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Marvel Sues MGA Over Spider-Man Licensing Deals

By **Jocelyn Allison**

Law360, New York (January 07, 2009) -- The owners of the Spider-Man character are seeking more than \$4.8 million from MGA Entertainment Inc. in lawsuits claiming the company violated licensing agreements granting it rights to certain Marvel Entertainment Inc. characters.

In a complaint filed Friday in New York County Court, MGA is accused of using Marvel characters including Spider-Man and Ghost Rider on certain merchandise not covered under two licensing agreements with Marvel.

California-based MGA is also accused of violating several licensing agreements with Spider-Man Merchandising LP, which oversees licensing and merchandising for Spider-Man the movie. Spider-Man Merchandising is a limited partnership between Marvel and Sony Pictures Consumer Products Inc.

Marvel's auditor issued a report Nov. 26 finding that MGA owed at least \$1.1 million under the licensing agreements, the complaint said. The audit also found that MGA owned Spider-Man Merchandising \$3.3 million under the terms of separate licensing agreements with that company.

Marvel, which owns the popular comic book characters Iron Man, Captain America and X-Men, is seeking \$625,620 for sales MGA made of the Marvel Insane Darts game and Spider-Man Web Crawl. Marvel claims the sale of the items violated the terms of a licensing agreement that expired in December.

Marvel also claims MGA sold the Ghost Rider Walkie Talkie Combo despite not having a license to use the Ghost Rider character in connection with a walkie-talkie product. The company is seeking at least \$153,351 in connection with the sales of that item, according to the complaint.

Spider-Man Merchandising claims MGA owes at least \$69,953 for 17,617 Spider-Man dart games it sold above what was outlined in the licensing agreement. MGA also owes \$2.8 million for merchandise it sold promoting the movie Spider-Man 3 before the agreed-upon sale date in March 2007, the suit claims.

Both suits seek to reclaim additional funds for unreported sales, unpaid marketing payments, unpaid interest and the cost of the audit. Marvel is also seeking funds for unsupported deductions it claims MGA made on net sales, according to court documents.

Marvel's suit seeks at least \$1 million in damages from MGA for unjust enrichment. Spider-Man Merchandising is seeking at least \$3.1 million for unjust enrichment, court documents said.

MGA Chief Executive Officer Isaac Larian said Wednesday that the allegations in the lawsuits had no merit "in either fact or law," and that the company was confident it would prevail at trial.

A spokesman for Marvel declined to comment. An attorney for Marvel also declined to comment.

Attorneys from Olshan Grundman Frome Rosenzweig & Wolosky LLP represent Marvel Entertainment and Spider-Man Merchandising. Counsel information for MGA was not immediately available.

The suits are Marvel Entertainment Inc. v. MGA Entertainment Inc., index number 600003-2009, in the Supreme Court of the State of New York, County of New York; and Spider-Man Merchandising LP v. MGA Entertainment Inc., index number 600002-2009, in the Supreme Court of the State of New York, County of New York.