

## It's a Plaintiff, it's a Baby, it's SUPERBABIES!

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Able to cancel 4 trademark registrations in a single filing, a comic book company called Superbabies Limited has done what once seemed impossible: They have achieved the cancellation of trademark registrations for SUPER HERO and SUPER HEROES, registered since as far back as 1967 and jointly owned by comic behemoths Marvel and DC Comics. Superbabies claimed that SUPER HERO and SUPER HEROES are generic, and also that Marvel and DC had abandoned any trademark rights by failing to use the terms as trademarks.

Although Marvel and DC entered an appearance in the Trademark Trial and Appeal Board (TTAB) proceeding, they never answered the petition for cancellation, leading Superbabies to file a motion for a default judgment. The TTAB, noting that Marvel and DC Comics did not contest the motion, ordered the cancellation and faster than Spiderman can scale a skyscraper, the registrations were canceled the same day.

It's safe to say that Marvel and DC did not miss two deadlines by accident. Rather than bring out the Avengers to fight this tooth and nail, it is likely that they realized they couldn't win and instead opted for truth (that the marks are generic), justice (SUPER HERO and SUPER HEROES should be free for all to use), and the American way (allowing the judicial process to make the determination).

Superbabies' Petition for Cancellation is fun. The first allegation is: "We live in a world of superheroes. For the better part of a century, superheroes and the superhero genre have ruled the imagination and inspired millions to achieve greatness." From there, it contains snippets of comics, including Marvel and DC comics, in which the heroes and villains alike make use of the legal system to achieve their means. It goes on to demonstrate why Superbabies believes that SUPER HERO and SUPER HEROES are generic. When Marvel and DC saw this, they probably realized that this was the sixth Infinity Stone and that their claim of trademark ownership had turned to dust.