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Free Mickey!

The Boston Globe

Disney has lobbied hard to keep its creations under copyright protection. But in the 1970s, a group of renegade cartoonists threatened to unleash the mouse.

By **Jeet Heer**, 9/28/2003

SINCE HIS ONSCREEN debut in 1928, Mickey Mouse has been an icon of childhood innocence. But in recent years, the famous rodent has also found himself at the center of a contentious debate over the reach of copyright law. In 1998, the Walt Disney Corporation and other entertainment giants successfully lobbied Congress to pass the Sonny Bono Copyright Extension Act, which delayed the entrance of creative works into the public domain until up to 70 years after their creator's death. Derided as the Mickey Mouse Protection Act and challenged in the courts on First Amendment and other grounds, the law was upheld by the Supreme Court last January.

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But this was not the first time Mickey's corporate handlers had sought to keep him on a tight leash. In the 1970s, the underground cartoonist Dan O'Neill risked a life-destroying lawsuit and jail time when he published a series of raunchy Mickey-taunting comics. Along the way, O'Neill recruited scores of followers into two of the wackiest groups to emerge from the counterculture of the 1970s: the Air Pirates and the Mouse Liberation Front.




Throughout the proceedings of *Walt Disney Productions v. The Air Pirates*, which raged from 1971 to 1979, the courts showed little sympathy to the free-speech arguments made by O'Neill and his merry band. One judge after another dismissed the idea that the Air Pirates deserved First Amendment protection until the Supreme Court finally refused to hear their case. To add insult to injury, Supreme Court Justice Anthony Kennedy later described the Air Pirates in passing as "profiteers who [did] no more than . . . place the characters from a familiar work in novel or eccentric poses."

But to their fans, the Air Pirates were free-speech martyrs and innovative artists who were unfairly penalized simply because they worked in the popular but disdained medium of the comic book. "The judges deciding this case were all pretty much 60 years old or older," notes San Francisco lawyer Bob Levin, whose new book "The Pirates and the Mouse: Disney's War Against the Underground" (Fantagraphics) provides a lively reexamination of the case. "Their whole take on comic books was to think of them as trash, not as anything of significance. If the same thing had been going on in a different medium -- in the visual arts, literature, or cinema -- [the Air Pirates] probably would have gotten a more respectful hearing."







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To understand the Air Pirates, you have to start with ringleader Dan O'Neill. Born in Virginia in 1942, O'Neill was a lifelong troublemaker. As a teenager, he shut down his Oakland high school for two weeks when he pumped 4 million cubic feet of ferrous sulphide through the ventilation system. (Black Panther leader Huey Newton, a schoolmate, would later tell him, "God, that was the only vacation I had in my life.") When he wasn't wreaking havoc, O'Neill was drawing cartoons. After working on

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several alternative papers, he sold his daily comic strip "Odd Bodkins" to the San Francisco Chronicle in 1963, when he was 21. The strip was soon syndicated to scores of newspapers around the country (including The Boston Globe), making O'Neill the youngest syndicated newspaper cartoonist in history.

With its misshapen animals and fantastic creatures waxing metaphysical, "Odd Bodkins" gained a cult following as a trippy version of "Pogo" or "Peanuts." When O'Neill started the strip, Levin writes, the Chronicle gave him three simple rules: "No religion, no politics, and no sex in the strip." But O'Neill, who hung out with Lenny Bruce and other fixtures on the underground comedy scene, was undaunted. Using hippie slang, Morse code messages, and other subterfuges, he began peppering his strip with comments about the Vietnam War and the drug culture. Increasingly the strip featured distorted versions of all-American icons -- Abraham Lincoln, the Lone Ranger, and a grungy-looking Mickey Mouse -- traipsing across a surreal landscape, often with suspicious cigarettes in their mouths.

As "Odd Bodkins" became more pointed in its political messages and loopier in its psychedelic humor, it began losing newspapers. Even the free-spirited San Francisco Chronicle finally dropped the strip in 1970, despite a torrent of reader protest. O'Neill blamed his troubles on the fact that American popular culture had become too saccharine and namby-pamby -- a problem he traced to Walt Disney's rigid code of cuteness, epitomized by his winsome mouse.

Exiled from the newspaper page, O'Neill plunged into the burgeoning world of underground comics, where bohemian artists like Robert Crumb and Gilbert Shelton were producing work that was like raw id on paper. Printed by ad-hoc publishers and distributed largely through head shops (hippie boutiques specializing in drug paraphernalia), these cartoons suffered from none of the restrictions imposed on mainstream efforts.

In 1971, O'Neill organized the Air Pirates -- a group of young cartoonists named for villains who had battled Mickey Mouse in the 1930s. Gary Hallgren, a sign painter from Seattle, and Barry London, a high school dropout from Brighton Beach, Brooklyn, were master mimics of classic cartoon styles. Shary Flenniken, an admiral's daughter, had enlivened many underground comics with her wry, feminist humor. Ted Richards, kicked out of the military for smoking pot, had created Dopin' Dan, a Beetle Bailey-type who tokes up.

The Air Pirates began producing a string of satirical comic books from their communal live-in studio in San Francisco, along with hashish-inspired schemes for

selling them. "One involved dropping comic books from blimps. Another was to hire winos to dress as policemen and sell them on street corners," Flenniken told The Comics Journal in 1991. Most of these schemes evaporated when the pot smoke cleared.

