Contents

PART 1—QUICK START	1
FAQs 2 Getting Started 4 The Structure of the Book 6 How to Use This Book 9 The Audience for this Book 10	
PART 2—INTELLECTUAL PROPERTY: The Heart Of The Work	13
Chapter 1—Intellectual Property	15
The Comic Book Property 18 Slice and Dice your IP 21 Rules of Thumb for Intellectual Property 23	
Chapter 2—Copyright Law	26
Copyright Ownership 28 Your Copyright Rights 28 What Copyright Doesn't Protect 30 Copyright Licensing 31 Perilous Copyright Traps for the Unwary 32 Copyright Duration 43 Copyright Infringement 45 Plagiarism is not the Same Thing as Copyright Infringement 46 Fair Use of a Copyright 46 Copyright Pre-Flight Checklist 56	
PART 3—CONTRACTS: The Engine Which Drives the Deal	59
Chapter 3—Contracts: Getting into Gear	60
What is a Contract? 61 Things that LOOK like contracts, but may NOT be contracts 62 The Contract "Themes" 63 Rules of Thumb for Contracts 68	

PART 4—PUTTING IT TOGETHER	73
Section Overview 74 Creative Roles 74 Categories of Comic Property 76	
Chapter 4—The Solo Creator	78
Solo Creator's Key Tasks 79 Protecting the Chain of Title 80 What Kind of Solo Are You? 81 Solo Creation: Step-By-Step 82	
Chapter 5—Setting Up Shop	83
Getting Down to Business 84 Types of Business Entities 86 Loan-Out Companies 90 Getting Professional Help: Accountants & Attorneys 91 Lawyering up 93	
Chapter 6—Collaboration	97
Working with Other Artists 98 Collaboration Checklist 101 Writer/Illustrator Collaboration Agreement 106 Collaboration at a Glance 129	
Chapter 7—Hiring Other Artists	130
Engaging the Services of Other Artists 131 Federal and State Labor and Employment Laws: An Overview 131 The Artist Services Agreement 133 Key Deal Points 134 Contract: Illustrator Work for Hire Agreement 139	
Chapter 8—Clearances and Licensing the Rights of Others	172
Clearance and Licensing 173 Clearances—Step by Step 174 Licensing 179 Getting Permission to Use Somebody's Likeness 196	
PART 5—GETTING IT OUT THERE	199
Section Overview 200	
Chapter 9—Blog it! Tweet it! Post it! Promote it!	202
Get Your Message Out 203 Website 203	

Iweeting 205 Blogging 205	
Facebook 206	
140050011 200	
Chapter 10—Landing a Publisher	207
Landing a Publisher is a "Con" Job 208	
Checklist for Working the Con 211	
Submission Policies For The Big Publishing Companies 214	
Key IP issues 216 Key Contractual Issues 217	
Landing a Publisher Checklist 217	
Landing a Labarica Orice and 211	
Chapter 11—Working for a Publishing Company	219
Working for a Publisher: Key IP Issues 221	
Key Contractual Issues 222	
Chapter 12—The Comic Book Publishing Agreement	224
Deal Points 225	
The Comic Book Publishing Agreement 238	
Chanton 12 Calf Dublishing	263
Chapter 13—Self-Publishing	203
Making Money in Self-Publishing 264	
Printers—Overview 265 Comic Book Distributors—Overview 266	
How Your Comic Is Distributed by Diamond 267	
Self-Distribution to Comic Book Stores 271	
Digital Distribution 272	
Case Study—comiXology—Steps to Submit 274	
Digital Rights Management (DRM) 275	
Chapter 14—What Happens When Something Goes Wrong?	278
Typical Legal Actions 279	
Breach of Contract 280	
The First Amendment 282	
If Someone Sues You 284	
Cease and Desist Letters 285	
Lawyering Up 286	
Pro-Bono Legal Services Organizations 287	
PART 6—THE LAW LIBRARY	289
APPENDIX A—A Comic Creator's Guide to Copyright Law	294
What is a Copyright 295	
Copyrighting Characters 295	



9

Contents

Copyright in Selection and Arrangement 296

Copyright Rights 297	
Copyright Terminology 297	
What is not Protectable Under U.S. Law 299	
The Doctrine of Independent Creation 304	
Copyright Ownership 304	
WorkMadeforHire 308	
Licensing and Assigning the Copyright 311	
Copyright Duration 317	
Copyright Infringement 318	
FairUse 322	
De Minimis Taking 329	
Protecting and Registering your Copyright 330	
APPENDIX B—A Comic Creator's Guide to Protecting Ideas	340
The Law of Ideas 341	
Protecting Ideas through Contract 347	
The "Novelty" Requirement 350	
Express Contracts Controlling Idea Disclosure 351	
Safeguard your Ideas with an NDA 352	
APPENDIX C—A Comic Creator's Guide to Trademark Law	359
Trademark Law 360	
What Makes A Trademark? 361	
What Can Be Trademarked? 362	
Strength of a Trademark 363	
Injuries to a Trademark 365	
Defenses to Trademark Injury 370	
Trademark Registration 373	
APPENDIX D—A Comic Creator's Guide to the Right	
of Publicity & Other Privacy Rights	382
What is the Right of Publicity? 383	
Duration of the Right of Publicity 383	
First Amendment and the Right of Publicity 383	
Tests to Determine Infringement of the Right of Publicity 385	
Other Privacy Rights 385	
Public Disclosure of Private Facts 386	
False Light 387	
APPENDIX E—A Comic Creator's Guide to Libel and	
Defamation	389
Defamation Defined 390	
Defamation of Public Figures 392	
Defenses to Defamation 393	



Matters of Public Concern: Gross Irresponsibility Test 396 Special Rules Regarding Defamation 396	
APPENDIX F—A Comic Creator's Guide To Moral Rights & The Visual Artists Rights Act	398
Moral Rights 399 Visual Artists Rights Act (VARA) 399	
APPENDIX G—Contract Anatomy for Comic Book Creators	402
Contract Anatomy 403 The Head: The Opening of the Contract 404 The Body of the Contract 405 The Boilerplate Belly 421 Contract Closing 433	
APPENDIX H—Famous Comic Book Cases	438
Superman Battles Wonderman 439 "The Man of Steel" Battles the "Big Red Cheese" 440 Too Late to Win 441 Copyright law was a stake through his heart 442 Dynamic Tensions 443 Captain America: Copyright Avenger 444 The Winters of our Discontent 445 Archie and Work For Hire 446 Spawning a Lawsuit 448 The Marvel Menagerie 449 The Superman Saga 451	
Appendix I—Online Resources	454
Notes Bibliography & Suggested Reading Acknowledgements About the Author Index	457 471 473 475 477

Contents 1