just not what he or Marvel claims. The letters page he devised and the promo copy he provided gave the reader a wonderful sense of fun and belonging. And he did write the dialogue that filled his innovatively placed word balloons. He instilled Kirby's characters with quirky problems, a self-mocking flippancy, like Ben Grimm's grumping about the downside of his super power—who would love him as the Thing when he resembles a naugahyde-covered gravel pile?

While these additions were important, Gil Kane insists they were "the tissue overlay on Jack's monumental work. The nice editorial riff that reflected the material." Kane should know. In those days, when he tried bringing in his "own version of a superhero, a David Niven-type, Stan Lee would say, 'No, imitate Jack.'"

Lee was Marvel's cheerleader, its pitchman. But while selling Kirby's ideas, he put his own name on them: Stan Lee Presents. In fact, Stan Lee Presents was so ubiquitous that he once joked that he was going to change his last name to "Presents." Stan Lee Presents toured college campuses pumping and hyping. Stan Lee Presents had a night at Carnegie Hall. Stan Lee Presents was the name on the books promoting the history according to Marvel. And Stan Lee was the one, not Kirby, with the job security and benefits, the reputation and fame.

Kirby remained a free-lancer throughout his career at Marvel. He received a one-time, per-page rate that began at $10 and eventually rose to $50 or approximately $1000 a comic book. Marvel not only kept all his pages—a total of 13,000, including 2500 covers—but it also instituted a new practice. Stamped on the back of all free-lancers' checks was a nonnegotiable, paragraph-long statement deemed a contract. If a free-lancer wanted to cash the check, he signed away all

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rights: no copyright, no royalties.

By the late '60s Jack Kirby looked around and saw that he had resurrected a company that even then was patronizing him. Since his arrival, Marvel's monthly output had quadrupled from eight to 32 titles, with sales surpassing archrival DC—Marvel had become number one. Young readers were tuning in to superhero cartoon shows where Marvel, without giving Kirby any money, took his panels, blew them up, and animated them. A new generation of fans, instead of dropping comics as teens, remained loyal through college and beyond. Columbia students, for example, adopted the Hulk for a dorm mascot. Spider-Man and the Silver Surfer were particular countercultural favorites. And Marvel obligingly fueled this phenomenon with merchandise, posters and buttons.

Kirby continued to receive his usual rate. "This has to get you angry," he says with typical understatement. "Take it or get out was the wall I faced. Where could I go with a mortgage and a family to feed? To advertising that I didn't understand? To the pulps that were gone?"

So, "reflex action," he stayed in the only field he knew, an industry of gentlemen's agreements. By 1969, when he'd had it up to here with Marvel, he moved

CHARACTER COPYRIGHT MARVEL COMICS GROUP

The Thing

his family to Southern California and went over to DC. Even though his switch was a coup for DC, it too rejected his request for royalties. (Some critics consider Kirby's contribution to DC his best work, pointing out that his popular *New Gods* series served as the antecedent to *Star Wars.*) Kirby's departure didn't mean that Marvel stopped taking advantage of his talents. "Actually, there were times during the '70s when Marvel was printing more Kirby stuff each month than DC," says Mark Evanier. "He became a scab for himself. They had artists flopping his drawings, cutting up his panels, and tracing his work."

By the mid-'70s, DC and Marvel, under pressure from younger artists, started to return current original pages. But when Kirby asked and asked again about his pages from the '60s, Marvel ignored him. It had no idea how much Kirby art it had amassed or its condition—something the company did not want to admit.

"Marvel has a brutal management style, always taking that extra kick," says Irene Vartanoff, the Marvel employee assigned to inventory all the warehoused art in 1975. In the early days, the offices were piled high with original art. People would steal it, walk on it, soak up spills with it. Some were lost or simply misplaced.

"Some, especially the covers and splash pages, were given away to curry favor with clients," says Vartanoff. "Still, the conditions in the warehouse were worse, a chaos of broken shelving, shipping crates, lots of manila-wrapped packages, stacks of bundles with string around them." During the 11 months it took to catalogue the 35,530 pages, which didn't include the 934 covers she found, Vartanoff "came across lots and lots of wonderful Kirbys—over 1000 pages of his *Fantastic Four* drawings, about 200 *X-Men*, nearly 100 *Captain America* pages from the late '60s, *Hulk* pages, *Journey Into Mystery* pages, and more."