In 1971, the group released their most controversial comics, "Air Pirates Funnies" nos. 1 and 2, in print runs of 15,000-20,000 copies, under the aegis of Hell Comics. The highlights were stories that showed Mickey Mouse and other Disney characters in distinctly unsavory situations. But for all the references to sadomasochism and drugs, the Air Pirates' work was fairly mild compared with other underground comics of the era, which tended to feature disturbing tableaux of mangled bodies and orgies. By contrast,

"Air Pirates Funnies" were impeccably drawn to imitate the warm and gangly style of the Mickey Mouse strips of the early 1930s (those strips were drawn by a cartoonist named Floyd Gottfredson, although always credited to Disney).

Why did the Air Pirates do it? "Throughout my childhood, Mickey Mouse was used as a placebo to lull me into thinking everything was all right," Barry London later noted in a court deposition. "But I found the happy-ever-after world of Walt and Mickey Mouse to be a poor half-truth. 'Air Pirates Funnies' shows that Mickey doesn't always win."

O'Neill was certainly spoiling for a fight. When his comics met with no response, he had a friend -- the son of the chairman of Disney's board of directors -- sneak copies into a board meeting and lay them out. Disney filed suit against the Air Pirates, charging them with copyright infringement.

While the lawyers for the Air Pirates compared their clients to satirists like Swift and Fielding, Disney's accused them of producing "obscene nonsense" designed "to degrade and disparage all that Disney has done." Disney was particularly upset at the fact that the Air Pirates were repeat offenders. Unlike the underground paper *The Realist* (which had famously tweaked the mouse in a 1967 centerfold called "Walt Disney Memorial Orgy"), the Air Pirates didn't just publish a one-off, but apparently intended to continue with the anti-Disney theme.

In 1975, Disney won nearly \$200,000 in damages and a restraining order against O'Neill, who was mocking Disney by continuing to draw Mickey Mouse every chance he got.

Four years later, when O'Neill was fined and jailed for violating the injunction, the Mouse Liberation Front was formed. Its members harried Disney by flooding comic book conventions with anonymous bootleg Mickey Mouse cartoons, which they auctioned off to pay the Air Pirates' legal expenses.

Faced with the prospect of infringement on such a massive scale, Disney finally reached a settlement with O'Neill. Disney dropped the contempt charge and the damage judgment, and O'Neill agreed not to "mouse it up any more." By some estimates, Disney spent \$2 million to achieve this result.

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The Air Pirates might have battled Disney to a draw, but why were the courts so unsympathetic to their free-speech claims? Wendy Gordon, a legal scholar at Boston University who specializes in copyright issues, believes their playfulness did the Air Pirates no favors.

"People communicate not only through rational, logical sentences," she notes. "They also use entertainment, shared experiences, intuitions. But the court gave the spirit of play no space to wiggle its toe."

Also working against the Air Pirates was the long-standing legal and cultural prejudice against comics, argues Charles Brownstein, executive director of the Comic Book Legal Defense Fund, a Northampton-based nonprofit established in 1987 to help cartoonists and retailers fight for free-speech protection.

The prejudice against comic books, argues Brownstein, dates back to the Kefauver Senate Subcommittee Hearings of 1954, which blamed horror comics for the problem of juvenile delinquency. Comics began gaining ground as a legitimate art form in the 1980s, when adult-oriented works like Art Spiegelman's "Maus" won a wide mainstream audience. But legal progress has only come more recently. In an important case decided earlier this year, the California Supreme Court ruled that "Jonah Hex" comics' notorious portrayal of the musical duo the Winter Brothers as the spawn of a giant subterranean worm was protected under the First Amendment.

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Echoes of the case live on in the recent court skirmishes over literary parodies like "The Wind Done Gone" and even in the raging battle over the downloading of movies and music over the Internet. But these days, the Air Pirates themselves have largely settled into comfortable careers. Bobby London and Gary Hallgren, ironically, found jobs

working for Disney in the 1980s before resuming freelance work. Shary Flenniken served a long stint as the main cartoonist for National Lampoon. Ted Richards now works as a computer executive in Silicon Valley. As for Dan O'Neill, a few years ago he resumed drawing "Odd Bodkins," which runs in alternative city weeklies along the West Coast.

There are still those, even in the freewheeling world of underground cartoonists, who believe that by trampling on copyright the Air Pirates simply went too far. "I own my work and I don't want to be ripped off," says the San Francisco-based feminist cartoonist Trina Robbins, mastermind behind Wimmen's Comix. "Dan O'Neill owns 'Odd Bodkins' just like Disney owns Mickey Mouse. It doesn't matter that Disney is a big corporation and Dan O'Neill is one guy. Copyright laws apply to everyone."

In upholding Congress's copyright extension, the Supreme Court has guaranteed Disney's lock on Mickey until the year 2023. But the Air Pirates' comics, which now fetch prices in the \$100 range, retain an unexpected freshness. Unlike most hippie artifacts, the strips -- with their uncanny stylistic echoes of the golden age of cartooning -- haven't aged. Although enemies in the courtroom, the satirists and their target are bound together in a shared aesthetic.

Jeet Heer is a regular contributor to the National Post of Canada and the Globe.

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