

MEGATON MAN'S SIMPSON WINS SETTLEMENT IN COPYRIGHT INFRINGEMENT CASE

Cartoonist Don Simpson's Megaton Man character has appeared in a wide range of places over the last 13 years, from comic books to Simpson's own Fiasco Comics web page (<http://www.lm.com/~fiasco>), where it is serialized weekly. But no one was more surprised than Simpson to see a strikingly similar character cavorting through the pages of a computer program instruction manual issued by the Coriolis Group entitled *The 3D Studio Max Design Guide*, as well as in animated sequences on the book's accompanying cd-rom. After Simpson's lawyer approached the Coriolis Group, a publisher of graphics and animation computer manuals, with a complaint of copyright infringement, Simpson was paid an undisclosed amount of money to settle the matter.

Simpson first learned of the manual when John Kim, one of his animation character design students at The Art Institute of Pittsburgh, brought a copy of the book to his attention. The manual included approximately 50 pages of material centered around creating a cartoon character that Simpson felt strongly resembled Megaton Man. While there were slight differences between the two characters — for example, Simpson's character has a large 'M' across his chest, while the character in the computer manual does not — the authors of the book went as far as to explicitly duplicate at least one pose from a panel in *Megaton Man* #5 and label it a "concept sketch," from which dozens of 3-D graphics were derived. Some of the 3-D characters were called "Megaman."

Immediately, Simpson said, he recognized not only his character, but the issue number and page from which the "concept sketch" had come from. Simpson told the *Journal* that he had not been approached by the company for his permission to use the character, and added that he most likely would have denied such a request.

"It's one thing to be inspired by a concept," Simpson said. "It's another to get carried away by the whole darn character. Using an artist's work without their permission denies them cre-



The original Megaton Man, by Don Simpson...

ative control. I don't think I would have approved of *The 3D Studio Max Design Guide* material as being representative of my vision, or of Megaton Man's potential in the 3D environment." (Although the *Journal* contacted Coriolis publisher Keith Weiskamp for his take on Simpson's complaint, he refused to comment on the matter).

Simpson never needed to take his case against the publisher to court. He presented his materials to his attorney, Mitch Berger, including the copyright registration for Megaton Man. "Mitch dealt directly with their lawyers on a lawyer to lawyer basis. Then it was just a matter of him opening up the books in front of Coriolis's lawyers," Simpson said.

Coriolis settled for an undisclosed sum of money, a portion of which Simpson gave to the student, John

Kim, in gratitude. They also agreed to remove the entire chapter, a graphic from the back cover and all the related 3D graphics from the CD-ROM in future printings, to rectify the situation. In addition, Coriolis has agreed to post an apology on their web site (<http://www.coriolis.com>). As the *Journal* was going to press, however, the apology had not been posted.

Simpson is not the only artist to make allegations of copyright infringement against the Coriolis Group for material that appeared in *The 3D Studio Max Design Guide*. Dutch graphic artist and computer programmer Stephan Didak (<http://www.euronet.nl/users/sdidak>) also found some of his artwork reproduced both in the book and the CD-ROM without his permission and with the copyright notices removed. His attorneys in the U.S. needed to



...and a strikingly similar "concept sketch" from 3D Studios.

threaten to file for an injunction in federal court before receiving an adequate settlement offer, which was much like that given to Simpson. The offending material was removed from the book's second printing, cash was paid out, and a similar promise of an apology was to be posted on the web site. Once again, the apology had not surfaced at the time of this article.

Didak also claims to have recognized other copyrighted material in the book, including works that may belong to Viewpoint Datalabs, Inc., and Lucasfilm Inc. He recognized the Megaton Man pictures, but was not able to place them exactly at the time, until he heard of Simpson's settlement.

Meanwhile, Simpson continues to teach at The Art Institute of Pittsburgh while producing digital Megaton Man and Wendy Whitebread stories for his web pages. He has no plans to produce printed comics for at least the rest of this year, but may issue a compilation of the Web stories in 1998. While his printed comics have been popular, the unevenness of the comic business has left him wary. "Even before Capital [City Distribution] folded, I could see the writing on the wall and see that they were going to burn me. I couldn't keep sending one half of my print run to someone who couldn't pay me. I'm waiting for the bad news to be over before I start publishing again.

"I'm very happy going digital. I've sold a lot of artwork and comics over the web, and the great thing about it is that it allows me to do an anthology. I have so many different things I can do there." **RON EVRY**