

EXHIBIT 5

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE SOUTHERN DISTRICT OF NEW YORK
4 Civil Action No. 10-141 (CM) (KF)

5 MARVEL WORLDWIDE, INC.,)
6 MARVEL CHARACTERS, INC.,)
7 and MVL RIGHTS, LLC.,)

8 Plaintiffs,)

9 vs.)

10 LISA R. KIRBY, BARBARA J.)
11 KIRBY, NEAL L. KIRBY and)
12 SUSAN N. KIRBY,)

13 Defendants.)
14)
15)

16 VOLUME I

17 VIDEOTAPED DEPOSITION OF

18 ROY THOMAS

19 October 26, 2010

20 10:06 a.m.

21 Holiday Inn Express
22 Orangeburg, South Carolina

23 ANNIE O'HARA, CCR-B-2340, SC Notary
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25

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 10-141-CMKF
4

5 MARVEL WORLDWIDE, INC.,
6 MARVEL CHARACTERS, INC., and
7 MVL RIGHTS, LLC,
8 Plaintiffs,

9 VS.

10 LISA R. KIRBY, BARBARA J. KIRBY,
11 NEAL L. KIRBY and SUSAN N. KIRBY,
12 Defendants.
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14
15 Volume II

16 Videotape Deposition of:

17 Roy Thomas

18 Wednesday, October 27, 2010

19 Orangeburg, South Carolina
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APPEARANCES:

FOR THE PLAINTIFFS:

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

BY: JODI AILEEN KLEINICK
PAUL HASTINGS JANOFSKY & WALKER
75 East 55 Street
New York, NY 10022

-AND-

ELI BARD
VICE PRESIDENT, DEPUTY GENERAL COUNSEL
MARVEL ENTERTAINMENT, INC.
417 Fifth Avenue
New York, NY 10016

(Appearances continued:)

1 FOR THE DEFENDANTS:

2 LISA R. KIRBY, BARBARA J. KIRBY,

3 NEAL L. KIRBY and SUSAN N. KIRBY

4 BY: MARC TOBEROFF

5 TOBEROFF & ASSOCIATES

6 2049 Century Park East

7 Suite 2720

8 Los Angeles, CA 90067

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1 Thomas

2 MS. KLEINICK: You made your objection.

3 THE WITNESS: I understand it as being
4 from '65 on, because I wouldn't know anything
5 about an earlier period. I wouldn't have been
6 paying as much attention.

7 BY MS. KLEINICK:

8 Q. Did Kirby receive assignments for
9 particular issues or titles?

10 A. Yes.

11 Q. Who did he get those assignments from?

12 MR. TOBEROFF: Asked and answered.

13 THE WITNESS: He got the assignment from
14 Stan. It might come through Sol Brodski or
15 someone, but it was always from Stan. It was an
16 ongoing, you know, kind of thing. But it had to
17 be renewed every month.

18 BY MS. KLEINICK:

19 Q. Are you aware of any instance where Jack
20 Kirby submitted artwork for an issue for a series
21 that Stan or Sol had not already assigned him to?

22 MR. TOBEROFF: Leading.

23 THE WITNESS: No.

24 BY MS. KLEINICK:

25 Q. And I think you testified that artists

1 Thomas

2 MS. KLEINICK: Objection.

3 A. It was an advance.

4 It was done for, you know, a certain
5 number of pages, or whatever, and figured on a
6 page rate.

7 Q. Oh. But, and it was --

8 A. Pardon me.

9 Q. Strike that.

10 A. Oh. I'm sorry.

11 Q. So prior to the -- you began working
12 at Marvel in July, 1965, correct?

13 A. Yes.

14 Q. And prior to that -- starting at
15 Marvel -- and the short time you were at DC,
16 prior to that -- you had no experience in the
17 comic book industry?

18 A. No. I had also written -- sometime
19 in the turn of 1965, or -- I'm not sure exactly
20 the date -- how that relates to the Jimmy Olsen
21 story that was also done in that pre-New York
22 period, I wrote two scripts for a smaller
23 company called Charlton Company, that was based
24 in Derby, Connecticut.

25 And I had also submitted one or two