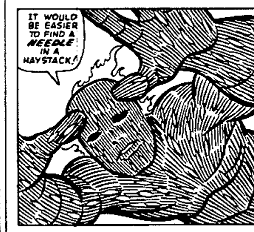
In May 1981, when Jack Kirby was 63, he heard a rumor that Marvel was about to sell all the warehoused art, a potential third of which were his pages.

"At that point I didn't think about suing because I was so clear the drawings were mine," explains Kirby. He did, however, hire entertainment lawyer Stephen Rohde to ask the company for them back. Marvel, in turn, informed Rohde that it was developing an official, artwork return plan. It would get back to him.

That first year Kirby waited. "With a $150 an hour meter running I could only push the lawyer so hard." Marvel, that year, produced a 20th-anniversary issue of the *Fantastic Four*. After he refused a request to provide a new story, Marvel took some drawings he'd done for a TV cartoon show, traced them in comic book format, billed it as a new Lee-Kirby tale, and thanked him on the letters page for his help and his cooperation. Learning of this, he wept.

He and his wife considered bringing a lawsuit covering all the issues—artwork return, copyright ownership, and creative credit. Rohde listened, then laid out these facts. Yes, Kirby had a case, a possible copyright claim, but... Given what was at stake, a full-dress legal battle could take conservatively 10 years, cost hundreds of thousands of dollars, and most probably end up in the Supreme Court. But that wasn't all. A lawsuit, he stressed, would become *the* substantial part of the rest of their lives.

"Anyone who's been involved in a suit can tell you it's emotionally, physically, and financially exhausting," says comics publisher Neal Adams. "Jack's been a tough guy all his life. If he and his wife had the energy and their health, they



CHARACTER COPYRIGHT MARVEL COMICS GROUP

The Human Torch

would have fought this out to the end. But a lawsuit can even kill you, kill him. Then his heirs would have had to continue the fight against the ongoing entity that hands over the reins from person to person. Jack had to make concessions to a corporation that can outwait and outmuscle him."

By the second year Marvel hunkered down into its own strategy: doing nothing. Negotiating Kirby's position was Rohde's employee, Paul Levine, a brand-new, USC law school graduate. "A pattern developed," says Evanier. "Every few months something would happen and Kirby's lawyer would have to phone Marvel and say, 'No, you can't do that.' And Marvel would announce, 'Every few months Kirby phones whining and threatening to sue.'"

In July 1982, just before a New York City comics convention, Kirby's biographer Greg Theakston received a call. Would he like to buy old Marvel-Kirby artwork, 15 solid books minus the covers? "I learned they were stolen from Marvel offices," says Theakston. Marvel's then editor-in-chief, Jim Shooter, promised to meet him at the convention with security people to seize the pages. Instead, Shooter arrived four hours late and said he didn't want to get involved.

What was Marvel so scared of? What kind of threat did Kirby really represent? The best answer comes from a top Marvel executive: "We're hoping to do movies of these superhero things—*The Fantastic Four, Sgt. Fury,* and a half dozen more with our new owner, New World Pictures. Marvel didn't know what Jack would come up with. We needed his name on a

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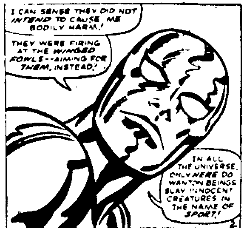
form. If this had ever become a lawsuit and gone to court, who do you sympathize with? The big corporation or the artist who says he's been swindled?"

Marvel, in fact, has a lot to protect: more than 500 worldwide licensing arrangements, games, action toys, home furnishings, apparel and the like; 250 half-hour TV episodes in production; and its normal, 40-odd, monthly titles that give it a 75 per cent share of the U.S. comic book market and a large piece of the international market. The books are translated into 16 languages and distributed in more than 25 countries.

In August 1984, three years after his first official request—after peppering Marvel with letters most of which went unanswered—the company sent Kirby a four-page agreement that contained 14 conditions. Kirby soon found out that everyone else had been sent one-page releases. The first item in the contract established Marvel's legal strategy, its plan to rewrite history: "The Artist's contribution to the preparation of the Artwork was specially commissioned and ordered by Marvel and was prepared subject to Marvel's supervision, direction and control. . . .

In short, Jack Kirby was not a freelance, independent contractor during his



The Silver Surfer

years with Marvel. Rather, he was an ordinary and temporary work-for-hire penciller following its instructions to illustrate others' comic book tales. He had no claims, no credit, no *Captain America*. He could not even "publicly exhibit or display any portion of the Artwork without Marvel's advance written permission. . . ." After signing the agreement, he could then take "physical custody" of 88 sheets of his own work—this was, as the release put it, Marvel's "gift" to him.

