



Toy Biz v. United States was a 2003 decision in the Court of International Trade that determined that for purposes of tariffs, Toy Biz's action figures were toys, not dolls, because they represented "nonhuman creatures." This decision effectively reduced the tariff rate by a factor of two.

Background

U.S. law distinguishes between two types of action figures for determining tariffs: dolls, which are defined to include human figures, and toys, which include "nonhuman creatures". Because duties on dolls were higher than on toys, Marvel Comics subsidiary Toy Biz argued before the U.S. Court of International Trade, that their action figures (including the X-Men and Fantastic Four) represented "nonhuman creatures" and were subject to the lower tariff rates for toys instead of the higher ones for dolls. On January 3, 2003, after examining more than 60 action figures, Judge Judith Barzilay ruled in their favor, granting Toy Biz reimbursement for import taxes on previous toys.

Reaction

Because a common theme in Marvel Comics had been the struggle for mutants like the X-Men to prove their humanity, the case shocked numerous fans. Marvel responded to these concerns by claiming "our heroes are living, breathing human beings – but humans who have extraordinary abilities ... A decision that the X-Men figures indeed do have 'nonhuman' characteristics further proves our characters have special, out-of-this world powers." A legal ruling that the X-Men are not human has fans of the perpetually misunderstood comic book mutants howling in protest.

The recent decision by U.S. Court of International Trade judge Judith Barzilay settles a dispute between X-Men copyright holder Marvel Enterprises Inc. and the U.S. Customs Service, writes Neil King Jr. in an entertaining Wall Street Journal report. In an effort to recoup duties paid to the Customs Service, Marvel sought to establish that plastic X-Men figures imported from China in the mid-1990s were toys rather than dolls. "According to the U.S. tariff code, human figures are dolls, while figures representing animals or 'creatures,' such as monsters and robots, are deemed toys," writes King. Toys are assessed a lower tariff rate than dolls.

"Judge Barzilay sat down with a sheaf of opposing legal briefs and more than 60 action figures ..." writes King. Her ruling that characters who "use their extraordinary and unnatural ... powers on the side of good or evil" must be "something other than human" was a victory for Marvel Enterprises -- but it didn't sit well with X-Men fans.