With no lawyers lining up to handle the case on a contingency basis, Kirby ran through his options. "Because I'm not a guy who likes to sue people, we tried other things. We called Marvel's Jim Shooter and told him I couldn't sign unless I knew that I'd get back more pages. Shooter talked about 'good faith' and giving 'his word' I'd receive everything that was mine."

Kirby wavered. He wanted to look forward, not back. Marvel kept promising that it would catalogue what remained of his artwork . . . when it had time. "I legally appointed Greg Theakston as my agent," he says, "and he volunteered to do the job. Marvel, by way of Shooter, said no. My wife and I said we'd come do it at our own expense. Again, no." Then came the March 1985 *Variety* ad crediting Stan Lee with Captain America, and Kirby decided to go public. For an intensely private man this was, he says, a difficult step. He agreed to let Gary Groth, editor of *The Comics Journal*, the industry's independent magazine, report on the battle.

"Marvel's behavior toward Kirby has been a despicable example of corporate bullying at its worst," says Groth, who from that point tracked the story, hoping to pressure Marvel on Kirby's behalf. "House of No Shame" read the headline of his editorial in the February 1986 issue, which included a special section detailing the situation.

Graphic novelist Berni Wrightson and artist Jim Starlin tried to interest *60 Minutes* and *20/20* in covering the story. Neither responded. Grand old man Milton Caniff, the 80-year-old creator of *Terry and the Pirates* and *Steve Canyon*, says only his age kept him from "being on the barricades." Caniff and many others talked about the precedent set a decade ago when Superman's two creators successfully ended their lifetime battle to regain the rights to their character. After Warner Bros. bought DC and just before the release of its movie *Superman*, the company came to a settlement. With fanfare, the two men were awarded $20,000 each a year for the rest of their lives, medical coverage, and the return of the words "created by Jerry Siegel and Joe Shuster."

Marvel, in the throes of selling itself to grade-B film and TV specialist New World Pictures, refused to see any correlation. In the summer and fall of 1986, Groth organized panels on the controversy at comics conventions. Marvel publicly refused to participate, but representatives would occasionally show up. The San Diego panel, Groth says, "turned into a surreal, nightmarish experience with [Jim] Shooter first hiding in the audience, then screaming, 'Kangaroo court—how dare you pass judgment on Marvel?' At the London convention, Marvel executive Tom DeFalco stood up in front of 400 people and accused Kirby of demanding and getting a huge financial settlement from Marvel when the company was sold in 1970." Kirby was horrified by the accusation.

New World Pictures, responsible for *The Killing Time* and *Sledge Hammer!*, among other movies and TV series, took over Marvel at the end of 1986 and refused to comment on the Kirby dispute. At *The Comics Journal* suggestion, kid fans had been badgering Marvel with letters demanding the return of Kirby's art. Groth's most attention-getting move was to circulate a petition among cartoonists. Although there was some grumbling about the wording and Groth's own motives, the response was overwhelming: 153 top names and the sense of an entire community angry. Marvel president James Galton continued to brush the issue aside. "The fan press," he said from his Manhattan office, "has taken it up as sort of a vendetta against Marvel, because, you know, when you're the biggest and the best you're always the target."

Still, the campaign began to have some effect. Marvel finally responded by increasing its first offer, 88 pages of his artwork, to 800 pages, and then to 1700. The four-page release became three separate forms with modifications. "Jack had turned into a colossal embarrassment to Marvel," says Evanier. "It was like realizing your whole house was built on Indian land and the Indians are outside starving. Marvel had to act." When Kirby heard that the company possessed even more of his pages—that inkers who'd gone over his penciled lines were signing the short release form and receiving what Marvel decided was their share of his drawings—he began to wonder how much longer he could hold out. He was about to turn 70, and it was clear that no matter how good an agreement he signed, his work was forever scattered.

On June 16, 1987, Captain America said "uncle." Jack Kirby signed the final document giving up all copyright ownership claims in order to have his artwork home. Creative credit of the characters was tabled, until, well, the future—for the time being, anyway, Stan Lee would still Present. Marvel refused to pay the $800 insurance expense for airfreighting what the company says remained of Kirby's drawings—about one-sixth of his work. Arriving the week before the Fourth of July, they were mainly pre-superhero drawings, 300 *Googam* monster pages, 300 westerns, two dozen covers, some *Fantastic Four*, no *X-Men*, and just a handful of *Hulk* and *Sgt. Fury* pages. Nearly all of his best and most famous work was missing. ■

Research assistance by Stan Mack

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